



USAID | **KOSOVO**
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JUSTICE SYSTEM REFORM ACTIVITY

FINAL REPORT, OCTOBER 2007

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Executive Summary

USAID's Justice System Reform Activity in Kosovo was initiated in May 2003 and continued through June 2007. The project incorporated four separate but inter-related components:

- 1) Planning and legal-drafting support for establishing an effective and impartial justice system
- 2) Strengthening the capacity of the courts to operate fairly and efficiently
- 3) Developing oversight mechanisms to ensure respect for ethics
- 4) Increasing public awareness of the justice system

Although designed as a three plus two-year program, the extension period, approved in mid-2006, provided for an accelerated pace for implementation to meet demands for increased levels of technical assistance required by the government transition from UNMIK authority to local control, taking into account political issues regarding the ultimate status of Kosovo. Thus the program closed in June 2007 rather than May 2008.

While originally conceived along the lines of a traditional USAID rule of law project comprising principally of technical assistance to local counterparts to build their capacity to manage and implement the work of the judiciary, the JSRAK program began on a much different basis and continued along those lines for approximately the first half of the project. In fact, both programmatic focus and implementation can be divided into two discrete timeframes: the first 18 to 20 months when the bulk of project work involved working with the UN and other donors and decision-makers on laying the groundwork for reform of the judiciary, and the remainder of the project when staff focused on providing assistance directly to Kosovars to assist them in implementing decisions.

During the first part of the project, of the five long-term expatriate positions required under the contract, the three technical advisors were assigned directly to UNMIK institutions (the Department of Justice and Department of Judicial Affairs) with primary responsibility for providing day-to-day operational support for the work of the UN, and ultimately, for laying the groundwork for planning the hand-off from UNMIK institutions to the local counterparts. In part, the separation between operational work of the UN/DOJ and assistance to local counterparts was due to the "reserved powers" granted to the UN/DOJ because of the highly sensitive matters the institution confronted, together with the lack of clarity on the status, organizational structure and mode of operation of the future government of Kosovo. In support of this first part of the project, JSRAK's focus was less on providing technical support directly to the courts – judges and court staff – and other local institutions of justice than that of providing technical advice to the international policy-making bodies charged with determining the design of the judiciary, its organizational placement within the Government of Kosovo, and its core functions. During this period, both in country and home office staff prepared briefings, white papers, position and background papers on a variety of subjects related to judicial reform – in particular with regard to the importance of establishing the judiciary in Kosovo as an independent entity. Some of these papers and briefings also involved working with UN/DOJ leadership on design of the organizational structures and functions of the judiciary, as well as designating the priorities and first steps for implementing the most essential components. A dramatic shift in the direction occurred in early 2005, when the project submitted to USAID a concept paper that proposed the implementation of a number of activities that later led to establishment of the Kosovo Judicial Council, the Ministry of Justice and drafting of two key pieces of legislation.

As the UN's timeframe and strategy for transition became more clear (during the period from the final quarter of 2004 and throughout the remainder of the project), JSRAK's focus shifted from working principally within the UN entities, to providing direct support to the courts and the newly established justice organizations: the Kosovo Judicial Council and the Ministry of Justice. Ultimately, the project's involvement in both aspects of justice reform in Kosovo – planning for transition and hands-on assistance in implementing the resulting plans – provided the team with the opportunity to consolidate their expertise and experience into laying the foundations for a strong, effective, and efficient justice system.

Component One - As originally designed, the principal areas of focus of Component One were twofold: working with local counterparts to develop a strategic plan to guide reform of the justice system, then to provide assistance with implementation of key elements of the strategic plan; and supporting development of local capacity to draft and enact laws relevant to the work of the justice system. Initially, both of these elements were placed on hold while the Component One advisor, and other JSRAK staff as necessary, provided support to the UN/DOJ, both in operational issues and forward planning. Much of this assistance took the form of providing for liaison with USAID, the UN, and other international donors through various fora, such as the Project Review Board (PRB) and Justice Sector Experts Consultative Group (JSECG), as well as working directly with the UN/DOJ Director in developing transition plans, and designing the organizational structures and functions of the future justice institutions that evolve from UN/DOJ (i.e., the Kosovo Judicial Council and Secretariat, and the Ministry of Justice).

As a transition plan began to emerge at the close of 2004, the composition of JSRAK staffing began to change from advisors working within UN structures, to implementation experts capable of providing direct support to the establishment of the principal new institutions of justice, namely the KJC and the MOJ. Indeed, project advisors were assigned directly to the KJC and Secretariat, and to the MOJ. In both cases, these advisors helped to create the organizational, administrative, and managerial infrastructures, and the policy and procedural guidelines necessary to ensure efficient operation. Doing so through hands-on mentoring and on-the-job training, by project completion, both institutions were operating successfully, with a dedicated corps of local staff capable of carrying out the core functions of each. Concurrent with this shift of emphasis from the UN-directed operations to local counterpart management, the project also was able to begin providing substantive assistance in the area of legal drafting of key pieces of legislation that defined the judiciary and prosecution functions. To support this assistance, JSRAK was able to enlist the *pro bono* support of the law firm DLA Piper, whose staff remained involved in supporting legislative drafting needs through the completion of the project. Using a highly participatory method of drafting, involving working groups comprised of local counterparts and international donors, the principal laws drafted included the Law on the Judiciary and the Law on Prosecutors.

Component Two – The second Component was to have focused principally on the courts themselves. Through a series of pilot court initiatives, the plan called for development and implementation of a wide-range of court management and administration activities, from support for automation, records and caseload management, professional training in management and administration, to strategies designed to reduce backlogs and time to disposition of court cases. All of these areas did receive substantial assistance from JSRAK; however, similar to the situation of Component One, the principal areas of focus during the first 18 months dealt with providing assistance to the operations of the DJA and transitioning it to an institution run by the UN, to a locally controlled organization. Some of the elements of this component were also impacted by changes in international donor programming and plans, so that, for example, original plans for JSRAK to provide support for court computerization, were placed on hold due to the EAR's programs of assistance. During the final two years of the project, JSRAK advisors and local experts were able to provide substantial support to seven pilot courts in the areas of introduction of audio recording, records management (file purging, delay reduction, collection and use of case-related statistical data, and caseload management), improved methods of civil execution, use of mediation, a uniform court fees schedule, and establishment of time standards from filing to disposition.

Component Three - Similar to the situations of the previous two components, Component Three also underwent substantial revision following contract award. Due to changes that took place within the UN subsequent to issuance of the RFP, the main thrust of this component shifted from a broad mandate of assisting in creating mechanisms of transparency and accountability across the entire justice system and legal community, to responsibility for working within the UN/DOJ to assist in the establishment of the Judicial Inspection Unit and its Audit Section.

Mirroring the expansion during the second phase of the project, having somewhat contracted the scope of work during the first half of project implementation, the second half brought about an expanding mandate, under which the project also supported development of background checks for all justice institution personnel, and procedures for vetting all new and sitting judges and prosecutors.

Component Four - Although at first it seemed that implementation of the fourth component: building public awareness, understanding, and support for the judiciary, would be impacted the least by external factors (principally the slower than anticipated pace of transition and the unresolved political situation of Kosovo), in the end it was these very factors that impacted the most upon how the public viewed the judiciary.

Component Four comprised of several forms of assistance: preparing of brochures and pamphlets describing citizens' rights, the role and functions of the judiciary, and how to access courts; measuring the impact of the project as a whole through development, administration, and analysis of public surveys; training of some 10,000 citizens and a core group of journalists about the judiciary; and using television to publicize information about the judiciary and the changes taking place or anticipated.

During the course of the project, four surveys were administered: three were surveys conducted in 2004, 2005, and 2006 of the general public, and the fourth measured the attitudes toward the judicial system among court users in Kosovo. Particularly in view of the slow pace of transition of the justice system from UN to local control, survey results tended to mirror the gradual attitudinal changes. Not surprisingly, results also reflected differing levels of support and awareness depending on the ethnic background and place of residence of the respondent, with greater degrees of favorable responses from predominately Albanian areas than from Serbian enclaves.

Since one of the most consistent results of the surveys indicated that, in the eyes of the public, mass media and television were viewed as the primary methods of obtaining information relative to changes and reforms in the judicial system. With this in mind, the project introduced two new elements into this component: that of training journalists to report about court cases and on the reforms taking place, and preparation of two public service announcements and a documentary about

Introduction

In late 2002, USAID/Kosovo issued an RFP under full and open competition to:

- Assist UNMIK (UN Mission in Kosovo), Kosovar legal professionals, and civil society in developing laws and policies that support an effective and impartial Kosovar justice system
- Strengthen the capacity of the court system to operate effectively and efficiently
- Develop systems to provide effective oversight for judges, prosecutors, and lawyers in the areas of respect for ethnics and delivery of quality services
- Increase public awareness of Kosovo's evolving legal framework and justice system to improve access and ensure individual and community rights are protected

Following the award to NCSC in the spring of 2003, the Justice System Reform Activity in Kosovo (JSRAK) team deployed to Kosovo to initiate implementation. However, between the time of issuance of the RFP and contract award, the scope of work had undergone some significant modifications, necessitating modifications in the original staffing plan and terms of reference, as well as series of mid-stream adjustments as implementation moved forward. The end result of the changes supplied all counterparts, UNMIK and local institutions, with a project design that met their ever-evolving needs, while also satisfying the project scope of work.

Initially, USAID had envisioned a project divided into the four components described above, each focused on a discrete aspect of the judicial system, and each to be managed by an expert component manager: Justice System Strategy Advisor, Court Administration Advisor, Legal Profession Discipline Advisor, and Public Awareness Advisor. The first three advisors were to have been seconded directly to the UN/Department of Justice (UN/DOJ) or to UN/Department of Judicial Affairs (UN/DJA).

Under the first component, the contractor was to provide experts to work within the UN/DOJ office to provide assistance with developing a comprehensive strategy and action plan for revising Kosovo's system of justice. To a greater or lesser extent, the originally conceived scope of work underwent substantial change from the time of RFP publication and the date of contract award to incorporate the needs of UNMIK (in particular many of UN/DOJ's operational responsibilities that fell under the scope of "Reserved Powers", work of other donors, and US Government priorities), as well as to reflect the political situation and realities of Kosovar society as one that was still in the process of recovering from long-standing conflict. In the initial months, USAID and project staff worked closely together to address needed changes into scopes of work and types of expertise required by each position. Ultimately, all of these highly sensitive issues centered on the question of final status determination for Kosovo, making it difficult both to determine the organization and structure of future justice system institutions, as well as the role to be played in those institutions by local counterparts. The accumulated effect of all of these factors was that the original scope of work for the project, and attendant work plans, underwent a series of adjustments, the most significant of which are summarized in this section of the report, with additional details provided in the individual component sections.

The revised approach, especially that related to the first three Components, narrowed the scope of the project during the opening 18 months of implementation to focus attention on the needs associated with the increasingly undermanned UNMIK staff to provide for management of the justice system and to support UN transition.

Under Component One, major changes involved reassignment of the Justice System Strategy Advisor directly to UNMIK and adjustment of the advisor's scope of responsibilities to focus on supporting UN/DOJ's transition strategy and other day-to-day planning and strategy efforts, rather than working with UN/DOJ on developing a comprehensive strategic plan related to institutional development of Kosovo's system of justice. The resulting lack of a locally driven overall strategy to guide both donor and local counterpart efforts was a fundamental departure from the originally conceived project and represented a change that was to have a significant impact on subsequent work on developing a long-term strategy to guide the organizational structure and functions of the

judiciary and other justice institutions. In addition, while both USAID and the project team recognized that the project would need to engage directly with local counterparts to assure their active participation in the transition planning process, for the first half of the implementation period, the majority of assistance efforts of the Strategy Advisor had to focus on support for UN/DOJ planning and operations.

Similarly, the Component Two Court Administration Advisor, with assistance of other project staff members, divided time between direct support of the needs of the DJA, and those relating to technical assistance and training directly to judges and court staff. The component activities included working with the Department of Justice on creating a commercial legal publishing market; improving the system for execution of civil judgments; installing computers and IT systems; archiving and purging case files; recording of court proceedings; and promoting transparency and public confidence in the justice system.

During the life of the project, it was this second component that underwent the most substantial changes, the most significant of which involved support for court automation. While the RFP had provided for project involvement in development and installation of automated court information systems, to include procurement of hardware, LANs and WANs, by the time of award, the European Agency for Reconstruction (EAR) had initiated a project to implement a case management information system in the courts. This system was to include a software system to assist the courts and centralized administrative offices with supporting case processing, collecting statistics and publishing caseload information, and improving performance. In addition to the software system, EAR's scope included procurement of computers and other necessary hardware and peripherals to support the automated system. Although not directly responsible for automation, individual elements under Component Two nevertheless impacted and were impacted by, the EAR automation projects. Funds initially identified to support automation were reprogrammed to benefit other components.

Under the original design, the project was also expected to provide technical assistance for large-scale file purging, and in fact, the project was to have performed an initial purging of all files, with related technical assistance and training within the courts to ensure that they would continue these activities in the future. However, it was decided that the project should not actually perform the file purging, but instead would provide technical assistance and training for file purging to be carried out by the courts. Court staff was trained to conduct the file-purging activities, along with training to improve caseload management. Court staff was largely able to complete the necessary file purging exercises, with guidance from the project as needed.

With respect to Component Three, by project initiation, the scope of responsibility for the Component Three Legal Profession Discipline Advisor had evolved from that of responsibility for developing mechanisms of accountability for the judiciary to that of supporting initial training and development needs of the Judicial Inspection Unit, and ultimately to hands-on mentoring and developing of the Judicial Audit Section.

For the most part, responsibilities of the Component Four Public Awareness Advisor, while evolving to meet the project's changing needs, remained essentially consistent with the scope of the original project design.

Mid-way during the implementation period, by late 2004, additional changes within UNMIK necessitated further modifications to the project implementation plan.. The civil disturbances that took place in March of that year provided new impetus for the UNMIK to refocus on transitioning from a hands-on operational mandate to delegating increasing levels of authority to the Provisional Institutions of Self-Government (PISG) of Kosovo and to local institutions. Coinciding with this time-frame, a new Director was assigned to UN/DOJ to lead efforts at planning and transitioning the UN department into a Ministry of Justice and to new leadership organizations for the judiciary. With support from project experts, the new Director also initiated plans outlining the design and operations of the courts, that ultimately resulted in drafting of a new Law on Courts (also called the Law on the Judiciary), as well as creation of the Kosovo Judicial Council (KJC), and the KJC's Secretariat. These new areas of focus called for substantial assistance from the project in the areas of designing a

process for developing the Law on Courts (and other related laws), as well as designing the organizational structures and missions of other judicial and justice sector institutions. To this end, the project provided direct assistance to the Director of UN/DOJ in planning the transition of competencies. Taken together, this assistance and that of other international donors, led directly to the current system established in Kosovo.

Another significant element of the post-March 2004 strategy involved creation of a Project Review Board (PRB), the idea for which originated with USAID and the UN Deputy SRSG for Justice. Discussion centered on Pillar I priorities in light of the March violence, and how the USAID JSRAK might provide support. The PRB was comprised of representatives from UNMIK (Pillar I, DOJ and DJA), USAID and JSRAK, and had as its primary purposes reviewing JSRAK core activities, establishing priorities, and marking progress towards goals, while avoiding duplication of effort between JSRAK, other donors, and UNMIK. A major benefit from the PRB was providing a venue for opening up of lines of inter-donor communications, as well as facilitating the process of deliberating and reaching decisions on pending issues that have arisen during the course of program implementation. As a direct result of this initiative, substantial progress was made in fostering Pillar I and DOJ understanding and support for the USAID/JSRAK project, enabling several stalled initiatives to move forward. Of particular importance in this regard was clarification of which person(s) or entity(ies) within UNMIK had responsibility for key areas of justice reform. In addition, the PRB provided a forum for enhanced communications between the various UNMIK entities represented on the group.

This final report of JSRAK is divided into four parts, reflecting the four discrete components of the project. Due to the inter-related nature of each component, cross-cutting themes run throughout, and indeed, the implementation team coordinated closely for the duration of the project to ensure a holistic approach. Each component begins with a brief summary of achievements and ends with reflections on pending issues and recommendations for the future programming.

Component One: Transition to an Effective and Impartial Justice System

Summary of Achievements:

- Technical Assistance to UN/DOJ on designing and implementing the organization and management of the judiciary and new Ministry of Justice
- Technical Assistance to the KJC and Secretariat in developing internal operating procedures and drafting the first long-term strategic plan
- *Pro bono* legislative drafting and development assistance
- Technical assistance in development of the new Ministry of Justice

The first component focused on the justice system as a whole, with assistance sub-divided into areas of strategy development, beginning within UNMIK, then moving subsequently to concentration on the establishment and operationalization of the new KJC (and its Secretariat) and the new Ministry of Justice (MOJ). Finally, the project provided technical support for development of the core legal documents related to key justice sector institutions, namely the Law on the Judiciary (LoJ) and the Law on Prosecutors (LoP). As described in the Introduction, both the nature of project assistance and its recipients changed over the course of implementation. From initiation through the first quarter of 2005, the bulk of assistance under this component was delivered directly to UN/DOJ. For the remainder of the project, assistance extended increasingly beyond UNMIK to the local leadership bodies, principally in this context, the Kosovo Judicial Council and Secretariat, and the new Ministry of Justice.

1) *Support to UN/DOJ in planning and internal operations*

Political changes within Kosovo and UNMIK resulted in significant impact upon this component during the project's first year. Working within the UNMIK structures, initially, most of the work of the Justice System Strategy Advisor (JSSA) was to have focused directly on technical and advisory support to local counterparts. However, the scope of work for this position was affected by a considerable renegotiation with UNMIK, particularly with regard to shifting the central focus from providing technical assistance in support of planning with local counterpart institutions to develop the future justice system to providing hands-on support to UN/DOJ in carrying out their operational mandate. These changes resulted in delayed selection of the Justice System Strategy Advisor, who was approved to take up her post in November 2003. Even after the selection and fielding of the Advisor, deliberations between UN/DOJ and USAID continued on the specific scope of work for the position – which in fact, continued to evolve over the life-of-project. It is important to note that, initially, two important elements were deferred from the original scope of work for this Advisor: strategic planning with Kosovars on the design and implementation of a new judiciary and justice system, and assisting with drafting, modifying, and commenting on laws.

The secondment structure of this position also complicated initial implementation activities. The JSSA position was assigned to the UN/DOJ's transition unit, and thus fell under their broad scope of activities considered to "Reserved Powers". This unit's work was considered confidential, as competencies had not yet been passed to the Kosovars, and, in fact, key aspects of what key competencies were required and how to provide for their transition were not decided until relatively late in the project implementation period. Although UN/DOJ considered all activities related to transition of the justice system confidential, the seconded JSSA was required to report to the project and USAID on activities and progress toward milestones – resulting in reporting constraints during the first half of the project.

Mid-way through 2004, and at the recommendation of USAID, the project supported establishing donor coordination mechanisms through the creation of a Project Review Board (PRB). JSRAK staff was responsible for supporting the work of the PRB, established as a coordinating body to ensure timely and effective communication and information sharing, and comprised of members of USAID,

Pillar I (including UN/DOJ) and EAR. The PRB was an effective vehicle to foster Pillar I and UN/DOJ understanding and support for the project, enabling a number of stalled initiatives to proceed – particular those focused on the work of the courts. The PRB was required to authorize a number of activities planned by the project including developing a uniform schedule of fees and fines, notary services, and caseload management. Through the PRB, a series of meetings were held in Pristina, at which project staff and other donors presented proposals and working papers. These led to substantive discussions with UN/DOJ and Pillar I on priorities and how to divide responsibilities amongst all donors. Ultimately, the PRB evolved into a new group, called the Justice System Expert Consulting Group (JSECG) that comprised representatives from local counterpart organizations for which JSRAK support included assistance in planning and development of concept and position papers on key aspects of designing and transitioning the justice system to local authorities. During 2004 and 2005, the JSECG played an increasingly important role in the transition process, especially due to the significant downsizing of the UNMIK structures and their resulting inability to provide expert assistance in court reforms under stringent deadlines.

Coinciding with the creation of the PRB and ultimately the JSECG, the situations with respect to the JSSA's work and reporting, as well as the project team's support to local counterparts, also began to change radically following the March 2004 disturbances, after which UNMIK as a whole realized that it needed to devise a plan for transition and to start working with local counterparts on what the plan comprised and on the transition strategy. A very key aspect in the changed role of the project during this period also resulted from the appointment of a new Director to UN/DOJ, whose clear role was to develop and support a strategy for transition from UNMIK to local authority. In the latter half of 2004, JSRAK was asked to assist the new UN/DOJ Director in designing the transition and planning strategies. JSRAK was instrumental in advising the DOJ Director on overall goals (foremost among which were principles of judicial independence), as well as necessary priorities and the most essential institutional elements that must be in place to allow a justice sector institution to become fully functional (e.g., administrative infrastructures, core divisions and units, and basic policies and procedures). Project consultants provided recommendations to UN/DOJ on a conceptual framework for the Kosovo Judicial Council, and corresponding administrative arm, the Administrative Office of Courts – a title later changed to the KJC Secretariat. The project prepared a number of concept papers on the role and functioning of the KJC and Secretariat for use in informing local working groups and international donors about the proposed functions these institutions would need to perform, along with the critical steps to be taken for their creation and operation.

2) *Kosovo Judicial Council (KJC)*

In April 2006, the Kosovo Judicial Council (the KJC) was formally created and the project activities under this component focused on providing assistance in setting up the KJC and subsequently the Secretariat. Early on, much of the assistance necessarily had to take the form of hands-on assistance since local Kosovar staffing of both the KJC and Secretariat were incremental. However, as JSRAK assistance to the KJC continued throughout 2006 until the conclusion of the project, the local leadership of both bodies were able to assume management and leadership roles more directly, with project assistance evolving to technical and advisory support.

One of the most critical initial roles played by JSRAK related to developing a process to guide recommendations for future KJC candidates to the Kosovo Legislative Assembly. The project facilitated discussions between the President of the Supreme Court, the Acting Permanent Secretary of the MOJ, and the Chair of Committee on Judicial, Legislative, and Constitutional Framework Matters. Based on recommendations to these groups, four additional KJC candidates became members, taking into account issues related to ethnicity, geographic origin, and gender diversity. Initially, discussions in the Assembly Committee stalled over the only Kosovo-Serb candidate. However, given the importance of assuring ethnic diversity on the Council, KJC, the project was able to gather background information about the candidate, her professionalism, and performance, with the ultimate result that the Kosovo-Serb candidate remained a member of the slate of KJC candidates adopted by the Assembly and recommended for appointment.

As indicated, early on in the development of the KJC, project advisors often had to serve in roles normally carried out by staff members, especially in providing support to the KJC meetings and the work of its committees. Early in its work, JSRAK drafted the operating procedures for the KJC, specifically codes of conduct, judicial council meeting preparation and agendas, data production, reporting, archiving, maintenance of council member records, installation ceremonies, duty travel, and recruitment. JSRAK expended considerable effort on developing the bodies of policies and procedures necessary for successful functioning of the KJC. In addition to the KJC itself, the project provided extensive support for developing and rendering operational the KJC Secretariat. For the first few meetings of the KJC, project advisors identified priorities and developed agendas, including scheduling the election of the vice-chairperson, appointment of members to the Disciplinary Committee, and approval of minority recruitment efforts.

Key priorities included:

- Appointment of a chair, vice-chair, and regular members of the KJC
- Adoption of rules of procedures on recruitment, meetings, agendas, voting, and committees
- Establishment of and membership for seven committees: Judicial Discipline, Prosecutorial Discipline, Judicial Appointment and Development, Prosecutorial Appointment and Development, Court Administration, Budget and Human Resources, and Internal Rules and Legislative Matters
- Approval of the Terms of Reference for the Secretariat Director
- Recommendation of candidates from under-represented communities and candidates from majority community to the SRSG for judge and prosecutor positions
- Approval of a Memorandum of Understanding between the KJC and Pillar I to transfer budget authority for KJC and DJA to the KJC
- Adoption of time standards to govern case management in the district and municipal courts
- Adoption of codes of ethics for Judges, Lay Judges, and Prosecutors
- Adoption of a system to collect statistical information

Work with the KJC included some fundamental activities to ensure that the Council would be able to be functional and effective immediately after it was established. To this end, the project worked with the Ministry of Public Services to ensure transfer of assets from the DJA to the KJC. The project was asked to identify the issues that MPS, KJC, and MOJ must address for support successful transition, and to provide specific recommendations. For example, the working group created to support transition {Question: is this one of the KJC's working groups? – if so, we need to note this fact here} adopted the project's recommendations on the division of staff, budget, assets, and contractual obligations between the MOJ and the KJC.

The project also provided assistance in developing procedures according to which consultants from the project and other donor organizations would coordinated their work in support of the KJC. In late 2006, the project initiated efforts to draft a strategic plan for the KJC. In support of this initiative, the project developed a plan and a schedule for the development of a long-range KJC strategic plan and an annual action planning process. Following KJC approval of the strategic planning initiative, development work was assigned to the Court Administration Committee (CAC). With project advisor support, the CAC established a working group and sponsored a series of planning sessions. The resulting drafts were discussed in the KJC, and once incorporation of their input was achieved, the strategic plan was submitted for approval by KJC. The approval took place during the final quarter of the project, following which the plan was published. Once the high-level plan had been approved, the project provided assistance to the Secretariat in developing an implementation strategy for the plan. The strategy developed allows the KJC to track activities against goals, and facilitates coordination of individual donor assistance efforts. Detailed information regarding the Strategic Plan's Vision, Mission, and Goals is contained in Attachment I.

From its inception, the project has supported the work of the KJC committees, in particular with a view to capacity-building of committee membership. To this end, JSRAK provided advice on staffing and managing committees, a protocol for development of agendas, briefing papers and other support documents, and production of summary minutes highlighting action items.

In September 2006, the KJC selected its Secretariat Director – a process that necessitated considerable support from the JSRAK staff. Following the appointment, the project provided assistance to the Director in reviewing organizational priorities, key issues facing the KJC, and the organizational and administrative infrastructures needed within the Secretariat in order to support both the KJC and the courts. As was the case for initial support to the KJC, project advisors provided direct assistance in carrying out the initial meetings with Secretariat staff and managers, helped with preparation of the final budget requests for presentation of the budget to the Ministry of Finance and Economy, and in setting up the basic Secretariat organizational structure. The resulting plans provided for a new organizational structure that consolidated and Office of Judicial Administration into the KJC Secretariat.

3) *Legislative framework*

Beginning in late 2004 and early 2005, the project was able to assume a much more pro-active role in the area of legislative drafting. Notably, in support of expansion into this arena, the project benefited from the offer of more than 1000 *pro bono* hours per year of technical assistance from DLA Piper Rudnick Gray Cary LLP experts who were engaged to support legal drafting activities. JSRAK's main objective under this activity was to help Kosovars create a workable legislative process enabling them to develop local capacity to draft laws competently. As a part of this effort, JSRAK and DLA Piper were able to set up a model that can now be replicated by other implementing partners and donors in their legislative drafting exercises. DLA Piper Rudnick advisors provided excellent support to the project, particularly through a working group process that brought together all major stakeholders to participate in drafting new laws regarding the judiciary and prosecutors.

Over the course of 2005, the project staff prepared a number of policy papers that outlined for justice system stakeholders critical issues and considerations, regarding in particular, the establishment of an independent judiciary in Kosovo. These papers were presented to the above-mentioned working group on the law on courts, and after deliberations with judges, members of the parliament, private attorneys and prosecutors, the project produced a draft of the Law on Courts that was later presented to the broader Kosovo legal community, as well as the international donors during seminars and roundtable discussions.

The resulting draft Law on Courts (later renamed the Law on the Judiciary), once approved by the working group was submitted to the new Ministry of Justice for consideration and onward transmittal to the Assembly. A similar process was followed for drafting of the Law on Prosecutors that was also forwarded to the MOJ prior to the end of the project. However, despite anticipations of an expeditious process, the Ministry of Justice's Department of Legal Affairs opted to establish another working group to reopen discussions about the laws in late 2006.

Even as the work with the laws on courts and public prosecution slowed, the project was able to work with the group focusing on the law on notaries. The project sponsored a trip for two MOJ legal officers to Slovenia and Bosnia and Herzegovina to gain an understanding of these countries' experiences in establishing notary systems. The MOJ legal officers and project staff interviewed MOJ officials in both countries, Chamber of Notary officials, and a donor organization. Immediately following their return, the legal officers made final changes to the law and submitted it to the Permanent Secretary.

KJC Strategic Plan – Assembling the right group was critical to the successful development of the Strategic Plan. After some deliberation, the KJC established a group comprised on the following representatives:

- Chair of the Court Administration Committee
- President of the Chamber of Advocates
- An International Prosecutor
- President Judge of the District Court of Gjilan
- President Judge of the District Court of Prizren
- President Judge of the Municipal Court of Leposavic

At the time of project closure, it was believed that these and other laws on which the project provided assistance would pass successfully through the Government approval process; however, this had not taken place by project end, and most of the laws on which the project provided support remain pending.

4) *Ministry of Justice*

During the first quarter of 2006 the new Ministry of Justice was established and began to function. Early on, the Acting Permanent Secretary, who was subsequently named Minister of Justice, solicited project assistance. JSRAK responded by providing a number of experts to work both on a full- and part-time basis within the Ministry, including one full-time expatriate justice expert and one full-time local technical IT advisor. The expatriate advisor took up his new assignment in mid- 2006, doing so at the request of the Director of UN/DOJ, to whom the advisor had been assigned initially. The new Minister was highly receptive to the expert advice, recognizing that the new MOJ needed assistance in developing the sort of organizational culture required of a rule of law institution.

Similar to the approach used to support establishment of the KJC, project staff recommended that the Ministry develop a strategic plan and offered assistance in its preparation. The Minister of Justice quickly agreed and the project supported preparation of a strategic plan, as one of the highest priority activities to be accomplished during the first 100 days of Ministry operation. In addition to the drafting of the strategic plan, the project provided technical assistance on a wide range of support in other areas. For example, JSRAK provided guidance in the preparation of guidelines between Pillar I and the MOJ on the transfer of funds and funding authority, as well as administration of the MOJ budget.

The project also supported assistance in the transfer of competencies from the UN/DOJ to the MOJ. Initially, the transfer process proceeded smoothly on the surface, but at the operational level, both international and local staff continued to work as if no transfer had occurred, with the consequent lack of clarity over roles and responsibilities of each group causing some friction among international and local staff. Through a series of meetings, written memoranda, and individual sessions with the UNMIK advisors and MOJ staff, facilitated by the project, actual transfer of authorities began to take place, with responsibilities assigned to local MOJ staff one-by-one, through a series of institutional steps changing signature authority within each operating unit.

Concurrently with the issues of transfer of authorities, the project worked closely with the MOJ on preparing and presenting its first budget submission. The MOJ advisor provided hands-on mentoring in outlining the budget preparation process, and provided training to MOJ officials on the link between budgets and public policy priorities, and how these links could be used for budget justification purposes. Specifically, he highlighted that the government-wide had placed issues of public safety as their top priority, and as a result budget guidance to the ministries required them to reduce their funding requests in order to maintain the police cut at the requested level. The project stressed the need to view the entire justice sector as an integrated whole, and the fact that budget cuts to any one part of the sector would impact negatively on the sector as a whole. The advisor also stressed that the budgeting process should serve as one of the principal governmental priority-setting mechanisms, requiring that all governmental institutions needed to be funded at levels that would enable them to carry out their core functions so as to meet larger societal goals. Much of JSRAK's support to the MOJ during this period involved assisting the Minister, his political advisors, and the civil servants with developing a methodology for analyzing the impact of the budget on the government's previously stated priorities. Working through UNMIK/DOJ, the project also urged system-wide budget planning in order to maintain an appropriate balance among all components of the justice system. This big picture approach is not always easy to carry out since it necessarily involves compromise and sacrifice in the interest of the larger system. However, it is the essence of public administration and good governance and represents an important approach for a government, especially one in the early stages of its existence. The approach was successful and the MOJ did not have to absorb the originally recommended funded reduction.

A second area in which JSRAK focused attention within the MOJ was in the area of information technology, providing assistance in developing functional and effective support mechanisms. In part,

the project advisor again served in a semi-staffing role, providing advice, for example, regarding specific purchases of telephone equipment and recommending that the Ministry be guided by the most efficient technical solution of user needs (resulting in a savings of approximately €258,000 in this case). Another area of technical need, critical to the future success of the MOJ, pertained to information flow between satellite units of the MOJ and its central office. The project supported the MOJ in developing methods of establishing the technical infrastructures required for this information flow. Working with IT counterparts from the Ministry, project staff assisted in drafting a plan for assessing and identifying information technology needs for all detention and probation centers in Kosovo, the Correction Center in Lipjan, and the Dubrava Prison. The project also provided assistance to the IT department with the creation of an operational plan. Working with DFID consultants, the project helped the Acting Head of the IT Department with drafting an operational plan that was incorporated in its entirety in the ministry-wide operational plan. Among other items, this plan called for the development of a Ministry website. During the final nine months of the project, staff worked closely with the Ministry on articulating needs functionality for the website design, and provided advice on developing procedures to assure on-going maintenance of web site content. By the end of the project, the Ministry had completed the basic design of the website.

Pending Issues and Recommendations

- The need for continued and continuous coordination between the various donor efforts is crucial to maintaining progress achieved in terms of establishing and institutionalizing the KJC and Secretariat and the MOJ.
- The KJC and Secretariat have achieved substantial progress since their creation, but additional technical and hands-on assistance is needed in order to reach institutionalization. In particular, key decisions regarding the organizational placement and delegations of authorities remain pending (such as a decision concerning placement of the Judicial Inspection Unit) will be of crucial importance to maintaining the independence of the judiciary through the transition period.
- Decisions regarding final status remain pending. These decisions will impact heavily upon the KJC, Secretariat, courts, MOJ, and the Office of Prosecutors and will likely necessitate additional support to these institutions.
- Support to further institutionalize the use of the legislative drafting process through the Government remains a priority, as does a special emphasis on methods of implementing laws that are passed, while also assuring harmonization of legal provisions across all institutions.
- Sustained support to the MOJ is needed to prevent back-slippage and lead to sustainability of reforms.
- The decision about the organizational placement of the Office of the Prosecutor remains pending at project closure, but, regardless of where the responsibility is placed, will require support in the future, similar to that provided for creating the KJC and Secretariat.

Component Two: Improve Effectiveness of Court Operations

Summary of Achievements:

- Enhanced leadership and management in the courts, with active engagement of court Presiding Judges.
- Audio recording equipment tested and used in seven courts and one prosecution office. Successful transfer of the audio recording equipment to the KJC Secretariat which has developed a plan for roll-out.
- Maintenance and purging of archival records improved in all Municipal Courts. Courts now have the capacity to purge files and maintain records in an organized manner. Most courts have trained court archivists in charge of the records.
- A comprehensive case flow management study was carried out and the results were compiled into a report. Key recommendations were implemented in pilot courts through the remainder of the project implementation period.
- Case information better maintained. Electronic registers are maintained and updated in all courts (though only partially in Pristina MC). Execution staff has quicker access to information on pending and closed cases. Obstacle information has been collected and maintained electronically in some courts.
- Civil execution units established within pilot courts in Ferizaj, Gjilan, Peja, Pristina, and Prizren; staff coordinator positions identified. Cases disposed more efficiently and court activities increasingly transparent.
- New and streamlined approaches to case processing and disposition have been developed; staff has become more proactive in resolving obstacles and problem-solving.
- Methods for cooperation with large creditors developed and implemented. Despite continuing difficulties in fully institutionalizing the PTK-court partnership, results are already apparent in all five large/medium courts involved in the pilot project.
- Judges and court staff trained in core competencies, including court management and administration, techniques of case management and records-keeping, time and performance standards.
- Improved and more efficient utilization of existing court resources.
- Record retention schedules drafted for the first time in Kosovo.
- Time Standards set and implemented for all courts, Kosovo-wide.
- First printing of Indexed Criminal Laws in Kosovo history.

The project Court Administration Advisor was approved by both USAID and DJA in June 2003, shortly after project implementation began. Similar to the situation of the component one advisor, by project initiation, some significant evolution in key aspects of the CAA's scope of work had taken place and, most significantly, the majority of work focused directly on support to the courts was deferred until mid-2005. Likewise, during the initial several months of his secondment, the CAA too had to overcome some institutional reticence about receiving advisory support, particularly in the areas of court automation and administration. It also became apparent that some of the activities originally envisioned under this component could not be implemented by the project – at least not during the first year. For example, since another donor had taken on responsibility of procuring and installing a LAN in the courts, thus USAID and JSRAK decided not to proceed on this element of the program (and to reserve the originally targeted funds for another use – to be determined later in consultation with USAID). Another example related to delays in establishing a working group focused on court automation needs. These types of on-the-ground realities necessitated a very flexible approach to implementation – an approach that continued throughout project implementation. Highlighted in this section is the work carried out in direct support to the courts, in particular, those courts designated as pilot courts.

1) *Audio Recording*

In an effort to assist in the implementation of the new Provisional Criminal Code of Kosovo (drafted in 2003 and enacted in 2004) that requires verbatim transcripts of criminal proceedings, JSRAK developed and implemented a pilot project to test audio recording equipment in Kosovo courts. Starting in June 2004, two sets of audio recording equipment were placed in seven test sites: Gjilan DC (courtroom and judge's chambers), Mitrovica DC (courtroom), Mitrovica MC (judge's chamber), Pristina DC (courtrooms), Pristina MC (courtroom and judge's chamber), Prizren DC (courtroom), and Pristina DC Prosecutor. Relevant court staff and one UN/DJA staff member were trained on use of the equipment. A user's manual was developed and circulated to all pilot sites. The enthusiasm for the pilot in its early stages led UN/DJA to commit to requesting funding for an additional thirty sets in the 2006 Kosovo budget – a step that would have enabled roll out of the pilot across Kosovo. However, the funds were not allocated.

In early 2006, JSRAK refocused its efforts on strengthening capacities for use of audio recording in the pilot sites. By then, it had become apparent that usage was low in some pilot sites, and this, together with insufficient monitoring mechanisms was undermining success of the project. In the case of the Pristina DC, the complete lack of use ultimately resulted in withdrawal of one audio recording set and its transfer to Peja DC. Retraining was conducted successfully for all pilot sites. During the summer 2006, the five District Court IT officers were trained and became first responders for technical problems with audio recording equipment. Usage increased dramatically through the first half of 2007.

A standard reporting format was introduced for all sites in May 2006, enabling JSRAK to identify weaker sites and provide additional training and technical support as needed. In late 2006, a user working group articulated lessons learned and recommendations that were presented to the KJC Court Administration Committee in December 2006. Working closely with the KJC Secretariat, JSRAK formally transferred the equipment at the conclusion of the project (June 2007), with formal transfer of responsibility for existing and future equipment entrusted to the KJC Secretariat. JSRAK assisted the KJC Secretariat and KJC Court Administration Committee in developing a strategy for expansion throughout Kosovo in the final stages of the project.

2) *Backlog and Delay Reduction: Records-management, file purging, delay reduction and civil execution cases*

Records Management – During 2004 and 2005, project staff surveyed the archival records management requirements of the Kosovo courts and developed and delivered recommendations for streamlining. Based on these, a program of records management training was developed and conducted for more than thirty court archivists from all over Kosovo. Review and classification for destruction or permanent retention of more than four million archival court files began in June with DOJ's promulgation of its revised records retention circular. More than one million Pristina Municipal Court archival files were transferred from the DOJ basement to an interim archival records storage facility established by DJA with assistance from JSRAK.

JSRAK submitted a proposal to UN/DOJ and the PRB to establish a case flow management program as a necessary foundation for monitoring Kosovo's progress in achieving objectives under the Kosovo Standards Implementation Plan (KSIP). The program also provides basic management information with which court presidents and court administrators can make more timely and informed decisions on managing caseload processes in their courts. A cross section of courts across Kosovo agreed to participate in the pilot caseflow management/delay reduction project. One of the first steps in such projects is to determine, by court, the pace of litigation (time to disposition) for all case types, the size, and age of the pending caseload. The data collection activity was completed in June, 2005 for all five district courts and the five municipal courts. Data is expected to be collected for the two Minor Offenses courts in the next project year.

Concurrently, JSRAK conducted two caseflow management/delay reduction seminars which were attended by the president judges and court administrators from each of the twelve pilot courts. These seminars were also attended by representatives from the UNMIK DOJ, DJA, the Kosovo Chamber of

Advocates, OSCE, and USAID. The first seminar was held in March, 2005 and the second in May, 2005. The seminars focused on introduction to caseload management/delay reduction principles, review of the time to disposition and pending caseload data gathered to that point and engaging the attendees in identifying ways to reduce unnecessary delay.

At the conclusion of the seminars, project staff compiled and presented each court's time to disposition and pending caseload statistics to the President Judge and court administrator for each court, and supported development of action plans for backlog reduction. A small group of courts was selected with which to collaborate on the design, development and implementation of action plans tailored to the particular court to reduce backlog and to reduce unnecessary delay. The program was ultimately combined with the civil execution delay reduction pilot program.

File Purging – The file purging aspect of overall records management activities under the JSRAK project built upon pilot activities in Gjilan Municipal Court conducted during the previous USAID project. Initial review activities were conducted in 2003-2004 with the assistance of consultants and local Court Administration Specialist. The UN/DJA, predecessor to the KJC Secretariat, was fully involved in all stages of JSRAK support to records management activities. This enabled the project to adopt a technical support role in all activities in this field.

The activities, described below, were successful as evidenced by functioning archive systems in all Kosovo courts:

1. Provided assistance to the Department of Judicial Affairs for the drafting of Terms of Reference for a new position in Kosovo courts: archivist. (Fall 2003)
2. Developed and administered a training program for 31 newly hired court archivists, in collaboration with the Kosovo Archive Center. The training program was both theoretical and practical. Following a weeklong theoretical training on issues such as record keeping, reviewing and purging, the archivists were separated into three groups for a series of a four-month practical training, each group spending one week at a time at the Pristina Shock Observer Factory where Pristina MC files had been moved. (March-November 2004)
3. Following a Circular from the Department of Justice requesting that all Kosovo Courts submit a retention schedule for their records, the project provided assistance to interested courts during the drafting process.
4. The project assisted Lipjan MC, Mitrovica MC, Pristina MC, Prizren MC, and Suhareka MC in developing and implementing file purging projects.

Delay Reduction - In late 2005, case flow management activities and civil execution activities were brought together as the project team started planning for pilot delay reduction activities focused on the civil execution caseload. Civil execution cases were chosen as the case category to initiate delay reduction activities for three main reasons: 1) civil execution cases represent roughly one third of all cases pending in Kosovo municipal courts; 2) effective execution of civil judgments is one of the Standards set by the UN in Kosovo; and 3) without effective execution the courts cannot perform their role, thus contributing to the problem of lack of public confidence in the courts.

In December 2005, the project initiated seminars on case flow management for representatives of Gjilan, Pristina, and Prizren Municipal Courts. The seminar was a mix of theoretical lectures on issues including case flow management, backlog reduction, and management of incoming cases, and of team exercises which culminated in the development of court action plans for improving the management of civil execution cases.

These first three pilot courts began a pilot project after the preliminary planning period outlined in the above-described seminars. They were later joined by an additional two groups of courts: Ferizaj and Peja MC in the fall 2006; and Glogovc, Istog and Viti MC in early 2007. In selecting pilot sites, the following criteria were taken into account: 1) capacity and commitment of court staff and leaders; 2) caseload size; 3) openness to exploring new solutions; and 4) opportunities for cross-fertilization. Implementation fell into several phases, as outlined below.

Phase One: Planning and Analysis

This phase comprised several standard steps, with all pilot courts following the same process:

1. Signature of an MOU with the project and general agreement on the activities and support required under the pilot program.
2. Completion of the caseload inventory. The caseload inventory was conducted electronically, supported by two databases: first a web-based application was piloted in Gjilan and Prizren MC, and second, a simple Excel spreadsheet used in the remaining pilot courts.¹

Results of Case Inventories

	Court MOU and initial action plan completed	Case inventory completed		Priorities established
		Obstacles identified	Caseload, age, type, amounts highlighted	
Gjilan MC	June 2006	On-going	October 2006	September 2006
Pristina MC	June 2006	July 2006	August 2006	August 2006
Prizren MC	June 2006	November 2006	August 2006	September 2006
Ferizaj MC	September 2006	October 2006	October 2006	November 2006
Peja MC	November 2006	December 2006	December 2006	January 2007
Gllgovc MC	March 2007	April 2007	April 2007	April 2007
Istog MC	January 2007	Unspecified	May 2007	May 2007
Viti MC	January 2007	Unspecified	April 2007	April 2007

3. Establishment of priorities. The final stage consisted of the establishment of priorities with pilot courts. Based on the case inventory, the Delay Reduction Team developed an analysis of the caseload, classifying cases by age, type, obstacles, etc. This analysis and subsequent classification were followed by development of recommendations and disposition strategies presented to the Presiding Judges and execution staff of each pilot court. These strategies included suggestions for the restructuring of execution units and use of temporary staff resources; initiation of constructive dialogue with PTK and KEK; and setting short-term and long-term targets.

Estimated Caseload Proportions in Pilot Courts (at time of inventory)

Court	Authentic Documents	PTK (as % of A.D.)	KEK (as % of A.D.)	Civil Judgments	Cases in which court is the creditor (as % of C.J.)
Peja MC	91%	31%	3%	9%	67%
Pristina MC	77%	79%	5%	23%	48%
Gjilan MC	72%	98%	-0-	28%	71%
Ferizaj MC	72%	99%	-0-	28%	60%
Istog MC	61%	17%	60%	39%	52%
Prizren MC	51%	80%	0%	49%	55%
Gllgovc MC	29%	80%	5%	71%	51%
Viti MC	26%	86%	5%	74%	83%

¹ Generally low staff computer literacy, old hardware, unavailable internet connections, among others, led the Delay Reduction Team to conclude in the fall 2006 that Excel would be a more appropriate support for purposes of the pilot project activities. All pilot courts continued to maintain their Excel electronic register, some more fully than others – by means of comparison, in Pristina Municipal Court only the register for authentic documents has been updated while in Ferizaj Municipal Court the execution clerks have made additions and modifications to the Excel spreadsheet so that it would better meet their needs.

Phase Two: Action planning – The Delay Reduction Team supported pilot courts in the development and implementation of their action plans for delay reduction and case processing improvement in civil execution. The main focuses of the support were internal actions to improve staff mobilization and efficiency, as well as external actions to improve dialogue with large creditors.

Highlights of initiatives implemented in pilot courts that have shown success:

- Regular field reporting in Prizren MC and individual dialogue with field clerks in Pristina MC leading to better identification of challenges to case processing and implementation of targeted solution.
- Constructive partnership with PTK in Ferizaj MC leading to increase in case disposition.
- Team structure established in Viti MC by pulling together existing court resources.

Achievements of Pilot Courts

Progress was measured against four indicators: 1) number of monthly disposed cases; 2) clearance rate, i.e., ratio of disposed cases to new cases; 3) percentage of disposed cases which are disposed within the established time standard; and 4) proportion of backlogged cases, i.e., ratio of cases pending for more than 24 months to total number of cases pending.

By the last quarter of the project, data showed overall improvement in all courts on at least two of the four indicators (with the exception of the Pristina Municipal Courts).

- Three courts (Gjilan, Peja, and Istog MC) recorded a clearance rate higher than “1” which means they disposed more cases than they received.
- All courts increased the total number of cases disposed on a monthly basis. Increases have been steady through the course of the pilot project.
- Progress on the last two indicators reflects the proportions of new and aged caseload in each court. In courts affected by exponential increases in case intake over the past quarters, the attention was focused on increasing processing of cases within the 6-month time standard. (This is especially the case in Prizren and Ferizaj MC). Five courts (Gjilan, Pristina, Prizren, Peja and Glogovc MC) managed to reduce the proportion of backlogged cases to the total pending caseload.

Phase Three: Dialogue with KJC Secretariat and Court Administration Committee – Throughout the implementation of the pilot project, the Delay Reduction Team regularly updated the KJC Court Administration Committee and the Presiding Judges of pilot courts of progress achieved. This enabled the Delay Reduction Team to ensure that activities gained sustainability and that challenges faced in case processing and disposition were addressed by the relevant entities (i.e., internally by Presiding Judges or externally through the KJC). Reports documenting progress toward goals were issued to participating courts after each quarter.

In February 2007, the Delay Reduction Team presented a formal progress briefing to the KJC Court Administration Committee, focusing on Ferizaj, Gjilan, Pristina, and Prizren Municipal Courts. The presentation led to a discussion of actions which the KJC and its Court Administration Committee can take to facilitate clearance of civil execution backlogs and the reduction of delays in civil execution case processing. Status of these action items is highlighted in the table below. The discussion also focused on recommendations to the Committee for future development and implementation of delay reduction projects.

Action	Timeframe	Steps taken by Delay Reduction Team	Steps taken by Committee or KJC
Revision of job descriptions to reflect differences in duties of field and registration staff.	Short-term	Draft job descriptions developed with pilot courts (stages 1 and 2 courts).	Request for action sent Phase Three:by Committee to KJC Secretariat in March

Action	Timeframe	Steps taken by Delay Reduction Team	Steps taken by Committee or KJC
			2007.
Review pay scale for field execution staff to reflect differences in duties among execution staff.	Short-term	Suggestions for compensation reevaluation presented in cover letter to job descriptions.	Request for action sent by Committee to KJC Secretariat in March 2007.
Increase availability of vehicles for execution staff.	Short-term	Dialogue with pilot courts to encourage Presiding Judges to give priority use to execution staff (success in Gjilan). Assistance to Pristina MC in obtaining additional car in late 2006.	Request for action sent by Committee to KJC Secretariat in March 2007.
Make storage available at court locations for seized items.	Short-term	Dialogue with pilot courts to encourage temporary on-site storage identification.	Request for action sent by Committee to KJC Secretariat in March 2007.
Improve reporting of pending cases, coordinating with CMIS implementation.	Long-term	Assisted in development of electronic registers (Excel). Identified inconsistencies in statistical reports.	Revised reporting requirements and registers developed by the KJC Statistics Division.
Develop a Civil Execution Handbook for courts.	Long-term	Draft handbook finalized in June 2007.	
Address required changes in or additions to Law on Execution Procedures.	Long-term	N/A	N/A
Standardize court fees across Kosovo.	Long-term	Facilitated work group meetings on court fees.	Committee (with green light from KJC) set up work group which finalized its work in May 2007.

Phase Four: Partnership with utility companies – Over the course of the project, the Delay Reduction Team built upon prior work of the Civil Execution Specialist to engage utility companies – primarily PTK and KEK – in constructive partnerships with the courts for purposes of civil execution. The partnership builds upon extensive work on stakeholder participation conducted between February 2005 and May 2006.

PTK is the largest creditor using the civil execution process. Most of these types of cases are affected by defects which undermine their likelihood of collection. Solving these obstacles is unlikely without the pro-active participation of the creditor.

Characteristics of PTK Cases
<ul style="list-style-type: none"> • Cases estimated to represent between half and three-fourths of all civil execution cases pending in Kosovo courts. • Majority of cases tend to be old (i.e., filed between 2001 and 2004). • Almost all cases correspond to relatively low amounts (i.e., less than €500). • PTK records and court records often do not match. • Many PTK cases are uncollectible because of address problems: address incorrect (debtor never lived there) or debtor has moved since the debt was incurred.

- Certain cases have already been paid or are being paid under a reprogramming of the debt.

In order to assist the courts in improving their disposition level of PTK cases – and in improving collection of PTK cases – the Delay Reduction Team facilitated two main activities:

1. **Record matching.** At various stages during the project, the Delay Reduction Team assisted Gjilan MC (September 2006), Prizren MC (September 2006), Pristina MC (September 2006, December 2006, and May 2007), and Peja MC (December 2006) in verifying that court and PTK records of open and closed cases match. Through this matching exercise hundreds of cases already collected or withdrawn by PTK were identified as still opened in court registers. Working closely with Lulzim Sokoli, Legal Advisor for PTK, the Team monitored the effective withdrawal of these cases.
2. **PTK-Court Memorandum of Understanding.** Following a meeting with the PTK Chief Operating Officer and members of the legal department in late October, PTK informed the Delay Reduction Team of its intention to become more actively engaged in the processing and disposition of its cases in court. This change in approach followed the record matching in several courts and an initiative of the Presiding Judge of Ferizaj MC (the PJ had called a meeting to discuss options for improve processing and disposition of PTK execution cases). The Delay Reduction Team assisted PTK with developing a draft Memorandum of Understanding for signature with the seven largest Municipal Courts. The Team then facilitated meetings with these courts (including five of the pilot courts: Ferizaj, Gjilan, Peja, Pristina, and Prizren MC) to agree on the contents of the MOU, sign it, and develop action plans for its implementation.

PTK touts success of working with Courts In June 2007 PTK hosted a television roundtable show promoting the successful relationship it has developed with the courts, especially with Pristina Municipal Court and President Judge Uka. PTK announced on the show that the company has recovered more €1 million through the new partnership agreements. The results have pushed other creditors to attempt to development cooperation agreements.

The Delay Reduction Team monitored implementation of the PTK-Court MOU and action plans. While some positive results were recorded in early stages – especially in Ferizaj and Peja MC – some difficulties in establishing new processes of cooperation between the two sides have emerged. For example, PTK has yet to take action on a list of approximately 200 cases valued at less than 25€ pending in Peja MC and on which it promised withdrawal. Similarly, courts are not always willing to follow the new approach of conferring with PTK before closing cases as uncollectible, leading PTK to file new appeals. Continued facilitation of the partnership would be beneficial.

Civil Execution

In the April 2004 case managements and records-keeping assessment, a number of obstacles to the effective processing and disposition of civil execution cases were identified and proposed solutions developed. Common obstacles included: 1) lack of constructive dialogue with large stakeholders such as PTK or KEK; 2) lack of necessary legislation including standard court fees, obligations of banks, authority of the courts to dismiss cases, etc.; 3) lack of clear, uniform guidelines on how to implement existing legal requirements; and 4) ineffective structure of execution units.

Starting in September 2006, the Civil Execution Specialist and KJC Advisors teamed up with the KJC Court Administration Commission and Secretariat staff to address a number of the previously identified challenges in the legal and structural framework for execution. The following actions were taken:

1. Development and administration of a survey of Presiding Judges on key policy issues such as how to handle cases in which the address is unknown or incorrect, how to handle cases in which the debtor is destitute, and transfer of jurisdiction. (September-November 2006)

2. Briefing of the Court Administration Committee on legal and structural reform needs of civil execution units. (February-March 2007)

Revision and implementation of legal framework for execution – The legal framework for execution is characterized by gaps in the existing laws and by the lack of uniformity and clarity in the implementation of existing laws. To remedy these challenges, the Civil Execution Specialist worked on three main issues: 1) promoting targeted revisions of the Law on Execution Procedures (LEP); 2) developing a Handbook on Civil Execution Procedures; and 3) compiling a compendium of applicable forms with a view to bringing uniformity to decisions and conclusions issued in the execution procedure.

1) **Revision of the LEP:** A series of substantive comments to address loopholes and outdated provisions of the proposed revised LEP were submitted to the Prime Minister's Office in the spring and summer of 2005. The Revised LEP was later rejected by the Assembly because it was "too close" to the old law and because it fell within the reserved powers of UNMIK. While a revision of the LEP is on the legislative plan of the Ministry of Justice, new efforts to review the LEP have been made at the time of project closure.

2) **Handbook on Civil Execution Procedures:** The need for a practical handbook presenting both the legal framework for execution and guidelines for its implementation in practice was raised by numerous stakeholders concerned about the lack of uniformity in the interpretation and implementation of rules in the various Kosovo courts. The Handbook seeks to address some of the legal obstacles which have been affecting the effective processing and disposition of civil execution cases.

Preliminary discussions over a proposed outline were held with Judge Ferid Bislimi in the fall of 2006. Three main contributors were identified: Judge Ferid Bislimi, Isa Shala (Execution Officer, Skenderaj Municipal Court), and Ferid Gjikolli (Attorney, Peja; KJI trainer). Another contributor, Isak Shala (Execution Officer, Pristina Municipal Court) was also involved though to a much smaller degree. The contributors met in March 2007 to agree on the outline and respective assignments. The analysis of the results of the KJC Civil Execution Questionnaire for Presiding Judges was included as background documentation for contributors. Contributions were submitted mid-April 2007 and compiled into an initial draft by early May 2007. The three contributors met on May 18 to read through the draft and provide comments. These comments and additional contributions were incorporated in early June 2007 at which point the draft of the Handbook was finalized.

3) **Forms:** In all courts participating in the pilot delay reduction activities, execution staff expressed the need for uniform templates for the myriad conclusions, minutes and decisions which must be taken throughout the execution process. Each court uses its own forms and templates, often leading to differing approaches in the implementation of legal procedures. In order to remedy these problems, we took the following steps:

1. *Forms inventory and thematic organization.* Various forms, templates and commentaries were collected from selected partner courts (Ferizaj MC, Gjilan MC, Prizren MC, Pristina MC/DC, and Skenderaj MC).
2. *Forms matrix development.* A list of key forms, to which selected templates drawn from books and court use were attached, was finalized in April 2007. It was then distributed to the delay reduction pilot courts at the April 12, 2007 Lessons Learned Roundtable.
3. *Standardization of forms.* We collected comments on the various forms from the pilot courts. All agreed that the list of key forms covered the most important areas of the execution procedure. However, it also became apparent that court practice varies significantly. (For example, for the same action, some courts use a conclusion and others a decision; similarly, in other cases, some courts use an order and others a request.) The most standard forms were identified and will be used as starting point for future discussions with judges and execution staff to eliminate confusion between decision, conclusion and orders.

Improvement of execution units – Beyond issues related to the legal framework and its implementation, four main challenges affect the efficiency of execution unit: 1) the lack of proper

management of incoming and pending caseload; 2) the lack of structure of the unit in medium and large courts; 3) logistical needs; and 4) insufficient training of execution staff. The first challenge was addressed mainly through the above-described delay reduction activities.

1) **Caseload management.** See delay reduction activities described on pages 18 of this report.

2) **Execution units:** Starting in September 2006, the Delay Reduction Team worked with medium and large pilot courts to appoint *ad hoc* coordinators. The Team also started developing revised job descriptions to differentiate the positions of coordinator, field execution officer, and execution registration clerk. Prior to project assistance in this area, execution staff fell under a generic job description which does not correspond to their actual roles and responsibilities. The revised job descriptions were developed based on the obligations of execution staff as outlined in the 1978 Law on Execution Procedures and the 1981 Rules on Internal Court Obligations. The revised job descriptions were then reviewed by participating pilot courts and submitted to the KJC Court Administration Committee for consideration at a February 20, 2007 meeting. The Committee instructed the KJC Secretariat to take action to revise the job descriptions of and review compensation levels for execution staff.

3) **Logistics needs:** At the February 2007 meeting of the KJC Court Administration Committee, the Delay Reduction Team shared a number of logistics needs which are impacting the ability of execution units to perform their task effectively. The Committee instructed the KJC Secretariat to take action on two fronts: identify and implement means to increase availability of transportation for execution staff, and make storage available at court locations for seized assets.

4) **Training:** The lack of familiarity with the legal framework for execution has long been a challenge for execution units. This has led to incorrect and disparate application of legal norms. It has also led to the failure to dispose cases which are eligible for disposition under the Law on Execution Procedure. Several training programs were offered through the life of the project. These include:

1. Case Flow Management Seminar (December 2005 – Gjilan, Pristina, Prizren MC) and mentoring.
2. Civil execution procedure training, including a review of disposition opportunities and recording and reporting requirements (December 2006 – Pristina MC).
3. *Ad hoc* mentoring of pilot court staff on key issues of execution procedure such as how to handle cases in which debtors have no assets.
4. Participation of the Civil Execution Specialist in trainings of judges on execution procedures at the KJI. (March 2006, October 2006)

Stakeholder dialogue – Building upon the 2004 Assessment, JSRAK held a series of roundtables and bilateral meetings with stakeholders of the execution process between February 2005 and June 2006. These meetings enabled stakeholders such as court execution officers, utility companies, banks, land registration officials, to share challenges and solutions related to efficient processing of execution cases and related court orders. The partnership with utility companies developed through delay reduction activities grew out of this dialogue.

3) *Court Fees*

The lack of a uniform, updated court fees schedule and procedures has been the single most frequent priority raised by Presiding Judges, judges and court staff alike through the life of the project. The Delay Reduction Team first worked with UN/DOJ during the summer of 2006 to provide comments on a draft in process at UN/DOJ. Unfortunately, it became apparent in September 2006 that this draft was unlikely to be processed any further.

Starting in September 2006, the Delay Reduction Team and KJC Advisors teamed up to assist the KJC in its efforts to develop uniform fees and procedures for the courts. The following process was completed:

1. Development and administration of a survey of Presiding Judges on key policy issues. (September-November 2006)
2. Approval of KJC Court Administration Committee initiative to develop uniform fee schedule and procedures by the KJC at its March 2007 meeting. The KJC sent a request to the SRSG for a formal authorization to develop and adopt court fees and procedures. Establishment of a Work Group on Court Fees – comprised of Presiding Judges and Court Administrators – to develop a proposed schedule and procedures. The Work Group met three times in April and May 2007. The final work product of the Work Group was submitted to the KJC Court Administration Committee at its June 2007 meeting.

4) *Court Statistics*

In the course of implementation of the Delay Reduction Activities it became apparent that reporting to the KJC Statistics' Office was not consistent across Kosovo and lacked the level of detail necessary for policy-makers to make informed decisions about staffing and support needed in the courts. Underestimated or overestimated pending caseload, reporting of the execution of criminal fines as civil execution, no distinction between civil judgments and authentic documents pending execution, etc., were among the many shortcomings of the reporting system. Similar problems (especially regarding the accuracy of reported numbers of pending and disposed cases) have arisen with regard to other case categories as well.

Following a November 2006 letter from the Delay Reduction Team, the Head of Statistics, KJC Secretariat, initiated a process to revise reporting requirements under civil and criminal execution categories of the statistical reports. The new reporting framework, that will enable collection of more accurate court statistical data, was presented to Municipal Court Administrators at a March 2007 meeting. The new reporting requirements were intended for immediate implementation, but several courts raised difficulties and it became apparent that new guidelines had to be issued for case recording in registers as well. To this end, the KJC Director set up a small work group of execution officers and specialists to revise civil and criminal execution registers. The group defined the number of registers which must be maintained by execution staff and reviewed the columns included in these registers. The group also drafted guidelines regarding the data to be entered in the registers. The work group was presented to the KJC Court Administration Committee in June, for immediate implementation.

Categories for Statistical Report and Registers	
<u>Civil Execution:</u> 1) Civil judgments (including expenses of criminal proceedings) 2) Authentic documents	<u>Criminal Execution:</u> 1) Prison 2) Criminal fines 3) Alternative penalties

5) *Leadership and Core Competencies*

In an effort to support building the leadership capacity of Kosovo Court Presiding Judges and Court Administrators, the project conducted in 2005-2006 a series of seminars on basic principles of court administration in the four key areas of human resources, budget/finance, case flow management, and information technology. Experts in these four core competencies traveled to Kosovo to conduct the seminars. The following seminars, each attended by 15 to 20 Presiding Judges and 15 to 20 Court Administrators, were organized and facilitated:

1. Case Flow Management Seminars – two-day seminars held in March 2005 and May 2005. The seminars provided basic information and practical exercises focused on effective caseload management, backlog reduction, court performance standards, etc.
2. Introduction to Court Administration: weeklong seminar held June/July, 2005. The seminar provided basic information and practical exercises focused on four key areas of court

administration: human resources, budget/finance, case flow management, and information technology.

3. Follow up Core Competency Seminars: two-day seminars on each of the four key areas of court administration covered during the “Introduction to Court Administration” seminar: human resources (January/February 2006), budget/finance (Mitrovica , March 2006), case flow management (Mitrovica , April 2006), and information technology (Pristina June 2006)

6) *Time Standard Development and Compliance*

Case Flow Survey – In early 2005, the project launched an initiative to collect data on case processing delays in Kosovo courts. Using data collection forms to record the dates of key steps in key cases (civil first instance, criminal first instance, civil second instance, criminal second instance, civil execution, and criminal execution), enumerators collected relevant data from files of randomly selected cases closed during 2003. From February to August 2005, data were collected for over 3000 cases in the following courts: Gjilan DC, Mitrovica DC, Peja DC, Pristina DC, Prizren DC, Dragash MC, Gjilan MC, Gjakova MC, Pristina MC, and Skenderaj MC. The data were then processed and analyzed. The report summarizing the analysis and recommendations for improving case processing and reducing delays was released in the March 2006 Case Flow Management and Delay Reduction, Statistical Studies of Case Flow and Pending Caseload in Selected Court.

Development of Time Standards – Using the data collected through the case flow survey and suggestions gathered during the Case Flow Seminars for Presiding Judges and Court Administrators (see point 5 above), the project developed proposed time standards to be used as a benchmark for measuring court performance in Kosovo. A proposal was submitted to UN/DOJ in December 2005. The time standards (presented in the box below) were ultimately adopted by the newly formed KJC in its first Circular, issued in April 2006.

Kosovo Time Standards: KJC Circular 2006/1			
Municipal Court		District Court	
Civil 1 st Instance	180 days	Civil 1 st Instance	90 days
Civil Execution	180 days	Civil 2 nd Instance	270 days
Criminal 1 st Instance	270 days	Criminal 1 st Instance	180 days
Criminal Execution	90 days	Criminal 2 nd Instance	270 days

Support for Implementation and Monitoring of Time Standards – When the KJC approved time standards at its April 2006 meeting, the decision required immediate implementation by all Kosovo courts and provided for a review of both compliance and the suitability of the requirements one year following initial implementation. In early July 2006, the Chairman of the KJC convened a meeting of all Municipal and District Court Presiding Judges to discuss progress in time standard implementation. Presiding Judges had been asked to prepare action plans for their courts to achieve compliance with time standards and to reduce (and ultimately eliminate) old case backlogs. The Head of Statistics for the KJC Secretariat, presented report templates to track time standard compliance. These required each judge to record the date of registration and the date of disposition for each case disposed on a monthly basis.

Analysis of the time standard reports was a necessary prerequisite for the revision of time standards, foreseen by KJC Circular 2006/1. In January 2007, the Secretariat Head of Statistics approached the Delay Reduction Team with a request for assistance with data entry. Six data entry clerks were selected in April 2006. By mid-June, data regarding over 50,000 cases had been entered.

7) *Mediation*

Sensitization to mediation – During 2006, JSRAK conducted a series of sensitization meetings across Kosovo. Judges and court staff were trained on the benefits and general principles of mediation.

Pilot mediation project – Mediation was repeatedly raised as a possible successful alternative to trial for civil and criminal cases at meetings with Presiding Judges during July 2006. Due to continuing delays by the Kosovo Assembly in adopting legislation to authorize mediation in Kosovo, the Delay Reduction Team conducted research on the feasibility of mediation under the current civil procedures and the development of mediation in the Balkans, with and without Mediation Law. Conclusions reported that while the laws do not specifically foresee mediation, nothing in the laws prevents parties from resorting to mediation. Hence, the project began working with Presiding Judges of Gjilan District and Municipal Courts to develop a pilot project in these courts. The concept and framework for the pilot were adopted by the KJC Court Administration Committee at its December 2006 meeting.

In April and May 2007, JSRAK supported the development of proposed procedures for the pilot project and conducted initial training for mediators, completing the following activities:

1. Development of procedures for case referral, processing and disposition.
2. Development of training, education and ethics standards for mediators.
3. Selection of potential mediators by the Presiding Judges of Gjilan District and Municipal Courts.
4. Development and partial implementation of training program. Training program was broken down in three phases 1) basic training on mediation, 2) simulation training of 20 hours (substitute for the requirement of participation in mediation), and 3) procedural and ethics training to be conducted once the procedures are approved by the KJC.
5. Approval of the Procedures by the KJC Court Administration Committee at its May 21, 2007 meeting. The CAC referred the Procedures to the full KJC for final approval and official launch of the pilot project.

Pending Issues and Recommendations

While, as reflected throughout this section of the final report, substantial progress was achieved with respect to a broad range of court management and administration issues, particularly within the pilot courts, there are nevertheless some lessons to be drawn and carried over to the future USAID rule of law project. In terms of both obstacles encountered and recommendations for follow-up activities, these are included in this report.

Relative to Audio Recording –

- Effective use of audio recording equipment depends on court leadership, as well as the location of the equipment (in the courtroom or judge's chamber). The inability of UN/DJA to secure funding from the 2006 Kosovo Budget sufficient funds to support expansion has delayed roll out of the system to other courts, and has had a negative impact on sustainability.
- Lack of management support or interest by some Presiding Judges, Judges, or Execution Clerks has limited the achievements of the delay reduction project and in some cases undermined the efforts of staff members eager to participate in the audio recording program.

Relative to Backlog Reduction and Case Management –

- Lack of institutional support for the pilot projects has limited the potential impact on court practices. All activities were implemented based on good will from the courts.
- Limited resources and logistics (staff, cars, computers, storage, etc.) have limited the range of actions which could be implemented under the project.
- Uncommonly high levels of incoming cases are shadowing the significant achievements in improving disposition levels and reducing the volume of cases still pending after two years. For the eight pilot courts, monthly filings in April and May 2007 were three times higher than the 2005 monthly average set as baseline. The increase was six-fold in Prizren, five-fold in Ferizaj, and three-fold in Pristina – the most affected courts. Courts must deal with this increase without any increase in staffing.

- Divergences (and power fights) between the MOJ and KJC has impacted establishment and regulation of court fees.
- Gaps in the legal framework supporting decentralized responsibility of Presiding Judges and Court Administrators. Even when the legal framework is in place, it is not implemented.

Relative to the work of the future project:

- Participation in future discussions on revision of Law on Execution Procedures.
- Finalize Handbook on Civil Execution Procedures by integrating key forms.
- Work with KJC Secretariat and Court Administration Committee on actions to improve execution units.
- Distribute the Handbook and develop Handbook-based training program for execution staff.
- Continue work towards uniform, standardized court fee schedule and procedures.
- Support clarification of respective roles of MOJ and KJC as relates to court fees and other issues.
- Continue monitoring implementation of new statistical report and registers.
- Assist the Secretariat Statistics Office with conducting audits of the number of pending cases.
- Support analysis of data related to compliance with time standards.
- Institutionalize mentoring of President Judges and Court Administrators.
- Support transfer of competencies and delegations of authorities between President Judges and Court Administrators in certain core areas of court administration.
- Assist with development of information campaign for the pilot mediation project.
- Conduct the final segment of training of mediators.
- Monitor success of pilot project and identify second pilot site to test mediation procedures.
- Monitor adoption of Mediation Law.

Component Three: Enhanced Respect for Ethics and Delivery of Quality Services

Summary of Achievements:

- Revision of the code of ethics for judges and prosecutors
- Developed and delivered a program of training on Judicial Ethics to judges and prosecutors throughout Kosovo
- Cadre of Kosovo Judicial Institute trainers prepared to provide on-going instruction in professional ethics
- Technical assistance in the creation and operations of the Judicial Inspection Unit
- Technical assistance in establishing a sustainable Judicial Audit Section as part of the JIU
- Seven audits throughout the courts completed.
- KJI provided a cadre of trainers on the subject of professional ethics.
- Performance of JIU improved through technical assistance and direct support to accelerate case processing and to enhance quality of review procedures.

Component Three, led principally by a Judicial Ethics Advisor embedded within UN/DOJ, was to have focused originally on a broad-ranging scope of activities associated with judicial and prosecutorial ethics. Prior to contract award, however, UN/DOJ re-negotiated the original terms of reference for this position and, through an amendment to the proposal, the core responsibilities of this advisor had a more limited focus on creation and institutionalization of the Judicial Audit Section (JAS) within the Judicial Inspection Unit (JIU). Thus the title of this advisor changed to that of Audit Section Advisor. Due to these re-negotiation processes, the selection and appointment of the Audit Section Advisor was delayed until late 2003.

The bulk of the advisor's responsibilities centered on standing up the newly created Audit Section – a Section to which no staff was assigned and with no internal policies and operating procedures. As in the case of the advisors under components one and two, because the Section had no staff, the Advisor had to assume a semi-operational role as implementer, while working within UNMIK structures to develop the unit. Led by expediency of issues facing UN/DOJ, the advisor's work began with conducting an immediate audit of weapons cases filed in the District Courts of Kosovo. Simultaneously with conducting high-priority audits personally, the Audit Section Advisor also began building the policy and procedural bases upon which the Audit Section would be formed.

In early 2004, the advisor drafted an Internal Audit Manual, terms of reference for staff, and the Section's Operational Plan. The next step, hiring of Audit Section staff, began immediately thereafter, but was to prove more challenging a task than originally anticipated. These complications stemmed directly from funding levels within the Kosovo Consolidated Budget sufficient to support the initial staffing plan for the Section. On a short-term basis, the Advisor was able to obtain sufficient additional support from UN/DOJ to staff the unit and begin work. During the second and third project years, the bulk of the work focused on developing a workplan and hiring the staff (testing, interviewing, conducting background checks², and training).

1) *Judicial Audit Section*

² In fact, much of the work carried out in conducting background checks would ultimately serve as the basis for developing a process for conducting background checks on other types of justice sector positions, specifically, for police, judges, and prosecutors. At UNMIK request, USAID agreed to the secondment of a second advisor within UN/DOJ to provide technical assistance for further developing and institutionalizing background checks. Indeed, this process will be used to support the initial vetting of sitting judges and prosecutors, anticipated to take place during the follow-on project period.

Following the hiring of the staff of the Judicial Audit Section (JAS), the program of training was conducted in early 2006, involving both classroom and extensive practical, hands-on training. The classroom training consisted of approximately 80 hours of study, culminating in the drafting of an audit proposal for the first pilot audit – the first element of the hands-on training program. The focus of the first pilot audit was on breach of statute of limitations – an issue that dealt directly with case processing as a primary reason for delay. The Section focused on two municipal courts, then expanded coverage to a third. The first pilot audit found that 153 cases breached the statute of limitations. On the basis of the findings, staff formulated recommendations to expedite cases nearing their statute of limitations, coordinating these recommendations closely with the delay reduction work carried out under Component Two. After presentation of findings, the President Judges of the three courts were highly receptive about both the findings and recommendations and, in fact, expressed their written appreciation to the JAS for their work.

Audits Conducted during the live of the project
Audit 01/06 *Identification and assessment of points in the system of criminal procedure that cause the Statute of Limitations to run in criminal cases*
Audit 02/06 *Review of the court practices related to the verification of signatures and certification of contracts for the sale of real estate*
Audit 03/06 *Drafting and delivery of criminal decisions*
Audit 04/06 *Drafting and delivery of civil decisions*
Audit 05/06 *Court practices regarding receipt and registration of cases*
Audit 06/06 *Justice sector procedures/practices regarding chain of custody evidence in criminal cases*
Audit 01/07 *Review of court practices regarding the listing and arrangement of documents within case files*

By project completion, the JAS had initiated seven audits, and begun to develop an impressive level of autonomy in their work, to the extent that the third through seventh audits were conducted principally by Audit Section staff. JAS managers organized and directed staff members to develop questionnaires, interview, collect data, and analyze the information received. The draft audit reports from these audits, demonstrate a level of sophistication that reveals the Section’s maturation.

Despite these substantial gains, however, by project end, a number of significant challenges remain for the Audit Section. Primarily, these fall into three categories: (1) continued need for sufficient resources for the JAS to enable staff retention; (2) further capacity-building for JAS leadership and management to improve the overall performance of the unit; and (3) improvement of audit reports and presentations, and formulation of realistic recommendations for corrective actions.

2) *Judicial Inspection Unit*

Early on in the project, the Component Three Advisor provided substantial hands-on assistance to UN/DOJ in conducting high-priority investigations, as well as assistance in planning and developing the operational mandate, procedures, and training for the Judicial Inspection Unit (JIU). During the final six months of the project, JSRAK also provided training to the Judicial Inspectors to improve the quality of their investigations, reports, and presentations. In part, this aspect of assistance entailed working with UN/DOJ on developing a better understanding regarding which investigators needed additional training and which may require termination based on performance. The results of this assistance are detailed in Attachment IV, submitted with this final report. In addition to the training Judicial Inspectors, and as reflected in footnote 2, JSRAK provided direct assistance and implementation support to all investigators conducting background checks of the judges, prosecutors, and other judicial sector staff. Over the course of a year the project conducted numerous background checks that usually had about 25% of those reviewed failing their checks for various reasons. In all, the project conducted 277 background checks on candidates.

3) *Judicial Ethics*

During the period in 2004 while the Advisor was awaiting UN/DOJ approval of additional funding for the JAS, he was also involved in a variety of other activities. Principal among these, the Advisor provided assistance with developing an application form related to disclosure of information necessary to conduct background checks on potential candidates, created a model code of ethics for

the members of the Kosovo Judicial and Prosecutorial Council (KJPC), and made recommendations for improvements to the ethics codes for judges, prosecutors, and lay judges.

After completing the redrafting of the code of ethics, and an initial round of training of 11 judges and prosecutors, the KJI requested the project to carry out additional training. In preparation for this expansion, the project developed a course description and methodology for a wide-scale ethics training that involved a train-of-trainers course for a group of judges and prosecutors, who were then able to expand the program by conducting additional TOT for other judges and prosecutors. The goal of these trainings was to provide the KJI with an expanded cadre of potential trainers who can continue to conduct ethics seminars as the Institute requires them. In all, the JSRAK team conducted training for 240 sitting judges and 57 potential new judges on the new ethics codes and assisted the Kosovo Judicial Institute train 80 judges and prosecutors on ethics issues.

Pending Issues and Recommendations

- The most significant pending issue – and one that is external to the scope of the project - is a final decision regarding the organization placement of the JIU within the government structures of Kosovo's PISG. This decision will inevitably impact the effectiveness of both the JIU and JAS, and their continued sustainability and relevance.
- Full support for the work of the JAS has not yet fully developed within the KJC Secretariat.

Component Four: Public Awareness

Summary of Achievements:

- Four annual surveys conducted and two public information brochures prepared
- Increased use of print media to disseminate information about the judiciary and judicial reform
- Training of journalists about reporting changes within the judiciary and on court cases
- Development and airing of Public Service Announcements and a video documentary about the judiciary and reform process.

Due principally to the evolving nature of the project described throughout this report, the Public Outreach Component did not begin full implementation until mid-2004, following the designation of a Public Outreach coordinator by the project sub-contractor. During the final two-thirds of the project, the Public Outreach coordinator was able to accomplish potentially long-lasting impacts, principally through work on training of journalists and through production of a video program on the judiciary – its work and the reform process.

1) *Public Surveys and Brochures*

The Public Outreach component anticipated conducting annual surveys measuring public perception of the courts and the judiciary in general. Results of these surveys were to serve as one of the bases for developing future types of expanded outreach activities to enhance public perception of the judiciary and improve their knowledge and understanding of the reform process and the role of courts. They also served as a way to track general progress of the components by showing the possible impact upon the citizens.

During the course of the project, JSRAK's sub-contractor (IFES) conducted a total of four surveys. Three of the four were public opinion surveys, conducted in 2004, 2005, and 2006, while an additional survey conducted in 2005 measured the attitudes toward the judicial system among court users in Kosovo. The 2004 and 2005 surveys were published and distributed. The 2006 Public Opinion Survey was not published due to the sensitive political situation in Kosovo at the time. All four were instrumental in allowing the project to design several programmatic responses that disseminate information to the public to enhance their understanding and awareness of the justice system. The first survey served as a baseline from which to measure the effectiveness of future efforts to improve public awareness and participation in the judicial system. Each consecutive survey served to measure progress and the effectiveness of the programs implemented.

2004 Survey - The initial baseline survey in 2004 measured perceptions and levels of knowledge of the residents of Kosovo about the justice sector, to include specific legal issues, actors, and the court system. The results indicated that residents of Kosovo in general, across gender and ethnic lines, had less information about activities in the justice sector than about political or economic development. Although the population had little information on the justice system overall, most (82%) reported that they would be interested in a public information campaign on the judicial system and citizens' rights. Advertisements in newspapers, and free brochures were cited as the most useful sources of information by the majority of respondents.

2005 Survey - The second public opinion survey was conducted throughout Kosovo in mid-2005. The objective was to measure changes in Kosovo residents' perceptions and knowledge of the justice sector, including specific legal issues, actors and the court system, as compared to the results to those of the 2004 survey. The 2005 survey revealed that while there was a general increase in information about legal and judicial matters, with the exception of respondents who had actually used the courts, a large segment of the population in Kosovo still was not informed about key elements of the legal and judicial system in Kosovo. Less than half of all residents of Kosovo were aware of the

different levels of the court system or the responsibilities of these different levels. Less than half were aware of where to go for assistance on legal matters and such matters as the procedures for appealing a court decision. More than three-fourths did not know how to obtain information about the laws under which they live in Kosovo. Once again, mass media and television in particular were recommended as the key conduits to be used to disseminate information about the judicial and legal system, as these were the primary sources for information in Kosovo. Of note in the 2005 survey, a large majority of the Albanian population in Kosovo continued to agree that the judicial system in Kosovo was unbiased and that judges in Kosovo ensured that everyone received a fair trial regardless of gender or ethnicity. The majority of Serbs continued to disagree with these statements, and the lack of confidence among Serbs in the legal and judicial system continued to be a concern.

Court User Public Survey - Also in 2005, a different survey instrument focused on attitudes toward the judicial system among court users in Kosovo. The results indicated that actual users of court services had moderate levels of trust in judicial institutions. Court users expressed a fair amount of trust in the courts (with more citizens indicating high confidence in the police than other institutions) and approximately half of respondents agreed that the judicial system treated everyone equally while the majority of court users believed that judges had the training to effectively administer law and order. Most court users believed that corruption was at least somewhat common – especially among lawyers and judges and much less so among court registrars. The most cited that the principal source of corruption was payments made by ordinary citizens to push their case in their favor. Overall, there was a lack of knowledge among court users about the court system and its basic procedures, including how to register a case or how to appeal a decision. As was the case on other surveys, court users who self-identified as Serbs held different attitudes than their Albanian counterparts, specifically with respect to confidence in the court in general, and fair and equal treatment. Both groups indicated that they would use the courts again. This survey showed that users of courts that USAID's Justice System Reform Activity in Kosovo project had worked with often had more positive attitudes towards Kosovo's court system than users of other courts. They expressed overall confidence in the courts and confidence in prosecutors and judges. They had more trust in the ability of the legal system to maintain law and order and protect their rights believing that judges had the training needed to effectively perform their jobs. These individuals also had more information about the different types of courts in Kosovo and their respective responsibilities as well as procedures for registering case, appealing a decision, enforcing a court ruling, and getting advice on legal matters; and they thought their specific case was resolved without unreasonable delays and that all proper procedures were followed and explained.

2006 Survey – The final survey (and the first to measure public opinion following transition of responsibilities from UNMIK to the PISG) was conducted at the end of 2006, again measuring Kosovo residents' perceptions and knowledge of the justice sector. The 2006 survey results showed that the increased knowledge of legal and judicial matters, seen in the 2005 survey, had been maintained or further augmented, that the population of Kosovo was substantially better informed about key elements of the legal and judicial system than they were in 2004, and majority of respondents were aware of key rights, such as the right to legal council and the right to a fair trial. Nevertheless, a significant segment of the population still lacked basic information about these issues, despite the public brochures and training of journalists. Of concern were survey results indicating a small erosion in confidence levels in several judicial institutions and actors, a decrease in the belief that the legal system was unbiased, and an increased percentage of respondents believing that corruption was on the rise. As previously, Kosovar Albanians and Serbs continued to hold often radically different viewpoints about the justice system, with Serbs expressing less confidence in many institutions and in the functions of the judicial system more generally.

Public Brochures - Armed with the 2004 survey results, it was agreed that it would be useful to prepare brochures for public distribution about the role of the judiciary and the judicial reform process. The resulting two brochures ('The Basic Guide to the Judicial System of Kosovo' and 'Informational Brochure on Your Rights') contained basic information regarding the judicial structure, judicial reforms, and contained contact details for every court in Kosovo. These materials were distributed through seminars conducted by trainers throughout Kosovo, reaching approximately 10,000 citizens.

2) *Training for Journalists*

From the seminars and public awareness survey, the project learned that citizens in Kosovo mostly were made aware about the judicial system through the media. Because the media is the primary source for citizens, the project turned to training for journalists on the judicial system. The training seminars were held through the last two years of the project with varying methodologies.

The objectives of the journalist training sessions were to train print and broadcast journalists on accurate and objective reporting of court trials. This was done by helping them better understand how to distinguish between fact and opinion when reporting on an oral trial. During these sessions the topics covered by trainers were: the Justice System in Kosovo; Criminal and civil procedures; Legal terminology; Kosovo Judicial Council (KJC) and Judicial Inspection Unit; Law and journalism; Ethics of printed and electronic mediums; Practical court reporting (presentation of real court cases), Law for minors, author's rights and writing for the Internet.

One assessment of the results of this training showed that the number of stories published that were based on facts as opposed to opinions moved from 60% to 82%. The seminars were often repeated as newspaper staff was moved around within their organization, so that each journalist covering the courts could receive the training.

3) *Video Production on Judicial Reform*

Since the mass media and television in particular were key conduits to disseminating information about the judicial and legal system, the project devoted the final months of the project to developing a series of public announcements and an informational video on the judiciary. Through a subcontract, and with field office staff, the project produced a documentary on the justice system in Kosovo. Also working with a sub-contractor, JSRAK broadcast two public service announcements (PSAs) with a focus on the justice system. The PSAs addressed concepts such as judicial independence and judicial process. The two PSAs produced: ***Wrestling*** and ***Courtroom***, were shown on two TV stations, and were aired three times a day during prime time television. The assessment of the PSAs showed that most people liked the PSAs and wanted more with a special focus on rule of law, that the PSAs were interesting and innovative, and that PSAs reflect the reality of Kosovo. The PSAs were each about 45 seconds long with a shorter 25 second version available for follow-up broadcasting. They were aired during primetime on TV21 and TV Most, a Serbian station.

The TV documentary was a 22-minute video, entitled, *Faces of Justice*. It was broadcast on RTK, the public television station. Prior to airing, a series of short video clips were made to promote the video to ensure that a large portion of the viewing public would actually view the video. In addition, JSRAK staff members and a USAID representative were interviewed live on an RTK morning TV program, Miremengjes Kosove, to promote the video and discuss issues surrounding the judiciary.

Pending Issues and Recommendations

- The majority of the impact from Component Four occurred late in the project, with some significant successes, however, completion of several activities took much longer to complete than anticipated. Thus, further focus on disseminating information about the role of the judiciary and changes thereto will be a continuing necessity.
- The potential impact of the PSAs and video were positive, and should continue into the follow-on project, and screenings should be expanded into schools, through DVDs already produced.
- In that the public continues to have problems understanding the function and structure of the justice system, additional activities to inform and involve the public are necessary. Ultimately, the courts should become involved with explaining its work to the citizens. Possible ways of doing this include days where the general public can come to the courthouse and receive a tour and presentation from a President Judge and sessions with school students observing a trial.

Conclusion

In June 2007, USAID awarded a Task Order to NCSC under the Rule of Law Technical Services IQC, for the three-year Kosovo Justice Support Program (KJSP), which seeks to build on the substantial accomplishments of the preceding Justice System Reform Activity in Kosovo. KJSP will seek to further advance and sustain the momentum achieved under JSRAK, in order to implement programs that will seek to:

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 Legal Drafting and Policy Formulation/Guidance Skills
6. Establish and Support the Organization and Critical Tools Necessary to Build an Effective Public Prosecutors Service

Building on the knowledge, tools and methodological approaches put in place and piloted under JSRAK, the KJSP focuses on advancing the reform and modernization of the judiciary and court administration profession, at both the overall management level of the justice system, and at the level of the individual courts. The underlying objective of all KJSP project activities is to further support an independent judiciary, and to continue to increase the operational capacity of the system to administer justice fairly and efficiently.