

**RULE
OF LAW
PROGRAM**

**NIS Regional and
Trans-Caucasus Republics**

Project No.: 110-0007-3-466-2107

Contract No.: CCN-0007-C-00-4003-00

**Submitted to:
U.S. Agency for
International
Development**

**Submitted by:
ARD/Checchi Joint Venture
1819 L Street, NW, Suite 500
Washington, DC 20036
Phone: (202) 861-0351
Fax: (202) 861-0370**

**TWELFTH QUARTERLY
PROGRESS REPORT
(September 1, 1996 - November 30, 1996)**

INTRODUCTION

On November 30, 1993, the Rule of Law Consortium, ARD/Checchi Joint Venture (ROLC), entered into a contract with the United States Agency for International Development (USAID) to provide professional services in support of the Rule of Law Program for the NIS Regional and the Transcaucasus Republics. The goal of the Rule of Law (ROL) program is to assist in the development of legal and political environments that facilitate the transition to democratic, market-based societies in the NIS region. The purpose of the program is to collaborate with public and private organizations in the NIS countries to develop or strengthen the laws, legal institutions and civic structures which support democratic, market-based societies.

The information in this (twelfth) quarterly report covers the period from September 1, 1996 - November 30, 1996. Detailed information on all program activities under the Regional Contract is contained herein.

TABLE OF CONTENTS

Introduction

Central Asia **Tab I**

Transcaucasus **Tab II**

Other Activities **Tab III**

Financial Statement **Tab IV**

I. COMMERCIAL LAW TRAINING PROJECT IN KAZAKSTAN AND THE KYRGYZ REPUBLIC

A. OBJECTIVE

This project addresses the need for a legal environment that supports further privatization and the conduct of private enterprise in the Central Asia Republics of Kazakstan and the Kyrgyz Republic. In order to promote economic restructuring, the ROLC is working with the members of the judiciary and the legal profession in establishing training programs that will focus on interpreting and applying commercial law.

B. TWELFTH QUARTER TARGETS

Stage the second cycle of Phase 1 training for attorneys at the Practicing Law Institute (PLI) in New York.

Develop final schedule for second cycle of Phase 2 judicial training seminars in both Kazakstan and Kyrgyzstan.

Develop final schedule for second cycle of Phase 2 attorney training seminars in Kazakstan and Kyrgyzstan.

Stage the second cycle of Phase 2 training seminars for attorneys in Bishkek and Almaty.

Stage the second cycle of Phase 2 training seminars for judges in Osh and Almaty.

Stage a Phase 3 concentrated seminar for mixed audiences of attorneys and judges in Kazakstan.

C. OUTPUTS AND ACHIEVEMENTS

During the reporting period of the Commercial Law Training Project, the ARD/Checchi Rule of Law Consortium (the "Consortium") accomplished its administrative and programmatic objectives set forth in the quarterly work plan.

C.1 Goals for the Program During the Quarter

The formative stages of this Training Project focused on equipping local institutions with the tools to organize training in commercial law and to provide local professionals with both the methodological tools to disseminate information on commercial law and the substantive background in commercial law in market economies. In this quarter, the Consortium concentrated on

tapping this local capability to train judges, attorneys and other legal professionals in commercial law and to strengthen core legal institutions (the judiciary and the bar) in Kazakstan and Kyrgyzstan.

During this quarter, the Training Project's activities were concentrated in three areas: 1) in-country comprehensive training programs (Phase 2 Model Programs) and concentrated seminars (Phase 3) on commercial law for judges, attorneys, and other legal professionals; 2) continuing effort to train local faculty to become trainers; and 3) planning for new separate programs for judges and procurators on economic crime.

Model Programs (Phase 2) and Concentrated Programs (Phase 3)
During the past six months, the emphasis has shifted to tapping this local capability, which we have fostered, to train judges, attorneys and other legal professionals in commercial law and to strengthen core legal institutions in Kazakstan and Kyrgyzstan (the judiciary and the bar). The Consortium organized three comprehensive seminars of varying durations during the reporting quarter. The Consortium designed the seminars to further the following goals:

- to equip Kazakstani and Kyrgyzstani judges, attorneys and other legal professionals with a general understanding of the relationship between the legal system and the market in a developed economy: how commercial laws function to ensure fair and efficient markets;
- to strengthen the autonomy of the judiciary as a whole;
- to provide a forum in which the U.S. perspective on points of emerging Kazakstani and Kyrgyzstani commercial legislation can be constructively presented and to offer the benefits of the U.S. comparative advantage in commercial law expertise;
- to bolster the critical evaluation and interpretation skills of sitting judges and thus to promote a more flexible approach to commercial dispute resolution;
- to afford Kazakstani and Kyrgyzstani judges and attorneys an opportunity to appreciate the policy rationale behind particular pieces of legislation;

- to help modernize the system for training judges and attorneys by demonstrating U.S. teaching methodology and conceptualization for teaching purposes of key commercial law topics;
- to provide an overview of the black-letter law in recent commercial legislation in a comprehensive and systematic fashion;
- to familiarize a large majority of Kyrgyzstani judges with their national Civil Code to enable them to implement it based upon black-letter law and understanding of market economy.

The programs during the quarter substantially furthered each of these goals as detailed below.

Continuing Phase 1 Training for Attorneys

At the outset of this Training Project, the Consortium planned to conduct two cycles of Phase 1 (training the trainers) for attorneys and judges. The Consortium completed both cycles of training of trainers for judges at the National Judicial College in previous quarters. The Consortium also completed the first cycle of training of trainers for attorneys in April 1996. In this quarter, the Consortium conducted one Phase 1 Seminar which was administered by the Practicing Law Institute in New York. The Consortium designed this seminar to further the following goals:

- examining core commercial law subjects such as securities and contracts;
- examining attorney-specific topics such as legal ethics and training methodology;
- reviewing written materials prepared by the participants for Phase 2 seminars;
- establishing good contacts with the local bar association, the PLI, and lawyers in New York.

Planning for Economic Crime Programs for Judges and Procurators

During the reporting period, the Consortium also designed and commenced implementation of the training program for Kazakstani and Kyrgyzstani procurators and judges. The Consortium held preliminary discussions with prospective institutions to work out

the program for training of trainers for judges in the economic crime area.

Working closely with the Office of Professional Development and Training of the Criminal Division of the Department of Justice (OPDAT), the Consortium identified trainers from the DOJ to participate in Phase 1 Procurator training program which will be administered by the American Prosecutors' Research Institute (APRI). A joint delegation of 11 procurators from Kazakstan and Kyrgyzstan is scheduled to participate in the Phase 1 training in January 1997. The Consortium is designing this seminar to further the following goals:

- acquaint the procurators with Western approaches of investigating and prosecuting economic crimes such as financial institution fraud, money laundering, bankruptcy fraud, tax evasion and similar crimes;
- introduce the procurators to both U.S. institutions that investigate and prosecute economic crimes and training institutions for procurators;
- train the participants as trainers by working on teaching methodology and curriculum development;
- planning further programs in Kazakstan and Kyrgyzstan for trainers on economic crime

C.2 Programs During the Quarter

The Consortium conducted several programs to advance the goals enumerated above: Phase 1 (training trainers) for attorneys; separate Phase 2 (model seminars) programs for judges and attorneys; and Phase 3 (concentrated seminars) for a combined audience of judges, attorneys and other legal professionals.

These seminars provided significant and substantial information on commercial legislation and other legal topics to a total of over 200 judges, and 250 attorneys and other legal professionals. Each seminar was based primarily on local laws taught by local judges and local legal professionals who previously received Phase 1 training at the National Judicial College and the Practicing Law Institute in the U.S.. To augment and support this effort, the Consortium tapped U.S. judges and attorneys to join with their local colleagues to teach the judge and attorney seminars,

respectively. The major activities that occurred during the quarter are described below:

Judges' Phase 2

- held two comprehensive two-week Phase 2 training seminars for Kazakstani and Kyrgyzstani judges, bringing to over 200 (over 100 in each country) the numbers of judges and judicial system professionals trained in Kazakstan and Kyrgyzstan in the Commercial Law Training Project; the Consortium also arranged the participation of six judges from Mongolia at the Kyrgyzstan seminar.

Attorneys' Phase 1

- held the second Phase 1 training seminar for Kazakstani and Kyrgyzstani attorney-trainers at the PLI, conducted under NET auspices.

Attorneys' Phase 2

- held three weeks (one week in Kazakstan and two weeks in Kyrgyzstan) of Phase 2 training seminars of Kazakstani and Kyrgyzstani attorneys, bringing to over 250 the number of attorneys in Kazakstan and Kyrgyzstan that have been trained to date in the Commercial law Training Project.

Legal Professionals' Phase 3

- bringing the program to outlying regions of Kazakstan, holding concentrated seminars for legal professionals in Akmola and Dzhambul, Kazakstan

C.3 *Significance of Programs*

The programs that the Consortium organized during the quarter were significant in several major respects.

Judges Learn Skills to Develop Own Programs: The seminars depended heavily on those participants who learned teaching methodology and curriculum development at the National Judicial College. To foster institutional development, the second set of judges that received Phase 1 training at the National Judicial College included key-decision makers who are in a position to substantially influence the course of judicial education in Kazakstan and Kyrgyzstan. In participating in Phase 2 seminars, these judges put in practice the tools acquired during their Phase 1

training at the NJC which are needed to develop sustainable, comprehensive judicial training approaches.

Attorneys Train their Colleagues: The second cycle of Phase 2 seminars were as successful as the first cycle earlier in the year. They illustrated that institutionalization of a continuing education program administered by a local organization is attainable. In Kazakstan, the program showed that practicing lawyers are willing to pay for a training program, and in Kyrgyzstan, the program showed that there is a pent up demand for programs on commercial law for legal professionals. The demand for comprehensive written materials devoted to local law which the Consortium distributed at the seminars was once again evident. Each program was the major event for the nascent bar associations in each country.

Programs Reach Out to Regions of Both Countries: The Consortium attempted to expand each program to regions outside the capital of the country. In Kyrgyzstan, the Consortium organized the first significant training effort in the South of the country. In Kazakstan, the Consortium helped to coordinate seminars outside the capital, in Dzhambul (in the South) and Akmola (in the North).

Seminars Utilized Combined Local and USAID: The format of the joint training exercise involving local counterpart- and U.S.- provided trainers with shared teaching responsibilities was once again well received. The seminars offered the pooled talents of an unusually wide array of experts: Kazakstani and Kyrgyzstani judges; Kazakstan and Kyrgyzstani legal academics, faculty from the National Judicial College and the Practicing Law Institute, and specialists from USAID contractors. The seminars brought together all the contractors from the Commercial Law Project and representative contractors from the other USAID privatization and economic restructuring projects in a way that maximizes synergies and efficiencies and demonstrates close USAID contractor coordination.

Multi-Donor Effort Approach Proves Successful: The Consortium, working with the Center for International Legal Cooperation in Leiden, the Netherlands, organized the participation of six Mongolian judges in Kyrgyzstan. The Embassy of the Royal Netherlands in Beijing financed the visit, and the Dutch Foreign Ministry funded the participation of a Dutch professor and Dutch

judge at both the judge seminar in Kazakstan and the judge seminar in Kyrgyzstan

A detailed quarterly report that was submitted to USAID/Washington, USAID/Almaty, and USAID/Bishkek is enclosed as an attachment.

D. THIRTEENTH QUARTER TARGETS

Train ten procurators from Kazakstan and Kyrgyzstan in the U.S. as trainers for economic crime issues (Phase 1 training)

Commence planning for the first of three seminars on economic crime that are to be held in each of Kazakstan and the Kyrgyz Republic during 1997 and that will provide training to procurator/trainers in Kazakstan and in the Kyrgyz Republic in emerging issues in economic crime legislation and investigation (Phase 2 training)

Train judges from Kazakstan and Kyrgyzstan as trainers for economic crime issues (Phase 1 training)

Begin planning the first two seminars that are to be held in Kazakstan and Kyrgyzstan during 1997, which will provide training to judges in emerging issues in economic crime legislation and investigation over the course of the year (Phase 2 training)

In Kazakstan, hold a concentrated regional seminar in Ust-Kamenogorsk on commercial law topics for judges, lawyers and other legal professionals.

In Kyrgyzstan, design an overall curriculum and schedule for concentrated seminars on commercial law topics for attorneys and judges.

Attachment I(a)

Kazakstan and Kyrgyz Republic
Commercial Law Training Project
ARD/Checchi Rule of Law Consortium (Regional Contract)

AID RULE OF LAW PROGRAM
CCN-C-00-4003-00

Fourth Quarterly Status Report
(September - November 1996)

Executive Summary

In the fourth quarter of the Commercial Law Training Project, the ARD/Checchi Rule of Law Consortium (the "Consortium") accomplished its administrative and programmatic objectives set forth in the quarterly work plan.

Goals for the Program During the Quarter

The formative stages of this Training Project focussed on equipping local institutions with the tools to organize training in commercial law and to provide local professionals with both the methodological tools to disseminate information on commercial law and the substantive background in commercial law in market economies. In this quarter, the Consortium concentrated on tapping this local capability to train judges, attorneys and other legal professionals in commercial law and to strengthen core legal institutions (the judiciary and the bar) in Kazakstan and Kyrgyzstan.

During this quarter, the Training Project's activities were concentrated in three areas: 1) in-country comprehensive training programs (Phase 2 Model Programs) and concentrated seminars (Phase 3) on commercial law for judges, attorneys, and other legal professionals; 2) continuing effort to train local faculty to become trainers; and 3) planning for new separate programs for judges and procurators on economic crime.

Model Programs (Phase 2) and Concentrated Programs (Phase 3)

During the past six months, the emphasis has shifted to tapping this local capability, which we have fostered, to train judges, attorneys and other legal professionals in commercial law and to strengthen core legal institutions in Kazakstan and Kyrgyzstan (the judiciary and the bar). The Consortium organized three comprehensive seminars of varying durations during the reporting quarter. The Consortium designed the seminars to further the following goals:

- to equip Kazakstani and Kyrgyzstani judges, attorneys and other legal professionals with a general understanding of the relationship between the legal system and the market in a developed economy: how commercial laws function to ensure fair and efficient markets;
- to strengthen the autonomy of the judiciary as a whole;
- to provide a forum in which the U.S. perspective on points of emerging Kazakstani and Kyrgyzstani commercial legislation can be constructively presented and to offer the benefits of the U.S. comparative advantage in commercial law expertise;
- to bolster the critical evaluation and interpretation skills of sitting judges and thus to promote a more flexible approach to commercial dispute resolution;
- to afford Kazakstani and Kyrgyzstani judges and attorneys an opportunity to appreciate the policy rationale behind particular pieces of legislation;
- to help modernize the system for training judges and attorneys by demonstrating U.S. teaching methodology and conceptualization for teaching purposes of key commercial law topics;
- to provide an overview of the black-letter law in recent commercial legislation in a comprehensive and systematic fashion;
- to familiarize a large majority of Kyrgyzstani judges with their national Civil Code to enable them to implement it based upon black-letter law and understanding of market economy.

The programs during the quarter substantially furthered each of these goals as detailed below.

Continuing Phase 1 Training for Attorneys

At the outset of this Training Project, the Consortium planned to conduct two cycles of Phase 1 (training the trainers) for attorneys and judges. The Consortium completed both cycles of training of trainers for judges at the National Judicial College in previous quarters. The Consortium also completed the first cycle of training of trainers for attorneys in April 1996. In this quarter, the Consortium conducted one Phase 1 Seminar which was administered by the Practising Law Institute in New York. The Consortium designed this seminar to further the following goals:

- examining core commercial law subjects such as securities and contracts;
- examining attorney-specific topics such as legal ethics and training methodology;
- reviewing written materials prepared by the participants for Phase 2 seminars;
- establishing good contacts with the local bar association, the PLI, and lawyers in New York.

Planning for Economic Crime Programs for Judges and Procurators

During the reporting period, the Consortium also designed and commenced implementation of the training program for Kazakstani and Kyrgyzstani procurators and judges. The Consortium held preliminary discussions with prospective institutions to work out the program for training of trainers for judges in the economic crime area.

Working closely with the Office of Professional Development and Training of the Criminal Division of the Department of Justice (OPDAT), the Consortium identified trainers from the DOJ to participate in Phase 1 Procurator training program which will be administered by the American Prosecutors' Research Institute (APRI). A joint delegation of 11 procurators from Kazakstan and Kyrgyzstan is scheduled to participate in the Phase 1 training in January 1997. The Consortium is designing this seminar to further the following goals:

- acquaint the procurators with Western approaches of investigating and prosecuting economic crimes such as financial institution fraud, money laundering, bankruptcy fraud, tax evasion and similar crimes;
- introduce the procurators to both U.S. institutions that investigate and prosecute economic crimes and training institutions for procurators;
- train the participants as trainers by working on teaching methodology and curriculum development;
- planning further programs in Kazakstan and Kyrgyzstan for trainers on economic crime

Programs During the Quarter

The Consortium conducted several programs to advance the goals enumerated above: Phase 1 (training trainers) for attorneys; separate Phase 2 (model seminars) programs for judges and attorneys; and Phase 3 (concentrated seminars) for a combined audience of judges, attorneys and other legal professionals.

These seminars provided significant and substantial information on commercial legislation and other legal topics to a total of over 200 judges, and 250 attorneys and other legal professionals. Each seminar was based primarily on local laws taught by local judges and local legal professionals who previously received Phase 1 training at the National Judicial College and the Practicing Law Institute in the U.S.. To augment and support this effort, the Consortium tapped U.S. judges and attorneys to join with their local colleagues to teach the judge and attorney seminars, respectively. The major activities that occurred during the quarter are described below:

Judges' Phase 2

- held two comprehensive two-week Phase 2 training seminars for Kazakstani and Kyrgyzstani judges, bringing to over 200 (over 100 in each country) the numbers of judges and judicial system professionals trained in Kazakstan and Kyrgyzstan in the Commercial Law Training Project; the Consortium also arranged the participation of six judges from Mongolia at the Kyrgyzstan seminar.

Attorneys' Phase 1

- held the second Phase 1 training seminar for Kazakstani and Kyrgyzstani attorney-trainers at the PLI, conducted under NET auspices.

Attorneys' Phase 2

- held three weeks (one week in Kazakhstan and two weeks in Kyrgyzstan) of Phase 2 training seminars of Kazakstani and Kyrgyzstani attorneys, bringing to over 250 the number of attorneys in Kazakhstan and Kyrgyzstan that have been trained to date in the Commercial law Training Project.

Legal Professionals' Phase 3

- bringing the program to outlying regions of Kazakhstan, holding concentrated seminars for legal professionals in Akmola and Dzhambul, Kazakhstan

Significance of Programs

The programs that the Consortium organized during the quarter were significant in several major respects.

Judges Learn Skills to Develop Own Programs: The seminars depended heavily on those participants who learned teaching methodology and curriculum development at the National Judicial College. To foster institutional development, the second set of judges that received Phase 1 training at the National Judicial College included key-decision makers who are in a position to substantially influence the course of judicial education in Kazakhstan and Kyrgyzstan. In participating in Phase 2 seminars, these judges put in practice the tools acquired during their Phase 1 training at the NJC which are needed to develop sustainable, comprehensive judicial training approaches.

Attorneys Train their Colleagues: The second cycle of Phase 2 seminars were as successful as the first cycle earlier in the year. They illustrated that institutionalization of a continuing education program administered by a local organization is attainable. In Kazakhstan, the program showed that practicing lawyers are willing to pay for a training program, and in Kyrgyzstan, the program showed that there is a pent up demand for programs on commercial law for legal professionals. The demand for comprehensive written materials devoted to local law which the Consortium distributed at the seminars was once again evident. Each program was the major event for the nascent bar associations in each country.

Programs Reach Out to Regions of Both Countries: The Consortium attempted to expand each program to regions outside the capital of the country. In Kyrgyzstan, the Consortium organized the first significant training effort in the South of the country. In Kazakhstan, the Consortium helped to coordinate seminars outside the capital, in Dzhambul (in the South) and Akmola (in the North).

Seminars Utilized Combined Local and USAID: The format of the joint training exercise involving local counterpart- and U.S.-provided trainers with shared teaching responsibilities was once again well received. The seminars offered the pooled talents of an unusually wide array of experts: Kazakstani and Kyrgyzstani judges; Kazakhstan and Kyrgyzstani legal academics, faculty from the National Judicial College and the Practising Law Institute, and specialists from USAID

contractors. The seminars brought together all the contractors from the Commercial Law Project and representative contractors from the other USAID privatization and economic restructuring projects in a way that maximizes synergies and efficiencies and demonstrates close USAID contractor coordination.

Multi-Donor Effort Approach Proves Successful: The Consortium, working with the Center for International Legal Cooperation in Leiden, the Netherlands, organized the participation of six Mongolian judges in Kyrgyzstan. The Embassy of the Royal Netherlands in Beijing financed the visit, and the Dutch Foreign Ministry funded the participation of a Dutch professor and Dutch judge at both the judge seminar in Kazakstan and the judge seminar in Kyrgyzstan.

1 JUDGES

Two Phase 2 Judicial Seminars Meet their Goals: In October of the reporting period, the Consortium successfully realized its goal of conducting its second cycle of Phase 2 seminars for judges in Kazakstan and Kyrgyzstan and in so doing provided training in a wide range of judicial and commercial law topics to a significant number of additional judges from each country. As with its previous Phase 2 seminars conducted in May, each seminar was conducted over two weeks. They were held in Almaty, Kazakstan and Osh, Kyrgyzstan. The seminars featured presentations by local judges and other legal scholars, and by three American judges, two Dutch specialists and an American professor.

U.S. Judges Integrate into Program on Local Law: The American judges lectured on a number of judicial topics, such as judicial decision making, the role of the judiciary in a democratic society, judicial discretion, judicial administration, the execution of judgments and alternative dispute resolution. The American communications professor, currently a Fulbright fellow in Kazan, Russia, instructed the judges on effective communications. The Consortium arranged for the participation of the U.S. lecturers through the National Judicial College in Reno, Nevada (the "NJC"), where the Consortium has sent groups of Kazakstani and Kyrgyzstani judges for its Phase 1 training programs in order to prepare them as lecturers for subsequent judicial Phase 2 in-country seminars.

Multi-Donor Participation: The two Dutch legal specialists, Ferdinand Feldbrugge, a highly regarded Eastern European law specialist, and Henk Korvinus, a Dutch judge, took part in the seminars under the aegis of the Center for International Legal Cooperation in Leiden, the Netherlands. Their participation represents the fruits of efforts by the Consortium to foster cooperation with foreign donors and grows out of the Consortium's work on developing model codes for the countries of the former Soviet Union in cooperation with the Dutch. The Dutch specialists also took part in order to gain knowledge of the Consortium's work and the difficulties and challenges posed by legal reform in countries such as Kyrgyzstan preparatory to developing their own programs for Kyrgyzstan and Mongolia. The Consortium also worked with two lecturers from France to incorporate their presentations into the program.

Local Lecturers Bear Brunt of Teaching Load: The seminars included presentations on Kazakstani and Kyrgyzstani commercial law and judicial topics by local judges and other local legal specialists and by USAID contractors working in-country. The local judge-participants received comprehensive sets of learning materials on the subjects addressed at the seminar, which were prepared by the local and visiting lecturers. The seminars were very well attended and the response from both groups of participants was enthusiastic.

Evaluation Very Positive: Following its successful second cycle of Phase 2 judicial training seminars that the Consortium held in Kazakstan and Kyrgyzstan in October, the Consortium processed the information reported by the participants on the evaluation and questionnaire forms that the Consortium distributed at the seminars. The Consortium is currently analyzing the information and will apply it in planning its further work in Kazakstan and Kyrgyzstan in commercial law training. Preliminary results reflect a very enthusiastic endorsement for the seminars.

Consortium's Washington, D.C. Office Support: The field offices assumed responsibility for local arrangements in Kazakstan and Kyrgyzstan. The Consortium's Washington, D.C. worked closely with the Training Offices to assure cohesion for the programs in three separate countries: the U.S., Kazakstan and Kyrgyzstan. The D.C. was instrumental in coordinating with the Dutch to bring the Dutch lecturers to the seminars in Kazakstan and Kyrgyzstan. Working with the Kyrgyzstan Training Office, the D.C. office coordinated with the Mongolian Supreme Court and the Ministry of Justice and the Dutch Embassy in Beijing to facilitate the participation of the Mongolian delegation in the judge seminar in Kyrgyzstan. In addition, the D.C. office kept in close contact with the U.S. trainers, the field, and USAID/Washington to facilitate the flow of information and coherence of operations.

1.1 Kazakstan

Phase 2 Seminar: In Kazakstan, the Consortium held the second Phase 2 commercial law training seminar in Almaty, which was similar to its Spring seminar. On this occasion, the Consortium scheduled the seminar to coincide with a seminar for 30 regional judges already scheduled by its counterpart, the Kazak State Law Institute. In effect, the Consortium provided the teaching content and materials for two weeks of the Institute's 3-week seminar. The Ministry of Justice released an additional 25 oblast-level judges from the Commercial Collegium to attend the seminar. Members of the Supreme Court and the Almaty City Court also attended the sessions. A total of 48 participants attended the 10 days of sessions.

Deputy Prime Minister and USAID Mission Director Open Seminar: Deputy Prime Minister Shaikenov, Secretary of the Higher Judicial Council Mukhamedzhanov and USAID Central Asia Regional Mission Director Patricia Buckles all made opening remarks at the seminar.

International Participation: The seminar was distinguished by the level of international participation. A total of 23 lecturers participated, including three USAID contractors, four NJC faculty, two French officials (a judge and the French equivalent of the Solicitor-General), two Dutch specialists, and 12 Kazakstani judges and scholars.

Topics Covered: Lecture topics included the following: tax, property, insurance, securities regulation, bankruptcy, land law, international business transactions, company law, partnerships, issues of Civil Code (Special Part), obligations, intellectual property, comparison of judicial administration in the U.S. and Kazakstan, the judicial system in France, judicial administration in the Netherlands, the role of the judge in the U.S. and France, judicial discipline, accelerated judicial procedure (France), judicial autonomy, public perception of the judge, enforcement of judgments, communications in the courtroom, judicial decision-making.

Materials Tailored to Local Law: A new 354-page collection of specially-commissioned articles and commentaries was prepared and distributed to all participants.

Phase 3 Seminars: During the reporting period, the Consortium conducted two Phase 3 concentrated seminars for joint audiences of Commercial Court judges and attorneys in Akmola and Dzhambul. These seminars were organized with the assistance and under the auspices of Adilet Law School and the Oblast Courts of each of the two sites. Both Adilet and the courts extended maximal cooperation and participants were demonstratively enthusiastic.

Seminar Materials: Adilet Law School assumed responsibility for amalgamating, reprinting and editing the collection of articles initially prepared for the May and June Model Seminars (Phase 2) for judges and lawyers in Almaty. These were distributed to all participants at both seminars. All participants also received certificates signed by Adilet, the Ministry of Justice, the Supreme Court, and the Consortium on behalf of USAID.

Akmola Seminar Reaches Out to Northern Part of Country: In Akmola, the seminar took place from September 6 - 7. Lectures were offered in land law, voiding contracts, property rights under the new Civil Code, and out-of-court settlements. Participating lecturers included Iskander Zhanaidarov of the USAID IRIS project, Judge Valentina Gribanova of the Supreme Court (who participated in the August Reno training at the NJC), and Ivan Arkhipov, Associate Professor at Adilet. Videotaped lectures by Professors Basin and Suleimenov of the Kazak State Law Institute were screened for all participants; NJC lectures on adjudication of bankruptcy and judicial ethics were screened for the judges alone and USAID lectures on foreign investments and contract law were screened for the lawyers alone.

Attendance from throughout Northern Region: Twelve judges from the commercial and civil collegia of seven northern oblasts (Akmola, North Kazakstan, Pavlodar, Kokshetau, Kostanai, Torgai, and Karaganda) were released to attend by the Ministry of Justice. The Ministry divided the costs of sending these judges with the Consortium. An additional ten judges learned of the

program, and made their own arrangements to attend the seminars. In addition, 25 lawyers also attended the lectures. Each lawyer paid \$10 for the two-day seminar. Consequently, altogether there were about 22 judges and 25 lawyers at the seminar.

Dzhambul Seminar Reaches the Southern Part of the Country: In Dzhambul, the seminar took place the following week, September 13 - 14. Lectures were offered on contracts, out-of-court settlements, land law, and secured transactions. Participating lecturers included Supreme Court Judge Bairam Akhmedov (who participated in the August Reno training at the NJC), Professor Anatoli Didenko of Adilet Law School and Chair of the Civil Law Department of the Law Institute, Ivan Arkhipov, and Zhan Kunserkin, Legal Specialist on the Consortium staff. The same schedule of videotaped lectures as in Akmola the previous week was followed.

Attendance from throughout Southern Region: Eight judges from four southern oblasts (Kzyl-Orda, South Kazakstan, Taldy-Kurgan, and Dzhambul) were released by the Ministry of Justice to attend the seminars. The Ministry shared the costs of these judges with the Consortium. All judges from the Dzhambul oblast, city, and district courts took part, at the insistence of the Chief of the Dzhambul Oblast Court. Altogether 14 judges attended. Another 20 attorneys also attended, on a fee basis.

Political Developments and Judicial Training: In November, the Consortium tracked a series of breaking developments with crucial significance for its further work with judges. The position of the Deputy Prime Minister for Legal Reform was eliminated. The Rector of the Kazak State Law Institute was appointed by the president to be a member of the Senate. The former Deputy Prime Minister for Legal Reform, N. Shaikenov, became the new head of the Kazak State Law Institute. The Kazak State Law Institute, which had been subordinate to the Ministry of Justice, was reorganized. It will now be known as the Kazak State Law University ("Law University"), and will fall under the authority of the Ministry of Education. Under this reorganization, the role of the Law University in judicial training is questionable at best. Provision for future judicial training has not been clarified; various proposals have been entertained, including the creation of a training institute directly within the Ministry of Justice.

Future Activities: To meet the challenges posed by this reorganization, the Consortium represented by Scott Newton and Keith Rosten, held several meetings with officials from the Ministry of Justice, members (and former members) of the Supreme Court, and the new head of the Law University. The purpose of these meetings was to design a program that will balance the need to respond to the acute need for judicial training with the lack of organizational wherewithal on the part of local counterparts. The Consortium designed a series of activities that are set forth in the Six Month Rolling Plan, which will be submitted to USAID during the first part of the next quarter. The Consortium gained continued cooperation from the Ministry of Justice and the Supreme Court for joint training activities planned for next year.

1.2 Kyrgyzstan

Preparation for Phase 2 Seminar: During the early part of the reporting period, the Consortium began extensive preparations for its second Phase 2 commercial law training seminar for judges, which took place in the southern city of Osh during the weeks October 14 - 25. Despite the organizational and logistical challenges posed by conducting this seminar in Osh, the Consortium has long planned to hold its second Phase 2 judicial seminar in the southern part of Kyrgyzstan, for two reasons: (1) to address the regionalism between North and South that characterizes the country, and (2) to extend its program to the Southern region, which is a heavily populated part of Kyrgyzstan that nevertheless receives less attention than the area around the capital, Bishkek, which is in the North. This seminar was the first significant judicial training program in the South of the country, and received enthusiastic support from the judges of the region.

Logistical Arrangements: In September, the Consortium staff made three trips to Osh and Jalalabad to select a site for the seminar and to work out logistical arrangements. During the trips the Consortium met with representatives of the office of the Governor of the Osh oblast, members of the Osh Oblast Court and the Osh Commercial Court, members of the Jalalabad Oblast Court, the local representative in Osh of the new Court Department and the local representatives of the Ministry of Justice of Osh and Jalalabad, respectively. Osh was chosen over Jalalabad because it has better facilities and is much more accessible from Bishkek than Jalalabad.

Counterpart Cooperation: In planning and carrying out the seminar in Kyrgyzstan, the Consortium had to work closely with the Supreme Court and the Supreme Commercial Court and received the active support of the courts of the Osh and Jalalabad districts. The judges who took part in the Phase 1 training in Reno in August took an active part in planning the curriculum and helped oversee the participation by the local judges.

Phase 2 Seminar in Osh Reaches the South of the Country: The Phase 2 commercial training seminar was held during the weeks of October 14-25 in the southern city of Osh. Despite the heightened organizational and logistical challenges posed by such an enterprise, the seminar was highly successful and well attended.

U.S. Ambassador Pays a Visit: Attending the opening of the seminar were the Chairman of the Supreme Court of Kyrgyzstan and the Director of the newly-formed Court Department. The United States Ambassador to Kyrgyzstan, the Honorable Eileen Malloy, paid a visit to the seminar and addressed the judge-attendees.

Attendance from Throughout South: The Consortium was pleased with the high attendance from throughout the Southern part of Kyrgyzstan. An average of 65 judges and judicial system professionals attended the two-week seminar. This figure includes 50 judges from the

trial courts and appeals courts of general jurisdiction of the Osh and Jalalabad regions, and eight judges from the Commercial Courts. In addition, two representatives of the Constitutional Court attended the seminar, along with 5 representatives of the Court Department from the two regions.

Seminar Topics: The lectures at the seminar were presented by experts from the U.S., the Netherlands, as well as Kyrgyzstan. The three American judges lectured on a range of topics relating to judicial practice. The Dutch specialists presented lectures on the role of a judge in a civil law system, and the civil law of obligations. In addition, Judge Korvinus of the Netherlands took part in a number of panels with his American counterparts to make a comparative presentation on common-law and civil law practice on several topics. Local Kyrgyzstani judges and legal specialists, along with USAID consultants working in Kyrgyzstan in the area of legal reform, presented lectures on the new Civil Code, partnerships and corporations, securities regulation, bankruptcy, secured transactions, civil procedure, the relationship of law and business in a market economy, foreign investment, the new Procedural Code of the Commercial Court, and statutes of limitations. In all, a total of three USAID contractors, eight Kyrgyzstani judges and three Kyrgyzstani legal specialists presented lectures at the seminar in Osh.

Round-Table Discussion: The seminar also featured a round-table discussion of the competing drafts on the law on the Status of Judges, which are being prepared for submission to the Parliament. The Kyrgyzstani judges responded very readily and gave rise to a lively and frank discussion of the drafts, as well as of the larger issues confronting the judicial system generally at a time when judicial reform is being debated in Kyrgyzstan.

Mongolian Participation: In addition to the U.S., Dutch and Kyrgyzstani participants, six Mongolian judges also took part in the seminar as observers, as a first phase for a possible USAID-sponsored Consortium program in judicial reform in Mongolia for 1997. The participation of the Mongolian judges (and of the Dutch legal specialists) was financed entirely by the Dutch government, as part of their interest in exploring opportunities for legal reform work in Mongolia and Kyrgyzstan. The Mongolian judges participated very actively in the seminar, and in the special teacher-training module that the Consortium organized especially for them, and expressed enthusiasm for developing a similar program in Mongolia.

Maintaining Strong Ties: In the reporting period, the Consortium held a series of meetings with major actors in judicial Reform to inform the local counterparts and other interested parties about the Consortium's tasks in 1997 as well as to obtain a clearer understanding of the plans for judicial reform that are being contemplated and of the relative authority of the various institutions involved. The Consortium represented by Brian Kemple along with Fred Huston of USAID, met with Nelia Beishenaliyeva, director of the Law Office to the President. The Consortium also met separately with Daniar Narymbayev, Chair of the Supreme Commercial Court, and with Mamiadar Isabayev, Chair of the Supreme Court. Over the

course of this year the Consortium has developed a very good working relationship with the Supreme Court, the Supreme Commercial Court and the President's Law Office, and is cultivating relationships with the Constitutional Court, with which the Consortium has not had an opportunity to work.

Court Department: A Court Department responsible for the administrative support for all courts has been formed. The structure of this department and to whom it will report is unclear. It is also not clear how this department will work with the heads of the various courts in Kyrgyzstan. The Consortium, represented by Brian Kemple and Keith Rosten, had a meeting with the head of the newly formed Court Department to assure continuity in the Consortium's programs in the coming year.

2 ATTORNEYS

Phase 1 Training: From September 9 - 21, 1996, six Kazakstani lawyers, four Kyrgyzstani lawyers, and Sholpan Tashmukhambetova of the Consortium staff participated in the second Phase 1 training program at the Practicing Law Institute. AED through the NET project assumed over-all responsibility for the training visit, but the program itself reflected painstaking and careful planning by the PLI in close collaboration with the Consortium in order to address the needs of contemporary Central Asian practitioners. The program was improved on the basis of experience gained at the first such seminar last April. Lectures consisted of a general overview of typical problems and issues in the principal branches of commercial law: how they arise in the course of practice in the U.S. and how they are addressed under U.S. law.

Legal Discussions: Participants discussed the manner in which analogous problems arise in their own practice and how they might be resolved under Kazakstani or Kyrgyzstani law. The sessions were very productive and exchange was substantive and constant. At times the participants discussed current legislation in their countries and how it differs from what the lecturer was presenting. A lively discussion often ensued when a participant would discuss with the lecturer a provision of legislation in Kazakstan and Kyrgyzstan. In addition, many of the participants stayed after the lecture to converse with the trainers one-on-one and to ask further questions.

Training Successful: Participants found the comparative exercises and the over-all approach and organization of the material very useful and highly pertinent. The emphasis throughout was on the use of continuing legal education techniques and approaches to enable practitioners to hone their skills and keep abreast of new developments in the law. The program as a whole was geared to preparing participants for their subsequent roles in the respective in-country Phase 2 attorney seminars that took place in November.

Institutional Visits: In addition to the lectures, participants took part in a number of formal visits to major law firms. At these meetings, lawyers from the three countries discussed common

problems of commercial law practice and discussed future cooperation and assistance on the part of U.S. lawyers in the further development of commercial law practice in Kazakhstan and Kyrgyzstan. Participants also visited leading courts, educational institutions and professional organizations, including New York Law School, the Appellate Division of the New York Supreme Court, and the ABA. Special meetings and programs were organized for the visitors at each.

Phase 2 Seminars: In November, the Consortium successfully conducted additional Phase 2 training seminars in Kazakhstan and Kyrgyzstan for attorneys. While in May and June the Consortium's attorney training seminars in Kazakhstan and Kyrgyzstan were similar in focus and organization, the seminars conducted in November differed, in response to differing local needs. In Kazakhstan the November Phase 2 attorneys seminar was devoted to the Special Part of the Civil Code, currently pending adoption and was conducted over six days. In Kyrgyzstan the Consortium made the decision to conduct a two-week seminar presenting a general overview of commercial law subjects in the manner of the seminars conducted in May, but for a different group of attorneys, including attorneys from southern Kyrgyzstan.

Consortium's Washington, D.C. Office Support: During the reporting period, Keith Rosten of the Consortium's Washington, D.C. office traveled to Kazakhstan and Kyrgyzstan to participate in discussions with various local institutions and to assist in developing the program for 1997. Keith Rosten also lectured and participated in round-table discussions in the Kyrgyzstani Phase 2 seminar. In addition, the Consortium's DC office was instrumental in facilitating the flow of information to U.S. trainers scheduled to participate in Phase 2 Seminars, curriculum oversight, USAID/Washington update, and overall support involved in conference of operations.

The Washington, DC office was instrumental in assisting PLI in carrying out Phase 1 training program the U.S. To that end, the Consortium was actively involved in fine tuning the program based on previous training experience, providing pertinent information and legal materials to PLI's trainers, overseeing translation of materials, and acting as a liaison between PLI, the field, USAID, and AED whose NET project funds sponsored the training.

2.1 Kazakhstan

Preparation for Phase 2 Seminars: In preparation for November Phase 2 seminars, the schedule for the November seminar was finalized and content planned in detail. Consortium elicited new articles from participants in the PLI training that took place in September. Materials were obtained from other lecturers as well. The Consortium reviewed, edited, and prepared all course materials for publication. Adilet Law School assumed responsibility for the publication of the course materials.

Partner Organization: The counterparts have assumed most of the organizational and substantive burdens, with assistance from the Consortium. In conjunction with its counterparts, Adilet Law School and the Association of Business Lawyers, and at the suggestion of prior

seminar participants, as determined by their responses to questionnaires and evaluations, the Consortium has determined to organize this and all future seminars for lawyers on the basis of unified thematics rather than a general survey of commercial law topics. Based on surveys and discussions, the Consortium made the (warranted) assumption that the pool of participants in the November seminar will hold constant and, therefore, there is no need to present general material already presented in earlier seminars.

Phase 2 Seminar: The week-long seminar took place in Almaty from November 4 - 9, 1996. In all, 16 lecturers took part in the six-day program: four specialists working for other USAID projects, Professor Peter Maggs (an expert in intellectual property), and nine local scholars and practitioners.

Seminar Topics: The main focus of the seminar was the new (draft) Special Part of the Civil Code. In addition, the seminar included lectures on the following topics: civil legislation and international private law, contract law, rent, transport of goods, banking law, property in trust, bailment, secured transactions, bankruptcy, company law, international sales of goods, leasing, intellectual property, and legal services agreements.

Seminar Materials: A volume of commissioned articles based on local law was published by Adilet Law School and distributed to all participants. Adilet has printed a large run of the 216-page compilation and is offering copies for sale at the price of production to interested members of the bar and the public. The latest addition to the set of materials specially created for practitioners in the course of the Commercial Law Training Project was greeted enthusiastically.

Attendance: Daily seminar attendance averaged 35. OSC had advertised the seminar extensively throughout the country and practitioners journeyed at their own expense from as far away as Karaganda and Akmola to attend. The seminar was very well received, with active and extensive participation by local attorneys, and their evaluations and comments indicate that they valued the seminar very highly.

Program Sustainability: The current seminar was conducted, as previous attorney seminars, on a fee basis. 28 participants paid the \$50 fee for the course. Attorneys in government service working in cooperation with the other USAID commercial law projects attended free of charge.

Planning 1997 Program: The Consortium, represented by Scott Newton and Keith Rosten, held a series of planning meetings with the Rector and other staff at the Adilet Law School to plan a comprehensive series of activities for 1997. These activities are reflected in the next Six Month Rolling Plan.

2.2 Kyrgyzstan

Preparation for Phase 2 Seminar: In preparing for the November Seminar, the Consortium met with the Kyrgyzstani team of attorney-instructors who took part in the Phase 1 seminar at PLI in September. Following the success of its first Phase 2 seminars, the Consortium decided to present, again, a comprehensive, two-week seminar on a broad range of commercial law topics at which Kyrgyzstani and U.S. attorneys, judges and legal specialists would take part as lecturers. Because the Consortium estimates that demand for participation in those earlier seminars, whether by attorneys in the private sector, state enterprises or government agencies, sufficiently exceeded the number that could be accommodated, the Consortium has elected to repeat the format of the Phase 2 seminars held in May and June, albeit with refinements to reflect subsequent developments in local law.

Phase 2 Seminar: The seminar took place on November 4 - 15, 1996. The seminar was very well received, with active and extensive participation by local attorneys, and their evaluations and comments indicate that they valued the seminar very highly and would like to see more of such programs.

Seminar Topics: As mentioned above, the two-week comprehensive seminar covered a broad range of commercial law topics. The seminar topics included: remedies for breach of contract; the new draft collateral law; international purchase and sale agreements; statutes of limitations; agency and powers of attorney; foreign investment law; the relation of law and business in a market economy; the regulatory regime for securities; juridical entities: partnerships and companies; transactions; the new Procedural Code of the Commercial Court; the new Kyrgyzstani Civil Code; bankruptcy; banking and bank regulation; commercial lending; the execution of judgments; contract law; and tax law in a market economy. The seminar also featured a presentation on the work of Carana Corporation, a USAID contractor in Kyrgyzstan in privatization, and a round-table discussion on the draft law On Barristers.

Attendance: A total of 102 Kyrgyzstani attorneys attended the seminar, and daily attendance averaged 70. In order to assure a high level of attendance and to accommodate the needs of the professional audience, most of whom could not arrange to be away from work for extended periods of time, the seminar consisted of four hours of lectures per day over ten days.

Seminar Promotion: The Consortium advertised the seminar in a variety of ways in order to assure a diverse professional audience. Participants of the seminar included, in order of descending numbers, *advokaty* (barristers); lawyers from state agencies; instructors from local law departments; lawyers from banks; from law firms; from state enterprises; and from judicial institutions. The participants came from Bishkek, the Chui (Bishkek) Region and the Osh Region in southern Kyrgyzstan.

Foreign Lecturers: Taking part as lecturers were William Hillman, a U.S. Federal Bankruptcy Judge, and Peter Maggs, Professor of Law at the University of Illinois at Champagne-Urbana, both of whom were invited to Kyrgyzstan by the Consortium to take part

in the seminar. The Consortium arranged for Judge Hillman to spend the entirety of his time, one week, in Bishkek, where in addition to lecturing on remedies for breach of contract, he served as commentator on a variety of topics and was available for informal discussions with Kyrgyzstani attorneys. Peter Maggs lectured at both seminars and divided his time evenly between Almaty and Bishkek. Keith Rosten of the Consortium also lectured at the seminar in Bishkek.

Local Lecturers: Local lectures included five Kyrgyzstani lawyers who took part in the Consortium's Phase 1 training at the Practicing Law Institute in New York, the former Director of the State Securities Agency, a sitting member from the Supreme Commercial Court, a Judge from the Bishkek City Court, a Deputy Minister of Justice, Chief Counsel to the National Bank and six representatives from USAID contractors working in the area of privatization.

Materials: At the end of the seminar, every participant received a binder of materials covering the topics presented at the Seminar. The participants were eager to receive the materials since it contained the latest and most pertinent articles which many will use as a needed reference source in their practice.

3 TRAINING SUPPORT

The Consortium conferred extensively with other contractors in preparation for the Phase 2 judicial and attorneys training seminars that were held during the reporting period. Moreover, contractors took an active part as lecturers in the seminars. In Kazakstan, lecturers from three contractors (IRIS, Booz Allen & Hamilton, and KMPG) presented lectures in Almaty. In Kyrgyzstan, a total of three contractors from Iris and Booz Allen & Hamilton presented lectures at the seminar in Osh.

4 OTHER TECHNICAL ASSISTANCE

The Consortium's Washington, DC office, met with representatives of the U.S. Department of Justice's Office of Professional Development and Training of the Criminal Division ("OPDAT"). OPDAT was established in 1991 to enhance the conduct of the administration of justice both in the U.S. and abroad and has been active in training in the NIS. The Consortium elicited OPDAT's support to provide trainers from the Department of Justice ("DOJ") for the program for procurators from Kazakstan and Kyrgyzstan. The first program is scheduled for January 1997 in Washington, D.C. for a joint delegation of 11 procurators from Kazakstan and Kyrgyzstan.

The Consortium also was in contact with the American Prosecutors' Research Institute ("APRI") of Alexandria, Virginia. APRI will be in charge of the logistics and also responsible for the sessions regarding training methodology for the program in January 1997.

After this quarterly report, the program with the procurators will be treated in a separate section of these quarterly reports.

4.1 Kazakhstan

During the reporting period, the Consortium held a number of meetings with Kazakstani counterparts. In preparation for the November Phase 2 seminar, the Consortium had frequent meetings with Rector Anatoli Matiukhin of Adilet Law School. The Consortium also met with Gulsara Tlenhchieva, professor at Adilet and expert in economic crimes (editor of a new volume on economic crimes and author of economic crime provisions in the new criminal code) to discuss her participation in the planned Economic Crime Component of the follow-on task order. Consortium also met with Rector Erkesh Nurpeisov of the Law Institute to discuss extended judicial professionalization training as well as the role of the Institute as venue for economic crime training for both prosecutors and criminal judges. Furthermore, meetings were held with Ergali Kanadanov, Chief of the Almaty City Court Commercial Collegium and Baurzhan Mukhamedzhanov, Secretary of the Higher Judicial Council (both participants in the August Reno training) to discuss future cooperation in general and the October seminar in particular.

In planning the 1997 program, the Consortium met with Judge Mamiev, the Chair of the Supreme Court's Criminal Collegium to discuss Supreme Court participation in the upcoming economic crime training program for judges. Mamiev pledged the full cooperation of the Supreme Court. The Consortium also had a very productive planning meeting with Deputy Procurator General Konstantinov and two assistants to set the stage for the upcoming economic crime training program. The program was discussed in detail and agreement reached on all major points. The Procuracy declared its willingness to cooperate fully and designated the head of the department of international relations as the liaison for the program. The Consortium and the Procuracy met again to commence detailed planning, draft an agreement, and discuss selection of participants and planning for the U.S. training visit in January.

At the request of USAID, the Consortium also met with Marie Moser at the U.S. Embassy, Almaty, to discuss the planned involvement of the U.S. Department of Justice in economic crime training programs in Kazakhstan and Kyrgyzstan. The Consortium will keep the embassy informed as the program develops and consult on all matters of inter-agency coordination.

4.2 Kyrgyzstan

During the reporting period, the Consortium worked closely with the Supreme Court and the Supreme Commercial Court in making the Phase 2 judicial seminar in Osh a success. Likewise, the Consortium worked closely with the Lawyers Association of Kyrgyzstan in making the Phase 2 attorneys seminar a success.

The Consortium continued to meet with members of the Legal Department of the Executive Office of the President of Kyrgyzstan and the newly-formed Court Department to explore

avenues for future cooperation. The Consortium was also represented at the latest session of the Legal Reform Advisory Committee of the Office of the President, which is intended to act as a coordinating and advisory body for legal reform efforts in Kyrgyzstan.

The Consortium also met with Mr. Bopoyev, the Deputy Procurator-General who is to be the Consortium's designated contact in the Procuracy, to inform him of AID's approval of our program in the law of economic crime, to review with him the general outlines of the program and to come to agreement as to how to proceed. Mr. Bopoyev welcomed the news that the program would go forward and promised complete cooperation. The Consortium also met with Nicia Quast, Political Officer of the U.S. Embassy in Kyrgyzstan, to keep her apprised of the judicial reform process and the status of the Consortium's criminal law program.

In addition, the Consortium met with two representatives of the German donor GTZ, who requested the meeting for input on a conference to be held in Bremen, Germany to help NIS countries harmonize their civil law with Western Europe.

5 DELIVERABLES

Task 1. Deliverables. (Establish Training Offices in Host Countries)

Hire Personnel	Offices operating with full staff. One of the two coordinators in each office left the office and has been replaced with another coordinator.
Moving Into Offices	Both offices fully set up.
Develop Six Month Rolling Work Plan	Both plans submitted to USAID.
Identify Local Counterpart Institution	Completed for both countries
Identify U.S. or European Partner	National Judicial College and Practicing Law Institute

Task 2. Deliverables. (Train the Trainers; Develop Local Capability to Train and Distribute Information about Commercial Law)

Make material assistance purchases	Equipment received and installed.
Conduct initial training seminar	Accomplished for judges program Accomplished for attorneys' program
Develop Curriculum for Seminars	Curriculum for phase 1 seminars completed; curriculum for phase 2 seminars (in Bishkek and Almaty) finalized.

Task 3. Deliverables. (Ongoing Training)

Completed Phase 1 Seminars	First judicial training seminar completed; second judicial training seminar completed August 1996 First attorney training seminar completed; second attorney training seminar completed September 1996
Completed Phase 2 Seminars	Two two-week judicial training seminars held in both countries. Over 215 judges and judicial system professionals trained. Three weeks of attorney training seminars held in Kazakstan; four weeks of attorney training seminars held in Kyrgyzstan. Over 240 attorneys trained.
Completed Phase 3 Seminars	Bankruptcy seminars held in both countries. Five Phase 3 seminars on the new Civil Code held in Kyrgyzstan. Almost 200 legal professionals attended. Video and written materials produced for two Phase 3 seminars for judges and lawyers in Kazakstan that were held in September.

Task 4. Deliverables. (Training Capacity)

Judicial Training	13 Kazakstani judges prepared as trainers at NJC and 19 other legal professionals included as trainers for judges; 12 Kyrgyzstani judges prepared as trainers at NJC and five other legal professionals included as trainers for judges; teaching materials prepared.
Attorney Training	13 Kazakstani attorneys prepared as trainers at PLI; and 10 Kyrgyzstani attorneys prepared as trainers at PLI; a number of other attorneys and legal professionals included as trainers for attorneys; preparation of teaching materials completed.

Task 5. Deliverables. (Coordination, Evaluation and Sustainability)

Coordination	Phase 2 seminars for both judges and attorneys in both countries included substantial participation from Booz Allen and IRIS as well as other privatization and capital markets contractors. Bankruptcy phase 3 seminars closely coordinated with Booz Allen. Evaluation Data collected for interim evaluation of program, including evaluation of sustainability, was submitted in July 1996. Evaluation data on most recent Phase 2 seminars will be forthcoming.
--------------	--

6 Expenses

The following table reflects the budget and actual expenses up through November, 1996. Many of the expenses, especially local expenses in Kazakstan and Kyrgyzstan, have not yet been processed, but will be reflected in future reports.

In accordance with the November Monthly Status Report, the Consortium has adjusted the budget to reflect the actual expenses for certain line items on the original budget.

Category	Adjusted Budget	Expenses 11/95 - 11/96	Amount Remaining
Expatriate Staff Costs	296622	273669	22953
Local Staff Salaries and Benefits	89000	63391	25609
ST Specialist Costs	48700	33988	14712
In-Country Travel	18000	10508	7492
Equipment	70000	62797	7203
Training: Attorney Program	205000	184519	20481
Training: Judges Program	175000	121686	53314
Expense Reimbursement	30000	27425	2575
Office Rent / Utilities / Supplies	56000	54284	1716
Communications	22000	16787	5213
Administration Charges	289621	238182	51439
TOTAL	1299943	1087247	212696

II. TRANSCAUCASUS

A. OBJECTIVE

Design and implement a Rule of Law program that will promote an independent judiciary and sustainable development of democratic institution building in Armenia and Georgia.

B. TWELFTH QUARTER TARGETS

ARMENIA

Finalize date and provide support for Armenia Criminal Code drafting meeting.

Procurement for the Legislative Committee and the Constitutional Court of Armenia.

AMERICAN UNIVERSITY OF ARMENIA(AUA)

Finalize grant to AUA and establish a management structure at the University and a preliminary timetable to administer the programs covered by this grant.

GEORGIA

Continue monitoring PHFR and it's work with the Parliament Internet Connectivity project.

C. OUTPUTS AND ACHIEVEMENTS

C.1 Armenia Criminal Code and Criminal Procedures Code Drafting - Armenia

The Armenian Criminal Code Part I drafting work meeting took place October 26 - November 7, 1997 in The Netherlands. The meeting was sponsored and organized by the Center for International Legal Cooperation. In preparation for the meeting, the ROLC DC office performed administrative and logistical assistance. A delegation of senior Armenian justice officials met with a group of Dutch, German and US criminal justice experts in Leiden, The Netherlands. Former USDOJ official Matt Bristol attended the meetings along with David Bronheim.

During the course of this program, the Armenians received presentations from US, Dutch, German and Council of Europe criminal justice experts, secured very preliminary technical assistance with respect to the texts of draft criminal and criminal procedures codes, and began the process of designing a comprehensive criminal justice reform program for Armenia.

C.2 Procurement - Armenia

Per instructions from USAID- Yerevan, procured and delivered equipment for the Legislative Committee and the Constitutional Court of Armenia.

C.3 American University of Armenia

At the end of October 1996, ROLC awarded a grant to the American University of Armenia for support of continuing legal education program and a resource center in Armenia. The project completion date is September 30, 1998.

During this reporting period, a management structure at the University and a preliminary timetable to administer the programs covered by the grant were established.

Legal Resource Center(LRC)- AUA hired an American librarian to work with the AUA library and administration in planning and establishing the Legal Resource Center. The American librarian will travel to Hastings College in February for training. The equipment for the LRC has been purchased and the physical space that will house the LRC at the AUA has been under construction.

Continuing Legal Education Program- AUA hired a Project Director for the continuing legal education program. AUA intends to undertake the following continuing education program: Phase I in May 1997, Phase II in 1997, and Phase III in the fall of 1997.

C.4 Parliamentary Human Rights Foundation (PHRF) - Georgia

ROLC continued to monitor PHRF and the Parliament Internet Connectivity project.

D. THIRTEENTH QUARTER TARGETS

ARMENIA

Organize working conference for the Caucasus Constitutional Court members that will take place in Budapest on December 17 - 19, 1996.

Send a delegation to Yerevan for a ten day assessment/design trip in late January 1997.

Finalize subcontract with the Centre for International Legal Cooperation who will be primarily responsible for all future Code drafting activities for Armenia.

In cooperation with the Centre for International Legal Cooperation, plan the next drafting conference, Armenia Civil Code Part II.

On going procurement for the Armenian Constitutional Court.

AMERICAN UNIVERSITY OF ARMENIA (AUA)

On-going monitoring and program development assistance of the AUA grant.

GEORGIA

In cooperation with the Centre for International Legal Cooperation, plan the drafting conference, Criminal Code and Code of Criminal Procedure of Georgia that will take place in February 1997.

Continue monitoring PHFR and it's work with the Parliament Internet Connectivity project.

Finalize subcontract with the Centre for International Legal Cooperation who will be primarily responsible for all future Code drafting activities for Georgia.

Organize working conference for the Caucasus Constitutional Court members that will take place in Budapest on December 17 - 19 1996.

Attachment II(a)



**PROGRAMME
ПРОГРАММА**

Consultation on the Armenian Criminal Code
and
the Code of Criminal Procedure

Консультация над проектами Уголовного Кодекса и
Уголовного Процессуального Кодекса Республики Армения.

Leiden - The Netherlands
Лейден - Нидерланды

October 26 - November 7
26 Октября - 7 Ноября
1996

RULE OF LAW CONSORTIUM
ARD/Checchi Joint Venture

Armenian delegation - Армянская делегация

* Mr. E. YEGORIAN, Chairman of the Committee on State and Legal Affairs, National Assembly of the Republic; Head of the delegation

* Э. ЕГОРЯН, Председатель Комиссии по Государственным и Правовым Вопросам Национального Собрания Республики Армения: Глава делегации

* Mr. G. JANGIRIAN, first deputy Chief Justice of the Supreme Court

* Г. ЯНГИРЯН, Первый заместитель Председателя Верховного Суда

* Mr. S. ASATRIAN, Deputy Chief of the Office of Personnel Management, Ministry of Internal Affairs

* С. АСАТРЯН, Заместитель Начальника Отдела по Персональным Вопросам Министерства Внутренних Дел Республики Армения

* Mr. M. TOPOUZIAN, Head of the Legal Department of the State Secretariat

* М. ТОПУЗЯН, Начальник Правового Управления Государственного Секретариата

* Mr. N. MAGNAKIAN, Lecturer, Yerevan State University

* Н. МАХАКЯН, Доцент Ереванского Государственного Университета

* Mr. S. DILBANDIAN, Lecturer, Yerevan State University

* С. ДИЛБАНДЯН, Доцент Ереванского Государственного Университета

* Mr. M. KACHATRIAN, Justice with the Supreme Court

* М. КАЧАТРЯН, Судья Верховного Суда

* Mr. A. OSIKIAN, Advisor to the Committee on State and Legal Affairs, National Assembly of the Republic

* А. ОСИКЯН, Советник Комиссии по Государственным и Правовым Вопросам Национального Собрания Республики Армения

* Mr. L. OHANIAN, Head of the Department of Criminal Procedure and Criminalistics, Yerevan State University

* Л. ОГАНЯН, Начальник Кафедры Уголовного Процесса и Криминалистики Ереванского Государственного Университета

* Mr. A. HAROUTIUNIAN, Chief Advisor to the Committee on State and Legal Affairs,
National Assembly of the Republic

* А. ГАРУТЮНЯН, Старший Советник Комиссии по Государственным и Правовым
Вопросам Национального Собрания Республики Армения

* Mr. K. NAHAPETIAN, Chief expert of the Legal Department, Staff of the President of
the Republic

* К НАГАПЕТЯН, Старший Советник Правового Управления Аппарата Президента
Республики Армения

* Mr. M. BADIRIAN, Procurator of the city and province of Echmiadzin

* М. БАДИРЯН, Прокурор города и области Ехмиадзин

American experts - Американские специалисты

- * Mr. R.F. UTTER, former Chief Justice, Supreme Court of Washington
- * Р.Ф. УТТЕР, бывший Председатель Верховного Суда Штата Вашингтон

- * Prof. J.M. JUNKER, professor in criminal law and criminal procedure, School of law, University of Washington
- * Й.М. ЖЕНКЕР, профессор Уголовного Права и Уголовного Процесса Юридического Факультета Университета Вашингтона

- * Mr. D. BRONHEIM, ARD/Checchi 'Rule of Law Consortium', Washington
- * Д. БРОНХАЙМ, АРД-Чекки Консорциум "Правовое Государство", Вашингтон

- * Ms. R. DOBROV, ARD/Checchi 'Rule of Law Consortium', Washington
- * Р. ДОБРОВ, АРД-Чекки Консорциум "Правовое Государство", Вашингтон

Dutch experts - Нидерландские специалисты

- * Dr. G.P. van den BERG, senior lecturer, Institute of East European Law and Russian Studies, Faculty of Law, State University of Leiden
- * Г.П. ван ден БЕРГ, Старший научный сотрудник Института Восточноевропейского Права и Российских Исследований при Юридическом Факультете Лейденского Государственного Университета

- * Prof. dr. Y. BURUMA, professor in criminal law and criminal procedure, Faculty of Law, Catholic University Nijmegen
- * И. БУРУМА, Профессор Уголовного Права и Уголовного Процесса Юридического Факультета Католического Университета Неймегена

- * Prof. dr. S.A.M. STOLWIJK, professor in criminal law and criminal procedure, Faculty of Law, University of Amsterdam
- * С.А.М. СТОЛВЕЙК, Профессор Уголовного Права и Уголовного Процесса Юридического Факультета Университета г. Амстердама

- * Prof. dr. A.C. 't HART, professor in criminal law and criminal procedure, Faculty of Law, State University of Leiden
- * А. т ХАРТ, Профессор Уголовного Права и Уголовного Процесса Юридического Факультета Лейденского Государственного Университета

* Mr. J. BOEK, lecturer, 'Willem Pompe Institute', Faculty of Law, State University of Utrecht

* Я. БУК, Научный сотрудник Института им. Willem Pompe при Юридическом Факультете Государственного Университета Утрехта

* Mr. drs. J.L. van der NEUT, Lecturer, Faculty of Law, State University Groningen

* И.Л. ван дер НЕЙТ, Научный сотрудник Юридического Факультета Государственного Университета Гронингена

German expert - Немецкий специалист

* Prof. Dr. M. FINCKE, professor in criminal law, criminal procedure and East European Law, Faculty of Law, University of Passau

* М. ФИНКЕ, профессор Уголовного Права, Уголовного Процесса и Восточноевропейского Права Юридического Факультета Университета г. Пассау

Council of Europe - Совет Европы

* Mr. C. CUNHA, Head of the Criminal Justice Unit, Legal Department, Secretariat General, Strasbourg

* К. КУНЯ, Начальник Отдела Уголовной Юстиции Юридического Управления, Страсбург

Interpreters - Переводчики

* Mr. Maxim FERSCHTMAN
Максим ФЕРШТМАН

* Mr. Erik RAKHOU
Эрик РАКУ

Organization - Организация:

* Centre for International Legal Cooperation
Stationsplein 240
2312 AR Leiden, The Netherlands
Tel: ++ 31 - 71 - 5 121 888
Fax: ++ 31 - 71 - 5 130 160
E-mail: BURO@CILC.LEIDENUNIV.NL

Contactpersons:

Mr. Jan F. van Olden, director
Ян Ф. ван Ольден, директор

Ms. Hester E. Minnema, deputy director
Хестер Е. Миннема, заместитель директора

Mr. Eric L.J.F.M. Vincken, project co-ordinator
Эрик Л.Й.Ф.М. Винкен, координатор проекта

Working place - рабочее место:

Restaurant & Hotel AC Leiderdorp
Persant Snoepweg 2
2353 KA Leiderdorp
Tel : ++ 31 - 71 - 5 899 302
Fax : ++ 31 - 71 - 5 415 669

Sponsored by - Спонсор:

* ARD/ Checchi Rule of Law Consortium - USAID
АРД-Чекки Консорциум 'Правовое Государство' - УСАИД

Preliminary Agenda
Предварительная Повестка Дня

Saturday October 26
Суббота 26 Октября

- 07.00 : Arrival of the Armenian delegation
Приезд Армянской делегации
- : Free program
Свободная программа

Sunday October 27
Воскресенье 27 Октября

- : Free programme
Свободная Программа

Monday October 28
Понедельник 28 Октября

- 10.00 - 10.30 : Opening of the consultation (Ms. Hester E. Minnema,
deputy director Centre for International Legal Cooperation)

Открытие сессии (госпожой Хестер Е. Миннема,
заместитель директора Центра Международного
Правового Сотрудничества)

- 10.30 - 12.30 : 'The Role of the Prosecutor'
"Роль прокурора"

- 12.30 - 14.00 : Lunch
Обед

14.00 - 17.00 : 'Jury Trials'
"Суд присяжных"

* Experts - Специалисты:

- Prof. dr. A.C. 't Hart
- Mr. R.F. Utter
- Prof. J.M. Junker
- Dr. G.P. van den Berg
- Prof. dr. M. Fincke

Tuesday October 29
Вторник 29 Октября

10.00 - 12.30 : Code of Criminal Procedure
Уголовный Процессуальный Кодекс

12.30 - 14.00 : Lunch
Обед

14.00 - 17.00 : Code of Criminal Procedure
Уголовный Процессуальный Кодекс

* Experts - Специалисты:

- Prof. dr. A.C. 't Hart
- Mr. R.F. Utter
- Prof. J.M. Junker
- Prof. dr. M. Fincke

Wednesday October 30
Среда 30 Октября

09.15 : Departure to The Hague
Отправление в Гаагу

10.00 - 12.30 : Visit to the Supreme Court of the Netherlands
* 'Appeal & Cassation' (Justice N. Keijzer)
* The Scientific Buro of the Supreme Court (Ms. N. van Wijnen - Vergeer)

Визит Верховного Суда Нидерландов
* "Апелляция & Кассация" (Судья Н. Кейзер)
* Научный Бюро Верховного Суда (госножа Н. ван
Вейнен-Верхсер)

- 12.30 : Departure to Leiderdorp
Отправление в Лейдердорп
- 13.00 - 14.00 : Lunch
Обед
- 14.00 - 17.00 : Criminal Legislation
Уголовное законодательство
- * Experts - Специалисты: - Mr. drs. J.L. van der Neut
- Prof. J.M. Junker
- Mr. R.F. Utter
- Prof. dr. M. Fincke
- 18.30 : Departure to the Restaurant
Отправление в ресторан
- 19.00 : Dinner in Restaurant "Le Forestier", Rembrandtstraat 2-4
Leiden
Ужин в ресторане "Le Forestier"

Thursday October 31
Четверг 31 Октября

- 10.00 - 12.30 : Criminal Code
Уголовный Кодекс
- 12.30 - 14.00 : Lunch
Обед
- 14.00 - 17.00 : Criminal Code / Code of Criminal Procedure
Уголовный Кодекс - Уголовный Процессуальный Кодекс

- * Experts - Специалисты:
- Prof. dr. Y. Buruma
 - Prof. dr. S.A.M. Stolwijk
 - Prof. J.M. Junker
 - Mr. R.F. Utter
 - Dr. G.P. van den Berg
 - Prof. dr. M. Fincke

Friday November 1
Пятница 1 Ноябрь

- 10.00 - 12.30 : Meeting of the Armenian working group
Сессия Армянской рабочей группы
- 12.30 - 13.15 : Lunch
Обед
- 13.15 : Departure to Scheveningen
Отправление в Схевенинге
- 14.00 - 16.00 : Visit to the Penitentiary 'Scheveningen', Unit 'De Sprang'
Визит в тюрьму для несовершеннолетних "De Sprang"

- * Experts - Специалисты:
- Drs. R.A. Kloeken, Unitdirector 'De Sprang'
 - Госп. Р.А. Клуен, директор "De Sprang"
 - Mr. van der Plas, Deputy Unitdirector
 - Госп. ван дер Плас, Заместитель Директора "De Sprang"

- 16.30 : Departure to Leiderdorp
Отправление в Лейдердорп

Saturday November 2

- 09.30 : Departure to Amsterdam (excursion)
Отправление в Амстердам (экскурсия)
- 17.30 : Departure to Leiderdorp
Отправление в Лейдердорп

Sunday November 3
Воскресенье 3 Ноября

: Free program
Свободная программа

Monday November 4
Понедельник 4 Ноября

10.00 - 12.30 : "The role of the police"
"Роль полиции"

* Experts - Специалисты: - Mr. J. Boek
- Mr. R.F. Utter
- Prof. dr. J.M. Junker

12.30 - 14.00 : Lunch
Обед

14.00 - 17.00 : Meeting of the Armenian working group
Сессия Армянской рабочей группы

Tuesday November 5
Вторник 5 Ноября

10.00 - 12.30 : "Council of Europe"
"Совет Европы"

12.30 - 14.00 : Lunch
Обед

14.00 - 17.00 : continuation
продолжение

* Experts - Специалисты: - Mr. C. Cunha
- Dr. G.P. van den Berg
- Prof. J.M. Junker
- Mr. R.F. Utter

19.00 : Farewell dinner in Restaurant & Hotel AC Leiderdorp
Прощальный ужин в Restaurant & Hotel AC Leiderdorp

Wednesday November 6
Среда 6 Ноября

10.00 - 12.30 : Final session, remaining issues, closing of the meeting
Последняя сессия; закрытие консультации

12.30 - 14.00 : Lunch
Обед

: Free program
Свободная программа

* Experts - Специалисты: - Mr. R.F. Utter
- Prof. dr. J.M. Junker

Thursday November 7
Четверг 7 Ноября

..... : Departure of the Armenian delegation
Отправление Армянской делегации

Attachment II(b)

American University of Armenia
300 Lakeside Drive, 21st Floor
Oakland, CA 94612

Phone: (510) 987-9452 / Fax: (510) 208-3576

Grant Award for Support of Continuing
Legal Education Program & Resource Center in Armenia

Contract No. CCN-0007-C-00-4003-00
Grant Award Date - October 18, 1996
Project Completion Date - September 30, 1998

Quarterly Program Performance Report
No. 1

Period Covered: From Grant Award date to December 31, 1996

Date of this report: January 23, 1997

Progress Narrative:

The grant award documents were received and signed by the AUA at the end of October 1996. In November and December we established a management structure at the University and a preliminary timetable to administer the programs covered by this grant.

Legal Resource Center (LRC):

During this period, we hired an American librarian, Ms. Pamela Licht, to work with the AUA library and administration in planning and establishing the Legal Resource Center. Ms. Licht's resume has been previously submitted and approved by Checchi. Working with the UC Berkeley law school and the University of California, we made arrangements with the Hastings College of the Law to give Ms. Licht a four week training in the establishment and management of law libraries. Ms. Licht will come to Hastings from February 18 to March 13. Her training program will be administered by Dr. Jennifer Parrish, a member of the Hastings faculty and the director of the School's library.

During these four weeks, Ms. Licht will work with the Hastings librarians and will get a hands on exposure to one of the best law school libraries in the U.S. Her program at Hastings will rotate her in the different library functions including 1) library technical services such as acquisition, cataloguing and processing, 2) library public services such as reference, circulation and interlibrary loans 3) library computer services and 4) general functions such as collection development, visit to other local law school libraries, court and law firm libraries, and auditing a Legal Research class offered at Hastings during this period by the Associate Director of the library.

During her visit to Hastings, Ms. Licht will work with the Hastings librarians and Professor Dick Buxbaum, a member of the faculty of the UC Berkeley law school and the Dean of the AUA Masters program in law, to develop a list of acquisitions for the LRC.

The equipment for the LRC has been purchased: four computers, 2 printers and one copier. The equipment is awaiting shipment. A cargo flight with the United Armenian Fund is expected to leave at the end of January and we believe that these pieces will then be shipped to Armenia.

The physical space that will house the LRC at AUA has been under construction during this period. It is located in an annex behind the main university building. The LRC will be located in proximity with the AUA law department and departmental offices. During this period and with the assistance of Ms. Licht, we worked on the specifics of the internal layout of the Center, i.e. location of computers, computer wiring, location of a reference desk, shelves and usage flow. We anticipate that the physical space and furnishings will be ready sometime in March.

Continuing Legal Education Program:

We have recruited Mr. Mhaer Alahydoyan as the Project Director for this program. His resume has been previously submitted and approved by Checchi. Mr. Alahydoyan will begin working on this program and recruit the participants for Phase I, from among the lawyers and judges during the month of March 1997. We intend to undertake the continuing education program as follows:

Phase I in May 1997
Phase II in July 1997
Phase III in the fall of 1997

Notes:

The University's graduate programs cease from the middle part of November to around the 10th of March. Most of the faculty leave Armenia. The University's other educational activities continue at a lower pace. Furthermore, the University is closed between December 24 and January 7. Thus we have scheduled the training of the librarian and the beginning of the continuing education program at times that also coincide appropriately with the University's general calendar.

Amount Requested with this report:

We are submitting a request for an advance payment in the amount of \$73,981. This amount reflects mainly anticipated expenses for the first quarter of 1997 as well as some small expenses incurred since the beginning of the grant.

III. OTHER ACTIVITIES

NEWSLETTER

A. OBJECTIVE

To produce a periodical on legal reform issues reflecting the challenges faced not only by the legal practitioners and proponents of law reform in the NIS, but also the complexities faced by donors attempting to cooperate with the individuals and institutions engaged in the transition of the Newly Independent States to market-based societies grounded in the Rule of Law. The ROL Newsletter provides a focal point for wide ranging discussion on the direction, implications, and consequences of law reform and political/institutional development in the Newly Independent States.

B. TWELFTH QUARTER TARGETS

Finalize, publish, and mail the Summer 1996 newsletter.

Begin working on the next issue of the newsletter which will be the Spring 1997 issue.

C. ACHIEVEMENTS AND OUTPUTS

The Summer 1996 issue of the newsletter was finalized, published, and mailed.

During the reporting period, the subject matter and contributors for the following, Spring 1997, issue of the newsletter were identified.

D. THIRTEENTH QUARTER TARGETS

Identify and contact additional contributors for the Spring 1997 issue of the newsletter.

Collect articles from contributors and translate, when applicable.

FREEDOM HOUSE

A. OBJECTIVE

To promote and strengthen the relationship between an independent judiciary and free press in the NIS.

B. TWELFTH QUARTER TARGETS

On-going monitoring of the project.

C. ACHIEVEMENTS AND OUTPUTS

Due to unforeseen circumstances, Freedom House was still unable to provide the completed text and lesson plan per their contractual agreement. Some of the original authors who agreed to submit articles for the textbook backed out of the obligation. Freedom House contacted the Contractor explained the predicament and requested an extension which the Contractor granted.

D. THIRTEENTH QUARTER TARGETS

On-going monitoring of the project.

**THE CENTER FOR DEMOCRACY 1996 INTERNATIONAL JUDICIAL
CONFERENCE**

The ROLC supported The Center for Democracy's International Judicial Conference on "The Role of an Independent Judiciary: Implementation of Criminal Justice and Commercial Law Reform." This conference took place in Washington, DC on September 30 - October 2, 1996. This activity was a follow up on the conference that took place in Washington, DC on November 13 - 15, 1995 on "Courts of Ultimate Appeal." The conference this year focused on the role of an independent Judiciary in the reform of the criminal justice system and implementation of the commercial law reform.

Over sixty justices from the Former Soviet Union, West and East Europe, and the US participated in the 1996 conference. The ROLC funded the participation of justices from the NIS.

Attachment III(a)

RULE OF LAW CONSORTIUM NEWSLETTER

ARD/CHECCHI JOINT VENTURE

under auspices of

United States Agency for International Development

NO. 7

SUMMER 1996

SPECIAL ISSUE ON PROCURACY REFORM IN THE NEWLY INDEPENDENT STATES

Editor: Robert Sharlet

TABLE OF CONTENTS

Reforming the Procuracy in the Post-Soviet Era: An Introduction	1
<u>Reports by Russian & Ukrainian Procurators</u>	
The Russian Procuracy's New Tasks and Ways of Accomplishing Them	4
The Procuracy of Ukraine	6
<u>Commentary by American Specialists</u>	
The Training of Procurators and Prosecutors in Russia, Ukraine and the United States	8
Changes in the Law on the Russian Procuracy ..	10

REFORMING THE PROCURACY IN THE POST-SOVIET ERA:

AN INTRODUCTION

by Keith A. Rosten, Esq.

Senior Legal Reform Specialist

Rule of Law Consortium

Co-editor, Special Issue on Procuracy Reform

Robert Sharlet

Chauncey Winters Professor of Political Science

Union College

Schenectady, NY

This issue of the Newsletter is devoted to the institution of the Procuracy in the Newly Independent States (NIS). In particular, it addresses the emerging role of the post-Soviet procurator in Russia and Ukraine, and the training of procurators in those countries.

The Procuracy Before Legal Reform

As the Soviet Union disintegrated, the major institutions of government had to be re-engineered. The Communist Party of the Soviet Union withered away, while the Communist Party of the Russian Federation subsequently has remade itself into a formidable political power in an emerging democracy. The court systems in the countries of the former Soviet Union similarly began to remake themselves. The arbitration system for resolving disputes between enterprises in the Soviet period, has been replaced in the Russian Federation by the arbitration court system (otherwise known as the commercial court system).

Each country in the post-Soviet era, has tried to find its own way in legal development. In Ukraine and Kazakstan, for example, the new post-Soviet constitutions eliminated the arbitration courts, while, conversely, the Russian Federation has maintained and strengthened this institution.

The Procuracy in the NIS is undergoing similar fundamental changes. In the days of the Soviet Union, the Procuracy was powerful and prestigious. Unlike its approximate American counterparts, such as U.S. attorneys and district attorneys, the Procuracy not only prosecuted cases, but also wielded considerable influence over judges. The Procuracy executed Communist Party directives. Procurators conducted criminal investigations, and supervised the proper conduct of criminal and civil court cases. They also oversaw the prison system.

Under its power of "general supervision," the Procuracy supervised the proper implementation of law by the government. Given these wide ranging powers, it is understandable that the top law school graduates aspired to the procuratorial ranks, and procurators enjoyed a status at the pinnacle of the legal profession.

New Constitutions and Laws Re-define the Role of Procuracy

The institution of the Procuracy came under heavy attack in the early post-Soviet era, as law enforcement agencies, the Procuracy and the Ministry of Justice, struggled for power and authority in the newly emerging political and legal systems of the NIS. The new status of procurators in the NIS is defined in the recently-adopted constitutions, and in the laws on the Procuracy.

The new law on the Procuracy in Russia, while introducing changes, still retains many of the traditional powers of the Procuracy. In contrast, Kazakstan eliminated the investigative function of the Procuracy. The Kazakstani Procuracy continues to represent the interests of the government in court, and to exercise supervision over the application of laws and

decrees as well as the legality of search and investigation. Although the Kazakstani procurator continues to exercise "higher supervision" over the legality of the investigative process, the responsibility and procedure for criminal investigations is carried out by special agencies separate from the Procuracy and the court. These investigative bodies have been established by presidential decree. Similarly, in Armenia, the constitution sharply curtailed the powers of the Procuracy.

The Procuracy is an institution in transition in all of the countries of the former Soviet Union. Personnel has changed dramatically, some on their own volition and others involuntarily. For example, Aleksei Ilyushenko, Acting Procurator General of the Russian Federation from 1994-95, did not gain full appointment to the office for lack of sufficient support in the Federation Council, the upper house of the Russian parliament, which enjoys the power of advise and consent on the Office of Procurator General. Ilyushenko was later dismissed from the Procuracy by President Boris Yeltsin, and was subsequently arrested earlier this year for abuse of office and bribe-taking. The Procurator General of Kazakstan, in contrast, was recently appointed Chief Justice of the Kazakstani Supreme Court.

The Reform of Procurator Training in Russia and Ukraine

The remuneration, if not the prestige, of the defense bar in relation to the Procuracy has been reversed over the past five years. The defense bar, which was once the backwater of the Soviet legal profession, has fared much better in the new legal environment of the NIS. Adversarial proceedings generally, as well as jury trials in some regions of Russia, have put a premium on skilled defense attorneys. In addition, as criminals have found lucrative new opportunities in the emerging market economies, they have also sought and paid well for expert legal advice by private defense counsel when apprehended by the police.

In the Soviet era, one institute in Moscow provided the training for all high-level procurators from throughout the Soviet Union and other socialist countries. High-level procurators would come to Moscow once every five years. With the demise of the Soviet Union, systematic training programs ceased. The institute in Moscow continued to provide training for Russian procurators, but the system of training procurators from other former republics lapsed. In most of the other countries of the NIS, efforts at procurator training and upgrading have been modest at best, due to lack of experience and resources.

The Rule of Law Consortium (ROLC) has worked closely with the Institute of Advanced Training for Supervisory Personnel of the Russian Federation Procuracy in Moscow, and its Ukrainian counterpart, the Institute of Advanced Study of the General Procuracy of Ukraine in Kharkiv, for the past two years, assisting the development of training programs specifically addressed to the role of the procurator in an emerging democratic polity and a growing market economy. The ROLC, under the direction of the U.S. Agency for International Development, has coordinated its training programs with the Department of Justice, other interested U.S. agencies, and non-governmental organizations.

Focus of the Special Issue

We are privileged to carry in this Special Issue on the Procuracy, articles by the heads of the above Russian and Ukrainian procurator training institutes, as well as commentaries by two leading American specialists on the Procuracy, both of whom have served as consultants to the Rule of Law Consortium.

In the opening article, Professor Korobeinikov, until recently director of the Moscow institute and now the Chair of the Criminal Law Department of the Law Faculty of the Youth Institute, offers the reader a broad and informed view of the changing Russian Procuracy, the role of the Moscow institute in the reform process, and the comparative experience of Russian and American prosecutor

trainers in the course of their collaboration under the auspices of a ROLC project funded by the U.S. Agency for International Development.

In a companion article, Rector Pinaev of the Ukrainian institute, reviews the history of the Procuracy in Imperial Russia, the USSR, and, since 1991, in independent Ukraine. He concludes by briefly surveying the range of expert opinion on the future of the Procuracy in Ukraine.

Professor John Jay Douglas, Dean Emeritus of the National College of District Attorneys, next comments on his experience as a ROLC consultant to the procuracy training institutes of Russia and Ukraine. In particular, he analyzes the comparative roles and functions of the post-Soviet procurator in the NIS, and American federal and state prosecutors, including their respective "continuing legal education" programs. Professor Douglas concludes that the on-going professional contacts between Russian and Ukrainian procurators and American prosecutors, can be beneficial to all concerned with continuing legal education of prosecutorial personnel.

Finally, Professor Gordon Smith of the University of South Carolina, an internationally known specialist on the Procuracy, provides an informative commentary on the changes wrought by the new Law on the Russian Procuracy of 1995. He concludes that the Russian Procuracy, although changed, has institutionally survived the early years of political and legal reform in Russia, a time during which it was often the target of scorn and criticism for the predominant and essentially coercive role it had played in the former Soviet legal system.

**THE RUSSIAN PROCURACY'S NEW TASKS
AND WAYS OF ACCOMPLISHING THEM**

*by Professor B.V. Korobeinikov, Ph.D.
Director, Institute of Advanced Training for
Supervisory Personnel of the Russian Federation
Procuracy, Moscow*

The political, economic and social processes of restructuring state and society have greatly heightened interest among scholars and jurists in problems associated with the state mechanism, the interaction of its components, and the place and role of the individual institutions of the governmental system of the Russian Federation (RF). All of this applies in full measure to the Procuracy. The political reorganization of the state machinery of Russia has substantially altered, and continues to alter the scope of the activities, functions and powers of the Procuracy.

The New Law on the Procuracy

These issues have become especially urgent in connection with the adoption of the new federal law on the Russian Federation Procuracy of November 25, 1995. The new law, which codified the constitutional principles governing the establishment and operation of the Procuracy as a unified, federal and centralized system of agencies exercising oversight of the enforcement of the laws in effect on the territory of the RF, has confronted prosecutors with a number of new tasks. These include ensuring the supremacy of the law, uniform standards of legality, and the top-priority protection of human and civil rights and liberties, as well as the legally protected interests of society and the state.

Efforts to accomplish the Procuracy's new tasks such as oversight of the observance of human and civil rights and liberties by the legislative and executive authorities of the constituent members of the RF, by local governments, and by the management of private companies, are of especially great importance. The problem is that the restructuring process has been marked by the emergence of new and by no means

sufficiently regulated legal relations associated with the constituent members of the RF, the new local government institutions which replaced the local soviets, and the commercial structures created by the market economy.

**Role of the Institute of Advanced Training for
Supervisory Personnel**

Accomplishing the tasks posed for the Procuracy by the new federal law has necessitated a restructuring of the agencies of the Procuracy, more precise definitions of the functions and powers of prosecutors, and new methods for exercising prosecutorial oversight. As a result, Russian scholars and jurists specializing in prosecutorial oversight have increasingly turned their attention to the organizational and operational experience of prosecuting bodies in other countries, especially those that are far advanced in the development of democracy and market relations. Among these countries, the organization and functioning of prosecuting bodies in the United States has attracted the attention of scholars and prosecutors.

Unfortunately, the sparse and far from complete literature on the subject has not permitted scholars to answer many questions of interest to them. In this connection, the Institute of Advanced Training for Supervisory Personnel of the RF Procuracy has established contacts with researchers at the American Prosecutors Research Institute (in conjunction with the National College of District Attorneys), contacts that, in our view, have made it possible to remedy these shortcomings to a certain extent.

Reciprocal contacts in the form of seminars conducted in the United States and in Russia by staff members of aforementioned institute, have enabled instructors of the Institute of Advanced Training for Supervisory Personnel and its regional training centers, as well as prosecutors, to become familiar with:

1. Current American legislation on prosecuting agencies;
2. The structure and basic organizational principles of the prosecutorial system in the United States;
3. The jurisdiction of American district attorneys in criminal investigation and their interaction with other law-enforcement agencies in this process;
4. The jurisdiction of prosecutors participating in the hearing of criminal and civil cases and the procedures governing their activities;
5. The interaction between prosecutors and the legislative and executive branches of government in the United States; and
6. The system, forms and methods of prosecutor training.

Comparative Russian and American Experience

The study of the above issues has made it possible to become familiar with the content of the relevant sections of the U.S. Constitution, the U.S. criminal, civil and procedural codes and other federal laws, as well as with the basic forms of relevant American legislation. The importance of this cooperation between the institutes is primarily that it has facilitated from the very outset an understanding of the legal basis of prosecuting bodies in the United States, without knowledge of which it is impossible to understand subsequent, more specific matters, such as the structure of the system of prosecution in the United States. The study has revealed substantive differences in the organizational principles of the two national systems of prosecution: (a) a system of federal and state prosecutorial organizations in the United States in contrast to a strictly centralized system of prosecutorial organization in the RF; (b) a system of appointed and elected prosecutors in the United States in contrast to a system of exclusively appointed prosecutors in the RF; and (c) a uniformity of jurisdiction in the United States (except where military matters are concerned), in contrast to a rather extensively specialized system of jurisdiction in the RF.

The comparative analysis of the materials obtained has revealed a direct, causal relationship between the economic and political system of a state and the principles governing the organization of its system of prosecution. This insight allows one to forecast the potential development and structure of the RF Procuracy in accordance with the social, political and economic reform processes that are taking place in our country.

The study of the interaction between U.S. prosecutors and investigative agencies has been of great importance. The crime situation in the RF, a situation that has been substantially exacerbated amid the breakdown of governmental oversight systems and the transition to market relations, has prompted Russian scholars and jurists to mount a persistent search for new, effective forms and techniques of combating crime. In the course of this inquiry, it is natural that attention turned to the experience of combating crime in the United States, a country with a highly developed market economy. The comparative analysis of these materials has made it possible to graphically identify differences in the jurisdictions, functions and powers of U.S. and RF prosecutors who perform the same kinds of work. This makes it possible to identify and evaluate more effective forms of interaction between prosecutors and investigative agencies in the two countries, and to use this experience, insofar as possible, in the drafting of legal acts, as well as in theoretical and practical work.

The study of the prosecutor's role in civil and criminal procedure has been of considerable interest to Russian scholars and jurists. Implementation of the concept of judicial reform has led to the emergence of new forms of legal procedure in the RF, above all trials by jury. The new legal procedure has significantly altered the position, role, rights and responsibilities of the prosecutor in the courtroom. A whole series of complex and often controversial issues has arisen in this connection. Comparison of the functions, rights and responsibilities of prosecutors in U.S. and RF courts has made it possible, if not to resolve these questions, then at least to identify ways of doing so

based on the study of the powers and operational procedures of U.S. prosecutors with extensive experience in trials conducted on the adversarial principle.

The reciprocal seminars have also devoted considerable attention to the interaction between prosecutors and the legislative and executive branches of government, as well as with the news media. The relationship between the prosecutor and the legislative and executive branches of government is of fundamental importance for any aspect of a prosecutor's duties. This problem is especially urgent for modern-day Russia as it undergoes a new stage of development and the process of state-building. The scope and nature of the relationship between the Procuracy and the authorities define the nature of the activities of prosecutors and their powers, rights and duties.

In this regard, the study of the nature and substance of these relationships in the United States has been of great interest to all Russian scholars and jurists who deal with efforts to solve this problem at both the central and local government level. Thus, information on the extent of legislative regulation of relations between the authorities and prosecutors in the United States is of great significance in drafting legislation on the RF Procuracy, not only at the federal level, but at the level of the federation's constituent members as well.

Prosecutor Training

Russian and American scholars have assigned a special place in their collaboration to the system, forms, methods and techniques of prosecutor training, and to efforts to assess the effectiveness of this training. The RF Procuracy and prosecuting bodies in the United States have both gained considerable experience in the organization, methodologies and tactics of prosecutor training, and therefore, the study and exchange of this information will undoubtedly be useful in improving each of these systems of prosecution.

In conclusion, then, it can be said that the professional contacts between scholars of the institutes of the prosecuting agencies of the United States and the RF Procuracy, have been unquestionably beneficial to both sides, and that the results of this collaboration will be used to carry out theoretical and practical tasks in improving the work of prosecutors in both countries.

THE PROCURACY OF UKRAINE

*by A. Pinaev, Rector
Institute of Advanced Training
General Procuracy of Ukraine
Kharkiv, Ukraine*

The prototype for the Procuracy of Russia (Ukraine was part of Russia from January 1654 through August 1991), was the Office of Public Prosecutor in France, which has hitherto been the original model for the Office of Public Prosecutor in Western countries.

History of the Procuracy in Russia and the USSR

Peter I instituted the Office of the Procuracy in Russia when he established by decree on March 2, 1711, a fiscal office based on the example of corresponding government agencies in Germany. This office was entrusted with "...secretly overseeing all cases, finding out about unfair trials, treasury collections, etc." The fiscal office turned out to be rather ineffective; therefore, in 1722, Peter I reorganized it into a Procuracy based on the French model. In his Decree "On the Office of Prosecutor-General" he stated, "This office is our observer and attorney in state cases." The Procuracy is obliged to implement the laws in force, to make perpetrators answer for their crimes, and to protect the innocent.

As the history of the Russian Empire progressed, the role of the Procuracy first diminished (during the reigns of Anna Ivanovna and Paul I), and then expanded (during the reigns of Elizabeth Petrovna, Catherine II, Alexander II and subsequent Russian tsars). By the beginning of the twentieth century, it was the only strictly centralized state structure --

assuring the subordination of lower-level prosecutors to higher ones, the procurators' professional immunity of position, their independence from local authorities, and their broad powers enabling them to supervise law enforcement.

After the 1917 Bolshevik Revolution, the Procuracy in Russia was eliminated, and oversight of legal process was transferred to a worker-peasant authority, the People's Commissariat of Justice, the People's Commissariat of State Control and several other government agencies.

On May 26, 1922, a Decree of the All-Russian Central Executive Committee established the "Regulation on Prosecutorial Oversight," and from that time the Soviet Procuracy was maintained as a centralized and all-powerful government agency, independent of local authorities. It was entrusted with oversight of the legality of activities of all state agencies, economic institutions, officials and citizens, as well as with court prosecution and oversight of appropriate procedures for detention, arrest and custody. The Procuracy then functioned as a department of the Soviet Russian People's Commissariat of Justice.

On June 24, 1929, the USSR Central Executive Committee (Tsik) and the Council of People's Commissars (SNK) adopted the "Statute on the USSR Supreme Court and the USSR Supreme Court Procuracy," under which the Procuracy became a structural component of the Supreme Court. However, later on December 17, 1933, the Tsik and SNK adopted the "Statute on the USSR Procuracy," according to which the Procuracy became an independent state agency. These regulations defined what have since become the traditional spheres of prosecutorial oversight -- general supervision, supervision of the proper and uniform enforcement of laws by judicial agencies, supervision of the enforcement of laws by agencies charged with preliminary and general investigation, and supervision of the legality of actions of governmental agencies, the police, and penal institutions.

In subsequent years, the USSR Supreme Soviet passed the "Statute on Prosecutorial Oversight in the USSR" (May 24, 1955), a law "On the Procuracy of the USSR" (November 30, 1979), and other normative acts, which specified the Procuracy's activities and more clearly formulated its tasks, functions, principles of organization and activity, as well as assurances of the independence of procurators.

Creation of the Procuracy of Independent Ukraine

On August 24, 1991, Ukraine declared its independence, and on November 5, 1991, the Ukrainian Supreme Soviet passed a Law of Ukraine "On the Procuracy," as well as resolutions "On Confirmation of the Structure of the General Procuracy of Ukraine," the "Regulation on the Hierarchy of Procuracy Staff" and the "Disciplinary Rules of the Procuracy of Ukraine." According to existing legislation, the Procuracy is a unified centralized system with strict subordination of lower-ranking prosecutors to higher-ranking ones. The General Prosecutor of Ukraine heads the Procuracy. He is appointed to a five-year term by the Supreme Council of Ukraine, to which he is accountable.

The system of prosecutorial agencies includes the General Procuracy of Ukraine, the Procuracies of the Autonomous Republic of Crimea, the regions (oblasts), the cities of Kyiv and Sevastopol (at the oblast level), municipal, district, and other procuracies at equivalent levels, as well as military procuracies. They are headed by procurators appointed by the General Prosecutor for a term of five years. As a general rule, deputies, senior assistants, procurators' assistants, investigators for especially important cases, senior investigators, and investigators, are considered part of the staff of procuracies at all levels. The General Prosecutor determines the staff size of the procuracy. Payroll and other benefits for procuracy staff come out of the state budget pursuant to a centralized procedure which assures the independence of the procurators from local authorities.

The Procuracy is the supreme authority over proper compliance with the laws by the Cabinet of Ministers of Ukraine, its ministries, state committees, other agencies of state and economic administration and control, the government of the Autonomous Republic of Crimea, local councils of people's deputies, their executive and administrative agencies, military units, political parties, public organizations, associations, enterprises, institutions and organizations – irrespective of the type of property ownership, chain of command or affiliation, or whether officials or citizens are involved. In addition, the Procuracy investigates acts indicative of crime (along with the Ministry of Internal Affairs and the Security Service of Ukraine), and participates in examining in the courts criminal and civil cases, as well as cases concerning administrative violations of the law, economic disputes, and arbitration proceedings. The Office of Public Prosecutor also participates with state authorities in developing measures for the prevention of crime and other violations, as well as for improving and interpreting legislation.

A procurator's demands, pursuant to existing legislation, are obligatory for all agencies, enterprises, institutions and organizations, officials, and citizens, and are to be implemented immediately, during a period of time established by law or a period determined by the prosecutor.

Future of the Procuracy in Ukraine

Even so brief a survey of the 285-year development of the Procuracy of Ukraine permits us to conclude that there is clear continuity, consistent with the culture and outlook of the people of Ukraine, in the legal basis of its operation, in its purposes, primary functions, and principles of operation. Nevertheless, disputes regarding the place of the procurator in the system of government are ongoing among scholars and jurists in Ukraine. Opinions on the future of the Procuracy have been expressed concerning such issues as: (a) The need to retain only its function of prosecution; (b) To include the procuracy in the

executive branch; or (c) To include it as part of the judicial branch.

Nonetheless, despite the diversity of views, predominant opinion is that the Procuracy must remain an independent agency, holding supreme authority over the observance and proper application of laws by all government agencies, enterprises, institutions, organizations, officials, and citizens.

THE TRAINING OF PROCURATORS AND PROSECUTORS IN RUSSIA, UKRAINE AND THE UNITED STATES

by Professor John Jay Douglass

University of Houston Law School, Houston, TX

Dean Emeritus, National College of District Attorneys

Responsibility for the prosecution of crime in Russia and in the Ukraine is placed on the Procuracy much as it devolves on the prosecutor in America. It would be incorrect, however, to believe that the Procuracy of these two nations and the American prosecutor are so much the same that the identical training and education program for one can be transferred to the other. Nonetheless, in reviewing the educational and training needs as well as the practices of the Russian and Ukrainian procuracies there is much to be learned from the American training programs. Likewise, both local and federal prosecutors in the United States can benefit by observing the methods and procedures used by the Procuracy in Russia and Ukraine.

Independence

The Procuracy does not have the independence of local prosecutors in the United States; instead, it is a much more hierarchical system somewhat like the U.S. federal system, but far more akin to the system of most civil law countries. The Procuracy, also following the system of most of world, is more likely to have career personnel. Procurators usually come to the profession directly out of law school and remain until retirement. Although there is

a growing tendency to establish prosecutorial careers in the United States, political realities are not as likely to guarantee prosecution as a life calling.

Investigators

A second major difference which weighs on prosecutorial or procuracy training is the inclusion within the Procuracy of the investigator. This is the individual who prepares and develops the file for the case. This file may, in fact, be the entire presentation of the case before the court. It is important to know that those who investigate and prepare the file are law graduates just as are others in the Procuracy. The investigator comes into the Procuracy out of law school and may change over to prosecution in the course of his or her career. From an American perception, the investigative responsibility should not have the importance that it has within the Procuracy. Further the investigator in America does not have the professional standing which the investigator enjoys in Russia and Ukraine.

Criminal Justice System

There are a number of other variations from the American prosecutorial system. Under former Soviet practices there was little independence of the judiciary in Russia and Ukraine. This is now changing. The third leg of the American system, the defense bar, has not had the significance or importance in Russia and Ukraine which it has in the Western world. The relations of others in the criminal justice system with the Procuracy are significantly different from the relations of these agencies with the American prosecutor.

General Supervision

What is to many observers the most interesting and unique aspect of the Russian and Ukrainian procuracies is an additional responsibility really unknown and little understood outside the former Communist world. This is the authority or responsibility entitled "General Supervision." Under

this authority, the Procuracy is responsible for overseeing all legal procedures of the government, with jurisdiction to make corrections. General supervision includes the review of all judicial decisions at every level, both civil and criminal, as well as review of administrative determinations of government agencies. The significance of this responsibility can hardly be underrated, but it is little understood in American legal circles.

Continuing Legal Education

The Procuracy has had a long tradition of "continuing legal education" for its personnel. In-office training and education is routine. A major institute for the training of senior Russian procurators is located in Moscow, and there are branch schools or institutes throughout the federation. A separate training institute for investigators is located in St. Petersburg. The training institute for the Procuracy in Ukraine is in Kharkiv, and serves all in the Procuracy including the investigators. These institutes have permanent directors and full time faculty, and the facilities include lecture halls and seminar rooms. The institutes are complete with the capability of housing and feeding students.

In contrast, few comparable permanent installations are available for American prosecutors. The U.S. Department of Justice is only now beginning the construction of such a school in Columbia, South Carolina. Training institutes in the United States do not have full time faculty other than course administrators, but instead rely upon faculty selected for each course, usually from the ranks of prosecutors. A further distinction is in the length and breadth of courses offered. In the United States, few courses are of over two weeks duration; most are from two to five days in length and devoted to a single subject. By contrast, the training courses for the Procuracy are usually from two to four weeks, and the curriculum will cover a broad area of interest.

In the United States much of the instruction relates to trial advocacy and procedure. This results

from the adversarial nature of the court system in America. The differing demands of the inquisitorial system of Ukraine and Russia and the lesser significance of the judiciary and defense bar, reduces both the interest and need for such training. Clearly, this may change in the days ahead with the increasing independence of the judiciary and growth of the defense bar. If the present experiment in the use of jury trials now underway in Russia should be broadened and accepted, there should be a rapid growth in trial advocacy instruction. Should this occur, the Procuracy may well wish to emulate some of the advocacy skills training efforts of American prosecutor schools.

The educational methodologies used are not so dissimilar. The Procuracy institutes are more apt to use a straight lecture scheme as contrasted to the seminar and discussion techniques used in the United States, but the seminar style is also used extensively. Lack of printing facilities does not allow the institutes to provide to each student the written materials which are considered essential to any American continuing legal education program. The Russians and Ukrainians are clearly more academic in their approach, and students are called upon to do more research and writing. In this regard, they are much closer to the American military legal schools. Both in American prosecutor training programs and the Procuracy programs, there is a similar use of audio-visual devices, although some of the computer and video equipment now in use in Russia and Ukraine is in need of updating as the computer science field progresses so quickly.

Dissemination of Legal Materials

The hierarchical nature of the Procuracy permits efficient dissemination of information. This would be even more effective if computerization were more available in procurator offices throughout Russia and Ukraine. In these days of very rapid changes in the law and new legislation, improvement in dissemination of new developments should be pushed as rapidly as possible.

The current exchanges and visits should be valuable to American prosecutor training directors as well as to the procurator training administrators. Fundamentally, all are on the same sheet of music and only need to read it together for the ability to pick up the best from the each other.

CHANGES IN THE LAW ON THE RUSSIAN PROCURACY

*by Professor Gordon B. Smith
Department of Political Science
University of South Carolina
Columbia, SC*

After a year of intense discussion and debate behind the scenes, the State Duma of the Russian parliament, on October 18, 1995, passed a federal law "On the Inclusion of Changes and Additions to the Law on the Procuracy of the Russian Federation." President Boris Yeltsin signed the law on November 25. The law as amended retains many of the Procuracy's wide-ranging powers and even expands its jurisdiction in coordinating the fight against crime.

Background and Legislative History

For the past several years the Procuracy has found itself in the midst of a high-level political squabble between President Yeltsin and the State Duma. At a lower, but no less important level, the Procuracy is also at the heart of the debate surrounding legal reform in Russia. Many legal reformers wish to strengthen the role of courts in the legal system, and therefore see the dominant position of the Procuracy as a major impediment to judicial independence. Legal reformers tend to view the Procuracy as a retrograde institution of coercion with deep roots in the Stalinist system.

In late 1994, discussion resumed over a new draft law on the Procuracy circulated in the Russian parliament. That draft, which was worked out in the President's office with considerable input from the Procuracy, not surprisingly retained the institution's

broad powers, and even strengthened the Procuracy by requiring it to enforce presidential decrees as well as notify the President of actions by governing bodies that contradict the constitution or laws of the Russian Federation.

An alternative draft federal law written by two senior scholars associated with the Institute of State and Law of the Russian Academy of Sciences, V.M. Savitskii and A.M. Larin, was circulated in early 1995. On March 13, their draft was sent to the Committee on Legislation and Legal Reform of the State Duma for comments and revisions before being presented to the Duma in April. Reacting to the surge in violent crime, and in particular the murder of a prominent journalist, the authors proposed refocusing the Procuracy on combating crime. The Procuracy would retain responsibility for guidance (rukovodstvo) of investigators, but would not conduct investigations except in a few specified types of cases. The principal function of the procurator would be to prosecute criminal cases in court. The Savitskii-Larin draft would also severely restrict the Procuracy's powers of general supervision.

Recent Changes

In its final form, the new law incorporated many of the provisions suggested in the Larin-Savitskii draft. Procurators are assigned the responsibility for coordinating the activities of the agencies of internal affairs, security services, tax police, customs service and other organizations in the fight against crime (Art. 8). Some procurators resisted this widening of the Procuracy's mandate for two reasons. First, procurators tend to view supervision (nadzor) as an unofficial "fourth branch" of government, separate from the executive, legislature, and the judiciary. With these changes, the Procuracy takes on a decidedly executive function -- coordinating the fight against crime. Second, procurators fear that the fight against crime will prove to be too great for the Procuracy's dwindling resources, and that its failure to stamp out crime will inevitably subject the institution to continuous criticism from deputies in the Duma.

Procuratorial Supervision

The largest section of the amended law concerns "Procuratorial Supervision." This section, for the first time, is divided into two headings: "Chapter 1: Supervision over the Implementation of Laws," and "Chapter 2: Supervision over the Observance of the Rights and Freedoms of People and Citizens." Boris Zolotukhin, Vice-Chair of the Russia's Choice faction in the Duma and a noted legal reformer, was instrumental in promoting this dichotomization. The two chapters make a clear distinction between procuratorial powers. The first chapter concerns the traditional role of the Procuracy in supervising the full implementation of all laws issued by governing bodies and institutions, (but not oversight of the legality of those laws). Several deputies argued strongly that the responsibility for judging the legality of laws and other normative acts should rest only with the courts. It is noteworthy that presidential decrees are not included among normative acts subject to procuratorial supervision or enforcement. This had been a much debated provision and one that President Yeltsin, reportedly, badly wanted, but it was roundly criticized in the Duma debate. The revised law also prohibits procurators from protesting illegal activities of commercial establishments and private enterprises. Instead, procurators must pursue suspected violations in court.

The second chapter concerns the powers of the Procuracy in supervising the observance of citizens' rights and freedoms that may be impinged by actions of governmental bodies, public officials, or commercial organizations. In these cases the Procuracy can either issue protests or take cases to the courts.

Other Changes

During the Duma debate it was proposed that the Procuracy report to the Ministry of Justice. This provision was strongly opposed by the Procuracy and was dropped.

In contrast to the previous Law on the Procuracy, the present amendments strip the Procuracy of its right of legislative initiative. Article 9 states that procurators merely have the right to submit suggestions concerning the improvement of laws and other normative acts. The Procuracy also lost standing to take issues to the Constitutional Court except were they relate to violations of the constitutional rights and freedoms of citizens (Art. 35, para. 6).

One of the persistent points of friction over the Procuracy's powers was its long-standing role in general supervision. The current document empowers the procurators to receive complaints and appeals of citizens (Art. 10), however, actions by the Procuracy concerning a citizen's grievance in no way limits that citizen from pursuing the complaint in court. Article 23 states that procurators may issue protests against illegal normative acts of organizations or officials, or pursue action in a court of general jurisdiction, or in the commercial court, when those acts violate the rights and freedoms of citizens. This will not placate those regional and local officials who chafed whenever a procurator would declare one of their normative acts to be illegal.

The Future of the Russian Procuracy

In other important areas, the powers of the Procuracy remain virtually unchanged: the power to supervise criminal investigations and places of detention, the right to participate in civil cases, and the right to appeal criminal decisions of the court. It is, perhaps, encouraging that the Duma deputies decided not to dismantle the Procuracy entirely, since it is one of the few tools in the hands of the government for fighting an unprecedented explosion in criminal activity.

General Information

Editor: Professor Robert Sharlet
Rule of Law Consortium
ARD/Checchi Joint Venture
1819 L Street, N.W. - 5th Floor
Washington, D.C. 20036

Phone: 202-861-0351

Fax: 202-861-0370

E-mail: 104274.437@CompuServe.com

Attachment III(b)



September 18, 1996

Ms. Regina Dubrove
ARD/Checchi Rule of Law Consortium
1899 L St., NW
Suite 800
Washington, DC 20036
Fax: 202-861-0934

FOUNDED 1941

WASHINGTON OFFICE
1319 18TH STREET, NW
SECOND FLOOR
WASHINGTON, DC 20036-1802
TEL: 202-296-5101
FAX: 202-296-5078

Bette Bro Lord
Chairman of the Board

CHAIR EMERITI
Max M. Kampelman
Leo Cherne

BOARD OF TRUSTEES
Ned W. Bandler
Mark Palmer
Vice Chairmen

Walter J. Schloss
Treasurer

Kenneth L. Adelman
Secretary

Zbigniew Brzezinski
Mitchell E. Daniels, Jr.
Patricia Murphy Derian
William C. Doherty, Jr.
David Eisenhower
Malcolm S. Forbes, Jr.
Theodore J. Forstmann
Norman Hill
Samuel P. Huntington
John T. Joyce
Lane Kirkland
Jeane J. Kirkpatrick
Edward I. Koch
Morton M. Kondracke
Ann F. Lewis
Carnes Lord
Jay Mazur
John Norton Moore
Charles Morgan, Jr.
Peggy Noonan
Susan Kaufman Purcell
Richard Ravitch
Burns W. Roper
Donald Rumsfeld
Albert Shanker
Wendell L. Willkie II
Jacques D. Wimpfheimer
Andrew Young

Adrian Karatnycky
President

Dear Ms. Dubrove,

I write to inform you of the status of Freedom House's program to promote a free press and independent judiciary in the former Soviet Union through the publication of a textbook on media law issues and to ask your assistance in facilitating its completion.

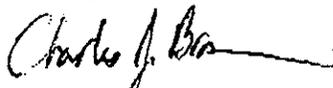
As I have indicated to you on the phone, our original timetable for the program proved too optimistic. Quite frankly, our problem has been getting academics to produce the necessary materials in a timely fashion. In trying to secure leading authorities, we have had to accommodate their schedules. We believe, however that the result will be worth the effort.

As of today, we await only one remaining chapter -- that of Alexi Simonov of the Glasnost Defense Foundation, who has agreed to write a case study on media-judicial relations in Russia. We anticipate receipt of his piece in the near future, and to have it translated by October 15. In the meantime, we are moving forward on the layout of the English-language version of the text, preparation of the related materials to be included in the book, and preparation of the lesson plan. I anticipate being able to provide a review draft to you by October 31.

In the meantime, Freedom House would like to request an amendment to the original disbursement schedule. Of the remaining \$14,998 in funds, we would like to request an immediate disbursement of \$7,500 to facilitate timely completion of the project. These funds will be used to help allay internal program expenses incurred over the course of the program (phone, fax, salaries, etc.) as well as provide partial reimbursement to Herman Schwartz, the book editor, for his work. It is our understanding that the remaining \$7,498 would not be released to Freedom House until a completed text and lesson plan are provided to ARD/Checchi as called for under the original contract.

Thank you very much for your assistance with this matter. If you have any questions, please do not hesitate to contact me at 202-296-5101.

Sincerely,


Charles J. Brown

cc: Herman Schwartz, Leonard Sussman, Ha-kyung Choi

FREEDOM HOUSE
HEADQUARTERS
120 WALL STREET
NEW YORK, NY 10005
TEL: 212-514-8040
FAX: 212-514-8050

Attachment III(c)

The Center for Democracy

1101 15th Street, N.W.
Suite 305
Washington, D.C. 20005
202/429-9141
FAX: 202/293-1768
email: cfd@netcom.com



CONFERENCE AGENDA 1996 International Judicial Conference

**"The Role of an Independent Judiciary:
Implementation of Criminal Justice and Commercial Law Reforms"
at the Federal Judicial Center**

Monday, September 30

Evening Opening Reception at the U.S. Supreme Court

Tuesday, October 1
Federal Judicial Center

9:00 Opening of the Conference and Welcoming Comments

9:15 Opening Address

10:00 **Panel One: The Role of the Judiciary in Democratic Market
Societies During Stages of Transition: Comparative European Models**

Moderator: Allen Weinstein, President & CEO, The Center for Democracy

• Russia

Paper: Chairman Vyacheslav Lebedev, Supreme Court, Russian Federation

• Poland

Paper: Justice Lech Garlicki, Constitutional Court, Poland

• Bulgaria

Paper: Justice Alexander Arabadjiev, Constitutional Court, Bulgaria

11:00 Coffee Break

11:30 General Discussion

*Moderator: Hans-Christian Krüger, Secretary, European Commission of
Human Rights**

12:45 Lunch

- 2:00 **Panel Two: Issues of Interpretation of Commercial and Criminal Laws**
*Moderator: Peter G. Kelly, Esq., Chairman, Black, Kelly, Scruggs & Healey**
- **Commercial Laws and the Civil Code**
 Paper: Chief Justice Veniamen Yakovlev, Supreme Arbitration Court, Russian Federation
 Response: Pál Solt, Hungary
 - **Criminal Laws and Human Rights Obligations**
 Paper: President Milan Karabin, Supreme Court, Slovak Republic
 Response: Chairman Cholpon T. Baekova, Constitutional Court, Kyrgyzstan
 - **International Organized Crime: The Establishment of an International Criminal Court**
 Paper: Justice Staffan Magnusson, Supreme Court, Sweden
 Response: Chairman Mindia Ugrekhelidze, Supreme Court, Georgia
- 3:00 Coffee Break
- 3:30 General Discussion
- 4:45 Tour of the Federal Judicial Center Media Center
- 5:15 End of Session

Wednesday, October 2
 Federal Judicial Center

- 9:00 Opening Remarks and Announcements
- 9:15 **Panel Three: Court Organization**
*Moderator: Frederick P. Furth, Esq., Senior Partner, Furth, Fahrner & Mason**
- **Court Structures and Relationships - The Organization of the Judicial Branch**
 Paper: Chairman Hanlar Gadzhiev, Supreme Court, Azerbaijan
 Response: Justice Jacques Robert, Constitutional Council, France
 - **Supporting Structures, Services and Facilities for Judges and Courts**
 Paper: Justice Ceslovas Jokubauskas, Supreme Court, Lithuania
 Response: Justice Ivo Grbin, Supreme Court, Croatia
 - **Court Governance and Administration - Court Efficiency**
 Paper: President Claude Rouiller, Tribunal Federal, Switzerland
 Response: President Vitaly Boyko, Supreme Court, Ukraine
- 10:15 Coffee Break
- 10:45 General Discussion
- 12:00 Lunch

- 1:30 **Panel Four: International Issues and Obligations**
*Moderators: Fred F. Fielding, Esq., Senior Partner, Wiley, Rein & Fielding**
*D. Jeffrey Hirschberg, Esq., Vice Chairman, Ernst & Young**
- **International Tribunals as Alternate Forums**
 Paper: President Rolv Ryssdal, European Court of Human Rights
 Response: Justice Jorge Rodriguez-Zapata, Supreme Court of Spain*
 - **Effects of National Decisions on International Tribunals**
 Paper: President Stefan Trechsel, European Commission of Human Rights
 Response: Justice Pierre Marchal, Supreme Court of Belgium
 - **Effects and Application of International Law on National Tribunals**
 Paper: Justice Vladimir Paul, Constitutional Court, Czech Republic
 Response: Deputy Chairman Tamara G. Morshchakova, Constitutional
 Court, Russian Federation
- 2:30 Coffee Break
- 3:00 General Discussion
- 4:15 **Closing Session: Judicial Leadership**
Moderator: James Apple, Chief, Interjudicial Affairs Office,
Federal Judicial Center
 Paper: Chief Justice Rait Maruste, National Court, Estonia
- 5:30 **Closing Comments and Adjournment**
- 6:00 End of Session

* Awaiting confirmation

ARD/CHECCHI JOINT VENTURE
SUMMARY FINANCIAL ANALYSIS

REPORT DATE: 1/31/97
QUARTER ENDING: 11/30/96

CLIENT: USAID
PRIME CONTRACT ID: CCN-0007-C-00-4003-00
CONTRACT NAME: NIS RULE OF LAW - REGIONAL
PERIOD OF PERFORMANCE: 11/30/93 to 11/30/98

EST. TOTAL VALUE(BASE): \$12,680,087
EST. TOTAL VALUE(WITH OPTIONS): \$12,680,087
FUNDED VALUE: \$9,725,000

	PROJECTED EXPENDITURES QTR ENDED 30-Nov-96	INCURRED QTR ENDED 30-Nov-96	VARIANCES QTR ENDED 30-Nov-96	PROJECTED EXPENDITURES QTR ENDED 28-Feb-97	ITEMIZED BUDGET	TOTAL CONTRACT INCURRED TO DATE	REMAINING BALANCE
SALARIES	\$135,000.00	\$135,763.50	(\$763.50)	\$129,000.00	\$1,525,106.00	\$1,383,929.87	\$141,176.13
SUBCONTRACTS	\$20,000.00	\$15,941.00	\$4,059.00	\$50,000.00	\$1,940,439.00	\$1,500,202.02	\$440,236.98
TRAVEL & TRANSP	\$100,000.00	\$89,399.81	\$10,600.19	\$60,000.00	\$790,921.00	\$344,399.09	\$446,521.91
EQUIPMENT	\$10,000.00	\$7,968.00	\$2,032.00	\$6,000.00	\$75,000.00	\$72,740.87	\$2,259.13
ALLOWANCES	\$10,000.00	\$8,345.00	\$1,655.00	\$10,000.00	\$351,240.00	\$21,890.00	\$329,350.00
TRAINING	\$75,000.00	\$69,186.64	\$5,813.36	\$75,000.00	\$500,000.00	\$202,690.06	\$297,309.94
GRANTS PROGRAM	\$100,000.00	\$35,670.80	\$64,329.20	\$200,000.00	\$1,500,000.00	\$1,654,204.93	(\$154,204.93)
OTHER DIRECT COSTS	\$150,000.00	\$143,588.73	\$6,411.27	\$96,000.00	\$597,197.00	\$935,172.68	(\$337,975.68)
TOTAL OTHER DIR. COST	\$465,000.00	\$370,099.98	\$94,900.02	\$497,000.00	\$5,754,797.00	\$4,731,299.65	\$1,023,497.35
FRINGE BENEFITS	\$8,000.00	\$7,116.05	\$883.95	\$10,000.00	\$127,676.00	\$110,451.20	\$17,224.80
OVERHEAD	\$60,000.00	\$55,161.92	\$4,838.08	\$85,000.00	\$843,965.00	\$945,179.25	(\$101,214.25)
MAT HANDLING	\$2,000.00	\$2,067.03	(\$67.03)	\$3,000.00	\$111,047.00	\$111,601.74	(\$554.74)
GENERAL & ADMIN	\$25,000.00	\$25,663.35	(\$663.35)	\$16,000.00	\$272,886.00	\$196,529.64	\$76,356.36
TOTAL INDIRECT EXP.	\$95,000.00	\$90,008.35	\$4,991.65	\$114,000.00	\$1,355,574.00	\$1,363,761.83	(\$8,187.83)
TOTAL CONTRACT COSTS	\$695,000.00	\$595,871.83	\$99,128.17	\$740,000.00	\$8,635,477.00	\$7,478,991.35	\$1,156,485.65
FIXED FEE	\$40,000.00	\$37,690.04	\$2,309.96	\$52,000.00	\$377,971.00	\$470,967.28	(\$92,996.28)
TOTAL	\$735,000.00	\$633,561.87	\$101,438.13	\$792,000.00	\$9,013,448.00	\$7,949,958.63	\$1,063,489.37

74