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Macedonia Court Modernization Project Newsletter

Vol. 4, No. 1

March 2006

Judicial Training on the New Law on Civil Procedure



Justice Richard McAdams, California, USA, talks about Appellate Court Practices in USA.

Among the noted events of the last several months is the enactment by the Parliament of the new Civil Procedure Law. The revised Civil Procedure Law abandons the investigative role of a judge and sets new standards for the burden of proof. Perhaps eclipsed in overall importance by the bed-rock of all legal change—the Constitutional Amendments—passed by the National Assembly on December 7, 2005, nevertheless the significant changes to the Civil Procedure Law will transform the way civil matters are litigated in Macedonia. The law has been touted as an enormous step toward a truly transparent and independent judicial system.

The Law on Civil Procedure (CPL) was enacted after very long and intensive work in two Ministry of Justice working groups supported by Nena Ivanovska, MCMP legal coordinator and local expert, and Professor Jan Vranken, an international expert and faculty member of University of Tilburg. The CPL was not enacted in a

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MCMP Welcomes New Director:

A new Chief of Party has been appointed to replace the retiring Douglas Myers who served the Project with distinction for more than 2½ years. Joseph J. Traficanti, Jr. arrived in Skopje on September 26th to take on his new role. He was formerly a judge in New York State, US, where he served for more than 23 years as a trial judge in criminal, civil and family court cases. During the last 13 years of his tenure he served as the Deputy Chief Administrative Judge, an administrative post where he was responsible for the operations of all the courts outside of New York City. In that capacity he oversaw the supervision of more than 750 superior court judges and 2,200 local court judges. His responsibility extended to more than 6,000 non-judicial personnel serving the courts outside of the City of New York. Judge Traficanti served simultaneously as Director of Drug Court Operations in New York and was accountable for institutionalizing the concept of Drug Treatment Courts for non-violent addicted offenders throughout New York. Judge Traficanti retired from his New York posts in May of 2005 and commenced a one year World Bank court modernization

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vacuum as the MCMP along with the Ministry of Justice organized various opportunities for judicial, lawyer and public comment including an organized roundtable for 45 civil law judges in June of 2005. The law was enacted by the National Assembly on September 13, 2005 with an effective date of December 29, 2005.



Civil Judges from the Macedonia Courts follow the presentation on the CPL programe, held on 14-15 November, Hotel Arka,Skopje.

The new CPL mandates require extensive substantive trainings to introduce these significant conceptual changes to the judges, court secretaries and judge's assistants. Mindful of this, MCMP's Training Component under the leadership of Judge Ernest Borunda, teamed up with the Legal Structure and Practices Component under the direction of Ms Nena Ivanovska to present a series of intensive trainings. On October 20-22, 2005 the Project hosted the first CPL Program at the Holiday Inn in Skopje. Chief Justice, Dane Iliev presented the key note address at the opening of the program. The program included president judges and civil law president judges from 25

Judicial Training on the New

courts. The Project added a training program for appellate justices which was held on October 24-25 at the Arka Hotel in Skopje. All appellate courts were represented by a full complement of their civil judges. These programs were opened by Nada Penova, a representative of Ms Meri Mladenovska-Gjorgjievaska, Minister of Justice, who



Judge Joop Killian, the Netherlands presents "Main Hearing",14 November, Hotel Arka,Skopje.

presented an overview of the new law. The assemblage was welcomed by Judge Joseph Traficanti, Director of MCMP.

Subsequently in the month of November the Project provided four additional trainings which were held in several locations around Macedonia. The first program which took place at the Hotel Arka in Skopje on November 14th and 15th 2005 resulted in a spirited and informative exchange. This was followed by intensive, lively and well attended programs in Strumica at the Hotel Sirius on November 17th and 18th, Bitola at Hotel Epinal on November 20th and 21st and again in Skopje on November 24th and 25th.

MCMP Welcomes New Director:

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project in the Republic of Armenia. Prior to that he took part in and instructed at a USAID sponsored program on court procedures and practices at St. Petersburg and Novgorod, Russia. He also conducted training courses for high level government officials from Tanzania and Rwanda during a study tour conducted in New York and Washington DC.



Joseph J. Traficanti Jr. Chief of Party, (MCMP), opens the presentation on Civil Procedure Law.

The Director's first few months were very full as he traveled throughout Macedonia, becoming acquainted with the courts, court personnel, coordinators and courts' president judges of MCMP's pilot courts. He commented recently that "it is a privilege and an honor to be part of this great team of the MCMP. Working with the talented staff, court coordinators, the partners and

counterparts has been an invigorating challenge. I have found my international work to be both professionally and personally rewarding. I am able to learn something everyday and hopefully provide something for others to learn through the knowledge and experience that I have gained over the years".

The Chief of Party envisions a vibrant and stable judiciary in Macedonia as a result of the obvious commitment to excellence and a truly independent judicial branch. This commitment has been demonstrated by the judges, government officials, and court personnel, he observed. Judge Traficanti commented that "it is a tribute to the people of Macedonia that their government and judicial officials have not only debated change, but have acted to create a judiciary which will have the trust and confidence of the people it serves. Congratulations should go to the Chief Judge, Ministry of Justice, the Judges Association and others for making the law "come alive" through the democratic process." He commented that the Constitutional Amendments, the Civil Procedure Law and others are part of an ongoing process to meet the contemporary needs of the people. "Without that," he said, "the law becomes a dead letter on paper. It must be vibrant and alive and continually strive to meet the needs of the society it serves". The Director further commented that with the support of the donor community in general and the United States Agency for International Development in particular, the recipe for success is at hand.

The Director will reside in Skopje with his wife Gretchen for the duration of his tenure with the MCMP.

New Law on Civil Procedure

These November programs were facilitated by Judge Borunda and the initial presentations made by Nena Ivanovska and Nikola Lazarov who provided an overview of the new Civil Procedure Law. The primary instructors were Judge Paul Broekhoven of the Netherlands, Justice Richard McAdams of California, as well as Judge Joop



Judges from various courts in Macedonia engaged in working groups discussion, 14 November, hotel Arka, Skopje.

Killian of the Netherlands. Topics included, in addition to General Principles of Caseload Management, Reasonable Time, Preparation for the Main Hearing, Settlements, Presentation of Facts, Judgments and How to Avoid Error, among others.

As a result of these successful training activities approximately 300 civil judges were trained throughout

the Country on how to apply the new Civil Procedure Law. The implementation and administration of the new Law on Civil Procedure will require amendments to the Court Book of Procedure which sets up standards for a uniform system of operations of the courts of Macedonia. Here again MCMP will step up and participate in this process



Nena Ivanovska, MCMP summarizing novelties introduced into the new Law on Civil Procedure.

through its outstanding working relationship with the Ministry of Justice and the President Judge of the Supreme Court, Dane Iliev.

By adopting this law, the Constitutional Amendments and the progeny of laws and rules to follow, the Republic has recognized some fundamental truths of any democracy.

First Regional Conference for Court Administration

Macedonia Court Modernization Project through its very strong Component 3 conducted an inspiring program for personnel of the Courts' administration. These two-day conferences were held in Shtip on October 28th and 29th; in Bitola on November 4th and 5th and in Mavrovo on November 11 and 12. One hundred thirty members of the court administration from all the courts in Macedonia, including the Appellate Courts and the Supreme Court, participated at these three educational events.

The Educating of the Court Administration Project was sponsored by USAID/MCMP, the Center for Continuous Education of the Association of Judges and in cooperation with the Administrative Office of the Court Budget Council of the Republic of Macedonia.

Stimulating presentations and discussions were conducted in areas most important to the further development and modernization of the Macedonia Court System. An emphasis was placed on such important topics as Judiciary Reform Strategy and Court Administration; the importance of judicial education for court employees; managing change in judiciary; time management, and standardized court administrative operation at the appellate district level.

The courts' staffs were very forthright and openly discussed the ways they support the administration of justice in their courts. The actual day to day problems of court managers were identified as well as the conditions present in the courts which affect their efficiency and professionalism. There were motivating presentations addressing some of the problems and conditions with lively discussion by the audience. These topics included caseload effectiveness and case filing; case and document numbering; detention times and case disposition in

criminal departments; filing complaints and other documents and stamp duties and their collection in civil departments as well as "customer service".

Building on these topics the training team led discussions focused on conduct at work—workplace civility, working hours for the public, human resources, job systematization and comparative experience in window systems and window system operations;

The superb presenters for this ambitious agenda were: Sasho Patovski (Basic Court, Prilep), Zaklina Doveden (Basic Court, Struga), Suzana Vrnalievna (Basic Court, Veles), Atanas Georgievski (AJRM/CCE), Sandra Buzlieva (AJRM/CCE), Dr. Zanina Kirovska (AO of the Court Budget Council), Judge Ernest Borunda (USAID/DPK), and Nikola Lazarov LL.M. (USAID/DPK).

The Project is indeed grateful to Chief Judge Iliev for his support and for the support of the Supreme Court on this and so many other initiatives.



Group photo of Court Secretaries and Heads of Departments participating at the Shtip Regional Conference.

MCMP Completes Study for the Ministry of Justice

The National Strategy of the Reform of the Justice System envisions a new organization and structure for the Macedonian courts in order to improve efficiency and provide more independence for the judiciary. The restructured organization and capacities will be regulated by the changes in the Law on Courts. The Law on the



Jasmina Shishkovska, Court Coordinator, Basic Court Bitola (left) and Mirjana Krsteska, Court Coordinator, Basic Court Skopje II, working on data collection in Basic Court Gevgelija.

Courts will provide the apparatus for the implementation of the newly adopted amendments to the Constitution of the Republic of Macedonia. MCMP is working closely with the Ministry of Justice Working Group to facilitate the drafting of these new provisions. The proposal for any new organization must rely on an accurate assessment of current court data and empirical research. Accordingly, the Ministry of Justice requested technical assistance from the Macedonian Court Modernization Project to collect court data from 16 courts with broad jurisdiction. Collaboratively, MCMP and the Ministry of Justice developed a methodology for collecting the statistical data crucial to making proposals on the reorganization of the Macedonian Courts. The methodology sets up standards for collection of different types of cases, their code lists and court registers where this data is found.

The United States Agency for International Development agreed to support such an important project and approved the substantial resources required.

The data collection team consisted of two statisticians of the Ministry of Justice, 11 pilot court coordinators and support staff from the Macedonia Court Modernization Project. The team began the laborious task of collecting and organizing the data on June 20, 2005 in the Bitola trial court. The data collection then expanded to an additional 15 courts. An independent statistical expert, Mrs. Miroslava Momirska-Marjanovic, joined the data collection team for the purposes of analyzing the data and presenting it to the Ministry in the form most advantageous for its purposes.

This effort included not only case processing information from the courts but an investigation of the data of various public utilities companies, banks and public entities to help in understanding the future needs of enforcement cases. The collection of the court data finished on October 8, 2005. Stratum, a software company, prepared and delivered to MCMP a completed MS SQL Server court statistic database (around eight million data units built on the collected data). The final study was delivered to the Ministry of Justice by the end of December.

MCMP Director Judge Traficanti observed that this was a remarkable achievement which was made possible only by an outstanding team effort. At a recent meeting of the court coordinators, Director Traficanti expressed his thanks to that group and singled them out for special praise due to the extraordinary work they performed "in the field" and their obvious dedication to a precise end product. In addressing the meeting he noted: "This is one of the most significant tasks to be performed for the furtherance of an efficient and independent judiciary. The results of this initiative will be relied on to shape the future of the court system of the Republic. The results of this analysis will have a significant impact to the future of Macedonian courts". He thanked the Component leaders as well, without whose collaboration such an outstanding success could not have been achieved.

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This newsletter is published with the support of USAID. The opinions reflected herein are those of the Macedonia Court Modernization Project and do not necessarily reflect the opinion or viewpoint of USAID.