JUDICIAL STRENGTHENING IN BULGARIA

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Since the reform government went into office in 1997, Bulgaria has been on a very fast track in the judicial reform arena. The absolute top priority has been harmonization of Bulgarian legislation with the European Union. Bulgaria wants its rightful place in Europe so badly that almost anything connected with the EU Accession process is given priority. Seventeen hundred Bulgarian laws are being reviewed for compatibility with European principles. As an indication of the importance attached to this task the MOJ was renamed the Ministry of Justice and European Legal Integration.

Among the most recent reforms are:

- Putting into effect the intermediate appellate system mandated by the Constitution of 1991;
- The Supreme Administrative Court Act;
- Amendments to the Civil Procedure Code and the Criminal Procedure Code that took effect April 1, 1998;
- Privatization of notaries in the new Notary Act.

Reform-minded people in the Parliamentary Legal Commission, the Judiciary, and the MOJ are aiming for a totally new re-write of the criminal and civil procedure codes early next year. They want to eliminate delays and overlapping functions, and to adopt best practices from Europe and the United States. These movers and shakers have a clear idea where they want to end up. And that is to put Bulgaria and its laws in the heart of Europe - and no longer at the extremities.

Major constraints

Since 1992 many newly appointed younger judges entered the system. A major constraint is that many of them do not look upon judging as a career, even though after three years their appointments are for life. Rather they see a judicial tour of duty as a relevant period, during which they are making financial sacrifices, while garnering substantial experience that will stand them in good stead in a lucrative private practice.

A major constraint is that poor working conditions, heavy workloads and low salaries combine to make a career as a judge unattractive to lawyers. The workload of a Bulgarian judge is stated to be ten times that of his Austrian or German counterpart. Working conditions are poor and not conducive to effective performance. Court buildings are old and overcrowded and lacking in the

necessary security equipment. The courts lack qualified support staff and do not have adequate office equipment. Most judges do not have secretaries, research assistants or computers. They type their own decisions on mechanical typewriters, do their own research, and are personally responsible for tracing all the information (factual and legal) they need to reach a decision.

The salary levels for judges are not conducive for attracting and keeping the best candidates on the bench.

Inadequate funding for the Judiciary extends beyond judicial salaries. Although the Supreme Judicial Council prepares the budget for the judiciary which is submitted to the Parliament through the Council of Ministers, this financial autonomy has not resulted in substantially greater resources for the Judicial Branch of Government.

Although the constraints are formidable, the GOB is mounting an aggressive judicial reform program as described in the body of the report and the team believes that the prospects for overcoming the constraints are good.

Sustainability

The issue of sustainability must be considered for each of the proposed components of the program.

There are two key components required for sustainability:

Institutional Strength. It is important to develop an institution which has an anchoring philosophy, which has developed mutual, agreed upon goals and objectives in accord with that philosophy. Key to success in developing institutional strength will be a professional staff.

Sufficient Financial Resources. While donor seed money can initiate a project, only a viable Government of Bulgaria investment over the long run will maintain it. The GOB will want to finance it only if it is seen to be productive, useful, and perhaps only if it is seen to be essential. Therefore, the project will need to demonstrate in a very convincing way that it is living up to the expectations. The team believes that the project as designed is sustainable given the following recommendations.

Principal Recommendations Relating to a Judicial Training Center

The GOB will have to make an up-front commitment to fund at a date certain the NGO staff, programs, and facilities.

That the initial emphasis during the first year should be on institution building so that the three entities forming the NGO share a common vision, and a common approach to problem solving. The residential or dormitory program is not necessary for start-up operations, and indeed

would interfere with the institutionalization that is required during the first year or so of operations. A residential program should not be undertaken before year two at the earliest, and certainly not before the GOB has agreed to continue financing it after donor cooperation ceases, and the NGO has been institutionalized.

The JTC should be run from the very start on a barebones budget, one that the GOB can continue when donor cooperation ceases. Training facilities need to be comfortable as required in a learning environment, but not ostentatious. In this regard, it would seem inappropriate to spend large sums of money bringing in outside, foreign experts as Lecturers or Learning Facilitators. These efforts are very costly and almost surely will not be replicable when the GOB takes over full financial responsibility.

Foreign donors can provide reasonable equipment and materials, and technical support to the training center to get it operational. In its initial phases, unless the GOB will stipulate to covering salary costs through a donation to the NGO, foreign donors will need to provide staff salaries as well, but provision for full-time staff salaries should be budgeted by the GOB no later than the second year of operation. This gives the government time to formulate its budget, review it through the Council of Ministers, and gain legislative approval.

Law School Support - Principal Recommendations

The design team's principal recommendation is that USAID not carry out a major effort geared to the law schools at this time. Although there are obvious problems in the sector, there are positive developments as well. Curricula have been modernized, practical course work has been added, younger dynamic professors are making their appearance, and academic councils are starting to enforce standards.

Civil Law legal education is not an area where the U.S. has a particular comparative advantage. It makes much more sense to leave this area to the Europeans and the World Bank. Also it is obvious that there is going to be a shake out of law schools in the next few years and it would be premature for USAID to consider partnering arrangements with law schools that might not be in existence later.

Without a major technical assistance undertaking in the law school area, USAID may wish to expand the use of small NGO grants for law school-related activities. Several such grants have been made recently by the Democracy Commission. One possibility would be to build a small grants component into the technical assistance contract along the lines that have been done in other CEE/NIS countries.

Judicial Apprentices - Principal Recommendations:

- The design team's principal recommendation is that USAID carry out a major effort to strengthen the structure and content of the apprenticeship year for judicial candidates provided that the GOB makes the necessary commitments to improve the program. As a minimum, there are four key commitments that should be spelled out in the framework document with the GOB. These relate to MOJ staffing, revising current MOJ regulations, granting financial incentives to judicial candidates to take up assignments in outlying, underserved areas, and strengthening the MOJ examination at the end of the apprenticeship year.

- The USAID-financed technical assistance contractor should work with the MOJ to restructure the year based not only on the wishes of the judicial candidate but on the needs of the judicial system. Measures to assure that the judicial candidate will be of service to the judge should be taken. The contractor's education/testing specialist will work with the MOJ to design a serious, comprehensive examination to be given to all apprentices at the end of the year.

- Should USAID believe that the MOJ is firmly committed to the program but needs the additional support that an NGO can provide to help make it a reality during a transitional period, then USAID should consider a program of grants to one or more NGOs to work with judicial candidates to help design a positive work experience for them. Priority for NGO activity should be underserved, outlying areas that have a shortage of judges and other judicial personnel.

Court Administration -Principal Recommendations:

- In order to address the various problems, the team suggests the establishment of several pilot courts. It suggests a large regional, district, and appellate court in one location and a small regional court in the same district, as well as a medium sized regional and district court in another district where the JTC is located.

- In the model courts, activities will be taken to address the following areas:

    a. Computerization
    b. Creation of Court Administrator positions
    c. Case Assignment
    d. Establishment of modernized record-keeping systems
    e. Specialist training for court staff, and development of procedural manuals for all functions.
    f. Use of apprentices for legal research

By using pilots, USAID will minimize its initial investment in setting up and perfecting new systems and procedures that will demonstrate success of the changes. Once proven, the systems and procedures used in the pilot courts could be expanded to other courts. USAID's pilot effort in court management possibly will feed into a larger World Bank project in computerization and office equipment for the courts planned for late 1999.

Implementation Arrangements -Acquisition Plan

Before USAID embarks on the Judicial Strengthening program recommended in this report, it should negotiate a formal agreement with the GOB which sets forth the commitments of the parties. There are many Bulgarian parties whose performance and actions are critical to the success of the program. The only prudent course is to have them sign the agreement as parties, or to acknowledge it as implementors.

By law the MOJ is responsible for judicial training, but logic would dictate that training for the judiciary should fall under the SJC. The design team's recommendation is to acknowledge the legal responsibility of the MOJ in the judicial training area but also to include judicial members of the SJC in the deliberative process as well.
The design team recommends that USAID through a competitive selection process engage one contractor responsible for all components of the project. The type of acquisition should be a contract, and not a grant or cooperative agreement. Only a contract will give USAID the added control that it needs for this kind of complex project.

The team considered the possibility of having separate acquisitions for distinct components of the project and strongly recommends against it. The best way for USAID to receive coherent, integrated deliverables on this project and to avoid finger-pointing among different actors is to make one contractor responsible for all components. Also having separate acquisitions for distinct components of the project would increase the management burden upon USAID and may be a source of confusion to Bulgarian partners.

The design team suggests that USAID not specify any particular subcontract or partnering arrangement for the contractor to follow. Thus, it does not recommend a consortium approach grouping contractors, associations and not-for-profit partners. If a bidder wishes to adopt this approach, it may do so.

How a bidder configures its proposed technical assistance team is a good way for USAID to evaluate the bidder's grasp of the local situation and how best to attack the problems. Every reputable contractor knows that it must include on its team all the skills required to address the problems and produce the contractual deliverables and tangible results.

A notional contractor staffing pattern is set forth in the acquisition chapter, as are modalities for a possible grants component of the project.

I. JUDICIAL SECTOR OVERVIEW

A. The Atmosphere for Judicial Reform in Bulgaria

Since the reform government went into office in early 1997 Bulgaria has been on a very fast track in the judicial reform area. The absolute top priority has been harmonization of Bulgarian legislation with the European Union. Bulgaria wants its rightful place in Europe so badly that almost anything connected with the EU Accession process is given priority. Seventeen hundred Bulgarian laws are being reviewed for compatibility with European principles. As an indication of the importance attached to this task the MOJ was renamed the Ministry of Justice and European Legal Integration.

One of the EU requirements in the judicial reform area was putting into effect the intermediate appellate system mandated by the Constitution of 1991. This took effect in Bulgaria in early 1998. Bulgaria's five courts of appeal have been staffed and are now operational.

The Supreme Administrative Court Act adopted on December 9, 1997 is also an important milestone. The Supreme Administrative Court carries out judicial control over the acts of the administrative authorities and is the final word on the application of administrative law.

Amendments to the Civil Procedure Code and the Criminal Procedure Code became effective on April 1, 1998. These carried out procedural reforms and adapted procedures to the restructured court system.

And in July 1998 the Notary Act became law. This privatized the work of notaries. This will decentralize notarial functions, eliminate bureaucracy, and improve the quality of services offered the public.

Also significant are changes in legal education. The Council of Ministers is controlling the growth of law schools and burgeoning law student enrollment by imposing limits on the number of new students who can be taken in each year. Also the National Evaluation and Accreditation Agency is starting the process of law school accreditation by the end of calendar year 1998. These actions will encourage a healthy shake out in the current eleven law schools with a total enrollment of 13,000.

Wide-ranging amendments to the Judicial Powers Act were passed by Parliament in October 1998. The law reinstated major salary increases for judges that were wiped out in the hyperinflation of 1996-97 and doubled the starting salaries for junior judges. A second major change was to eliminate overlapping functions of the National Investigation Service and the Prosecutors' Office and to make them subject to judicial control. Investigative functions for ordinary crimes would be vested in the police, with the role of the NIS limited to the most serious, complex crimes (very much like the American FBI). Thirdly, the law would re-constitute the Supreme Judicial Council.

Even though the SJC is granted a five year term in the Constitution, there is precedent decided by the Constitutional Court that allows all the members of the SJC (not selectively) to be re-named because of the restructuring of the court system (new appellate courts etc.).

On October 15, 1998 the President exercised his right of veto against eight specific changes in the law. Parliament is now considering the Presidential objections and will re-forward the legislation to the President. Under Bulgarian law if Parliament re-passes the same provision the President must sign it.

Although it is not clear as of this writing exactly what changes will be contained in the new Judicial Powers Act, there seems little doubt that such a law will be enacted. The President's changes were offered as the suggestions of a leading constitutional lawyer with the sole objective of making the law better. The Parliamentary majority accepted the President's comments in the same light. Thus, it seems almost certain that some form of the legislation will be enacted.

The bottom line is that in Bulgaria today there is a strong consensus to continue and intensify the process of judicial reform. The changes may appear to be ad hoc because to date they have appeared in separate pieces of legislation. But that may be about to change. Reform-minded people in the Parliamentary Legal Commission, the Judiciary, and the MOJ are aiming for a totally new re-write of the criminal and civil procedure codes early next year. They want to eliminate delays and overlapping functions, and to adopt best practices from Europe and the United States. These movers and shakers have a clear idea where they want to end up. And that is to put Bulgaria and its laws in the heart of Europe - and no longer at the extremities.

B. The Judiciary of Bulgaria

1. History of The Judiciary

Under the Communist regime, there was no independent judiciary. Courts were considered as specialized state offices with specific functions within the overall governmental structure. The Communist Party controlled selection of judges and court administration. The judicial caseload dealt primarily with petty disputes among citizens. Judges were seen as mere functionaries, undistinguished in their roles and personas. Nothing good was expected to come from the courts. The judiciary lacked many physical amenities, including, sometimes, courthouses. Thus, when the totalitarian regime of Todor Zhivkov fell on November 10, 1989, and the reform movement began, the judiciary had a difficult legacy to overcome.

On July 12, 1991, Bulgaria adopted a new Constitution officially recognizing a government consisting of three independent branches, including the judiciary. Under Section VI of the Constitution the judicial power consists of courts, prosecution and the investigation functions. The Constitution also established a separate constitutional Court outside the judiciary. A purge was sanctioned to rid the courts of party sycophants and apparatchicks, and some 80 judges were

dismissed or resigned.

2. Management of The Judicial Power

The Constitution and the Judicial Powers Act of 1994 establish the Supreme Judicial Council (SJC) which is the mechanism for judicial governance in Bulgaria. By law its powers are broad. The SJC:

(1) determines the number and geographic jurisdiction of judicial regions, as well as the seats of the regional, district, military and appellate courts.
(2) determines the number of judges for all courts, as well as the number of prosecutors and investigators in each office.
(3) appoints, promotes, demotes, transfers, and removes judges, prosecutors and investigators.
(4) determines remuneration for judges, prosecutors and investigators.
(5) determines whether judicial immunity should be lifted for any judge, prosecutor or investigator.
(6) rules on disciplinary actions against judges, prosecutors and investigators.
(7) submits a budget to the Council of Ministers and monitors judicial expenditures.

The Council consists of 25 members, each of whom must be a jurist with high professional and moral integrity and fifteen years of professional experience - including at least five years as a judge, prosecutor, investigator or law professor. SJC members must be politically independent; they cannot hold elected office, or belong to political parties or trade unions.

The National Assembly appoints eleven of the SJC members. Eleven more are appointed by the three bodies of the judicial branch through a system of delegates who vote by secret ballot at scheduled elections: five members are elected by the judges; three by the prosecutors; and three by the investigators. Under pending legislation, this breakdown may be increased to six for the judges and reduced to two for investigators. The final three members of the SJC are the presidents of the Cassation Court and the Supreme Administrative Court , and the Chief Prosecutor, all of whom serve by virtue of their positions. Each member of the SJC serves a five-year term, and members are not eligible for immediate reelection.

The Minister of Justice chairs the SJC meetings, but not does have a vote. The SJC acts by a simple majority vote unless a particular law specifies otherwise. Decisions of the SJC and its disciplinary rulings may be appealed to the Supreme Administrative Court.

3. Structure of the Judicial System

Under the 1991 constitution and the 1994 Judicial Powers Act, Bulgaria has a three-tiered court system, consisting of first instance, intermediate appellate, and supreme courts. There are six different courts, as follows:

a. Regional Courts

Regional courts are trial courts of general jurisdiction for all cases in Bulgaria except for those assigned by law to another court. By law a regional court must be established in any community or region with more than 10,000 inhabitants. Presently there are 116 regional courts in the country. After three years of service regional court judges are granted life tenure, subject to removal by the SJC for statutorily defined reasons. They must have at least two years of legal or judicial experience. Civil cases are heard by one judge while in divorce, criminal, and labor cases two judicial assessors participate with the judge in hearing the case. Although the Bulgarian judicial system does not rely on the use of grand or petit juries, it provides for a roughly equivalent system whereby the judicial assessors who are interested and motivated members of the public have the opportunity to participate and decide certain classes of cases.

A president appointed by the SJC manages regional courts. The president, in addition to maintaining the caseload, is responsible for the court's organization and administrative affairs and makes case assignments. Each regional court has its own prosecutor's office and investigation services.

b. District Courts

District courts hear appeals from regional court decisions. They also have original jurisdiction in civil cases where the award sought exceeds five million leva and in criminal matters where the violations charged carry a sentence of more than 15 years. Currently, Bulgaria has twenty-eight district courts corresponding to the 28 administrative regions into which the country used to be divided. In addition, there is Sofia City Court, which to all intents and purposes functions as a district court.

District courts may be divided into departments depending on the caseload and the number of judges assigned to the court. The most commonly used departments are civil, criminal, commercial, administrative and family law. Most cases are heard by a panel of three judges, one of who may be a junior judge. A junior judge is usually a new judge who has graduated from law school and successfully completed his apprenticeship year. Junior judges are appointed to serve two-year terms, but are eligible to become, and often do become, regional court judges after one year of service. Panels are chaired by the most senior judge. Capital cases, and some other complex cases, may be tried by a panel of three judges and four assessors.

District court judges other than junior judges are appointed for life by the SJC, with limited removal ability, and must have at least five years of legal or judicial experience. The SJC appoints presidents of the district courts who have responsibilities similar to regional court presidents. They also name judges to judicial departments. As with regional courts, each district court has a related prosecutor's office and investigation service.

c. Military Courts

Bulgaria has a system of military courts that are the equivalent in stature of the district courts. The jurisdiction of these courts is determined by the SJC after a statutorily required consultation with the military. Currently, the court's jurisdiction is limited to criminal actions brought against military personnel, but in the event of a military emergency its jurisdiction expands.

d. Courts of Appeal

This level of court became operational early in 1998. The courts of appeal hear appeals, in three judge panels, from district courts within their jurisdictional territory. There are five courts of appeal in the country.

Judges for the courts of appeal have been appointed by the SJC, and must have at least ten years of legal/judicial experience. Appointments are for life, subject to removal for statutorily defined reasons. The courts are divided into civil, commercial and criminal departments, and are presided over by a court president appointed by the SJC. Each court has its own appellate prosecutor's office.

e. Supreme Court of Cassation

The 1991 Constitution replaced Bulgaria's old Supreme Court with two new courts: the Supreme Court of Cassation and the Supreme Administrative Court. The Cassation Court, located in Sofia, is the highest appellate court for civil and criminal cases and under the Constitution "shall exercise supreme judicial oversight as to the precise and equal application of the law by all courts." Its decisions are binding on all judicial and executive authorities.

The Cassation Court is organized into civil, criminal and military departments. Together, all judges of the Cassation court form the plenum, which determines the membership of the departments, and sits on disciplinary actions. In hearing appeals of individual cases the court sits on panels of three judges.

The SJC appoints Cassation Court judges for life, subject to removal for statutorily-defined reasons, and they must have at least 14 years of experience in the law or judiciary. [Under pending legislation this may be reduced to 12 years.] A court president is also appointed by the SJC and serves a non-renewable seven-year term. The President of Bulgaria may veto the SJC's choice for president once, but if the name is resubmitted (following a simple majority vote) he cannot veto it. The court president presides over the plenum and performs administrative functions similar to those of lower court presidents.

f. Supreme Administrative Court

The other court that combines with the Cassation Court to replace Bulgaria's old Supreme Court is the Supreme Administrative Court, also located in Sofia.

The Supreme Administrative Court is the appellate court of highest instance for cases involving the legality of administrative acts and regulations, and hears appeals of that nature from the lower courts. In addition, this court has original and exclusive jurisdiction over challenges to the legality of acts of the Council of Ministers and other ministers.

The court sits in three-judge panels when it hears administrative challenges from individual litigants complaining of government actions that directly affect them. In these cases the court hears appeals as a cassation instance, from either the regional or district courts following first-instance decisions. In cases involving challenges to normative acts ("controlling legislation") the court has original and exclusive jurisdiction, and sits in five-judge panels. It sits in general assembly (en banc) when passing interpretative rulings, when resolving incorrect or contradictory judicial practice, and when referral to the Constitutional Court is at issue.

Judges for this court are appointed under the same conditions as Cassation Court judges: they are appointed for life and are subject to removal only for statutorily defined reasons. The same holds true for the president of this court who serves a non-renewable seven-year term.

C. Constraints

If there were to be no changes in the judicial milieu, the following are a series of constraints that would suggest that USAID could not have a significant impact with a ROL program. While these appear to be the constraints today, the situation is fluid, and perhaps they will not seem so important in the light of Bulgarian initiatives to improve the situation.

Rapid turnover in the Judiciary has been a recent phenomenon. In 1992, in implementation of the transitional provisions of the Constitution, the Supreme Judicial Council terminated the employment contracts of all judges, investigation officers and prosecutors who compromised themselves during the Communist regime. At the same time many people employed in the judicial system resigned to turn to private legal practice which is much more lucrative. Some 80 judges were dismissed or resigned.

Many newly appointed, younger judges entered the system. A major constraint is that many of them do not look upon judging as a career, even though after three years their appointments are for life. Rather they see court duty as a relevant period, during which they are making financial sacrifices, while garnering substantial experience that will stand them in good stead in a lucrative private practice. To the extent they take good attitudes, knowledge and skills with them, the entire country gains. But to the extent there is a need to train their replacements in a relatively short period, the system suffers. On the other hand, the careers of those who remain in the system are not tied to self-improvement. Incentives for change are few. There seems to be no corresponding

linkage between training and selection, training and promotion, training and retention, or training and compensation contemplated in legislation.

Another major constraint is that poor working conditions, heavy workloads and low salaries combine to make a career as a judge unattractive to lawyers. The workload of a Bulgarian judge (which is defined as caseload and administrative duties) is stated to be ten times that of his Austrian or German counterpart. Working conditions are poor and not conducive to effective performance. Court buildings are old and overcrowded (with three judges to an office, in some cases) and lacking in the necessary security equipment. The courts lack qualified support staff and do not have adequate office equipment. Most judges do not have secretaries, research assistants or computers. They type their own decisions on mechanical typewriters, do their own research, and are personally responsible for tracing all the information (factual and legal) they need to reach a decision.

The salary levels for judges are not conducive to attracting and keeping the best candidates on the bench. Counting the raises that went into effect on September 1, 1998 the salary of a regional court judge is $170 per month while a District Court President makes $235, and a Supreme Court judge makes $285. However, as described in subsection A. above, further raises are provided by the amendments to the Judicial Powers Act which is presently the subject of a Presidential veto on issues not germane to the question of salary increases.
Inadequate funding for the Judiciary extends beyond judicial salaries and is a major constraint. Although the Supreme Judicial Council prepares the budget for the judiciary which is submitted to Parliament through the Council of Ministers, this financial autonomy has not resulted in substantially greater resources for the Judicial Branch of Government. One problem is that the Ministry of Justice may be exercising a “shadow” oversight role over the SJC budget. Whatever the explanation, the total SJC budget for Fiscal Year 1998 is only 57.6 million German marks. [Under the Currency Board introduced on July 1, 1997, the local currency has been tied to the Deutsche mark (DM) at the rate of 1000 Bulgarian leva per DM 1.] Of this DM 57.6 million budget, most does not go to the courts. DM 22.5 million is earmarked for the NIS and 9.2 million for the Prosecutor's Office leaving only DM 25.9 million for the entire Judiciary. This equates to only $ 15.8 million for the judiciary.

Some countries have attempted to legislate a pre-specified amount of the national budget for the judiciary as a method for increasing judicial resources. This percentage is usually in the range of two to four percent. In Bulgaria the percentage of the budget that goes for the judiciary is currently 0.63 percent.

Constraints that are related to specific activities dealt with in this report - e.g. judicial training and court management - are described in the body of this report.

D. Corruption

Corruption is a serious problem for the countries in transition from Central and Eastern Europe. It creates conditions that destabilize the state government and the reform process. Unfortunately, Bulgaria has not been spared from the negative effects of corruption. The OECD's Economic Overview for Bulgaria in 1997 concluded that the numerous ways to bypass regulations have become an important impediment to reform and a cause for the ineffectiveness of the macro-economic policy. In its Opinion on Bulgaria's application for EU membership, the Economic Commission noted that "corruption was a serious problem in Bulgaria" to which the new government and President were giving priority.

There is a strong school of thought in Bulgaria that views corruption as a part of the national mentality and value system. The state's redistribution philosophy (the more we control, the more we distribute) during the 45 years of Communist rule and again during the recent socialist government meant that over a long period of Bulgaria's history the state worked against, rather than in defense of, the interests of the individual. Within the structure of national values, the notion of the public good has been vague and depersonalized. Data collected from polls in February 1998 by Vitosha Research show that thanks both to these historic or cultural roots and to the delays in market reforms, 80% of Bulgarian citizens are tempted to use public office for private gain, in other words are prepared to corrupt or be corrupted.

Although the design team cannot quantify the extent of corruption in the judicial system, there is no doubt that it is a serious problem. It appears that the potential for corruption exists at many stages of the judicial process. Summons clerks are sometimes paid not to deliver summons. Some lawyers even pay court staff for preferential treatment such as expediting certain actions like providing copies. One hears of businesses hiring a "special purpose" lawyer for a certain case that they cannot afford to lose; the lawyer's expertise is knowing which judge to get on the case. In such a case the mere assignment of a particular judge on the case may be enough to predetermine the outcome. Other interviewees said they are sure that the going rate for a judgment in a moderate sized matter is one thousand dollars. In criminal cases the chances for corruption are more likely to occur at the prosecutorial, rather than the judicial, level. For it is the prosecutor, rather than the judge, who decides whether a criminal case should be brought to trial and the prosecutor's discretion in this area is extremely broad.

To combat corruption in public administration, the GOB is undertaking a major public administration reform program, aimed at restructuring public services to increase their efficiency, transparency and reliability. There are four key pieces of legislation in the Administrative Reform area - the Public Administration Act, Civil Service Act, Freedom of Information/State Secrets Act, and amendments to the Public Procurement Law. Then the central public administration would be restructured in line with the new legislative framework.

The major point of intersection between Public Administration reform and the Judiciary lies in the area of civil service reform. Since the Judiciary falls under the jurisdiction of the SJC, and not under the Executive Branch of government, the Public Administration Act as such does not apply

to the judiciary. But the Civil Service law will apply to support staff in the Judiciary. One of a country's most important institutions is a professional and motivated civil service, with selection and promotion based on merit rather than patronage. A well-performing civil service may be a potent force for resisting corruption. Hence the new Civil Service Act, when enacted, may be an important tool to counter corruption by court staff who, as gatekeepers to the adjudication system, are well positioned to extract bribes.

The GOB is also planning to strengthen the courts and the law enforcement apparatus. In addition, the government appears to be cooperating with a group of NGOs, led by the Center for the Study of Democracy, in Coalition 2000. It is one of the first practical initiatives to fight corruption in Bulgaria and involves a broad cross section of NGOs, members of Parliament, state and municipal officials, and judges.

The Anti-Corruption Action Plan drafted by Coalition 2000 details a series of reforms in law and the organization of the judiciary in order to combat corruption. The objective is more transparency in court cases and speedier justice. Among the recommendations of Coalition 2000, which are also endorsed by the design team are:

- Introduction of changes in the Attorney Act, as well as in the Civil and Criminal Procedure Acts, providing for serious sanctions against lawyers who abuse procedural rights by intentionally delaying court proceedings.

- Development of a system for summoning witnesses in order to preclude the possibility for intentional delays of court hearings.

- Creating institutions for alternative dispute settlement.

- Implementing filing systems that guarantee speed and reliability in the processing of case files and secure swift and easy access of citizens to the information they need.

- Developing a system for distribution of cases among various magistrates based on objective criteria, precluding the possibility for selecting a specific magistrate to work on a particular case.

- Implement the principle of rotation of magistrates and staff working in sectors with a high risk of corruption.

The recommendations in the area of court management and judicial training address corruption issues and the means to abate it.

E. Overcoming the Constraints

First, to the team, Bulgaria's tomorrow does not look as bleak as Bulgaria's today in the judicial sector. If the team's assessment that Bulgaria has a consuming passion to join the European Union at the earliest possible date is correct, then Bulgaria will continue to improve the judiciary, following on the significant reforms already achieved. The GOB has increased the budget in the past few years, and if it agrees to the terms and conditions of USAID's conditions precedent for a project, there would be every indication that the GOB is ready to increase the budget again. All of the Bulgarians interviewed in the legislative, executive, and judicial branches seemed equally emphatic about achieving a judiciary that would pass EU muster. It seems reasonable to assume that constraints can be overcome, and that Bulgarians will work together to achieve a respectable court system over the medium term. In the final analysis, what USAID seeks to achieve is to help Bulgaria "jump start" some critical reforms that Bulgarians themselves desire and to which they are committed. The proof of this will come in the GOB's willingness to assume financial responsibility through its own budget allocations and international loan commitments through the World Bank and other donors. One can always tell a government's priorities by examining its budget.

Second, although there is much to train, not every change in legislation is of equal import - or will require substantial training. Priorities for training can be chosen through canvassing judges and members of the Bar to learn their most pressing needs, and to address them as quickly as possible.

Third, there already have been two significant Bulgarian initiatives to make judging an attractive career. Before the run-away inflation of 1996-97, salaries for judicial officers were increased to a level somewhat more attractive than for other government positions. Unfortunately those gains were wiped out in the economic chaos. With the Monetary Board in place, and price stabilization in effect, judges and other public servants are no longer rapidly losing purchasing power. Recently the Parliament proposed making the entrance salary for new judges double that of the average wage of government employees. The team was told that if enacted, this new law would make judicial careers more attractive to qualified law school graduates. The team sees evidence of the determination by government to increase salaries for the judiciary.

Additionally, as salary gains take hold, and as more of the 13,000 law students find it more difficult or unappealing to enter private practice, judicial vacancies will be more readily filled and judges will be retained in service in greater numbers. If through training and improved court management reforms advocated by the team are enacted, the public will gain more respect for judges, and more judges will be inclined to trade earnings for prestige. Such is the case in the United States where almost any really good judge could make significantly more money in the private sector market than through government service.

Although training alone will not solve cases of judicial corruption, enhanced salaries will attract better candidates. More transparency in case assignment will also help, as advocated by the team in Section III. The strong anti-corruption campaign being prepared by the government will also cause those inclined to "return favors" to think twice, especially with the addition of the Courts of Appeal which will be able to reverse improper decisions. Corruption will never be totally

eliminated in any system, even as it has not been in the U.S. where in the past few years three federal judges were impeached because of bribery, and Operation Greylord in Chicago resulted in the indictment of dozens of judges in the municipal courts.

Fourth, while there currently is no link between the proposed NGO to run the Judicial Training Center and the Supreme Judicial Council, the team has suggested an organizational link in Annex D 7 which would give organizational legitimacy to the JTC. The team feels that over the long-term, judicial training will become the province of the Supreme Judicial Council under the separation of powers concepts in the Bulgarian Constitution, and the Council will be responsible for securing the budget for it. Establishing this link should not be difficult.

At the time of the team's visit, the Parliament proposed changing all of the elected members of the Council, excepting only those who by virtue of their hierarchical positions were also members. It, therefore, was impossible to discuss a serious USAID effort for future SJC involvement with that body. However, the team does suggest that an Organizational Development specialist be brought in to work with the SJC to help it become a more functional body as discussed in Section III. It needs to develop a planning capability. As one of the first activities, there would be a "visioning exercise" to help the Council establish new goals for an improved judiciary, as well as a capacity to present new initiatives to the Council of Ministers and Parliament with convincing data and arguments. In this way, radical solutions about linking training, job performance, and good court management practices to promotion and retention can be developed. Nevertheless the team cautions that no donor should expect instant resolve of all problems that have developed over decades.

ROL reform is an iterative process with a long time frame, and must be understood as such by donors. The key question for donors is: "Are reasonable efforts toward reform being made, and are reasonable results achieved over a reasonable time period?" As a measure of progress, public opinion can be sounded as is done in other countries. Benchmark data can be gathered early in the ROL efforts and measured thereafter. Perhaps the first sounding should be taken of the immediate users of the courts, and those who have had litigation the past four years. This would include both attorneys and their clients in civil and criminal cases. The population at large could be polled for comparative purposes. The same polls could be conducted periodically, especially if there were a follow-up program through the World Bank.

As the above indicates, the team feels that while there are many constraints facing the Bulgarian judiciary, the mechanism for overcoming these constraints is clear and Bulgaria seems to be on the right path. Yet, to reiterate, these constraints can be removed only by Bulgaria itself. If the GOB is not willing to assume financial responsibility at a date certain for the JTC, to take the most prominent example, then the GOB would not appear to be eliminating enough of the serious constraints for a USAID project to make a real difference. Periodic project evaluations can help USAID keep goals focused and progress measured. Rapid appraisal evaluations could be done yearly, and more formal evaluations, including public opinion polls, conducted at longer intervals.

F. Gender Concerns

Articles 48-51 of the Constitution of 1991 guarantee the principle of equality between women and men in the field of employment.

In 1995 women represented 51.1% of the population of Bulgaria. Their relative share in the total number of employed persons - around 47 % - has been stable during the period 1990-98.

Equality in education is one of the most important conditions for women's progress and professional development. The equal access of women to education at all levels is a fact in Bulgaria. In the school year 1995/96 girls accounted for 51% of the total number of students in secondary school, 75% of the students in semi-higher schools, and 61% of the students at the university level.

In the area of legal education the following statistic is very telling. As of November 1, 1997, there were a combined total of 2306 trainee lawyers and judicial candidates in the country. These are graduates of law schools who have completed the required state examinations and are enrolled in the required apprenticeship year before being allowed to practice law before the courts or to serve as a junior judge. Of this number, 1546 were women and 760 were men.

This predominance of women in the legal profession carries forward into the judiciary. As of August 1997 842 women were employed in regional and district courts in Bulgaria as judges, officers of the court and notaries. This represents 60% of the total of 1398 individuals employed in such courts in these capacities. If one restricts the inquiry to judges alone, the percentage of women is even higher.

In recent years the number of women in the public administration has increased. Seventy percent of the staff in the Ministry of Culture are women, as are 65% in the Ministry of Labor and 58% in the Ministry of Education. As of 1996 women occupied 30% of senior positions in the State Administration.

In the present government elected in April 1997 the Ministries of Foreign Affairs, Culture and Environment are headed by women. Eighteen percent of the deputy ministers are women too. There are eight heads of department in the Council of Ministers, and six of these are women. As of August 1997 women account for 61% of the total staff of the Council of Ministers.

The design team does not view gender as affecting the likelihood that USAID/Bulgaria will achieve its strategic objective. It will be logical to assume that as salaries become more attractive, and prestige builds in the job, more males will apply for judgeships.

G. Sustainability

The issue of sustainability must be considered for each of the proposed components of the program.

For the Judicial Training Center, there are two key components required for sustainability:

1. Institutional Strength

It is important to develop an institution which has an anchoring philosophy and a board of directors, staff, and cooperative agencies which have developed mutual, agreed upon goals and objectives in accord with that philosophy. Key to success in developing institutional strength will be a professional staff, with a full-time director, full-time master trainers, at least a half-time development/fund raiser, and administrative and support staff. The director should be a distinguished and respected ex-judge, not a sitting judge, because of the energy, effort and time required to run such an institution.

2. Sufficient Financial Resources To Start Up and Continue Long-Term Operations

While donor seed money can initiate the project, only a viable Government of Bulgaria investment over the long run will maintain it. It is presumed that financing will be through a contract with the NGO, rather than through "governmentalization" of the training center. At the same time, the GOB will want to finance it only if it is seen to be productive, useful, and perhaps only if it is seen to be essential. Therefore, the JTC will need to demonstrate in a very convincing way that it is living up to the expectations of changing Attitude, Behavior, Knowledge and Skills.

In the court management area the design team recommends the establishment of model (pilot) courts. It should have the following configuration: a large regional, district and appellate court in one location, a small regional court feeding into the same district court, and a medium-sized regional and district in a third location - most usefully where the Judicial Training Center is located. By using pilots, USAID will minimize its initial investment in setting up and perfecting new systems and procedures. Once proven, the systems and procedures used in the pilot courts could be expanded to other courts. Bulgaria has a good track record with pilot projects of this type. As well demonstrated in USAID's Local Government Initiative, good ideas will travel to other communities - as often as not, through unplanned contact between local officials that sometimes move faster than the planned spread effects of the project.

It is planned that USAID's pilot effort in court management would feed into a large World Bank planned court administration project planned for late 1999. Issues of long-term sustainability will be dealt with during the World Bank design for this national computerization program and will draw upon the lessons learned during USAID's pilot project.

3. Recommendations for Sustainability

Recommendations for Sustainability are discussed in detail in Section II A.4. and in Section III C. Basically the team recommends that an Organizational Development consultant work with the JTC

from its early days on building institutional strength to help unequal partners work harmoniously. That would include working with the Supreme Judicial Council as well. The financial resources will need to be guaranteed by the GOB before USAID or other donors commit their resources.

H. Donor Coordination

In the judicial training area there are numerous donors who are willing to provide or finance *ad hoc* training programs. For example, France offers Bulgaria and other countries each year training opportunities at the National Judicial School in Bordeaux and in Paris. The courses usually last 7 to 10 days and cover such topics as Drugs, Counterfeiting, Money Laundering etc. In recent years Bulgaria has sent 5-6 judges, prosecutors and investigators to these kinds of courses. Bulgaria also receives offers of similar training from other bilateral donors such as Germany, the Netherlands, and Italy. Training is usually in the areas of criminal justice, human rights, or commercial law. However, there is little or no multiplier effect because judges trained abroad have neither a commitment nor an opportunity to formally pass on new ideas and knowledge.

France has also offered Bulgaria technical assistance on court operations. When Bulgaria established its appellate court system earlier this year, the Sofia Court of Appeal entered into a twinning arrangement with an Appeals Court in the south of France. Judicial information was exchanged among the judges for several months following the creation of the new court.

However, in terms of support to institutionalizing a Judicial Training Center in Bulgaria, potential support is much more limited. Besides USAID, only the Open Society Foundation and possibly the World Bank and EU Phare are interested. UNDP might be willing to underwrite the costs of providing legal luminaries to appear at special programs hosted by the JTC but cannot finance direct costs of the JTC itself.

In the area of court management, the Open Society Foundation has previously been active. The OSF has provided computers to regional and district courts in Varna, the regional court in Bourgas, the district court in Blagoevgrad, and the regional and district courts in Sofia. It has also provided some assistance in terms of software development in Varna. However, OSF claims that computerization is no longer one of its priorities and it has no plans for further assistance in this area.

The Council of Europe funded an expert mission to assess the computer systems of courts and issue recommendations for their development. However, this was a limited expert mission and there are no plans to follow this up with a more extensive effort.

The World Bank is interested in a possible loan for computerization in the courts, but the loan has not been designed or appraised yet and the loan is not expected to be approved until late 1999. For this reason the World Bank is extremely interested in the Model Courts idea formulated by the design team. Model courts could facilitate the longer term, larger effort mounted by the World

Bank. The World Bank has also expressed interest in conditioning its loan on various procedural code reforms that would reduce the time required to adjudicate a case - though these reforms have not yet been identified.

The British Know How Fund is interested in Public Administration Reform but the scope of this assistance does not at present extend to the Judiciary and is not likely to do so.

The overall focus of European Union assistance programs is EU Accession and harmonization of Bulgaria's laws. Bulgaria is committed to achieving substantial progress in meeting the criteria for EU Accession during 1998 "in order to enable the European Commission to make a positive review on the progress and dynamics of Bulgaria's preparation for accession."

Among the key areas for EU Phare assistance are Public Administration Reform including civil service reform, increased transparency in government operations, and improved salaries and benefits for government employees. Civil service reform will help professionalize court support staff, and EU Phare's work on salaries and benefits may benefit the judiciary as well. However, there is not a firm linkage between the two. Judicial salaries fall within the jurisdiction of the Supreme Judicial Council, not the Public Administration, and it is unclear to what extent reforms in one area will be carried over to the other.

As of this writing, it is not clear whether EU Phare will be a major funding source for the areas identified in this project design. EU Phare is interested in judicial reform and in July 1998 an appraisal mission visited Sofia to explore the situation. Among the areas surveyed were judicial training, court management, legal reform, and legal aid. The design team was not able to obtain a copy of this report. A follow-up EU Phare visit was planned for November 1998 but is now re-scheduled for January 1999. The main visitor will be a Dutch judge. World Bank lawyer Alex Iorio plans to return to Sofia at that time to meet with the judge and try to gain a better idea of EU Phare intentions. This should be a priority for USAID/Bulgaria as well.

In the area of legal education, many bilateral donors underwrite the costs of providing an expatriate law professor to lecture at one or more of Bulgaria's law schools for all or part of an academic year. At Sofia University law school this year there are visiting professors from Italy, France, Germany, Spain and the United States. The Fulbright Commission will sponsor five U.S. law professors in Bulgaria this year.

However, few donors are actually funding concrete programs. The Open Society Foundation is one such donor. OSF is working both with Sofia and Plovdiv law schools to develop live client law clinics to give hands on/practical experience to students in their final year of law school. There will be clinics in the areas of administrative, labor and criminal law that will also help needy people who would otherwise have no access to these legal services. Also at Sofia and Plovdiv law schools OSF is supporting law libraries and starting a program to build human rights material into law school

syllabi.

I. USAID/Bulgaria's Strategic Objective and Intermediate Results

USAID/Bulgaria's strategic objective (SO) in the judicial sector is SO 2.2 : "An improved judicial system that better supports democratic processes and market reforms."

Impact Measurement:

The design team agrees with the three performance indicators listed under SO 2.2 - namely completed cases, average length of tenure of sitting judges, and compliance with EU Accession targets. These three may not be numerous but they do reach many necessarily included areas. The team does suggest, however, that the "percent of cases brought to trial and completed" be changed to "% of Cases Brought to Trial and Completed Within (XXX) Time Frame" with XXX representing a reasonable period determined by the contractor based on interviews with attorneys, judges and others. Also consideration should be given to separating criminal and civil cases in terms of this goal because disposition time is quite different for the two types of cases.

Because the instructive period within which cases are to be completed is three months, all MOJ statistics are maintained in terms of this time frame. The 1997 MOJ Bulletin, for instance, states that 51.26% of all criminal cases and 53.51% of all civil cases in the regional court are completed within three months. Similarly, it shows that 51.10% of all first instance criminal cases and 83.21% of civil cases are completed within three months in the district courts. The design team is not sure how reliable these statistics are. Also the team was unable to obtain statistics showing case dispositions not within the three-month period. Nor are there any compiled records of case disposition times in the individual courts. After all, all cases are eventually completed, no matter how many years it might take or how many litigants suffer because of court delays.

The design team suggests that to establish baseline data, case disposition times in the suggested model courts be determined as USAID activities begin and that such data be obtained periodically throughout the project so that the impacts of interventions can be measured.

For this reason, the team recommends that a more precise formula than the simple "cases brought to trial and completed" be developed for this project.

Intermediate Results:

USAID has specified further that success in the judicial strengthening program will require the achievement of four principal Intermediate Results (IRs) which together are considered necessary and sufficient for the achievement of S.O 2.2.

IR 1: "Improved career benefits for the Judiciary" (to be achieved through USAID's development partners, and not USAID).

This IR is further explained in an internal USAID document on SO 2.2 which has this to say about IR 1:

"Finally, EU PHARE assistance to civil service reform is considered an intermediate result because it will directly contribute to improved professionalization of the judiciary through higher salary structures and a better-defined career service."

The team has the following comments to offer on this IR. The first is that there seems to be a GOB commitment for judicial reform that transcends any particular donor's interest in the matter. In the area of judicial salary increases, one can cite the Sept. 1998 increases and the October 1998 proposed increases in the Judicial Powers Act. It would be a mistake to assume that EU Phare or any other donor is driving the issue of salary increases for the judiciary or is likely to do so in the future.

Secondly, as indicated above, judicial salaries fall within the purview of the Supreme Judicial Council, not the Public Administration. If there are reforms in the public administration area, this may be beneficial for judicial reform. The SJC could argue to Parliament that similar treatment should be extended to the Judiciary. However, there is no assurance that Parliament would see things that way.

On the other hand, if public administration reform is not implemented, this need not adversely affect judicial reform - particularly those measures related to the salaries, benefits, and career paths of judges. At the moment, judicial reform is on a faster track than civil service reform. There seems to be a strong consensus for judicial reform involving the President (a noted constitutional lawyer), key people in the Ministry of Justice, judicial "movers and shakers", and perhaps most important, key actors in Parliament. By contrast, public administration reform legislation has undergone considerable delay and redrafting and there is no clear indication when the four bills - public administration, civil service, public procurement, and information - will be enacted.

IR 2 : "Improved preparation of law school students for careers in the judiciary."

The design team recommends that this IR be changed to read "law school graduates." The reason is the design team's recommendation that USAID not carry out a major effort geared to law schools. Instead the team recommends USAID support for reform of the post-law school legal apprenticeship year which is administered by the Ministry of Justice. The reasons underlying the team's recommendation with respect to law schools lie in the six principal findings made by the team:

- # Law school curricula have changed to meet the needs of a market economy and an open, democratic society.
- # It is possible that old professors are still teaching courses at some law schools in the same old way but it is not likely that is a generalized practice.
- # At the better law schools professors do monitor changes in law and routinely include explanation of the new laws in their lectures.
- # Civil Law legal education is, by definition, more theoretical than American legal education. Nonetheless, there are many opportunities for building in practical content in course work. If there is a disconnect, it occurs at the seminar level where for one reason or another practical applications are ignored or minimized.
- # The enormous, recent growth in law school enrollment and number of law schools is starting to diminish as state regulation and the prospect of accreditation increase. The National Evaluation and Accreditation Agency under the Council of Ministers manage the accreditation process for all institutions of higher education and learning.
- # In order to graduate from law school, students take three State exams. Most persons interviewed by the design team thought that the exams were difficult and a good measure of the student's accomplishments.

Although a law school based technical assistance program is not recommended at this time, other avenues of support (principally an expansion of the current small grants program being carried out by the Democracy Commission) is emphasized in the Recommendations section.

Instead of the current indicator ("Percent of Law School Curriculum that Reflects Updates to Legal Codes"), the team suggests the following four indicators be considered for this IR:

a. Number of regional and district court judges in outlying and underserved areas who are assisted by a judicial candidate (apprentice).

b. Percent of apprentices that pass the MOJ examination.

c. Number of judicial candidates who are not serving in their hometown.

d. Percent of judges who assign legal opinion writing and legal research tasks to judicial candidates and who express satisfaction with the work product.

IR 3: "Judicial qualifications enhanced through continuing legal education."

The design team feels that these IR and impact measurements are appropriately worded.

IR 4: "Improved court administration."

The design team suggests that "Average processing time for cases" be changed to "% of Reduction

in case processing time in the pilot courts" in order to measure improvements which are the result of USAID interventions. The statistics presently kept by the MOJ and the courts do not show average processing time. Raw data, however, is available from a ledger maintained in the courts that could be compiled to get the average case disposition time, which should be separated for both civil and criminal cases. This should be determined in the model courts before project activities are initiated to obtain baseline data and compiled periodically thereafter to measure the success of USAID interventions.

The design team believes that the above intermediate results and indicators are necessary and sufficient for the achievement of SO 2.2.

II. JUDICIARY TRAINING

A. Judicial Training Center

1. Overview

A dynamic, transparent, efficient, and admired judicial system requires a strong training program to achieve and maintain those qualities. Along with the court administration reforms proposed in Section III, Court Management, training cooperation is the best way for USAID to support the efforts of Bulgarians to improve the performance of their judges.

Judicial Training has one fundamental goal in an unproductive and unrespected judicial system: to change the attitudes, knowledge, skills, and behavior of judges and other court personnel. To achieve a judicial system that is productive, respected, and transparent, changes in all four of these areas are equally important. Just changing the knowledge about the law, or the skills in handling a case will not in and of themselves change important core values that lead to citizen respect and transparency. On the contrary, it might well give a dangerous illusion that important change is occurring when probably it is not. Without changes in attitudes and behavior, there is no guarantee that the knowledge and skills learned will be put into practice.

One of the important SOW mandates is to design a sustainable program, one that will not evaporate or languish after USAID and other donor collaboration is no longer available. As described earlier, there are two key components required for Sustainability:

a. Institutional Strength

It is important to develop an institution which has an anchoring philosophy and a Board of Directors, Staff and cooperative sponsoring agencies which have developed mutual, agreed upon goals and objectives in accord with that philosophy. The institution should not explode, implode, or stagnate. It should remain relevant.

Key to success in developing institutional strength will be a professional staff, with a full-time Director, full-time Master trainers, at least a half-time development/fund raiser, and administrative and support staff. The Director should be a distinguished and respected ex-judge, but not a sitting judge given the energy, effort, and time required to run such an institution.

b. Sufficient financial resources to start up and continue long-term operations

While donor seed money can initiate the project, only a viable Government of Bulgaria investment over the long run will maintain it. It is presumed that long-term GOB financing will be through a contract with the NGO, rather than the "governmentalization" of the training center. At the same time, the Government will want to finance it only if it is seen to be productive and useful. In fact

only if it is seen as essential will the GOB want to finance it. Therefore, the Judicial Training Center will need to demonstrate in a very convincing way that it is living up to the expectations of changing Attitudes, Behaviors, Knowledge and Skills. To achieve that end, there will have to be "quality checks" of its "products", just like any free market company that needs to satisfy consumer demand. There will have to be rigorous evaluation of how well its "Products", judges, function. Therefore, just giving tests at the end of courses would not be an appropriate evaluation of the quality of the product, nor would be comments by judges at the end of the course about content and presentations. The only valid evaluation is to check in the courts to see that judges and other trained personnel put into practice what they learned. Evaluation benchmarks could be the track records of judges such as the percentage of their cases upheld on appeal before and after training. Surveys of attorneys practicing in courts about satisfaction with judge performance would be another. In the long run, and much more difficult to measure, would be the public's respect and admiration for judges. For support staff, the question would be: Do those of the public who interact leave with a feeling of satisfaction because of pleasant and effective treatment, or do they leave in disgust and frustration because they were treated shabbily? A number of evaluation devices can be set up, but the basic point is that training must be seen as making an important difference in the judiciary if it is to be financed over the long haul.

2. Constraints Related to A Judicial Training Center

There are some major constraints that must be factored into a training plan. One is the time available to judges for training versus the immense amount of training required. Bulgaria at the present time and for the foreseeable future is undertaking quantum changes in its legislation. As discussed in previous sections, much of what is being done is required for harmonization with European Union legislation so that Bulgaria can become a member state. Much of what is being done is required for a market economy and globalization. As an example, in April 1998 key provisions of the procedural codes were amended. In October, additional important amendments will be changed again. And beginning in early 1999 a task force will begin writing an entirely new Criminal Code. The same efforts are under way for the Civil Procedures Code.

While a number of judges indicated to the team that they would have up to four weeks per year available for training, there is no way that all judges can be trained for one month each year. That would require approximately 4600 person weeks, or approximately 150 courses with 30 trainees, averaging a week in length. Such a number of courses cannot be scheduled, conducted, and financed. For more details, please see Section 4c (Training Methodology)

A second major constraint is that most Bulgarian judges who have been on the bench for a number of years are not used to being "active learners." In the past, law school education was primarily lecture based, and the learners were not interactive with the professors. Thus, just as there is a general lack of initiative and questioning of the judicial procedures and processes by this group of judges, the "what was evermore shall be syndrome," the participants must be willing to be active learners. This will require skilled learning facilitators.

The third major constraint is that many younger, newly appointed judges do not look upon judging as a career, even though after three years their appointments are for life, as noted earlier.

Additionally, as also mentioned, the government is about to launch an important anti-corruption campaign. At any rate, if the anti-corruption campaign indicts major figures, the judges hearing the cases will be subject to both bribes and threats to themselves and their families. Training will play almost no role in keeping judges honest if they are severely underpaid and under appreciated by society. In a reasonably remunerated and respected judiciary, a "corporate ethos of duty, honor and country" can be fortified by training.

A fifth constraint is that there is no direct link between the proposed NGO and, therefore, the JTC and the Supreme Judicial Council. In the larger sense, the product of the training center will be the employees of the courts for whom the Supreme Judicial Council has many oversight functions, but the Council as an institution has no proposed role in running the JTC. In the long run, given the constitutional intention of separating the three branches of government, it would be logical for the Supreme Judicial Council to be given the responsibility for the training of judges and support staff, rather than the present arrangement that cedes those responsibilities to the MOJ. To the extent that the Supreme Judicial Council is not involved in the creation and support of the JTC, and does not formally give it is moral blessings early at its creation and during its operational period, there is danger that Supreme Judicial Council could want to ignore or by-pass the JTC in the future.

A sixth constraint is that the training plan envisioned by the NGO in formation contemplates a residential facility that will be very expensive to maintain. There is no present assurance that when outside donor financing terminates, there will be substitute national funding that will both maintain the Center and provide for training as well. There is a serious question about whether a residential training facility will become an albatross around the neck of the NGO that sponsors it, or the GOB should it take on its financing in the future. Should the GOB not fund it after donor financing ends, a considerable investment in remodeling, furnishing and equipping will have been wasted.

How to overcome these constraints has already been treated in **Section I, E, Overcoming Constraints**.

3. Principal Findings Relating to a Judicial Training Center

By law, the Ministry of Justice (MOJ) has the responsibility for training judges and support staff. Historically, prior to 1998, the MOJ averaged one training program per year in which it involved judges from around the country on one specific legal topic. Its budget for 1998 is only DM5000. The MOJ looks favorably upon the creation of a JTC that will focus principally upon judges, and will join forces with two NGOs to run the JTC. The MOJ does not anticipate additional funding to support the JTC in the short-run.

The not yet concluded tri-partite agreement will include the MOJ, the Bulgarian Judges

Association, and the Alliance for Legal Interaction (ALI). None of the three participants has any substantial experience in running a training center of the magnitude discussed in this Needs Assessment. Nor do the BJA and ALI, both being recently formed, have substantial experience in program development, in organizing and running a large program, or in working harmoniously in a tri-partite arrangement. While the BJA has a larger membership, it is loose and comprises roughly 25% of the judges eligible to join. It has no power base to match that of the Alliance, which is composed of key legislative and executive personnel whose firepower far outreaches that of the judges and which might even exceed that of the MOJ.

The first wave of Bulgarian judicial reform has substantially been concluded with the creation of the Courts of Appeals and the Supreme Judicial Council, and initial changes in the civil and criminal procedural codes, among other changes . Bulgarian "movers and shakers" are now targeting a whole new set of reforms including the preparation of a new criminal and civil procedure code early next year. Thus, USAID's negotiation of the MOU for the Judicial Strengthening Program should come at an excellent time. A recognition of GOB financial responsibility for the Judicial Training Institute should be a key part of the new reform package.

A little over four years ago in 1994, The Legal Initiative for Training and Development (PIOR) was established in Varna to be a judiciary-wide training institution. Although it has held over 40 training courses, it has been only marginally successful because an institutional structure was never established. Sustainability was not achieved. The series of isolated training courses that took place will have had little impact in the long run, should that be the end of Bulgarian judicial training. Over the long run, ad hoc training is not very effective. Perhaps PIOR's greatest benefit lies in whetting the appetite for more training, and the example of interactive learning that took place. PIOR could be used for the training of prosecutors and investigators under the anti-corruption campaign. In its early years, the JTC will have little time and energy to devote to that arena.

For the Bulgarian judicial system to have the respect of society at large, that of the legal profession, and its own self-respect, training can play only a part. Fundamental and radical changes in the way judges are selected, promoted, and compensated are necessary. There seems to be no corresponding linkage between training and selection, training and promotion, training and retention or training and compensation contemplated in legislation. However, even though the courts cannot force judges to receive training if they have attained life tenure, judges with less than three years on the bench could eschew training only at the risk of not receiving life-tenure. Given the judicial salary scale, there is no way that judges can contribute to the cost of their training. All training can have tests at the end, and scores could be used as one of the criteria for promoting judges, both those with life tenure and those without. Testing would be done by the JTC.

In recent years there have been substantial changes in legislation that have increased litigation in the courts in areas not judged since 1944, such as commercial, banking, bankruptcy and innumerable other areas. The amount of legislation still in the pipeline is only exemplified by the proposals to rewrite both the entire criminal and civil procedures codes, which could change

markedly the way the courts process cases. Additionally there are hundreds of legislative enactments required to harmonize Bulgarian laws with those of the European Union. To handle these situations significant training is required.

If the judiciary adopts significant administrative changes for case processing and case management, as outlined in Chapter III - Court Administration, significant training will be required for judges and administrative staff alike.

There is talk about eventually having a year-long course for judges before they take the bench. No training design has been developed. No law has been introduced that would require new judges to pass a year-long program. There is no law designating the proposed JTC as the training institution to provide such a program. It would seem premature for the JTC to think about implementing a one-year residency school for judges until these issues and financing by the GOB are resolved and the JTC is a smoothly functioning training institution. It would not seem to be the highest priority facing the JTC.

Some observers say that the image of the judges is tarnished when they train jointly with Prosecutors and Investigators, since this joint association perpetuates the negative image of the past regimes when the judges were seen to be completely subservient to the Prosecutors. One of the key elements that instills public confidence in any judiciary is the appearance of judicial independence from the executive branch. To the extent that judges are seen in Bulgaria as extensions of the prosecutorial arm of government, the public does not feel that it will be judged fairly. Because of the historical reality described in Section I during which the Bulgarian judiciary was seen as being manipulated by and responsive to the dominant political force, every effort should be made to convince the public that there is a clear separation of powers in Bulgaria. The Judicial Powers Act, under the new Constitution, goes a long way to protect the judiciary but citizens react to what they see and what they perceive. Therefore, it does not seem prudent, over the short term, to have the JTC conduct directly training for prosecutors and investigators. If the JTC is to be involved, it seems reasonable to subcontract such training.

At any rate, the organizational roles of the courts and prosecutors/investigators are quite different. In the long run, the executive branch should develop a capability to train prosecutors and investigators, just as in the U.S. the Federal Judicial Center does not train federal prosecutors or the FBI, but concentrates on judges and judicial support staff. Although there could appear to be some inefficiencies in establishing two or more training institutions, if the JTC were to take on too many roles simultaneously, it could founder.

The team did not perform a detailed evaluation of USAID sponsored PIOR, although it reviewed much material assessing PIOR's performance since its creation, and interviewed several significant players in its formation and development. The team also heard evaluations of PIOR training by some participants. There seem to be two major reasons why PIOR has not been chosen by Bulgarians to run the proposed JTC: lack of institutional development and lack of sustainability,

the very elements that the team believes are important to the success of the currently proposed training endeavors.

The team's analysis coincides with that of USAID that PIOR cannot be reformed sufficiently to undertake this mammoth training project in its entirety. Nevertheless, the team feels that the limited training undertaken by PIOR, using the IDLI methodology was minimally acceptable and PIOR could be used as a training agent for such training of prosecutors and investigators as is reasonable to mount before the prosecutorial agency is cleansed of its corrupt elements. This decision, however, should be made by Bulgarians. There seemed to be some support for this idea by key players, but no commitments were asked for nor given by the team, naturally. PIOR wants a continued role. Whether it is willing and able psychologically to be a contractor under the supervision of the JTC will be known only if and when this is undertaken. The team does not believe that USAID should mount a separate program with PIOR again.

All of these findings and constraints notwithstanding, the design team senses, as described in Section I, a certain effervescence in the judiciary, an awareness of the needs for qualitative change, and the practical situation that most sitting judges will never have studied the legislation in law school that they must be able to apply to their day-to-day caseload. At the same time, with a major anti-corruption effort underway, the courts and judges must be prepared educationally and psychologically to handle the very difficult cases to come before them. There is no way to modernize the judiciary, a pre-requisite enabling Bulgaria to take its place in Europe as a partner in the European Union, without a sustained, successful training program.

Judicial training could be a key prelude to a larger Rule of Law intervention by the World Bank and possibly EU Phare. Preliminary discussions with the Open Society organization indicate that there could be substantial co-financing with USAID of a Judicial Training Center. Other European donors and the UNDP have indicated the importance of the project, but are not able to be financially supportive at the present time.

USAID has a significant comparative advantage in the judicial training field. Many institutions like the Federal Judicial Center and the Judicial College in Reno offer comparable models. Other schools in Eastern Europe have already been established, some as NGOs, by USAID. The comprehensive approach to U.S. judicial training focusing on attitude, knowledge, skills and behavior is greatly needed in the Eastern European context. Training in U.S. courts, at the federal as well as at the state levels, is ingrained, although there is nothing to compare in the U.S. with the *L'Ecole de la magistrature* in France, after which the year-long program would be modeled.

4. Recommendations Relating to a Judicial Training Center

A long time observer and participant in judicial reform programs sponsored by USAID is Dr. Lynn Hammergren who notes that "It is often convenient to introduce training programs first, to prepare and leverage other changes, but if the latter don't occur, the initial benefits will quickly

disappear....Thus, while they (national governments) often request training programs, and accompanying large investments in buildings, equipment, and permanent staffs, a stand alone training program can be a poor investment for external donors and lenders or for the countries themselves." Lynn Hammergren, *Donor Experience with Judicial Reform in Latin America, A mid-term report on the State of the Art*, April 1998, page 7

The best way to ensure that a judicial training program sponsored by foreign donors in Bulgaria is not a poor investment is to assure that the Bulgarian government take ownership of it from the beginning, whether acting through an NGO or a government agency as part of a second master plan for judicial reform. That means that the GOB will have to make an up-front commitment to fund the NGO staff, programs, and facilities at a date certain. Only if that is accomplished through **a formal agreement with USAID before activities start**, do the following recommendations apply:

- That USAID support, along with other donors, a Judicial Training Center.

- That the initial emphasis during the first year should be on institution building so that the three entities forming the NGO share a common vision, and a common approach to problem solving. The residential or dormitory program is not necessary for start-up operations, and indeed would interfere with the institutionalization that is required during the first year or so of operations. A residential program should not be undertaken before year two at the earliest, and certainly not before the GOB has agreed to continue financing it after donor cooperation ceases, and the NGO has been institutionalized.

- The design team visited one potential residential site. There probably are others suitable in the country. However, the Hilltop complex in Blagoevgrad seems particularly appropriate, and careful consideration should be given to it before choosing another site, since others might be even more costly to renovate. Nevertheless, mutually agreed upon arrangements for its availability must be made. It seems that it could be available at about the time the JTC would be ready to take on its management, however. Regardless of where the JTC is sited, as soon as the geographical area of the residential site is determined, the offices of the JTC should be located there, even if the building desired is not immediately available. This would allow the JTC to hire its permanent staff in the area, assuring it that it would not hire staff in a temporary site, like Sofia, and then lose them when transferring operations to another area.

- If the concept of "pilot" or "model courts" described in Chapter III-Court Administration is instituted, then special emphasis on training should be placed on the pilot courts.

- There should be just enough training courses during the first year so that the judicial training center staff understand the problems in organizing and holding the courses, but not so many that it cannot focus on the Institutional Strengthening aspects. Ten to twelve courses might be the maximum that should be undertaken during the first year.

The JTC should be run from the very start on a barebones budget, one that the GOB can continue when donor cooperation ceases. Training facilities need to be comfortable as required in a learning environment, but not ostentatious. In this regard, it would seem inappropriate to spend large sums of money bringing in outside, foreign experts as Lecturers or Learning Facilitators. These efforts are very costly and almost surely will not be replicable when the GOB takes over full financial responsibility. That which is not fully replicable with local resources would be a bad model.

Foreign donors can provide reasonable equipment and materials, and technical support to get the training center operational. In its initial phases, unless the GOB will stipulate to covering salary costs through a donation to the NGO, foreign donors will need to provide staff salaries as well, but provision for full-time staff salaries should be budgeted by the GOB no later than the second year of operation. This gives the government time to formulate its budget, review it through the Council of Ministers, and gain legislative approval. By doing so, the GOB has an opportunity to assume financial responsibility in stages.

a. Management

The JTC will be managed by a professional staff overseen by a Board of Directors chosen by the founding organizations. As noted above, there should be some linkage, however informal, with the Supreme Judicial Council as well. (See ANNEX D 7. for an Organizational Chart.)

b. Staffing

The JTC should start with a staff that will allow it to mount truly professional training programs. The staff will need to be full time, although for the first few months until the major foreign donation is made, and bridge funding is in place, the director could be part time.

Before the residential or dormitory facilities are completed, the staff composition should be: Executive Director, Program Director, two Master Trainers, Administrator, Driver, and probably two secretaries (one serving as a receptionist.) There should be a part-time fundraiser so that funding beyond that supplied initially by the donors and later by the GOB can be carried out.

After the residential facilities are completed, additional staff will be needed such as: Facilities Administrator, maintenance, cooking, cleaning, and laundry staff as well as security personnel.

No full-time instructors/learning facilitators are contemplated since there will be such a variety of courses that it would be impractical and uneconomical to do so. Normally old-line university professors, used to delivering their beautifully crafted lectures, do not adapt to interactive learning methodology.

c. Training Methodology

Training should be carried out on the adult education principles, with the courses seen by the trainee as being relevant to them, and interactive.

Early in the first year, before setting training course priorities, a profile of the “ideal judge” should be created for each level of court, i.e., Regional, District, and Appellate. The profile should contain fields and levels of legal knowledge desired, the judging and leadership skills required, the attitudes that an ideal judge should display, and the courthouse behavior desired. The training goal then becomes clear. This profile is determined by a group of highly respected judges, prosecutors, and private attorneys who have much court experience. A profile goes beyond a job description which merely says what a person must be able to do...it will include judicial temperament, levels of knowledge and skills, etc.

After the "ideal judge profile" is created, the training center should establish the "actual present profiles" of the judges it wants to train. Junior judges will have different actual profiles than seasoned judges. The training courses are designed to fill as much of the gap between the "ideal" and the "actual" as possible. Some subjects might require a series of courses for some judges, while the same gaps can be filled with only one course for others.

The concept of "Professor" has little meaning in adult education, and the concept of Learning Facilitator should be substituted. Only rarely will a lecture be needed if the trainees are provided with all of the reading materials well in advance. Interactive discussion around examples and principles should be the mode. Careful arrangement of seating will be important. Learning examples should be taken from the everyday cases of the courts and participants. Seminars too often connote short lectures, rather than interactive discussions. The IDLI model already used by PIOR comes close to the model that should be used. The key to interactive learning is the preparation that goes on beforehand. A Learning Facilitator cannot show up with the reading materials the day of the first session. Before they attend training sessions, either at the JTC or its "extension campuses in the courts," the trainees must have access to the materials in time to study them, decide how they apply to them, and formulate their doubts and needs for clarification. Only then can the sessions be relevant.

Obviously all that needs to be taught on a system wide basis cannot be taught in only five days at a central training site, so a system of training trainers will need to be devised. The trainers can be trained at a central site. They in turn, for some of the training of individual judges on specific topics, will train local judges at the courthouse or other local venue. This should be the practice when judges or support staff need to be massively trained in a given topic such as the rewritten criminal and civil procedural codes. This will be possible only if the trainers are able, willing and ready to train their colleagues. This will be effective only if the trainees are able, willing and ready to be trained. This will mean that the trainer of trainer courses will

need to cover both course content and training methodology. It also means that the trainers will need to be chosen carefully, taking into account their interest, capability, and availability to do the job, and the respect with which they are regarded in their own jurisdictions. This will be the outreach aspect of the training, almost like branch campuses. At the same time, when dormitory facilities become available, there will be a large number of courses targeted at smaller populations that can be conducted entirely at the training center. Courses whose participants cut across jurisdictional lines, like for Chairmen, Court Administrators, and many others will be held at the JTC.

One of the suggestions made by PIOR to the Supreme Judicial Council was that promotions of judges be made on the basis of taking PIOR courses. Naturally, that was an interested proposal on which the Council took no action. In the first place, PIOR could not satisfy the training needs of the judiciary. In the second place, it excluded such training as judges might receive in Strasbourg, Holland, France or elsewhere.

To peg promotions or retention only to training requires that the appropriate number and quality of training opportunities be offered - on an equal basis to all. It also presupposes that judges put into practice what they were trained in. It assumes that "learning" is more important than "doing", or that "input" is more important than "output." It also assumes that consecrated judges do not pick up knowledge, skills, attitudes, and behaviors from other experiences and sources, and that some in fact will require no training to be excellent judges.

The team would prefer not to have the judiciary adopt mandatory training as a condition for judges to retain their positions or be promoted, but rather that the judiciary adopt good evaluation procedures of judge performance as the criteria for promotion or retention. Logic indicates, however, that if there is a good training program available, good judges will avail themselves of it. Putting into practice what they learned would be a favorable factor leading to promotion and retention.
The issues of testing judges and certifying their competency should be divided and discussed separately: Test results should be used two ways. Primarily the reason to test in adult education, where there is an interest on the part of the student in what is being taught, is to see if the teaching was adequate since the goal of training is learning, and not teaching. If many students do not do well on a test, assuming that they are reasonably motivated to take a course, then it must be concluded that the teaching was faulty. Test results then help revise teaching practices. If the majority does well on a test, and a few do poorly, then it shows a lack of interest on the part of the students, or capability. A significant number of negative scores could be used as a promotion or retention factor, but courtroom performance is still a better indicator.

This is different from certifying competency. A test result will show only that a student has mastered the material as it was presented, and is capable of applying it, not that he will apply it. Probably every judge will be able to parrot back codes of conduct and ethical cannons, but that does not mean that all will practice them. That is why it is important not to read too much into certification. To certify a brilliant, but devious, judge does little. Promoting or retaining a corrupt judge as a result of test, but not on the basis of on-the-job performance, would be self-defeating.

Can the JTC interact with formal legal education? In Section II C 6. the team advocates that the judicial apprentice program be substantially modified to give it more substance. The JTC could help address this problem by giving courses such as that proposed in part **d Illustrative Training Programs**, How to Use Legal Apprentices. The Council, through the JTC, could also sponsor forums for the law school faculties on the special needs of the judiciary in its modern role in an effort to promote courses in writing and legal research. It is not so much that law schools and the judiciary ignore the problems of poor writing and legal research skills as it is that not everything can be reformed at once. Progress has been made. It cannot be over emphasized that for the memorable past these skills were of little consequence in a court system dominated by party apparatchiks whereby the law could be the least important element of a decision. Now, with so many changes in legislation coming about, the need to teach the law, to support a market economy, has been paramount. Iteration will solve the legal research and writing skills problems. It should not be forgotten that when the Ministry of Education reviewed the curricula of 40 European and other law schools, it chose courses common to all of them as the core courses to be taught in Bulgaria. Therefore, today Bulgarian law schools are in the mainstream of the European teaching tradition.

d. Illustrative Training Programs

The following list of courses is illustrative of the typical courses that should be given by the JTC. While most relate to specific legislation about which the judges must know, some relate to changes in attitudes and behaviors so crucial to modernize the judiciary. Examples of the latter are Leadership and Team Building courses, Judicial Ethics, and Organizing a Court for Effectiveness and Efficiency. The logical venue for these courses is the JTC.

Some courses deal with more effective management of the courts, and should be attended by members of the Supreme Judicial Council so that they also understand the changes as well as they are understood by judges and administrators.

Leadership (Chairmen & Court Administrators)
Team Building (Chairmen & Court Administrators, Supreme Judicial Council)
Management Assistance Teams (Chairmen, Court Administrators, Supreme Judicial Council)

Staff Evaluation (Chairmen & Court Administrators))
Organizing a Court for Effectiveness and Efficiency (Chairmen, Deputy Chairmen & Court Administrators)
Case Assignment for Transparency
How to Use Legal Apprentices
Budgeting (Chairmen and Court Administrators)
Judicial Ethics
New Legislation for EU harmonization

New District Judge Programs (all appointees within 6 months of appointment)
- Criminal Judges
  - Role of the Judge
  - Role of the Prosecutor
  - Roles of the Police
    - Admissible Evidence
  - Case Management
  - Working as a Panel
  - Anti-corruption Campaign
  - Legal Research
  - Criminal Procedures Code
- Civil Judges
  - Market Economics
  - Bankruptcy
  - Commercial Law
  - Case Management
  - Working as a Panel
  - Legal Research
  - Civil Procedures Code
- New Regional Judges (within six months of appointment)
  - Role of the Judge
  - Case Management
  - Land Restitution
  - Legal Research
- Case Management
- Disciplining Attorneys
- Court Annexed Mediation

- Support Staff
  - Functional Areas
    - Case Processing
    - General Concepts of Law and Legal Matters
  - Ethics

Dealing with the Public
Conflict Resolution

e. Costs

A residential facility will be relatively costly to furnish and maintain, and should not be undertaken by donors until there is guaranteed continued financing at a date certain from the GOB. Maintenance alone of the facility would be in the neighborhood of $200,000 annually, and total annual recurring training costs including staff will be slightly more than $300,000. Additionally, the one-time cost of equipping the JTC office will be nearly $80,000. Costs of remodeling and refurbishing a residential facility will be in the neighborhood of $500,000. Thus the importance of an up-front GOB sustainability commitment if USAID and other donors like the Open Society are to commit nearly $1,500,000 of scarce resources over a four year period for direct financing of training, not to mention the contractor costs associated with this project. (Annex D contains more detailed budgets, including a JTC grant by fiscal year.)

As mentioned in Section I H. Donor Coordination, the only significant donor that indicated to the team that it was prepared to support judicial training was the Open Society. The team did not ascertain firm commitments because the organization wanted to review USAID's proposals before making a firm commitment. USAID should negotiate with the Open Society a co-financing of this project if the Open Society remains interested. The team was told, however, that the Open Society was discussing bridge financing with the courts at the time that the team departed country.

The sums required are those shown above, and are required regardless of who is the donor or group of donors. The annual budgets set forth in Annex D 5 reflect the phasing in of the JTC over a four-year period. Depending on the availability of the dormitory training facility, and the readiness of the JTC to take on that responsibility, the amounts shown by Fiscal Year should be on target.

B. Improvement of Legal Education

1. General Principles of Legal Education in the Civil Law World

Since most new Bulgarian judges are recent law school graduates, the skills that they acquire in law school are of the utmost importance.

Bulgaria follows the Civil Law system in legal education. Law students undergo a five-year undergraduate education in law. In a Civil Law country, law students are taught that law is a science, and that the task of the legal scientist is to analyze and elaborate principles that can be derived from a careful study of legislation into a harmonious systematic structure. By contrast, the

Common Law lawyer does not care too much whether or not such a system exists. Guided by judicial precedent, the Common Law lawyer is busy with individual cases and is not overly concerned whether there is or is not controlling legislation in a particular case.

Consistent with the tradition of legal science, Civil Law education tends to be theoretical. The most abiding image is a professor lecturing on the Civil Code before students in a large lecture hall, with little class participation. But Civil Law legal education has its practical side, too. This comes mainly in the seminars offered by teaching assistants that complement each lecture. This is where the general principles that are dealt with in a lecture can be given concrete expression. In these seminars the Civil Law student can gain exposure to legal research, legal writing and problem-solving skills. However, the main exposure to practical skills comes in the compulsory apprenticeship year or years that follow law school. For example, in Germany the apprenticeship is two years but law school is only 3 ½ years, compared with the Bulgarian five years of law school and one year apprenticeship.

After completing the apprenticeship the new lawyer chooses among the several branches of the legal profession. These choices include a career as a judge, a public prosecutor, a government lawyer, an advocate or a notary.

2. Widely-Held Perceptions of Legal Education in Bulgaria

There is a widely held belief that reform in legal education has not kept pace with judicial reform in Bulgaria. Among the most commonly expressed criticisms of Bulgarian legal education that the design team encountered are the following:

- Law school curricula have not changed to meet the needs of a market economy and an open, democratic society.

- Even where the curricula have been changed, the courses are taught by old professors still teaching old doctrines in the most unimaginative way.

- Frequent changes in law that have occurred in recent years are not incorporated into the law school curriculum.

- Courses are too theoretical. There are not enough practical, case method, problem-solving courses in the curriculum.

- The three State exams taken in the last year of law school are not sufficiently rigorous to ensure that students are fit to practice law.

The new law schools are poorly organized and under funded. Since 1991 there has been a massive growth of law schools in the country. Before 1991 there was only one law school in Bulgaria - at Sofia University with a branch at Veliko Turnovo.

In 1991 there was a shortage of law graduates in Bulgaria. Now the legal profession is in danger of being swamped by the large number of graduates being turned out by the new law schools.

As further evidence of the current chaotic situation, none of the law schools is accredited. This even holds true for Sofia University Law School. (At the time when Sofia was the only law school in the country accreditation may have seemed hardly necessary.)

In the Findings Section of this report these perceptions will be revisited and analyzed.

3. Requirements of the Scope of Work Relating to Legal Education

The SOW requires the design team to:

Prepare general recommendations for a long-term effort to improve law school curricula and teaching methods. This should address, inter alia, the incorporation of changing laws and procedures into curricula. The recommendations should focus on efforts to ensure that students acquire adequate legal writing and research skills, and they should specify preliminary explicit targets and benchmarks for impact measurement.

Prepare recommendation(s) as to law school(s) with which the program might partner, and on the content and phasing of any partnership program(s), taking into account the role of the program's training activities and explicitly considering any role of the American University in Bulgaria.

4. Principal Findings in the Legal Education Area

The design team makes seven principal findings in this phase of the report.

a. Law School Curricula Have Changed to Meet the Needs of a Market Economy and An Open, Democratic Society

Subjects in the law school curricula are governed by the Ministry of Education, Science and Technology (MOE) under the provisions of the Higher Education Act of 1995 (the HEA). Starting in 1992 the MOE has promulgated regulations governing 194 different specialties of higher education. Law is one of these specialties - and is the first one that the MOE turned its attention to in 1992. Before settling on the list of required courses in the law school curriculum, the MOE analyzed 40 law school curricula from 26 countries, including the United States, in an exercise that lasted six months.

Based on its research the MOE eliminated all "ideological" courses and established a list of twenty required courses for all law schools in the country. Many of these courses directly relate to the needs of a market economy and civil society. The list of twenty required courses includes:

Constitutional Law	Administrative Law	Labor Law
International Public Law	Criminal Law	Tax Law
Finance Law	Family Law	European Union Law
International Private	Insurance Law	Obligations Law
Banking Law	Civil Law	Commercial Law
Civil Procedure	Criminal Procedure	Wills and Estates
Legal History	Real Property Law	

In addition, the MOE prepared a further list of optional courses such as Roman Law, Intellectual Property, and Criminology that have to be carried in the curriculum. These may be elected by the student. An optional course, once elected by the student, becomes mandatory and must be carried through to completion. There is also a third list of facultative (non-credit) courses.

Under Article 10 of the HEA the MOE establishes and maintains a "state register of specialties in higher schools," including law. If a law school does not offer the required specialties, it will become subject to various legal sanctions, including closure.

b. It is Possible that Old Professors Are Still Teaching Courses at Some Law Schools in the Same Old Way But It Is Not Likely that This is a Generalized Practice

For each course in the curriculum there must be a detailed syllabus and an annual timetable. This is regulated by Chapter Five of the HEA entitled Structure and Organization of Studies at Higher Schools, particularly Articles 39 and 40. The syllabus shows the breakdown between lectures and practical exercises. Based on a review by the design team of several course syllabi, they appear detailed and complete. It seems unlikely that there is any wholesale flouting of the HEA by a law school though individual acts of non-compliance probably do occur.

It is true that some of the law professors that the design team met with do appear to be old nomenclature types, but many do not. Many are dynamic, free market proponents and modern in their thinking.

c. At the Better Law Schools Professors Do Monitor Changes in Laws and Routinely Include Explanation of the New Laws in their Lectures

The Dean of the Law School at Sofia University told the design team that he had just provided his students in Administrative Law with 20 pages of reprints of new laws from the State Gazette. These will be covered in course lectures at the appropriate point in the syllabus. The Dean says he routinely does this and so does every professor he knows.

There is a relatively small cadre of " habilitated" law professors in Bulgaria - probably not more than 80. These are professors who by virtue of their qualifications and experience have been granted authority by the State Academic Qualifications Council to lecture at a certain level in law school. Every law school must have a certain number of these "habilitated" professors. For this reason they tend to ride circuit among the different law schools in the country. It seems likely that habilitated professors would provide copies of the new laws to their students, wherever located, and include the new provisions of law in their lectures when they meet their classes outside of Sofia. The record may be considerably worse at some law schools on this point - and some professors may not be conscientious in updating their lectures. But the design team doubts that this is a generalized failing.

d. New Requirements for Practical Course Work in Law School Are Having a Positive Impact

Practical training is a large part of the course syllabi that the MOE has established for the legal curriculum. Nowadays every law school dean in Bulgaria knows that he or she must provide more practical content in legal education. At each law school there is an Academic Council that decides on the mix of theoretical lectures and practical seminars. The practical side is clearly on the ascendancy. This includes legal research, legal writing, and problem-solving skills.

This emphasis on the practical is reflected in Council of Ministers Decree No. 75 dated April 5, 1996. Section 7 of the Decree specifies the 20 required courses that each law school must offer. Subsection 3 refers to the mix of lectures, exercises and practical work that will be established at each law school and requires that "lectures be not less than one half of the required course hours." Section 10 of the Decree provides that starting from the second year of law school a student will spend not less than 14 days a year on practical work in governmental and judicial offices.

It is impossible for a new law graduate not to be exposed to legal research and writing skills. And this trend seems to be uniformly welcomed. The design team heard no opposition to the goal that legal education must be more practical. For example, at Sofia law school the Academic Council recently divided the 150 course hours for Banking Law into 90 for lectures and 60 for practical seminars - which is quite a change from the almost total earlier emphasis on the theoretical. Law schools are scheduling more and more practical studies that come close to the 50% limit imposed by the Council of Ministers.

Also at Sofia law school students regularly participate in moot court competitions - and a room is dedicated for this purpose. These moot courts are not greatly dissimilar from what would be found at an American law school. In compliance with Section 10 of the COM Decree, between first and second semesters in their second year, students spend two weeks learning practicalities of Administrative Law at the Municipality of Sofia. Between semesters in the third and fourth year, students similarly attend court hearings and Parliament.

This emphasis on practical course work is so recent that it is not surprising that many older lawyers and judges are not familiar with the new trends. Several lawyers interviewed who were critical of law school's lack of practical course work were surprised to learn of the existence of Council of Minister Decree No. 75 - and they thought it was a positive step. Even many recent graduates will not have received as much practical work as they would have had they graduated today. On the other hand, as in the United States, there are many new practitioners and judges who feel overwhelmed by the complexity of the writing and research demands placed upon them - and they would probably feel that way no matter how much clinical or casework they had in law school.

If practical course work is neglected in law school, this is most likely to happen at the seminar level. In a seminar a teaching assistant - through casework, legal research and writing assignments - illustrates the general principles covered by the professor in the lecture. The professor is obligated to monitor the work of his teaching assistants, but some professors are more conscientious about this than others. Professors attend seminars only rarely. Many teaching assistants emphasize the required casework, legal research and writing, but others do not. If the students are unprepared or are hazy about the legal principles covered in the professor's lecture, it is quite possible that the assistant will decide to review points in the professor's lecture. This could make for a boring seminar for those who are fully prepared.

This is an important problem but it is hard to mandate a solution. The appropriate place to address the problem is at the law school's Academic Council and there is some evidence that the problem is being addressed at that level.

e. The Enormous Recent Growth in Law Student Enrollment and Number of Law Schools Is Starting to Diminish As State Regulation and the Prospect of Accreditation Increase

In recent years with the establishment of a market economy in Bulgaria, an enormous interest in going to law school and becoming private lawyers developed. At first, the government took a rather passive attitude in response to this explosion of interest and is only now beginning to assert itself by establishing enrollment limits.

In October 1998 there were eleven recognized law schools in Bulgaria with a total enrollment of more than 13, 000 - down somewhat from a high of 15 law schools and a total enrollment of 15,000

several years ago. Even this reduced number appears unsustainable in a market economy if lawyers pursue their traditional roles only. According to the Bulgarian Bar Association, there are only 7000 registered lawyers in Bulgaria, of whom 3,000 reside in Sofia. Clearly young lawyers who could be more relevant given their non-traditional training could dominated the old-line lawyers in a short time.

All of the current eleven law schools are part of universities. Seven of these are State institutions: Sofia University, Paisii Hilendarski University of Plovdiv, St. Kyril and Metodii University of Veliko Turnovo, University of National and World Economy, Neofit Rilski South West University (Blagoevgrad), Technical University of Varna, and Angel Kunchev University of Rousse. The remaining four law schools are private - namely Bourgas Free University, New Bulgarian University, Varna Free University and Slavyanska University in Sofia.

State requirements for law schools are set forth in Chapter Three of the HEA entitled Types of Higher Schools, Establishment, Transformation and Closing. These apply to the number and qualifications of professors, entry requirements for students, and for private law schools, an Act of Incorporation covering name and location, property and funding, and the rights and obligations of the founding members.

Under Article 9 of the HEA the Council of Ministers can order the closing of individual faculties, colleges or institutes for failure to comply with the state requirements while that right is reserved to the National Assembly in the closure of a University itself. The design team is not aware of any case where that power has been exercised with respect to law schools or for that matter, with respect to any other institution.

Instead the Council of Ministers appears to be asserting State regulation over law schools through a different subsection of Article 9. This allows the Council of Ministers to "approve the number of students and post-graduates by subjects, whose training shall be funded by the state, and the maximum number of students and postgraduates who shall be trained at each public higher school."

This authority was used this year by the Council of Ministers to deny Slavyanska University and its law faculty the right to admit any new entering students. Slavyanska remains one of the eleven currently functioning law schools but obviously its future is in doubt. Also for the past three years the Council of Ministers sharply reduced the allowable entering class at South West University law school from the earlier level of 500 students per year down to 200 students per year. The Government appears to view this limiting of class size as a more palatable tool than outright closure.

f. Accreditation Has Gotten Underway

In addition, this year the accreditation process of institutions of higher education and learning has gotten underway. This is being undertaken under Article 11 of the HEA. Under this Article the National Evaluation and Accreditation Agency (ANEAA) at the Council of Ministers is the

"specialized governmental authority for quality assessment and accreditation" The NEAA has already started reviewing the files of 108 applications for accreditation. Thirty-three actions have been completed, with 28 applications approved and five rejected. Denials of accreditation may be appealed to the Supreme Administrative Court by virtue of Article 86 of the HEA.

Although none of the accreditation actions to date relate to law schools, law school accreditation will soon begin. By the end of calendar year 1998 all educational institutions must apply for accreditation. If an institution does not apply, it will lose State support and it cannot issue degrees. The process for accreditation will take over a year to complete.

Past policy of the MOE and NEAA has been to avoid penalizing current students for the consequences of an educational institution's non-compliance with the provisions of the HEA. In the future the intent is that students who apply to non-accredited institutions will accept the full consequences of non-accreditation of their institution of choice.

g. In Order to Graduate from Law School, Students Take Three State Exams

Most persons interviewed by the design team thought that the exams were difficult and a good measure of the student's accomplishments. The exams cover Public Law, Civil Law and Procedure, and Criminal Law and Procedure. There are aspects of the State Exams that seem strange to an American lawyer. The three person examining panel (a professor, judge and practicing lawyer) administer an oral test to a required twenty-three students per day! This is quite a load and equates to less than half an hour per student. But the questions in the exams are considered to be difficult and appropriate. There is a question about whether the tests are fair to students who pick by lot two questions per exam from a large container, but this is very much a European practice. It is not surprising that the pass rate usually does not exceed 75 percent.

Because of the difficulty of the State exams, students usually spend several months in preparation for them. It is not customary for a student to take all three at a single sitting. The usual practice is to take two exams at the Fall sitting (usually in November) and to take the final State Exam in April at the next sitting. As with U.S. state bar exams, failed exams can be repeated at the next regular sitting.

5. Principal Recommendations

The design team's principal recommendation is that USAID not carry out a major technical assistance effort geared to the law schools at this time. Although there are obvious problems in the sector, there are positive developments as well. Curricula have been modernized, practical course work has been added, younger dynamic professors are making their appearance, and academic councils are starting to enforce standards. Bulgaria is increasingly adopting European best practices in many areas and this will extend to legal education as well. At Sofia law school this year there are visiting law professors from Italy, France, Germany, Spain and the Netherlands.

Civil Law legal education is not an area where the U.S. has a particular comparative advantage. It makes much more sense to leave this area to the Europeans and the World Bank. Also it is obvious that there is going to be a shake-out of law schools in the next few years and it would be premature for USAID to consider partnering arrangements with law schools that might not be in existence at the time.

The truly interesting area for USAID at this juncture would be the policy environment. The evaluation and accreditation process is key, as is the monitoring of state requirements. But these functions are mainly the responsibility of non- judicial sector institutions - namely the MOE and NEAA. It does not make sense for the USAID technical assistance contractor to develop a full assistance relationship with these entities. Besides this is an area where EU Phare and the British have been active. Currently there is a British Council expert attached to the NEAA. Although the USAID technical assistance contractor may be expected to monitor these policy actors for their impact on legal education, this should not be a major part of the contractor's work.

USAID non-involvement at the law school level will not leave law schools totally neglected. The Open Society Foundation is working both with Sofia and Plovdiv Law Schools to develop live client law clinics to give hands on/practical experience to law students in their fifth year. There will be clinics in the areas of administrative, labor and criminal law that will also help needy people who would otherwise have no access to these legal services. Also at Sofia and Plovdiv law schools OSF is supporting law libraries and starting a program to build human rights material into law school syllabi.

In the past, Democracy Commission grants have been made to fund a student-edited law journal at New Bulgarian University, a moot court competition at Sofia University, and a "Street Law" project designed by an NGO. With small NGO grants of this kind there are obvious problems of sustainability and dependability. But in appropriate cases they are worth doing - particularly where USAID wishes to have quick impact in a particular area and is not too concerned by the long term sustainability issues.

Without a major undertaking in the law school area, USAID may wish to consider expanded grants of this kind. One possibility is to open a Judicial Strengthening window at the Democracy Commission or in the Democracy Network program, if USAID believes that is more appropriate. The other possibility would be to build in a small grants component into the technical assistance contract along the lines that have been done in other CEE/NIS countries. This issue is treated more fully under the implementation arrangements discussed in the Acquisition Plan.

In the out years of the contract, depending on what happens in the policy environment, a direct law school intervention may be appropriate. Bulgaria has been moving fast on the policy front in recent years and it may be that a law school partnering arrangement is attractive at that time. At this moment it is truly impossible to say. But the USAID contract, as and when negotiated, should have

sufficient flexibility to accommodate that eventuality in the out years.

C. Post Law School Apprenticeship Year

1. The Reason For An Apprenticeship Year

As described in Section B, most Civil Law countries require an apprenticeship year or years following law school as a prerequisite to legal qualification for practicing in the courts.

Each country has adopted its own approach, but the general principle is to require law graduates to do practical things in the legal workplace emphasizing legal research, legal writing and problem-solving skills.

As mentioned, in Germany there is a two year apprenticeship, following 3.5 years of law school. At the end of the two year apprenticeship, students must pass a difficult examination administered by the Ministry of Justice. This examination not only tests for practical skills recently acquired but also covers subjects previously covered in law school.

Poland has a one year internship, also under Ministry of Justice tutelage. In recent years Poland has sought to make the apprenticeship year much more substantive, with a difficult examination at the end.

In Bulgaria there is a one year apprenticeship following five years of law school. Three difficult examinations precede the apprenticeship and another examination administered by the Ministry of Justice follows at the end of the year.

2. Critiques of the Apprenticeship Year in Bulgaria

The document prepared by Patricia Liefert entitled *Developing a Rule of Law Strategy for Bulgaria* had this to say about the apprenticeship year:

Law students are required to spend one year as interns or residents after law school, during which they should learn practical skills like legal research and writing, but respondents agree that this year is a total waste of time for most, and involves running errands or drinking coffee. The lack of practical skills of law graduates makes their supervisors during the internship year reluctant to invest any time in training them from scratch, and so the first opportunity to develop such skills is literally on the bench.

Most people the design team interviewed were critical of the apprenticeship year. Some interviewees were enthusiastic about their *own* apprenticeship year but were generally critical about the overall organization of the year. One new judge said that everything depends on the initiative of the graduate. If an apprentice is motivated, hard-working and intelligent, then a judge will give

the apprentice lots of work to do, including writing legal opinions. To make sure that they get maximum value out of their year, apprentices must make a major effort in structuring their own apprenticeship.

However, the viewpoint expressed above - namely that new graduates are so lacking in legal research and writing skills that they could not be of use as an apprentice to an overburdened judge - is not one that the team shares. This was frankly an opinion that we rarely encountered. In most interviews we found judges who were pleased with the skills of their apprentices or if not, at least felt that the apprentices possessed a minimum level of competence that they could work with. Many judges said that apprentices had reasonable research and writing skills, but they couldn't be trusted to write an opinion where many different areas of law came into play and had to be reconciled. So a judge had to be careful in the research and writing assignments handed to an apprentice - but still there was much useful work that an apprentice could do. Perhaps most telling was the number of judges without apprentices who made it very clear that they would welcome one.

There are other reasons why judges may be reluctant to accept apprentices or use them fully. These are described below.

Near unanimity was expressed about the Ministry of Justice examination that follows the apprenticeship year. Practically everyone said that it is not serious and there is no reason to invest much time in preparing for it. The pass rate is close to 100 percent. This is in marked contrast to the three State exams at the end of law school which are a major hurdle to cross and for which students prepare for months.

In the Findings Section of the Report these critiques will be revisited and analyzed.

3. Structure of the Apprenticeship Year

The structure of the apprenticeship year is governed by Ministry of Justice Regulation No. 30 of February 29, 1996.

The Regulation actually deals with two separate apprenticeships. The first is for judicial candidates who spend their time in the courts, prosecutors' offices, and the National Investigation Service (NIS). The second is for trainee lawyers who spend their apprenticeship year in lawyers' offices.

The apprenticeship year for judicial candidates is minutely spelled out in the Regulation. Although exceptions are possible, the basic structure of the year is a rotation among judicial offices. The first six months are to be spent in the regional court and the last six in the district court. The following description is extracted from Section 10 of the Regulation.

The first rotation is to be for three weeks in the regional court registry. The goal is for the recent

graduate to gain practical knowledge of all questions regarding court records for civil, criminal and administrative cases and to prepare legal correspondence. The next three months are to be spent in the regional court dealing with all aspects of civil, criminal and administrative cases. This includes analyzing the legal dispute, handling and evaluating evidence, preparing for a court hearing, and drafting court orders. Then there is to be a week in the court archives to learn about how a case is closed, what evidence is kept, and how long a case is kept in the archives. Then comes one month on execution of judgments, including voluntary execution, compulsory sale, accounting for proceeds etc. The final month of the first rotation is to be spent in the notarial office doing legal drafting.

The second six months is to be spent at the district court level. This rotation is to be divided equally among the court, prosecutor's office, and the NIS. In district court, time is divided among civil, criminal, commercial and administrative law cases. As in the regional court rotation, one is to work on all aspects of the judicial chain from summonses to execution of judgments.

Section 13 of the Regulation requires judicial candidates to maintain a file of legal documents that they have drafted during the year, appropriately initialed by their supervisor, and to periodically have their permanent and temporary supervisors sign their attendance book.

Section 6 of the Regulation states that the goal of the apprenticeship year for trainee lawyers is familiarization with the work of a lawyer, the organization of the Bar, and the workings of the Judicial Branch. Further details on this training year are contained in Article 6 of the Law on the Bar.

Both trainee lawyers and judicial candidates come together at the end of the apprenticeship year for a practical-theoretical examination organized by the Ministry of Justice. Section 20 of the Regulation has this to say about the examination:

(a) The State practical-theoretical examination tests the judicial candidate and trainee lawyer on their basic knowledge of legal institutions, organs of the Judicial power, and the Bar.

(b) At the time of the examination the judicial candidate and trainee lawyer may use necessary normative acts (controlling legislation).

The exam is offered the first Friday of every month (except August) at the Ministry of Justice. Judicial candidates and trainee lawyers who fail the exam may re-take it.

4. Principal Findings in the Apprenticeship Area

The design team offers the following three findings:

a. An Apprenticeship Year Is A Necessary Component of a Sound Civil Law Legal Education. There Are Serious Implementation Problems In the Implementation of the Program

The apprenticeship year is necessary in the Civil Law system, and the structure for the year that is spelled out in Regulation No. 30 is perfectly appropriate if the goal is to familiarize the apprentice with the full range of judicial options open before him. However, it does not allow the apprentice to learn any particular job in great detail nor to make an important contribution to the workings of the court system . Unfortunately, for too many law graduates the system does not work as intended. Why is that so?

The design team believes that several factors are at work here. One is that the apprenticeship relationship is one-sided. The governing Regulation emphasizes the training that must be provided to the apprentice, but nowhere is the idea expressed that the apprentice has something useful to offer the judge. The fact is that many judges are overwhelmed with caseload and administrative burdens. A highly motivated apprentice could do legal research and other tasks that relieve some of the burdens on judges and at the same time improve the law graduates' skills.

A second factor is the unmanageably large number of apprentices available for assignment. The rapid growth in law school enrollment has led to large increases in the number of apprentices and delays in their work assignments. One law graduate waited two years to get into the court of his choice. As of November 1, 1997 there was a combined total of 2306 trainee lawyers and judicial candidates in the country, consisting of 1546 women and 760 men. There are 300 apprentices in Varna, 750 in Sofia, 150 in Plovdiv, 50 in Bourgas, to mention some prominent examples.

The design team encountered one judge in Varna who had 20 apprentices to manage. He said it was an impossible situation. In order to cope, he had the apprentices prepare their own evaluations for his signature and they did very little work of real value.

b. Regulation No 30 Should be Revised to Give Judges and Other Judicial Personnel Greater Incentives To Use Apprentices

One incentive would be to allow longer assignments with judges and to give judges discretion to choose their apprentices. Neither of these is expressly mentioned in the Regulation. The only present flexibility in the Regulation is a brief clause in Section 10 that reads as follows:

"The Minister of Justice by exception may specify an individual plan for the carrying out of the apprenticeship of the judicial candidate."

It is not even clear that this clause may be applied for the benefit of a judge or other judicial officer. It usually has been interpreted to give law graduates more flexibility on the kind of apprenticeship year that they seek.

Many judges who are reluctant to devote the time and effort of training an apprentice might be willing to do so if they knew that they would benefit from the services of the apprentice for a much longer period. Considerable thought has gone into the preparation of the rotation program, and it may make sense in many cases - both for the court and the apprentice. But something akin to law clerkship in the United States may be appropriate at times, and the rules should permit it.

Given that there are more than 1000 Regional, District and Appellate judges, a substantive clerkship program could provide meaningful services to the courts. Similar "intense apprenticeships" for the Prosecutors and Investigators would be beneficial for those offices as well. While working for one judicial office, an astute apprentice can learn a lot about the interface with other judicial offices- and far more than he would by simply showing up at that office to sign an attendance book and then go off to other pursuits. After all, apprentices with private lawyers ("trainee lawyers") do not have to rotate and presumably learn enough to appear before the Bar if they pass the exam.

In short, the design team feels that by assigning apprentices in places where judges and other judicial personnel are extremely shorthanded, especially in outlying areas, judges would welcome the extra help in legal research and drafting.

Section 3 of the Regulation presently provides that law graduates will satisfy their apprenticeship in their place of residence. As an exception, they may be assigned to another district court to satisfy their apprenticeship where important reasons justify this action. The interests of the judicial system in having apprentices assigned to courts where they are most needed is not expressly mentioned. The design team suggests that Section 3 of the Regulation be modified to explicitly mention the needs of the judicial system.

c. The Examination At the End of the Apprenticeship Year Should Be Strengthened

Based on the preceding discussion, this finding should come as no surprise. Most Civil Law countries have an exam comparable to the MOJ exam after the apprenticeship year. The reason is to give law graduates an incentive to get the most out of the apprenticeship year and to make sure they receive an assured minimum of practical training. This is true even in cases - such as in Bulgaria - where State exams are required following law school.

In most countries this MOJ exam is an arduous process. But in Bulgaria due mostly to the lax practical-theoretical MOJ exam, "entry to practice in the courts is through an open door" - as one Bulgarian practitioner put it.

Each year at the current elevated law school enrollment levels, almost 3,000 new graduates are knocking at the door of the legal profession. If for no other reason than this, the exam should be considerably tightened to test for skills and knowledge learned during the year.

5. Principal Recommendations

The design team's principal recommendation is that USAID carry out an effort to strengthen the structure and content of the apprenticeship year for judicial candidates provided that the GOB makes the necessary commitments to improve the program. As a minimum, there are four key undertakings that should be spelled out in the framework document (most likely, a memorandum of understanding) with the Government of Bulgaria. These are:

a. MOJ Staffing

There is no MOJ office or cell with sole responsibility for the content, structure, and implementation of the apprenticeship program. Instead there are several (overworked) individuals who try to handle the immediate needs of the program in addition to their normal responsibilities. The result is an apprenticeship program that receives very little oversight and direction. As a condition for USAID assistance in this area, the MOJ should agree to strengthen its management of the program.

b. Amendments to Regulation 30

As described above, the MOJ regulations on the apprenticeship year must be revised to create greater incentives for judges and other judicial personnel to use apprentices. Several suggested revisions are described above. The MOJ may wish to consider others that promote the same objective.

c. Financial Inducements to the Apprentice

More likely than not, law graduates will need some type of financial assistance to take up an apprenticeship in an outlying, underserved area. They will probably need help both with transportation and living expenses. Currently, apprentices (who live in their home areas) only receive the minimum wage of DM 55 - around $36 - per month. A conservative financial estimate of the additional financial support needed is around $300 per year per apprentice.

This need not be an excessive financial burden for the government. Of Bulgaria's 116 regional courts and 28 district courts, we estimate that only a minority of these would be considered outlying and underserved and in need of this extra subvention. Our estimate of the initial dimensions of the program is 250 apprentices working in 40 regional courts and 10 district courts. In financial terms, applying the suggested amount of $300 per apprentice per year, this would amount to an additional governmental outlay of $75,000 per year.

d. Strengthening the MOJ Examination

Although the USAID-financed technical assistance contractor will be available to help on the substantive areas suggested for improvement, the MOJ must be willing to make a commitment to implement a course of action for strengthening the exam.

Assuming that the necessary framework document covering the above four areas is signed with the GOB, the USAID-financed technical assistance contractor will be available to help implement the program. The contractor will work with the MOJ to restructure the apprenticeship year based not only on the wishes of the judicial candidate but on the needs of the judicial system. Measures to assure that the judicial candidate will be of service to the judge will be taken. The contractor's organizational development specialist will help the MOJ improve its management of the program. The education/testing specialist will work with the MOJ to design a serious, comprehensive examination to be given to all apprentices at the end of the year. These positions are included in the Acquisition Plan set forth below.

In interviews with ABA/CEELI the design team learned that one Bulgarian NGO -BILD (Bulgarian Institute for Legal Development) - was interested in undertaking a strengthening program of this kind related to the MOJ apprenticeship program. The team met with the key person in BILD on this activity, and although BILD's plans are only at an initial stage, the interest is certainly there. Should USAID believe that the MOJ is firmly committed to the program but needs the additional support that BILD or another NGO can provide to help make it a reality during a transitional period, then it may be advisable to involve the NGO in the activity. USAID may wish to seek the opinion of the contractor on this issue. The team reiterates that to achieve sustainability, this must be a governmental program supported by the GOB in the framework document. Should an NGO be involved, this should be for a limited period (e.g. not more than two years) and to achieve a precise objective.

To illustrate the above principle, the contractor may recommend that while the MOJ is actively engaged in improving its management of the apprenticeship program and in strengthening the MOJ exam, the NGO could help launch the program targeted for the underserved areas. Still, to assure GOB ownership of the program from the beginning, the four MOU targets should be met.

As a general point the design team recommends that the GOB also institute an apprenticeship program geared for the government lawyer. Currently, only judges, prosecutors, investigators, and private lawyers are covered by apprenticeship programs. Many lawyers work in Ministry and departmental offices and at the moment there is no apprenticeship program geared to this kind of work. Although the team does not anticipate that this will be part of the contractor's scope of work, the team offers this as a general recommendation.

Lastly, the design team does not anticipate major support for the apprenticeship program for trainee lawyers organized by the Bar Council (other than the redesign of the MOJ exam), but suggests that the program retain sufficient flexibility to do that if deemed advisable and recommended by the contractor.

III. COURT MANAGEMENT

A. Constraints Related to Court Management

The constraints described in the Constraints Sections of Chapter I and Chapter II also pertain to the area of Court Management. Worth reiterating briefly are several:

- # The physical conditions and lack of space in some courts make the reorganization of staff and records difficult.

- # Many judges are recently out of law school and do not have the experience or confidence of attorneys appearing before them in cases. Many look upon judging as a "training period" for private practice.

A constraint not mentioned in other sections that pertains directly to court management is the necessity to change civil and criminal procedural codes and other legislation in order to effect even the most minor change in administrative procedures. There is no general provision for the delegation of administrative functions to administrative personnel. As a result, changing administrative procedures is a complicated, time-consuming process that requires legislative action.

B. Principal Findings Related to Court Management

1. Statistics - Case Disposition Time

There are no statistics available which indicate the exact time taken to adjudicate a case. Because the instructive period of time within which cases are to be terminated is three months, all MOJ statistics are maintained in terms of this time frame. The annual Bulletin published by the MOJ, for example, provides disposition time only in terms of the % of cases disposed of within three months by each district and regional court and a national average. However, there is some skepticism with regard to MOJ statistics due to a recent scandal which implied that they might be unreliable. Nonetheless, the latest published MOJ Bulletin (1997) indicates that 51.26% of all criminal cases and 53.51% of all civil cases in the regional court are completed within three months. Similarly, it shows that 51.10% of all first instance criminal cases and 83.21% of first instance civil cases are completed within three months in the district court. (First instance cases are those cases not on appeal from the lower regional court.) Although there are statistics which break these percentages down by type of case and which indicate the number of total criminal cases completed in less than 3 months, between 3 - 6 months, between 6 - 12 months, and over 12 months and the total number of civil cases completed in less that three years, within 3 - 5 years, and over 5 years, they were unavailable to the team.

Similarly, there is no compiled record of case disposition times in the individual courts. There is raw data that could be compiled to get this information; however, such compilation would be time-consuming. It would be necessary to go through the entry made for each case in one of the ledgers which indicates the date the case was filed and terminated and in which is checked the appropriate time frame category (specified above) in which the case was disposed. The team suggests that case disposition times in the suggested model courts be determined before USAID activities begin to establish baseline data, as well as periodically throughout the project duration in order that impacts of interventions can be measured.

2. Case delays

There are many reasons for delays in the adjudication of cases and many changes that could be pursued which would shorten the time for case disposition. The team does not profess to have identified all of these areas. It is reporting some of the most common obstacles to the more rapid disposition of cases and areas brought to its attention which could be explored and addressed. ABA/CEELI has also been interested in the area of civil procedural code reform and has many ideas on this subject. Attempts to effect change in most of these areas, however, would require legislative changes. Some illustrative reasons for delay or areas in which changes would shorten case disposition time include:

a. Administrative and clerical burdens of all judges

All judges spend substantial time on administrative duties thereby depriving them of time that could be devoted to their cases which taken together constitute their workload. One judge estimated that two of five working days are spent on administrative and clerical functions, examples of which include:

(1) Certification of all copies of judicial documents

(2) Signing and verifying certificates of good conduct
(These certificates are issued after searches are made of court conviction records. They are required for many reasons such as getting licenses, for possible employment, etc.)

(3) Verifying/signing certificates of actual standing
(These certificates provide general data for businesses such as the name of the general manager, real estate holdings, amount of capital, shareholders, etc. for interested parties.)

(4) Issuing execution titles

(Judges who have issued case decisions issue orders to execution judges for enforcement of such decisions. These execution titles duplicate the contents of the decision.)

(5) Verifying summonses

(Undeliverable summonses are returned to the judge to write a resolution to notify parties that a new address for the person summoned is needed.)

(6) Certifying and signing summaries of proceedings (protocol) prepared by secretaries

(7) Procedurally reviewing claims for appeal

Since the judges do not have secretaries, they also type their own decisions (most on manual typewriters), answer their own phones, and receive their own visitors. The enormous amount of time spent in performing these administrative and clerical responsibilities takes valuable time from their true function to hear and decide cases and contributes to delays in the adjudication of cases. It also reinforces the relatively low esteem in which judges are held by the public. Attempts to relieve judges of the duties enumerated in (1) - (7) above would most likely require changes to Regulation 28 of the Ministry of Justice and, quite possibly, the Procedural Codes and the Commercial Act.

b. Administrative Burdens of Chairmen

Chairmen (who are comparable to Chief Judges in the US) spend considerable amounts of time on administrative functions. One Chairman, who jokingly mentioned that he even hires the cleaning ladies and arranges for snow removal at the court, estimated that 1/3 of his time was spent on administrative functions of this kind, some examples of which include:

- Personnel functions
- Building maintenance, repair, and renovations
- Ordering supplies
- Statistical report preparation
- Budget preparation
- Assignment of cases

These responsibilities take valuable time from the Chairmen who are often the most senior judges in the court - time which could otherwise be devoted to hearing and deciding cases. Any efforts to relieve Chairmen of these functions would most likely necessitate a change in the Administrative Regulations of the MOJ. It may also necessitate change in the Judicial Powers Act.

c. Lack of legal research assistance/legal information data software

Many judges do not have assistance in terms of legal research (apprentices) or sufficient legal resources to aid them in their decision-making. While they are provided with the monthly Bulletin from the MOJ which contains decisions considered to have established precedent, laws are changing rapidly and it is difficult to keep up with them. Some judges who have computers have purchased legal information data software which contains such information as updated legislation, normative acts (government decisions and regulations/subsidiary legislation), Supreme Court decisions which represent precedent, and digest/review of important court decisions below the Supreme Court level. Many judges, however, do not have computers or legal information data software.

d. Poor performance by court staff

Court staff are responsible for delays due to the fact that cases and papers are sometimes lost or misplaced, notices and other papers are not sent out in a timely fashion, and summonses are improperly served. In addition, several judges mentioned that they receive frequent complaints dealing with the behavior of the staff.
In general, there are no qualification standards for the selection of court staff. They receive no formal training programs either for orientation or continuing education. Therefore, each time a new employee is hired, the court has to provide fairly extensive on-the-job training. There are no procedural manuals to which to refer if there are questions regarding procedures.

The Civil Service Law which will professionalize all civil servants (including court staff) has passed first reading and is expected to pass second reading by the end of the year, with implementation expected in 1999. Training facilitates such professionalism and improves the performance of the staff.

e. Lack of training of judges

Judges are faced with cases involving areas in which they have never been concerned such as commercial and business law, patent and trademark law, environmental law, commerce and trade law, bankruptcy law, real and intellectual property law, and human and civil rights law. In addition, they are confronted with rapidly-changing legislation. An extreme example involves the law on ownership and use of agricultural land which has been changed 17 times in the last six and one-half years. Decisions in cases are delayed because judges are uncertain about the subject area to which it pertains. Training is needed in such areas. The Judicial Training section of the report deals with these training needs in depth.

f . Lack of work ethic among judges

Judges have 14 days to write their opinions in criminal cases and 30 days to write their decisions/opinions in civil cases. However, these time frames are often not observed. In fact, disciplinary action was recently taken against a judge who had not written a decision in two years.

Currently, District Court Chairmen are monitoring the performance of all judges in his region through periodic reports submitted to him, ledger books containing case progress kept at the regional and district courts, personal contacts, and inspections of regional courts. However, their judgments regarding a particular judge's performance is subjective. No systematic criteria are used. Chairmen are reluctant to report judges to the Supreme Judicial Council (which is responsible for monitoring judicial performance and taking disciplinary measures as appropriate) and use performance only in deciding who should be promoted. The Inspectorate of the Ministry of Justice performs evaluations of the administrative functions of the judges; however, it has a large number of vacancies and last year performed evaluations of only five district courts and two regional courts.

g. Inability to quickly access information in criminal and civil cases

Criminal judges mention this as the biggest cause of delays in criminal cases. Defendants often do not appear at hearings. In order to find the defendant, the court must send inquiries by mail to the Director of Internal Affairs to determine the registered address, to the Passport and VISA office to determine if the person has left the country, and to the Ministry of Justice to determine if the person is in prison. This process is slow. In fact, the team observed a hearing in which a case had been delayed for many years for several reasons, one of which was because the defendant could not be found because he was incarcerated. The retrieval of information, however, could be instantaneous through an integrated computer system which links all of these governmental entities. Similarly, the system would be useful in determining the registered addresses of witnesses and other needed information from other sources included in the integrated system.

The GOB is working to establish such a system for criminal cases. The Center for Information and Technology for Crime Prevention has been working since July 1998 to develop software programs which would provide full information and comprehensive monitoring of the movement of each individual case, from the point of registration by the Ministry of Interior, through the investigation service, prosecutor's office and court, to serving the punishment by the perpetrator, and his following resocialization.

Once the criminal software system is developed, the Center intends to work on software for civil cases. An integrated system in which judges can quickly access information from governmental records (such as land records, firm and vehicle registrations, etc.) which is needed in a case will shorten the time required to dispose of cases.

h. Complicated summonsing process

Reportedly, this is the cause of most of the delays in case disposition. If a defendant cannot be found in order to serve a summons, it is the responsibility of the plaintiff to try to locate him. This involves applying to the Director of Internal Affairs for the registered address of the defendant, providing the court with a number of different possible addresses, including a work address, and

the issuance of many summonses to the same person at various addresses. If a person refuses to accept a summons, a witnessed statement must be provided to the court by the summons clerk. If the person cannot be ultimately found, he is summoned through the State Gazette 30 days before the hearing (if in Bulgaria) or 90 days (if thought out of Bulgaria). There are many instances in which a party has reported to have hidden to avoid being served. A decision on evidence solely presented by the plaintiff is made if the defendant does not appear.

Needed are procedural changes to simplify the summonsing process. Possibilities include consideration that the defendant has been served if notification is made to the person's registered address (as is done in commercial cases) or making parties responsible for the serving of summonses (as is done in the US). The Anti-Corruption Action Plan for Bulgaria (Coalition 2000 report) includes a recommendation that the system of summonsing be changed to preclude the possibility of intentional delays of court hearings.

i. Intentional delays by attorneys

Attorneys often abuse procedural rights by intentionally delaying court hearings. For example, they are frequently reported to feign sicknesses, scheduling conflicts, business trips, and allege that important witnesses are not available in order to delay cases.

The civil procedural code calls for a fine of 1/3 of the initially-determined state fee on the responsible PARTY (not attorney for the party) for such delays. There is no such fine in the code of criminal procedure. While the Law on the Bar contains disciplinary measures for attorney delays, the Superior Bar Council does not impose such measures because it says that it does not have sufficient funding to conduct the necessary investigation. Lawyers are not willing to pay dues to enforce laws that could affect them adversely, nor are they willing to do pro bono work to sanction their own.

Needed are substantial sanctions that judges can impose on attorneys who abuse procedural rights. Changes in the Law on the Bar and Penal and Civil Procedural Codes to provide for such sanctions were recommended in the Coalition 2000 report. Attitudinal training for judges may be necessary to insure the imposition of these sanctions once they are established.

j. Prolonged Period for Collection of Evidence

Neither the civil or criminal procedural code calls for any exchange of information prior to the first meeting. (In criminal cases, the preferability for this exchange relates to private criminal complaints which are filed directly with the court) The civil code states that only by exception will new evidence be accepted after the first hearing; the criminal code is silent on this issue. In fact, a substantial part of the evidence is accepted after the first hearing.

Judges go to great lengths to collect all evidence, even when it is obvious that all such evidence

may not be necessary. This practice may be rooted in the old civil tradition in which judges assisted the parties. Since they no longer do so, they give whatever time parties feel they need to adequately defend their positions. The tendency to allow prolonged periods for the collection of evidence in criminal cases, on the other hand, is related to the basic principles of the penal procedures which refer to the obligation of the court to establish what is the objective truth and to give all opportunities to the party to defend his position. Sometimes judges prefer to give to the defendant the opportunity to collect all evidence, irrespective of its relevance, in order to protect themselves against grounds for appeals that relevant evidence was not collected.

Needed are changes to the civil and criminal procedural codes to require the exchange of information prior to the first hearing and the establishment of reasonable deadlines for the production of all evidence. Attitudinal training for judges is also necessary for enforcement of any requirements related to deadlines.

k. Failure by witnesses to appear

Witnesses are summoned by the court or, sometimes in civil cases, parties or lawyers take responsibility for bringing them to the hearing. Witnesses frequently do not appear because they are negligent or, in cases of material interest, are afraid (no witness protection plan), or because their absence from work presents problems with their employer. In criminal cases, the police can be used to bring witnesses to court. The fine for failure to appear is 3,000 leva (less than $2.00 US) in civil cases but up to 100,000 leva(less than $63 US) in criminal cases. However, judges are hesitant to impose such fines.

Many witnesses prefer to pay the minimal fine in civil cases instead of showing up. Consequently, a higher fine in civil cases, requiring a change to the civil procedural code, is needed to preclude the failure of witnesses to appear. Attitudinal changes by judges are necessary to insure that fines are indeed imposed. Such adjustments may be accomplished through training.

l. Failure by judicial experts to appear

Judicial experts are appointed by the court from a list of such experts. In civil cases, they are paid for by the parties through the court; in criminal cases, they are paid for by the State. The amount of the expert's fee is dependent on the type of case.

Judicial experts frequently do not appear at scheduled hearings in civil cases because they are too busy and have scheduling conflicts. This does not appear to be a problem in criminal cases because experts are more diligent to appear in these cases if necessary and often it is not obligatory for them to do so since the written report was given and already clarified in the preliminary investigation. Experts in criminal cases need not appear unless there is a need to question them. The fine for failure to appear is 3,000 leva in civil cases and up to 200,000 leva in criminal cases. However, judges often do not impose such fines.

Parties have the right to request additional experts when they are dissatisfied with the conclusions of an appointed expert. Three, five, or seven experts can be appointed by the court under these circumstances. There can be substantial delays associated with the appointment and coordination of these additional experts.

Needed are changes to the civil procedure code to insure attendance of judicial experts in civil cases. These could include higher fines (and the imposition of these fines by judges), removal of experts from the court's list for failure to appear, or allowing parties to produce their own experts. Privatizing experts would also reduce the number of hearings (and therefore delays) because attorneys are dissatisfied with the conclusions of experts appointed by the court.

m. Workload associated with firm registrations

All firm registrations - even sole proprietorships - and changes thereof are filed in the district court. There were 77,000 such registrations in 1997. Judges must review all business documents in order to approve registration. This is a purely administrative task that could be performed by an administrative arm of the court or possibly be transferred outside of the court. It is performed by independent State agencies in the US and by chambers of commerce in many countries in Europe. To effect such changes would most likely require amendments to the Commercial Act and the Regulations on Registers.

The team suggests that the ROL contractor determine exactly what the political reasons are for firm registration remaining in the courts, what objections exist to its removal, and what appropriate entities could perform this function. The Chief of Party should then participate in policy dialogue with appropriate GOB parties to have the function removed from the court. The team feels that the workload associated with the registration, the delays now experienced by the registration applicants, and the importance of an efficient and effective registration process in a market economy would justify such an activity . It should be pointed out that the fees associated with the firm registrations could make the related work self-sustaining and, perhaps, even profitable for the entity responsible for the registration work.

n. Workload associated with appeals

Approximately 50% of all cases are appealed. This has been attributed to the Bulgarian tendency to be suspicious and distrustful of the judicial system and the fact that the fee to appeal (2% of the material interest) is low. One ex-judge estimated that at least 20% of all civil appeals are frivolous. Such a high rate of appeals creates a workload burden on the courts since cases are heard more than once. A mechanism that would reasonably limit the number of appeals and, consequently, reduce the workload of the courts is desirable.

In the second instance court, new evidence can be introduced in both civil and criminal cases. This is often done in civil cases. The civil procedure code states that if one of the parties causes delays

through new claims showing new evidence which could have been shown before, he is obligated to pay the expenses of the new court hearing (including the proceedings before the second instance court), expenses for the collection of new evidence, expenses of the other party and its representative for the additional court hearing, as well as an additional state fee of 1/3 of the initially-determined state fee. However, this is rarely imposed because of the desire of the judges for all evidence before making a decision

Imposition of this penalty, however, would very likely reduce the number of appeals and the associated workload burden that it poses to the court. A substantial reduction in the number of appeals would make the use of electronic sound recording to record court proceedings a feasible alternative to the noisy and disruptive typewriters that are used during the court proceeding to record summaries of these proceedings as dictated by the judge during the proceeding. Attitudinal changes on the part of judges, facilitated by training, are necessary to insure the imposition of such penalties.

o. Absence of Alternative Dispute Resolution Legislation

There is no court-annexed mediation program whereby judges can suggest and parties can voluntarily agree to referral of a case to a well-trained third person mediator in order that some agreement outside of the court be achieved.

There is a small mediation program funded by Partners for Democratic Change, however, which provides for voluntary, community-based mediation. The parties decide among themselves to attempt to settle differences using a mediator outside of the court. The program has just started and efforts are now being taken to publicize the program and how it works. Although planned, these efforts have not extended to judicial personnel and, consequently, few judges are aware of mediation. Court-annexed mediation is very different from mediation before a dispute reaches the courts, and could be an effective tool to reduce judges' caseloads; however, there is no legislative provision for it at this time. Community mediation requires no such legislative authorization.

3. Case Assignment

New cases are given an entry number by court clerks and sent to the Chairman for procedural review and assignment to a judge. Once considered procedurally approved, cases are returned to the court clerks for assignment of a case number and transmittal to the assigned judge.

Case assignment is done generally using subjective criteria. The difficulty of the case, as well as the qualifications and the general performance of the judges, is considered in the assignment process. Difficult cases are given to better judges, although there is an attempt to equalize newly assigned workloads (which, when properly done, is a time-consuming process). Such a subjective way of assignment, however, is open to manipulation (i.e., controversial or sensitive cases can be directed to specific judges), thereby undermining the integrity of the courts as impartial institutions,

and leaving them vulnerable to charges of corruption. In fact, private attorneys in Bulgaria suggested that such abuse of the system might be happening. This issue is of critical importance in gaining the confidence of businesses which want the safeguards of impartial courts to resolve any potential dispute. A random system of assignment, in addition to precluding such abuse, lends itself to the delegation of the assignment function to administrative personnel. Administrative personnel could also perform the strictly procedural review of new cases now done by the Chairmen.

The last published national statistics (1997) indicate that the average number of newly-assigned criminal and civil cases per regional judge on a monthly basis was 25.65; the average of newly-assigned criminal and civil cases at both the first and second instance level per district court judge, on the other hand, was 25.29 including firm registration cases and 10.58 excluding firm registration cases. (First instance relates to trial level cases, while second instance level relates to cases on appeal.)

4. Record-keeping systems

a. Ledger Books

The Bulgarian courts do not use the equivalent of a single case log or docket to record the progress of a case. Instead, they rely on a system of pre-printed and ledger-type books. Because the number of different items of case information that are required to be recorded cannot be incorporated into a single ledger, there are a series of books, each of which is used to record a specific set of items. The books are kept by hand and there is much duplication of entry because the same items of information, such as the case number, are entered into several ledgers. Within certain ledgers, there are multiple entries for a particular case according to hearing dates. To follow the progress of a particular case requires tracking the case by these hearing date entries. Responsibility for maintaining portions of these ledger books extends even to judges who are required to summarize and initial how they disposed of cases assigned to them. The maintenance of these books is time-consuming and labor-intensive. Some examples of ledgers include: alpha book, criminal case ledger, civil case ledger, closed session ledger, appealed case ledger, execution of sentence ledger, and fine ledger.

b. Files/Filing Systems

Case documents are hand-stitched into the file folder in chronological order of receipt, a time-consuming process. Paper used by the court for protocols is often of poor quality and becomes dog-eared quickly; the typing on these documents is sometimes barely legible. Case documents are put into a case file jacket which is thin, unreinforced, and does not hold up well with extended use.

Case files are filed according to the date of the next hearing according to judge and separated into

criminal and civil. In order to find a file, it is first necessary to determine the status of the case using the multiple-ledger system. The file will be either filed according to hearing date, or be with a clerk or judge who is working on the case. If filed by hearing date, it will be necessary to sort through a pile of folders calendared for hearing on that day of the month.

5. Computerization

Many efforts are being made to computerize court operations. As pointed out in a report by the Council of Europe produced several years ago, however, there is no inventory of hardware and software in the court system and no coordination of efforts or strategy to computerize it. For example, individual courts (like Varna regional and district courts) have developed software for nearly all court functions and are implementing certain programs which, in turn, are being used by other courts. The GOB, on the other hand, has created a Center for Information Technology and Crime Prevention which began working in July 1998 and is developing integrated programs which incorporates modules it is creating for each of the institutions involved in criminal cases including the police, prosecutors, investigators, courts, and prisons. The Center will later work in the civil area. The Center has not examined the modules already developed in the courts and it is possible that these already-developed modules could be used in the integrated model, thereby eliminating the need for the Center to create new modules. The design team, as well as all judges interviewed, recognizes the importance of the integrated model which increases efficiency and the administrative handling of cases.

6. Recording Court Proceedings

The Bulgarian court system does not require the taking of a verbatim record of official court proceedings. Instead, the system relies on the production of a summary record called "protocol." It is typed by a secretary/typist during proceedings in the regional and district courts.

The protocol includes what a justice dictates to the secretary/typist during the hearing. This dictating is done in open court and may occur several times during the proceeding. During witness testimony, the secretary/typist adds to the protocol by typing, either on her own or upon dictation by the justice, a summary of the testimony. She also will include in the protocol a summary of the arguments by the opposing sides. The secretary/typist utilizes manual typewriters. The noise from the typewriters, combined with the judge's loud dictation creates an atmosphere much like a "market," rather than a courtroom.

Given the high rate of appeals, electronic sound recording of proceedings does not appear feasible as the "protocol" is needed for the case on appeal. If the rate of appeal was lowered, however, this record of proceedings should be considered with transcripts produced only for those cases that are appealed.

7. Supreme Judicial Council

The Supreme Judicial Council, created by the Constitution of 1991 and the Judicial Powers Act, is to be the policy-making body of a third and independent branch of government. It prepares the budget for the Judiciary for transmittal to the Legislature. It also appoints, promotes, disciplines, and removes judges.

Although the SJC represents an independent judiciary, its power may be limited by the Ministry of Justice. Under recently voted amendment, but not Presidentially sanctioned as of this writing, The MOJ will be able to "suggest" nominees for judgeships, promotions, and disciplinary measures.

The SJC, however, has many limitations:

- It has no planning staff and must always react to proposals of the MOJ or Legislature.
- It has no statistical department through which criteria for the numbers of judgeships can be established.
- It has almost no ability to reach into the court system to direct the implementation of policy. Staffing of Council initiatives comes from the Ministry of Justice.
- It has no Management Assistance Unit that can work with the individual courts to implement policy change.
- It has no responsibility for training of judicial officers or support staff.
- It has no vote in determining the content or parameters for its important role in training apprentices. The MOJ has those implementing regulations.
- It has no control over the investigation of judges accused of corruption or non-compliance with productivity standards.

C. Recommendations to USAID

That in order to streamline court management and reduce the time necessary to adjudicate cases, USAID negotiate a component of its Rule of Law project to provide for the following:

1. Establishment of Model (Pilot) Courts

The swift and efficient administration of justice is a precept of any good judicial system. A number of areas have been noted in the needs assessment which cause delays in the adjudication of cases. Additionally, deficiencies in the record-keeping system in the courts which do not provide for easy access to case information to users have also been identified.

In order to address the problems noted, the team suggests the establishment of several pilot courts. It suggests a large regional, district, and appellate court in one location and a small regional court in the same district, as well as a medium-sized regional and district court in another district. The regional, district, and appellate court in Varna might be considered as the large three-leveled court system in one location, since the regional and district court there has demonstrated its leadership in the field of automation by developing software for many court functions and implementing some of these functions. A regional and district court in the location of the Judicial Training School might also be considered to allow for a visit to the pilot court by the students of the School.

In the model Courts, certain activities will be undertaken that address reasons for delay in the adjudication of cases. Some of these activities (such as computerization, training for court staff, development of procedural manuals, and establishment of a random case assignment system as described below) could be initiated immediately. Others will require modifications to administrative requirements (such as proposed changes to record-keeping systems), while it is not readily apparent to the team exactly all of the legislative changes which will be needed with regard to yet other activities (such as delegation of administrative responsibilities to administrative personnel and the creation of Court Administrator positions discussed below). While the model courts could be set up without modifications to the administrative requirements and legislative changes, without them the full package of activities which are proposed in the model courts cannot be implemented and the full impact of the program cannot be achieved. As an example, computerization serves no purpose if it is also necessary to also maintain manual systems or if human resources are freed and there is no provision for staff to perform other tasks. Consequently, the design team recommends that before any model court activities are begun, agreement be reached with appropriate Bulgarian parties concerned that administrative and legislative reforms needed to effectively carry out the overall model court program be made. If the appropriate Bulgarian parties will not agree to the passage of the basic legislative and regulatory amendments envisioned in the model court concept, USAID may wish to consider some limited support for the testing and development of court software that would be used in an important integrated model which would increase efficiency and the administrative handling of cases.

By using pilots, USAID will minimize its initial investment in setting up and perfecting new systems and procedures which will demonstrate success of the changes. Once proven, the systems and procedures used in the pilot courts could be expanded to other courts. (The World Bank has expressed interest in extending a loan for this purpose.) The Court Administrator, Computer Specialist, Court Personnel Specialist, and Training Specialist of the Contractor will implement activities in the Model Courts which will include the following:

a. Computerization

A stable working environment and the perception that the judiciary is an efficient and effective institution is necessary to support business and attract foreign investment. This is achieved through

computerization of all court functions. A computerized court increases the efficiency of the courts, and frees up human resources which would otherwise be required for time-consuming and labor-intensive functions (like ledger books, statistics, and notifications) so that administrative and clerical functions now performed by judges can be delegated to court staff. Further, it provides some incentive and sense of professionalism to staff who are otherwise low paid and often work in less than optimal working conditions. It serves as a monitoring tool for judicial and administrative performance since the case status is easily determinable, allows for easy identification/follow-up of delays in case processing, the quick accessibility of information needed in both civil and criminal cases by judges, and retrieval of case information to parties and their representatives. In accomplishing all of these objectives, it reduces the time required to adjudicate a case.

The courts in Bulgaria have demonstrated their readiness for such computerization. Judges and court personnel recognize the need for and the value of such systems. Although uncoordinated, there have been numerous attempts to develop appropriate software, some of which is in use and some of which still need to be tested. Judges have obtained hardware using whatever means are available to them. Some have taken out personal loans to purchase computers and have bought legal information data software using their own funds. Others have obtained needed hardware from private donations, especially from banks.

The first step in any computerization process will require that a Computer Specialist identify, evaluate, and test the software that has already been or is being developed in the courts to determine its usefulness in the court in which it was developed, as well as in other courts, and its ability to be integrated into the system being developed by the Center for Information Technology. Depending on the results, the contractor might look for software systems in other countries that could possibly be modified for use in Bulgaria and assist with further software development efforts as necessary. He will complete a needs assessment of hardware in the model courts and carry out the implementation of the computerization (including training), as well as periodic checks of the system. The Specialist will also identify and assist the work of a coordinating body of Bulgarian concerned parties (such as the MOJ and SJC) whose function will be to develop a unified strategic plan for computerization of the overall court system.

The estimated cost of hardware and software for the model court automation is $780,000 as detailed in Annex E. As indicated, the team believes that the sustainability of this effort comes from the possible World Bank loan being discussed. If that loan were not to materialize, then USAID should go forward with the computerization component when and if the GOB is ready to finance a planned phase-in for the entire court system. The team cannot predict the GOB's ability to raise the taxes necessary to computerize the entire judiciary. On the other hand, unless there is a marked increase in the case load, such that the computers acquired cannot handle them, there may be no need to replace them for a long time. Statistics indicate that the caseload has not risen substantially for a number of years.

b. Creation of a Court Administrator position and delegation of administrative tasks performed by Chairmen to the Administrator; delegation of administrative and clerical duties of all judges to court staff

As a pre-condition to the computerization activities, Bulgarian concerned parties (such as the MOJ and SJC) must agree to create and finance Court Administrator positions in the pilot courts and delegate to the Court Administrator those administrative functions presently performed by the Chief Judge such as outlined in 2. B. Delays, Administrative Burdens of Chairmen, mentioned earlier The Chairmen unanimously indicated that they wanted relief from administrative responsibilities. The MOJ did not comment on its position regarding this point. It would need to be negotiated along with the other points discussed in these recommendations The Contractor's Court Administrator and Court Personnel Specialist will assist with establishing this position and its responsibilities..

Additionally, the Bulgarian concerned parties must agree to the delegation of the judges' administrative and clerical responsibilities (such as outlined in 2. A. Delays, Administrative Burdens of Judges, mentioned earlier) to appropriate court staff. The contractor's Court Administrator will assist in the identification of all areas of judicial responsibility that could be delegated to administrative and clerical staff, while the contractor's Personnel Specialist will formalize the delegation in terms of job descriptions and classifications. These could be applied in other courts when the model court concept is expanded.

The appointment of a Court Administrator and delegations of additional responsibilities to court staff do not necessarily imply that additional budget allocations for the Model Courts are necessary. There will be a savings of human resources once computerization takes place and manual systems are eliminated..

c. Case Assignment

A random system of case assignment will be established by the contractor's Court Administrator. The assignment will be done by administrative personnel and supervised by the locally-hired Court Administrator in the individual courts. Such a system of precluding the possibility for selecting a specific judge to work on a specific case was also suggested in the Coalition 2000 report, and would be a major step to reduce such corruption as might exist.

d. Establishment of Modernized Record-keeping Systems

The MOJ must agree to the proposed new record-keeping systems. The Court Administrator of the Contractor will be responsible for setting up the new record-keeping systems.

(1) Case Files

In the model courts new stronger file folders will be used and documents will be attached to it by Acco fasteners. The outside of the folders will be color-coded by calendar year. The folders will be pre-printed and pre-numbered. The case number will be visible both horizontally on the face of the folder and vertically on the right side of the folder so case files can be shelved in an upright position and in numerical sequence. Depending on which courts become pilot courts, this will not be an expensive recommendation to implement. For example, the Varna Regional and District Courts together have only about 15,000 cases a year and a budget of around $10,000 should be sufficient for the supplies required. It is reasonable to expect that the GOB will be able to finance these improvements in the long run.

(2) Case Filing System

New shelving systems for case files will be purchased if necessary. Case files will be shelved centrally (if possible) by civil and criminal and in numerical sequence rather than by date of scheduled hearing. A check-out card system will be established to ensure that each case can be located easily.

Easy access to files by users was recommended in the Coalition 2000 report. The new filing system will provide for such easy retrieval of case files.

e. Specialist training for court staff; development of procedural manuals for all functions

On-site training organized by the contractor's Training Specialist will be provided to court staff in their functional areas. Courses will also include the overall processing of a case so that employees can see how their jobs fit into the overall picture, general concepts of law and legal matters, ethics, dealing with the public, and conflict resolution. The contractor's Court Administrator will assist in the development of procedural manuals which explains in detail the procedures to be followed for each function of the court, while the locally-hired court administrator will supervise the day-to-day work in this area. (These manuals will also be useful to the contractor's Court Administrator in the identification of judicial functions that can be delegated to administrative staff.)

The locally-hired Court Administrators in each model court will attend training provided outside of the court in their functional areas, as well as in leadership and team-building. The contractor's Court Administrator will work with the new Bulgarian Court Administrators on the execution of their duties.

f. Use of apprentices for legal research

Each judge in the pilot court will be provided with an apprentice (Judicial Candidate) to assist with legal research. Measures to insure that the apprentice will be of service to the judge will be taken. (See Chapter II. C. Post Law School Apprenticeship Year Section of the Report.)

2. Assistance with legal and procedural reforms

While the model courts are being set up and operational, the Court Administrator employed by the contractor will identify legal and procedural reforms (such as, but not restricted to, those identified in the needs assessment) that could be taken to improve case disposition time. The contractor's Chief of Party will work at the policy level to effect these reforms. Priority effort will be given to reforms that address the complicated summonsing processes, intentional delays by attorneys, and the failure of witnesses and judicial experts to appear for hearings since these are the most common reasons for delay in the adjudication of cases. Other areas which have been pointed out in this report and are identified by the contractor's Court Administrator will be pursued on a longer-term basis.

3. Training for judges

Training efforts that should take place in this area are covered extensively in Chapter II - Judicial Training.

4. Organizational development assistance to the SJC

Technical assistance to the Supreme Judicial Council for its organizational development will be provided by the Contractor's Organizational Development Specialist, if requested by the SJC.

Such assistance could cover many areas in which the SJC is deficient as outlined earlier. One area in which assistance will be provided involves the development of objective criteria to evaluate judges and implement a system within the SJC for identifying judicial performance deficiencies and assisting with the correction of those deficiencies. Such assistance addresses the delay associated with a poor work ethic and lack of training to judges.

IV. IMPLEMENTATION ARRANGEMENTS - ACQUISITION PLAN

A. Necessity of a Framework Document

Before USAID embarks on the Judicial Strengthening program recommended in this report, it should negotiate a formal agreement with the GOB (most likely, a memorandum of understanding) which sets forth the commitments of the parties. There are many Bulgarian parties whose performance and actions are critical to the success of the program. The only prudent course is to have them sign the agreement as parties, or to acknowledge it as implementers.

In the component to strengthen the post-law school apprenticeship year, the primary signatory will be the Ministry of Justice. The MOJ has jurisdiction over the structure, content of that year and the "practical-theoretical examination" which follows it, but because it affects the judiciary, the Supreme Judicial Council should also be a party.

In the judicial training area, this will include the Judicial Training Center, and the three cooperating parties namely the Ministry of Justice and its two NGO partners, the Bulgarian Judges Association and the Alliance for Legal Interaction. The only way to assure financial sustainability for the JTC over the long term is to have the MOJ make a financial commitment to it from the beginning. The commitment would obligate the GOB to provide an increasing level of support to the JTC and at a date certain, to fund the JTC staff, programs, and facilities. Also the Council of Ministers should be a signatory to the agreement. Almost assuredly, the COM will be the entity that donates the building which will serve as the JTC's training facility. Lastly, as the body responsible for the integrity and professional skills of the judiciary, the Supreme Judicial Council should be a signatory.

In the court management area, separate MOUs should be signed with each Model Court which sets forth the understandings of that court with respect to delegation of administrative tasks, a random case assignment system, improved record-keeping, procedural manuals, use of apprentices, and computerization. Also desirable would be to have the agreement of the MOJ and the Supreme Judicial Council.

B. Role of the Supreme Judicial Council

By law the MOJ is responsible for judicial training, but logic would dictate that training for the judiciary should fall under the SJC. Under the Constitution of 1991 and the Judicial Powers Act, the SJC is the policy-making body of a third and independent branch of government. It prepares the budget for the Judiciary for transmittal to Parliament, and appoints, promotes, disciplines and removes judges.

Yet in its many interviews the design team encountered scarcely a dissenting voice from the proposition that the MOJ should be charged with training for what under the Constitution is an independent branch of government. Everyone seemed to assume that this was a proper role for

the MOJ to fulfill. Only one interviewee - a practicing lawyer - expressed the opinion that the law which mandates judicial training to the MOJ is unconstitutional under the separation of powers principle of the Constitution. There is no indication that the SJC intends to invoke the jurisdiction of the Constitutional Court on this issue.

The design team's recommendation is to acknowledge the legal responsibility of the MOJ in the judicial training area but also to include the SJC in the deliberative process. We should recognize that, over time, the SJC may come to have a more extensive role in this area. This may come about through a decision of the Constitutional Court or perhaps simply because the SJC becomes more assertive of its rights and prerogatives. At the moment the SJC takes a definite back seat to the MOJ on a whole range of issues relating to the judiciary. This may change. The best way to assure the long term sustainability of the JTC is to make sure that the SJC also feels some ownership and responsibility for the center and wishes to assure its continued existence.

One procedural issue that USAID will face in program implementation is who actually speaks for the SJC. Under the Judicial Powers Act the Minister of Justice is the non-voting chairman of the SJC. One could satisfy the formalities of consultation with the SJC simply by having the Minister of Justice sign in a double capacity but that would be very short-sighted. Consultation with the SJC should extend to its judicial members.

C. Type of Acquisition Instrument Recommended

The design team recommends that USAID through a competitive selection process engage one contractor responsible for all components of the project. The type of acquisition should be a contract, and not a grant or cooperative agreement. Only a contract will give USAID the added control that it needs for this kind of complex project. Three types of contracts are possible: time and materials, fixed price, and a cost reimbursement contract. One cannot define the services sufficiently to bid a fixed price contract, and a time and materials contract is not relevant The proper vehicle is a cost reimbursement contract. The team recommends that the solicitation be open equally to for- profit and non-profit firms.

The team considered the possibility of having separate acquisitions for distinct components of the project and strongly recommends against it. The major reason is that there is a strong inter-relationship among the components, and it might create an impediment to project implementation if multiple contractors were involved. To give just one example, a model court will be established in the jurisdiction where the JTC is located, and apprentices are an important part of the definition of a model court. The best way for USAID to receive coherent, integrated deliverables on this project is to make the components fall under the responsibility of a single contractor. Otherwise USAID could run the risk of finger-pointing among the contractors - i.e. one contractor blaming its lack of success on the fact that the other contractor had not timely produced the required deliverables.

Secondly, separate contractors would increase the management burden upon USAID and may be a source of confusion to Bulgarian partners.

The design team suggests that USAID not specify any particular subcontract or partnering arrangement for the contractor to follow. Thus, we do not recommend a consortium approach grouping contractors, associations and not-for-profit partners. If a bidder wishes to adopt this approach, then fine, let it do so. But this should the bidder's decision based on its judgment as to how best to get the job done, and not something cooked up to satisfy USAID requirements. A consortium arrangement lightly entered into to satisfy a USAID suggestion or requirement can prove to be very destructive. It can detract from the project's real focus, dilute responsibility among the consortium partners, and be a later source of dissension among the contract team.

Also how a bidder configures its proposed technical assistance team is a good way for USAID to evaluate the bidder's grasp of the local situation and how best to attack the problems. Every reputable contractor knows that it must include on its team all the skills required to address the problems and produce the contractual deliverables and tangible results. If the bidder cannot deliver the skills through its own contract team, then it must consider a joint venture, subcontract or partnering arrangement. The design team is opposed to doing the bidder's work for him by specifying the type of partnering arrangement he should use.

D. Contractor Staffing

Although the design team has no desire to dictate the staffing pattern of a contractor, the team does feel that a reasonable mix of talents and levels of effort by a contractor would include:

Chief of Party	Life of contract
Court Administration Expert	33 months
Judicial Training Expert	30 months
Organizational Development Specialist	6 months
Court Management Information Specialist	18 months
Grants Manager if contractor managed	Life of contract
Court Personnel Specialist	4 months
Education/Testing Specialist	3 months

The logical phasing in of these resources should be proposed by the bidders. Roughly, however, the Chief of Party, Court Administration Expert, and Judicial Training Expert would arrive at the beginning of the contract, as well as the Grants Manager is approved by USAID. The Organizational Development Specialist should come in the first six months, and have several trips over the course of the first two years. The Court Management Information Specialist would probably not be needed for the first six to nine months of the contract. The Personnel Specialist and Education/Testing Specialist would be need in the second year.

E. Possible Grants Component of the Project

The desirability of a Grants Component for the project was considered in various sections of the report.

In the law school area, past Democracy Commission grants were made to fund a student-edited law journal at the New Bulgarian University, a moot court competition at Sofia University, and a "Street Law" project designed by an NGO.

As explained in earlier sections of the report, the design team does not believe that a major effort geared to strengthening law schools is required at this time. If USAID did wish to maintain a greater involvement at the law school level, one way to accomplish that would be through a greater use of small grants for the kinds of activities described above.

Also in the effort to strengthen the post-law school apprenticeship year, the possible use of an NGO to work with judicial candidates in underserved parts of Bulgaria was considered.

Other areas where small Judicial Strengthening grants could be appropriate are:

- Alternate dispute resolution, particularly court-annexed mediation, should the necessary enabling legislation be enacted. [This would not be duplicative of the Partners for Democratic Change program which is geared to voluntary, community-based mediation.]

- Anti-corruption grassroots activities geared to the courts.

As to the mechanism to carry out these grants, one approach is to open up a Judicial Strengthening window at the Democracy Commission or if USAID believes more appropriate, through the Democracy Network Project.

The other approach is to build in a Small Grants component into the project similar to what has been done in other CEE/NIS countries. This would make the contractor responsible for establishing selection criteria, evaluating grant proposals, making grants, monitoring performance, and documenting grantee compliance (or non-compliance) with grant requirements. A rough order of magnitude for the grants component is $250,000.

To prevent forum-shopping on the part of grant applicants, the team recommends that the contractor use the same (or similar) application guidelines that were developed for the Democracy Network program and modified for use by the Democracy Commission.

One of the major advantages of the grants program is give USAID a flexible response capability for the future in the judicial strengthening area. Bulgaria has been moving so fast on the policy reform front in recent years that it's hard to say precisely what the needs will be in the Year 2001.

The grants component will enable USAID to act quickly (if it wishes to) in a particular area. For this reason, the team recommends a broad scope for the types of judicial strengthening activities that may be funded.

To ease the management burden upon USAID, USAID may wish to consider a three-tiered grant approval process whereby:

-- Small grants that meet previously-established USAID criteria can be awarded by the contractor without having to formally seek USAID approval.

-- Large grants (above a specified amount such as $50,000) will always be submitted to USAID for approval.

-- Intermediate grants - where USAID may decide to exercise approval rights or not. For example, if a grant involves a novel approach or a new geographic area, USAID may wish to require a formal approval. If USAID has a high comfort level with the type of grant being made, it conversely may not insist on a formal approval.

To manage the grants program, the contractor would hire a Grants Manager who would be assisted by other expertise on the contract team and by short term experts.

ANNEX A: List of Contacts by MSI Design Team During Their Visit to Bulgaria

September 12 - October 16, 1998

Governmental Institutions

Ministry of Justice
Mrs. Katya Dormisheva, Secretary General
Mr. George Kantitus, Head of Inspectorate & Statistics Dept
Mrs. Parashkeva Butanska, Experts, Statistics Department
Mrs. Maria Georgieva, Expert, Statistics Dept
Mr. Dimiter Simeonov, Head of Automation Dept.
Mr. Stoicho Peichev, Inspectorate Office
Mrs. Delyana Pehlivanova, Head of MOJ Press Center
Mrs. Lyubka Jordanova, Expert, Personnel Dept.

Ministry of Education
Mrs. Anna Maria Totomanova, Deputy Minister
Mrs. Elena Savova, Acting Head of State Policy Dept.

National Agency for Evaluation & Accreditation
Prof. Hristo Hristov, Executive Director
Eng. Kyril Krustev, Head of the Administrative Dept

Parliament
Mr. Ivan Dimov, Chief of Legislative Commission
Mr. Valentin Georgiev, Secretary General of Parliament
Mr. Borislav Tzekov, Senior Counsellor, Legal Dept.
M. Dimiter Abadjiev, Member of the Legislative Commission & External and Integration Policy Commission

Center for Information Technologies with the Council of Ministers
Dr. Dimiter Atanassov, Director
Mrs. Stefka Mancheva, Expert

Judicial Institutions

Members of Supreme Judicial Council
Mrs. Kina Chouturkova, Chairman of the Supreme Court
Mr. Roumen Nenkov, Member of the Supreme Court of Cassation
Mr. Vladislav Savov, Chairman of Supreme Administrative Court
Col. Tzvetkov, Chairman, Military Court, Varna, Spokesperson for SJC

Mrs. Elena Avdeva, Chairman of Blagoevgrad District Court
Mrs. Vesselina Karagonova, Secretary General, SJC
Mr. Stefan Yanchev, Finance Manager, SJC
Mrs. Daniela Petrovska, Technical Assistant, SJC

Sofia City Court

Mrs. Nelly Kutzkova, Chairman
Mr. Philip Vladimirov, Junior Judge
Mrs. Irena Slavcheva, Junior Judge

Sofia Regional Court

Mrs. Kapka Kostova, Chairman
Mrs. Positza Bozhilova, Vice Chairman, Labor & Trade Case Manager
Mrs. Nadejda Trifonova, Criminal Judge
Mr. Nikolay Enchev, Junior Judge

Plovdiv Courts

Mr. Zdravko Kirov, Chairman Appellate Court
Mr. Yulian Russenov, Deputy Chairman, Appellate Court
Mrs. Evdokia Kenalova, Judge, Appellate Court
Mr. Rumen Boev, Ass't Appellate Court

Pirdop Regional Court

Mr. Radi Jordanov, Chairman

Pernik District Court

Mr. Peter Mihailov, Chairman
Mrs. Ljudmila Vladimirova, Deputy Chairman

Varna Courts

Mrs. Dushana Zdravkova , Chairman, Varna District Court
Mrs. Albena Boneva, Deputy Chairman, Varna District Court
Mr. Bozhidar Manev, Varna Appelate Court
Mr. Eddi Chakarov, Information Consultant
Mr. Bocho Tzvetkov, Chairman, Varna Military Court & Spokesman of SJC
Mrs. Miglena Tatcheva, Chairman, Varna Regional Court

Bulgarian Bar Association (BBA)

Trayan Markovski, Attorney at Law, Chairman of the Board of Sofia BA
Alexander Karaminkov, Attorney at law, President of BBA
Vassil Natchkov, Attorney at law, Member of BBA
George Dimitrov, Partner, Organization for Relative Analyses & Consultations
Dimiter Nichev, Attorney at law, Member of BBA & Chairman of Eurocom Trade

Nikolay Svinarov, Secretary general, Supreme Bar Council

Law Interns/Students
Irena Marinova
Natalia Hristova
Svetomir Todorov
Vesselina Chaleva
Kalina Mladenova
Donors Community

World Bank
Mr. Thomas O'Brien, Resident Representative
Mrs. Elaine Patterson, Deputy Resident Representative
Mrs. Lada Stoyanova, Project Specialist
Mr. Gerhard Ries, Legal Consultant
Mrs. Alessandra J. Iorio, Counsel, Europe & Central Asia Legal dept.
Nancy Worthington, Attorney at Law

UNDP
Mr. Antonio Vigilante, Resident Representative
Mr. Hachemi Bahloul, Program Coordinator

British Know-How Fund
Mr. Robert Sinclair, Second Secretary, British Embassy
Mrs. Pauline Hayes, Advisor, Dept. for International Development

European Delegation
Mrs. Olga Borisova, Project Specialist
Mrs. Antonina Terzieva, Public Affairs Officer

EU PHARE Program
Mrs. Kristina Terzieva, Program Manager Approximation of Bulgarian Legislation
Mrs. Pavlina Kjutchukova, Librarian

Information Center to the Council of Europe
Mr. Boyko Todorov, Director
Mrs. Maria Donkova, Technical Assistant/Librarian

Open Society Fund
Mr. Constantin Palikarski, Program Coordinator

Fulbright Commission

Julia Stefanova, Chairman

French Cultural Institute
Fabian Neyret, Attache, Technical Programs

Law Faculties
Ass. Prof. Doncho Hrussanov, Dean of Law Faculty, Sofia University
Dr. Ekaterina Trendafilova, Law Professor, Law Faculty, Sofia University
Dr. Angel Kalaydjiev, Asst. Prof., Law Faculty, Sofia University
Prof. Alexander Djerov, Dean of Law Faculty, New Bulgarian University, Sofia & Vice Chairman of Parliament
Mrs. Irina Dimitrova, Deputy Dean of Law Faculty, New Bulgarian University, Sofia
Prof. Ivan Ljalev, Dean of Law Faculty, South-West University, Blagoevgrad
Prof. Tzvetana Kamenova, Director, Legal Institute, Bulgarian Academy of Sciences & Dean of Law Faculty, Plovdiv University
Asst. Prof. Krassimir Mitev, Plovdiv Law Faculty
Law Prof. Evdokia Kenalova, Plovdiv Law Faculty
Asst. Prof. Georgi Ganchev, Plovdiv Law Faculty
Mrs. Maria Zairyakova, Secretary, Plovdiv Law Faculty

NGOs

Alliance for Legal Interaction
Mr. Ivan Dimov, Chairman
Mr. Valentin Georgiev, Deputy Chairman
Mr. Boris Milchev, Member & Deputy Minister of Construction
Mr. Georgi Chorbov, Member of the Board
Mr. Assen Djulgerov, Member of the Board

Bulgarian Institute for Legal Development (BILD)
Assoc. Prof. Nelly Ognianova, Chairman
Dr. Maria Slavova, Member of the Board

PIOR (Legal Initiative for Education & Development)
Mrs. Meglena Tacheva, Chairman

Coalition 2000
Mr. Emil Georgiev, President

Anti-Corruption Society
Tzvetomir Todorov, President

Partners for Democratic Change
Daniela Kolarova, Director
Tzvetan Davidkov, Consultant

Association of Young Lawyers
Mrs. Lena Kuzova - Chairman
Mr. Borislav Tzekov B Vice Chairman

Center for the Study of Democracy (CSD)
Mr. Ognian Shentov, President
Mr. Konstantin Tanev, legal program
Mrs. Ralitza Dimitrova, Legal Program
Members of the Bulgarian Business Community
Mr. Chavdar Selveliev, President, Bulgarian Association for Building Partnerships (BAP)
Mrs. Maya Domiati, Executive Director, BAP
Mr. Nasko Atanassov, President, National Real Property Association
Mrs. Marinella Russinova, Executive Director, National Real Property Foundation

Price Waterhouse
Chris Butters, Director
Momchil Sabev, Tax & legal Services
Levon Hampartzumian, Director, Business Development

Interlease AD
Stephen Barclay Strauss, Executive Director

US Assistance group

ABA CEELI Program
Mr. Alfred Cowger, Country Manager
Mrs. Karen Kramer, Legal Expert
Mr. Chris Thompson, Legal Expert

Implementing Policy Change(IPC)
Mr. William Colletti, Country Director
Mr. Russell Webster, Principal Associate
Mr. Filip Stojanovic, Program Manager
Mr. Derek Brinkerhoff, Public Administration Advisor
Mrs. Ivanka Petkova, Consultant

PLEDGE (Partners in Local Economic Development & Government Efficiency)
Jane Daly, Project Manager

Democracy Network Program
Mr. Aaron Bornstein, Country Director
Mr. Plamen Dimitrov, Deputy Director

International Development Law Institute (IDLI)
William Loris, Legal Expert

Firm Level Assistance Group (FLAG) Consortium
Mr. Stan Shumway, Chairman

Local Government Initiative (LGI)
Mr. Jerry Wood, Program Director
Mrs. Becky Gaddell, Resident Advisor

American University in Bulgaria (AUBG)
Mrs. Julia Watkins, President
Mr. John Barry Chambers, Provost & Dean of Faculty
Mr. Stanimir Ilchev, Director, International Relations Dept., Sofia

United States Information Service (USIS)
Mr. Peter Eisenhauer, Cultural Attache
Mr. Snezhana Yaneva, Librarian

American Embassy
Ambassador Avis Bohlen
Mr. Christopher Dell, Deputy Chief of Mission

USAID
Mr. John Tennant, Resident Representative
Mrs. Nadereh Lee, Chief: Democracy & Local Governance Office
Mrs. Ivanka Tzankova, Program Officer
Mrs. Dessislava Bizheva, Project Specialist
Ms. Alisa Macht, Contractor

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ANNEX C: List of Acronyms Used

ABA-CEELI	American Bar Association's Central & Eastern Europe Legal Initiative
ALI	Alliance for Legal Interaction
AUBG	American University in Bulgaria
BAP	Bulgarian Association for Building Partnerships
BBA	Bulgarian Bar Association
BILD	Bulgarian Institute for Legal Development
BJA	Bulgarian Judges Association
COM	Council of Ministers
CSD	Center for the Study of Democracy
DM	Deutsche (German) Mark
EU PHARE	The PHARE Program of the European Union
FLAG	Firm Level Assistance Group
GOB	Government of Bulgaria
IPC	Implementing Policy Change Project
IDLI	International Development Law Institute
JTC	Judicial Training Center
LGI	Local Government Initiative
MOE	Ministry of Education, Science & Technology
MOJ	Ministry of Justice & European Legal Integration
NEAA	National Evaluation & Accreditation Agency
NIS	National Investigation Service
NGO	Non-Governmental Organization
PIOR	Legal Initiative for Training & Development
ROL	Rule of Law Program
SJC	Supreme Judicial Council
UNDP	United Nations Development Program
USAID	United States Agency for International Development

USIS United States Information Service

ANNEX D 1: Annual Budget - Dormitory Residence Based Training

Staff			
	Executive Director	6,000	
	Program Director	5,400	
	Master Trainer	4,800	
	Master Trainer	4,800	
	Secretary	4,200	
	Secretary	2,400	
	Administrator 4,200		
	Driver 1,800		
	Bookkeeper	3,600	
	Auxiliary Staff	1,800	
	Sub-total		49,000
	Benefits	19,600	19,600
Training Materials		15,000	
Communications		3,000	
	Sub-total		18,000
Instructor Fees	20,000	20,000	
	45 wks at $444 p/ wk, inc. Benefits		
Dormitory Costs			
	Heating		
	Supplies & Materials		
	Food		
	Electricity		
	Water		
	Equipment Maintenance		
	Building Maintenance		
	transportation		
	staff salaries & benefits		
	communications	200,000	200,000
	Total		$306,000

ANNEX D 2: Dormitory Start Up Costs

Dormitory Remodeling Costs	$350,000-400,000	
Furnishings:		
Common areas,	15,000	
Dining areas	5,000	
Classrooms	15,000	
cutlery, plates, pots, etc	5,000	
Sub-total	40,000	40,000
Dormitory Rooms:		
beds, lamps, chairs, desks, curtains, sheets, towels, etc.	36,000	36,000
Van for transportation 35,000	35,000	
Total		$461,000 - 511,000

*This does not contemplate a computer training center since computer training might best be done through an arrangement with the American University of Bulgaria, and on-site in the courts. However, if no arrangement is made with AUBG, an additional $60,000 would be required for setting up a computer training center.

ANNEX D 3: Judicial Training Center

Start-up Office and Training Equipment

Office:		
Computers for Staff (6)	$20,000	
Xerox	3,000	
Fax	1,000	
Telephones, installation	1,000	
Office: Desks, Chairs, Filing cabinets, etc	15,000	
Car or Van	30,000	
Sub-total	$70,000	70,000
Training Equipment		
Video Camera, VCRs overhead projectors, TV, supplies		
Sub-total	7,000	7,000
Total		$77,000

Annex D 4: Annual Budget - Non-Dormitory Based Training

Staff (inc. Benefits)	$68,600
Materials & Communications	18,000
Transportation	10,000
Rent	15,000
Utilities	12,000
Sub-total	123,600
Per Diem Costs for students 45 courses, 30 students each, 5 day length @ $25 p/d	168,000
Instructor Fees	20,000
Total	$311,600

ANNEX D 5: Judicial Training Center - Costs by Fiscal Year

	FY 99	FY 2000	FY 2001	FY 2001
Training Equipment	77,000	---	---	---
Materials/Communications	5,000	12,000	18,000	18,000
JTC Staff Salaries	32,000	68,600	68,600	68,600
Instructor fees	5,000	15,000	20,000	20,000
Trainee per diems	40,000	112,000	10,000	---
Remodeling	---	---	500,000	---
Dormitory Costs	---	---	184,000	200,000
Totals	$159,00	$208,000	$800,600	$306,600

ANNEX D 6: Judicial Training Center Illustrative Operations

	1999	2000	2001	2002
January	JTC venue decided	recruit 2nd Master Trainer	residence hall occupied by JTC	4 courses
February	2 courses for judges using bridge funds	2 courses for judges	staff hired 2 off-campus courses	4 courses
March	USAID contractor selected	1 course for court Administrator and Chairmen of Pilot Courts	1st 2 campus courses held	4 courses
April	JTC staff recruited/hired	2 courses for judges	3 courses	3 courses
May	JTC Institutional Development retreat with Organizational Development specialist	1 course for prosecutors (PIOR) 2 courses	4 courses	4 courses
June	prepare courses	2 courses for judges on court administration	4 courses	4 courses
July	train trainers	Team Building	4 courses	4 courses
August	4 off-campus courses (120 judges)	8 off-campus courses for judges	4 courses	4 courses
September	1 course for prosecutors and investigators (PIOR subcontract)	4 off-campus courses for judges	3 courses	3 courses
October	2 off-campus courses	Initiate remodeling of residential facility 1 course for prosecutors and investigators	4 courses	4 courses
November	2 leadership	2 courses for judges	4 courses	4 courses

	courses for Chairman			
December	Institutional Development retreat for JTC staff, board, sponsors	3 courses for judges	3 courses	3 courses

ANNEX D 7: Organization Chart - Judicial Training Center

ANNEX E: Commodities - Pilot Court Automation

Computerization:

1. Computer Hardware		$500,000
2. Computer Software		220,000
3. Supplies and equipment		60,000
	Total	$780,000

All commodities will be purchased in Year 2.

Computations:

1. Hardware

Basis: $4,000 per judge, based on fact that the technology specialist in the Varna regional court indicated that $100,000 is need to replace all existing hardware (which is outdated) in this large court with 23 judges. The amounts needed for hardware in any particular court may be lower if the courts identified as the models already have hardware that could be used.

Models:

Small:1 Regional Court: 6 judges X $4,000 plus 25% (safety factor) = $30,000

Medium: Within same district: 1 Regional Court - 12 judges X $4,000 plus 25% = $60,000
1 District Court - 15 judges X $4,000 plus 25% = $75,000

Large: Regional (like Varna): Needs $100,000 plus $25,000 = $125,000
District: 29 judges X $4,000 plus 25% = $160,000

Appellate: 7 judges X $4,000 plus 25% = 35,000

TOTAL - $485,000 rounded to $500,000

2. Software

The technology specialist in the Varna Regional Court estimated that an additional $43,000 is needed to complete software in this court. The Chairman of the Varna District Court indicated that an additional $39,500 is needed to complete software in this court. The team estimates that $20,000 may be required for software in the appellate court. To this total ($102,500) is added $117,500 for additional software development and/or adjustments to the existing software for an estimated total needed for software of $220,000. The amount that will actually be required will be dependent on the results of the court specialist's evaluation of the existing software in the courts in terms of its usefulness in individual courts, applicability to other courts, and ability to be integrated into the unified national information system.

3. Supplies and equipment

The team suggests purchasing very little in the way of materials and supplies for the Court Management sector, but does feel that the following are appropriate and replicable by the GOB:

File folders, Acco fasteners, shelving etc. for record-keeping systems - $10,000 per court X 6 = $60,000