



Final Report

ABA-CEELI/BULGARIA

1991-2006

with emphasis on the

Attorneys Professional Development Initiative (APDI)

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I. Executive Summary

The Central European and Eurasian Law Initiative of the American Bar Association (CEELI) began providing assistance in Bulgaria in 1991 and had a continuous on-ground presence until September 2006. Through programs funded by USAID and other donor organizations prior to 2000, CEELI held some 40 workshops/training seminars in Bulgaria, completed approximately 55 legal assessments on a variety of topics, with focuses on commercial law reform and training, judicial reform, legal profession reform, legal education reform, and anti-corruption.

Between 1991 and 2003, CEELI worked on commercial law reform, judicial reform, anti-corruption, legal profession reform, continuing legal education, clinical legal education, and alternative dispute resolution. In 2003, CEELI initiated a re-focused program, the Attorneys' Professional Development Initiative (APDI), working on bar development, clinical legal education, and alternative dispute resolution. Achievements of CEELI's programs in Bulgaria between 1991 and 2006 include:

- development and adoption of a code of ethics for judges,
- improvement of relations between the judiciary and the media,
- the creation of the Magistrates Training Center,
- development of cadres of trained professionals in various aspects of commercial law,
- increased transparency through the Competition Protection Council website,
- legislative and procedural reforms in the banking sector and in governmental concessions,
- officials and administrators with better knowledge of access to information regulations,
- a new Law on Attorneys that complies with European and international standards
- a new, self-sustainable qualification exam for attorneys,
- a new code of ethics for attorneys, as well as an ethics training module,
- enhanced services to members of local bar councils, including information dissemination, access to computer and legal databases, and library resources,
- increased pro bono activities, through cooperation with student legal clinics,
- establishment of the Attorneys Training Center, with sustainable capacity for providing continuing legal education,
- a sustainable structure for clinical legal education, including standard curricula and teaching materials, links to municipal authorities for client referral, cooperative relationships with Local Bar Councils, and amendment of the Legal Education Ordinance to include legal clinics,
- assistance to over 1500 clients through clinics established with CEELI/APDI support, as well as the training of over 400 students,
- Adoption of the Law on Mediation,
- Professional and educational standards for mediators adopted,
- Unified Register of Mediators established,
- Establishment of the National Association of Mediators,
- Over 130 mediations, with an 80+% success rate, carried out at mediation centers under APDI,
- Expansion of court-referred mediation initiatives to more than 9 courts around the country and establishment of Mediation Centers in 4 cities (with domestic capacity to train mediators and create further court-referred programs established), and
- The implementation of three Judicial Reform Indexes and two Legal Profession Reform Indexes.

CEELI has benefited from and invested in a professional local staff, which will continue working on the rule of law in Bulgaria. With initial seed funding from a CEELI sub-grant, the Bulgarian Institute for Legal Initiatives (BILI), run by former CEELI Bulgaria staff attorneys, will continue the work of CEELI programs and USAID efforts over the last 15 years. BILI's mission is to:

- Promote the rule of law and improve the legal framework, institutions, and organizations of Bulgaria and the region;
- Foster dialogue among civil society, business, the executive, judicial, and legislative branches;
- Assist the process of harmonization of Bulgarian legislation with European and international legal standards;
- Support the maintenance and improvement of the qualification of lawyers, judges, prosecutors, mediators and other professionals; and
- Promote legal reform, inclusive of spreading a new culture of dispute resolution through making mediation and other alternative dispute resolution methods popular.

II. Overview/Introduction

CEELI stationed its first liaison in Bulgaria in 1991 and maintained an office in Sofia until September 30, 2006. Over the fifteen years of CEELI assistance in Bulgaria, all rule of law programs were funded by major grants from the United States Agency for International Development (USAID), totaling more than \$4 million over the last 6 years and more than twice this amount over the course of CEELI's program in Bulgaria. From September 1, 2003 – September 30, 2006, CEELI implemented the Attorney's Professional Development Initiative (APDI), which focused its efforts in the areas of Bar Development; Alternative Dispute Resolution (specifically mediation); and Clinical Legal Education. Pursuant to an agreement with the USAID Mission in Bulgaria, this report will focus in detail on the activities implemented pursuant to the APDI, while also recounting the activities carried out by CEELI from the period of 1991-2003. All quarterly reports and attachments delivered by CEELI to USAID during the period of its work in Bulgaria are incorporated herein by reference.

III. Projects under APDI

A. Bar Development

1. Background

CEELI worked closely with the Bulgarian Bar Association and the Supreme Bar Council (SBC) during the entirety of its programs since 1991; however, between 2003 and 2006, CEELI intensively implemented an initiative that helped lay the groundwork for the professionalization of the Bulgarian legal profession, entitled the Attorneys Professional Development Initiative (APDI). Specifically, CEELI/APDI sought to address the effects in the 1990's of an exponential increase in the number of law schools (from one to ten) and attorneys (from less than a thousand to more than eleven thousand today), which created a fertile breeding ground for improper professional practices and lack of competent representation. The Bulgarian Bar is divided into 27 Regional Bar Councils, with the SBC being the umbrella entity overseeing the work of all the local associations. The projects of the APDI sought to address issues in the legal profession by working with the SBC from a national perspective, with work on new legislation, qualification exams and codes of professional conduct, as well as working with the local councils through the Model Local Bar Initiative aimed at assisting individual practicing attorneys around the country on matters related to their day-to-day legal practice and making attorneys more responsible to their communities.

2. Activities

a. Law on Attorneys

In response to the challenges mentioned above, CEELI/APDI provided prolonged expert and technical legal assistance to the SBC leading to the development of modern legislation governing attorneys (adopted June 2004) that tightened admission requirements for the bar; required a new code of ethics to be passed; required mandatory malpractice insurance; enabled for the first time the establishment of law firms; and required the founding of an Attorneys Training Center (ATC). The task of passing the law was extremely arduous and attenuated. Initially, CEELI provided technical and expert assistance to the SBC in its drafting of the first proposed Attorneys' Act, which was submitted to the Parliament via a bi-partisan group of representatives of all influential parties within the Parliament. Several months later, however, a second draft Act was submitted by the Deputy Speaker of the Parliament. The alternative draft tracked very closely the SBC draft with one primary difference – the regulation and registration of collective practices of attorneys (law firms). Both drafts, however, provided for those issues of primary importance to CEELI and EU integration – the

creation of a bar exam; the institution of more stringent admission requirements; the mandating of continuing legal education; and the adoption of a new Code of Ethics.

In an effort to move the legislation forward and bridge the gap between the two sides, CEELI representatives met with the Deputy Speaker regarding her draft, discussed the importance of a new Attorneys' Act being passed, and offered any assistance required to initiate a discussion of the outstanding issues. CEELI representatives also met with the Chair of the Parliamentary Committee on Legal Issues to address her concerns about the competing drafts and to urge committee action, additionally offering any assistance required to facilitate discussion among the competing elements.

On February 19, 2004, the two drafts were presented to the Legal Committee by those members of Parliament that introduced them. As expected, the provisions that received the most attention were those related to the regulation of attorneys' partnerships (law firms). Both drafts were supported and approved by the Legal Committee. On February 27, 2004, both draft Attorneys' Acts were voted on and approved by the plenary session of the Parliament for first reading and returned to the Legal Committee for reconciliation. A sub-committee consisting of the Members of the Parliament that submitted each draft, their experts, experts of the Legal Committee, and experts of the Ministry of Justice was formed on March 18, 2004. The group, chaired by the deputy chair of the Legal Committee, met several times in April and May 2004 to discuss the contested issues in the legislative proposals. CEELI representatives were invited to and participated in these meetings. CEELI was asked by the working group to present a comparative study on the issue of collective legal practice to the committee in various European countries. This report was prepared in May 2004 by CEELI Office of Rule of Law Research in Washington and duly delivered to the sub-committee.

Ultimately, a reconciled draft was presented to the Legal Committee, however, the issues of collective practices of attorneys and the registration of law firms remained unresolved. The Legal Committee held a special meeting on June 3, 2004 to consider the report of the working group. It was debated and ultimately decided that law firms would be regulated as collective practices under the Attorneys Act and not commercial ventures regulated by the Commercial Act; and that firms will register first with the Bar Council, then with the District Court. This consolidated draft was submitted to Parliament for its second reading on June 10, 2004 and passed on that same day.

The new Law on Attorneys is significant, because it sought to address those issues that were the most problematic for the legal profession. The proliferation of law schools in the 1990s led to an explosion of new attorneys being admitted to the bar. Admission standards were not uniform, and the state exam system was suspect by all members of the legal profession and the judiciary. Consequently, the new law instituted a new qualification exam (bar exam), which raised admission requirements and ensured the basic competency of all candidates to the bar regardless of the school from which they graduated. Additionally, the requirement for a new expanded code of professional ethics sought to address the pervasive view of unethical practices by an unacceptable amount of attorneys. Moreover, to protect the public from negligent and/or incompetent attorneys, a requirement for mandatory professional insurance was included along with a dictate that the bar create a new Attorneys Training School to ensure the continuing qualification of attorneys throughout their career. Attorneys were also required to ensure that their qualification was kept updated throughout their career. Finally, the creation of law firms was authorized for the first time in Bulgaria, a recognition that Bulgarian lawyers needed to be in the professional position to compete with their European colleagues after EU accession.

Subsequently, CEELI/APDI turned to the task of assisting the SBC to implement the dictates of the new Attorneys Act.

Tangible Results

- ✓ New Law on Attorneys adopted in June 2004, which requires a bar examination; adoption of a Code of Professional Conduct; attorney malpractice insurance; enables the creation of law firms; and requires the establishment of an Attorneys Training Center.

b. Bar Qualification Exam

Immediately after the adoption of the new Attorneys Act, CEELI and the SBC began a collaboration that resulted in the implementation of a twice yearly bar qualification examination. The exam is widely seen as essential for ensuring the basic competency level of any candidate being admitted to the practice of law. The first bar exam in Bulgaria was administered by the SBC in December 2004. The exam was an essay exam that lasted 3 hours, where candidates were required to write one essay, either in civil law or criminal law. The SBC felt that the exam should be phased in slowly so as not to cause too much uproar among potential applicants and not to appear as though the Bulgarian Bar was trying to impose protectionist measures towards new applicants. However, the pass rate on the first exam was an extreme 85% and the SBC was able to be persuaded by CEELI that CEELI's original advice to expand the exam in terms of scope and content was the most prudent course of action as the first exam did not achieve the results for which the reform was intended

On April 22, 2005, the SBC, with CEELI/APDI technical assistance, adopted substantial revisions to the original bar exam regulation that was adopted prior to the first bar exam in December 2004. The revised regulation (previously provided to USAID) required that the exam be significantly expanded in terms of substance and duration and now includes:

- A section of multiple choice questions (between 70 and 100) on which the candidate must score at least 70% to pass – designed to test basic knowledge of all required areas of law (3 hours).
- A second section of essays requiring candidates to solve actual cases, one in criminal law and one in civil law – designed to test more practical skills and knowledge (3 hours).
- If a candidate doesn't pass the multiple choice section, his/her essays will not be graded.
- If the candidate passes both written portions of the exam, he/she then goes on to the oral portion, administered a few weeks later. The oral exam tests candidates' on the Attorneys Act and the Code of Professional Conduct, as well as other areas of law, such as Administrative, Civil and Penal Law.

To date, the exam has been given four times (December 2004; June 2005; December 2005; and June 2006) to over 1200 candidates, with a passage rate settling between 50% and 65% after the first exam*. At present, the exam is fully funded and administered by the SBC without outside funding or technical assistance to prepare, administer or grade it. There have been no claims of impropriety to date and the exam has become an accepted part of the legal profession.

Tangible Results

- ✓ A new bar exam regulation is adopted in April 2005 that creates a fair and comprehensive examination.
- ✓ The SBC has administered 4 successful bar exams, which are now implemented without outside technical or financial assistance.
- ✓ The bar exam has become an accepted part of the legal qualification process.

* SBC reports on passage rates and statistical breakdowns of candidates for each exam have been previously provided to USAID Bulgaria.

c. Code of Professional Conduct and Disciplinary Enforcement

i. New Code of Professional Conduct

Although prior to the new Attorneys' Act there were minimal ethical rules for attorneys in Bulgaria, they were not very developed. Additionally, even though mechanisms for enforcing disciplinary conduct violations existed, they were primarily utilized to address failure to pay membership dues and were not applied in any uniform manner throughout the country. Initial CEELI work on a new Code of Professional Conduct pre-dated 2003; however, the work which led to the ultimate adoption of the new code all occurred during the term of the APDI.

CEELI brought legal ethics expert Keith Thomas[†] to Bulgaria for two months to work specifically with the SBC Ethics Drafting Committee in preparing a Code of Professional Conduct for Attorneys as required under the new Attorneys Act. Over the course of Mr. Thomas' second tenure, and at CEELI's suggestion, the drafting committee was expanded to include 10 new members, which included representative membership from around the country, and was given the mandate of producing a final draft code by May 20, 2005. Numerous meetings were held between Mr. Thomas, CEELI staff attorneys and the drafting committee. A draft was finalized and presented to the SBC on May 20, 2005. The Council moved to present the new draft for review at the National Bar Conference that took place May 26-28, 2005.

At the National Bar Conference, 90 participating attorneys from all over the country reviewed the draft code of conduct and presented various suggestions for incorporation by the joint forces of CEELI and the SBC. Following these recommendations, CEELI and the SBC met on June 17, 2005 to discuss the edited draft, including the National Bar Conference's comments. The SBC unanimously approved the principles set forth in the draft but also added some editorial comments. Due to the overwhelming amount of commentary and the need for stylistic edits (particularly regarding the need for incorporating more "Bulgarian" terminology), SBC Chairman Markovski moved to hold an extraordinary meeting to finalize the draft on July 7 and the SBC finally approved the Code on July 8, 2005.

The Code that was ultimately adopted includes all required provisions for a fundamentally sound Code of Ethics for the legal profession, per European and international standards, and is based on the CCBE Code of Conduct of European lawyers. The Code underlines basic principals of the exercise of the legal profession, such as independence, confidentiality, trust and personal integrity, and rules on personal publicity. It also stipulates conflict of interest rules, rules for maintenance of client's funds, rules on fees and obligations of attorneys towards the courts and their clients. Additionally, the Code contains several provisions addressing the practice of foreign lawyers in Bulgaria and Bulgarian lawyers abroad. A copy of the Code, which was published in Bulgarian and English, was provided to USAID. Electronic versions of the Code were also provided.

Upon adoption of the code, CEELI/APDI then set about developing trainings based upon the new code, as well as working to strengthen enforcement mechanisms. In the first quarter 2006, CEELI/APDI developed a training module with three experts in ethics who carried out a series of three pilot trainings on the new code for all members of the disciplinary courts of the 28 local bar councils. Based upon the outcomes of these trainings, along with the comments received from the participants, CEELI along with the new trainers finalized course materials for a new course on professional ethics for attorneys that was delivered to the Attorneys Training Center (ATC). Subsequently, the ATC utilized these materials for ethics training for young lawyers that they implemented in Varna in summer 2006 for more than 100 attorneys. The course is now replicable and sustainable (with materials and trainers) and expected to become part of the ATC's regular course of trainings. Finally, based upon the feedback of the disciplinary court members, CEELI/APDI and the ethics trainers created a commentary for the code to assist attorneys in understanding its dictates. The

[†]Mr. Thomas had started the ethics work during his tenure with CEELI as a Legal Specialist in 2001-2002.

commentary has been delivered to the SBC, which will approve and eventually publish it in the Attorneys Review (a publication that reaches all bar members in Bulgaria).

ii. Disciplinary Enforcement

Based on a conference of disciplinary court members that CEELI/APDI held in September 2005, numerous enforcement issues were identified due to first instance disciplinary proceedings being the province of each of the 27 local bar councils. Most importantly, it was determined that the bar lacked uniform procedures for conducting disciplinary actions and that sanctions were not consistent throughout the country. To combat these problems, the conference took the following decisions, which were later adopted and enforced by the SBC and the Supreme Disciplinary Court (SDC):

- 1) All chairs of disciplinary courts will provide detailed statistics twice a year to the chair of the SDC relating to the number of complaints, investigations, disciplinary proceedings and outcomes to ensure centralized supervision of the disciplinary process, thereby providing central oversight to the local disciplinary courts by the SDC;
- 2) Many of the problems that resulted in non-uniform application of the disciplinary rules and sanctions are due to inconsistent interpretations of disciplinary rules by the various local bar councils, which act as first instance panels, and therefore the issue of unifying practices will need to be addressed by the SDC to the SBC. The SDC decided to publish all of its significant decisions regarding procedures and sanctions in the Attorneys Review in order to unify the practice; and
- 3) Members of the disciplinary courts interpret differently some provisions of the Attorneys Act (e.g. concerning the statutory limitations and prescription periods), therefore the conference took a decision that amendments to Chapter XIII of the Attorneys Act, dealing with disciplinary liability and disciplinary proceedings, should be prepared. Additionally, amendments allowing the SDC to issue guidelines for the uniform application of disciplinary procedures and sanctions are also being undertaken.

As of the date of this report, decisions number 1 and 2 have both been fully implemented. The amendments listed in the third decision are currently in draft form and have yet to be introduced into parliament.

Tangible Results

- ✓ A new Code of Professional Responsibility is passed in July 2005 and published to all attorneys in the Attorneys Review. All disciplinary court members are trained on the new code. A sustainable course in ethics is created and delivered to the ATC, which implements it for young attorneys. A commentary on the code is drafted with CEELI technical assistance and will be made available to all attorneys.
- ✓ Central oversight of local bar disciplinary councils by the Supreme Disciplinary Court is established through bi-yearly statistical reporting requirements. The SDC begins publishing important decisions to unify disciplinary practice and procedure. Amendments to the Attorneys Act further unifying disciplinary practice and procedure are undertaken and ongoing.

d. CLE/Attorneys Training Center

Introducing continuing legal education (CLE) and making it a sustainable part of the landscape of the Bulgarian legal profession was one of the primary objectives of CEELI over the course of its work in Bulgaria for the last 15 years. Sustainable CLE is essential to the quality of the Bulgarian legal profession, especially in recent times where all major legislation pertaining to the practice of law, legal procedures and many other substantive laws have undergone significant revision due to the process of EU accession. In general, CEELI's efforts in this realm were twofold:

First, CEELI concentrated on stimulating the demand for CLE among attorneys in Bulgaria. Surveys as to what trainings lawyers desired were conducted and courses, including materials and trainers, were developed. The number and types of courses were varied, ranging from Criminal law, Tax law, and Property law to EU law and Institutions. The times and frequencies of all CLE trainings developed and implemented by CEELI both before and after the APDI were well documented in CEELI's quarterly reports over the years and will not be recounted herein (find attached a listing of all training undertaken during the course of the APDI). What must be noted, though, is that during the course of the APDI, more than 1250 attorney training days have been provided to lawyers throughout the entire country (with countless more days having been provided between 1991-2003). This number is significant in the fact that CEELI/APDI was able to achieve this success while expending a comparatively small amount of resources, which speaks primarily to the fact that our local partners in the bar councils and the SBC shouldered a great deal of the financial and organizational burden that was required to reach such a significant number of training days in such a short period of time. All course materials and details for trainers developed by CEELI/APDI have been provided initially to the SBC and afterwards to the new Attorneys Training Center. It is important to note that all courses developed by CEELI/APDI include a component related to professional ethics as well.

The second phase of CEELI/APDI's assistance related to the creation and development of the Attorneys Training Center (ATC). The ATC, whose establishment was mandated by the new Attorneys Act, is the vehicle by which CLE will become sustainable both financially and programmatically in Bulgaria. The Center is fully supported by the SBC, which has voted it a substantial yearly budget, and has only received limited financial support from CEELI/APDI relating to the one-time purchase of equipment and legal resources for the Center. No operational funding comes from outside of the Bar, and CEELI/APDI's assistance is primarily limited to technical expert assistance (assuring the likely sustainability of the Center). A full list of all tangible assistance provided by CEELI/APDI to the ATC is attached.

By way of the history of the ATC, with CEELI's support and technical assistance, the SBC approved the Ordinance on the Attorneys Training and Qualification in December 2005, which provides for the structure, organization and funding of the new ATC, as well as a minimum number of mandatory CLE hours for all attorneys (4 per year to start). The ATC is to be responsible for the organization of all forms of training both in the capital and around the country, together with local bar associations. At the time that the Ordinance, previously provided to USAID, was passed, the first management board of the ATC was also named.

In anticipation of the creation of the ATC and to further the work on the bar exam, CEELI, together with World Learning, organized a study trip in October 2004 for a group from the SBC, including all those who were eventually named to the management board of the ATC, to the Paris Bar Association, as well as the Paris Bar School. At that time, the future management board members were able to study the structure and operations of the Paris Bar school, including its curriculum and course offerings. This experience assisted in the formulation of the ultimate structure and operating provisions that the SBC included in the ATC Ordinance.

The ATC intends and has begun to operate both in Sofia and regionally. An Executive Director was hired, a former Deputy Minister of Justice who is extremely well respected and a founding member of PIOR, the first NGO in Bulgaria that was established for the purposes of providing CLE to all legal professionals back in the early 1990s, as well as one staff person (all funded by the Bar). It has furnished offices with equipment, provided by CEELI/APDI, in the building of the Union of Lawyers while it seeks a more permanent home elsewhere (the SBC intends to purchase a separate building for the ATC). The Center offered its first training under its own auspices, regarding changes to the Criminal Procedure Code, in March 2006 and has followed that up with numerous other trainings, including ethics training for young lawyers. A list of the trainings that the ATC and CEELI/APDI undertook together is attached. However, the ATC has been engaged in providing a great deal of trainings on its own in regional bar councils that CEELI/APDI was not involved in at all, which is a clear indication that the Center has the basic capacity (both programmatically and financially)

to develop and organize trainings on its own accord. To assist in this work, CEELI/APDI trained a cadre of twenty-five trainers for the ATC (designated by the ATC Management Board), who received advanced training in course preparation and presentation.

Furthermore, without outside assistance, the ATC has started cooperation with the National Institute of Justice (the government training institution for judges and prosecutors), which has led to the agreement to adopt certain NIJ-developed trainings for lawyers; the disbursements to all bar councils cases and materials regarding EU law and institutions developed by the NIJ; and discussions regarding joint regional training centers for both institutions. Additionally, the ATC has already signed MOUs with at least eight regional bar councils for joint cooperation, several of which are CEELI/APDI model bar councils (see below). Although the ATC has been operating for at least six months, it celebrated its symbolic opening on September 20, 2006, the first day of the calendar school year in Bulgaria and the first day of their 2006 training calendar.

In the future, the ATC will need to organize their work more systematically, creating training curriculums, course schedules and developing the course materials and trainers required to meet these curriculums and schedules. It is anticipated that technical assistance in these endeavors will continue to be provided by the CEELI/USAID legacy NGO BILL.

Tangible Results

- ✓ More than 1250 attorney training days provided by CEELI/APDI to attorneys around Bulgaria in the last 3 years, with more than double that over the course of CEELI's tenure in Bulgaria.
- ✓ Courses, materials, and trainers were developed by CEELI/APDI in the areas of Property law; various topics in Penal law and procedure; Legal Ethics; Young Lawyer training in Civil cases; Tax law; EU law; Administrative law and procedure; Commercial law; that have been delivered to the Attorneys Training Center. Earlier CEELI courses were developed in Bankruptcy and Competition law, among others. CEELI/APDI helped facilitate trainings to local bar councils in the area of Strategic Litigation with the Bulgarian Helsinki Committee and Company Registration, Registered Pledges, Corporate Governance and ADR with the Commercial Law Reform Project of USAID.
- ✓ The ATC is established and is operating as a sustainable institution both programmatically and financially. It has been provided a study tour on how to operate an Attorneys Training Center; a furnished set of offices; a cadre of 25 trained trainers; numerous core CLE courses for utilization; and has begun providing training both in Sofia and regionally.
- ✓ The ATC has already begun programmatic cooperation with the NIJ and numerous regional bar councils.

e. Model Local Bar Councils (MLBCs)

Finally, the APDI also included an initiative directed at local bar councils entitled Model Local Bar Councils (MLBCs). The work focused on capacity-building and was designed to transform the MLBCs into effective organizations, able to provide a variety of services to their member attorneys as well as their communities, thereby enhancing the quality of legal practice in a grassroots way on a local level. This work came in response to a survey done by CEELI in late 2003 (previously provided to USAID) that yielded the fact that the vast majority of local bar councils prior to this time provided little or no services to their members or their communities beyond admissions and disciplinary decisions. Many lacked basic technical equipment and had no legal resources available to their membership. Consequently, many attorneys in the regions were practicing without proper access to electronic legal databases or other legal libraries. It was also found that many regions had enormous problems in the area of bench-bar relations and that there was very little contact, cooperation and uniformity of operation among the 27 regional bar councils that make up the legal profession in Bulgaria.

The intent of the MLBC initiative was to assist selected councils to establish a model for operations that would resonate and influence the development of other local bar councils into active and effective legal professional organizations. The project has concentrated on building the legal and technical resources the councils provide to their member attorneys and the councils' capacity to provide continuing education to the membership. In the first year of the project, six councils were selected, after an exhaustive selection process involving interviews and site inspections of a dozen councils. The selected councils were Rousse, Veliko Turnovo, Smolyan, Vratsa, Bourgas, and Blagoevgrad. Councils were chosen based upon the following factors (as approved and requested by USAID):

- Geographic distribution;
- Size distribution;
- SBC and local bar council interest;
- MLBC willingness to dedicate in-kind contributions of resources;
- Existence of a significant minority population; and
- Existence of a model court or Court in Partnership, legal clinic program or possible court-annexed mediation project in the same area.

After the initial selection was finalized, CEELI/APDI signed an agreement with each MLBC setting forth the expected parameters of mutual cooperation (Joint Action Plans, which have previously been provided to USAID/Bulgaria). In developing these activity plans, CEELI emphasized the provision of enhanced member services such as CLE trainings; the regular publication of bulletins detailing events and activities of interest to the legal community; mentoring programs for young attorneys; provision of legal services through involvement with local legal clinics (if applicable); improved dissemination of legal information, and improved bench-bar relations. Following the execution of agreements, CEELI set about the initial task of providing each Council with the necessary technical equipment and legal resources to begin implementing elements of the Joint Action Plan that had been developed. The equipment and resources provided to the MLBCs included basic computers with the capability to access Bulgarian legal databases on the internet (which are available to all bar members for legal research); fax/printers for those MLBCs that lacked them; essential books and legal periodicals for MLBCs that had library capacity; and basic technical equipment for multiple MLBCs to enhance their CLE training capabilities and become a regional facility for CLE trainings.

Due to the success of the MLBC project in the first year, the number of MLBCs in the second year of the APDI was increased by another three to include Kustendil, Shumen, and Stara Zagora. The continued success in the second year led to a further expansion in year three to include Haskovo, Silistra and Lovech. The same procedures were followed with the later MLBCs as with the first councils selected. This brings the total number of MLBCs during the APDI to twelve. Attached to this report is a Program Summary that lists all equipment and legal resources provided to each MLBC, as well as listing the cooperation that each has had with CEELI/APDI.

Further, in late 2005 and early 2006, CEELI/APDI engaged an independent expert, Mimi Yotova, who produced an assessment of all work that had been accomplished in the MLBC project up to that period of time, assessed the capacities of each MLBC she visited and assisted each MLBC to create an Action Plan for FY 2006. Specifically, Ms. Yotova prepared individual reports on each of the 9 MLBCs that were part of the APDI/MLBC program in 2004 and 2005. Additionally, she prepared a final report (attached but also previously submitted to USAID/Bulgaria) focusing on the following topics:

- 1) Activities carried out in cooperation with CEELI/APDI;
- 2) beneficial effect of the Attorneys' Professional Development Initiative (APDI) for the local bars;
- 3) suggestions for areas and activities of priority for their cooperation in 2006;
- 4) analysis of the Attorneys Colleges' visions and plans for future development;
- 5) assessment of the current status of Attorneys Colleges in the context of the signed memorandums/cooperation with ABA/CEELI; and

6) recommendations for the project in 2006.

As the attachments provide a very detailed account of the activities under the MLBC project, this report will highlight the programmatic achievements.

In essence, the MLBCs became a conduit through which most of the other CEELI/APDI project initiatives were implemented. The vast majority of the training that was conducted during the APDI was organized in cooperation with the MLBCs and often large portions of the training were supported by them as well. Their enthusiasm and burgeoning capacity accounted for the massive surplus of training days experienced during the project (800 attorney training days targeted and more than 1250 days delivered). In fact, the training days listed under the Performance Monitoring Plan for the APDI (attached) does not even reflect all trainings carried on by the MLBCs during the three year period, it merely recounts those trainings in which CEELI/APDI cooperated with the MLBC to deliver them. There were hundreds of training days organized by the MLBCs (alone and in concert with the ATC) that CEELI/APDI has not sought to report as the organization and financing did not come from the CEELI/APDI project (although much of the training materials did).

Moreover, a great many of the public education events for mediation were organized through the MLBCs (to be discussed in the project section on ADR), as well as many of the efforts to create sustainability for the student legal clinics (to be discussed in the project section on Clinical Legal Education). The ATC has concluded cooperation agreements with Rousse and Targovishte (not an MLBC but the council received training equipment from CEELI/APDI) and the councils in Rousse, Shumen, Stara Zagora, Bourgas, Haskovo and Blagoevgrad are potential sites for regional training centers due to their equipment and facilities once the ATC develops to the point of establishing them. Also, although this initiative extended to all 27 bar councils in Bulgaria, not just the MLBCs, CEELI/APDI worked to develop websites for all local bar councils, along with training council staff on how to update the information contained therein. This has had an enormous effect on disseminating information to the bar membership and the public at large.

Aside from the foregoing, CEELI/APDI and the USAID-funded Judicial Strengthening Initiative (JSI) collaborated, along with the bar councils and the courts, to establish more formal mechanisms for bench-bar relations in the areas where MLBCs and JSI's Model Courts both existed. There were two initial pilot bench-bar meetings organized. The first was organized in Smolyan in May 2005 and focused on a round table on legal ethics for judges and lawyers from the region of Smolyan. CEELI expert Keith Thomas discussed the concepts of impartiality and candor to the court, as well as obligations to expedite court proceedings. The event resulted in fruitful interaction among the participants and led to the publication of an article about the event in the local newspaper, "Rodophi news." Additional bench-bar events were subsequently organized between the court and the bar council after the success of this program, including a law day picnic between the two groups.

The second bench-bar pilot event was organized in Shumen in November 2005. The meeting took place at the newly opened training center of the Bar. The purpose of the meeting was to identify areas of common interest and/or problematic areas where additional efforts are needed. It was agreed that in the first half of 2006, judges and lawyers from Shumen would organize a roundtable discussion on the new Legal Aid Law (January 2006) and a roundtable on Mediation and court-referred mediation (April 2006). Both of these events were very successful and have led to more formalized cooperation between the two groups.

Following upon these successes, during the period of April – June 2006, CEELI/APDI organized four bench-bar meetings. The meetings were held in Shumen in April 2006; in Lovech and Haskovo in May 2006; and in Silistra in June 2006. The content of each meeting was determined in relation to the stated interests of each regional bar council and court involved, with the ultimate purpose of formalizing future relations between the two.

The Shumen meeting was devoted to mediation, including court-referred mediation and basic EU law. CEELI legal specialist Joanna Jacobs gave a presentation of the advantages to courts, clients and attorneys of judicial referral to mediation. In addition, CEELI expert Mimi Yotova presented a basic lecture on EU law. CEELI coordinated the event with JSI, which had a representative at the meeting. At the end of the meeting, the two groups agreed to discuss further potential joint activities in the future and to move towards formalizing their future contacts.

The Lovech meeting had an attendance of approximately 20, which included lawyers from Lovech, the Chair of the District Court, and three other judges. During the meeting, CEELI liaison Joanna Jacobs spoke about professional standards for judges and lawyers in the US, and CEELI staff attorney Violetta Kostadinova discussed the development of ethical rules for the various legal professions in Bulgaria. The participants engaged in a lively discussion following the lectures and made plans for future cooperation.

The Haskovo meeting took place at the new office of the Haskovo Bar Association. CEELI presented information on mediation and court referrals, which was followed by a discussion of a sociological study conducted in the Haskovo region on “Interaction between the Bar and the Judiciary.” The participating attorneys and judges then discussed and planned a regular series of joint Bench-Bar events and developed an action plan for the coming year. A representative of USAID’s Judicial Strengthening Initiative attended the meeting, as did the Deputy Chair of the District Court, the head of the Regional Court, three regional judges and approximately 20 attorneys, including the entire Bar Council. The main discussion focused on problematic issues identified in the sociological study and the need for coordinated responses. Although there had been some informal cooperation between the bench and the bar, they decided to formalize the relationship with a more systematic approach. To that end, the participants in the meeting agreed to establish a standing committee comprised of representatives of the Bar and the Bench, which will coordinate all future joint activities and assist in resolving any outstanding issues. Furthermore, it was decided that similar bench-bar meetings will be held quarterly and may include joint trainings and discussions of new legislation, inconsistent court practice and controversial judicial decisions.

The Silistra bench-bar meeting included a lecture on Mediation and Court Referrals; a discussion and planning of future joint Bench-Bar events; and the development of a Joint Action plan. More than 40 lawyers and judges attended the meeting, including the Deputy Chair of the Silistra District Court, the head of the Silistra Regional Court, the head of the Dulovo Regional Court, as well as the entire Bar Council. The discussion was very productive and focused on a number of issues, including the legal aid system, the latest legislative changes and new procedural codes, ethical problems, new law schools and the general quality of legal education. Both lawyers and judges agreed that even though there had been some sporadic and informal cooperation in the past, it is necessary that this relationship develop further. Therefore, the participants agreed to continue this timely initiative and convene regularly in order to discuss problematic issues and conduct joint trainings.

In sum, these initial bench-bar meetings accomplished the task of warming relations between the bench and bar in the towns where they occurred. Although some cooperation had been evident in the past, these meetings reinforced the idea that the contacts needed to become more regular and formalized, whereas previously they were on a primarily *ad hoc* basis when specific issues arose. All events ended with the parties moving to formalize joint action plans, with many following up the meeting with further events in short succession. The improvement of bench-bar relations in specific areas is not something that can happen overnight; however, these initiatives became the foundation upon which renewed relations have been established in several areas of the country. It remains to be seen in the coming years to what extent the initiatives begun under the APDI and JSI take firm root.

What can be said in conclusion about the MLBC project is that it has met its salient objectives in creating a model for other local bar councils to follow. Many of the MLBCs have begun organizing training with smaller councils in their region, as well as cross border with the Macedonian Bar (Blagoevgrad), and other councils

have sought to emulate their activities. Moreover, the continued willingness shown by the MLBCs to support the initiatives implemented through this project with their own resources, budgets and in-kind contributions leads to the conclusion that these initiatives must be rated good to excellent in terms of their potential sustainability post-APDI assistance. This is not to imply that all MLBCs have performed to the same level. In the Monitoring and Evaluation Plan (M&E) of the APDI, criteria were enumerated to evaluate whether MLBCs were prepared to graduate from assistance. The criteria included:

MLBC compliance with Joint Action Plan requirements, as scored by:

- a) Receipt of and training for all necessary technical equipment provided (10 pts);
- b) A functioning and regularly updated web-site that is utilized for information dissemination (15 pts);
- c) Adequate electronic and hard-copy legal resources available to membership (15 pts);
- d) Sustainable capacity to provide local and/or regional CLE courses (15 pts)

Judged by:

- number of trainings
 - number of attorneys trained
 - number of attorney training days
- e) Programs for young lawyers are instituted (10 pts);
 - f) Cooperation with legal clinics or mediation centers, where applicable (15 pts);
 - g) On-going bench-bar initiatives exist – based on number of events (10 pts); and
 - h) % of initiatives under action plans funded by MLBC and/or SBC, including matching contributions is at least 40% (20 pts)

Under the M&E plan, graduation would be bestowed on any MLBC that has 70 pts or more on the above scale. The full analysis for each MLBC is attached, with seven of the councils being adjudged eligible for graduation (Rousse, Veliko Turnovo, Bourgas, Blagoevgrad, Shumen, Stara Zagora, Haskovo). Moreover, these councils will form the basis of the Sister Council initiative that will be implemented by the CEELI/USAID legacy NGO project, BILLI, under its advocacy grant.

Tangible Results

- ✓ A model for the organization and operation of local bar councils is established, which is sustainable within the resources of the local bar councils.
- ✓ Lawyers in regions covered by MLBCs now have access to legal databases and other legal resources where they did not previously. In Veliko Turnovo and Smolyan, these resources are also extended to judges, prosecutors and the general public.
- ✓ All bar councils have working websites with the internal capacity to update them.
- ✓ Bench-bar relations have been formalized and improved in numerous bar councils.
- ✓ MLBCs have sustainable capacity to provide CLE to their members in most instances.
- ✓ MLBC activities under the APDI are sustainable in the vast majority of councils.
- ✓ Some MLBCs, like Bourgas and Shumen, have been able to win outside grants (for providing pro bono legal services and creating public information centers respectively) due to the capacity created within them.
- ✓ Most MLBCs have started mentoring programs for young lawyers, which will immensely improve the quality of legal services provided to the public.

f. Legal Profession Reform Index (LPRI)

CEELI developed the LPRI to assess a cross-section of factors important to the reform of the legal profession in emerging democracies. Specifically, the LPRI assesses the current state of the legal profession vis-à-vis a series of 24 factors that reflect some of the fundamental characteristics of legal professions in democratic countries. These factors are derived from international norms endorsed by the Council of Europe and the United Nations. Within the LPRI, a wide range of issues are addressed, including professional freedoms and guarantees; education, training, and admission to the profession; conditions and standards of practice; legal services; and professional associations of lawyers.

To collect the data involved in the LPRI analysis, CEELI's independent assessors and their Sofia teams reviewed all legislation relating to the legal profession in Bulgaria, and interviewed more than sixty lawyers, members of the judiciary, government officials, non-governmental representatives, journalists and international organizations. The initial findings of the reports were then sent for comment to domestic and international partners prior to finalization.

The LPRI is designed to help CEELI, other international organizations and donors, and local partners to better target legal profession reform programs by creating a quantifiable measure of their impact. It also functions as a tool to refine program implementation and monitor progress towards establishing an accountable, effective and independent legal profession. CEELI implemented the LPRI for Bulgaria in 2004 and then again in 2006. Both were presented publicly, with the 2004 LPRI being accompanied by a public discussion of representatives of all stakeholders in the legal profession and the court system. Copies of CEELI's 2004 and 2006 LPRI for Bulgaria were provided to USAID Bulgaria.

Tangible Results

- ✓ LPRI's are implemented and published in 2004 and 2006

g. Other activities

It must be mentioned that other CEELI activities with the Bulgarian Bar, prior to the APDI, have also included providing support for annual member meetings and developing a substantive newsletter for all bar members.

B. Clinical Legal Education

1. Background

CEELI's work regarding legal education reform targeted increasing clinical legal education opportunities at Bulgarian law faculties and, in turn, increasing access to legal services among disadvantaged groups. It is well-recognized in Bulgaria (confirmed in reports by the World Bank/British Council and CEELI's JRI's and LPRI's) that the legal education that prospective attorneys receive during law school is overly theoretical and not geared in any meaningful way towards developing the analytic and practical skills required to be an effective attorney. In the United States and in many parts of Europe, clinical legal education is seen as an essential element in one's legal education as it provides practical skills training to students, partnering them with professors and practicing attorneys in providing legal services to clients coming from indigent and vulnerable segments of society. The hands-on advocacy skills learned at the clinics, including interviewing clients, case analysis, legal drafting, courtroom techniques, etc., are an essential companion to the solely theoretic training currently provided by the law school curricula. Moreover, in Bulgaria, as a secondary benefit, clinical education programs provided free legal services to indigent and vulnerable segments of

Bulgarian society that did not have the legal right to them prior to the adoption of the new Legal Aid Act in 2006.

2. Activities

CEELI began its work in Clinical Legal Education in 1999 with the establishment of the Legal Clinic Foundation, which had as one of its founders then-CEELI liaison Joseph Lowther. Under the umbrella of this foundation, there are two legal clinics operated within Rousse University Law Faculty, working in the area of Family and Succession Law and Administrative Law and Procedure. The foundation also has a branch in Sofia at the University for National and World Economy and operates a clinic there as well. CEELI has supported the Legal Clinic Foundation from 1999 through 2006 with advocacy grants of \$12,000 to \$15,000 for each year of operation, as well as providing technical equipment (computers, fax, etc.) to enable the clinics to function.

The work that CEELI did with the Legal Clinic Foundation was essential to the spread of clinical education in Bulgaria. The Rousse clinic became the pilot project that all APDI clinical education activities became based upon. The “Rousse Model” was established (assisted through a World Learning Study tour to the US in 2001) as the standard for organizing and operating student legal clinics, which later clinics emulated and ultimately committed to. Based on the CEELI work with the Legal Clinic Foundation and companion work done by Open Society Institute (OSI) in the same field with other Bulgarian law schools, there are currently student legal clinics in 8 out of the 10 Bulgarian law faculties. On CEELI/APDI’s side, in 2004, CEELI expanded its technical and financial assistance (including advocacy grants and equipment) to another two clinics at Veliko Turnovo University and Bourgas Free University, and in 2005 CEELI assistance also incorporated Varna Free University. The assistance to Varna Free University, however, has been limited to a one-time equipment purchase and technical assistance in the creation and operation of the clinic. Consequently, during the APDI, CEELI has supported both technically and financially 5 clinics (2 through the Legal Clinic Foundation in Sofia and Rousse and those in Veliko Turnovo, Bourgas and Varna).

The challenges faced in the Clinical Education project during the APDI have focused on two areas, programmatic and financial sustainability.

a. Programmatic sustainability

In partnership with OSI, CEELI/APDI worked to ensure that all clinics in Bulgaria worked according to the same standards. In the first instance, this took the form of developing uniform standards for organizing the work in all legal clinics in Bulgaria. In 2003-2004, a working group was formed under the auspices of CEELI and OSI with the intention of drafting *Academic standards for the organization and the activities of the legal clinics within the Bulgarian law faculties*. Representatives of all student legal clinics in Bulgaria were represented in the group. In December 2004, the draft standards were presented to all legal clinicians in Bulgaria at a roundtable sponsored by CEELI and OSI. Based on the comments and feedback received at that roundtable and thereafter, a final set of standards was drafted and adopted by representatives of all existing legal clinics in Bulgaria at a conference on June 3, 2005 (attached and previously provided to USAID/Bulgaria). The standards set forth the appropriate curriculum to follow when structuring a clinical education course (including the amount of lecture and mock trial work required before live client work), as well as how the clinic should be structured in terms of student/professor/attorney ratio, intake procedures, teaching methods, financial and case management, etc. By committing to these standards, all Bulgarian clients are now operating in accordance with the same set of guidelines.

A second piece of the programmatic sustainability efforts by CEELI/APDI and OSI relates to the drafting and publishing of a Bulgarian textbook on clinical legal education for use in all working clinics, which provides information to the clinics on how to organize and structure themselves, as well as serving as a textbook to students in various areas of practical legal skills. The textbook was a year in the writing and

editing and was ultimately published and distributed for use in all clinics in April 2006. The table of contents of the textbook is attached.

Another facet of the work towards establishing programmatic sustainability was carried out in April 2004 when CEELI/APDI and OSI organized legal clinicians' training for newly established legal clinics. This enabled the more established clinics to pass on their knowledge and experiences to those professors and attorneys who were establishing new clinics at their law faculties. Aside from creating a "community" of clinicians, this training served to cement the uniform application of clinical standards in the country and later paved the way for the ultimate adoption of uniform academic standards. This training was followed up in October 2005 with a specialized "Training of Trainers" for selected representatives of all functioning legal clinics, thereby ensuring that a domestic capacity existed to train the next generation of clinicians.

The last piece of programmatic sustainability relates to further joint work between CEELI/APDI and OSI that has led to the launching of a nation-wide clinical education website, with detailed information on the activities of partnering Bulgarian legal clinics, which serves as both a public information tool and a tool to target technical assistance in future legal education reform efforts.

b. Financial sustainability

Financial sustainability is the most difficult issue facing clinical legal education work in any developing country in which it is done. The unfortunate truth is that most clinics are traditionally dependent on outside donor funding to survive. Consequently, finding ways to have universities, municipalities and bar councils help support the clinics is essential to their long term sustainability.

The first element of this work revolved around joint efforts between CEELI/APDI and OSI to get amendments in the Legal Education Ordinance in favor of clinical legal education in order to enable the discipline to become part of the law school curriculum (thereby making the course the financial responsibility of the university). A great deal of lobbying was required, but ultimately, on August 11, 2005, the Council of Ministers formally incorporated clinical legal training into the system of Bulgarian legal education by amending the Legal Education Ordinance (text previously provided to USAID/Bulgaria). According to the amendment, "*Legal clinics provide students with opportunity to acquire skills necessary for the practice of law through lectures, simulations and work with live clients... Work with real clients is carried out only after relevant theoretical preparation and under the supervision of practicing lawyers.*" Although the new provisions do not make legal clinics an obligatory discipline in the curricula of law schools, this development is an important formal recognition of clinical education that strengthens its prospects for sustainability. Furthermore, students' participation in legal clinics is now recognized as equivalent to the obligatory study internship in the courts, which all law students have to do in the course of their studies. A detail worth mentioning is that the text of the new provisions defining legal clinical education is identical to that which CEELI and Open Society Institute suggested to the Bulgarian Ministry of Justice in April of that year.

Building upon the formal recognition of clinical legal education by the Council of Ministers in the Legal Education Ordinance, CEELI/APDI worked with each of its new clinics individually to have the faculty council accept clinical education into its curriculum. In 2005, the clinics in Bourgas and Veliko Turnovo did this, and a decision from the faculty in Varna Free University should be forthcoming soon. The significance of this is that professors will now receive work credit for the participation in the clinics, which they did not receive previously. This will ease financial burdens on clinics and the clinicians, although the previous work, effectively seen as personal by the universities, was a clear measure of the commitment of the clinicians to this project and clinical education in general.

Although previously mentioned in the section on programmatic sustainability, it should also be mentioned herein that the TOT training in October 2005 also included a portion on financial management of student legal clinics, grant proposals and strategies for financial sustainability of clinics. This training was delivered by

an experienced clinician from Hungary (who had worked for OSI-supported clinics there for 10 years), Dr. Agnes Kover, and is notable since Dr. Kover had experienced just a few years before what the clinicians in Bulgaria are beginning to experience now, namely, the loss of the vast majority of development funding for clinical education upon a country's successful EU accession. Consequently, her perspective and advice on potential operational solutions was extremely useful to the participants. It should be reiterated as well that the clinical textbook also contains a substantial section on financial management and sustainability mechanisms for clinics. Success in this training is evidenced by the fact that the Bourgas Legal Clinic has won government funding that will allow it to operate post-APDI.

Finally, CEELI has been involved in establishing cooperation among all of its legal clinics and the municipalities, local bar councils and law faculties in the cities in which they work. By sharing resources, both financial and human, it is hoped that a sustainable model of clinical education can be created without need for outside donor assistance. With regard to the municipalities, agreements have been reached in all areas where CEELI/APDI clinics operate that has the municipal authorities referring potential clients to the clinics upon the determination that they qualify for legal aid and will not be able to obtain other free legal assistance elsewhere. As the municipalities have recognized the clinics as a valuable asset to their operations, several have provided clinics with office space and overhead to operate their client intake and consultations. At present, the clinics in Rousse, Veliko Turnovo and Bourgas have branches in surrounding municipalities that they operate from municipally provided office space. Recently, the clinic in Varna was granted office space by a local NGO from which to operate their client in-takes and consultations.

Relationships with law faculties have been a bit more difficult; however, as mentioned above, at least two have accepted clinical education into their curriculum (Veliko Turnovo and Bourgas), and a third is currently considering the same. Additionally though, all CEELI/APDI clinics have facilities that are operated out of university facilities, which provide limited overhead resources.

The most difficult relations, by far, to date have been with the bar councils, which initially viewed the clinics with a great deal of skepticism (regarding them as potential competitors). A great deal of this suspicion could have been alleviated very early on if the bar councils were allowed to participate in the creation of the clinics, so that they could understand the missions of the clinics and the parameters of their representations. There was a huge misconception that clinics were representing paying clients. During the APDI, a concerted effort was made to bring the bar councils and the clinics together at conferences and roundtables (with bar council people being invited to and ultimately attending all clinical conferences that were had) and to include both in policy discussions regarding the sustainability of clinical legal education. The process has been slow, but a good measure of success was had in part due to the good relations that CEELI/APDI was able to establish with the local bar councils in Veliko Turnovo, Rousse and Bourgas during the MLBC initiative. After numerous meetings between the parties in each clinic location, the following agreements were made with regard to cooperation between the clinics and the local bar councils:

Bourgas

- Attorneys from the local Bar will serve as lecturers on topics related to law practice and law firm management; interaction with the judiciary and various state bodies, etc;
- Attorneys from the local Bar will serve as mentors and will assist graduating students in their preparation for the Bar exam.

Varna

- The Varna Bar Council will assist the legal clinic in finding a reception office in order to facilitate work with real clients;

- The Varna Bar Council has agreed to assist the legal clinic in its clients' reception through provision of *pro bono* legal aid. Two attorneys have already volunteered to work with the clinical students in providing consultations to real clients;
- The Varna District Court will facilitate students' access to the court premises and relevant case files;
- The Varna social service offices will refer indigent citizens to the clinics' reception office.

Rousse

- The Rousse Bar Council will update and extend the list of attorneys willing to work *pro bono* with the legal clinic (four attorneys have been selected so far based on professional experience and lecturing capabilities). Those attorneys will be involved in lecturing on various practical issues such as law practice and professional ethics as well as conducting simulations and working with real clients;
- The Rousse Bar Council will provide clinical students with access to its legal resources;
- The legal clinic will assist the Bar council or individual attorneys with finding students to do volunteer clerical work at the their offices;
- The Rousse Bar Council and Legal Clinic will cooperate to identify law firms and individual attorneys willing to take interns as well as students interested in such opportunities.

Veliko Tarnovo

- The Veliko Tarnovo Bar Council agreed to formulate concrete steps for cooperation with the clinic, as well as particular areas of assistance, at its next regular meeting. Potential areas of collaboration include lecturing and mentoring clinical students; attorneys' participation in the in-take of clients and *pro bono* provision of legal aid; creating internship opportunities; and legal resource sharing.
- A follow-up meeting was agreed to take place before the beginning of the clinic's next academic year.

Tangible Results

- ✓ Clinics are established through CEELI/APDI support in 5 universities, and in 8 out of 10 Bulgarian Law faculties in cooperation with OSI.
- ✓ More than 400 students have been trained in CEELI student legal clinics over the years and over 1,500 indigent and vulnerable clients provided legal assistance.
- ✓ Uniform Academic Standards for operating student legal clinics are adopted by all existing Bulgarian clinics.
- ✓ A clinical education textbook is drafted, published and disseminated to all existing clinics for use.
- ✓ Domestic capacity to train clinicians is created.
- ✓ The Legal Education Ordinance is amended to formally recognize clinical legal education as essential in practical skills training for all law students. Student participation in legal clinics is now recognized as equivalent to the obligatory study internship in the courts, which all law students have to do in the course of their studies.
- ✓ Clinical education is accepted into the curriculum at Bourgas Free University and Veliko Turnovo University.
- ✓ Financial sustainability training provided to leaders of all clinics.
- ✓ A clinical website for all Bulgarian clinics is launched.
- ✓ Agreements for cooperation and support, both financial and human, have been reached by all clinics with their local municipalities, local bar councils, and their universities. All clinics are operating at least one branch (and some more) from office space donated by the municipality in which it sits or by a local NGO. Bourgas Legal Clinic has won government funding that will enable it to operate sustainably post-APDI.

C. ADR (Mediation)

1. Background

CEELI was actively involved in the promotion of alternative means of dispute resolution, specifically mediation, for more than 7 years in Bulgaria. World-wide, mediation has proven to be a highly effective tool for resolving disputes between parties, through the facilitation of neutral third parties, without resort to the court system. It has lightened the caseloads of courts and promoted the smoother administration of justice. Further, mediation has also proved to be an effective way to give parties more control over the resolution of their disputes, which has enabled them to achieve mutually agreeable solutions and assisted them to maintain stronger ties to one another after the disputes have been resolved. Mediation projects were introduced in Bulgaria because it was one element of the solution to the problem of enormous court backlogs and case delays from which the Bulgarian court system suffers. Additionally, mediated agreements tend to require less subsequent court action for enforcement, which was beneficial to a Bulgarian judicial system that also has difficulties in its judgment enforcement capabilities.

Mediation activities, under the APDI and before, focused on developing and implementing a legislative framework for mediation in Bulgaria; training mediators, creating mediation centers and creating domestic training capacity; creating court referred mediation programs; and public education programs on the benefits of mediation, with the objective of promoting mediation as an alternative means of resolving disputes.

2. Activities

a. Legislative Framework

CEELI/APDI was instrumental in the drafting and adoption of the current Mediation Law in Bulgaria. CEELI served in a key leadership role in the working group established by the Ministry of Justice to develop and perpetuate ADR (hosting and chairing the group). The MOJ working group sought extensive outside input and comment in developing the draft law, which CEELI provided, in part, in the form of experts from the US. Through its continual technical assistance, CEELI helped shepherd the proposed law through numerous reviews and rewrites as it evolved in the working group. Ultimately, the group finalized a draft Mediation Act that was submitted to the Council of Ministers, whereupon it was approved and submitted to Parliament, which passed the Act on December 2, 2004. The Act provides a legal foundation for mediation and specifically court-referred mediation in Bulgaria. It gives legal definition to the mediation procedure, describes its main principles and the legal status of the mediator. The act also requires that the Minister of Justice develop a national register of mediators; draft a Code of Ethics for Mediators; and develop professional qualification standards that mediators must fulfill. A copy of the Mediation Act was previously provided to USAID/Bulgaria.

After the adoption of the Mediation Act, CEELI/APDI continued its work with the MOJ Working Group on drafting the three implementing documents for the Act, which are the Standards for Education of Mediators; Procedural and Ethical rules for Mediators; and the concept for a Unified Register for Mediators. Preliminary drafts were posted on the MOJ's website for comments and suggestions in April 2005. However, prior to finalizing the implementing documents, CEELI/APDI and World Learning organized a study trip to the Netherlands for the members of the working group. The goal of the trip was to bring the MOJ working group closer to completing a detailed proposal for rules, regulations and mechanisms related to establishing a mediation system in Bulgaria. By studying these various aspects of mediation in the Netherlands, CEELI and World Learning hoped to provide the necessary information and real life case examples to be used in finalizing all of the implementing documents.

Subsequently, in May 2005, a roundtable discussion, incorporating ideas and experiences from the Netherlands trip, was held to discuss the three draft implementing documents. The discussion was organized

by CEELI together with the Ministry of Justice, “Partners-Bulgaria” Foundation and the Union of Lawyers in Bulgaria. Participants included mediators, lawyers, judges and business representatives. The roundtable enabled participants to voice comments and constructive suggestions, which the working group took into consideration when they finalized the three implementing documents.

Finally, in June 2005, the MOJ working group based upon all of the foregoing completed the Standards for Education of Mediators; the Procedural and Ethical Rules for Mediators; and the concept for the Unified Register of Mediators. On June 17, 2005, the documents were signed and adopted by the Minister of Justice. In substance, the educational standards establish the minimum amount of training hours required for mediators; the content of the training; the parameters of the required exam; and the requirements for practical experience. The procedural and ethical rules proscribe in broader detail the behavior of the mediator during the mediation procedure, including giving guidelines as to the advertising of mediation services; the remuneration of the mediator; and setting forth ethical standards for impartiality, conflict of interest, neutrality and informed consent. It is envisioned that enforcement of the Procedural and Ethical rules will be accomplished under the regulations of the Unified Register, which will be maintained by the Minister of Justice and will be available to the public. The Register will provide information on the mediators in the country, their qualifications, experience and specialization. CEELI’s expert technical assistance for these implementing documents was provided through short term legal specialist Lynn Cole, who came to Bulgaria for three months specifically to work on this project with the working group. Ms. Cole was one of the architects of the Florida mediation qualification and certification system, which is somewhat unique for the United States, and therefore had particular expertise to lend to the working group. The three implementing documents adopted by the Minister of Justice were previously provided to USAID/Bulgaria.

Following the adoption of the implementing documents for the Mediation Act, CEELI/APDI worked with the MOJ to create the Register of Mediators, which was officially established in July 2005. Additionally, CEELI/APDI participated in the founding of the National Association of Mediators (NAM) in October 2005, with strong MOJ participation. NAM, primarily made up of the members of the previous MOJ Mediation working group (among others), is the association slated to help implement the new legislative framework for mediation by setting policy for mediation development and providing expert guidance during the implementation process. It took a strong role in the evolution of the Register of Mediators and has suggested changes and amendments to existing procedural codes in favor of effectively implementing mediation within the judicial system. NAM does not receive outside funding for its operations and has only received periodic technical assistance from CEELI/APDI. Consequently, it must be seen as a fully sustainable organization.

b. Mediation Centers, Court-referred Mediation and Mediation training

i. Pre-APDI work, Mediation Centers and court-referred mediation

CEELI’s work in mediation and arbitration pre-dated the APDI by several years. Going back to February 1999, CEELI organized, together with the Alliance for Legal Interaction, a Conference on Alternative Dispute Resolution. The program consisted of one day devoted to issues of arbitration in Bulgaria, including discussions of a draft law on arbitration, the European and American experience in arbitration, and ethical issues. The second day dealt with mediation, and its applicability in Bulgaria, including discussion of the development of mediation in Europe and America, mediation practice and methods, mediator ethics, and how mediation can be practiced in Bulgaria. The conference was attended by 116 judges, parliamentarians, attorneys, university professors and received substantial media attention. Speakers at the conference included Zhivko Stalev, Chairman of the Supreme Constitutional Court, prominent Bulgarian lawyers, and foreign experts. The seminar generated significant interest in ADR in Bulgaria, and CEELI then followed up by hosting monthly meetings on arbitration and mediation.

Beginning in April 1999, CEELI hosted separate monthly breakfast meetings of arbitration and mediation providers. The meetings were attended by representatives of the providers mentioned below, plus the Bulgarian Chamber of Commerce and Industry Arbitration Court, the Court of Arbitration at the Association for International and Domestic Arbitration, and the Court of Arbitration at the Bulgarian Stock Exchange. During the meetings the participants discussed recent developments in arbitration and mediation and the participants' experiences in these developing fields. The participants also discussed possible areas of cooperation, and the mediation providers formed working groups in the areas of professional standards and ethics, legislation, and promotion (the precursor to the MOJ working group that drafted the Mediation Act).

The results of these meetings and efforts were as follows:

- Bulgarian Industrial Association Court of Arbitration.

This Court of Arbitration opened in 1999. It provides both arbitration and mediation for international and domestic business disputes. CEELI provided technical assistance in the areas of institution building, development of rules, selection of arbitrators and mediators, training, and marketing. Initial funding for the Court of Arbitration came from the Bulgarian Industrial Association and a grant from CEELI.

- National Institute for Conciliation and Arbitration (NICA)

This Agency was formed by the Ministry of Labor for the purpose of resolving collective labor disputes without strikes or lockouts. The Agency concentrates on mediation and non-binding arbitration. CEELI assisted in all aspects of institution building, including organization, mediator selection, and training. Specifically, CEELI helped train more than 25 mediators for NICA and participated in an extensive public education campaign, in cooperation with the Solidarity Center, where "town hall" meetings were held throughout Bulgaria to explain and publicize the use of mediation in resolving collective bargaining disputes. NICA is financially sustainable, as it is funded by the Bulgarian government, has a cadre of trained mediators, has benefited from an extensive public education campaign on its capacities and benefits, and is procedurally capable of handling any potential mediations that may be referred to it. Based upon this, CEELI/APDI terminated assistance to NICA in 2004, and NICA must now be aggressive in utilizing the extensive capacities that have been provided it.

- Labor ADR Legislation

The Ministry of Labor formed a working group of experts that drafted amendments to the Labor Code. CEELI brought an American expert who participated in the working group and these proposed amendments were eventually adopted by the Parliament.

- Plovdiv Industrial Association Court of Arbitration.

The Plovdiv Industrial Association established a Court of Arbitration, which has gained some acceptance in the Plovdiv business community. CEELI provided technical assistance in the areas of court rules, training, and marketing.

The activities that led most directly to the work of the APDI began in 2001 however, with the series of trainings for mediators that took place in that year and the next. The ability to do these trainings was the direct result of all previous work that raised the awareness of the benefits of mediation in Bulgaria, as well as having interested many lawyers and judges in the prospects of developing ADR, specifically mediation, both inside and outside the court system. Sixteen lawyers from Plovdiv and Assenovgrad who were trained during this period founded the Bulgarian Association for Alternative Dispute Resolution (BAADR) in December 2001. BAADR is an independent NGO fostering the promotion, establishment and practice of alternative

dispute resolution. Each attorney completed 55 hours of mediation skills training through USAID sponsored activities. Of the nineteen trained mediators, nine have gone on to train as Mediation Trainers themselves and are now qualified to offer such trainings pursuant to Bulgaria's Mediation Act. CEELI provided institution building training, technical equipment, and all necessary forms and procedures to BAADR to enable it to establish itself as a center for mediation.

Subsequently, with CEELI assistance, BAADR developed the first court-referred mediation program in Bulgaria in cooperation with the Plovdiv Regional Court. CEELI provided substantial technical assistance in this process, training both BAADR and the Plovdiv judges on how to implement a court-referred program; organizing a World Learning study trip to the US to see court-referred mediation in action; providing and helping to adapt all necessary forms required for court referrals, agreements to mediate, sample settlement reports, etc; and assisting the negotiation process between BAADR and the court on the MOU that was signed to govern the court-referred project. This was the point at which the APDI was initiated, which had as its goal the technical and financial support of this pilot court-referred mediation project and to expand the project to other courts. During the course of the APDI, BAADR received two advocacy grants totaling \$45,800 to carry out court-referred mediation projects, which have expanded well beyond the Plovdiv region.

After the enactment of the Mediation Act in 2004, interest in mediation began to grow exponentially, with courts and attorneys from many regions of the country requesting training and the development of court-referred programs. In response, in October 2005 BAADR opened a second Mediation Center in Assenovgrad and a third Mediation Center in Stara Zagora in November 2005 with CEELI/APDI technical assistance, financial support and equipment donations. BAADR works with the Regional Courts in these cities and later expanded its work to the District Court in Plovdiv as well. All of these activities have been funded through the CEELI/APDI through advocacy grants (see total amount in paragraph above). Moreover, the success of the "Plovdiv model", as it became termed, led to the opening of additional mediation centers in Vratsa and Bourgas, with corresponding court-referred mediation projects with various courts (both Regional and District) in those regions. These further centers have also been supported through advocacy grants (totaling between \$10,000 and \$15,000), CEELI/APDI technical assistance, equipment donations and institution building training from CEELI's Regional Institution Building Advisor (RIBA). To date, from one court in 2003, there are now nine courts in the country covered under court-referred projects started pursuant to the APDI. The total number of courts covered by USAID funded court-referred programs is even more (with commercial mediation being handled by another USAID implementer).

Furthermore, these mediation centers, which are an important legacy of the work of APDI, have successfully held more than 130 mediations over the course of their funding under the APDI, with an 80+0% success rate, and BAADR alone has carried out more than 200 mediations itself over the entire term of its existence.

ii. Mediation training

APDI also concentrated its efforts on training mediators as well as creating the domestic capacity to train mediators. During the course of the APDI and before, CEELI was responsible for the training of more than 100 mediators in Bulgaria (covering representatives of 20 of the 27 bar councils in the country). The training has been divided into two levels. First-level mediation training provides a basic understanding of what mediation is and how it is practiced. The second-level training builds on the first-level training, providing more practice-oriented training for the mediators and discussions of real-life situations. During the APDI, a total of 9 first- and second-level trainings were carried out, along with several practicums that gathered experienced mediators together to discuss and exchange experiences, along with exchanging successful techniques and lessons learned. Sample agendas for the first- and second-level trainings are attached.

What is significant about the entirety of the mediation training under the APDI is that all have been carried out in cooperation with BAADR, with BAADR representatives participating as trainers during each of the nine trainings that were provided. As indicated before, prior to the APDI, nine of the mediators from

BAADR were trained as trainers, and a core group participated, first as assistant trainers and then later as primary trainers in all APDI mediation trainings. Moreover, course materials for the first- and second-tier training were developed by CEELI experts in cooperation with BAADR. Consequently, for the vast majority of the APDI, all trainings in mediation were conducted by Bulgarian trainers using materials developed in Bulgaria, thereby cementing Bulgarian domestic capacity to provide mediation trainings in the future. Subsequently, an additional eight trainers were trained, bringing to 17 the total number of trained mediation instructors pursuant to the APDI.

The final element of training that occurred under the APDI revolves around the training/informational meetings that supported the creation of the court-referred projects in Vratsa, Stara Zagora, Assenovgrad and Bourgas. Once again, the vast majority of these trainings were provided by BAADR, with assistance from the local mediation centers involved, utilizing training materials that were created in cooperation with the Bulgarian trainers. The final two events in this area were completely implemented by BAADR and the Plovdiv judge who helped start the first court-referred program in the Plovdiv Regional Court. The event encompassed providing information on mediation to interested judges, as well as presenting the “Plovdiv Court-referred model” (with agreements and MOUs) that each program eventually tailored to their own situation and adopted. By virtue of these successful experiences, Bulgarian domestic capacity to start court-referred mediation programs without outside assistance has become completely sustainable. USAID/Bulgaria has previously been provided copies of the mediation agreements, MOUs and all other documents utilized through the implementation of the “Plovdiv model” for court-referred mediation. A sample of the agenda for this court-referred training/informational meeting is attached.

c. Public Awareness Programs under APDI

Making the public aware of mediation as an alternative method of resolving their disputes and convincing them of the voluntary nature of the process was one of the major challenges of the APDI, as previously in Bulgaria (prior to the changes), mandatory arbitration was sometimes used by the government as a means to force settlements onto parties. Over the years, public education campaigns have taken the form of informational meetings for the courts, bar councils, municipalities, social service organizations, universities and the general public. More than 10,000 brochures about mediation and its benefits have been published and distributed by CEELI and its mediation centers over the years. Participating court houses have allowed “Mediation Boards” outside of the courts, informing litigants of the existence and benefits of mediation and listing all mediation organizations in the country. Pursuant to the court-referred mediation programs, judges inform parties of the existence of mediation and explain to them the benefits (referring them to local centers should they be interested).

Additionally, “Town Hall” meetings have been held around the country, in cooperation with Solidarity Center, to inform local branches of labor unions about the benefits of mediation. “Mediation Days,” in which CEELI/APDI participated, have been organized by other USAID-funded implementers showcasing the benefits of mediation in Sofia and Stara Zagora. Furthermore, CEELI representatives and representatives of APDI-funded mediation centers have participated in countless radio interviews, television interviews, newspaper interviews and local television shows promoting the concept of mediation. CEELI, in cooperation with Pro-Media (a USAID-funded NGO), produced two public service announcements for the radio that played in all major cities and towns for two weeks in the summer of 2006, and short promotional movies on mediation have been funded by CEELI and other USAID implementers, which have been screened in most municipalities surrounding the cities where the APDI-mediation centers sit.

In sum, CEELI/APDI, its mediation partners, and other USAID-funded implementers have targeted all potential constituencies for mediation through educational materials and public awareness campaigns that have utilized all forms of media communication, public events and private meetings/conferences. The greatest compliment to the efforts of CEELI/APDI and other mediation partners/implementers is that it

was one of the few areas that continually received positive recognition from the European Union during its periodic assessments of the country to support the accession process.

Tangible Results

- ✓ Mediation Act passed in December 2004.
- ✓ Ethical and Professional Standards for mediators and concept for Register of Mediators adopted in June 2005.
- ✓ Register of Mediators created in July 2005.
- ✓ Sustainable National Association of Mediators founded in October 2005, with MOJ participation, to implement mediation legislative framework.
- ✓ Mediation centers established in Plovdiv, Vratsa, Assenovgrad, Stara Zagora and Bourgas that implement court-referred mediation programs covering 9 courts.
- ✓ Domestic capacity to create court-referred mediation programs established.
- ✓ Domestic capacity to train mediators is established with 17 trained trainers and course materials developed.
- ✓ 100 mediators trained in Bulgaria (covering 20 of the 27 bar councils).
- ✓ More than 200 mediations have been performed by CEELI sponsored mediation centers. Under the APDI programs of court-referred mediation, there have been 130 mediations performed with an 80+% success rate.

D. CEELI/USAID legacy NGO – Bulgarian Institute for Legal Initiatives (BILI)

1. Background and Anticipated Activities

The Bulgarian Institute for Legal Initiatives (BILI) is a recently founded Bulgarian NGO based in Sofia. BILI is a legacy NGO of CEELI and builds upon more than 15 years of experience of implementing rule of law reform initiatives in the country. BILI is also an important legacy mechanism for USAID rule of law projects.

As a CEELI legacy NGO, BILI has significant experience in drafting and implementing projects, primarily focusing on legal profession development, alternative dispute resolution and legal education reform. It has worked extensively in Sofia, as well as throughout the entire country.

BILI's mission statement includes the promotion of the rule of law and improving the legal framework, institutions, and organizations of Bulgaria and the region; fostering dialogue among civil society, business, the executive, the judicial, and the legislative branches; assisting the process of harmonization of Bulgarian legislation with European and international legal standards; supporting the maintenance and improvement of the qualification of lawyers, judges, prosecutors, mediators and other professionals; and promoting legal reform, inclusive of spreading a new culture of dispute resolution through making mediation and other alternative dispute resolution methods popular.

BILI's main activities involve initiating, supporting and implementing rule of law reform projects; organizing policy debates; preparing draft legislative amendments and subsequent monitoring of the adoption and implementation of those amendments; research, analyses, evaluations and recommendations for legislative amendments aimed at promotion of the rule of law. In addition, BILI is also involved in conducting evaluations and surveys to monitor rule of law efforts in the country; technical support, organizational support, and consulting for other entities; preparing, organizing and delivering of trainings, conferences, roundtables, workshops, etc, on the issues mentioned above or on other areas of legal reform; establishing and maintaining contacts with similar associations and organizations in Bulgaria and abroad; holding international, national and regional meetings related to its mission; and collecting, analyzing and disseminating public education information, including implementing public awareness projects.

By virtue of an agreement between USAID and CEELI, CEELI was granted a no-cost extension for the purposes of providing BILI an advocacy grant in the amount of \$70,000 that will run from September 15, 2006 until June 30, 2007. The main activities planned under the advocacy grant are:

a. Legal Profession Reform

- Assist ATC to develop a bar exam preparation course and a comprehensive training curriculum for the next year
- Assist launch of a “sister” bar councils program with MLBCs that graduated, including developing Regional Cooperation Plans

b. ADR/Mediation

- Develop and implement an assessment tool to evaluate the work of the existing USAID-created mediation centers
- Conduct public education awareness campaign on the usage of mediation through PSAs, educational movies and informational materials

c. Legal Education Reform

- Working group to prepare an action plan and draft amendments to the legislation governing legal education
- Work towards amendments to law schools’ accreditation so as to include in that process representatives of legal professional associations, business representatives, etc.
- Work towards amendments to legal education curricula so as to include more practical skills training
- Further development of the cooperation between legal clinics, law faculties, bar councils and other community stakeholders to strengthen clinical sustainability

Tangible Results

- ✓ BILI is created as a CEELI/USAID legacy NGO and Managing Board named. Managing Board receives institution building training from CEELI-RIBA.
- ✓ BILI had its official launch in Sept 2006.
- ✓ BILI has started submitting proposals for outside funding and is successful in receiving funding for a CEE Rule of Law Symposium.
- ✓ BILI has secured office space and will receive all required equipment and furniture from CEELI.

IV. Projects prior to APDI

A. Judicial Reform (including Judicial Reform Indexes that continued through APDI)

1. Background

From the inception of its program in Bulgaria, CEELI promoted the idea of judge-taught, independent, and indigenous judicial training/educational programs. Early work in this area with a “core group” of Bulgarian judges that shared CEELI’s commitment resulted in the creation of the Bulgarian Legal Initiative for Training and Development (PIOR), a NGO entity aimed at providing continuing legal education to all members of Bulgaria’s legal profession (including judges, attorneys, and prosecutors). Subsequently, CEELI assisted in the establishment of the Bulgarian Judges’ Association (BJA) in 1997 and provided institution-building assistance

as well as technical assistance to the BJA. Since 1991, CEELI, in conjunction with local partners such as the BJA, PIOR, MTC, and the MOJ, has supported many different aspects of judicial reform. Ongoing projects before the current grant period included an initiative with PIOR and Regional Prosecutors' Offices to improve communications between judges/prosecutors and the media, as well as institution-building and program development support to the BJA. Bulgaria lacked a detailed code of conduct for judges before the current grant period. CEELI's cooperation with the MOJ also included legislative projects, training programs and administrative/institutional development.

2. Activities

During the program period, CEELI worked with BJA to develop a code of ethics for judges, as well as to develop its institutional capacity. BJA ultimately adopted a code of ethics for judges and also implemented numerous judicial training programs. CEELI's joint work with its partners has further led to the placement and training of court spokespersons; the publishing of a manual to improve relations between the judiciary and the media; the creation of the Magistrates Training Center (which later led to the National Institute of Justice), as well as, during earlier grant periods, early amendments to the Judicial Systems Act regarding judicial restructuring.

In addition, Bulgaria is the only country thus far that has been assessed three times through CEELI's Judicial Reform Index (JRI). The Judicial Reform Index (JRI) is a tool developed by CEELI to assess a cross-section of factors important to judicial reform in emerging democracies. In an unbiased way, the JRI provides a reliable means by which to evaluate the current state of the courts and judicial performance in the evaluated country. The JRI provides a snapshot of the current situation of the country, reflecting where progress has been achieved in judicial reform and where progress is still needed in order to achieve the goal of an effective, accountable and independent judicial system. The assessment evaluates judicial reform and judicial independence through a prism of thirty factors that reflect some of the fundamental characteristics of successful judicial systems as determined by the Council of Europe, the United Nations and other international sources.

To collect the data involved in the JRI analysis, CEELI's independent assessor and his/her Sofia team reviewed all legislation relating to the judicial system in Bulgaria, and interviewed more than 50 members of the judiciary, government officials, lawyers, non-governmental representatives, journalists and representatives of international organizations. The initial findings of the report were then sent for comment to numerous domestic and international partners prior to finalization of the report.

The first assessment occurred in 2002, the second in 2004, and the most recent one was published in June 2006. The JRIs attracted extensive media coverage and helped to foster a public dialogue on the issues highlighted. The assessments reflected steady progress in the reform of the courts and the court system related to the selection and appointment process, initial judge training and court administration, with lingering concerns related to case delays and the public perception of corruption within the court system.

Tangible Results

- ✓ Numerous hours of CLE provided to judges that led to a sustainable construct for judicial education in the country (MTC which became the NIJ)
- ✓ Establishment of the Bulgarian Judges Association (BJA)
- ✓ Initial work with the BJA that led to the drafting and adoption of the current Code of Professional Ethics for judges
- ✓ Training and placement of press attaches in the courts of most major cities
- ✓ Implementation of 3 JRIs for Bulgaria (2002; 2004; and 2006)

B. Commercial Law

1. Background

Commercial law reform was a continuous priority for CEELI programming in Bulgaria in the first 12 years of its programming. Between 1991 and 2000, CEELI's support of commercial law reform covered various substantive fields, including banking, bankruptcy, intellectual property, concessions, procurement, and small and medium size enterprise law. CEELI's selection of those focus areas was based on requests from local partners and USAID/Bulgaria, and developed in consideration of assistance being provided by other organizations. CEELI's technical assistance touched on all aspects of the reform process, from helping develop a concept for reforms in a particular area, to supporting the process of drafting legislation or amendments through on-ground legal specialists and policy workshops, to assisting with implementation by training practitioners and developing practice tools such as publications.

2. Activities

From 1991-2003, CEELI focused on the following commercial law reform areas: alternative dispute resolution (ADR, impact discussed as part of the APDI above), antitrust, banking, bankruptcy reform and training, airport concessions, procurement, intellectual property, small and medium size enterprise reform, and trade law. CEELI focused its work in these areas on legislative drafting and substantive training. Furthermore, CEELI assisted with the creation and distribution of commercial law publications. Highlights of CEELI's work in this field include:

- Assistance to the Competition Protection Council to train members of the legal and business community on competition law and procedure, and establishment of a website for Council discussions.
- Training judges and prosecutors on copyright enforcement; assisting with policy reforms targeted at reducing copyright piracy.
- Support to publish a Bulgarian language handbook containing international intellectual property agreements and commentary on the agreements.
- Technical assistance in the drafting and implementation of amendments to the Commercial Code relating to Bankruptcy.
- Publication of a bankruptcy practice and procedure manual for trustees and judges and training judges and trustees on bankruptcy law and practice.
- Assistance with legislative and procedural reforms in the banking sector on privatization, insolvency, and deposit insurance.
- Support for legislative and procedural reforms in governmental concessions.

Tangible Results

- ✓ CEELI's early work laid the foundation for subsequent projects that achieved major reforms in airport concessions, bankruptcy, banking, and small and medium enterprise regulation.

C. Anti-corruption

1. Background

Virtually all of CEELI's legal reform initiatives in Bulgaria have included components that address the problem of corruption. Given the importance of anti-corruption initiatives to all aspects of legal reform, CEELI's programs cooperated closely with the Ministry of Justice and the Prosecutor General's Office to address corruption as a discrete area.

Prior to the current award period, the anti-corruption initiative Coalition 2000 published its assessment of, and recommendations for combating, corruption in Bulgaria. The next steps were for the government to develop plans to implement specific initiatives and to coordinate such initiatives among the various governmental and non-governmental entities. Key to this coordination and to effectiveness of the initiatives was having a highly-trained cadre of professionals implementing them.

2. Activities

CEELI provided commentary and analysis to a variety of non-governmental and governmental organizations involved in combating corruption and joined with local partners to sponsor a series of public hearings on key corruption-related topics such as procurement law reform, magistrate's immunity and the highly debated Ombudsman draft laws. The hearings facilitated a national policy dialogue on these issues. CEELI also provided an advocacy grant and faculty support to the nongovernmental organization *Access to Information* to conduct a series of training programs for hundreds of municipal officials and attorneys across Bulgaria on implementing the country's Access to Information Act.

Tangible Results

- ✓ CEELI's early work laid the foundation for subsequent projects that achieved major reforms in the areas of public procurement, magistrate's immunity, establishing an Ombudsmen in Bulgaria and general anti-corruption work in the country

V. Conclusions

Over 15 years, CEELI/Bulgaria (CEELI's oldest office), through its USAID-funded rule of law programs, has provided on-ground continuous technical assistance that has helped Bulgaria transition from communism to European Union membership. During that time, CEELI has worked in a variety of areas and responded to changing needs in the country to implement sustainable reforms in rule of law. CEELI was the first rule of law implementer in Bulgaria and much of its earlier work laid the foundations and created the relationships that later rule of law implementers utilized to achieve substantial reforms in their specialized areas of expertise. Moreover, many of CEELI's staff, both nationals and internationals, have remained in Bulgaria and have remained fully involved in Bulgaria's reform process long after their tenure at CEELI ended. It could be said that aside from the legacy of its work, CEELI's greatest legacy in Bulgaria might be the spirit of the people and partnerships that it helped to cultivate in the country. These are the sort of intangible elements that are difficult to measure yet crucial for the sustainable reform effort in Bulgaria. Enumerated in this report are all of the tangible results of CEELI's work in Bulgaria but what can't be so easily quantified is the effect of the partnerships and ties that CEELI has maintained and strengthened over the years between the legal community of Bulgaria, the United States and even Europe. These results can only be measured in the many years to come.

The work in recent years, the Attorneys Professional Development Initiative (APDI), underscored the recognition that any initiatives attempting to reform the justice sector can not be directed solely at judges and prosecutors, but must include attorneys as well, as they constitute a quintessential element of any effectively functioning judiciary. Attorneys are the guardians and protectors of the individual rights of any citizenry, both in terms of human and economic rights, and are the actors within the judicial system with whom ordinary people come into the most contact. The conduct of attorneys intimately affects the judicial system's ability to provide fair, impartial and expedient justice. Additionally, the public perception of the competence and integrity of attorneys greatly influences the trust and esteem in which a justice system is held by its constituency. The initiatives of the APDI were designed to strengthen the professional development of attorneys by introducing and implementing new standards and procedures for admissions and discipline;

providing sustainable continuing legal education; promoting methods for alternative dispute resolution; and remedying the lack of practical training so universally recognized in Bulgarian legal education. The legacy sought by the APDI is the institutionalization of the concepts of integrity, accountability, independence, competence and propriety within the legal profession with the goal of eradicating corruption, incompetence and delay in legal practice. Further, the APDI's bar development activities have also been targeted at ensuring that Bulgarian legal professionals are competent to compete in the European market after EU accession.

Finally, the formal legacy of CEELI will be in its staff-run legacy organization, the Bulgarian Institute for Legal Initiatives (BILI), which indigenizes the reform efforts in which CEELI, and USAID, have been engaged in over the last fifteen years and will hopefully be able to carry the spirit of CEELI's reform efforts in Bulgaria to a new generation of Bulgarian legal professionals.