

PD-ABR-862
103375

International Center for Not-for-Profit Law

USAID Semi-Annual Reports and Annual Workplans

December 1999

International Center for Not-for-Profit Law
733 15th Street, NW #420
Washington, DC 20005
Phone 202-624-0766
Fax 202-624-0767
E-mail: infoicnl@icnl.org

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**ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN
REGIONAL**

Identifying Information

Project Name	Democracy Network
Country	Regional
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2 1 (increased, better-informed citizen participation in political and economic decision-making)

Strategic Support Objective Strategic Support Objective 2 1 1 (sustainable civil society organizations effectively promote citizen interests)

Intermediate Results Intermediate Result 2 1 1 1 (legal environment effectively supports the creation and operation of NGOs) and Intermediate Result 2 1 1 2 (cross-border information and linkages strengthen NGO development)

Performance Indicators Intermediate Result 2 1 1 1 ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementator of the regional legal component of the Democracy Network (DemNet) Project This system rates the NGO legal environment, taking into account NGO legislation and in-country capacity Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1" According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment Numerical ratings are then grouped into three "stages", with Stage III reflecting the most advanced stage of development

Intermediate result 2 1 1 2 The measure for this Intermediate Result is the number of cross-border linkages, including regional seminars' conferences, cross-border consultations, multi-country working groups, exchanges, the publication of materials of regional significance, etc

**ICNL Report and Workplan - Regional
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Targets The following are baseline data, current data and projected targets for Intermediate Result 2 1 1 1¹

Eleven Original DemNet Countries

<u>Stage</u>	<u>May 1998 Rating</u>	<u>Current Rating</u>	<u>Dec 1999 Target</u>	<u>Dec 2000 Target²</u>
<i>Stage I</i>				
7	0	0	0	0
6	0	0	0	0
5	0	0	0	0
%	0%	0%	0%	0%
<i>Stage II</i>				
4	7	4	4	2
3	0	3	3	5
%	64%	64%	64%	64%
<i>Stage III</i>				
2	2	1	2	1
1	2	3	2	3
%	36%	36%	36%	36%

Bosnia-Herzegovina, Croatia, Serbia, Montenegro, and Kosovo

<u>Stage</u>	<u>May 1998 Rating</u>	<u>Current Rating</u>	<u>Dec 1999 Target</u>	<u>Dec 2000 Target</u>
<i>Stage I</i>				
7	1	0	1	0
6	1	0	0	0
5	3	3	3	1
%	100%	60%	80%	20%
<i>Stage II</i>				
4	0	0	1	2
3	0	1	0	0
%	0%	20%	20%	40%

¹ Targets have been slightly modified to reflect recent political and programmatic developments. For example, we have disaggregated the Yugoslav rating into ratings for Serbia, Montenegro and Kosovo. Similarly, aggregated targets reflect decreased projections for countries (such as Lithuania) where we lacked funding to undertake country-specific work. Our targets do assume, however, that we will receive funding for country-specific work in Romania, although we recognize that this is still uncertain.

² Targets for the close of the project are contained in our last workplan.

Stage III

2	0	1	0	2
1	0	0	0	0
%	0%	20%	0%	40%

Intermediate Result 2 1 1 2 Following ENI's Results Framework, the target is to provide twelve meaningful cross-border contacts per year to help ensure that ample opportunities exist to exchange lessons learned on NGO law and to develop regional understanding and awareness of NGO legal issues During the past year, ICNL facilitated more than sixteen such initiatives

NARRATIVE SECTION

I Report

A Intermediate Result 2 1 1 1 Development of the NGO Legal Environment

1. NGO Legislation

During the past six months, there was significant legislative activity, including work on draft laws already introduced and new drafts being introduced in Parliaments With regional funds, ICNL traveled to Pristina to assess the legal environment for Kosovar NGOs The visit revealed that Kosovar NGOs were operating in a legislative vacuum, unable to register or legally operate ICNL initiated a regulatory reform project in conjunction with the United Nations Mission in Kosovo (UNMIK) and obtained funding from the Charles Stewart Mott Foundation to sustain the project

Significant results were achieved both in terms of the process and substance For the first time, UNMIK actively encouraged the participation of key stakeholders in the law-drafting process UNMIK sought and received written comments from the NGO community, and it met with various NGO networks to explain the initiative UNMIK also invited ICNL to serve as the primary technical advisor on the draft The final regulation, recently enacted, is extremely progressive, reflecting a number of international best practices This is important not only in Kosovo but also internationally This is the first time that the United Nations has specifically endorsed specific NGO law provisions, so this regulation has important precedential value elsewhere in the world (East Timor is but one example)

Immediately after the enactment of the regulation, ICNL worked with a Kosovar lawyer to inform civic activists of the new framework We wrote articles for Kosovar newspapers and periodicals, and the Voice of America broadcast a story about the regulation We also sent out a "NewsFlash" to NGO law experts around the world so they could learn more about this important initiative

Legislative progress was made on other fronts as well. Highlights include the following, with more specific details in the attached country reports

- In Montenegro, the draft Law on Associations and Foundations, prepared with extensive ICNL assistance, was passed by the Parliament as soon as it reconvened following cessation of hostilities after the NATO bombing campaign. This is a fairly liberal law, which sets forth equal conditions for the registration of foreign and domestic NGOs, a critical provision that will permit greater cooperation in the region.
- In Latvia, the Parliament approved the amendments to the Law on Public Organizations and their Associations. The amendments incorporated many of the comments made by the NGO community in Latvia and removed many of the restrictions from the previous law.
- In Macedonia, the legislature passed a new VAT law effective January 2000 which provides VAT preferences for NGOs.
- In Bulgaria, efforts to finally pass a new NGO law may soon succeed. Over the summer, ICNL in Washington conducted an intensive and comprehensive training for the legislative working group. The group, with ICNL assistance, reached consensus on key principles to be included in a consolidated draft, to replace the current three competing versions. Key figures in the legislative and political sectors assured ICNL that the new act will reach its first reading before the Christmas recess.
- In Slovakia, ICNL serves on a working group organized by the Ministry of Justice preparing a new draft Law on Foundations and Funds as well as amendments to the Law on Nonprofit Organizations Providing Generally Beneficial Services. As of the date of this report, the Ministry of Justice has presented both drafts to the other ministries for review. The laws are expected to go to the Parliament before the end of 1999, with passage anticipated in the first quarter of 2000.
- In Bosnia and Herzegovina, the Republic of Srpska Ministry of Justice working group prepared a liberal NGO law with ICNL's assistance. ICNL is also working closely with the Office of the High Representative on both state and entity level draft laws on associations and foundations. The negotiations process with the respective governments is slated to begin before the end of the year.
- In Poland, the NGO sector successfully campaigned for the defeat of restrictive amendments to the Law on Foundations and is currently having significant influence on the development of a new law on "Cooperation of Public Administration Authorities with NGOs."

2 Capacity on Legal Issues Affecting NGOs

ICNL continued its intensive work on capacity-building concerning NGO legal issues both regionally and within countries throughout the region. The main efforts of ICNL's work on capacity-building focus on increasing the knowledge of and interest in legislation affecting NGOs and its possible reform. ICNL engages in capacity-building activities by providing individuals and organizations with reference materials, by making comments on draft legislation, and by providing various forms of technical assistance. It also engages in research on issues of interest in the region and publication of that research (see Part B 3 below), educational initiatives of various types (including conferences), and assisting the development of cross-border linkages that can be sustained over time (see Part B below).

In Kosovo, following introduction of the new regulation on NGOs, ICNL worked with the UNMIK registration office to develop model application forms, "founding acts," and "organizational statutes." At UNMIK's request, ICNL will also work with the registration office for the first few days of registration in late November.

ICNL's work in other countries on building in-country capacity has shown good results during the past six months. The number of individuals and organizations that are interested in laws affecting NGOs is steadily increasing. In addition, the number of individuals and organizations that are capable of starting and/or promoting an NGO law reform initiative has significantly increased. A strong NGO community has developed over the years in all the countries in the region, and this community has become an important factor in the political and social life of the respective countries. It has been a frequent occurrence that the NGO community has coalesced around an NGO law reform initiative. This is particularly evident in Albania, where an active NGO community played a remarkable role in the campaign for a new NGO law.

Another noteworthy positive feature of capacity-building about legal issues affecting NGOs has been the increasing cooperation between the NGO sector and the government. Government institutions throughout the region have begun to demonstrate readiness for a constructive dialogue with the NGO sector. For example, in Bulgaria the Ministry of Labor and Social Policy took the initiative in developing a new law on social contracting. In Poland, the government and the sector are working together to create new legislation that will support NGO/government partnerships. In the Republika Srpska, the Ministry of Justice selected an NGO representative to head its NGO law drafting group. In Croatia, the new government office for NGO cooperation selected three NGO representatives to serve on the drafting team preparing a new law on associations. That office also demonstrated transparency and fair-handedness in its selection of NGOs to receive support from the state budget.

ICNL has developed a number of initiatives in the area of capacity-building. Some of them are pilot projects, begun in one country where an important issue has come to the fore. These involve issues with regional impact and where synergies can be developed.

through replication in other countries. Other projects are specifically focused on the entire region. Examples of each type of effort include the following:

a Regional Activities

- ICNL continues to teach both an introductory NGO law course and a more intensive clinical (simulation) course on NGO law at the Central European University in Budapest. The introductory course offered in November 1999 exceeded all expectations in terms of student interest—more than 70 students from throughout CEE and the NIS attempted to register for the course, which was originally limited to 35 students and increased to 50 to accommodate more of the demand. Both courses continue to receive high ratings from the students and contribute considerably to the awareness of NGO legal issues among qualified young people throughout the region.
- ICNL is continuing with its educational initiative to train lawyers throughout the region who can help with local legal reform efforts, engage in government service affecting NGOs, and effectively assist NGOs with their legal problems. Through this initiative ICNL is continuing to work on enlarging the number of NGO law specialists throughout the region. The existing group includes private lawyers, academics, government officials, and members of Parliament.
- ICNL is also developing its educational initiative by holding regional conferences. Because this activity also fosters the development of cross-border linkages, it is discussed under Part B 2 below.
- ICNL staff attended a regional meeting of OSCE and held a discussion of the Guidelines on Laws Affecting Civic Organizations, which ICNL prepared for the Open Society Institute in 1996-1997.

b Pilot Projects

- ICNL's pilot program in NGO law at the University of Rijeka, Croatia will be launched early next year. In the fall, ICNL provided training and materials to the law instructor as well as a computer for her use in preparing and translating curriculum materials. The course will be offered as an elective course available to third and fourth year students through the International Law Department. This is the first course focusing on NGO law to be offered in the local language as a part of the regular curriculum, a project we hope to duplicate in other countries.
- In Hungary ICNL continues to develop its pilot *"live-client" clinical program* on NGO law at Etvos Lorrand University (ELTE) in Budapest, Hungary. This program will involve development of a theory course on NGO law, based in part on the Croatian model, as well as a program of clinical instruction to be taught to law students. The clinic will be arranged between the university and the local NGO resource center, NIOK, as well as some other NGO in Hungary. NIOK presently

provides legal services to NGOs *pro bono* through a consultation process at the center, which uses a single local attorney in this capacity. The clinical course at ELTE will provide students to work on cases involving legal problems confronting NGOs, under the supervision of local attorneys, thus increasing the capacity of NIOK to respond to legal problems of NGOs. In addition, this practical experience will train lawyers to be more effective in their work advising NGOs and will thus further develop a sustainable group of lawyers interested in legal issues affecting NGOs and capable of addressing such issues in practice. If this pilot project is successful, it will be expanded to other law schools in Hungary (working with local NIOK offices) and to other countries. ICNL has already had expressions of interest from the Cyril and Methodius University in Macedonia, the Jagiellonian University in Krakow, Poland, and the University of Podgorica in Yugoslavia, and will explore repeating the project once the ELTE pilot gets off the ground.

- Similarly, ICNL is developing pilot projects to *integrate NGO legal issues into existing academic coursework at various universities*. For example, ICNL is working with the Vice Dean at the Cyril and Methodius Law Faculty in Macedonia to draft a textbook on NGO law and to integrate NGO law into a variety of courses in the law school, journalism faculty, and political science faculty.
- ICNL continues its work in training officials involved in the implementation of NGO laws. In Macedonia and Montenegro, ICNL worked with officials in preparing commentary to offer guidance in the implementation of new NGO laws. In Macedonia, ICNL worked with local partners on judicial training in NGO law. ICNL plans to work with ABA/CEELI on a region-wide Judicial Training Institute by preparing the NGO law component for the continuing legal education program.
- ICNL continues its work on the *self-regulation initiative* in Bulgaria. This initiative combines work on an NGO Code of Conduct (with the Union of Bulgarian Foundations and Associations) and on accounting rules for NGOs (with the Center for the Study of Democracy). It will involve a study of existing practices and make suggestions for improvements. Combining this with the study currently underway on financial and other reporting responsibilities of NGOs in the region will give rise to a model project on self-regulation that can be replicated, as needed, throughout the region.

During the past reporting period, ICNL developed and increased its activities directed at increasing capacity and understanding of NGO legal issues, which contributes to the ability within the region to sustain NGO law reform initiatives. Increased knowledge also contributes to better administration of existing laws by government officials as well as to greater access for NGOs to effective legal representation. At the same time as these capacities have been increasing, the NGO legal environment throughout the region has become more favorable and supportive of the NGO sector. Thus, ICNL's work has contributed to Strategic Objective 2.1 (increased, better-informed citizen participation in

political and economic decision-making) and Intermediate Result 2 1 1 1 (legal environment effectively supporting the creation and operation of NGOs)

B Intermediate Result 2 1 1 2 Cross-Border Linkages

1 Summary

ICNL's activities have also contributed to Intermediate Result 2 1 1 2 (cross-border information and linkages strengthen NGO development) ICNL has promoted regional connections among individuals and has increased the flow of information about NGO law by publishing and distributing comparative materials and documents of regional significance Highlights include the following

a. Cross-Border Linkages

- Dr Petr Pajas shared the Czech experience with working groups in Albania and Slovakia
- ICNL facilitated cross-border linkages between NGO law experts in Kosovo and Albania
- ICNL has continued to increase the capacity of ICNL-Budapest so that it can be an effective resource center for the region Copies of all legal materials (laws and reports) from the CEE countries have been transferred from ICNL-Washington to ICNL-Budapest, and the regional office now has a full library of CEE materials available The next step in this process is to transfer materials from Western European countries (which are useful reference materials in technical assistance projects) as well as some materials from NIS countries and from other regions (for example, NGO Codes of Conduct from various countries in Asia and Africa) We will also distribute as many documents as possible to provide access to the documents via the Internet
- ICNL's Advisory Committee for ICNL-Budapest, which was established during the previous reporting period and which includes representatives from many of the CEE countries as well as countries in Western Europe, continues to meet on a regular basis to offer guidance and suggestions
- ICNL has solidified its regional network of local partners and is working on training them to deal with newly arising issues, such as NGO/government partnerships and tax reform Regional linkages are also being reinforced by the Regional Coordinating Editor for the *International Journal of Not-for-Profit Law*, based in Prague, who communicates quarterly with the regional network of local partners
- The ideas discussed at the May 1999 conference reported during the past period, the conclusions reached and suggestions made in the plenary sessions and the working

groups, were published in the September issue of the *International Journal of Not-for-Profit Law*

- ICNL has increased its participation in NGO-law related activities involving countries both to the East and to the West. For example, ICNL's Bulgarian lawyer, Radost Toftisova, attended the Royaumont Conference "promoting Democratization and the Role of Civil Society" in Budapest in June. One of the topics of the Conference was the possibility for participation in projects funded by the Council of Europe in the framework of the initiative. ICNL consultants from the region worked in the Caucasus countries and in Central Asia on law reform initiatives. ICNL is working to increase and facilitate cross-border linkages with its new office in Kiev, Ukraine and its existing office in Almaty, Kazakhstan.

b. Preparation and Distribution of Materials of Regional Significance

ICNL has been working on the preparation and distribution of materials to promote cross-border exchange of information and lessons learned. For example:

- ICNL continues to publish its *International Journal of Not-for-Profit Law* ("IJNL"), providing information on the legal, regulatory, and self-regulatory developments affecting NGOs. This unique online journal contains country reports, articles on legal issues affecting civil society, book reviews, a calendar of events, and other pertinent information for eight different regions, including CEE. IJNL's fourth issue appeared in June 1999. ICNL prepared a special issue of IJNL on the May conference on Public Benefit Organizations in Europe, which was published in September. The Journal is becoming an increasingly popular resource for NGOs throughout the region.
- Information about the proceedings of the Budapest conference was also published in the SEAL Bulletin (a regional publication) and @lliance, an international publication on civil society.
- ICNL continues to prepare country reports from the region and to publish them electronically and in hard copy. In addition to the updated reports from Slovenia, the Czech Republic, Estonia, Lithuania, Poland, and Bulgaria, we have a new report from Yugoslavia and are expecting revised reports from Romania and Hungary. The country reports are written by experts in the region and are being published, together with updated laws, in the new publication *International Reporter on Not-for-Profit Law* ("IRNL"). IRNL will eventually be expanded to include reports and laws from other regions.
- ICNL continues to expand the materials available on the web site. ICNL's on-line library contains legal materials (laws, draft laws, legal opinions, etc.) from all the countries in the region as well as articles of regional significance. Researchers and

practitioners in the region and elsewhere can access this resource quite easily through the worldwide web

- ICNL's activity continues to be directed toward the sharing of regional lessons learned. We have been distributing in hard copy draft laws, enacted legislation, and NGO law country reports among the DemNet countries, to strengthen cross-border exchanges, to promote greater understanding of NGO law, and to strengthen capacity for NGO law reform efforts. We are presently undertaking a regional analysis of good processes and outcomes during our work in the region, which will be made available as a resource tool.
- ICNL has undertaken four new regional research projects. These include 1) a survey of the basic framework legislation throughout the region, 2) a survey of the tax legislation throughout the region, 3) a report on the financial and other reporting responsibilities that apply under legislation enacted in the region, and 4) an analysis of what rules apply to the investment of endowments. Co-funding has been obtained from other sources for projects on economic activities (Open Society Institute) and tax rules related to endowments (Stefan Batory Foundation).

II Workplan

A Intermediate Result 2.1.1.1 Development of the NGO Legal Environment

ICNL's proposed legal framework activities are discussed in the attached country workplans. In summary, ICNL intends to continue to focus on NGO issues related to framework legislation (i.e., the rules governing the establishment, registration, activities, internal structure, regulation, and dissolution of NGOs) in countries including Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Latvia, Lithuania, Poland, Romania, Slovakia and Yugoslavia. ICNL also intends to work on an initiative to ensure that the tax framework adequately supports NGO activities in the region. We will also direct a significant amount of time to registration and other activities in Kosovo.

We will make 3 to 4 country visits per year for most countries, although we will seek to visit countries with high needs more often. ICNL will also take a limited number of trips to countries that have not contributed to the Cooperative Agreement (for example, Latvia, Lithuania, Poland, etc.). Moreover, in Latvia, under the leadership of the Baltic-American Partnership Fund (BAPF) and the NGO Resource Center, the NGO sector is undertaking a comprehensive review of the legal framework affecting NGOs. This review will be undertaken with the objective of rationalizing the NGO regulatory structure as well as enabling the framework to conform to international and EU standards. BAPF and ICNL have entered into discussions regarding ICNL serving as a resource for this project, especially given ICNL's extensive work in Latvia under DemNet. Similar discussions are expected with BAPF in Lithuania.

In addition to capacity building through work on NGO legislative initiatives, ICNL will undertake projects to ensure that NGO representatives, government officials, and private lawyers understand the law. For example

- ICNL will continue to teach an introduction to NGO law, in addition to its NGO clinical course, at the Central European University
- ICNL will continue its summer internship program for CEU students in 2000, and we will open the summer intern fellowships to anyone from the region, not just CEU students
- In Montenegro, Romania, Yugoslavia (Podgorica), Macedonia, Croatia, and elsewhere ICNL will work closely with the law faculties to promote the preparation of NGO law materials in the local language and the addition of NGO law courses to the curricula
- ICNL will work with the law faculty to launch a clinical course on NGO law at ELTE in Hungary as a pilot project. These projects may include introductory seminars by ICNL staff and/or consultants
- In Bulgaria, work with local government officials to increase their understanding of the NGO sector and to promote NGO-local government partnerships will continue
- ICNL has retained local lawyers to assist us in the preparation of a comprehensive tax survey for CEE, which will increase the in-country capacity regarding tax issues in addition to helping ICNL identify those countries in which we should intensify our focus on tax reform activities
- In Kosovo, ICNL is working with the UNMIK registration office to develop model application forms, "founding acts," and "organizational statutes." At UNMIK's request, ICNL will also work with the registration office for the first few days of registration in late November. In coming weeks and months, ICNL will work with UNMIK on implementing "administrative directions" as well as on other regulations affecting the NGO sector (e.g., customs duties, profits tax, sales tax, etc.) ICNL will also work with UNMIK and the OSCE to educate NGOs on opportunities and requirements presented by the new framework
- ICNL has been requested by Transparency International to participate in a consortium that will assist transition in the Balkans by seeking to develop capacity of NGOs to monitor corruption. ICNL's role will be to build capacity of indigenous NGOs by focusing on legal framework issues that can assist the development of capacity

These are but a few examples of planned capacity building activities. Additional activities will be developed as needs arise.

B. Intermediate Result 2.1 1 2 Cross-Border Linkages

ICNL will also strengthen cross-border linkages during the next year. The following are illustrative examples:

- **NGO Law Resource Center** We will continue our efforts to increase the capacity of our office in Budapest to serve as a regional center on NGO law. We will continue the

professional development and training for our European staff and will hopefully add at least one additional lawyer from the region within the next twelve months

- **CEU Course.** As discussed above, ICNL will teach two courses on NGO law, which will foster regional networks of students interested in NGO law
- **Regional Workshops and Conferences** In December 1999, ICNL will hold a meeting of experts from the region, Western Europe and the United States to consider essential public benefit issues. The meeting will be held in Zakopane, Poland. Meeting participants will undertake a comparative study of various laws regulating Public Benefit Organizations, and will discuss the development of a model law on public benefit organizations for the region
- In spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's NGO tax reform initiative
- Depending on demand and time constraints, ICNL may organize one or more smaller conferences focusing on subject rather than on a particular region, for example, a conference on self-regulation issues for three or four countries interested in that topic. We also hope to organize a workshop for lawyers from some of the countries from the former Yugoslavia, most likely in Budapest, focusing on "hot topics" particular to that region. To the extent possible, expenses for national participants attending regional conferences will be covered under the country-specific ICNL project funding
- **Other Conference Participation.** ICNL will continue to participate in regional conferences, as they arise, integrating NGO legal issues whenever possible. ICNL will also integrate CEE experts into regional and international conferences, such as the regional NGO law conferences organized by UNHCR, Open Society Institute, Council of Europe, and ICNL
- **Academic Initiative** We will work with law faculties throughout the region to integrate NGO law into university curricula
- **Cross-border Consultations and Information-Sharing** We will try to continue to organize cross-border consultations and information-sharing, such as Dr. Pajas' work in Albania and Slovakia, not only within CEE but also between CEE and the NIS
- **Preparation and Distribution of Regional Materials** ICNL will undertake additional regional projects during the next six months, and will include CEE experts in these initiatives. ICNL will also ensure that countries throughout the region have access to documents of regional significance, such as research reports, draft laws, handbooks on NGO law, and conference proceedings. Specifically, ICNL will negotiate with the Open Society Institute to produce a second edition of the Guidelines for Laws Affecting Civic Organizations
- **Special Initiatives**
 - **Regional Endowment Issues.** ICNL proposes to undertake in the next year a project designed to evaluate the legal enabling environment for relating to management of foundation assets, and how the environment could be strengthened. We will survey the countries within the region regarding the existing

regulation affecting the management of assets, including framework, tax, governance and investment regulation. We will look in particular at the rules relating to the investment of endowments. In addition, we will assess the related legal and market infrastructure governing other types of fund investments. The goal is to develop recommendations for best practices in the management of foundation assets throughout the region, with the ultimate end of enhancing asset management as a means of financing the development of civil society organizations. This project will focus on countries where endowment issues are posing a problem (for example, the Czech Republic and Poland), but the results will be important throughout the region.

- ***NGO-Local Government Partnership Issues*** ICNL will develop research into these issues, including examples of successful partnerships, and use this research in tandem with its legal framework development projects in Romania, Slovakia, Croatia, Bulgaria and possibly other countries.
- ***Fiduciary Duties and Self-Regulation*** In the past year, ICNL initiated a project on fiduciary standards and self-regulation. The purpose of this project is to bolster internal governance and accountability within the nonprofit sector. ICNL has included in its regional and country work, initiatives designed to promote the use of self-regulatory mechanisms, for example, codes of conduct, as a means to improve nonprofit accountability and governance, and to enhance the standards to which officers and directors of organizations are held. ICNL will continue these efforts in the coming year through its legislative, educational, and capacity-building projects.
- ***Other Regional Initiatives*** Because this is a one-year work plan, it is very likely that other regional initiatives that merit our assistance and funding which we cannot currently anticipate will arise. We will therefore develop additional projects and initiatives as opportunities arise.

III List of Contacts

Throughout the course of this project, ICNL has worked closely with its DemNet partners throughout the region. In addition, counterpart assistance has been provided by the following organizations over the past six months: the Council of Europe, the World Bank, UNDP, UNHCR, OSCE, the Open Society Institute, the C S Mott Foundation, the Rockefeller Brothers Fund, the Hungarian Civil Society Development Foundation, Central European University, and a host of other partners identified in the "contact" section in the attached country reports.

IV. Management Plan

ICNL has assigned two lawyers to each country, one with the primary responsibility, the other with secondary responsibility. These lawyers are responsible for implementing, monitoring, and reporting activities and accomplishments under this project. Current responsibilities are as follows:

**ICNL Report and Workplan - Regional
December 1999**

<u>Country</u>	<u>Primary Responsibility</u>	<u>Secondary Responsibility</u>
Albania	Douglas Rutzen	Radost Toftisova
Bosnia	Dragan Golubovic	Douglas Rutzen
Bulgaria	Stephan Klingelhofer	Radost Toftisova
Croatia	Jean Garland	Dragan Golubovic
Czech R	Douglas Rutzen	Jean Garland
Estonia	Stephan Klingelhofer	Douglas Rutzen
Hungary	Jean Garland	Radost Toftisova
Kosovo	Doug Rutzen	Jean Garland
Latvia	Stephan Klingelhofer	Douglas Rutzen
Lithuania	Stephan Klingelhofer	Jean Garland
Macedonia	Douglas Rutzen	Radost Toftisova
Poland	Leon Irish	Karla Simon
Romania	Jean Garland	Radost Toftisova
Slovak R	Jean Garland	Stephan Klingelhofer
Yugoslavia	Dragan Golubovic	Jean Garland

ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN ALBANIA

Identifying Information

Project Name	Democracy Network
Country	Albania
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2.1 (increased, better-informed citizens' participation in political and economic decision-making)

Intermediate Result Intermediate Result 2.1.3.2 (enabling legal and regulatory framework empowers NGOs)

Performance Indicators ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1." According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development.¹ According to this scale, the NGO legal environment in Albania is in Stage II, with a rating of "4+."

Targets The goal is for Albania's rating to merit a rating of "2-" by the close of this project.

NARRATIVE SECTION**I. Summary of the NGO Legal Environment**

The Civil Code provides the primary framework for associations and foundations in Albania. The Civil Code section on NGOs is quite short, consisting of 10 articles on foundations and 14 articles on associations. The legal framework is generally not considered

¹ Additional information on this rating system can be found in the appendix to ICNL's July 1997 report.

to be an impediment to NGO activity in the country. Nonetheless, a number of gaps and ambiguities exist. For example:

- 1 The Civil Code does not articulate or define the nonprofit principle,
- 2 The definition of a foundation is unclear, which enabled pyramid schemes to register as foundations,
- 3 Ministries have undefined powers to supervise the activities of foundations,
- 4 The Civil Code fails to state how many founders are necessary to establish an association,
- 5 The Civil Code is interpreted to preclude associations from engaging in economic activities,
- 6 There is an inadequate legal basis for service-providing NGOs,
- 7 The articles dealing with the basic documents of an NGO (i.e. the "Founding Act" and "Statute") are missing key provisions, and
- 8 The distinction between public benefit and private interest activities is unclear.

An NGO-government working group began drafting a new NGO law in 1997. The process became a model of democratic law-making. The government actively encouraged public participation in the process, hosting two public hearings, publishing the draft law in three leading newspapers, and inviting a public participation specialist to join the working group to ensure that NGOs had access to the drafting process.

Unfortunately, progress on the draft has been slowed by a number of external factors. Most recently, the Prime Minister resigned, and ministers were replaced (including the Minister of Labor). In addition, the Ministry of Justice has been instructed to prepare a series of amendments to harmonize Albanian legal codes with the new Constitution. Because the NGO law repeals inconsistent sections of the Civil Code, the Ministry of Justice will probably postpone finalization of the NGO law until the entire package of Civil Code amendments is prepared. The working group and key international organizations (including USAID, OSCE, and UNDP) are actively monitoring developments, and are considering various ways to foster the prompt introduction of the draft into Parliament.²

The NGO tax/fiscal framework is considered to be generally supportive, although it too contains gaps and ambiguities. The Law on Profits Tax contains exemptions for enumerated types of NGOs. Pursuant to the December 1994 Law on Sponsorship, business are allowed to deduct donations to NGOs pursuing certain humanitarian, cultural, artistic, sport, educational, ecological, literary, or scientific activities. Individuals, however, are not entitled to deduct donations to NGOs. The Law for the Treatment of Humanitarian Aid Free of Charge exempts certain humanitarian goods from custom duties. The tax treatment of economic activities undertaken by NGOs is unclear.

² As noted in previous correspondence, the current challenge is to gain governmental support for introduction of the draft into Parliament. It will then be necessary to garner significant Parliamentary support for the draft. The initiative requires the amendment of sections of the Civil Code, and these amendments require a 60% vote in Parliament. With the Democratic Party back in Parliament, it might be hard to muster this majority, particularly since the Democratic Party introduced the original, restrictive initiative.

Government contacts have told us that it will be difficult to achieve greater tax benefits for NGOs at this time considering the economic conditions in the country and limitations imposed by international financial institutions. NGO representatives informed us they generally have few problems with the tax authorities. They therefore suggested that ICNL not embark on a tax initiative at this time, since it might lead the government to increase, rather than decrease, the tax and fiscal burden on NGOs.

II Report and Workplan

A Report

ICNL has sought to keep USAID fully informed of developments through e-mail updates, trip reports, and meetings. The following summarizes the developments:

1 The NGO Legislative Framework

ICNL has continued to provide extensive technical assistance on the NGO draft law. In June, the Ministry of Justice and the NGO-government working group requested that ICNL prepare comments on the draft law and present options for reconciling the NGO law with the Civil Code. ICNL prepared detailed reports on these topics with the assistance of Dr. Petr Pajas from the Czech Republic and a Yale Law School intern fluent in Albanian.

In August, ICNL returned to Tirana in August to meet with the working group and the Ministry of Justice. As a result of this meeting, the working group amended the draft and submitted a revised version to the Ministry of Justice. In turn, the Ministry requested ICNL's comments on the revisions, which we submitted to the Ministry in late August.

During this visit, ICNL met with Sokol Lemaj, Legal Advisor to the Council of Ministers. He stated that the NGO law was the "best written law" he had ever seen in Albania and that it would be passed by Parliament fifteen days after it was finalized by the Ministry of Justice.

The Ministry of Justice promised to finalize the draft by September 15. Unfortunately, this did not happen. ICNL therefore returned to Tirana in October to assess the status of the draft law. We specifically asked the working group (1) whether the delays were caused by substantive concerns with the draft, and (2) whether the time was right to proceed with the initiative, since some government officials and Parliamentarians are apparently interested in controlling the growth of the NGO sector. In response to the first query, the working group stated that the Ministry of Justice had no significant substantive concerns with the draft. Rather, they stated that there was significant "bureaucratic inertia" within the Ministry of Justice, noting that the Ministry failed to finalize any of the six drafts awaiting submission to the Council of Ministers. In response to the second query, the working group unanimously concluded that the time remains right to proceed with the legislative initiative.

To move the initiative forward, the working group has devised a three-prong strategy involving meetings with the Minister of Labor, Minister of Justice, and Parliamentary representatives. UNDP also suggested that key donors (USAID, UNDP, World Bank, and OSCE) send letters of support for the initiative. This is important to help mobilize political support for the draft.

As stated in Section I, the Prime Minister resigned shortly after this working group meeting. In addition, the new Prime Minister replaced the Minister of Labor. Our contacts within the Ministry of Labor are planning to meet the Minister to gauge her receptivity to the initiative. They are also planning to meet with officials at the Ministry of Justice in the near future. We will keep USAID informed of developments.

2 Fostering In-Country Capacity and Regional Networking

a The NGO Tax Study

ICNL's local consultants prepared an analysis of the tax treatment of Albanian NGOs. A copy of this report has been submitted to USAID. In the coming months, ICNL will work with the drafters so that it can be distributed to NGO representatives, donors and other interested parties. It will also be integrated into a regional survey on NGO tax/fiscal issues in Central and Eastern Europe.

b Legal Consultations

In a pilot project, ICNL hired two Albanian lawyers (Naim Isufi and Marieta Vaso) to provide legal assistance to NGOs on legal framework issues. Specifically, the lawyers provided assistance to NGOs participating in ANTTARC's Institutional Development Grant Program. They reviewed the statutes and by-laws of these organizations to ensure compliance with the law and best practices, and worked with the Directors to modify these documents. In the coming months, they will register these amendments with the court. Once the new law is enacted, we expect the lawyers to use these skills to assist the broader NGO community with re-registration and other legal framework issues.

c Integration of NGO Law in the University Curriculum

Ms. Vaso is teaching philosophy of law at the Law Faculty in Tirana. During the semester, we worked with Ms. Vaso to introduce NGO law (and the role of NGOs generally) into the law school curriculum. This is the first time that NGO legal issues have been taught in Albania, and we hope to expand the scope of these lectures during the coming months.

d Regional Linkages

During the past reporting period, ICNL published two volumes of the *International Journal for Not-for-Profit Law* (IJNL). The IJNL is an online journal that provides up-to-date information on legal and regulatory developments affecting the not-for-profit sector in

countries around the world. The IJNL contains regular updates on Albania and is distributed around the world via e-mail and the Internet.

B Workplan

ICNL plans to undertake the following activities in the next twelve month reporting period, recognizing that plans may shift depending on developments with the NGO law.

1) Technical Assistance on the NGO Law

ICNL will continue to provide technical assistance on the draft NGO law as it works its way toward enactment. Depending on needs, ICNL is prepared to provide additional comments on the draft, work with the Ministry of Justice to finalize the draft for submission to the Council of Ministers, and organize a roundtable discussion for Members of Parliament. Once enacted, ICNL will provide technical assistance on the foregoing projects and will assist with the development of forms and regulations. In addition, ICNL is prepared to provide technical assistance on the official commentary to the new law, assuming one is written.

2) Written Materials on NGO Law

To help NGOs operate effectively within the law, ICNL will provide written materials explaining the NGO legal framework. We will start with a "plain language" brochure series. The brochures will be made available to organizations working with NGOs. We are currently soliciting suggestions for topics from USAID, OSCE, ORT, ACSF and others, but likely topics include:

- 1 The drafting of organizational statutes,
- 2 The registration process,
- 3 The hiring of staff and other labor law issues (apparently the labor inspectorate is currently investigating NGO practices in this area),
- 4 Legal requirements relating to corporate "sponsorship", and
- 5 The importation of goods and supplies.

Once the law is enacted, ICNL will develop a comprehensive handbook on NGO law that incorporates these materials. The document will be distributed throughout the country free-of-charge and will help ensure that NGO representatives, judges, and government officials are literally on the same page concerning issues of registration, operation, internal governance, etc.

ICNL has currently retained a prominent Kosovar lawyer to prepare a similar brochure series in Kosovo, whom we will involve in this project to take advantage of lessons learned.

3) Training of Lawyers and NGO Representatives

ICNL's will train lawyers from around the country on issues of NGO law. The lawyers will then be required to hold a meeting for all interested NGOs in their respective communities, using the methodology and materials presented at the training. This project will serve two goals: to educate NGOs on the law and to create linkages at the local level between NGOs and the legal community. If the law is enacted by Spring, the training will cover the new law. Otherwise, we will organize the training on the current legal framework, focusing on the practical issues discussed in the brochure series.

4) NGO Consultations

ICNL has hired two Albanian lawyers as consultants. During the first half of 2000, the lawyers will focus on preparing the NGO law brochure series. The lawyers will also help organize training programs on the law. If time permits, we will also contract with them to provide free legal assistance to NGOs on the general legal framework.

5) Integration of NGO Legal Issues into the Law School Curriculum

In order to expose larger numbers of law students to NGO law at Tirana Law Faculty, ICNL will continue to work with Marieta Vaso to integrate NGO legal issues into the law school curriculum. During the coming months, ICNL will be developing Albanian-language curriculum materials on NGO law. ICNL has a Kosovar Albanian law professor working with us in Washington, and she will help us develop the materials in conjunction with Marieta Vaso. ICNL is also considering the possibility of organizing a regional meeting for NGO law teachers, and we would ensure that Albania is represented at any such meeting.

6) Training of Judges and Central Register Officials.

Courts are responsible for NGO registration, for reviewing appeals, and for handling disputes arising under the law. ICNL therefore proposes to develop a judicial training program to ensure that judges properly implement and interpret the law. We expect that Artan Hoxha (Supreme Court Justice and primary drafter of the NGO law) will be an integral part of this project. The draft also creates a central register, which has a key role in the registration process. ICNL will work with central register officials, once appointed, to help them understand their obligations under the new law.

The timing of the project depends on progress with the NGO law. If it is enacted by Spring, we will seek to organize the training seminar during 2000. Otherwise, we will develop plans in 2000 and will hold the training in early 2001.

7) Self-Regulation.

ICNL is also interested in supporting self-regulatory initiatives in Albania. It is a bit premature to proceed with specific projects at this time, but USAID has provided sound advice about groups that might be interested in pursuing this topic in the future. During the

coming year, ICNL will follow up on these leads to see if a self-regulatory initiative would make sense

8) Regional Linkages

In December 1999, ICNL will hold a meeting of experts from the region, Western Europe and the United States to consider essential public benefit issues. The meeting will be held in Zakopane, Poland. Meeting participants will undertake a comparative study of various laws regulating Public Benefit Organizations, and will review a model law on public benefit organizations for the region. Albania will be represented by Justice Artan Hoxha of the Albanian Supreme Court.

In addition, in spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's tax reform initiative, and ICNL will ensure that participants from Albania are involved.

To share regional and international lessons learned, ICNL will continue to distribute laws, reports, and the IJNL to interested individuals in Albania. In addition, ICNL will seek to integrate Albanians into other regional activities detailed in our regional workplan.

II List of Contacts

ICNL has established close relationships with several government officials, lawyers, and NGO leaders working on legal framework issues. The following is a partial list of ICNL's Albania contacts:

USAID	Charlotte Watson
Ministry of Labor & SA	Alfred Kocollari
	Sofi Noti
	Pranvera Behushi
Ministry of Justice	Ilir Panda
	Ardian Dvorani
	Violanda Theodhori
Supreme Court	Artan Hoxha, Thumjo Kondi
OSCE	Kim Meyer, Penny Martin, Eralda
	Methasani, Evis Alimehmeti, Michael
	Scheutz
UNDP	Etleva Vertopi
World Bank	Ana Gjokutaj
ORT	Juliana Hoxha
ACSF	Rolanda Dhimitri
ANTTARC	Lori Jenkins, Edmond Spaho, Kalia Musha
Working Group	Valentina Leskaj, Artan Spahu,

NGO Reps	Andrian Vaso, Vjollca Mecaj
ICNL Legal Consultants	Naim Isufi, Marieta Vaso

III List of ICNL Country-Specific Documents

Laws

- Ligj Per Shoqerite E Bashkepunimit Reciprok, Law No 8088, *March 21, 1996* (in Albanian)
- Law on Sponsorship, Law No 7892, *December 21, 1994* (in English and Albanian)
- Excerpts from the Civil Code of the Republic of Albania, Law No 7850, *July 29, 1994* (in English and Albanian)
- Law on the Treatment of Humanitarian Aid Free of Charge, *January 31, 1994* (in Albanian)
- Law on Foundations, Law No 7695, *April 7, 1993* (in English and Albanian)
- Law for Profit Tax, Law No 7677, *March 3, 1993*
- Law on Turnover Tax, Law No 7676, *March 2, 1993*
- Constitutional Laws of the Republic of Albania, *December 1993*
- Ligji per Shoqatat, *undated* (in Albanian)
- Procedura e Regjistrimit ne Gjykate, *undated* (in Albanian)

Draft Laws

- Draft Law on the Tax Procedural Code, Chapter V, *July 1998*
- Draft Law on the Non-Governmental Organizations, *June 26, 1998* (in Albanian and English)
- Draft Law on the Not for Profit Entities that Provide Social and Employment Services, *June 1997 and earlier drafts*
- Draft Constitution of the Republic of Albania, *October 6, 1994*

Comments

- ICNL's Comments on the Draft Law on the Non-Governmental Organizations, *July 16, 1998* (in English and Albanian)
- ICNL's Comments on the Albanian Draft "Law on Not-for-Profit Entities that Provide Social and Employment Services," *November 14, 1997*
- ICNL's Comments and Suggestions made by Non-Governmental Associations about the Draft Law "About the Non-Governmental Organizations Which Work in the Field of Social Services and Employment," *May 1997*
- ICNL's Comments on the Albanian Draft "Law on the Non-Profit Organizations that are Oriented in the Areas of Employment Services and on Social Services," *April 11, 1997*

Reports

- Ministry of Justice Submission to the Council of Europe on “The Legal Status of International Non-Governmental Organisations and their Role in a Pluralistic Democracy, “ *March 23-25, 1998*
- Considerations on the Legislation and Regulations Governing the Life of Non-Governmental Organisations in the Republic of Albania, *1997*
- Institutional Framework and Practice of Public Participation in Environmental Decision-Making, by A Vaso, *1997*
- ABA CEELI Status Report on the Law Governing Non-Profit Organizations, *July 6, 1995*
- “The Legal Framework for Public Participation and Existing Legal Practices at the Start of 1995”
- ICNL’s Country Report—Albania, *1995*
- Index of Legal Acts of Albania, *May 1994*
- “Synthesis of the Answers Albania,” *undated*

ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN: BOSNIA AND HERZEGOVINA

Identifying Information

Project Name	Democracy Network
Country	Bosnia and Herzegovina
Provider name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2.1 (increased, better-informed citizen participation in political and economic decision-making)

Intermediate Result: A legal environment that supports the creation and operation of NGOs

Performance Indicators: ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from 7 to "1". According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three stages, with Stage III reflecting the most advanced stage of development.¹ According to this scale, the NGO legal environment in Bosnia and Herzegovina (BiH) is in Stage I, with a rating of "5+."

Targets: The goal is for BiH's rating to increase to a "4" by the end of 2000 and to reach a "3-" in 2001. This, of course, depends upon progress made by a variety of legislative initiatives, which are currently under way and described below, and more generally upon peace and stability in the country.

¹ Additional information on this rating system can be found in the appendix to ICNL's July 1997 report.

NARRATIVE SECTION

I The NGO Legal Environment

The constitution of Bosnia and Herzegovina confers all powers not specifically assigned to the state to its two entities the Federation of Bosnia and Herzegovina and the Republic of Srpska. NGOs operate under a confusing, fluid, and potentially restrictive array of laws including, *inter alia*, a Law on Humanitarian Activities and Organizations, a Law on Citizen's Associations, a Law on Foundations and Funds in the Federation, as well as a Law on Citizens Associations and a Law on Legacies, Foundations and Funds in the Republic of Srpska. The regulations in the Entities are inconsistent, they effectively prevent state-wide NGO registration or operations, and they tend to create the potential for government involvement in the affairs of associations and foundations.

As noted in the prior report, a task force of Bosnian lawyers has convened under the auspices of a collaborative 18-month Law Education and Advocacy (LEA) Project to develop an enabling legal environment for the not-for-profit sector while coordinating a national advocacy campaign to prepare ground for the adoption and passage of new legislation. Unfortunately, the LEA Project has had limited outreach to the government or NGO community.

Recently, however, we have seen some promising developments. The Madrid Peace Implementation Council specifically endorsed the "development and implementation of a sound legal framework for civil society organizations, including the adoption of a draft Law on Associations and Foundations." In addition, a number of bilateral and multilateral institutions (including USAID, the OSCE, and World Bank) are lending support to NGO law reform activities. Recognizing the inefficiency of the current NGO legal framework, the Office of the High Representative (OHR) has recently prepared its own state and entity level laws on associations and foundations, and plans to instigate a negotiation process with respective governments sometime soon. Finally, the Republic of Srpska (RS) Ministry of Justice has prepared a fairly progressive draft law on associations and foundations, which is expected to be approved by the Government and introduced to the Parliament before the end of this year.

II. Report²

A Introduction

ICNL's primary role in this reporting period has been to provide technical assistance to OHR and the RS Ministry of Justice on substantive issues and on the process of NGO law reform. ICNL has served as a member of the OHR international advisory team supporting the OHR staff in preparing the state and entity draft law on associations and foundations. In addition, ICNL has provided assistance to the RS Ministry of Justice in preparing the new draft law on associations and

² Please note that additional details on each of these activities are contained in ICNL's trip reports and updates previously provided to USAID.

foundations

B The NGO Legal Environment

In June 1999, ICNL visited the Republic of Srpska Ministry of Justice to follow up on prior indications that the Ministry of Justice was ready to proceed with NGO law reform. The Deputy to the Minister of Justice, Kovacevic, advised us that NGO reforms were high on the government agenda and gladly accepted ICNL's offer to provide legal and technical assistance to the Ministry in preparing the new draft law on associations and foundations. Shortly after our visit, the Minister of Justice formed a working group, which was tasked with preparing the new draft. Our primary local contact, Goran Bubic, was named the head of this group. At its first meeting, the working group decided that the LEA-LINK draft should be the starting point in preparing the new draft. As noted in the prior report, ICNL provided in-depth technical assistance to Mr. Bubic in preparing the final version of that draft.

ICNL worked closely with the RS working group and provided comments on its first draft. In September 1999, at the request of the Ministry of Justice, we visited Banja Luka to provide assistance to the working group in preparing the final draft. We had two lengthy sessions with the members of the working group. At the first session, general principles on which the draft law was based and ICNL's comments related to those principles were reviewed. The second session was dedicated to an article-by-article analysis of the draft. The working group was very receptive to our comments. As a result of this collaborative process, the final draft largely complies with international standards and best regional practices. The following illustrates some of ICNL's suggestions that were incorporated by the drafters.

- Associations can be founded by at least three legal or natural persons, regardless of their citizenship, domicile or residence in Bosnia and Herzegovina
- One or more legal or natural persons, regardless of citizenship, domicile or residence can establish a foundation in Bosnia and Herzegovina
- Associations and foundations can be engaged in both related and unrelated economic activities. In addition, an organization can engage in unrelated business activities without having to establish a separate legal entity, if the profit generated from such activities does not exceed 10,000 KM or 1/3 of the annual budget, whichever sum is higher
- An organization that is registered at one entity can freely operate in the other entity
- Registration of associations is not mandatory
- Standards of behavior for members of the management board of an association and foundation are reflected in the draft

The Ministry has presented the final draft to the Government and OHR for review. As already noted, it is expected that the Government will approve the draft and introduce it to the Parliament before the end of this year.

Recognizing that the current legal framework in Bosnia and Herzegovina does not

allow for an association to register and operate at the state level, OHR recently decided there was a jurisdictional basis for enacting a state level law on associations and proceeded with the draft. The first draft was prepared by a young French lawyer, Laurent Pech, and presented at the first meeting of the working group, held in Sarajevo on August 26. As already noted, ICNL served as a member of the OHR international advisory team in this process. In this capacity, ICNL provided comprehensive comments to the first draft, which were presented and discussed at the meeting. After the first meeting, the OHR Civil Law Department single handedly decided to extend its work to the entity level NGO draft as well, despite the fact that the final LEA-LINK draft – which sought to address associations and foundations at the entity level - had been widely endorsed. In the meantime, Mr. Pech's term with OHR expired, so that Roland Salvisberg undertook to incorporate the Council of Europe and ICNL comments in the final drafts.

In October, we attended the follow up meeting of the working group. Because the members of the international advisory team did not have a chance to see the drafts and comment on them before this meeting, ICNL, along with USAID, led successful efforts to persuade OHR to allow for a second quick turnaround of the comments. Shortly after the meeting, ICNL provided its comments on the state and entity draft laws for OHR's reference. In addition, also for OHR's reference, we provided a bullet-point list of the RS draft law provisions that in our opinion comply with international standards and best regional practices.

B In-Country Capacity Building

During this period, we provided the RS working group with a variety of materials that helped them better understand the underlying principles of sound NGO legislation and the importance of transparency of the process. These materials were widely used by the members of the working group in preparing the draft law.

We also made several attempts to engage the Federation Government in the process. In July and October, we met with our contact in the Federation Ministry for Refugees and Social Affairs, Senada Sabitovic-Karic. We discussed the compliance of the Federation NGO legal framework with international standards and best regional practices, with special attention to the framework for humanitarian organizations. We believe that those meetings helped Mrs. Sabitovic better understand why the current framework for humanitarian organizations does not comply with international standards and hence needs to be amended. We also provided Mrs. Sabitovic with pertinent materials on the subject.

In addition, during our July visit, we followed up with Judge Kalnic on his restrictive state level draft law on associations. We went through an article-by-article analysis of the draft and explained to Judge Kalnic several basic international principles underlying sound NGO law. We also provided Judge Kalnic with recent decisions of the European Court of Justice pertinent to freedom of association.

Finally, during our visit in August, we met the Federation Ministry of Justice officials,

Ranka Cvejic and Goran Ratkovic The purpose of that meeting was to advise the Ministry about current NGO developments in RS and to explore possibilities of having the Ministry engaged in the process We discussed the compliance of the Federation's NGO framework with international standards and helped them better understand the importance of a sound NGO legal environment for the development of civil society

C. Regional Linkages

During the past reporting period, ICNL published two volumes of the *International Journal for Not-for-Profit Law* (IJNL) The IJNL is an online journal that provides up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world The IJNL contains regular updates on Bosnia and Herzegovina and is distributed around the world via e-mail and the Internet

In addition, we invited two government officials from the Federation and two officials from the Republic of Srpska to the round table that ICNL co-organized in Podgorica on the new Montenegrin NGO law, on November 9 Unfortunately, cumbersome travel connections between BiH and Montenegro prevented Bosnian officials from attending this round table

III Workplan

A The Legal Framework

We shall continue to provide assistance to OHR in finalizing its state and entity level draft laws on associations and foundations We also stand ready to provide whatever legal and technical assistance is required to bring the BiH NGO legal framework in line with international standards and best regional practices

In the Republic of Srpska, we shall continue to provide technical assistance to the Ministry of Justice after the law is introduced to the Parliament We shall also assist the Ministry in preparing subsequent regulations relating to the law

B. In-Country Capacity Building

In anticipation of the enactment of the new NGO law in the Republic of Srpska, we plan a number of activities that will ensure a better understanding of general principles underlining the law and its appropriate implementation Illustrative activities include the following

ICNL will assist the Ministry of Justice and our local partners in preparing a "Question-and-Answer" brochure on NGO registration This brochure will be published in the local language and English

ICNL will assist the Ministry of Justice and our local partners in preparing a comprehensive commentary to the new NGO law

We shall be working with the Ministry of Justice and our local partners on presenting a seminar for government officials, judges and NGO representatives on the new NGO law. The purpose of this seminar will be to build capacity for the implementation of the law. The seminar would provide a detailed analysis of the provisions in the law, their compliance with international standards, and problems that could arise in implementation of particular provisions. Issues that would, in particular, be dealt with include types of organizations, registration requirements, internal organization, permissibility of NGO's economic activities, denial of registration, redress tools, officers' duties and responsibilities, reporting requirements, and distribution of assets.

Contingent upon additional funding coming in during the next twelve months, we also plan to proceed with the following activities:

With the RS Ministry of Finance and our local partners, we shall be working on organizing a seminar on taxation of NGOs. We plan to bring in one or two regional experts to highlight this issue from a comparative perspective and help determine what needs to be amended in the current fiscal framework to ensure NGOs' sustainability in the long term. As noted in the prior report, our contact in the Ministry of Finance, Biljana Kesic, has repeatedly assured us that the Ministry is willing to consider amendments to the NGO fiscal framework. We hope that this seminar could encourage the Ministry to proceed with those changes.

With the RS Government and our local partners, we shall explore the feasibility of putting on a seminar on NGO-Government partnerships. The seminar would highlight this issue from a comparative perspective and would help determine which models of partnership would best suit the BiH environment.

In the Federation, with our local partners, we shall explore the feasibility of putting on a seminar on taxation of NGOs in the Federation. As noted in the prior report, we are a bit concerned, however, that work on tax issues might distract the NGO community in the Federation from efforts to improve the general registration law for NGOs. We will therefore carefully assess this trade-off before proceeding with the tax seminar in the Federation.

Depending on the dynamics and outcome of OHR negotiations with the Federation Government and the Council of Ministers, we stand ready to proceed with similar activities in the Federation. Examples include a round table on the drafts prepared by the Federation Ministry, the brochure on registration of NGOs, a seminar for government officials, judges and NGO representatives on the new NGO law(s), and a commentary on the new law(s).

Following the conclusion of the October USAID meeting with implementing partners, ICNL shall closely collaborate with ORT in carrying out the foregoing activities. We shall exchange our workplans to determine precisely the projects on which we can work together.

C Regional Linkages

In spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's NGO tax reform initiative, and ICNL will ensure that participants from Bosnia and Herzegovina are involved.

We are also considering the possibility of a conference involving some of the countries of the former Yugoslavia, which would seek to address current NGO legal framework in those countries from the international and regional perspective. Next year appears to be a good time for such a conference. Macedonia and Montenegro have recently enacted new NGO laws, while in Croatia and Bosnia, efforts to introduce new NGOs legal frameworks are under way.

To share regional and international lessons learned, ICNL will also continue to distribute laws, reports, and the IJNL to interested individuals in BiH. In addition, ICNL will seek to integrate Bosnians into other regional activities detailed in our regional workplan.

V. List of Contacts

ICNL has established close contact with a number of organizations and individuals working on NGO law reform in BiH. The following is a partial list of these contacts:

USAID	Benjamin Fert, William H. Yaeger
OHR	Roland Salvisberg, David L. Kramer, Vladimir Stamsic
OSCE	Beverly Hagerdon, Jasna Malkoc, Nedzida Salihovic
NDI	Sima Osdoby
ICVA	Nick Scott-Flynn
ORT	Suzanne O'Hatnick, Zoran Puljic
RS Ministry of Justice	Nikola Kovacevic, Snezana Marjanac
RS Ministry of Finance	Biljana Kestic
Federation Ministry of Justice	Ranka Cvejic, Goran Ratkovic
Federation Ministry for Refugees and Social Affairs	Senada Sabitovic - Karic
European Human Rights Foundation	Svetlana Derajic
Lex-International	Goran Bubic
Corridor	Zina Rasavac, Indra Ceko
Association of Election Officials	Asim Kanlic

Soros Legal Center
NGO Information and
Support Center
Helsinki Committee

Zdravko Grebo, Dusan Kalember

Alma Pandzo Duric
Cero Mustafa

VI. List of ICNL Country-Specific Documents

Laws

- Federation Law on Humanitarian Activities and Humanitarian Organizations, *September 3, 1998* (in Bosnian)
- Federation Law on Foundations and Funds, *April 30, 1998* (in Bosnian and English)
- Federation Law on Associations of Citizens, *November 8, 1995* (in Bosnian and English)
- The Constitution of Bosnia and Herzegovina, *December 1, 1995*
- The Law on Legacies, Foundations and Funds of the Republic of Srpska, *1994*

Draft Laws

- OHR Working Paper State Level Draft Law on Associations and Foundations, *October 1999*
- OHR Working Paper Entity Level Draft Law on Associations and Foundations, *October 1999*
- Republic of Srpska Draft Law on Associations and Foundations, *September 1999* (in Bosnian)
- OHR Working Paper BiH Law on Associations, *July 1999*
- Draft Law on Joining of the Citizens in Associations which are formed on the Territory of Bosnia and Herzegovina, *April 1999*
- Draft Law on Associations and Foundations, *Tim-Goran version, November 25, 1998*
- Draft Law on Associations and Foundations, *black-lined version from October 14, 1998*
- Draft Law on Associations and Foundations, *four working versions from September 1998, July 1998, May 27, 1998 and March 28, 1998* (in English and Bosnian for the September version)
- Draft Law on Amendments and Addenda of the Law on Association of Citizens, *1997*
- Draft Law on Humanitarian Activity and Humanitarian Organisations, *1997* (in Bosnian), *two versions from July and August 1996* (in English)
- Draft Law on Foundations and Endowments, *August 27, 1996*
- Proposal on the Law on Foundations, *August 27, 1996* (in Bosnian)

Comments

- ICNL's Comments on the OHR Working Paper BiH Law on Associations, *July 22, 1999*
- Comments on the Draft Law of Associations and Foundations of the Federation of Bosnia and Herzegovina, by the Council of Europe, *July 1, 1999*

- LEA/LINK Comments on the New Law on Associations and Foundations, BiH, *November 5, 1998*
- General Comments on the Working Version of the Draft Law on Associations and Foundations, by Timothy R Lyman, *July 7, 1998*
- Opinion on the Working Version of the Law on Associations and Foundations, by LEA/LINK Law Group, *July 6, 1998*
- Explanations for and Comments on the Law on Associations and Foundations, by LEA/LINK Law Group, *May 27, 1998*
- Proposed Suggestions for Changes in the Customs and Fiscal Treatment of NGOs, by LEA/LINK Law Group, *May 27, 1998*
- Conclusions reached by the LEA/LINK Law Group on the Draft Law on Associations and Foundations, *May 16, 1998*
- Comments on the Draft Law on Associations and Foundations, by Timothy R Lyman, *April 13, 1998*
- Suggested Amendments to the Draft (“Prijedlog”) Law on Humanitarian Activities and Humanitarian Organizations, Federation of Bosnia and Herzegovina, by Timothy R Lyman, *February 24, 1998*
- ICNL’s Comments on the Draft Law on Foundations and Endowments of the Federation of Bosnia and Herzegovina, *April 17, 1997*
- Official Comment to the Draft Law on Humanitarian Activities and Humanitarian Organizations, *1997* (in Bosnian)
- ICNL’s Comments on Draft “Law on Humanitarian Activity and Humanitarian Organizations,” *July 1996*
- Possible Legal Regulations of Non-Governmental Organisations in BaH, *undated*

Reports

- The Local NGO Sector within Bosnia-Herzegovina—Problems, Analysis and Recommendations, by Bosnian NGO Foundation, *October 1998*
- The Regulation of Non-Governmental Organisations within the Federation of Bosnia-Herzegovina and Proposals for the Future, by Bosnian NGO Foundation, *October 1998*
- Survey The Third Sector in Bosnia-Herzegovina, by Bosnian NGO Foundation, *October 1998* (in English and Bosnian)
- Report on Suggestions and Comments made by Non-Governmental Organizations that are Covered by the LEA/LINK Office in Banja Luka, *July 1998*
- Analysis on Legal Treatment of Non-Governmental Organizations in Bosnia and Herzegovina, LEA/LINK Project, *January 20, 1998*
- Analysis of Valid Laws Respecting Non-Profitable Organisations and Proposals of Some Possible Solutions, by Azra Miletic, *December 1997*
- The RS Law on Citizens’ Association, by Jasminka Dzumhur, *December 1997*
- Constitutional and Legal Treatment of Non-Governmental Organizations in Bosnia and Herzegovina, by Dr Nedjo Milicevic, *December 1997*
- Analysis of Valid Laws Governing NGOs in the Federation of BaH and the Republika

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Srpska and Proposals of Some Possible Measures, by Jasminka Dzumhur, *January 13, 1997*

- Current Legislative Restrictions, *undated*
- Registration Guide for NGOs in the Federation of BH and Republika Srpska, *undated*

ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN BULGARIA

Identifying Information

Project Name	Democracy Network
Country	Bulgaria
Provider name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2 1 (increased, better-informed citizens' participation in public policy decision-making)

Intermediate Result Intermediate Result 2 1 1 (enabling legal/regulatory environment framework for grassroots organizations in place)

Performance Indicators ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network (DemNet) Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1". According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development.¹ According to this scale, Bulgaria is in Stage II, with a rating of "4-."

Targets: By the end of 1999, the goal is for Bulgaria to merit a "4" rating. By 2000, the goal is for the NGO legal environment in Bulgaria to rate a "3." The following are specific targets for the close of this project on April 30, 2001: (1) finalization and enactment of the draft NGO law, (2) increased capacity on issues of NGO law among NGO representatives, judges, government officials and private lawyers, (3) stronger regional and international linkages (demonstrated by the extent to which there are exchanges of information and lessons learned), and (4) substantial progress in the area of NGO-local government partnerships.

¹ Additional information on this rating system can be found in the appendix to ICNL's July 1997 report.

NARRATIVE SECTION

I The NGO Legal Environment

Current NGO legislation dates back to 1949 (the Law on Persons and the Family) This law contains a number of gaps, ambiguities and restrictive provisions These include (1) politicization of the registration process, (2) ambiguity as to whether legal entities may found or join an association, (3) absence of certain minimum requirements for the internal governance of foundations, (4) and confusion over the extent to which NGOs are permitted to engage in economic activities Despite the relatively progressive manner in which this law has been implemented, the enactment of a new law conforming to emerging international standards on the NGO status, registration, activities and other related issues, would contribute significantly to the improvement of the NGO legal environment in Bulgaria

The prospects for having this new law enacted are much greater now than they were at the beginning of the year, after three legislative drafts were introduced in Parliament Despite differences among the three drafts, they include positive and modern provisions During the summer, the newly formed legislative working group, including sponsors of all three drafts and other legal and NGO experts, worked to combine the best provisions in a single draft This consolidated draft is now prepared and is expected to be introduced into Parliament once the three drafts pass a first reading vote before the end of 1999 We expect that the new law will clarify the status of NGOs and will introduce for the first time the concept of *Public Benefit Organizations*, with the opportunity to tie tax and other benefits to organizations that in fact serve the public

Under the current legal framework, NGOs are exempt from paying corporate income tax for their non-commercial activities, and from paying the VAT if they fall within categories specified in the law, i.e. health, educational, or other social institutions Corporations may deduct donations to NGOs up to 5% of taxable income Individuals may also deduct donations to certain categories of NGOs (educational and health institutions in the budget, organizations with charitable, social, environmental, health, scientific, cultural, and sports purposes, registered religious organizations, and the Bulgarian Red Cross) up to 5% of their income Only certain narrowly specified categories of NGOs are exempted from paying local property, inheritance, or donation taxes Given the current domestic and international economic, political and financial circumstances, as well as several high-profile cases of abuses with NGO tax and fiscal benefits, the achievement of substantial changes in benefits granted to NGOs in the immediate future may represent a challenging task This effort is, however, expected to begin soon after enactment of a more progressive general law governing NGOs

II. Report and Workplan

A. Report²

In conformity with its June 1999 workplan, ICNL focused its activities during the past reporting period on the following four specific priorities (1) providing technical assistance and support for a progressive NGO law, (2) increasing in-country capacity on NGO legal issues, (3) strengthening and improving cross-border regional linkages, and (4) promoting NGO/government partnerships. As discussed below, these activities are directly related to the three components of ICNL's Performance Indicator: NGO legislation, in-country capacity, and cross-border linkages.

1 The NGO Legislative Framework

The legislative project has continued to involve most of ICNL's attention and working capacity during the past months. The legislative process that began in January with the introduction of three alternative drafts in Parliament and a broad campaign in support of NGO legal reform unfortunately became stymied in the ensuing legislative process. After a delay primarily caused by new legislative demands related to the war in neighboring Yugoslavia last spring, the parliamentary agenda and priorities were again changed because of the local elections in October. Despite the temporary disruptions in the process, ICNL sought to maintain momentum and continued to meet extensively with parliamentarians, ministry officials, and NGO leaders. The meetings with the parliamentary sponsors of the three drafts, their staff members, and parliamentary leadership have helped keep NGO law reform in the country on the parliament's priority list, in spite of the competitive legislative environment during this period.

The public symposium on the NGO law in June reinforced the sense of urgency with respect to reaching a final agreement on a single draft and its subsequent enactment. Diplomats, parliamentarians, politicians, and NGO leaders attended the seminar and demonstrated broad support to the legislative working group appointed days before the event. After the symposium, ICNL sought to maintain public and parliamentary interest in the NGO draft law. ICNL's local partner/consultant Michael Boyadjiev is one of the leading experts in the working group that developed the working group's consolidated draft law. ICNL's Washington and Budapest staff has been fully involved as the working group moved towards the completion and now the introduction of the combined draft into Parliament and its subsequent enactment.

In August 1999, in cooperation with the International Law Institute and World Learning, ICNL conducted in Washington an intensive and comprehensive training for the legislative working group. The parliamentarians collaborated with ICNL's consultant Michael Boyadjiev and the whole ICNL staff in detailed discussions of fundamental issues involved in the new NGO law and reached consensus on key principles to be included in a consolidated draft. In October, ICNL Vice-President Stephan Klingelhofer had meetings and

² Additional information on these activities is contained in trip reports and updates previously provided to USAID, which are hereby incorporated by reference.

discussions with many key figures in the legislative and political life in the country, including the Chairman of Parliament and the Parliamentary leader of the ruling party's group. All interested parties recognized the NGO law as a priority and assured ICNL that it will pass first reading vote before the Christmas recess of Parliament. Moreover, both leaders of international organizations as well as prominent members of the Bulgarian NGO sector were and will continue to be mobilized to provide energetic public support. ICNL will collaborate intensively with these parties until final success of the legislative initiative.

2 In-Country Capacity

ICNL continues to view the efforts to increase local capacity as the essential means to ensure that NGO legal reform will be comprehensively understood and implemented by Bulgarian society. ICNL has continued to work intensively with local lawyers and NGO experts, sharing with them comparative materials and technical assistance. The success of this effort is clearly demonstrated by the fact that Bulgarian experts have since been expressly requested to provide technical assistance in other countries in the region and have been hired as experts by the Council of Europe.

ICNL has recently strengthened its own capacity in Bulgaria by hiring a second local consultant – Luben Panov. Mr. Panov received his Master's degree in Human Rights at the Legal Studies Department at the Central European University in Budapest this year. He was selected for internship at the ICNL office in Washington in August 1999, and assisted at the ICNL Conference on Public Benefit Organizations in Budapest in May 1999. He has been working with Michael Boyadjiev on all ICNL projects, including the legislative working group training program in Washington. ICNL is convinced that through the continuing efforts of its local consultants, its capacity will be expanded for active engagement in the development and strengthening of the legal and fiscal framework for the NGO sector.

In addition, during the past two years, at the request of USAID and local partners and colleagues, ICNL has been preparing the ground for comprehensive legal education activity in Bulgaria. Efforts began in 1997 with ICNL's participation in the development and execution of an important series of workshops for judges and prosecutors on both fair implementation of the present laws governing NGOs and introducing the international principles for reforming those laws. ICNL's work continued with the preparation of curriculum materials for the Master's course in NGO Management at Sofia University sponsored by the Center for the Study of Democracy. In 1999, ICNL began discussions with the NGO Resource Center, the Institute for Sustainable Communities, the Center for the Study of Democracy, UBFA and other partnering NGOs on the design and implementation of an extensive legal education project. This project aims at increasing the potential of Bulgarian NGOs to operate in the changing legal environment. ICNL's preparatory work on this project has involved researching logistical issues, contacting experts, and designing sample curricula content. The project will not only substantially contribute to capacity building but will also assemble the cooperative strength and resources of leading Bulgarian NGOs with vast expertise in developing and implementing effective educational programs.

3 Regional Linkages

ICNL realizes the close relationship and interdependence between the development of national expertise and capacity on NGO issues and regional cooperation on these issues. Accordingly, ICNL has been working on encouraging the sharing of expertise between Bulgarian experts and experts from other countries in the region.

Other components of this effort so far have included the following:

- ICNL has distributed substantive materials throughout Bulgaria and provided technical assistance to NGO leaders and legal practitioners, as well as scholars and judges, on both the existing and the desired legal environment.
- Our primary local partner/consultant Michael Boyadjiev, trained by ICNL, has been among the most active Bulgarian participants in all major discussions on legal compliance and reform issues in the NGO sector. He has himself provided training to local lawyers and NGO leaders in a variety of fora, including classes organized by ISC, ICNL's DEMNET partner. Mr. Boyadjiev has also been asked to provide expert counsel and training for regional and international programs.
- Another long-term local partner, Stephan Kyutchukov, continues to provide expertise and technical assistance at local, regional, and international events. As an ICNL partner, he has served as a primary leader in the field of lawyer education on NGO legal issues in Bulgaria.
- ICNL has used the survey prepared by Dessislava Bijeveva on the legal framework for NGO/government cooperation as one of the basic resources on the subject for study, training, and practical application both within and outside of Bulgaria.
- Bulgarian experts participated in ICNL's regional conference on "Standards and Mechanisms for Regulating Public Benefit Organizations" in May 1999 in Budapest (see Regional report for further details). Participants included Justice Borislav Belzelkov (Supreme Court Justice and member of the NGO working group), and Mrs. Vesselinova (Ministry of Finance).
- ICNL published two volumes of the *International Journal for Not-for-Profit Law (IJNL)*. The *IJNL* is an online journal providing up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world. The *IJNL* contains regular updates on Bulgaria and is distributed throughout the country. Additional information on the regional conference can be found in ICNL's regional report.

4 The Partnership Project

The distribution of the paper commissioned by ICNL and prepared by Dessislava Bijeveva on legal issues for social contracting between NGOs and local governments created a sound basis for ICNL's work on this project.

Upon a written request by the Minister of Labor and Social Policy, Mr Ivan Neikov, ICNL is developing a major project to amend the legal framework for social contracting between governments at both central and local levels. ICNL compiled and furnished the Ministry representative on this project (Mrs Grigorova) with comparative materials on the legal framework for NGO/government cooperation in several countries. Messrs Klingelhofer and Boyadjiev and Ms Toftisova of ICNL's staff have met at length with Mr Neikov and have had several meetings with Mrs Grigorova to define the parameters of this project. These discussions as well as those with local partners have confirmed that this project is extremely timely and would be welcomed by both NGOs and public authorities. ICNL anticipates broad support for its work in the partnership initiative, particularly since a senior member of government has made an emphatic personal commitment to this effort.

Accordingly, ICNL has commissioned a legal analysis of the current legal framework for NGOs to deliver social services. Marieta Dimitrova, a lawyer with considerable experience in legislative drafting and NGO legal issues, is preparing the analysis. She will be working under the supervision of ICNL senior lawyers and closely with ICNL local consultants and Ministry representatives. In addition to discerning current opportunities for NGOs to engage in social contracting, the survey will uncover areas demanding legislative action for improvements to the current legal framework. The analysis will be completed by the end of 1999 and will provide a basis for the further development of the project.

ICNL also has continued its active collaboration with local NGOs, including UBFA, CSD, the Resource Center for NGOs, and the Foundation for Local Government Reform, in anticipation of close cooperation on the partnership project in addition to the joint implementation of other projects³.

5. Internal Governance, Accounting Standards, and Self-Regulation

ICNL has integrated in its activities projects that address three issues of increasing interest to Bulgarian organizations: self-regulation, reform of accounting standards governing NGOs, and internal governance. ICNL's specialist in these areas, Catherine Shea, visited Bulgaria in February 1999 to explore potential project areas with umbrella and donor organizations.

Consequently, ICNL will be providing assistance to the Union of Bulgarian Foundations and Associations ("UBFA") in its planned revision of its code of conduct, and has already provided UBFA with research materials regarding codes of conduct used by other organizations around the world. ICNL has also initiated discussions in Sofia and Washington with representatives of the Center for the Study of Democracy regarding potential assistance in the area of NGO accounting reform and in the development of materials to assist NGOs in meeting their reporting obligations under the law. ICNL's advisory role will increase as the informal working group handling accounting reforms becomes more active.

³ ICNL recognizes that other issues must first be addressed, so it will follow USAID's lead on timing for these projects.

In addition, ICNL's legal education project will include several topics pertaining to internal governance. Meetings in Bulgaria have led to several invitations to submit ideas for internal governance projects, and ICNL will address needs in this area as part of its ongoing activities.

B. Workplan

ICNL will continue to provide technical assistance on legislative initiatives as its priority project, and to support the partnership project. ICNL will also support capacity-building activities and cross-border linkages.

As noted above, ICNL has retained the services of a local lawyer, Michael Boyadzhiev, and has recently hired a young graduate in human rights, Luben Panov. They are providing substantial help in implementing projects in Bulgaria. This step has substantially increased ICNL's capacity and presence within Bulgaria, particularly enabling ICNL to provide "quick response" services.

Specific projects are summarized below.

1) The NGO Legislation

ICNL will continue to promote the enactment of the new NGO law. In the immediate future, ICNL will seek to provide technical assistance to all parties engaged in promoting NGO law reform, and to work with NGOs, government officials, and parliamentarians who seek enactment of a progressive, effective law governing the NGO sector, in compliance with both EU and other international standards.

ICNL will continue to encourage consensus among the various parties involved in a consolidated draft. ICNL has received assurances from various parliamentary key persons that the three NGO draft laws introduced into Parliament will pass the first reading before the end of 1999. This will be a step of fundamental importance to the advancement of the legislative process. After that, the efforts will be focused on finalizing a single consolidated draft on the basis of the three, and introducing it in the plenary session for the second reading. The legislative working group, together with ICNL staff and ICNL local partners, has already agreed on a unifying draft. The principles contained in this draft have the approval of most parliamentarians involved in the process so far, including those who introduced the three drafts and parliamentary leaders. ICNL will actively work to avoid further delays in the process by continually focusing key persons on the most essential issues of the future law.

Towards the end of 1999, ICNL will participate in a legislative seminar organized by parliamentarians to discuss the working group's consolidated draft NGO law and the legislative process. This event may well be of decisive importance, strengthening the grounds for cooperation among political figures in the country.

After enactment of the law, ICNL is prepared to provide training for judges on the new law through the new Judicial Training Institute being established this year by the

Association of Judges (see below) ICNL will offer training programs for NGO leaders and lawyers on the new law, as well as publishing handbooks and other practical plain-language materials. After the legal intermediate support organization is selected under DemNet II, ICNL will work closely with this organization, as well as regional and local support organizations sponsored by others (such as OSF), with particular emphasis on training trainers.

It is commonly recognized that, for the new law to become effective, implementation procedures will need to be developed and adopted. Employing its experience elsewhere in the region, ICNL will make itself available to provide assistance to the government agency with implementing jurisdiction in the design of forms, establishment of procedures, and training of responsible officials.

After the new NGO law is enacted, ICNL will continue its work on the legislative front. As elsewhere in the region, reform of the tax structure affecting the sector is an essential element of the effort to achieve long-term sustainability. ICNL is already prepared to undertake immediately a project for amending existing tax legislation in order to improve the legal environment in which NGOs operate, to create tax incentives and other benefits for public benefit organizations. To this end, ICNL has already established contacts with representatives of the Ministry of Finance, and will seek to expand those contacts. While this project may well attract considerable opposition from certain government authorities, many in parliament, the NGO sector, and even the government agree that tax law reform is a step that flows logically from the enactment of the new NGO law, and should be supported.

2) The Partnership Project

ICNL is prepared to work with local partners including the Foundation for Local Government Reform (LGRF), the National Association of Municipalities, the Institute for Sustainable Communities, the NGO Resource Center, the Center for the Study of Democracy, and the Local Government Initiative, and with USAID to develop appropriate follow-on efforts on the pilot project with the Ministry of Labor and Social Policy.

In this pilot project, ICNL has already prepared the ground for the implementation of a "social contracting" project that will help improve the legal framework and the actual possibilities for NGOs to collaborate with the government in providing social services. The current preparation of a survey on the current legal framework for NGOs to deliver social services has two main purposes: (1) to analyze the legal possibilities for NGOs to engage in social contracting, and to recommend legislative changes, where appropriate, and, (2) to provide practical guidance to NGOs willing to engage in social contracting under the laws in force.

ICNL plans, in cooperation with the Ministry, to distribute the survey results among experts from the various ministries that have an interest in the project (Ministries of Justice, Finance, Health, etc.), and to organize a one-day workshop on social contracting with those experts. The workshop will collect feedback from the governmental side and will provide information about possible support for and opposition to any legislative amendments in this

area ICNL will then organize a second workshop, this time including the participation of NGO experts and representatives as well

On the basis of the two workshops, and depending on the results of the survey and ensuing recommendations, ICNL will work closely with our local consultants and with other partners in the country, involving ministry officials as well, to prepare draft amendments to reform and update the respective laws relating to social contracting. Such amendments may involve changes in a variety of laws, or creating a single Law on Social Contracting. The project is very comprehensive, with the potential for significant impact on the social sphere in Bulgaria. Since ICNL has the support of a member of the current government – Mr Neikov – we will seek to move the project fast, in order to take advantage of his political influence and interest.

Independent of the legislative activities, ICNL will also develop a sub-project on the basis of the legal analysis. Together with ICNL's, it will prepare a brochure containing practical guidelines in plain language to assist NGOs willing to deliver social services under the current legal framework, as well as local government officials interested in employing NGO services in their communities. ICNL has already discussed the project with the Resource Center for NGOs and received their support for publishing and distributing the brochure.

ICNL expects to organize a nation-wide seminar on the social contracting issue, in cooperation with the Resource Center, the Center for the Study of Democracy, and its other partners. The seminar may directly proceed from the workshops mentioned above. It will provide a good opportunity to distribute the brochure among NGO representatives. Organizers plan to invite local government officials to the seminar, and to encourage an active dialogue between them and their potential partners-NGOs.

Furthermore, it should be noted that the survey, together with the feedback that NGOs and government officials provide, may establish a sound basis for a comprehensive comparative study on the issue, which would be of international importance. This work would directly benefit the Bulgarian effort by providing useful models for social contracting from other countries that may have application in the Bulgarian circumstances.

ICNL believes that the social contracting project will contribute greatly to the NGO sector development in the country. It represents a cross-point among all ICNL's projects, by involving a potential legislative initiative, an education element, and in-country capacity benefits, all resulting from the cooperative efforts of ICNL and its local partners and government authorities.

3) The Judicial Training Institute

At the appropriate time, ICNL will work with USAID and the Association of Judges on integrating an NGO legal component into the Judicial Training Institute. The component will include both the substantive provisions of the law and administrative issues.

4) In-Country Capacity

The foregoing activities will significantly contribute to the development of in-country capacity on issues of NGO law. Through their activities and written efforts, Mr. Boyadzhiev, Mr. Kyutchukov, and Ms. Bijeva have already made significant contributions to issues of NGO law, both within Bulgaria and regionally. ICNL intends to continue this process of encouraging the expansion of local expertise in the field, through wide dissemination of materials and training programs for scholars, lawyers, and NGO leaders.

ICNL will develop and implement a defined legal training program in the next calendar year, hopefully on the basis of a new NGO law. The program will target two main categories of audience: the broad NGO community, and NGO legal experts. We will conduct (quarterly) seminars/conferences/workshops discussing legal NGO issues related to aspects of the legal environment in which Bulgarian NGOs operate at a given moment. This series of training events has already been the subject of discussion between ICNL and leading Bulgarian NGOs with considerable experience in educational programming. Recently, representatives of ICNL, the Resource Center for NGOs, the Institute for Sustainable Communities, and the Center for the Study of Democracy set the outline of the first of the seminars that will be held at the end of this calendar year or the beginning of next. It will focus on the new legal requirements for NGO accounting that were established a few months ago, and are of particular concern and interest to the organizations with the approach of the financial year and the beginning of the new one.

ICNL will seek to actively involve legal experts providing services to NGOs in the training program. We understand that the selection process for support organizations at the Institute for Sustainable Communities is almost complete, so we plan to coordinate this program closely with the ISC, and to introduce a legal component in their "training of trainers" program. Another topic that will be offered will be the legal framework for social contracting described in greater details in the partnership project section.

The legal education project will be implemented mostly as a partnership project, combining efforts of ICNL and its local partnering NGOs. ICNL consultants will provide support on the ground and maintain close contact with all partners. ICNL will take the lead in providing training materials, curricula content, international and local experts, translations, and organizational input.

5) Regional Linkages

ICNL will also continue to promote regional networks of NGO law specialists and to distribute materials of regional significance in Bulgaria. Such linkages will include bringing Bulgarian expertise to bear on developments in other countries inside the region and beyond, as has been accomplished so successfully in the past. It will also include providing opportunities for students and practitioners to engage in dialogue, in person and by correspondence, with counterparts elsewhere in the region and with Western experts as well.

As noted in the last report, ICNL's rapidly advancing electronic capacity, especially through its highly-developed website, enables people from around the world to correspond in bulletin board and chat room formats, and ICNL has already sponsored one international "virtual conference" and plans more in the near future. In addition, Bulgarian experts are making significant contributions to the *IJNL* by way of articles and short country reports. Bulgarian participation in these exchanges on important and timely subjects will benefit Bulgarians and those with whom they correspond.

ICNL will also organize regional in-person exchanges among experts, with practical impact on legal developments in the participating countries, including Bulgaria. In December 1999, ICNL has organized in Zakopane, Poland, a meeting of experts from the region, Western Europe and the United States to consider essential public benefit issues. The meeting will undertake a comparative study of various laws regulating Public Benefit Organizations, and will review a model law on public benefit organizations for the region. Bulgaria will be represented by ICNL partner Michael Boyadjev and by parliamentary consultant Grigori Boyadjev (both members of the legislative working group on the NGO law). The Bulgarian draft law will be used as one of the examples to be discussed at the meeting.

In spring of 2000, ICNL will organize a major regional conference on public benefit organizations and NGO taxation. The conference will follow on the results of the Zakopane workshop and the 1998 conference in Budapest, and it will likely be held in Bulgaria. The selected venue will provide a valuable opportunity for more Bulgarian experts, NGO representatives, and government officials to participate and to share experience with colleagues from other countries in the region. Conference participants will discuss the Model Law developed in Zakopane, and will focus on common problems related to public benefit status. In addition, they will review the results of the regional tax survey ICNL has undertaken, and exchange views on alternative approaches adopted in the countries of the region. ICNL expects that the conference will have direct impact on Bulgaria's legal and tax reform efforts.

To share regional and international lessons learned, ICNL will also continue to distribute laws, reports, and the *IJNL* to interested individuals in Bulgaria. In addition, ICNL will seek to integrate Bulgarians into other regional activities detailed in our regional workplan.

The aforementioned activities are directly related to the three components of ICNL's Performance Indicator: the NGO legal framework, in-country capacity, and cross-border linkages. The partnership project also spans the Strategic Objectives and serves as a pilot project for other countries in the region.

III List of Contacts

ICNL has had contact with a number of Bulgarian NGOs and government officials
A partial list follows

USAID-Bulgaria	John Grant, Nadereh Lee, Diana Arnaudova, Dessislava Bjeva
World Bank	Svetla Dimitrova
EU	Isabela Uribe
Office of the President	Vera Tagarinska
Wife of the President	Antonina Stoyanova
Wife of the Prime Minister	Elena Kostova
Council of Ministers	Hristo Panayotov
MOF	Madlen Levy-Primo, Maria Vesselinova
MOJ	Zlatka Russeva, Galina Samaras
MOL	Ivan Neikov, Emilia Grigorova
Parliament	Chairman Yordan Sokolov, Members Dragomir Draganov, Svetoslav Louchnikov, Ekaterina Mihajlova, Svetlana Boncheva, Velislav Velitchkov, Ivan Dimov, Elena Poptodorova, Lutfi Mestan, Yunal Ljutvi, parliamentary advisor Grigory Boyadjiev
Judiciary	Borislav Belaselkov, Kapka Kostova, Nelly Kuzkova, Dushana Zdravkova
Local consultants	Michael Boyadjiev, Luben Panov
Lawyers	Hristo Hristozov, Stephan Kyutchukov, Marieta Dimitrova, Sasho Penov
ISC	Jane Grube, Plamen Dimitrov, Assia Kavrakova, Galya Dimitrova, Antoaneta Arsova
NGO Resource Center	Stelian Stoichev, Veliko Sherbanov
Center Study of Democracy	Open Society Foundation George Prohasky, Darina Kadunkova, Veliko Sherbanov, Ogmian Zlatev Ogmian Shentov, Lydia Mileva, Konstantin Tanev, Maria Yordanova
UBFA	Ognyan Lipovski, Dona Prodanova, Plamen Peykov
European Institute	Angelina Tchorbadjuska
CSDF	Valentin Mitev, Tzvetan Momekov
Coalition 2000	Valeria Rangelova, Ivan Vlahov
ALSYL	Petar Haralampiev, Hristo Stoev
ABA	Ivan Vassilev, James Corsiglia
ACCESS	Valery Roussanov
BCAF	Tanya Petrova
FLGR	Ginka Kapitanova, Daniela Mihovska
CEGA	Mariana Milosheva
Sts Cyril & Methodius Fdn	Michael Tachev
Local Government Initiative	Becky Gadell

IV List of ICNL Country-Specific Documents

Laws

- Constitution of Bulgaria, *July 12, 1991*
- Law on Corporate Income Tax, *January 1998* (in English and in Bulgarian)
- Law on Bookkeeping, *January 1998* (in English and in Bulgarian)
- Law on Value Added Tax, *January 1998* (in English and in Bulgarian)
- Law on Natural Person Income Tax, *January 1998* (in English and in Bulgarian)
- Law on Local Taxes and Fees, *January 1998* (in Bulgarian)
- Law on Tax Procedure, *1993* (in Bulgarian)
- Public Procurement Law, *1999* (in Bulgarian)
- Social Assistance Law, *1998* (in Bulgarian)
- Excerpt of Regulations on the Application of the Law on Pay as You Earn Tax, *December 1994*
- Select Provisions of the Law on Persons and Family, amended *1994*
- Excerpt of Law on Pay as You Earn Tax, amended *1994*
- Decree for the Implementation of the Social Assistance Law, *1998* (in Bulgarian)
- Decree No 133 of the Council of Ministers of 14 December 1990 Concerning the Provision of Conditions for Development and Functioning of Foundations, amended *1992*
- Decree No 178 of the Council of Ministers of 18 September 1992 Concerning the Interpretation of Legal Instruments of the Council of Ministers Concerning the Provision of Conditions for Development and Functioning of Foundations and Carrying out Activities in Conformity with Articles 149 to 152 of the Law on Persons and Family
- Regulation No 4/1999 on the conditions and procedure for delivery of social services (in Bulgarian)

Draft Laws

- Draft Law on Non-Profit Organizations, *June 13, 1998*
- Draft of Corporate Tax Act Amendment, *May 1997*
- Draft Law on NPOs, by the Ministry of Justice, *May 1997*
- Draft Law on Non-Profit Organizations, *March 1, 1997*
- Draft Law on NPOs, by the Ministry of Justice, *March 1997*
- Suggested Amendments to the Income Tax Act, *October 30, 1996*
- Draft Law on Non-Profit Organizations, *March 31, 1996*
- Draft Law on Non-Profit Organizations, *March 1, 1996* (in English and Bulgarian)
- Draft Law on Non-Profit Organizations, *December 30, 1994*
- Draft Code on Tax Procedure, *1999* (in Bulgarian)
- Draft Social Security Code, *September 13, 1999* (in Bulgarian)
- Draft Law amending the Law on Natural Persons Income Tax, *October 1999* (in Bulgarian)

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- Consolidated Draft Law on NPOs, (version of the legislative working group) *October 1, 1999* (in English and in Bulgarian)

Comments

- ICNL's Comments on the Draft Law on Non-Profit Organizations, *August 1998*
- ICNL's Comments on the Draft Law on Non-Profit Organizations, *June 16, 1998*

Reports

- ICNL's Country Report, *1999*
- ICNL's Report The Legal Framework for Social Contracting Between NGOs and Local Governments, by Dessislava Bijeva, *September 1998* (in Bulgarian and English)
- NPOs in Bulgaria Legal Problems, *1997* (in Bulgarian)
- Taxation of Not-for-Profit Organizations, by Stephan Kyutchukov, *1996*
- A Report on Bulgaria, *1995*
- ICNL's Country Report, *1995*

ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN CROATIA

Identifying Information

Project Name	Democracy Network
Country	Croatia
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2 1 (increased, better-informed citizens' participation in public policy decision-making)

Intermediate Result A legal and regulatory environment that supports the creation and operation of NGOs

Performance Indicators ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network (DemNet) Project This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment legislation, in-country capacity, and cross-border linkages Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1" According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development¹ According to this scale, we believe the NGO legal environment in Croatia has advanced to a rating of "5", primarily as a result of the creation of the new government office for cooperation with NGOs and indications that the government's program to provide state support for NGOs is being administered in a relatively even-handed manner

Targets Croatia's rating is a "5", an improvement over its rating of "6" during the previous reporting period ICNL projects that Croatia's rating will rise to a "4" by the end of 2000, and

¹ Additional information on this rating system can be found in the appendix to ICNL's July 1997 report

will increase again to a "3- by the close of the project in 2001. This of course depends primarily on upcoming election results, the receptivity of the new government to adopting changes in the NGO laws, and its reaction to outside pressures to do so

NARRATIVE SECTION

I The NGO Legal Environment

The primary NGO laws are the 1995 Law on Foundations and Funds and the July 1997 Law on Associations. There is also a 1992 law regulating humanitarian aid and a law permitting the establishment of nonprofit "corporations" established as private or governmental initiatives for public benefit purposes, which require ministerial approval and follow registration procedures similar to for-profit companies. Political parties, religious entities, and trade unions are regulated under separate laws.

The Law on Associations regulates the creation, structure, legal position, and termination of associations. A minimum of 10 founders is required to form an association. Foreign citizens as well as Croats can be founders. The 1995 Law on Foundations and Funds regulates foundations, although not many exist. Foundations are registered with the Ministry of Culture and Education. The law is very restrictive, and only a handful exist (less than 15). The Law on Associations has been heavily criticized by both domestic and international experts, in large part because of extensive discretion on the part of registration officials, a lack of safeguards in the event of involuntary dissolution, and severe property transfer restrictions. Pursuant to the Law on Associations, the government this year promulgated criteria outlining the types of NGOs that could qualify for government support and set aside more than eight million kunas (roughly US\$ 1,100,000) to support NGO activities. There is a concern, however, that the government will not be able to meet this commitment because of the severe budget deficit.

A VAT law came into effect on January 1, 1998, without any exceptions or reduced ratings for NGOs. Only artistic or cultural associations may receive tax deductible contributions. However, NGOs remain generally exempt from taxation on revenues derived from donations and grants.

The Law on Public Assembly and Peaceful Protest, previously withdrawn following international criticism, has been re-introduced in a milder form, and has already gone through a first reading in Parliament.

Despite an ongoing distrust of NGOs on the part of the Croatian government, we are seeing some signs of an increased willingness to work with the NGO sector. For example, this year the Croatian government established a task force to prepare amendments to the Law on Associations. The task force includes three NGO representatives. In late 1998, the government established an office for cooperation with NGOs. Among other things, the office has been tasked with administering the state funds set aside for NGO support and selecting the NGOs to receive assistance. Its director is a talented woman who has been quite successful at finding outside funding for activities.

The NGO community itself remains fragmented. Many NGOs see each other as competitors for an ever-shrinking amount of foreign funds, and suspicion rather than cooperation is often the result. Within this context, ICNL recognizes that law is but one condition necessary for the development of the NGO sector, and that legal issues are inextricably linked to broader NGO issues, including NGO-governmental relations, lateral links and coalition building, and the institutional development of NGOs. We recognize it is important to stay as neutral as possible and to develop working relationships with both the NGO community and the government to the extent possible.

II Report²

A The Legal Framework

As noted in the prior section, the government has set up a working group to prepare amendments to the Law on Associations. ICNL obtained a copy of the working draft and prepared preliminary comments, which we will finalize once the draft is officially released.

Unfortunately, the current draft fails to provide any substantial improvements. For example, the draft provides for mandatory registration of all associations, while the provision on governing associations' economic activities remains controversial. In addition, the draft seeks to provide restrictive conditions for the registration of foreign associations.

During our September visit, we met with Mr. Palaric, whose Directorate for Administration Affairs has overall responsibility for amendments to the Law on Associations. He informed us that the draft law (which remains a "working paper," not yet a draft) would not be presented to the current Parliament before it is dissolved at the end of October. Instead, they will wait until after the elections, currently predicted for December or January, and the seating of the new Parliament. The elections may also result in changes in the government, which could further delay presentation of the draft law.

After the elections, ICNL will organize a roundtable, in collaboration with the government's NGO Office, Directorate for Administrative Affairs, Croatian Legal Center and other interested local partners, to discuss the proposed draft and to offer technical assistance to the working group.

In addition, Ceraneo and the Croatian Legal Center prepared their own draft law, which ICNL reviewed and assessed.

ICNL also prepared comments on those aspects of Croatia's Law on Social Care which impact upon NGOs. Unfortunately, both Mr. Pokrajcic, the Deputy Minister from the Ministry of Labor and Social Welfare, and the Department Head responsible for the Law on Social Care, Mrs. Ana Balaban, were out of town during our September visit so we were unable to discuss the comments. We will stay in contact with them and follow up on our next

² Additional information on these activities is contained in trip reports and updates previously provided to USAID, which are hereby incorporated by reference.

visit, or via our local consultants, about the possibility of assistance with regulations or other activities relating to encouraging NGO-government partnerships in the social care area

As noted in the prior section, the Law on Public Assembly and Peaceful Protest has been reintroduced to the Parliament ICNL prepared a comparative assessment of the first and second drafts We also prepared specific comments on the second draft at the request of Prof Kregar, the principal architect of the draft We are working with our NGO partners to organize a roundtable to discuss the proposed legislation It is unlikely however that this round table could be organized before the upcoming elections

B In-Country Capacity Building

Local Consultant During the past reporting period, ICNL recruited and retained a new local consultant, the organization B a B e ("Be Active, Be Emancipated") B a B e will work primarily through its lawyer, Radmila Sucevic, to act as ICNL's "eyes and ears" on the ground and to assist us in project implementation

NGO Law Course In September, following final agreement with the Faculty of Law in Rijeka, ICNL provided a one-week intensive training session in our Budapest office for the young professor, Sanja Baric, as well as assistance in the development of the curriculum and a modest amount of financial support to the faculty We also provided, with USAID's consent, a computer to enable Mrs Baric to more easily carry out her task of finalizing and translating curriculum materials The course will be taught in the spring of 2000

We provided Mrs Baric with a variety of comparative materials pertinent to freedom of association and with a number of NGO laws from the region, including Croatia, as well as with ICNL comments to those laws During her training in Budapest, Mrs Baric also attended a one-day workshop on NGO legal framework, conducted by ICNL Program Director for CEE, Jean Garland, and hosted by the OSCE in Vienna

NGO-Government Partnerships ICNL retained Mrs Baric to prepare a comprehensive report on the legal framework for NGO-government partnerships in Croatia (similar to reports we have done for Slovakia and Romania) This report will help us identify those areas in which further legal reforms might be appropriate In cooperation with the government's Office for Cooperation with NGOs, we also plan to organize a workshop to publicize the results of the study and to encourage NGOs and officials to work together on improving cooperation AED is also interested in working with ICNL on these workshops

Lawyer Training As a part of our Lawyer Training Project, discussed more fully below, ICNL hired a young Croatian lawyer, Mladen Ivanovic, and a tax expert, Marija Zuber, to prepare manual on legal and fiscal issue impacting on NGOs in Croatia The projected deadline for the first draft of this manual is the end of this year As discussed in our list of pending projects, which was submitted to USAID on October 26, this manual is intended to be used by a core group of lawyers who are interested in the NGO legal framework and in providing *pro bono* services to NGOs

C Regional Linkages

During the past reporting period, ICNL published two volumes of the *International Journal for Not-for-Profit Law* (IJNL). The IJNL is an online journal that provides up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world. The IJNL contains regular updates on Croatia and is distributed around the world via e-mail and the Internet.

III Workplan

A The NGO Legal Framework

Law on Associations. At the request of Government Office for NGO Cooperation, we shall provide our comments to the Government's first NGO draft and closely monitor any further developments with the draft through our new local contact, Radmila Sucevic, who is the member of the drafting team.

After the elections, and as the draft is being finalized, ICNL in collaboration with the government (State Directorate for Administrative Affairs and the NGO Cooperation Office) and our local partners will organize a round table on the draft to examine its compliance with international standards and best regional practices. This will be the first step in what will be an ongoing technical assistance effort by ICNL to improve the NGO legal framework by continued assistance to the drafting group in the preparation of a revised Law on Associations, followed at a later time by assistance with implementation.

We will also remain available to the Ministry of Labor and Social Welfare for further assistance in preparing regulations in connection with the Law on Social Care, as well as to the State Directorate for Administration regarding the public assembly law.

Depending upon the results of the upcoming elections and the new government's amenability to tax reform, we may be able to work with local partners in identifying and recommending changes to be made in the legal framework relating to tax benefits. This would be a part of our proposed seminar on economic activities, discussed below.

B. In-Country Capacity Building

Lawyer Training Project. In collaboration with the Croatian Legal Center, ICNL will continue our lawyers training project. Following the completion of the NGO manual, we shall organize one or more workshops for interested lawyers that would seek to address the legal and fiscal framework for NGOs in Croatia. We will especially target lawyers who will work on the SOS Help Line at the Croatia Legal Center and those who will staff the regional support centers.

NGO-Government Partnerships. As already noted, ICNL hired Sanja Baric to prepare a survey on the legal framework for NGO/government partnerships. Following the survey, in collaboration with the Government Office for NGO Cooperation and B A B E, we

shall organize a series of workshops to explore possibilities for direct financial support to NGOs from local and state administrations, to help NGOs and local administration officials understand what the legal restrictions and possibilities are, and to explore how they can most effectively work together

Economic Activities With the Croatian Legal Center, B a B e, and Government Office for NGO Cooperation, we shall organize a follow up seminar on NGOs' economic activities. As noted in the prior report, we learned from the April tax seminar that this issue is highly controversial in Croatia and needs to be addressed. The seminar would analyze economic activities of NGOs from a comparative perspective, focusing on regulatory models that best fit the situation in Croatia

NGO Law Courses With the Zagreb Law Faculty, we shall be working to incorporate a variety of NGO legal and other issues into the general curriculum so that the students would have a better understanding of legal and sociological aspects of the third sector. During our September visit, we received positive feedback about this project for Prof Dika, Prof Kregar and the new Vice-Dean of the Faculty, Sinisa Petrovic

ICNL will also continue to provide assistance to the Rijeka Faculty of Law in developing the NGO curriculum

Domestic Donors Workshop AED has proposed working with ICNL on a workshop to encourage increased philanthropy on the part of domestic donors. As envisioned by AED, the workshop would focus on two aspects of the issue: first, an examination of the legal barriers to donations, and second, encouragement of increased individual and corporate philanthropy

However, AED does not have any funds to contribute to this joint project, so we need to examine the concept paper and proposed budget in order to determine whether this project fits within our priorities for the current period in Croatia. If we decide to proceed with this project, we may wish to seek bids from potential local partners or work with our new local consultants (B a B e) as well as AED in its implementation. We are awaiting further discussions on this with AED.

Another potential local partner (along with AED) may be the Center for Civic Initiatives. They conducted a series of seminars to encourage corporate philanthropy a few years ago and seem well placed with Zagrebacka Banka and other major companies to help us find the best partners in the business community to work on this.

C. Regional Linkages

In December 1999, ICNL will hold a meeting of experts from the region, Western Europe and the United States to consider essential public benefit issues. The meeting will be held in Zakopane, Poland. Meeting participants will undertake a comparative study of various laws regulating public benefit organizations, and will review a model law on public benefit

organizations for the region Croatia will be represented by Prof Josip Kregar from the Zagreb Faculty of Law

In spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's NGO tax reform initiative, and ICNL will ensure that participants from Croatia are involved.

We are also considering the possibility of a conference involving some of the countries of the former Yugoslavia, which would seek to address current NGOs legal framework in those countries from international and regional perspective. Next year appears to be a good time for such a conference. Macedonia and Montenegro have recently enacted new NGO laws, while in Croatia and Bosnia efforts to introduce new NGOs legal framework are under way.

To share regional and international lessons learned, ICNL will also continue to distribute laws, reports, and the IJNL to interested individuals in Croatia. In addition, ICNL will seek to integrate Croatians into other regional activities detailed in our regional workplan.

III List of Contacts

ICNL continues to make substantial progress in developing good working relationships with various organizations in Croatia. The following is a partial list of ICNL's contacts:

USAID-Zagreb	Slavica Radosevic
Min. of Labor and Social Welfare	Ana Balaban, Ivanka Spalj
Ministry of Foreign Affairs	Ivana Goranic Lora Dragic Andrija Metelko
Directorate for Administrative Affairs	Antun Palaric, Slobodan Ljubisic
Ombudsman's Office	Ante Klaric Marta Vidakovic Mukic
Croatian Law Center	Vesna Grubic, Natasa Djurovic
Croatian Humanitarian Network	Josip Mikulic Mirjana Dobranovic Jelena Brajsa
Soros Foundation	Drago Pero Vrucinic Davor Brkic Marina Skuric-Prodanovic
Ceraneo	Gojko Bezovan, Nives Radeljic, Marija Raos,
Center for Civil Initiatives	Mirela Despotovic
World Learning	Jill Benderly

Croatian Helsinki Committee Univ of Rijeka	Zarko Puhovski Jasminka Ledic Miomir Matulovic
Zagreb Law Faculty Private Lawyers	Mihailo Dika, Josip Kregar, Sinisa Petrovic Vlatka Vedris Nevenka Trbovic Ines Vukobratovic Erika Kocijancic
B a B e Group for Direct Prot Of Human Rights	Radmila Sucevic, Mirjana Radakovic Veronika Reskovic

IV List of ICNL Country-Specific Documents

ICNL has an extensive collection of materials relating to NGO law in Croatia, including the following

Laws

- Law on Associations, *June 18, 1997* (in English and Croatian)
- Law on Foundations and Funds, *June 1, 1995* (in Croatian and English)
- The Constitution of the Republic of Croatia, *December 22, 1990*
- Law on Social Organizations and Citizens' Associations, *1990* (in Croatian & selected text in English)

Draft Laws:

- First draft law on Associations and Humanitarian Organizations, prepared by the Government's working group, *March 11, 1999*
- Draft law on Associations and Humanitarian Organizations, prepared by the Croatian Legal Center's working group, *May 14, 1999*
- Final Proposal for the Law on Associations, *March 17, 1997*
- Humanitarian Organizations and Humanitarian Aid Bill, *1997*
- Peaceful Assembly and Public Protest Bill, *1997*
- Proposal of the Associations Act, *October 1996*
- Draft of the Law on Associations, *1995*
- Draft Proposal of the Law on Humanitarian Organizations and Humanitarian Aid, *May 1994*
- Proposal of the Law on Associations, *April 1994*

Comments:

- ICNL's Comments on the Croatian Legal Center's draft law, *September 15, 1999*
- ICNL's Comments on the Draft of the Public Assembly Law, *May 1999*

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- ICNL's Comments on the Republic of Croatia Draft Law on Associations, *February 27, 1997*
- ICNL's Comments on the Proposed Republic of Croatia Humanitarian Organizations and Humanitarian Aid Bill, *1997*
- Humanitarian Organizations and Humanitarian Aid Bill (Comments and Exposition), *1997*
- Peaceful Assembly and Public Protest Bill (Comments and Exposition), *1997*
- The Croatian Peaceful Assembly and Public Protest Bill and the European Convention on Human Rights (Comments), by Stephen C Neff, *September 26, 1997*

Reports:

- Croatia NGO Tax Law Report, by Gojko Bezovan, *April 1999*
- The Legal Status of Non-Governmental Organizations and Their Role in a Pluralistic Democracy – Croatia – Center for Direct Protection of Human Rights (two versions from the Center for Direct Protection of Human Rights and the Ministry of Foreign Affairs, Council of Europe), *March 23-25, 1998*
- Croatia – Country Report on Civil Society Regulation, by Gojko Bezovan, *May 24-28, 1995*
- Croatia Associations and Foundations, *undated*

ICNL wishes to express its appreciation to USAID for its support and guidance over the course of this project

**ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN
CZECH REPUBLIC**

Identifying Information

Project Name	Democracy Network
Country	Czech Republic
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2 1 (increased, better-informed citizen participation in political and economic decision-making)

Intermediate Result A legal environment that supports the creation and operation of NGOs

Performance Indicators ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1." According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development.¹ According to this scale, the NGO legal environment in the Czech Republic was in Stage III, with a rating of "1-," as of the close-out of USAID-Prague. We have heard reports of backsliding, but we have not been actively monitoring the situation in the Czech Republic because USAID has closed out of the country.

Targets There are no country-specific targets, as USAID-Prague has officially closed out. The Czech Republic remains involved, however, in regional activities.

¹ Additional information on this rating system can be found in the appendix to ICNL's July 1997 report

NARRATIVE SECTION

I. Report and Workplan

A Report

One of the leading NGO law experts in the region is Dr Petr Pajas from the Czech Republic ICNL employs Dr Pajas as a part-time consultant to share lessons learned from the Czech Republic During the past six months, Dr Pajas has

- 1 Served as a consultant on ICNL's Albania project, preparing reports and materials for the Albanian NGO-government working group,
- 2 Served as a consultant on ICNL's Slovak project A leading Czech lawyer (Dr Lenka Deverova) also participated in this project
- 3 Prepared written materials to explain the NGO legal framework in the Czech Republic to regional colleagues
- 4 Served as CEE Regional Coordinating Editor for the International Journal on Not-for-Profit Law (see below for description) In this role, Dr Pajas prepared and collected materials to help ensure the regional exchange of information

In addition, during the past reporting period, ICNL published two volumes of the *International Journal for Not-for-Profit Law* (IJNL) The IJNL is an online journal providing up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world The journal contains regular updates on the Czech Republic and is distributed throughout the country via e-mail and the Internet

B Workplan

Dr Pajas has been extremely effective in his work on various projects for ICNL We will therefore continue to use him as a consultant on country-specific and regional projects Among other projects, Dr Pajas will

- Continue to provide assistance on ICNL's Albania, Slovak and other country-specific projects,
- Prepare written materials explaining the NGO legal framework in the Czech Republic for regional colleagues,
- Continue to serve as IJNL's Regional Coordinating Editor,
- Share the Czech experience at regional meetings and conferences,

In December 1999, ICNL will hold a meeting of experts from the region, Western Europe and the United States to consider essential public benefit issues The meeting will be held in Zakopane, Poland Meeting participants will undertake a comparative study of various laws regulating Public Benefit Organizations, and will review a model law on public benefit organizations for the region Dr Pajas is an expert on this issue and will chair key sessions Dr Lenka Deverova will also participate in this workshop

In spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will distribute its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's tax reform initiative, and ICNL will ensure that participants from the Czech Republic are involved.

To share regional and international lessons learned, ICNL will continue to distribute laws, reports and the IJNL to interested individuals in the Czech Republic. In addition, ICNL will seek to integrate Czechs into other regional activities detailed in our regional workplan. Moreover, ICNL will provide assistance and information on regional best practices to Czech officials and NGO representatives to help the Czech Republic maintain its "1-" legal framework rating. Finally, ABA/CEELI is establishing a regional judicial training institute in Prague. ICNL will work with ABA/CEELI to develop the NGO law component of this regional initiative.

II. List of Contacts

Over the years, ICNL has established contact with a number of government officials, members of Parliament, lawyers, and NGO leaders in the Czech Republic. The following is a partial list of ICNL's contacts:

Ministry of Finance	Jiri Volf
President's Office	Pavel Novak
Judiciary	Jan Vyklicky
Czech Bar Assoc	Lubos Tichy
Law Faculty	Ivo Telec
NGO Law Experts	Petr Pajas
	Lenka Deverova
Mott Foundation	Jon Blyth
	Walter Veirs
ABA CEELI	Bill Meyer
Sector	Jana Ryslinkova, Ondrej Sekanina

III. List of ICNL Country-Specific Documents

Laws

- The Labour Code, 1965, amended 1993 (in book form)
- Acts on the Economic Relations with Foreign Countries (1980), on the Enterprise with Foreign Property Participation (1988), and on the Joint Stock Companies (1990), (in book form)
- Zakon o podminkach cinnosti organizaci s mezinarodnim prvkem v Ceskoslovenske socialisticke republike, 1986
- Act on Citizens' Civil Law Associations, May 1, 1990
- The Commercial Code, November 5, 1991, amended 1992 and 1993 (in book form)

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- Listiny Zakladnich Prav a Svobod, 1992
- Zakon o ucetnictvi, 1992
- The Civil Code, 1992 (in book form)
- The Constitution of the Czech Republic, *December 16, 1992*
- Zakon o danich, 1993
- Zakon o dani, 1993
- Act on Public Service Companies, *January 1, 1996*
- Act on Statutory Companies, *January 1, 1996*
- Act on Foundations and Funds, *September 3, 1997*
- Act on Foundations and Endowment Funds, *January 1, 1998*

Draft Laws:

- Draft of the Principles of an Act on Non-Profit Legal Persons, *March 8, 1994*
- Draft of the Act Regarding Foundations, Non-Governmental and Not-for-Profit Organizations, 1994
- Government Proposal of the Principles of the Law on Foundations, *May 10, 1995*
- Proposal of the Principles to Underlie the National Endowment Fund Act, 1995
- Draft Act on Nonprofit Corporations and Amending the Income Tax Act, the Real Property Tax Act, and the Act on the Inheritance Tax, the Donation Tax and the Tax on Transfer of Real Property, 1995 (in Czech and English)
- Navrh poslance Tomase Jezka a dalsich na vydani zakona o Ceske narodni nadaci, 1995
- Draft of the Final Proposal of the Act on Foundations and Funds, *undated*

Comments

- Stanovisko k zakonu o obecne prospesnych spolecnostech a o zmene a doplneni nekterych zakonu, *undated*
- Act on the Enterprise with Foreign Property Participation-Short Commentary, 1990 (in book form)
- Preamble to the Bill on Non-Profit Corporations, *May 24, 1995*
- Zakon o nadacich a nadacnich fondech, Komentar, by C H Beck, 1998 (in Czech) (in book form)
- Spolkove Pravo, by C H. Beck, 1998 (in Czech) (in book form)

Reports

- Czech Republic Associations and Foundations, *undated*
- Doing Business in the Czech Republic, by Price Waterhouse, *June 1995* (in book form)
- Regulating Civil Society—Baseline Analysis of the Non-for-Profit Law in the Czech Republic, by Petr Pajas, *May 14, 1995*
- Czech Republic Country Report, by Petr Pajas, *two versions dated September 21, 1995 and November 1996*
- Overview of the NPO Legal Environment in the Czech Republic, by ICNL, 1996

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- Structural and Systemic Issues Surrounding the Establishment and Management of Endowments in the Czech and Slovak Republics, *1998*
- The Legal Status of Non-Governmental Organisations and Their Role in a Pluralistic Democracy, by the Ministry of Justice, Council of Europe, *March 23-25, 1998*
- On the Treatment of Foreign Foundations according to the Act No 227/1997 (Act on Foundations and Funds), by Lenka Deverova and Petr Pajas, *April 1, 1998*
- On Tax Rules for NGOs in the Czech Republic, by Petr Pajas, *October 1998*

Registration Forms:

- Statute of a Fund

ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN ESTONIA

Identifying Information

Project Name	Democracy Network
Country	Estonia
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2 1 (increased, better-informed citizen participation in political and economic decision-making)

Intermediate Result A legal environment that supports the creation and operation of NGOs

Performance Indicators ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1". According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development.¹ According to this scale, the NGO legal environment in Estonia is in Stage III, with a rating of "1."

Targets: USAID has graduated Estonia, but ICNL has been permitted to bring DemNet projects to completion and to involve Estonian participants in ICNL's ongoing regional activities.

¹ Additional information on this rating system can be found in the appendix to ICNL's July 1997 report.

NARRATIVE SECTION

I. The NGO Legal Environment

Comprehensive revision of the status legislation governing NGOs in Estonia resulted in the passage of two new laws (on which ICNL provided technical assistance) that became effective in October 1996. The Law on Non-Profit Associations regulates membership organizations, while the Law on Foundations governs non-membership, property-holding entities. By adopting these two legal forms, Estonia's laws are consistent with the traditional civil law framework for not-for-profit organizations. These two laws are well written, and appropriately govern the registration, operation, reporting, and dissolution of NGOs. In fact, the Estonian laws are used throughout the world as a model of good legislation.

With respect to the tax treatment of associations and foundations, individuals are entitled to make tax-deductible contributions to public benefit NGOs. However, NGOs still must pay income tax on all economic activities, even those related to an organization's public benefit purposes (for example, an educational organization selling textbooks). Draft legislation has been prepared that will address this problem, and the NGO sector is organizing support for the enactment of this legislation, which has not yet been enacted.

II Report and Workplan

Mindful of the closeout of USAID activity in Estonia, ICNL has substantially reduced its program in Estonia. In its June 1999 workplan, citing its December 1998 workplan, ICNL offered to provide technical assistance and comparative information as Estonia fine-tunes its NGO tax framework, as requested by the government, parliament or NGO sector. Having not received any requests for assistance, however, ICNL has remained inactive in Estonia.

If requested, ICNL remains willing to provide assistance with respect to NGO taxation. As implementation concerns arise, ICNL is willing to provide expertise, both from its own staff and from accounting and fiscal experts with whom ICNL has ongoing relationships, both in the United States and Europe.

1 Regional Linkages

Estonia will remain an important part of our regional activities. Where possible, we continue to use Estonians as consultants/trainers in other countries, particularly in the Baltics. As we implement our NGO financial accounting standards regional project, we will include Estonian expertise, particularly from the Estonian universities, who have expressed interest in working with ICNL on this important sustainability issue.

During the past reporting period, ICNL published two volumes of the *International Journal for Not-for-Profit Law* (IJNL). The IJNL is an online journal that provides up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world. The IJNL contains regular updates on Macedonia and is distributed around the world via e-mail and the Internet.

Further, we have distributed materials of regional significance in Estonia through the Network of Non-Profit Associations and Foundations and the Open Estonia Fund. In addition, former parliamentarian Daimar Luv is a member of ICNL's Advisory Board for our regional center on not-for-profit law and was an active participant in ICNL's recent Budapest regional conference on "Standards and Mechanisms for Regulating Public Benefit Organizations." Ms. Mall Hellam, Executive Director and CEO of the Open Estonia Foundation serves on ICNL's Supervisory Council and participates in regional activities.

To share regional and international lessons learned, ICNL will continue to distribute laws, reports, and the IJNL to interested individuals in Estonia. In addition, ICNL will seek to integrate Estonians into regional activities detailed in our regional workplan. For example, in spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's NGO tax reform initiative, and ICNL will ensure that participants from Estonia are involved.

III List of ICNL Country-Specific Documents

Laws

- Foundations Act, *October 1, 1996* (in Estonian, English and Russian)
- Non-Profit Associations Act, *October 1, 1996* (in Estonian, English and Russian)
- Cultural Endowment of Estonia Act, *July 1, 1994* (in Estonian, English and Russian)
- Directions for the Application of the Income Tax Law, *January 21, 1994*
- Income Tax Law, *January 1, 1994*
- Law on Value-Added Tax, *January 1, 1994*
- Law on Taxation, *December 16, 1993*
- The Constitution of the Republic of Estonia, *June 28, 1992*
- Foundation of and Participation in Legal Persons in Private Law by the State Act, *undated* (in Estonian and English)

Draft Laws

- Draft Order of Executing the List of Not-for-Profit Associations, Federations, and Foundations not Subject to Income Tax, *1996*
- Drafts of the Law on Foundations, *1995*
- Drafts of the Law on Non-Profit Associations, *1995*

Comments

- ICNL's Comments on the Estonian Draft Law on Foundations, *April 7, 1997*
- ICNL's Comments on the Estonian Draft Order on Executing the List of Not-for-Profit Organizations Exempt from Income Tax, *March 15, 1996*
- ICNL's Comments on the Estonian Draft Law on Not-for-Profit Association, *February 23, 1995*

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- Comments on the Draft Law on Nonprofit Organizations and Their Associations, by T J van der Ploeg, *1995 and 1994*
- Comments on the Draft Law on Private Foundations, by A Nardone, *November 29, 1994*

Reports

- The Ministry of Justice's Submission to the Council of Europe on "The Legal Status of Non-Governmental Organisations and Their Role in a Pluralistic Democracy," *1998*
- Presentation to the Council of Europe Meeting on "The Legal Status of Non-Governmental Organisations and Their Role in a Pluralistic Democracy," by Mall Hellam, *1998*
- Mittetulundusliku Organisatsioon Juhile, *1997* (in book form available in Estonian)
- Explanatory Letter to the Draft Law on Not-for-Profit Associations, *1995*
- Explanatory Letter to the Law on Foundations, *1995*
- Estonia Country Report, by Rita Tamm, *1994*
- NGO Law Report, *undated*
- Tax Framework for the NGOs in Estonia, by Heli Aru, *undated*

ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN· HUNGARY

Identifying Information

Project Name	Democracy Network
Country	Hungary
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2 1 (increased, better-informed citizens' participation in public policy decision-making)

Intermediate Result A legal and regulatory environment that supports the creation and operation of NGOs

Performance Indicators ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network (DemNet) Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1". According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development.¹ According to this scale, the NGO legal environment in Hungary is in Stage III, with a rating of "1."

Targets Through USAID-Hungary's generous past support, ICNL was able to achieve, even exceed, Hungary's target ranking of "2" (it is now a "1"). This support enabled ICNL to assist, among other things, in the preparation and passage of Hungary's new public benefit organizations law which came into force in January 1999. Although USAID is not a position to fund ICNL to engage in Hungary-specific activities, ICNL will continue its work in Hungary under the regional cooperative agreement, albeit on a somewhat less active level.

¹ Additional information on this rating system can be found in the appendix to ICNL's July 1997 report

Hungarian NGO experts have developed a considerable experience on NGO issues which they share with other countries in the region. ICNL will continue to work with our local partners in various initiatives, to assist Hungary in the further implementation of its laws and maintaining its "1" rating.

NARRATIVE SECTION

I The NGO Legal Environment

The creation, registration, operation and general lifecycle of NGOs are governed by the Civil Code, the Freedom of Association Act, the Act on Public Benefit Organizations, and a series of governmental decrees. The most recent, the Act on Public Benefit Organizations, entered into force January 1, 1998. The Act was prepared with ICNL assistance, and contains many of the "best practices" advocated in the World Bank *Handbook on Good Practices for Laws Relating to Non-Governmental Organizations*. The law provides for tax exemptions and other benefits, along with greater disclosure and transparency requirements for organizations engaged in public benefit activities.

The success of the "1% law" which permits individuals and corporations to designate 1% of their income tax liability to NGOs was also amended to permit taxpayers to "offer" another 1% of their tax revenues to churches (in addition to the 1% they could designate to the civil sector) is constantly increasing. This law is unique in the region. Upon requests from various NGO communities and government authorities, ICNL continues to translate into different languages and distribute the law.

Hungary's accession to NATO occurred earlier this year, and Hungary rose to the challenge of its new responsibilities with the onset of the Kosovo conflict. Regulation of the civil sector has remained essentially unchanged, and we do not anticipate any changes in the near future.

II. Report

A. The Legislative Framework

Following the passage of the Act on Public Benefit Organizations in December 1997, ICNL's legislative activities in Hungary were largely completed. As stated in our previous reports, ICNL worked extensively on this law, providing background materials, extensive analyses of key areas, and comparative materials for use by the drafters. We also organized and assisted with a series of town meetings to promote understanding of the issues, convened international roundtables to promote discussions, and arranged for and assisted with a study visit to the U.S. by members of the drafting group. Recently, we contacted the Prime Minister's office on the issue of amending the current law to allow for easy registration of branch offices of foreign NGOs in Hungary. We are grateful to USAID-Washington and USAID-Hungary before it closed down earlier this year for their generous support of these

activities, which has made Hungary's NGO legal environment one of the most supportive in the region

B. Increasing In-Country Capacity

The Legal Studies Department at CEU enthusiastically invited ICNL's clinical course (for its third year) and its introductory course on NGO law (for its second year). During this reporting period, in November, ICNL began teaching the introductory course, which included a record number of fifty students (out of seventy who tried to get in) from over fourteen countries. The initial enrollment had been limited to thirty-five, but was expanded to accommodate the very high demand.

ICNL attended and will continue to attend monthly meetings organized by the Civil Society Development Foundation. These meetings drew donors and NGO support organizations operating in Hungary together to discuss various topics impacting on NGOs. As a result of these meetings, ICNL has been involved in strategic planning with other leading NGOs in Hungary in establishing an NGO database and NGO forum.

C Regional Linkages

During the past reporting period, ICNL published two volumes of the *International Journal for Not-for-Profit Law* (IJNL). The IJNL is an online journal that provides up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world. The IJNL contains regular updates on Hungary and is distributed around the world via e-mail and the Internet.

III Workplan

A. The Legislative Framework

Although ICNL's work on the NGO legal framework in Hungary has been largely completed, there may still be a need for ICNL assistance with respect to drafting or revising implementing regulations for the public benefit law. We remain in contact with members of the drafting team and government officials in the event ICNL can be of further assistance to them. The process of re-registering existing NGOs as public benefit organizations under the new law also deserves attention. Another goal is the correction of the deficiencies of the Act, such as preventing the transfer of a PBO's assets at the time of termination to the for-profit sector.

ICNL has taken steps toward supporting an initiative relating to the registration of branch offices of foreign NGOs in Hungary. Although commercial companies benefit from a relatively new law facilitating the registration of branch offices, there is no similar provision for non-commercial organizations. Nor can foreign NGOs register through the courts unless they meet the requirements of a Hungarian NGO, which is difficult particularly for small branch offices of foreign NGOs (such as ICNL). The government has acknowledged this

“gap” in their otherwise good NGO legal framework and appears amenable to revisions. At the request of the Prime-Minister’s office for NGO relations, ICNL prepared a written proposal setting forth comparative examples and international standards for branch office registration. We will follow up by meeting with the office later in the month to see what we can do to move this process forward.

B Increasing In-Country Capacity

ICNL continues to expand its teaching activity at Central European University, taking on responsibility for an introductory course in NGO law as well as continuing its NGO law clinical program. ICNL senior staff from Washington taught the introductory course, and Program Director Jean Garland will continue to teach the clinical program. ICNL will also continue its cooperation with NIOK on implementation training for the public benefit law.

ICNL will be hosting portions of a study-visit by the Hungarian Prime Minister's office for NGO relations in December in Washington. The group has asked for a briefing on U.S. laws affecting NGOs and for more information about the general characteristics of the U.S. NGO sector. ICNL, as the World Bank's NGO advisor, will also arrange for meetings with Bank officials and the Hungarian delegation.

ICNL will continue its practice of selecting outstanding students from its clinical law course to travel to Washington for advanced training on NGO law in July and August 2000 with the goal that the students would return to their home countries and apply their knowledge to improve the NGO sector.

As a pilot project under ICNL’s regional educational initiative, ICNL is working with the Foundation on Legal Clinic at ELTE (the Hungarian law faculty located in Budapest) on the possibility of adding a live-client NGO clinic to its current clinical course offerings. The live-client clinic at ELTE would involve legal assistance on the part of law students to NGOs, giving the law students practical experience as well as much-needed legal advice to the sector. This program is an important part of ICNL's region-wide educational initiative, introducing aspects of NGO law into the regular course curricula of various law schools in the region. We are in the process of discussing the various aspects of this initiative with other possible partners (NIOK, CEU, COLPI), and we expect to have a finalized project proposal by the end of this year. We anticipate the project to be launched in the academic year 2000/2001.

C Regional Linkages

Because Central European University attracts students from throughout the region, the clinical law course designed by ICNL should have an impact well beyond the borders of Hungary. Students are expected to take their new knowledge and understanding of NGO legal issues back to their home countries where they can form the next generation of lawyers able to assist the NGOs on a practical level.

ICNL is organizing at least one regional conference. In December 1999, ICNL will hold a meeting of experts from the region, Western Europe and the United States to consider essential public benefit issues. The meeting will be held in Zakopane, Poland. Meeting participants will undertake a comparative study of various laws regulating Public Benefit Organizations, and will review a model law on public benefit organizations for the region. Hungary will be represented by Nilda Bullain from CSDF, Gabor Posch from the Ministry of Finance, and Zsolt Aradsky, the legal advisor of NIOK.

In spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's NGO tax reform initiative, and ICNL will ensure that participants from Hungary are involved.

In addition, we are exploring the possibility of organizing other regional workshops and meetings on issues of regional importance. We will seek to include Hungarians in these initiatives. Budapest is also the most likely venue for a possible conference involving some of the countries of the former Yugoslavia regarding NGO legal issues.

To share regional and international lessons learned, ICNL will also continue to distribute laws, reports and the IJNL to interested individuals in Hungary. In addition, ICNL will seek to integrate Hungarians into other regional activities detailed in our regional workplan.

III. List of Contacts

ICNL has established good working relationships with a number of government officials, lawyers, educators, and NGO leaders working on sector issues. The following is a partial list of ICNL's contacts in Hungary.

USAID	Patricia Lerner, Marc Ellingstad
NFF	Peter Wiebler, Asta Zimbo
Foundation for Development of Democratic Rights	Peter Nizak
COLPI	Arie Bloed, Karoly Bard, Constance Nicandrou, Zaza Namoradze, Peter Komives
Soros Foundation	Laszlo Kardos, Eva Bakonyi
MOJ	Andras Nemes
Parliament	Gabor Csizmar
Drafting Group	Daniel Csanady Miklos Harsanyi Gabor Gyorffy (PHARE)
Foundation for Legal Clinic Autonomia	Prof Boros, Agnes Kover Anna Csongor

NIOK	Marianna Torok, Krisztina Vincze, Zsolt Aradsky
Europa Hasz	Miklos Barabas
CIVICUS	Miklos Marschall
CEU	Csilla Kollonay, Andras Sajo, Karoly Bard
Eur Roma Rights Center	Dimitrina Petrova, Andras Biro
Civil Soc Dev Foundation	Nilda Bullain, Adrienn Csanyi
Human Rights Doc Cntr	Gabor Halmai

IV. List of ICNL Country-Specific Documents

As we stated in the prior report, ICNL has prepared an English translation of the public benefit organizations law and the amendments to the "1% law" along with summaries of those laws (in English)

Laws

- Act CLVI of 1997 on Public Benefit Organizations, amended 1998
- 1996 Act No CXXVI on the Application of a Certain Portion of Personal Income Tax Upon the Taxpayer's Order
- Law XCII of 1993 on the Amendment of Certain Provisions of the Civil Code, *October 5, 1993*
- Excerpts from the Hungarian Civil Code, 1993 (in English, Hungarian and German)
- Select Provisions of Act LXXIV/1992 on Value Added Tax
- Schedule 9 to – of Act LXXXVI/1991 on Corporate Tax
- Select Provisions of Act LXXXVI/1991 on Corporate Tax
- Select Provisions of Act XCIII/1990 on Duties
- Select Provisions of Act IV/1959
- Constitution of Hungary, *undated*

Draft Laws

- Draft Special Rules Concerning the Dissolution of Public-Benefit Private Organizations,
- Drafts of the Law on Public Benefit Organizations, *1996-1997*
- Draft Bill 9434 on the Amendment of Specific Provision of the Civil Code,
- Proposed Change in the Draft Bill 9434, *1993*

Comments

- Comments on the Submission to the Cabinet about the Draft Bill on the Amendment of Individual Provisions of the Civil Code, *1993*

Reports

- The Ministry of Justice's Submission to the Council of Europe on "The Legal Status of Non-Governmental Organizations and Their Role in a Pluralistic Democracy," *March 1998*
- Hungarian Tax Rebate Provision—the "One-Percent" Rule, by Istvan Csoka, ICNL, *1997*
- Profiling the Civic Sector in Hungary, by Eva Kuti, *1997*
- Chronology of the Developments in Legal Regulation of the Hungarian Non-Profit Sector, by Nioh, *1997*
- Country Report—Hungary, by Gabor Gyorffy, ICNL, *1996*
- Report on NGO Law in Hungary, *undated*
- A Summary of the Act CXXVI of 1996 on the Use of a Specified Portion of Personal Income Tax Act According to the Designation of the Taxpayer (as was amended by the Act of CXXIX of 1997), *undated*

Forms

- Application form for "One Percent" Tax, *December 1997* (in Hungarian and English)

ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN: LATVIA

Identifying Information

Project Name	Democracy Network
Country	Latvia
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2.1 (increased, better-informed citizen participation in political and economic decision-making)

Intermediate Result A legal environment that supports the creation and operation of NGOs

Performance Indicators ICNL worked with USAID/Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1". According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development.¹ According to this scale, the NGO legal environment in Latvia is in Stage II, with a rating of "4."

Target USAID has graduated Latvia, but ICNL has been permitted to bring DemNet projects to completion and to involve Latvian participants in ICNL's ongoing regional activities.

The goal is for Latvia's rating to increase to a "3" by 2000, and remain at a "3" by the close of the project in April 2001. Assuming availability of outside funding, specific remaining targets are: (1) significant progress by the NGO working group drafting a revised Law on Foundations and liberalized amendments to the NGO tax provisions, and

¹ Additional information on this rating system can be found in the appendix to ICNL's July 1997 report.

(2) increased in-country capacity (demonstrated through the provision of legal information to NGOs, better understanding NGO legal issues within the government and NGO sector, and active involvement of the government and NGO sector in the development of new legal norms)

NARRATIVE SECTION

I The NGO Legal Environment

During the past year extensive movement occurred in initiating a truly multi-sectoral approach to comprehensive NGO law reform in Latvia. Registration reform was undertaken largely without NGO participation beginning in 1997, and more NGOs became eligible to be placed on a list that entitles them to receive tax-deductible contributions. During 1999 the NGO community has become significantly better organized, initially encouraged by ICNL as a broker for common action to achieve common goals and working through the NGO Centre. NGOs provided comments and new proposals to the Parliament and participated actively in the successful movement to amend the Law on Public Organizations and their Associations.

The Latvian government is continuing evaluation of the existing legal framework, and ICNL has been asked by the sector to assist in this effort, from the NGO perspective. Parliamentary Deputy Janis Lagzdins and his parliamentary commission have undertaken consideration of a draft Law on Foundations (originally prepared with ICNL assistance in 1995).

At the same time, the Baltic American Partnership Fund has begun its work throughout the region, and has established NGO legislation as a priority. ICNL is discussing with the BAPF possibilities for ICNL to provide technical assistance in the continuing process of NGO law reform in Latvia.

II. Report and Workplan

ICNL has continued to provide materials and counsel from its Washington office, and included Latvian participation in all regional information and educational efforts.

ICNL hopes to play an active role providing international expertise as the NGO legislative initiative moves forward. If additional funding becomes available, through the Baltic American Partnership Fund or otherwise, ICNL is prepared to spend substantial time in Latvia and on Latvian NGO legal issues. This commitment will extend to a more continuing basis for providing technical assistance and encouraging the comprehensive reform of the legislative framework envisaged during the past year or so. ICNL will continue to furnish comparative examples from nearby countries and elsewhere, as well as written commentaries and information. In addition, under these circumstances, ICNL will be able to plan visits to Latvia to encourage momentum forward and will provide technical assistance to government, parliamentary, and NGO participants in the drafting process.

1. Regional Linkages

During the past reporting period, ICNL published two volumes of the International Journal for Not-for-Profit Law (IJNL). The IJNL is an online journal that provides up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world. The IJNL contains regular updates on Latvia and is distributed around the world via e-mail and the Internet.

In spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from around the region. This conference is an important component of ICNL's NGO tax reform initiative, and ICNL will ensure that participants from Latvia are involved.

To share regional and international lessons learned, ICNL will also continue to distribute laws, reports, and the IJNL to interested individuals in Latvia. In addition, ICNL will seek to integrate Latvians into other regional activities detailed in our regional workplan.

III List of ICNL Country-Specific Documents

Laws

- Cabinet of Minister Regulation No. 367 on the Procedure of Issuing or Withdrawing Permits Issued to Public Organizations (Foundations) and Budgetary Institutions to Receive Donations from Donors Receiving Enterprise Income Tax Relief, *September 24, 1996*
- Law on the Value Added Tax, *1995*
- Law on Enterprise Income Tax, *1995*
- Law on Personal Income Tax, *1995*
- Law on Non-Profit Organizations, *December 17, 1991*, amended *May 1993*
- Law on Public Organizations and Their Associations, *December 15, 1992*
- Latvijas Republikas Likums "Par pelnas nodokli", *December 20, 1990*
- Law on the Enterprise Register of the Republic of Latvia, *November 1990*, amended *April 1992 and May 1991* (in English and Latvian)
- Law on Entrepreneurial Activity, *September 26, 1990*
- Constitution of the Republic of Latvia, *1922*

Draft Laws

- Draft Law on Charitable Foundations, *1997*

Reports

- The Ministry of Justice's Submission to the Council of Europe, "The Legal Status of Non-Governmental Organisations and Their Role in a Pluralistic Democracy," *March 1998*
- Latvian Country Report, by Iveta Nikolajeva, *1997*
- Latvia, *1996*
- Report on NGO Law, *undated*

**ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN
LITHUANIA**

Identifying Information

Project Name	Democracy Network
Country	Lithuania
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective: Strategic Objective 2 1 (increased, sustained collaboration of NGOs and local governments to develop policies and services which reflect community interests)

Intermediate Result Intermediate Result 2 1 1 1 (legislation enabling the organization and operation of NGOs established)

Performance Indicators: ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1". According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development.¹ At present, the NGO legal environment in Lithuania is in Stage II, with a rating of "4+."

Targets The goal is for Lithuania's rating to rise to a "3" by 2000. To support the continued development of the ability of Lithuanians to address NGO legal issues, ICNL will also seek to increase in-country capacity (demonstrated through progress on legislative initiatives, the provision of legal information to NGOs, etc.) and to strengthen regional and international linkages (demonstrated by the extent to which there are exchanges of information and lessons learned).

¹ Additional information on this rating system can be found in the appendix to ICNL's July 1997 report

NARRATIVE SECTION

I. The NGO Legal Environment

Although the Lithuanian NGO laws provide for the basic structures that allow NGOs to form and operate, the legal framework remains overly complex, ambiguous, overlapping and contradictory. There are two separate legal forms for membership based organizations: community organizations and associations. Similarly, there are two separate legal forms for non-membership, property-based organizations: charity and sponsorship funds (often referred to as foundations) and public institutions. A separate Law on Charity and Sponsorship also regulates some types of charitable giving. In general, the laws governing these entities lack functional definitions of fundamental concepts (e.g., "charity" and "sponsorship"). The laws on accounting are also problematic. For example, the accounting laws prohibit organizations from paying reasonable expenses of volunteers. Finally, application of the laws is often done in an inconsistent, *ad hoc* fashion.

II. Report and Workplan

Unfortunately, USAID-Lithuania has limited funding to continue supporting the Democracy Network project, despite the legislative efforts that are currently underway in Lithuania.

Since participating in parliamentary hearings in late 1998 on the draft amendments to the Law on Charities and Sponsorship and related provisions in the Laws on Natural Persons Income Tax and the Law on Profits of Legal Persons (which are still under consideration in Parliament),² ICNL has remained in contact with government officials and NGO leadership on the process toward adoption of the draft law. Second, ICNL repeated its law course at the university in Kaunas entitled, "Regulation of Civil Society-Laws Governing NGOs-Principles & Practice" in September 1999, attended this year by almost 100 students. The curriculum for this course, similar to ICNL courses throughout CEE, is designed to enhance law school students' knowledge of basic principles of NGO law and to encourage their interest in pursuing NGO law in their future careers. In sum, these two activities have been designed to improve the legal framework for the sector and to increase in-country capacity.

In addition, at the request of the Ministry of Finance, ICNL both consulted and provided materials for use in designing implementation regulations for tax benefits provided for NGOs under the proposed amendments to governing laws. These contacts are continuing.

In November 1999, ICNL will be presenting a paper at a workshop on corporate philanthropy co-sponsored by the Baltic-American Partnership Fund and the Free Market Institute. This presentation demonstrates ICNL's continued interest in and willingness to assist in the on-going effort to improve the long-term sustainability of the NGO sector in Lithuania, as well as the development of a truly participatory civil society.

² ICNL had consulted with USAID-Lithuania staff in the initial development strategy for these hearings early in 1998.

ICNL is prepared to support and work closely with Lithuanian efforts to accomplish reform of other laws governing associations and public institutions and foundations, as well as pertinent tax laws and regulations affecting the sector. ICNL will provide technical assistance where appropriate, and to either participate in or co-sponsor direct educational or active drafting exercises to accomplish this goal. To this end, and in hopes of encouraging such activity (again within funding constraints), ICNL will remain in close contact with its NGO partners in Lithuania, as well as with the USAID staff there, and will visit in conjunction with normal regional travel to assure the closest possible collaboration and contact. In addition, ICNL will maintain contact with the Ministry of Finance advisors and staff to provide both technical assistance and materials needed in the implementation of fair rules governing tax treatment of NGOs and their benefactors.

Additionally, as in Latvia and Estonia, ICNL is initiating efforts to secure funding for additional projects through the Baltic-American Partnership Fund. If successful, these efforts will contribute to continued improvement in the Lithuanian performance indicator rating.

1 Regional Linkages

During the past reporting period, ICNL published two volumes of the *International Journal for Not-for-Profit Law* (IJNL). The IJNL is an online journal that provides up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world. The IJNL contains regular updates on Lithuania and is distributed around the world via e-mail and the Internet.

In spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's NGO tax reform initiative, and ICNL will ensure that participants from Lithuania are involved.

To share regional and international lessons learned, ICNL will also continue to distribute laws, reports, and the IJNL to interested individuals in Lithuania. In addition, ICNL will seek to integrate Lithuanians into other regional activities detailed in our regional workplan.

III. List of ICNL Country-Specific Documents

Laws

- Resolution of the Government of the Republic of Lithuania on the Confirmation of the Temporary Procedure of Registration of Public Institutions and Associations, *November 1996*
- Temporary Procedure of Registration of Public Institutions and Associations, *November 1996*
- Law on Public Institutions, *July 3, 1996*
- Law on Charity and Sponsorship Foundations, *March 14, 1996*

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- Law on Associations, *March 14, 1996*
- Law on Community Organizations, *February 2, 1995*
- Law on the Implementation of the Law on Community Organizations of the Republic of Lithuania, *February 1995*
- Lietuvos Respublikos Muzeju Istatymas, *1995*
- Lietuvos Respublikos Visuomeniniu Organizaciju Istatymas, *1995*
- Lietuvos Respublikos Biblioteku Istatymas, *1995*
- Law on the Tax on the Immovable Property of Enterprises and Organisations, *July 20, 1994*
- Republic of Lithuania Law on Value-Added Tax, *December 22, 1993*, amended *July 20, 1994 and April 7, 1994*
- Lietuvos Respublikos Civilinis Kodeksas, *1994*
- Republic of Lithuania Law on Taxes on Profits of Legal Persons, *July 31, 1990*, amended *July 13, 1993*
- Republic of Lithuania Law on Charity and Sponsorship, *June 4, 1993*
- Lietuvos Respublikos Ir Paramos Istatymas, *1993*
- Lietuvos Respublikos Vyriausybe Nutarimas Del ne pelno organizaciju imonių registravimo, *1993*
- Resolution No 354 of the Government of the Republic of Lithuania, *1993*
- Constitution of the Republic of Lithuania, *October 25, 1992*
- Resolution No 393 of the Government of the Republic of Lithuania on the Approval of Major Provisions to be Contained in the Non-Profit Organizations' By-Laws, *May 1992*
- Lietuvos Respublikos Auksciausioji Taryba konstitucija, *1992*
- Lietuvos Respublikos Vyriausybe Nutarimas Del Ne pelno organizaciju imonių istatu pagrindiniu nuostato patvirtinimo, *1992*
- Republic of Lithuania Law on Education, *June 25, 1991*
- Republic of Lithuania Law on Science and Studies, *February 12, 1991*
- Lietuvos Respublikos Suetimo Istatymas, *1991*
- Lietuvos Respublikos Mokslo Ir Studiju Istatymas, *1991*
- Republic of Lithuania Provisional Law on Income Tax of Natural Persons, *October 5, 1990*, amended *July 13, 1993*
- Republic of Lithuania Law on the Register of Enterprises, *July 31, 1990*
- Lietuvos Respublikos Imonių Rejestro Istatymas, *1990*

Draft Laws

- Draft Law on the Amendment and Supplement to the Law on Charity and Sponsorship of the Republic of Lithuania, *March 1998*
- Draft Law on the Amendment and Supplement to Articles 1, 2, 3, 4, 5, 8, 9, 11, 12, 14, 17, 18, 19, 20, 22, 23, 27, 28 and 30 of the Law on Public Organisations of the Republic of Lithuania, *March 1998*
- Draft Law on the Amendment and Supplement to Article 6 of the Law on Profit Tax of Legal Persons of the Republic of Lithuania, *1998*
- Draft Law on the Amendment to Item 4, Paragraph 1, Article 13 of the Law on Customs Tariffs of the Republic of Lithuania, *1998*

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- Draft Law on the Supplement to Item 7, Article 23 of the Law on Value Added Tax of the Republic of Lithuania, *1998*
- Draft Law on the Amendment and Supplement to the Law on Charity and Sponsorship Funds of the Republic of Lithuania, *1998*
- Projektas Lietuvos Respublika Asociacijų Istatymas, *1995*
- Projektas Lietuvos Respublika Labdaros ir Paramos Fondu Istatymas, *1995*
- Projektas Lietuvos Respublika Viesųjų Istaigų Istatymas, *1995*
- Draft Law on Non-Profit Organizations, *1994*
- Draft Law on Foundations, *undated*
- Draft Law on Associations, *undated*

Comments

- ICNL's Comments on Draft Amendments to Law on Charities and Sponsorships and related laws, *June 1998*
- ICNL's Memorandum on NGO Draft Laws, *April 1997*
- Comments on the Draft Law on Foundations and Draft Law on Associations, *January 31, 1995*

Reports

- The Ministry of Justice's Submission to the Council of Europe on "The Legal Status of Non-Governmental Organisations and Their Role in a Pluralistic Democracy," *March 1998*
- The Non-Governmental Organizations' Information and Support Centre's Submission on "The Legal Status of Non-Governmental Organisations and Their Role in a Pluralistic Democracy," *March 1998*
- Country Report on NGO Laws and Regulations, by Remigijus Simasius, *February 18, 1997*
- The Legal Regulation of Non-Governmental Organizations in Lithuania, by Juozas Bivainis, *December 1995 and April 1995* (in English and Lithuanian)
- The Third Sector in Lithuania, by Mark Segal, *1995*
- The Tax Framework for Lithuanian NGOs by Remigijus Simasius, *undated*
- NGO Law Report, *undated*

**ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN.
MACEDONIA**

Identifying Information

Project Name	Democracy Network
Country	Macedonia
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2 1 (increased, better-informed citizen participation in political and economic decision-making)

Intermediate Result. A legal environment that supports the creation and operation of NGOs

Performance Indicators ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1". According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development.¹ According to this scale, the NGO legal environment in Macedonia is in Stage II, with a rating of "3."

Targets The goal was for Macedonia's rating to increase to a "3" by 1999, which was achieved with the passage of the new NGO law in June 1998. The goal is for this rating to increase to a "2-" in 2001.

ICNL also developed country-specific targets in conjunction with USAID-Skopje. Under this set of the targets, the goal for 1999 was the enactment of an NGO law that satisfies 10 of 15 key criteria. This goal has been exceeded.

¹ Additional information on this rating system can be found in the appendix to ICNL's July 1997 report.

NARRATIVE SECTION

I The NGO Legal Environment and General Background

At the inception of this project, the NGO sector was governed by a 1990 Law for Social Organizations and Associations of Citizens. This law was enacted before the first multi-party elections in the country and contained a number of gaps, ambiguities and restrictive provisions. It precluded the formation of foundations, restricted the ability of legal persons to form associations, gave rise to unclear registration procedures, lacked provisions governing the internal structure of organizations, and contained unduly severe penalty provisions. This law, with its gaps and restrictions, violated the Macedonian constitution.

On June 25, 1998, a new Law on Citizen Associations and Foundations was enacted. The law was the result of a remarkable participatory process. The draft was distributed to all active NGOs in the country, three public hearings were held to discuss the law, and the drafters used television, radio and newspaper interviews to promote legislative transparency. Moreover, funds were raised locally to cover all costs associated with the printing and distribution of the draft, as well as the three public meetings. The NGO law is considered to be one of the prime examples of participatory law-drafting in Macedonia.

The new Law on Citizen Associations and Foundations significantly improved the legal framework for NGOs in Macedonia. The law liberalizes the NGO legal environment for NGOs in Macedonia. For example, the law

- allows for the establishment of foundations (i.e., non-membership NGOs),
- transfers registration authority from the Ministry of Interior to the courts, which is consistent with regional trends,
- limits the grounds under which the court may refuse to register an NGO,
- reduces the number of founders required to establish an association,
- recognizes, for the first time, the nonprofit principle,
- allows NGOs to engage in a broad range of economic activities, and
- promotes the democratic internal governance of associations and foundations.

The law is one of the most progressive in the former Yugoslavia and is being used as a model in a number of other countries. Nonetheless, there are several problems with the law, including issues relating to economic activities by NGOs and the ability of legal entities to found associations. In addition, the law purposely shifted registration responsibilities from the Ministry of Interior to the courts, which is consistent with civil law traditions. Unfortunately, judges are not accustomed to this role, so the registration process took longer than it should have.

The successful passage of the Law on Citizen Associations and Foundations spurred the NGO sector to advocate for favorable treatment under a new value-added tax (VAT) law,

which was enacted in July 1999. Other tax benefits are tied to general tax reform in the country, which is currently stalled.²

There has also been a remarkable increase in local capacity. When the project began, there was literally no one interested in NGO legal issues. Now a core group of NGO law specialists has formed. This group includes the Vice Dean of the Skopje law faculty and a leading Macedonian scholar. Interestingly, both spent over 1000 hours working on the NGO law and refused any payment whatsoever for their work.

II Report and Workplan

A Introduction

The enactment of the NGO law in June 1998 concluded Phase I of ICNL's project in Macedonia. ICNL has now entered Phase II, which focuses on implementation, training, and capacity-building. In addition, ICNL will seek to create dialogue between and among the NGO community, judiciary, government and private bar on issues of NGO law. At the appropriate time, ICNL will also seek to work on the NGO tax framework.

ICNL remains extremely optimistic about the prospects in Macedonia. A progressive NGO law was enacted despite difficult circumstances, and there has been tremendous progress in terms of implementation, NGO capacity-building, and regional linkages. In the NGO legal field, Macedonia is considered to be the Balkan success story, and we look forward to our continued work with USAID-Skopje to build upon this progress.

B Report³

1 The NGO Legal Framework

Official Commentary of the NGO Law Last spring, ICNL provided technical assistance to a team of local experts preparing the official commentary on the NGO law. The commentary is intended as a standard text for NGO representatives, judges, lawyers, and other interested parties. The Macedonian Center for International Cooperation (MCIC) originally planned to publish the commentary last April, but this was delayed due to the Kosovo crisis. In September, MCIC published the commentary, printing 2000 copies, 1000 of which were financed by ICNL. The commentary will be distributed around the country to NGO representatives, judges, lawyers and other interested individuals. ICNL has also arranged for the Institute for Sustainable Communities (ISC) to receive copies of the commentary to distribute to NGOs with whom they work.

² Last year, the US Department of Treasury prepared for the Macedonian Ministry of Finance draft Income and Profit Tax Laws, which included NGO tax benefits. Because of political and economic circumstances, we understand that these initiatives have been indefinitely postponed.

³ Additional information on these activities is contained in trip reports and updates previously provided to USAID.

Judicial Training Under the new law, registration authority is transferred from the Ministry of Interior to the courts. To help judges with this new function, ICNL organized a judicial training program on November 19-20, 1999. Co-sponsors were the Macedonian Judges Association's Center for Continuing Education (CCE) and MCIC, with the latter covering half of the costs of the seminar. Approximately fifty judges responsible for NGO registration attended the training, including Supreme Court justices, registration-level judges, and law clerks (who do much of the work). The training covered a number of practical issues, including the right of appeal and the extent to which NGOs may engage in political activities. A final report on the training will be prepared by the Macedonian Judges Association and distributed to all judges in the country so they too can benefit from this seminar.

Legal Consultations ICNL arranged for the drafters of the law to help NGOs with the registration process. Specifically, the drafters held weekly office hours where they worked with NGOs on their registration documents and explained to them opportunities arising under the new law. Interestingly, courts and ministries also took advantage of these legal consultations.

Integration of the NGO Law into the Law School Curriculum The law faculty currently hosts an annual lecture on NGO law taught by Vice Dean Davitkovski and Douglas Rutzen. The law faculty has now agreed to institutionalize NGO law either through a stand-alone course or as a unit of other courses (Civil Code, administrative law, tax law, etc). We have initiated work on an NGO law textbook, which will continue during this coming reporting period. This project should be an extremely cost-effective way to increase significantly the number of Macedonian lawyers competent on issues of NGO law.

Articles and Information ICNL arranged for one of the drafters of the law to write an article for the autumn edition of the ISC Newsletter explaining the registration process. ISC also published an article by ICNL discussing the process of NGO law reform in CEE and the NIS.

2 Regional Linkages

During the past reporting period, ICNL published two volumes of the *International Journal for Not-for-Profit Law* (IJNL). The IJNL is an online journal that provides up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world. The IJNL contains regular updates on Macedonia and is distributed throughout the world via e-mail and the Internet. In addition, ICNL has forged linkages between NGO law experts in Macedonia and Kosovo.

B. Workplan

As previously discussed with USAID-Skopje, ICNL will focus on the following activities during the next year.

1 Capacity-Building, Implementation and Legislation

Judicial Training. ICNL will work with CCE and MCIC to compile and publish materials from the November 1999 judicial training. These materials will then be distributed to judges and clerks to provide them with a practical reference guide on NGO registration issues.

Training for NGOs and Lawyers ICNL plans to work with MCIC to organize five one-day meetings around the country to discuss NGO legal issues. The target audience is NGO representatives and lawyers, although judges and government officials will also be invited to attend. The primary purpose of this project is to educate NGOs and their lawyers on opportunities presented by the new law. At the same time, this project will help build cross-sectoral linkages which are important for the further development of the NGO sector in Macedonia. Following up on USAID's suggestion, ICNL will also consider working with World Learning to organize a study tour for NGO lawyers to build upon this training.

Integration of the NGO Law into the Law School Curriculum During the next year, ICNL will focus on its educational initiative. Specifically, ICNL will write a chapter for the textbook surveying regional practices, collect sample curricula on NGO law, and work with Vice Dean Davitkovski to develop an appropriate teaching methodology. We will also explore the possibility of developing a clinical law project in conjunction to academic courses on NGO law.

NGO Taxation ICNL is currently undertaking a baseline analysis of the tax situation in Macedonia. Once complete, ICNL will consider sponsoring the preparation of user-friendly materials to explain the tax situation to NGOs, including issues relating to the recently-enacted VAT law. ICNL is also interested in undertaking an NGO tax initiative, but this project is tied to general tax reform, which is currently stalled in Macedonia.

NGO Accountability and Transparency NGOs in Macedonia have expressed interest in learning how to write a proper annual report, including financial and programmatic issues. ICNL has particular expertise in this area and will work with local experts to develop a user-friendly guide on report writing.

NGO-Government Partnerships There is increasing interest in NGO-government partnerships in Macedonia. In Bulgaria and elsewhere, ICNL has produced reports examining the legal issues underpinning such relationships. ICNL is interested in undertaking a similar study in Macedonia. If this project proceeds, ICNL will involve Radost Toftisova (Bulgarian lawyer working at ICNL-Budapest and specialist in these issues) in this project.

Administrative Reform The draft Law on Administrative Reform contains a paragraph enabling the government to devolve certain responsibilities to foundations and associations. ICNL agrees with USAID-Skopje that it is far from certain that the government really intends to do this. If, however, there are clear signs from the government that it seriously intends to vest NGOs with quasi-governmental responsibilities, ICNL is prepared to help government develop the legal framework to facilitate this devolution of power.

2. Regional Linkages

In spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's NGO tax reform initiative, and ICNL will ensure that participants from Macedonia are involved.

In addition, we are exploring the possibility of organizing a meeting of individuals engaged in NGO law reform in the countries of the former Yugoslavia. We will seek to include Macedonians, covering their expenses under the ICNL-Macedonia project.

To share regional and international lessons learned, ICNL will continue to distribute laws, reports and the IJNL to interested individuals in Macedonia. In addition, ICNL will seek to integrate Macedonians into other regional activities detailed in our regional workplan.

III List of Contacts

ICNL has established contact with a number of government officials, members of Parliament, lawyers, and NGO leaders working on sector issues. ICNL has also been in contact with numerous USAID contractors operating in Macedonia. The following is a partial list of ICNL's contacts:

USAID-Skopje Law Faculty	Brad Fujimoto, Kathy Stermer, and Melita Cokrevska Borce Davitkovski Dobrinka Taskovska
Ministry of Finance CCE Soros Sector	Vanja Mihajlova Tanja Temelkoska-Milenkovic Zoran Cali, Jordan Apostolski Natasha Gaber Sasho Klekovski
ISC CEELI NDI Media	Terry Armstrong Judge Evelyn Lance Richard Stoddard Katerina Spasovska

IV. List of ICNL Country-Specific Documents

Laws

- Law on Citizen Associations and Foundations, *June 25, 1998*
- Excerpts of Customs Law, *April 1993* (in English and Macedonian)
- Excerpts of the Law for Payments Turnover, *December 24, 1993* (in English and Macedonian)
- Excerpts of the Law for Property Taxation, *December 24, 1993* (in English and Macedonian)

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- Excerpts of the Law for Profit Taxes, *December 24, 1993* (in English and Macedonian)
- Amendment to the Law of Taxes on Goods and Services, *December 1993* (in Macedonian)
- Personal Income Tax Law, *1993*
- Profit Tax Law, *1993*
- Excerpts of the Macedonian Constitution, *1991* (in English and Macedonian)
- Law for Social Organizations and Associations of Citizens, *April 21, 1990* (in English and Macedonian)

Draft Laws

- Provisions from the Draft Law on Profits and Income of Non-Residents Tax, *May 1998*
- Provisions from the Draft Law on Personal Income Tax, *May 1998*
- Draft Law on Associations of Citizens and Foundations, *1998 and earlier drafts*
- Draft Law on Value Added Tax in the Republic of Macedonia, *August 1997* (in Macedonian and English)

Comments

- ICNL's Comments on the Draft Law on Associations of Citizens and Foundations, *April 23, 1998*
- ICNL's Comments on the Macedonian Draft Law on Citizens' Associations, *February 16, 1996*

Reports

- The Ministry of Foreign Affairs' Submission to the Council of Europe on "The Legal Status of Non-Governmental Organisations and Their Role in a Pluralistic Democracy," *March 1998*
- Draft Report on Supporting Women's Participation in Economic and Political Decision Making in Macedonia A Cross-Cutting Strategy, by USAID-Macedonia, *1998*
- NGOs as a Source of Great Potential in Society's Further Development, by Natasha Gaber, *1998*
- ICNL's Country Report-Macedonia, *1995*
- Not-for-Profit Sector Legal Framework-the Macedonian Case, by N Gaber, *1995*
- "The Former Yugoslav Republic of Macedonia," *1994*

ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN POLAND

Identifying Information

Project Name	Democracy Network
Country	Poland
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK¹

Strategic Objective Strategic Objective 2 1 (increased, better-informed citizens' participation in political and economic decision-making)

Intermediate Result Intermediate Result 2 1 3 2 (enabling legal and regulatory framework empowers NGOs)

Performance Indicators ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementer of the regional legal component of the Democracy Network Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1". According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. The numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development.² According to this scale, the NGO legal environment in Poland is in Stage III, with a rating of "2-."

Despite the amendments to the status laws and a significant increase in in-country capacity, legal developments have challenged the right of foundations to use economic means to pursue their statutory objectives and that jeopardize the right of foundations to contract with the local government. These negative developments make it appropriate to rank Poland with a "2-" rating.

¹ ICNL's work on NGO legal issues in Poland contributes to the attainment of SO 2 3 (local government is effective, responsive, and accountable) and IR 2 1 (increased involvement by citizens, NGOs and business in local civic processes)

² Additional information on this rating system can be found in the appendix to ICNL's July 1997 report

Targets If the problems impeding the effective functioning of foundations can be resolved, Poland would merit a rating of “1” by April 30, 2001

NARRATIVE SECTION

I. The NGO Legal Environment³

Poland’s new Constitution guarantees the freedom of association. Since the mid-1980s the Polish law has provided for two legal forms for NGOs -- associations (membership organizations) and foundations (non-membership organizations). Both the Law on Foundations and the Law on Associations have undergone significant revision since 1989. The current NGO legal framework in Poland is somewhat complex and confusing yet functional. NGOs can generally be formed without undue delay or expense, and, once formed, can operate quite freely, engaging in traditional social service provision as well as advocacy activities. Significant tax advantages are provided to both associations and foundations. Substantial obstacles do exist for foundations, however, with respect to using economic activities to achieve their statutory purposes and in partnering with local government. These problems result from defects in existing legislation and restrictive interpretations of the laws by the courts.

It should be noted that the Polish NGO sector is among the most dynamic and sophisticated in the CEE region. There are an increasing number of lawyers who have interest and experience working with NGO legal issues. The NGO community has also demonstrated a significant ability to form effective coalitions to influence the development of NGO legislation. For example, the NGO sector successfully campaigned for the defeat of restrictive amendments to the Law on Foundations and is currently having significant influence on the development of a new law on “Cooperation of Public Administration Authorities with NGOs.”

II. Report and Workplan

A. Report

During the past reporting period, ICNL has provided continuing technical assistance with respect to the draft Law on Cooperation of Public Administration Authorities with NGOs, including procurement issues, and on amendments needed to the Law on Foundations.

Law on Cooperation of Public Administration Authorities (Cooperation Law). ICNL prepared and presented two major sets of comments on the Cooperation Law. The first recommending, *inter alia*, that nonprofit companies be eligible for public utility status, that

³ For more background on the Polish NGO legal framework please see, ICNL “Six Month Implementation Plan Baseline Analysis” (December 23, 1994), Malgorzata Fuszara & Karla Simon, “Report of Major Findings Polish Independent Sector (June 1994), and Piotr Konosa, “Legal Report On Selected Legal Issues Relating to the Activity of Non-Governmental Organizations In Poland (May 1995)

microcredit programs be included as public utility activities, that the requirement that a public utility organization (PUO) employ volunteers be deleted, that the Joint Commission be given broad powers of registration and oversight, that requirements to assure transparency and accountability be included, that provisions assuring PUOs preferred status with respect to government funding be reconsidered and reworked, that the provision limiting fundraising be eliminated, that the list of public utility activities be rationalized, that wage and spending controls over PUOs be eliminated, and that members of the public be included on the Joint Commission ICNL met with various government officials and with NPO leaders to discuss these suggestions

Law on Foundations With respect to the Law on Foundations, ICNL, as part of its written comments and oral presentations, recommended that the Law be amended to allow foundations to use economic means to pursue their statutory objectives, that foundations be allowed to engage in any lawful activity, whether for public utility or not, that default registration provisions be adopted, and that consideration be given to shifting registration of foundations to the Joint Commission

In preparing its comments ICNL employed two Polish-American lawyers Because of budgetary restrictions, much of the work of these lawyers was done on a *pro bono* basis Again because of budgetary restrictions, the air travel of the two Polish-American lawyers was provided by the President of ICNL, using his own frequent flyer miles

Technical Assistance by Poles An indication of the increasing capacity of the NGO sector in Poland is found in the fact that ICNL has used the services of Professor Jacek Kurczewski, a Polish NGO law expert, in its work in various countries

Regional Linkages During the past reporting period, ICNL published two volumes of the *International Journal for Not-for-Profit Law* (IJNL) The IJNL is an online journal that provides up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world The IJNL contains regular updates on Poland and is distributed around the world via e-mail and the Internet

B. Workplan

Because there are no country funds available for work in Poland on the serious legal problems facing NPOs, ICNL has no specific workplan for Poland It does intend to respond to specific requests for assistance to the extent that it can, and is prepared to make at least one trip to Poland during the year, using regional funds

Regional Linkages. In December 1999, ICNL will hold a meeting of experts from the region, Western Europe and the United States to consider essential public benefit issues The meeting will be held in Zakopane, Poland Meeting participants will undertake a comparative study of various laws regulating Public Benefit Organizations, including the draft Polish Law on Cooperation Participants in the meeting will seek to draft a model law on public benefit organizations for the region Poland will be represented by seven Poles,

including Magda Nowkowska and Piotr Marciniak of the Forum Inicjatyw Pozarządowych (FIP), and Maciej Juszczyński, Kuba Wygnanski and Anna Jendrzejevska

In spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL plans to introduce its regional survey on NGO tax issues and present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's NGO tax reform initiative, and ICNL will ensure that participants from Poland are invited.

To share regional and international lessons learned, ICNL will also continue to distribute laws, reports, and the IJNL to interested individuals in Poland. In addition, ICNL will seek to integrate Poles into other regional activities detailed in our regional workplan.

III. List of Contacts

ICNL has established contact with a number of government officials, Members of Parliament, lawyers, and NGO leaders working on sector issues. ICNL has also been in contact with numerous AID contractors operating in Poland. The following is a partial list of ICNL's contacts:

USAID-Poland	Nina Majer
UNDP (Umbrella Project)	Tadeusz Buchacz, Anna Wiktorowska
ABA-CEELI	Ted Strong
Ministry of Finance	Grzegorz Grabski, Irena Ozog
Ministry of Justice	Danuta Gowacka Kuc, Antoni Rejms
Parliament	Magda Nowakowska
OSCE	Vibeke Greni
KLON/FIP	Jan Jakub Wygnanski
BORIS	Pawel Jordan
Helsinki Fdn	Marek Nowicki
Civic Dialogue	Malgorzata Pleban
Batory Foundation	Jacek Wojnarowski, Eva Skupinska, Piotr Konczewski, Danuta Karłowicz
Fdn for Local Democracy	Joanna Regulska
Forum Fundacji Polskich	Piotr Konczewski
Polish Children & Youth Fdn	Maria Holzer
ACAP	Joanna Jurek
FDPA	Judith Symonds
AED	Michael Kott, Barbara Przybylska
University of Warsaw	Malgorzata Fuszara, Jacek Kurczewski, Ewa Les
NGO Lawyers	Piotr Strawa, Hubert Iszdebski, Jan Zielinski
European Human Rights Fdn	Zbigniew Lasocik
FIP	Piotr Marciniak, Magda Nowakowska, Maciej Juszczyński, Anna Jendrzejevska

IV. List of ICNL Country-Specific Documents

Laws

- The Act on Public Procurement with Implementing Laws, Forms and Commentary, 1995 (in English and Polish)
- Protokół, 1994
- Ministry of Justice's Announcement on the Law on Foundations, *May 17, 1991*
- Informacja o Wynikach kontroli Funkcjonowania Wyubraniach Fundacji, 1991
- Geodetic and Cartographic Law, *May 17, 1989*
- Law on Associations, *April 7, 1989*
- Law on Foundations, *April 6, 1984*

Draft Laws

- Draft Public Utility Activities Act, 1996
- Draft Amendments to the Foundations Law, 1995
- Projekt Ustawa o Zmianie Ustawy o Fundacjach, 1995
- Draft Law on Private Law Foundations, *undated*
- Draft of the Act on the Change of Corporate Income Tax Act and on the Change of Personal Income Tax Act, *undated*
- Draft Law on Cooperation of Public Administration Authorities with Non-Governmental Organizations, *undated*

Comments

- Comments on the Draft of Public Utility Activities Act, 1996
- Comments on the Foundation Law, 1995
- A Partial Assessment of the Ministry of Justice's Proposed Amendment to the Law on Foundations, 1995

Reports

- Country Report, by Polish Foundations Forum, 1996
- Not-for-Profit Organizations in Poland–Status Report and Key Issues, *September 1995*
- Legal Report on Selected Legal Issues Relating to the Activity of Non-Governmental Organizations in Poland, 1995
- Report of Major Findings–Polish Independent Sector Project, 1995
- Protokół, Findings of the Polish-Czech-Slovak Solidarity Foundation, 1992 (in Polish)
- Information on the Control of the Function of Selected Foundations, 1991 (in Polish)
- Country Report, by Jacek Kurczewski, *two versions, undated*
- Associations and Foundations, *undated*

ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN· ROMANIA

Identifying Information

Project Name	Democracy Network
Country	Romania
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2.1 (increased, better-informed citizens' participation in public policy decision-making)

Intermediate Result A legal and regulatory environment that supports the creation and operation of NGOs

Performance Indicators ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network (DemNet) Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1". According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development. According to this scale, the NGO legal environment in Romania has a current rating of "3-"

Targets: If ICNL receives funding for Romania-specific activities, the goal is for Romania's rating to rise to a "2-" by the end of 2000 and increase again to a "2" by the close of the project in 2001. This will depend on the political situation, future election results, and how quickly the government can resolve current budgetary and economic crises.

NARRATIVE SECTION

I The NGO Legal Environment

Romania's current law governing NGOs, Law No 21, dates back to 1924 and does not provide adequate safeguards or a complete framework for NGO regulation. A legislative drafting group (formed under the auspices of the resource center Centras), with technical assistance from ICNL, prepared and published draft amendments to Law No 21 in 1996 which provided for significant improvements. This prompted the government to draft its own version of amendments. The government then was voted out of office, leaving behind its draft.

A new President and Parliament were elected in November 1996. Since that time, there have been legislative initiatives from the government, the Parliament, and the NGO sector itself which, if passed, should significantly improve the legal framework. The new draft Law on Associations and Foundations, with which ICNL assisted was completed by the end of 1997, has undergone some subsequent revisions, but has not yet been presented to the Parliament. A previous attempt in January 1999 to pass the law as a government ordinance failed, due to an apparent lack of communication on the part of Ministry officials according to our local sources. According to Horatiu Dumitru from the Secretary General's office, the Senate prior to the summer recess determined the law was too important to pass as an ordinance and denied the government the authority to do so. Mr. Dumitru also advised us the draft law is expected to go to Parliament before the end of the year.

In early 1998, the government passed an ordinance on "Sponsorship and Donations," granting tax benefits for donations made to qualifying organizations. The ordinance was prepared with significant input from the NGO community (based upon a draft law they had prepared with comments and assistance from ICNL.) The ordinance subsequently passed as a law by the Parliament.

II. Report¹

ICNL did not have any funding to work in Romania during this reporting period. We managed to complete the NGO/government partnership seminar in June 1999 (detailed in our previous six-month report) with financial assistance from the World Bank. We were able to make one country visit in October with regional funding, as reported in more detail in our trip report.

¹ Additional information on these activities is contained in trip reports and updates previously provided to USAID, which are hereby incorporated by reference.

A. The Legal Framework

Through our Romanian contacts, we learned amendments had been made to the draft Law on Associations and Foundations and obtained a Romanian version of that draft. With the assistance of an ICNL legal intern from Moldova who speaks Romanian, we reviewed the changes over the summer. During our October visit, we learned that the Ministry of Justice made significant additional changes to the draft.

B In-Country Capacity Building

During the October visit, we met with Simona Luca, a lawyer with FDSC, who is preparing an update of the Romania Country Report originally prepared for ICNL by Mr. Lucian Miha in 1995. We expect to receive this report shortly, which will be posted on our web site.

We also retained with regional funds the services of Mr. Florin Vasiliu, a lawyer who works with Centras, to prepare the Romanian portion of a regional survey on NGO tax issues.

C Regional Links

During the past reporting period, ICNL published two volumes of the International Journal for Not-for-Profit Law (IJNL). The IJNL is an online journal providing up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world. The IJNL contains regular updates on Romania and is distributed throughout the world via e-mail and the Internet.

ICNL has set up an advisory board for its regional office in Budapest. Luminita Petrescu, the President's NGO advisor, is an active member of that board.

III Workplan

ICNL has no current funding for Romania. Thus, we will not be able to carry out any country-specific activities. If further funding becomes available, we would propose the following activities, which were described in our October trip report. We will begin with what we consider to be our core activities, followed by a list of possible additional activities contingent upon funding. For a moderate amount of funding (\$25,000 to \$50,000), ICNL should be able to undertake core activities listed below and possibly some additional training and other activities as well. ICNL has established good working relationships with the government and the NGO community, and can rely on those relationships in carrying out future activities in Romania. Depending on the level of activity, ICNL may also retain a local consultant to be our "eyes and ears" on the ground and assist with project implementation. Of course, we welcome USAID suggestions as to any additional areas in which ICNL's experience and capacity may help contribute to USAID's overall objectives for the region.

A The Legal Framework—Proposed Core Activities

1 Law on Associations and Foundations

ICNL would like to continue its technical assistance in connection with the finalization and passage of this law. We have received the June 1999 version of the law and have been advised that the Ministry of Justice is making additional revisions prior to submission of the law to the government. Mr. Marian Nicolae from the Ministry of Justice will provide us with a copy of the final draft, which we would then have translated into English so that we could prepare comments for consideration by the government and the Parliament in debating the law. We would like to be available to the NGO community, the government and the Parliament should they need any comparative information, examples from other countries, or other technical assistance. (For example, in Slovakia, ICNL testified before the Parliamentary committee considering a draft law on foundations with respect to that law's lack of compliance with international standards and how it could be amended to better comply.)

2 Tax Reform

ICNL previously worked with Centras and other local partners on the law on sponsorship and donations by providing comparative materials and comments as well as follow-up meetings with members of the drafting team. With the introduction of a new income tax system in January, the sponsorship law takes on a greater significance, with a correspondingly greater need for understanding and implementing its provisions. Under the current system, employers pay the income tax for their employees and only entrepreneurs file individual tax returns. As we understand it, the new system will be similar to the American method of employer withholding but individual employee responsibility for filing tax returns, which would permit them to claim deductions for charitable gifts under the sponsorship and donations law. The encouragement of donations will help provide for the sector's self-sustainability. Mr. Olteanu has requested ICNL assistance in reviewing and revising the regulations for this law. In addition, we would like to work with the NGO community in publicizing the possibility for tax deductions for donations and sponsorship.

The NGO community is very interested in introducing something similar to the Hungarian 1% law in Romania. ICNL is very familiar not only with the Hungarian law but also with the results of its first years of implementation, and would be in a unique position to offer technical assistance in this endeavor.

B The Legal Framework—Possible Additional Activities

In addition to the above core activities, ICNL could undertake the following additional activities, depending on the availability of funds.

1. Fundraising Regulations and Charitable "Funds"

Apador, a Romanian NGO, has applied for grant funding from outside donors to prepare legislation to regulate fundraising by NGOs and to establish charitable "funds" (designated funds for particular purposes, but without separate legal personality) Iulia Raileanu and Renata Weber, who would take primary responsibility for these two pieces of legislation, have asked for ICNL assistance in providing comparative information, review and other technical assistance. If their funding request is approved, we would be delighted to help them on this activity, but we believe the primary impetus should be with Apador.

2 Political Foundations Law

Government and parliamentary officials expressed concern to us about the lack of regulation of political foundations in Romania. While many countries in the world prohibit foundations from undertaking political activities, that is not the case in Germany, which permits political parties to establish foundations to carry out activities. We would like to work with the Secretary General's office (Mr. Costineu) and with the government in determining whether the German law provides a model for what they would like to do.

C In-Country Capacity Building—Core Activities

1 Law on Associations and Foundations

Should the Law on Associations and Foundations pass, ICNL would then focus its efforts on implementation and capacity building. We would like to work with local partners in the preparation of official explanatory commentary on the law to help NGOs and implementing officials understand the intents and purposes behind the law. We can work with Mr. Olteanu and other partners in implementation training for the various officials who will be tasked with the registration decisions. We can also work with local lawyers and NGO partners to prepare plain-language brochures explaining the various provisions of the law (We did a similar brochure in Croatia using a "question-and-answer" format to explain the basic provisions of Croatian tax laws impacting upon NGOs.) Another possibility is the preparation of training manuals to assist local lawyers who can work in NGO resource centers to offer guidance to NGOs on complying with the new law.

2 NGO/Government Partnerships

ICNL would like to continue its work in the area of NGO/government partnerships. The Parliamentary offices of Mihai Gheorghiu prepared a report earlier this year on the legal framework in Romania for NGO/government partnerships. That report indicated extensive possibilities for NGOs to receive public funding and carry out public projects, but both the NGOs and the public officials were unaware of these possibilities. ICNL organized a seminar last June (which was well attended by government and NGO representatives but not as well attended as we had hoped by Parliamentary officials) to publicize the results of the report and

to encourage better cooperation. Senator Ghitu and other Parliamentarians expressed interest in follow-up events.

ICNL would like to update Mr. Gheorghiu's report and work with local NGO partners and Mrs. Ioana Cretiou (NGO liaison from the Ministry of Labor) to prepare a "how-to" brochure outlining the various funding possibilities and the steps NGOs need to take to qualify. Mrs. Cretiou informed us that much of the money set aside to fund NGOs (perhaps as much as half) went unclaimed because NGOs did not understand the steps required to obtain the funds. We would also like to work with Mr. Olteanu's office in continuing the training of local administration officials in entering into and implementing contracts with NGOs.

3 Preparation of Voluntary Ethics Code

To help improve the image of the NGO sector in Romania, and to encourage NGOs to adopt better internal governance procedures and practices, ICNL would like to work with a local partner (FDSC has expressed interest in this) to develop a voluntary ethics code to which NGOs can subscribe. ICNL is currently working on the preparation of voluntary ethics codes in other countries and has developed a significant amount of material in this area. Adherence to the code could be made a criterion for receiving public benefit status under the draft associations law, or for eligibility for government funding.

D. In-Country Capacity Building—Possible Additional Activities

In addition to the above core activities, ICNL could undertake the following additional activities, depending on the availability of funds:

1 Taxation Survey and Brochure

In Croatia and in Slovakia, ICNL retained local lawyers to do a study of the tax laws impacting on NGOs. In Croatia, we prepared a "question-and-answer" brochure covering basic NGO tax issues in plain language. We provided a copy of the Croatian brochure to the USAID mission in Romania several months ago (in Croatian) to see whether such a project would be of interest in Romania. Several people with whom we met in Romania thought such a study and brochure would be very useful. As we are already gathering this information (in English) in connection with our regional tax survey, it would be a logical additional step to compile a plain-language brochure in Romanian for distribution to NGOs. FDSC and/or Centras could assist in distribution.

2 Training for Lawyers, Judges and Law Students

ICNL teaches two courses on NGO law at Central European University in Budapest, one introductory and the other a more intense clinical course. We have also taught seminar courses on NGO law in Lithuania and Latvia and have developed an extensive curriculum in English on the topic. We are introducing a pilot program at the University of Rijeka in

Croatia next January on NGO law, to be taught in the local language. We are currently working with the course instructor in the development of the curriculum. We would like to offer a similar project in Romania. Mr. Olteanu and Mr. Dumitru, as well as Centras's lawyer, have offered to introduce us to the appropriate officials at the Bucharest law faculty to explore which format and approach would work best in Romania. The law school course would help sensitize the next generation of lawyers to the primary legal issues involved (freedom of association, recent court decisions on the requirements of the European Convention on Human Rights, registration practices, internal governance, taxation issues, etc.)

ICNL in cooperation with the Judicial Resource Center would like to offer training to lawyers and judges on both general principles of NGO law from a comparative and international perspective and Romania-specific laws. CRJ can bring matching funds to this project.

E Regional Linkages

In December 1999, ICNL will hold a meeting of experts from the region, Western Europe and the United States to consider essential public benefit issues. The meeting will be held in Zakopane, Poland. Meeting participants will undertake a comparative study of various laws regulating Public Benefit Organizations, and will review a model law on public benefit organizations for the region. Romania will be represented by Ms. Loredana Boneanu, a lawyer from the Judicial Resource Center.

In the spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's NGO tax reform initiative, and ICNL will ensure that participants from Romania are involved.

To share regional and international lessons learned, ICNL will also continue to distribute laws, reports, and the IJNL to interested individuals in Romania. In addition, ICNL will seek to integrate Romania into other regional activities detailed in our regional workplan.

ICNL has been able to include some Romanian participation in regional events through our USAID regional cooperative agreement. Country-specific funding can help insure Romanian participation in such activities, or in the provision of other regional experts for assistance in Romania. For example, ICNL previously brought a Bulgarian expert to Bucharest to assist us in a taxation seminar targeting Ministry of Finance officials.

We thank USAID for its past support of our work in Romania and look forward to discussing the possibility of continuing that work.

III. List of Contacts

ICNL has established close relationships with several government officials, lawyers, and NGO leaders working on sector issues. The following is a partial list of ICNL's contacts in Romania.

USAID-Bucharest	Nick Fuhrman Ruxandra Datcu
Government	Ion Olteanu (Government/NGO liaison office) Tiberius Puu (Counselor) Daniela Parvulescu (expert) Luminita Petrescu (President's office) Ioana Cretou (Ministry of Labor) Adrian Badila (Bucharest Vice Mayor)
Parliament	Florin Costinu (Secretary General, House of Deputies) Alexandru Dumitrescu (Secretary General, Senate) Horatiu Dumitru (legal advisor) Radu Ghidau (MP) Mihai Gheorghiu (MP) Paul Ghitu (MP) Mircea Dunarintu (Bureau of Public Information) Mircea Milcu (Senate Public Relations office)
Activ (NGO) Foundation for Development of Civil Society	Daniel Hliban Ancuta Vamesu Simona Luca Lorita Constantinescu
Centras	Viorel Micescu Dana Stancu Florin Vasiliu
Pal-Tin Helsinki Federation Judicial Resource Center	Ion Olteanu (also works for the Government) Renata Weber Iulia Raileanu Loredana Boneanu
Open Society	Gabriela Manta (Grant Giving Director) Anca Zgreaban
Pro Democratia Civitas Foundation	Mihai Lisetschi Ioana Popovici Daniel Pop
Romanian Foundation for Democracy	Alina Ciceu (Director Adjunct) Prof. Ion Hohan (Vice President) Dr. Ion-Tudor Berza (Executive Director)

World Bank

Dan Petrescu (External Affairs Officer)

IV List of ICNL Country-Specific Documents

ICNL has the following materials in its library

Laws

- Law Regarding the Judicial Reorganization and Bankruptcy Procedure, *June 1995*, amended *November 1997*
- Minister of Finances' Ordinance Instructions on Applying the Law on Sponsorship, in Romanian, *1994*
- Law on Sponsorship, *1989* (in Romanian)
- Law No 21 for Legal Persons (Associations and Foundations), *1924*

Draft Laws

- Draft Sponsorship and Donations Law, *1997*
- Draft Law on Associations and Foundations, *1996-1997* (in English and Romanian)
- Draft Law on Sponsorship, *1992*
- Draft Law on Associations and Foundations, June 1999 revision (in Romanian)

Comments

- ICNL's Comments on the Romanian Draft Law on Associations and Foundations, *January 2, 1998*
- ICNL's Comments on the Romanian Draft Law on Associations and Foundations, *December 23, 1997*
- Comments on the Romanian Draft Law on Sponsorship, *1992*

Reports

- NGOs and Public Administration Romanian Legislation by M. Gheorghiu, *1998*
- Comparative Assessment of NGO/Government Partnership in Romania by ICNL, *May 1999*
- A Profile of the Non-Profit Sector in Romania, by A. Johnson and D. Young, *1997*
- Baseline Analysis Romania, by L. Mihai, *May 1995*
- Romania Country Report, by L. Mihai, *1995*
- NGO Law Report, *undated*

ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN· SLOVAKIA

Identifying Information

Project Name	Democracy Network
Country	Slovakia
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001 ¹
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 2.1 (increased, better-informed citizens' participation in public policy decision-making)

Intermediate Result A legal and regulatory environment that supports the creation and operation of NGOs

Performance Indicators ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1". According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development. Slovakia's legal environment as of June 1999 was a "3-," largely because the repressive legislation passed in 1996-1997 was still on the books, although efforts were in progress to amend them. Those efforts have progressed, with significantly improved draft laws on foundations and the amendments to the public benefit law now circulating among the ministries. Should the amended legislation be adopted in substantially the same form by the Parliament, we believe Slovakia will have achieved its target of a "2-" by the end of ICNL's project completion, now set for March 31, 2000.

Targets ICNL projects that Slovakia's rating will rise to a "2-" or even a "2" by the close of this project in March 2000. We also project that its rating may rise to a "1-" if certain tax

¹ ICNL's regional activities, which will continue to include Slovak participants, will continue until April 30, 2001. However, ICNL plans to complete its work in Slovakia by March 31, 2000.

changes now being proposed by the Ministry of Finance (including a possible "1% law" based on the Hungarian model) are successful

NARRATIVE SECTION

I The NGO Legal Environment

The September 1998 elections resulted in a new government coalition of the former opposition parties. The previous government in 1996 and 1997 passed laws relating to foundations, non-investment funds, and public benefit organizations that were heavily criticized both by the Slovak NGO community and by the international community. The new government has listed NGO law reform as one of its priorities and set up a legislative timetable for revision of the laws on foundations, non-investment funds, and public benefit organizations. The Ministry of Justice put together a task force with both government and NGO representatives to prepare new laws or amendments to the current laws, with ICNL as a member of the task force. The task force's work as of the date of this report is being circulated among the various ministries for review.

The Slovak legal system is a continental one. Thus, not-for-profit organizations must be set up in prescribed organizational forms and register accordingly in order to obtain legal personality. There are currently four prescribed organizational forms: foundations, associations, public benefit organizations, and non-investment funds. The Law on Foundations, passed in late 1996, imposes several financial and operational restrictions on foundations operating in Slovakia, but is milder in its final version than in earlier drafts. The 1990 Czechoslovak Law on Citizens Associations remains in force. Two laws passed in June and July 1997 provide additional legal forms. The Law on Non-Investment Funds establishes an alternative legal form for grant-making organizations, which is less restrictive than the Law on Foundations. However, like foundations, non-investment funds must operate under a restrictive 15% limit on administrative expenses. The Law on Non-Profit Organizations Providing Generally Beneficial Services established a legal form for non-membership operational organizations (i.e., entities involved in the implementation of projects as compared with grant-making organizations). This law requires that these public benefit organizations meet an extremely restrictive 4% cap on administrative expenses. Thus, very few organizations have chosen this organizational form. The current legislative amendments would eliminate many of the problems in the 1996 and 1997 laws (Law on Foundations, Law on Non-Investment Funds, and Law on Non-Profit Organizations).

As for the tax/fiscal framework, organizations with income under 100,000 SKK (about \$2,900) are not taxed on income from related activities, but those with more than 100,000 SKK in income are taxed on the entire amount. NGOs have limited other exemptions under the law. They must pay VAT and import duties. With respect to tax deductibility of gifts, individuals giving a minimum of 2% of their income may deduct the amount of the gift up to 10% of their tax base, and legal persons giving at least 2,000 SKK may deduct the amount of the gift, up to 2% of their tax base.

Our current understanding is that the Ministry of Finance has expressed a willingness to modify the tax laws relating to NGOs and is proposing something similar to the "1% law"

in Hungary, which allows taxpayers to designate 1% of their tax liability for certain qualified organizations. However, it is too early to tell whether the Ministry's apparent willingness to do this will translate into an actual proposal.

Slovakia's NGO sector, while remaining a strong example across the region of internal cooperation and advocacy of the sector's interests, is showing some signs of strain and in-fighting. The most common explanation for this is the lack of a common enemy (the Meciar regime) which previously served as a rallying point for the sector. Despite some recent internal friction, Slovakia's NGO sector was rated by Civicus-World Alliance for Citizen Participation as among the highest in the former socialist countries with respect to citizen participation in the third sector. Its role in the "get out the vote" campaigns for the September 1998 elections, resulting in a very high voter turnout, is being used by several Croatian and Yugoslavian NGOs as a means for their own upcoming elections.

II Report²

A The Legislative Framework

ICNL's work with the Ministry of Justice task force in preparing a new draft Law on Foundations and amendments to the Law on Non-Profit Organizations Providing Generally Beneficial Services ("public benefit organizations") continued at an intensive level throughout the past six months. We prepared formal written comments on the July 1999 draft of the Law on Foundations, which were translated into Slovak and posted on the Gremium's web site along with the proposed draft law.

At ICNL's urging, SAIA as the Gremium secretariat organized a roundtable in August 1999, inviting NGO and Ministry officials to discuss the foundations draft law. At the roundtable, it became apparent that there were internal divisions among the NGOs regarding the general approach to legislative reform. As a result, SAIA organized a follow-up meeting in Zilina in September to discuss these issues in more detail. ICNL through its CEE Program Director as well as its consultant, Dr. Petr Pajas, offered international examples of good NGO legislation and comments on the Slovak drafts. More details about this meeting are contained in our September trip report.

In October, the Ministry of Justice official in charge of the working group was replaced by a young lawyer, Zuzana Oborna. Because Ms. Oborna had no prior experience in NGO legislation, ICNL brought her to Budapest for training on NGO legal issues and provided extensive written material.

ICNL also prepared and discussed with Ms. Oborna comments to the proposed amendments to the Law on Nonprofit Organizations Providing Generally Beneficial Services ("public benefit law"). Because of time constraints, those comments were not formalized and translated into Slovak. The Ministry, through Ms. Oborna, prepared a revised version of the

² Additional information on these activities is contained in trip reports and updates previously provided to USAID, which are hereby incorporated by reference.

public benefit law amendments, which ICNL as of the date of this report is reviewing and upon which we will prepare formal written comments to be translated into Slovak

ICNL also recently received an amended version of the draft foundations law, which incorporates many of our earlier comments. As of the date of this report, we are in the process of reviewing that draft and will update our comments as needed.

B In-Country Capacity Building

During this reporting period, ICNL reviewed and arranged for translation of a report prepared by Dr. Maria Orgonasova showing the levels of government support given to the NGO sector and the areas in which that support was concentrated. This report is an addendum to an earlier report prepared for ICNL by Viera Machalova describing the legal framework for NGO/government cooperation, including the laws and regulations for government procurement. Those two reports, as well as a report on the tax and fiscal laws impacting on NGOs prepared for ICNL by Peter Handiak, were presented in Slovak and English versions at an October conference on public financing for NGOs organized by SAIA.

At the same October conference, ICNL gave a presentation on international practices in public financing for NGOs. ICNL's consultant, Dr. Petr Pajas, gave a presentation on the Czech Republic's legal framework for NGO financing from public sources.

ICNL met with officials from Comenius University in May 1999 to discuss the possibility of adding a course on NGO law and prepared a sample description for the Dean to use in presenting the suggestion to the Scientific Committee. For reasons that are not clear to us, the proposal was not presented to or not approved by the Committee over the summer. As a result, ICNL will use the funds set aside for this potential program to continue our efforts regarding the legal framework. Those efforts are taking longer than anticipated because of the delays resulting from extensions requested by the NGO community, as discussed more fully in our previous trip reports.

C Regional Linkages

As discussed above, Dr. Petr Pajas, who is an ICNL consultant from the Czech Republic, was actively involved this past reporting period in the task force activities, as well as his participation in the SAIA seminar on public financing for NGOs.

During the past reporting period, ICNL published two volumes of the *International Journal for Not-for-Profit Law* (IJNL). The IJNL is an online journal that provides up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world. The IJNL contains regular updates on Slovakia and the region and is distributed around the world via e-mail and the Internet.

III Workplan

A. The Legal Framework

ICNL requested and received a no-cost extension of time to March 31, 2000 from USAID-Slovakia in order to bring to conclusion our work with the Ministry of Justice working group on the draft foundations law and the amendments to the public benefit law. The current drafts are circulating among the government ministries. We anticipate the final drafts will be submitted to Parliament either by the end of the year or early in 2000. This work will involve primarily technical assistance, including the translation of the draft laws and revisions and translations of our comments as necessary, meeting with drafting team members and officials to discuss our comments and suggestions, provision of comparative legislation or other materials as needed, and any other technical assistance requested by either government officials or the NGO community while the laws are being considered, revised, and adopted.

B. In-Country Capacity Building

Once the laws are passed, time permitting, we will work with the Ministry to prepare the official explanatory comments to the laws in order to provide guidance to the NGOs and the implementing officials. Should there be funds remaining after the official commentary is prepared, we will use those funds to prepare plain-language brochures explaining the primary points of the new laws. It is unlikely we will have the time or the funding to provide implementation training, but we will work with our contacts at the European Union PHARE project or other donors to help lay the groundwork for this training.

ICNL does not plan other capacity building activities during the three months remaining under our no-cost extension.

C Regional Linkages

In December 1999, ICNL will hold a meeting of experts from the region, Western Europe and the United States to consider essential public benefit issues. The meeting will be held in Zakopane, Poland. Meeting participants will undertake a comparative study of various laws regulating Public Benefit Organizations, and will review a model law on public benefit organizations for the region. Slovakia will be represented by Zuzana Oborna, the Ministry of Justice lawyer responsible for the draft foundations law and the proposed amendments to the public benefit law.

In the spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's NGO tax reform initiative, and ICNL will ensure that participants from Slovakia are involved.

To share regional and international lessons learned, ICNL will also continue to distribute laws, reports, and the IJNL to interested individuals in Slovakia. In addition, ICNL will seek to integrate Slovaks into other regional activities detailed in our regional workplan.

IV List of Contacts

ICNL has established contact with a number of government officials, members of Parliament, lawyers, and NGO leaders working on sector issues. ICNL also has significant contact with USAID and USAID contractors working in Slovakia. The following is a partial list of ICNL's contacts:

USAID-Bratislava	Kathy Stermer, Gustav Matijek
Ministry of Justice	Daniel Lipsic, Alojz Medar, Zuzana Oborna
Ministry of Finance	Mrs. Janosdeakova, Mrs. Klimesova
Parliament	Frantisek Sebej, Robert Fico, Jan Langos
NGO Lawyers	Viera Machalova, Peter Handiak
Slovak Bar Assoc	Dr. Stefan Detvai
Judges	Igor Belko (Supreme Court) Jan Drgonec (Constitutional Court) Stefan Ogurcak (Constitutional Court) Katarina Brunovska (District Court) Magdalena Srnova (Executive Director, Slovak Judges Association)
SAIA	Katarina Kostalova
CEPA	Juraj Zamkovsky
Partners for Dem. Change	Dusan Ondrusek, Jan Hrubala
Charter 77	Zuzana Szatsmary
ETPS	Boris Strecansky
S P A C E	Helena Wolekova (also Gremium spokesperson)
Gremium members	Pavol Demes, Jana Kviecinska, David Daniel, Filip Vagac
Sandor Marai Foundation	Judit Young, Peter Huncik
FCS/NOS	Ingrid Baumanova, Peter Novotny
UNHCR	Jan Sikuta
Safarik Law Faculty	Peter Mosny, Maria Hencovska, Juraj Jankuv, Alexander Brostl, Juraj Spirko
Comenius Law Faculty	Miomir Mamojka, Peter Kresak, Olga Sidorenkova
European Union	John Young
German Marshall Fund	Pavol Demes

IV List of ICNL Country-Specific Documents

During this period, ICNL received materials on public financing for NGOs from SAIA as well as the report on Slovak government funding for NGOs prepared for ICNL by Dr. Orgonasova. In addition, ICNL has the following materials in its library:

Laws

- Law on Non-Investment Funds and on Changing and Amending the Law No 207/1996, *May 1997*
- Law on Foundations, *May 22, 1996*
- Civil Code Provisions on Foundations, *1991* (in Slovak and English)
- Law Concerning the Right of Association, *March 27, 1990* (in Slovak and English)
- Zakon o podmienkach cinnosti organizacii s medzinarodnym prvkom v Ceskoslovenskej republike, *December 10, 1985*
- The Labour Code, *1965*, amended *1993* (in book form)

Draft Laws

- Drafts of the Law on Nonprofit Organizations Providing Generally Beneficial Services, *undated (circa 1996)*
- Drafts of the Law on Non-investment Funds, *undated (circa 1997)*
- Draft amendments to the Law on Nonprofit Organizations Providing Generally Beneficial Services, *September 1999*
- Draft amendments to the Law on Nonprofit Organizations Providing Generally Beneficial Services, *November 1999*
- Draft Law on Foundations and Funds, *July 1999*
- Draft Law on Foundations and Funds, *October 1999*

Comments

- ICNL's Comments on the Draft Law on Nonprofit Organizations Providing Generally Beneficial Services, *December and June 1997*
- ICNL's Comments on the Draft Law on Non-investment Funds, *February 7, 1997*
- ICNL's Comments on the Draft Law on Foundations, *May 1996, January 1996 and December 1995*
- ICNL's Comments on the Draft Law on Nonprofit Legal Persons, *May 31, 1996*
- European Commission, Review and Recommendations Proposed Slovak Law on Foundations, *May 10, 1996*
- ICNL's Comments on the Draft Law on Foundations and Funds, *August 1999*
- ICNL's Comments on the Amendments to the Law on Nonprofit Organizations Providing Generally Beneficial Services, *November 1999*

Reports

- Identification of Legal Provisions Regulating the Operation of Non-Profit Organizations, Comparison of Legal Forms of Non-Profit Organizations, by Peter Handiak, *September 1999*
- A Survey on the Allocation of State Budget Subsidies for the Activities of Non-Governmental Organizations in the Slovak Republic in 1998, by Maria Orgonasova, *August, 1999*

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- Detailed Survey of the Current Legislative Framework Relating to Possibilities for Cooperation Between Non-Governmental Organizations and State and Local Administration in the Slovak Republic by Viera Machalova, *March 1999*
- Department of Foreign Assistance's Submission to the Council of Europe on "The Legal Status of Non-Governmental Organisations and Their Role in a Pluralistic Democracy," *March 1998*
- Legal Treatment of Nonprofit Sector in Slovakia, by Jan Hrubala, *January 1998*
- Legal Bases for Non-Profit-Making Organizations in the Slovak Republic, by the Slovak Information Agency, *1998*
- General Situation and Further Implementation of Bratislava Declaration in the Slovak Republic, *1998*
- Legal Aspects of Non-Governmental Organisations, Foundations and Associations in the Slovak Republic The State-of-the-Art Document," by M Ukrop, *1998*
- Baseline Analysis of Legislation Concerning NFPOs in Slovakia, by Z Magurova, *May 1995*
- Slovakia Status Report, *January 1995*
- Legislation of NGOs in Slovakia, *September 1994*
- State of Current Law for NGOs in Slovakia, *May 1994*
- NGO Law Report, *undated*

ICNL wishes to express its appreciation to USAID-Washington and USAID-Slovakia for their ongoing support and guidance

**ICNL SEMI-ANNUAL REPORT AND ANNUAL WORKPLAN
FEDERAL REPUBLIC OF YUGOSLAVIA**

Identifying Information

Project Name	Democracy Network
Country	Federal Republic of Yugoslavia
Provider Name	International Center for Not-for-Profit Law
Cooperative Agreement No	EE-A-00-98-00015-00
Project Completion Date	April 30, 2001
Date of Report	December 1999

RESULTS FRAMEWORK

Strategic Objective Strategic Objective 21 (increased, better-informed citizen participation in political and economic decision-making)

Intermediate Result A legal and regulatory environment that supports the creation and operation of NGOs

Performance Indicators ICNL worked with USAID-Washington to develop a reporting and monitoring system for ICNL's activities as the implementor of the regional legal component of the Democracy Network (DemNet) Project. This system rates the NGO legal environment, taking into account three primary factors that contribute to a supportive NGO legal environment: legislation, in-country capacity, and cross-border linkages. Following the Freedom House Index for Civil Liberties, numerical ratings range from "7" to "1". According to this scale, a "7" denotes an environment where the state controls or harasses the NGO sector, while a "1" denotes a generally supportive NGO legal environment. Numerical ratings are then grouped into three "stages," with Stage III reflecting the most advanced stage of development.¹

The Federal Republic of Yugoslavia (FRY) as a whole was last rated a "5," which balanced a bad environment for foreign NGOs against a fairly good environment for domestic NGOs. To reflect recent political and programmatic developments, we have disaggregated the Yugoslav ratings for Montenegro, Serbia and Kosovo. The current ratings therefore, are "3-" for Montenegro and "5" for Serbia.²

¹ Additional information on this rating system can be found in the appendix to ICNL's July 1997 report.

² With the passage of the new UNMIK regulation, Kosovo rates a '2'. Information on Kosovo is contained in our regional workplan since we used regional funding to launch this initiative.

Targets Montenegro exceeded its target for 1999, and the goal is for Montenegro to progress to a "2-" by the close of the project in 2001. ICNL previously projected that by the end of 1999, Serbia would have a "4-" rating. Because of the recent events in Kosovo and the ongoing crisis in Serbia, Serbia will not achieve this rating. Our goal is to now achieve this rating by the close of the project in 2001, but this is dependent on macro-political developments in Serbia.

NARRATIVE SECTION

I The NGO Legal Environment

Yugoslavia has a long history of associational activity reaching back beyond the "brotherhoods" of the Middle Ages. In addition, social, economic and legal features of the previous period (including the "third chamber" enshrined in the 1974 Constitution of the former Federal Republic of Yugoslavia and the history of Workers' Councils) have resulted in particularized experience and expectations concerning the NGO sector in Yugoslavia. A major expansion of NGO activity occurred as a result of the armed conflicts among the former Yugoslavian republics beginning in 1991, primarily organizations attempting to stop the war, assist victims, and protect human rights. A large number of new *ad hoc* associations emerged on the social scene, but only a few managed to develop both the inner structure of the organization and a specific program. NGOs are now moving into the next phase of transforming themselves into developed and stable organizations, with the necessary structure and infrastructure. We anticipate this process will be a long and difficult one. Yugoslavia must confront the aftermath of the recent war, along with issues common to post-socialist countries.

A Domestic NGOs

Domestic NGOs are regulated at the federal level by the 1990 Act on Association of Citizens in Associations, Social Organizations and Political Parties to be Established on the Territory of the Socialist Federal Republic of Yugoslavia. NGOs wishing to operate throughout the country should register under this law. The law has some progressive features—for example, it requires an official response to registration requests within 15 days and a presumption of registration if that deadline is not met. It also provides for specific judicial review of adverse registration decisions. Citizens' associations must have a minimum of ten founding members and they register with the federal Ministry of Justice.

The two republics, Serbia and Montenegro, have their own laws regulating NGOs operating in their territories. In contrast to the 1999 Montenegrin Act on Non-Governmental Organizations, neither the Serbian law nor the federal law have been harmonized with the 1992 Constitution of FRY. Further, the republic laws are inconsistent with each other. The 1982 Act on Social Organizations and Associations of Citizens of the Socialist Republic of Serbia requires registration through the Ministry of Interior. The Montenegrin Act on Non-Governmental Organizations requires registration with the Ministry of Justice. The registration procedures in Serbia, where registration is with the local police, have been inconsistently applied depending upon venue. Because of the unpredictability and inconsistency of the local registration procedures, the Center for the

Development of the Nonprofit Sector advises NGOs in Serbia to register under the federal law if they can

The Montenegrin Act on Non-Governmental Organizations specifically mentions the right of associations of citizens to appeal to a court if a registration request is denied. The Serbian Act on Social Organizations and Association of Citizens is silent as to the possibility of launching an appeal in such circumstances. The federal law provides for an appeal to the Federal Court. The Federal and Montenegrin Constitutions provide special guarantees regarding the right of association of members of national minorities, including the right to participate in international NGOs, but the Serbian Constitution is silent on this issue.

There were two attempts at the federal level, in 1994 and 1996, to prepare a new draft law on NGOs, but without success. In Montenegro, however, the Parliament enacted the Law on Non-Governmental Organizations in July 1999, at its first session after the peace agreement was reached on Kosovo. As noted in the prior report, ICNL provided legal and technical assistance to the working group in drafting this law. Despite some setbacks, the final draft contains a number of progressive provisions. For example, NGOs are allowed to engage in both related and unrelated economic activities. Also, the law sets forth equal conditions for establishing domestic and foreign NGOs. In addition, there is a favorable presumption of registration, if the registration body disregards the prescribed deadline for responding to the application.

B Foreign NGOs

As noted in the prior report, there is currently no legal way for foreign NGOs to register in Yugoslavia. Organizations implementing UNHCR projects use the UNHCR "umbrella agreement" with the Federal Government, and are treated as though they are branches of the UNHCR. At present, the UNHCR office in Belgrade has forty-six implementing partners. The UNHCR appears to be reluctant to expand this number, fearing that it could provoke the government to break its agreement with UNHCR. Recent events have only compounded the already difficult environment for foreign and international NGOs in Serbia. Most of the foreign NGOs had no choice but to leave Serbia, while the very few which have been allowed to stay seek to operate on a low-key basis.

The legal situation for NGOs in Kosovo is significantly brighter with the United Nation's Mission in Kosovo's (UNMIK) recent adoption of an NGO regulation prepared with ICNL's assistance. This regulation is extremely progressive and covers foreign as well as domestic NGOs. ICNL's activities in Kosovo are discussed in more detail in our regional workplan because the project was funded from regional sources.

In contrast to Serbia, the situation in Montenegro for foreign NGOs is much more favorable. The new Act on Non-Governmental Organization sets forth equal conditions for establishing domestic and foreign NGOs and provides for a simple registration procedure. According to Ministry of Justice statistics, nineteen foreign NGOs have registered in Montenegro since the new Act came into force. The Ministry expects that this number will

further increase. It is also significant that all applications for registration of foreign NGOs have been positively decided thus far.

C Taxation of NGOs

Tax legislation affecting domestic donors to NGOs is apparently quite liberal and probably does not need attention at the present time. Grant income and gifts to NGOs are not taxed. However, NGOs are not allowed to open hard currency accounts and can receive foreign grants and donations only in Yugoslav dinars, at the official exchange rate. Because of the huge discrepancy between the official and black market exchange rates (at present, almost 200%), foreign donors are effectively discouraged from providing grants to Yugoslav NGOs.

In addition, the tax laws are apparently being interpreted rather broadly with respect to the economic activities of NGOs, making it very difficult for them to conduct activities for their support.

II Report³

Because of the escalation of the Kosovo crises and increasing hostility of the Yugoslav government towards domestic and foreign NGOs, our activities in Serbia have been significantly reduced in this period. In Montenegro, however, we were able to continue our productive collaboration with the government and local NGOs.

A The NGO Legal Environment

Despite an increasingly difficult political environment, the Montenegrin Parliament recently enacted the new Law on Non-Governmental Organizations. As noted in the prior report, we are pleased that the drafting group and the Ministry decided to include our comments in the final version of their draft. Some of our comments were also incorporated in the amendments submitted by the Ministry after the draft had already been introduced to the Parliament. The following illustrates some of ICNL's suggestions that were incorporated by the drafters.

- The confusion between non-governmental organizations and associations was clarified. Instead, the final draft distinguishes between foundations and associations, while the term non-governmental organization is used as a generic term.
- The final draft now explicitly states that in addition to domestic persons, foreign natural and legal persons that reside in or have a domicile in Montenegro can establish associations. Furthermore, foreign natural and legal persons can be the founders of foundations regardless of whether they reside in or have domicile in Montenegro.
- The draft provides that a foundation can be established by will.
- A foundation or an association can be established for a limited period of time.

³ Additional information on these activities is contained in trip reports and updates previously provided to USAID which are hereby incorporated by reference.

- Conditions for non-governmental organizations to engage in economic activities have been liberalized and clarified
- Unlike the prior draft, the final draft provides for appeals for the denial of registration.
- A provision on the distribution of an organization's assets was inserted. It provides that the competent body of a dissolving organization shall decide on the distribution of its assets to another organization engaged in similar activities. If the competent body fails to do so within the prescribed deadline, the government shall determine the distribution of assets to another organization.
- Misdemeanors for which fines are prescribed have been significantly narrowed
- The amount of fines was reduced.

In addition, we provided assistance to the Montenegrin Ministry of Justice in preparing the regulation on the content of and procedure for maintaining the central registry of NGOs. More specifically, we assisted the Ministry in ensuring that the regulation provides unhindered access to information contained in the central registry to all interested parties.

As noted in the prior report, the Federal Ministry of Justice, with assistance from ICNL, was in the process of revising a draft international NGO law, which would permit the registration of international and foreign NGOs as branch or representative offices. Recently, however, tensions between the Federal Government and the international community increased, and a number of ICNL's contacts left the Ministry. We have also been advised by our local partners that the Government is secretly preparing a new draft law regulating international NGOs, which would have an even more chilling effect on foreign NGOs operating in FRY. As a result, we predict that we will have to begin the process all over again, if we can manage to re-establish contact with the Ministry.

Also, ICNL previously provided technical assistance to an NGO working group under the auspices of the Center for the Development of the Non-Profit Sector in Belgrade to prepare a draft Model Law on Non-Governmental Organizations and Non-Governmental Foundations. ICNL provided comments in October 1998. However, due to the crisis in Kosovo, work on the final draft has been suspended.

B In-Country Capacity Building

Dragan Golubovic, ICNL's Senior Legal Adviser, attended the second forum of Yugoslav NGOs, held in Subotica on October 29-31, 1999. Representatives of more than 160 domestic and foreign NGOs participated at the forum. Dr. Golubovic co-chaired a workshop on the NGO legal framework and participated in a number of plenary discussions. The discussion was intense and lasted for more than two hours. Among others, the topics discussed included the legal status of foreign NGOs in Serbia and the new Montenegrin NGO law.

In collaboration with our local partner, Center for Democracy and Human Rights from Podgorica (CEDEM), and with the assistance of the Montenegrin Ministry of Justice, ICNL organized a round table on the new NGO law, which was held in Podgorica on November 9, 1999. According to CEDEM, representatives of more than fifty domestic and

foreign NGOs participated in the round table, in addition to government officials Dr Golubovic co-pressed over the round table, presented his paper on the compliance of the law with international standards and best regional practices, and participated in the discussion. The discussion at the round table was productive and provided government officials and members of the drafting team with useful feedback on issues related to implementation of certain provisions of the law.

As a result of the round table, the Ministry of Justice requested that ICNL prepare a list of provisions that give rise to concerns regarding re-registration and offer an interpretation that would facilitate re-registration of NGOs. Based on ICNL's recommendations, the Ministry of Justice will issue an official interpretation of re-registration provisions, which we hope will facilitate the re-registration process. The Ministry of Justice has also sought ICNL's assistance in amending those provisions in the law which do not comply with international standards and best regional practices. The Ministry plans to proceed with the amendments next year.

C. Regional Linkages

During the past reporting period, ICNL published two volumes of the *International Journal for Not-for-Profit Law* (IJNL). The IJNL is an online journal that provides up-to-date information on legal and regulatory developments affecting the not-for-profit sector in countries around the world. The IJNL contains regular updates on FR Yugoslavia and is distributed around the world via e-mail and the Internet.

III Workplan

Because of the unsettled political situation in Serbia and the uncertain prospect that it will be resolved any time soon, ICNL plans to focus its activities in the next year in Montenegro. ICNL has established a very good working relationship with the government and the NGO community and, generally, has found the political environment in Montenegro favorable for NGO reforms. Now that the new NGO law has come into force, we think it is crucial to ensure its smooth implementation and to proceed with other aspects of NGO reforms, particularly with the establishment of an appropriate framework for NGO-government collaboration and fiscal reform.

However, many of ICNL's proposed activities in Montenegro in the upcoming period are contingent upon additional funding in the next twelve months. The current budget will allow us only to provide assistance to the Montenegrin Ministry of Justice in preparing amendments to the new NGO law and to assist in preparing a brochure on NGOs registration.

ICNL also stands ready to provide whatever legal and technical assistance is required in Serbia, if the situation will permit.

A. The Legal Framework

With our current funding, we shall provide assistance to the Montenegrin Ministry of Justice in preparing amendments to the new NGO Law. The Council of Europe has offered its expertise to the Montenegrin Government to determine to what extent the Montenegrin legal system complies with that of the European Union. In connection with that, the Ministry of Justice has sought our assistance in ensuring that the NGO law entirely complies with international standards and best regional practices. As already noted in this report, we understand the Ministry plans to proceed with these amendments next year.

If additional funding is available, we seek to proceed with the following activities related to the legal framework:

We would work with the Montenegrin government on establishing an appropriate legal framework for NGO-government partnerships. The government has recently established a commission which will decide on grants to NGOs for this fiscal year, but seeks to replace this commission with a foundation system, similar to the one introduced in the Czech Republic.

ICNL would also examine the various tax provisions impacting on NGOs in Montenegro and Serbia to determine how we may be able to assist in this area. Current issues surrounding customs duties, foreign currency transfers, and other tax and fiscal matters may need to be addressed.

Finally, if the situation in Serbia and funding would permit, we stand ready to provide assistance to the Belgrade Center for Development of Not-for-Profit Sector in preparing the final version of the model NGO law.

B In-Country Capacity Building

With our current funding, ICNL will be working with the Ministry of Justice and our local partners on preparing a brochure on NGO registration. This brochure will be published both in Montenegrin and English.

If additional funding is available, we seek to proceed with the following activities related to in-country capacity:

ICNL would work with the Ministry of Justice and our local partners on preparing a commentary to the new NGO law.

We would also work on the SOS line project in Montenegro, in collaboration with the newly established resource organization, the Center for Development of Not-for-Profit Sector, and the Open Society Fund. This project would enable the Center to provide *pro bono* services to NGOs with respect to legal and fiscal issues impacting on their work. ICNL would provide training for one or two young lawyers interested in providing *pro*

bono legal services and would assist in preparing a manual that would contain answers to frequently asked questions pertinent to legal and fiscal framework for NGOs

We would also work with the Ministry of Justice and our local partners to organize a seminar for government officials, judges and NGO representatives on the NGO law. The purpose of this seminar would be to increase in-country capacity for implementing the law. The seminar would provide a detailed analysis of the provisions in the law, their compliance with international standards, and the problems that could arise in the implementation of particular provisions. Issues that would, in particular, be dealt with include types of organizations, registration requirements, internal organization, permissibility of NGOs' economic activities, denial of registration, redress tools, officers' duties and responsibilities and reporting requirements, and distribution of assets.

With the Government and our local partners, we would hold a seminar on NGO-government partnerships. We would bring in one or two regional experts to discuss the issue from a comparative perspective and help determine which models of partnership would best suit the Montenegrin environment.

We would also work with our local partners to organize a one or two-day seminar on taxation of NGOs. We would bring in one or two regional experts to highlight this issue from a comparative perspective and help determine what should be amended in the current fiscal framework to ensure NGO sustainability in the long term.

Finally, with the School of Law in Podgorica we would work on incorporating NGO legal and fiscal issues into the School's curriculum. During our recent visit to Podgorica, the Dean of the School expressed interest in proceeding with this project and helped us identify two courses (Human Rights and Endowments) which could be expanded to include NGO legal and fiscal issues.

C Regional Linkages

In December 1999, ICNL will hold a meeting of experts from the region, Western Europe and the United States to consider essential public benefit issues. The meeting will be held in Zakopane, Poland. Meeting participants will undertake a comparative study of various laws regulating public benefit organizations, and will review a model law on public benefit organizations for the region. FR Yugoslavia will be represented by Zivka Vasilevska from the Belgrade Center for Development of Not-for-Profit Sector. We also invited a member of the Montenegrin drafting team, Miodrag Vlahovic to participate, but unfortunately Mr. Vlahovic cannot attend due to other commitments.

In spring of 2000, ICNL will organize a regional conference on public benefit organizations and NGO taxation. The conference will likely be held in Bulgaria. ICNL will introduce its regional survey on NGO tax issues and will present a model law developed by ICNL and experts from the region. This conference is an important component of ICNL's NGO tax reform initiative, and ICNL will ensure that participants from FR Yugoslavia are involved.

We are also considering the possibility of organizing a conference involving some of the countries of the former Yugoslavia, which would seek to address current NGO legal

framework in those countries from the international and regional perspective. Next year appears to be a good time for such a conference. Macedonia and Montenegro have recently enacted new NGO laws, while in Croatia and Bosnia, efforts to introduce new NGO legal frameworks are under way.

To share regional and international lessons learned, ICNL will also continue to distribute laws, reports, and the IJNL to interested individuals in former Yugoslavia. In addition, ICNL will seek to integrate Yugoslavs into other regional activities detailed in our regional workplan.

III List of Contacts

ICNL has established close relationships with several government officials, especially in Montenegro, lawyers, and NGO leaders working on sector issues. The following is a partial list of ICNL's contacts in Yugoslavia.

Montenegrin Ministry of Justice	Dragan Soc (Minister), Branimir Radulovic (Deputy to the Minister), Branka Ratkovic (Deputy to the Minister), Vladan Djuranovic (Secretary to the Ministry)
USAID/OTI, Podgorica	Nebojsa Cagorovic
United Nations Office of the High Commissioner for Human Rights, Podgorica	Vesna Komnenic
Center for the Development of The Nonprofit Sector	Zarko Paunovic, Branka Petrovic, Zivka Vasilevska
Int'l Orthodox Christian Charities ABA/CEELI, Podgorica	Sanja Nikolim Judith Armatta, Aleksa Ivanovic
Center for International Private Enterprise, Podgorica	Malcolm Toland
Center for Humanitarian Law	Dejan Janca
European Movement	Danijel Pantic
Civic Initiative	Dubravka Valat, Miljenko Dereta
Yugoslav Lawyers' Committee for Human Rights	Biljana Kovacevic-Vuco
Center for Democracy Foundation	Natasha Vuckovic, Namanja Krajinovic
Belgrade Centre for Human Rights	Prof. Vojin Dimitrijevic, Vesna Petrovic
Fund for an Open Society, Belgrade	Sonja Licht, Ivan Vejvoda
Fund for an Open Society, Podgorica	Mirjana Popovic, Sasa Brajevic
Fund for an Open Society, Novi Sad	Laszlo Vegeš, Srdisa Nikolim
Center for Cultural Decontamination.	Borka Pavicevic
Helsinki Committee, Belgrade	Sonja Biserko
Helsinki Committee, Podgorica.	Slobodan Franovic
Humanitarian Law Center	Natasa Kandic
Center for Democracy and Human Rights	Srdjan Darmanovic, Rade Brajovic, Miodrag

	Vlahovic
Center for Development of Not-for-Profit Sector, Podgorica	Stevo Muk
Center for Entrepreneurship	Biljana Vujosevic
Alter Modus	Luka Djurovic
Center for Multiculturalism.	Alpar Losanc, Nenad Dimitrijevic

IV List of ICNL Country-Specific Documents

Laws

- The Law on Non-Governmental Organizations, Republic of Montenegro, *July 29 1999*
- Regulation on the Contents and Procedure for Maintaining the Central Registry of Non-Governmental Organizations, Republic of Montenegro, Ministry of Justice, *1999*
- Decision of the Montenegrin Government on Establishing a Commission that will Decide on the Government's Grants to NGOs, *1999* (in Montenegrin)
- Decree on the Conditions Under Which Foreign Non-Governmental Organizations Can Approve Credits to Domestic Natural and Legal Persons, The Government of Montenegro, *September 3 1998*
- Excerpts of the Constitution of the Republic of Montenegro, *October 12 1992*
- Constitution of the Federal Republic of Yugoslavia, *April 27 1992*
- Excerpts of the Constitution of the Republic of Serbia, *September 28, 1990*
- The Act on Association of Citizens in Associations, Social Organizations and Political Parties Which are Established for the Territory of the Socialist Federal Republic of Yugoslavia, *July 27, 1990*
- Republic of Serbia, Extract from the Act on Political Organizations, *July 19, 1990*
- Republic of Montenegro, The Act on Association of Citizens, *1990*
- Republic of Serbia, Law on Legacies, Foundations and Funds, *1989* (in Serbian and English)
- Republic of Serbia, Excerpts of the Act on Social Organizations and Associations of Citizens, *undated*

Draft Laws

- Second Draft of the Law on Non-Governmental Organizations, Republic of Montenegro, *December 1998*
- Draft Bill on the International Non-Governmental Organizations Operating in the Federal Republic of Yugoslavia, *1998*
- Draft Model Law on Non-Governmental Organizations and Non-Governmental Foundations (First Version), *1998*

Comments

- ICNL's Comments on the Proposed "Bill on the International Non-Governmental Organizations Operating in the Federal Republic of Yugoslavia," *June 1998*

Reports

- How to Establish and Register an NGO, 1997 (in Serbian)
- Nongovernmental, Nonprofit Organizations in the Federal Republic of Yugoslavia, by Zarko Paunovic, 1997
- Registration of International NGOs and Some Other Legal Aspects of Their Work in the Federal Republic of Yugoslavia, *undated*

Forms

- Application form for registration of associations, Ministry of Internal Affairs of the Republic of Serbia, *undated*