



**QUARTERLY REPORT, OCTOBER–DECEMBER 2007**  
**FOR THE**  
**JUDICIAL REFORM IMPLEMENTATION PROJECT**  
**Indefinite Quantity Contract**  
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## **EXECUTIVE SUMMARY**

USAID/Macedonia has contracted with DPK Consulting (DPK) to implement the Judicial Reform Implementation Project (JRIP). The JRIP began on September 10, 2007, and will continue through July 15, 2010. USAID and DPK agreed that, for project reporting purposes, this first quarterly report should cover the period from the start date through December 31, 2007.

The primary activities of the JRIP for this reporting period included: completion of the Year One Workplan; meetings with USAID, courts, donors, and other key stakeholders; the administrative transition of staff, legal documents, and inventory from the earlier Court Modernization Project (CMP) to the JRIP, hiring one new local staff person; advertising for one other long-term and one short-term local staff position; and beginning implementation of the activities described below.

The JRIP continues to facilitate close coordination with the Supreme Court, AO and MOJ, which will serve as the principal partners throughout the duration of this Project. Cooperation with the MOJ is encompassed in this report primarily under "Implementation of New Reforms" and "Computerization" (Section 1). Assistance to the Supreme Court, AO and the lower courts is encompassed primarily under "Improvement in Court Practices and Material Resources" (Section 2).

### **1. IMPLEMENTATION OF NEW REFORMS**

#### **1.1 Law on Courts**

In its session on October 21, 2007, the Government of the Republic of Macedonia decided to introduce a specialized commercial court. In response, the JRIP team and USAID shared a number of strong concerns about this new development (e.g., caseloads and times to disposition do not support the need for a special court and no analysis has been provided that otherwise justifies this reorganization of the court structure). Such a change would have a substantial impact on the state budget and court budget respectively by draining resources from the general courts and it would negate the project's plan to improve the management of specialized commercial cases in the general courts. Furthermore, this change is unlikely to improve the business climate in Macedonia unless commercial cases are well defined to cover a broad range of commercial activities, parties are not limited to registered businesses, and judges are carefully selected and monitored. These and other concerns are addressed below under Problems and Remedial Actions.

The Ministry of Justice established in late November 2007, a legislative drafting Working Group to prepare amendments to the Law on Courts, and to research and examine a model structure and the fiscal implication of specialized commercial courts on the court budget. This Working Group held two meetings in December 2007. It is anticipated that the first draft of proposed changes to the Law on Courts will be introduced to the government in late January 2008.

#### **1.2 Law on Judicial Council of the Republic of Macedonia**

On November 27, 2007 the JRIP team and representatives of USAID met with Mr. Bekir Izeni, President, and Mrs. Iskra Popova, Secretary, of the Judicial Council of the Republic of Macedonia. Mr. Izeni gave an overview of the current activities that the Judicial Council is working on, and discussed its future plans.

One issue of concern expressed at the meeting was the MOJ's plan, per the Law Proposal for Changing and Amending the Law on Court Budget, to transfer budget responsibilities from the Supreme Court /Court Budget Council to the Judicial Council of the Republic of Macedonia. This change would threaten the role of the Administrative Office, its employees, the independent budgeting process, and the Automated Budget Management System (ABMS) developed by the earlier Court Modernization Project under the leadership of the Supreme Court.

An official text of the proposed changes to the Law on Court Budget will be released in January. Proposed amendments to the Law on Court Budget are to be addressed by the Parliament on January 18, 2008. Project activities with the Judicial Council of the Republic of Macedonia will be redefined following a decision on the status of the Administrative Office and the Court Budget Council.

### **1.3 Law on Enforcement**

An initial meeting was held with the Executive Board of the Chamber of Enforcement Agents (Chamber) on October 9, 2007. This meeting helped the JRIP team to identify priority needs for the Year One Workplan. As an example, one key concern is the volume of old enforcement cases to be transferred from the courts to the Chamber. The Chamber expressed concerns about parties' anticipated reluctance to pay fees to the Chamber since fees had already been paid once for enforcement proceedings in the courts; another concern is the significant procedural obstacles to applying modern case flow management techniques to dispose of those old cases more expeditiously. These issues should be addressed in tandem with the review of the Law on Civil Procedure that is being proposed by the MOJ for 2008.

On November 14, 2007, the JRIP team met with Mr. Antonio Koshtanov, President of the Chamber of Enforcement Agents (Chamber), to discuss a proposed strategy for filtering old enforcement cases in the courts. It was agreed that the JRIP should wait for the anticipated legislation to delay transfer of old enforcement cases from the courts to the Chamber for one year.

Proposed changes to the Law on Enforcement have been pending in the Parliament since August 2007. The most crucial change is delaying the transfer of cases from the courts to the Chamber until December 31, 2008. In such event, the JRIP proposes focusing on disposal of those old cases to relieve the Chamber of a significant backlog that exceeds 617,000 cases, which the Chamber does not have the capacity to absorb. The legislation delaying transfer of the cases was placed on the Parliament's agenda for January 4, 2008.

In late November, the JRIP assisted the Chamber in preparing for the Annual Meeting of the International Union of Judicial Officers in Paris on November 29-30, 2007. Ms. Nevenka Ivanovska provided advice on applying and lobbying for acceptance of Macedonia. As a result of this assistance and the support of one of the JRIP consultants, Jos Uitdehaag, the Chamber was accepted as a full member under Macedonia's constitutional name on November 29, 2007.

In preparation for next quarter, the project is assisting the MOJ Department for Oversight of Enforcement Agents, Notaries and Mediators to organize the first training for its new employees. The purpose of the training will be to expose participants to learn European experiences, such as from the Netherlands, and EU standards and practices for monitoring the work of private enforcement agents. Mr. Jos Uitdehaag, an enforcement agent from

Netherlands and member of the Executive Board of the International Union of Judicial Officers, will provide a two-day training on oversight and monitoring of the work of the enforcement agents' offices. Participants at this training will be employees of the supervisory department and representatives from the Chamber of Enforcement Agents, State Auditor's Office and the Public Revenue Office.

The Chamber of Enforcement Agents held its third educational seminar in Ohrid on December 21-23, 2007. Ms. Nevenka Ivanovska was invited as guest representative of the JRIP. The participants included all forty-nine enforcement agents, deputy enforcement agents and employees at the enforcement offices. Training topics included: "Transferring of the Rights to Use Land;" "Paying the Cost of Enforcement upon Final Court Decision;" "Enforcement Relating to Real Estate Belonging to Spouses;" and "Legitimacy of Enforcement Title Issued by a Public Notary and Division of Property." The main goal of this training was to hear from the experts how these issues are regulated and to unify practice throughout the country. The training was followed by the General Assembly Meeting of the Chamber to resolve substantive concerns relating to the work of enforcement agents. Outcomes from these discussions will be used in planning future project reforms.

Early next quarter, on January 14-15, 2008, the JRIP will organize a workshop for the MOJ Department for Oversight of Enforcement Agents, Public Notaries and Mediators. This workshop will be focused on training those within the MOJ who are responsible for monitoring the work of enforcement agents. Findings and recommendations from the training will be utilized to identify specific training and support needs within the MOJ and Chamber of Enforcement Agents.

A key issue to begin being addressed next quarter, based on input from the above training on oversight of enforcement agents, will be improving the system for tracking and reporting performance by the Chamber to the MOJ through more effective use of automation.

#### **1.4 Law on Academy for Training Judges and Public Prosecutors**

In preparing the workplan for the first year of the project, the JRIP team met with Ms. Aneta Arnaudova, Director of the Academy for Training Judges and Public Prosecutors (Academy) and some of her staff, as well as with Ms. Maria Alfonso, Team Leader of the European Agency for Reconstruction's (EAR) Project for Technical Assistance to Support the Creation of a Training Institute for the Judiciary. The meeting with the EAR was held on Thursday, November 1, and addressed areas of shared interest, such as the EAR project's support to the Academy for substantive trainings for judges. The Project expressed its interest in supporting the Academy in areas that do not conflict with programs planned by the EAR. It was agreed that regular coordination meetings should be held. Based on these meetings, the JRIP team has proposed assistance in the Year One Workplan that fills key needs of the Academy without overlapping with the EAR's plan of assistance.

On December 12, 2007, the COP and Court Administration Advisor were invited to the Academy to hear a presentation by French representatives on the French system of court administration through the quasi judicial clerk/management position of Greffier. The JRIP representatives expressed concern whether such a system was transferable and sustainable in Macedonia. The French team reported that they planned to assess the feasibility of the system in the Basic Court Skopje 1 and Basic Court Gostivar in February 2008.

## **1.5 Draft Law on Court Services**

The JRIP team has committed itself to continuing to support the MOJ Legislative Drafting Working Group. To address these concerns, the Project has offered whatever assistance the Government of Macedonia deems necessary to assist in reviewing the draft law, hosting public discussions and preparing recommendations.

In November, opposition to the Draft Law on Court Services was expressed by the Union for Employees of the Justice System and Other Administrative Bodies (UPOS). UPOS representatives expressed their disagreement with the proposed point system of certain positions, including law clerks, court police and IT personnel. The AO also expressed its concern about the fiscal implications of the points system proposed in the law. Similarly, the JRIP team identified its own concerns about provisions conflicting with other laws, such as the Law on Courts.

The MOJ, concerned about opposition to the law, requested postponement of the review of the law by Parliament that was scheduled for December 17, 2007. As of December 11, 2007, the law began review in two phases: the MOJ was given a period of two months to hold at least one public discussion and to submit to Parliament an improved text of the law for second review. To coordinate this review, the MOJ requested support from the JRIP to help in reviewing the law, hosting public discussions, and providing recommendations to the MOJ Working Group overseeing the drafting of the law.

The project contracted with the Hon. Joseph Traficanti to provide a comparative analysis of the draft Law with other European countries and US practices. Judge Traficanti's "Report of Review of the Draft Law on Court Services and Recommendations" was submitted on December 10, 2007, and subsequently translated for the MOJ.

In addition to reviewing the draft law, the JRIP agreed to help organize a series of public information sessions at trial courts throughout the Republic of Macedonia to better inform court staff and the public about the law. At the request of USAID, Mr. John Cavanaugh, Country Representative for the International Republican Institute (IRI), met jointly with JRIP staff on November 26 and again on December 12 to assist in planning this information campaign. Based on these meetings, the MOJ agreed to a schedule of information meetings and the production of materials, including a color flier on the benefits of the law and a letter from the Minister of Justice to all court staff participating in the information sessions. Upon approval of USAID and the MOJ, the JRIP produced 4,000 fliers in Macedonian and 1,000 fliers in Albanian.

The first of four information sessions was held in Stip on December 27, 2007. More than thirty-five court employees participated at this session. Concerns expressed were focused on working positions and salary levels. While the draft Law on Court Services would take court employees out of the civil service system and introduce a uniform system of salaries, some employees would experience a decrease in their salaries. Others, such as court administrators, would receive a substantial increase. The MOJ was very responsive to the concerns expressed and has subsequently met internally and with the Ministry of Finance to address these concerns if possible.

The remaining three information sessions are scheduled to be held on January 3, 2008 at the Appellate Court Skopje, January 9, 2008 at the Appellate Court Bitola, and January 15, 2008 at the Appellate Court Gostivar.

Following the information sessions, the MOJ Working Group will hold a legislative drafting session on January 16, 2008 to incorporate all proposals and suggestions from the information sessions.

### **1.6 Law on Judges Salaries**

The JRIP team has decided that assistance relating to implementation of this law should be delayed until Years Two or Three.

### **1.7 Other Laws and Amendments**

The MOJ has established as a strategic priority for 2008 an assessment of the implementation of the Law on Civil Procedure. The JRIP expressed its interest in participating in this assessment due to linkages with other project activities, such as implementation of information and communications technology and reducing the backlog of old enforcement cases. The assessment is expected to begin in spring 2008.

The MOJ also proposed an initiative to address delay in the courts by drafting a new law protecting the right to trial without undue delay. One idea proposed was to regulate time standards, but the JRIP team encouraged the MOJ to consider alternatives to legislation by creating a more flexible system to allow for adjustments in time standards in the future. In December, the JRIP reviewed a comparable law adopted in Slovenia and discussed with the MOJ the pros and cons of such legislation as opposed to improvements through a focus on court practice. Issues that the JRIP would support in legislation would include: requiring backlog reduction program by courts in which a specified ratio of pending cases to filings has been exceeded; requiring effective utilization of preliminary hearings; and requiring president judges to take action to review and help dispose of any case exceeding a prescribed period of delay.

A review of the Book of Rules may be necessary in 2008 to address impediments to effective implementation of an automated case management system.

## **2. IMPROVEMENT IN COURT PRACTICES AND MATERIAL RESOURCES**

### **2.1 Improved Court Administration Practices**

The JRIP team held a meeting with the Chief Judge of the Supreme Court on October 17, 2008. Subsequently, the JRIP team met weekly with Dr. Zanina Kirovska, Director of the AO of the Court Budget Council (CBC), as well as separately with designated representatives of her staff.

The emphasis of the first quarter of the project has been on strengthening the capacities of the AO as much as possible. These meetings have helped the JRIP to plan and clarify specific Year One project activities, and to ensure that the AO supports the reforms introduced. Specific assistance to date has included: reviewing the report from the earlier Court Modernization Project with recommendations for the AO on developing a strategic plan with immediate, mid-term and long-term goals; planning for implementation of the Law on Court Services once passed; improving management structures within the AO to better support the needs of the courts; and making preparations in the event of a shift of the AO

and Court Budget Council (CBC) to the Judicial Council. These discussions will continue, and activities adjusted, throughout the period of the Project.

As an alternative to regionalization of the AO, the JRIP has focused first on development of specializations and coordination among the AO staff to increase the operational effectiveness of the AO in the areas of caseload management, human resources management, information and communications technology (ICT) management, financial management, public access and court user satisfaction, and court facilities management. Caseload management is addressed in this section of the report. The other areas are addressed in their respective sections below.

In the area of caseload management, the JRIP staff has been meeting with Dejan Sekulovski and Ana Cicakovska, who have been designated by the AO Director as JRIP's counterparts to lead the AO's efforts in the area of case delay reduction. At weekly meetings, possible long and short-term strategies have been discussed for improving caseload management in Macedonia's basic courts. By the end of December, the JRIP and AO staff reviewed pilot court backlog and delay reduction tools and practices, and developed a backlog and delay reduction plan template to be presented to the General Secretary of the Supreme Court in January 2008 for implementation in all Macedonia courts.

## **2.2 Public Access, Services and Information**

The JRIP team has been meeting with Ana Cicakovska and Slobodanka Aleksovska regularly at the AO to discuss improvements in public access. On November 21, 2007, the first meeting was held to begin planning areas of cooperation, including development of public information officers (PIOs), public brochures, court websites and the public user satisfaction survey that was developed on the earlier Court Modernization Project.

The Project is maintaining regular contact with these AO staff members, and has drafted a schedule of activities and proposed resources to assist the AO in planning and sustaining these efforts. On December 21, 2007 Ana Cicakovska was trained by Gordana Stojanova on how to use the public user satisfaction survey application in Visual Basic. With the approval of the Supreme Court IT Center, the software application was installed on one Supreme Court laptop for the use of Ms. Cicakovska during the first quarter of 2008 for conducting the public user satisfaction survey in all Macedonia basic courts. On December 24, 2007, with permission of the President Judges in Basic Courts Skopje 1 and Skopje 2, the first public user satisfaction surveys were scheduled for January. The courts have promised to provide employees to help with these surveys. Three other Basic Courts will also conduct the public user satisfaction survey in January: Tetovo, Gostivar and Struga.

With the approval of USAID, the JRIP advertised for the full-time position of Communications Coordinator in December 2007. The new position was created as an alternative to filling the Training Coordinator position, and is designed to support improvements in public access, services and information among stakeholders, and to support development of improved communications resources including web pages, brochures, press releases, project reports, and training materials. This position will also assist with overseeing development of PIOs, improving public access in the courts, promoting other initiatives to enhance transparency in the courts, and widely disseminating successes and best practices. Interviews for this position will be conducted in mid-January 2008, and the position will be filled by early February 2008.

### **2.3 Court Financing**

On November 27, 2007, with the approval of USAID, the JRIP helped fund an AO Budget Training at the Hotel Aleksandar Palace. The training, organized under the auspices of the AO, was designed to present the management capabilities of the Automated Budget Management System to the leaders and the managers of the Macedonian Courts and to address audit procedures in preparation for upcoming audits in the courts (see also 2.3, Court Financing below).

Following the training, the AO, in consultation with the regional ABMS trainers, selected and distributed the most significant reports produced by the Automated Budget Management System to assist the president judges and court secretaries in monitoring financial management in their courts.

On November 28, 2007, the JRIP team hosted a planning meeting with Silvija Janevska of the AO. Discussion was focused on the JRIP's plans to provide expert assistance to identify options for improving court financial management and for securing higher levels of funding in the future. Together, the JRIP team and AO agreed on specific tasks to be completed prior to the expert's visit. Additional planning meetings will be held in early December 2007.

The month of December 2007 was focused on collecting data that will support the court finance study and identifying the appropriate expert to lead this study. The goal of the study will be to identify current fee structures, recommendations for improving court financial management, and alternatives for achieving higher levels of funding in the future. Additional planning meetings will be held with the AO in early January 2008.

The financing study is expected to begin in March 2008.

### **2.4 Court Computerization**

Early MOJ Coordination Meetings focused on the "Review of the Integrated Court Information System (ICIS) in Selected Courts in Macedonia" (ICIS Report) that was produced in September 2007, and MOJ's "Strategy for Justice Information Communication Technology 2007-2010" (MOJ ICT Strategy), which was published in July 2007 and presented on November 26, 2007 at the MOJ ICT Strategy Donor Conference. These discussions helped in formulating approaches presented in the Year One Workplan, such as: conducting an inventory of IT equipment, software and IT infrastructure in the courts; assessing ICIS and planning next steps based on the experiences of the courts in utilizing it; improving definitions and collection of court performance data; and planning for future automation including an automated, integrated case management and information system. The JRIP team and MOJ agreed to begin meeting on a weekly basis. These weekly meetings began in November 2007.

This quarter, the JRIP was asked by the MOJ to provide technical assistance in defining and unifying nomenclatures for the ICIS, which requires the creation of ten specialized sub-groups in the areas of: civil; labor; commercial; non-contested procedure; enforcement; criminal; misdemeanors; prisons; public prosecutors; and mediators, public notaries and enforcement agents. To support this activity the JRIP will hire a full-time, short-term position of Integrated Court Information System (ICIS) Administrative Assistant on Nomenclatures to work with the JRIP team for six months.

Following USAID's approval, the ICIS short-term position was advertised in December 2007. The short-term staff member will begin working by the end of January 2008.

On November 29, the JRIP team began meeting with Maja Hadzi Kimova, who has been designated by the AO to lead in the area of information and communications technology. Together they reviewed various tasks and recommendations outlined in the ICIS Report, the MOJ ICT Strategy, the report by Dr. Ron Stout from the earlier Court Modernization Project, and the priority areas agreed upon between Dr. Zanina Kirovska and the JRIP.

Substantial efforts were devoted this quarter to securing support from the MOJ and the AO for establishing a Court Technology Committee under the auspices of the Supreme Court. The JRIP worked closely with the AO Director to define the structure and specific activities of the proposed Court Technology Committee. The proposed membership structure, including proposed names of the first members, was designed to create a strong leadership role for court secretaries (i.e., future court administrators) in the planning and implementation of IT in the courts. The Supreme Court was asked to formally establish the Court Technology Committee in December 2007. The Chief Justice expressed support for this committee and letters of invitation were drafted and presented to the AO Director. By the end of the quarter the Supreme Court had not yet taken action, but it is anticipated that the Committee will be established in January 2008.

In late November 2007, the staff position of IT Coordinator was filled. After a thorough application and interview process, Ljupco Tagasovski was hired with the title of Senior ICT Manager and began working on December 3, 2007. His task will be to lead in the implementation of all JRIP IT activities including: assessing court computerization needs; facilitating stakeholder coordination in the area of IT; developing a plan to extend computerization to all basic and appellate courts in Macedonia; supporting the AO and MOJ in developing technology enhancements and modifications to ICIS; and providing technical assistance and IT training in support of automation.

During December, the JRIP team conducted several meetings with the ICT Specialist from AO, the Head of the Supreme Court ICT Center and the Acting Head of the MOJ ICT Center. At these meetings, it was agreed among all of the stakeholders that an accurate, detailed inventory of ICT hardware and software in the courts was needed. Having a better picture of the real conditions concerning current ICT capabilities in the courts will impact the approach taken in implementing the MOJ's ICT Strategy. By the end of December 2007, concurrence was reached on the content and layout of the inventory form. In January 2008, the JRIP will work with the stakeholders to reach agreement on how to cooperate in completing the inventory in the courts. It is the JRIP's objective that the inventory will be a product of joint cooperation in the courts of the AO, MOJ, Supreme Court and JRIP.

Also in December, at the request of the MOJ, the JRIP assisted the MOJ in defining the technical specifications for 150 PC work stations to be purchased for court registry offices. These specifications will be used for a public tender to be issued by the MOJ in mid-January. In addition, the JRIP also provided, at the MOJ's request, assistance in finalizing the technical specifications for an upcoming tender for consultancy services for an ICIS upgrade, and improvements in nomenclatures and statistical reports. In support of these efforts, IT representatives from JRIP, AO and MOJ visited the Basic Court Kriva Palanka in late December to review how the ICIS and ABMS applications are being used in practice.

## **2.5 Automation and Material Support**

The JRIP team has recommended that procurement decisions on additional automation and material support be delayed until the end of Year One. A first step in planning future automation will be completion of the hardware and software inventory in all courts.

## **3. OVERALL PROJECT MANAGEMENT TASKS**

### **3.1 Stakeholder Coordination**

During the first two weeks of October 2007, the JRIP team met with representatives, including president judges and court secretaries, of a number of courts for the purpose of planning the first year work plan.

Due to increased concerns about court budget functions and the AO being shifted to the Judicial Council, the JRIP team met several times per week with director of the AO and her staff to help establish specific roles, responsibilities and processes. Areas of focus included caseflow management, fiscal management, information and communications technology, court facilities, public access and user satisfaction, and human resources. Assistance was also provided to the AO in planning its budget training held on November 27, 2007, which is discussed above in Section 2.3.

To help define cooperation and goals, the JRIP team drafted a proposed Memorandum of Understanding (MOU) between the Supreme Court, MOJ and JRIP. This was presented to USAID for review on November 30, 2007. Following USAID's review and feedback, the draft MOU will be presented to the Supreme Court and MOJ for review and discussion.

The JRIP team and the MOJ met twice in October and began weekly coordination meetings in November 2007. Early meetings were focused more on issues relating to ICT. Later meetings included discussions on ICT, legal reform (namely the draft Law on Court Services) and oversight of enforcement agents. These meetings are described above Sections 2.4, 1.5 and 1.3 respectively. On October 3, 2007, the JRIP team attended the MOJ's "Roundtable on Implementation of the National Strategy on the Reform of the Justice System of the Republic of Macedonia."

With the assistance of USAID, a meeting was held with the State Judicial Council on November 27, 2007. This meeting is described above in Section 1.2, Law on Judicial Council, and below under Problems and Remedial Actions.

### **3.2 Donor Coordination**

With the assistance of USAID, members of the JRIP team met with representatives of the EAR on November 1, 2007 to discuss their planned assistance to the Academy. This meeting is addressed above in Section 1.4.

The JRIP team also met with representatives of IRI to discuss assistance to the MOJ in responding to criticisms of the Law on Court Services. This beneficial assistance is discussed above in Section 1.5. JRIP staff also attended the regular IRI poll presentations at USAID.

### **3.3 Consultations with Court Users**

Due to the focus on assistance to the AO, MOJ and Supreme Court this quarter, the JRIP did not meet with representatives of the bar, public court users, etc. These activities are anticipated to increase following the hiring of the Communications Coordinator, described above under Section 2.2, Public Access, and below under Section 3.5, Administration.

### **3.4 Communications**

The JRIP team collected quotes to begin design and development of a new website. It was agreed among the JRIP team that the earlier CMP website should be phased out and the project would contract with a local firm to design a new JRIP project website. Because the JRIP plans to develop a website for the Administrative Office and possibly some lower courts under the Supreme Court's website, it is in the project's interest to contract with a local vendor for all work.

The website will be designed according to the USAID branding policy.

A vendor will be selected in November. It is anticipated that the new website will go live by the end of January 2008. The site will be updated at least quarterly throughout the period of the project.

### **3.5 Administration**

On November 8-17, 2007, the DPK Project Officer, Chris Strom, visited the JRIP field office to assist with administrative and project planning activities, including: completion of the Year One Workplan (submitted on November 19, 2007 ); review of DPK policies and procedures; and meet with USAID officials to review client expectations, implementation strategy and project activities. The Project Principal, Bob Page, visited the field office from November 27 through December 1, 2007, to assist with review of the project workplan, performance monitoring and evaluation plan (PMEP) and Year One budget.

The staff IT position was filled this quarter, as described above in Section 2.4. Positions to assist with communications and nomenclatures were advertised in December 2007, as described above in Sections 2.2 and 2.4 respectively.

## **4. PROBLEMS AND REMEDIAL ACTIONS**

The government has proposed a number of changes to laws that may impact the leadership and organization of the AO, as well as the structure of the courts.

As reported above, the Judicial Council intends to have budget responsibilities transferred to its control from the Supreme Court /Court Budget Council. To help the AO prepare for a potential shift to the Judicial Council, the JRIP has been working aggressively to establish specific roles, responsibilities, processes and expectations within the AO in hopes that the new, envisioned system of monitoring and supporting the management of the courts by the AO is transferred largely intact to the Judicial Council.

In its session on October 21, 2007, the government decided to introduce a specialized commercial court. Similarly, the Judicial Council reported that the government was contemplating a similar change for labor courts, although this has not yet been confirmed by

other sources. The JRIP team and USAID discussed their shared concerns about these new developments. Under current proposals, such changes would have a substantial impact on the state budget and court budget respectively by draining resources from the general courts and they would negate the project's plan to improve the management of specialized commercial and labor cases in the general courts.

If the proposal to create special commercial courts goes forward, it will be critical that the court is kept within the current court structure, caseloads are evenly distributed among the commercial courts and general courts, commercial cases are well defined to cover a broad range of commercial activities, parties in commercial disputes are not limited to registered businesses, and judges are carefully selected and monitored. The JRIP team has been discussing its concerns with senior representatives at the MOJ, and drafted talking points to assist USAID in addressing these concerns at higher levels in the government, including the following:

- There is no data on the work of the specialized commercial department in the trial courts with extended jurisdiction or on the existing workload of commercial cases that justifies such a specialized court.
- Experience in court reform has shown that adding judges and resources does not resolve perceived problems. Such changes tend to contribute to delay. What attracts business is an effective justice system among all case types and an effective system for policing and enforcement.
- The Government should make a thorough analysis of the fiscal implications that this amendment would have on to the state budget and to the court budget respectively.
- The Government should consider the potential detrimental impact of moving commercial disputes away from local areas.
- The current system of specialization within the general courts has proven to be more effective. Continued introduction of improved case and court management processes will lead to more timely resolution of commercial and all other types of disputes, further reducing of the backlog, and increased public confidence.
- There are a number of EU countries, such as Germany, Bulgaria, Netherlands, Latvia, Albania and Czech Republic with the uniform court system that resolve commercial cases in a timely manner.

It is encouraging that proponents of a change to the Law on Courts may not have the two-thirds majority support that would be required to effect the change, and that senior representatives of USAID and the Embassy have put this on their agendas. By the end of this quarter, it began to appear that support was dwindling for creation of the specialized commercial courts. However, discussions should continue among senior representatives of USAID, the Minister of Justice and the Chief Justice of the Supreme Court.

Regarding the Administrative Court, judges were appointed to the newly established Administrative Court this quarter. However, as of the end of this quarter, only five court staff had been assigned. Although the cases were transferred from the Supreme Court to the Administrative Court this quarter, the ICIS software has not yet been implemented and the network to be provided by the MOJ has not yet been installed. Hence, it has been impractical to begin any constructive trainings or technical assistance to the administrative staff of the Administrative Court. The newly appointed president judge recommends that activities begin in March 2008. Providing assistance to the newly appointed administrative staff therefore will be a priority beginning next quarter.