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Empowering the Palestinian Judicial System – Phase II

Contract number: ENPI/2009/215-524

Palestine

Final report

4th August 2012



This project is implemented by ICON-INSTITUT Public Sector GmbH, BTC-CTB, and CILC. The views expressed in this report do not necessarily reflect the views of the European Commission.

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List of Abbreviations

EUREP	Office of the European Union Representative West Bank, Gaza Strip and UNWRA
EUPOL COPPS	EU Police Coordinating Office for Police Support
HCJ	High Court of Justice
HJC	High Judicial Council (SJC is used also)
STE	Short Term Expert
JED	Judicial Education Department
AGO	Attorney- General's Office
JTI	Judicial Training Centre (PJI is used also)
KE	Key Expert
oPt	Occupied Palestinian Territory
TA	Technical Assistance
MoJ	Ministry of Justice
MoU	Memorandum of Understanding
MOSA	Ministry of Social Affairs
PBA	Palestinian Bar Association
PDP	Professional Development Programme
PNA	Palestinian National Authority
PJI	Palestinian Judicial (Training) Institute (JTI is used also)
RC	Review Committee
UNDP	United Nations Development Program
UNRWA	United Nations Relief and Works Agency
NRO	Netherlands Representative Office (Ramallah)
CIDA	Canadian International Development Agency
TOR	Terms of Reference
ToT	Training of Trainers

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1. Summary

1.1 Project synopsis

Project Title:	Empowering the Palestinian Judicial System- Phase II
Project starting date:	4 August 2009
Project duration:	38 months
Contract No.:	ENPI/2009/215-524
Contract volume:	4.438.988
Country:	West Bank and Gaza Strip
Contracting Authority:	Office of the European Union Representative

Overall objectives

The overall objective of the project was to develop a more independent, impartial, efficient professional, transparent and modern justice system through institutional strengthening and capacity building of the judiciary and the bar association, and to support the proper functioning of the courts, while preserving the freedoms and fundamental rights of citizens by ensuring a fair trial, including the right to access to justice and the right to defence.

Project purpose

Five sets of specific purposes of the programme were proposed in order to achieve the overall objective. Those related to the five components in which the programme is structured: institution building with special focus on the High Judicial Council, Palestinian Judicial Institute, Bar Association, Legal Aid, and Constitutional Court. The purposes corresponding to each one of the five components are described below.

Institution Building/ High Judicial Council

The High Judicial Council (HJC) is the cornerstone of the organization and administrative management of the judiciary, as provided for in the Basic Law and in the Law on Judicial Authority. Most aspects of judicial organisation and activity are defined by both laws as falling within the scope of the powers of the HJC, and any improvements or reforms in these matters must be initiated and directed by the Council. The purposes of this contract are as follows:

- To further support the adequate functioning of the Inspection Office (Article 42 of the Law on Judicial Authority), which should fully respect the independence of judges, combined with further support to the Inspection Office for the Public Prosecution.
- To support the adequate functioning of the Technical Office regulated in Article 9 of the Law on Judicial Authority.
- To support the Media Department of the High Judicial Council.
- To train Cassation Court judges to ensure that judgements are well reasoned.
- To enhance court management, including the establishment of a fully functioning archiving system.
- Accessibility of legislation, jurisprudence and research material to legal professionals in all districts of the West Bank.
- Improve the efficiency of the Palestinian justice sector by increasing the use of IT-equipment in courts.

Palestinian Judicial Institute

The establishment of a professional and permanent training institution is an indispensable component of any improvement or reform of the judiciary. The purposes of this contract are as follows:

- To improve, in a sustainable and consolidated way, the professional ability of the members of the judicial system (judges, prosecutors, court administrators, administrators in the general prosecution).
- To support a permanent and systematic judicial studies (training) system for judges and prosecutors, reflected in the establishment of the Palestinian Judicial Institute, in accordance with the Presidential Decree and by-law for the Judicial Institute that have been adopted by the PA in 2008, or any relevant other (by-)law which will be enacted thereafter.

- To maintain a team of local experts (judges and prosecutors) specialised in professional judicial training, building upon the already qualified ToT trainers under the "Seyada" project.

Bar Association

To date, donor support has mainly focused on training of judges and prosecutors. However, also lawyers, like judges and prosecutors, play an important role in promoting justice in any legal system. Lawyers defend the interests of their clients and ensure that courts, prosecutors, and other attorneys respect the law. Therefore, the following objectives should be achieved. The purposes of this contract are as follows:

- To support the effective organisation and functioning of the Bar Association after a thorough assessment of the needs, including the revision of existing by-laws concerning the Bar Association and its organizational structure.
- To support the establishment and functioning of a Technical Office of the Bar Association.
- To enhance the professional ability of lawyers by setting up a permanent and sustainable training system (initial and continuous training) of the Bar Association, after a comprehensive training needs assessment.
- To train a team of experts specialised in professional legal training (ToT-training).
- To improve the equipment for the training facilities of the main and branch offices of the Bar Association by means of procurement.

Legal aid

- To conduct an updated assessment on existing legal aid mechanisms, and in-depth outline of possible comprehensive and complementary legal aid mechanisms feasible in Palestine.
- To assist in setting up a coalition platform of NGOs currently active in the field of legal aid as secretariat responsible for co-ordinating existing legal aid initiatives, until a comprehensive legal aid scheme is in place.
- To assist the relevant PA authorities in setting up a complementary legal aid system in accordance with existing structures.

Constitutional Court

The establishment of a High Constitutional Court in Palestine is foreseen in Article 103 of the Basic Law of 2003 (as amended in 2005) to consider the constitutionality of laws, regulations

and other enacted rules, the interpretation of the Basic Law and legislation, and for the settlement of jurisdictional disputes which might arise between judicial entities and administrative entities having judicial jurisdiction. On the basis of the Basic Law, in February 2006, the PLC issued the Law on the High Constitutional Court setting the rules and regulations for such a Court. Despite this law, to date, a Constitutional Court has not been established. Until the High Court is established, Article 104 provides for the Supreme Court to undertake on a temporary basis all the functions assigned to the High Constitutional Court.

Therefore, this project will work towards achieving a consensus amongst leading legal local experts about viable solutions on how to precise unclear provisions in the Law of 2006, which would enable the Court, as soon as its members are appointed, to reach in a short period a fully-fledged activity. Therefore, the purpose of this contract is as follows:

- To assist legal professionals (who will be appointed by the President after consultation with relevant stakeholders, including the High Judicial Council, and Ministry of Justice) to identify provisions in the law which need to be précised, and - taking into account complementary laws - to assist in reaching viable solutions to address these inaccuracies in the Law of the High Constitutional Court of 2006, including assistance in drafting necessary by-laws and regulations on the internal procedure of the court -- which would make the Law a ready-to-use-tool which would enable the Court to be functional and meet expectations in the shortest delays.
- To assist the President's Office in logistical matters regarding the set up of a constitutional court, e.g. identification of the site for the court, recruitment of staff etc.

Planned results

Institution Building/ High Judicial Council

- Increased transparency and accountability of the judiciary through fully functioning Inspection Office; this includes the functioning of the inspection office for the public prosecution building upon the achievements of the previous "Seyada" project.
- Fully functioning Technical Office of the High Judicial Council, including set up of its organizational structure, and a system for publishing judgments in hard and soft copy (i.e. internal judicial database); improved capacities to compile relevant statistics, improved capacities to classify, index, extract and organize the jurisprudence.
- Enhanced knowledge of the High Judicial Council's role among legal professionals and civil society based on activities of the Media Office.
- Cassation Court judges are well trained in reasoning of judgements.
- Improved case and court management; case backlog and average length of trials reduced.

- Preparation for tender documents necessary for the procurement for equipment for archives in all courts in the West Bank; archiving system in all courts plus centralized archives are set up.
- Preparation for tender documents necessary for the procurement for equipment and books for district courts; librarians are trained
- Preparation for tender documents for the procurement of necessary IT equipment.

Palestinian Judicial Institute

- Operational establishment of the Palestinian Judicial Institute is finalised.
- The professional skills enhancement of judges, prosecutors and court administrators through initial (and continuous) training.
- The maintenance of a co-ordinated set of at least fifteen (15) trainers (judges, prosecutors and other legal professionals), building on the previous "Seyada" project.
- The finalization of regulations and curricula for a two-year curriculum and teaching modules as stipulated in the Palestinian Judicial Institute By-law from 2008 or any other relevant law enacted thereafter.
- The implementation of curricula for initial (and continuous) legal education.
- The development of training manuals for the initial (and continuous) training.
- Judges and prosecutors are trained in mentoring techniques (if a mentoring programme will be part of the future judicial training).
- Enhanced co-operation with judicial training institutes in the Arab and Foreign countries. Assessments of the pre-deployment training needs of non-judicial staff and development of a comprehensive training curriculum for non-judicial staff sanctioned by a diploma.

Bar Association

- Assessments of the needs of the Bar Association with respect of legal framework of the Bar Association, infrastructural needs, as well as training needs.
- Institutional strengthening of the Bar Association, including adequate laws and by-laws regulating the activities and competences of the Bar Association.
- The Bar Association publishes newsletters and legal magazines, as well as organizing seminars and workshops on topics to be published in these newsletters/magazines;
- The maintenance of a co-ordinated set of trainers (lawyers) for initial and continuous education, in the main office and in each branch office in different fields of law, as identified in the needs assessment.
- Professional skills enhancement of lawyers through initial and continuous training at all branch offices of the Bar Association. Development of training materials for lawyers.
- The preparation of necessary tender documents for the procurement of adequate equipment for office facilities.

Legal Aid

- Assessment of the current legal aid system, and outline of possible comprehensive and complementary legal aid mechanisms feasible in Palestine.
- Identification of an appropriate complementary legal aid scheme with beneficiaries; the identification of legal aid options requires consideration of several key issues. These include the law and policy framework; challenges to legal aid provision; the legal aid management structure; legal aid delivery models; and other issues such as funding and sustainability.
- A "coalition-platform" of NGOs which co-ordinates as secretariat the present existing legal aid mechanisms, is set up and functioning.
- Legal Aid System is (in the process of being) set up by the PA authorities.

Constitutional Court

- Legal professionals (who will be appointed by the President in consultation with relevant stakeholders) reach consensus about how deficiencies in the Law of the High Constitutional Court of 2006 should be resolved.
- Necessary by-laws and regulations on the internal procedure of the court are drafted by the working group established by the President.
- Logistical matters in preparation of the set up of a constitutional court, e.g. identification of the site for the court, recruitment of staff etc. are resolved.

1. 2 Executive Summary

The present Final Report presents the findings and recommendations of the assigned consultant for **contract N°ENPI/2009/215-524**. The activities referred to in this report were carried out during the period from 4th August 2009 until 4th August 2012. The project delivered thirteen formal reports: Inception Report, eleven Quarterly Progress Report/Interim Reports and Final Report. The final report summarizes activities and results for the project as a whole.

The Seyada II project, the largest project funded by the EU for the development and strengthening of the Palestinian judicial system, concluded its activities on the 4th August 2012. During a period of 3 years experts and supporting staff implemented the project which was the second phase of a major judiciary programme. Seyada II was built on the

achievements of the first phase of the project which was mainly focused on the training of judges and public prosecutors and on institutional and capacity building. Seyada II extended the scope to facilitate the development of the High Judicial Council, the Palestinian Judicial Institute and the Palestinian Bar Association in the West Bank -beneficiaries of the project- setting up a legal aid system and strengthening constitutional review. The current project was implemented by a **consortium led by ICON-INSTITUT Public Sector GmbH (ICON) including the Centre for International legal Cooperation (CILC) and the Belgian Technical Cooperation (BTC-CTB).**

The overall objective of developing a more independent, impartial, efficient, professional, transparent and modern justice system was considered a huge challenge, but due to the full cooperation and commitment of all the important PA judicial institutions, the project achieved its goals. Seyada team would like to thank all the beneficiaries and the EUREP for their support and will to cooperate. In particular, the team would like to thank the Chief Justice PA, the Minister of Justice and Deputy Minister of Justice PA, as well as the Head of Planning HJC for all his support towards the project. We extend our gratitude to the Attorney General and his team and to the new PBA board and Chair for their support in taking up all the Seyada outputs.

Seyada II project started officially, on August 4th, 2009. The first three months were reserved mainly to the preparation of **the Inception Report** and the work plan. The project team worked in the assessment of the situation taking into account the requirements set in the ToR and the proposals as written in the technical offer of the consortium partners. Two short terms experts assisted the team in the preparation of the inception report regarding the Legal Aid and PBA component. During the inception period, the new project team was well informed about the differences of approaches and opinions within the various judicial institutions and governmental bodies responsible for the Palestinian Judicial System. Each expert established bilateral contact with his or her responsible institution based on the Seyada I recommendations on coordination of institutions. In the inception phase all experts and the supporting staff to the project established good contacts with the beneficiaries and stakeholders. Only through a proper maintenance of these contacts, ownership of the project results could be ensured through continuous efficient communication and a developed common understanding.

Already in the inception phase, and with the support and encouragement of EUREP, the project team was actively involved in coordination with other donors to prevent the overlapping with other projects. The project team held several meetings with USAID funded Netham project which was ending in 2010 to take up important results and building on these results while developing the activities related to the HJC and the PJI. The same approach was followed towards the UNDP support given to the HJC taking into account the UNDP extended programme "Supporting the Rule of Law and Access to Justice for the Palestinian

People" planned for 2009 – 2011 and with the governments of Canada and the Netherlands. During this phase a good working relation was established with EUPOL COPPS who was becoming a major key actor and counterpart in the development of the Legal Aid component. The cooperation would reinforce enhanced EU action in the justice sector in Palestine.

Seyada II also followed the recommendations of Seyada I and supported the secondment of staff in the HJC, the PJI and the Bar Association and the collaboration with Interns from Birzeit University. The final inception report was approved on February 2010.

On September 2009 the project already had to submit a **first contract addendum request** asking for the replacement of the Key Expert 4, Junior Legal Expert Bar Association, Mrs. Malvina AlKoury who withdrew from the project and was replaced by Mrs. Zaina Jallad. On the **9 September 2010** the project submitted the **second addendum request** asking for reallocation of working days and the replacement of Key Expert 3, PJI Rasem Kamal who resigned and was replaced by Mrs. Samar Sayegh, already member of staff as project manager.

Despite the intricate relationships between the beneficiary institution and the complexity of the sector's institutional framework, the implementation has been rather smooth. There have not been major deviations from the initial work plan and the project was able to deliver quite a number of outputs. However, some of the outputs took longer due to postponement of the activities.

Seyada II project provided **support to the HJC** which has the main responsibility for the organization and administrative management of the judiciary. One of the main project tasks was to facilitate the adequate functioning of the Inspection Office, including the Inspection Office for the Public Prosecution, and to support the adequate functioning of the Technical Office, including assisting in the further development of a system of the compilation and publication of court judgments. Seyada II supported the HCJ Media Department and trained Cassation Court judges to ensure that judgments were well reasoned. Court management is a key issue in the institutional developments of the HJC. Seyada II did build on previous and ongoing efforts to identify mechanisms and submitted recommendations to overcome case backlog. The project also aimed at establishing new libraries in the main districts in the West Bank. Seyada II supported the procurement of IT-supplies by the EU, to assess new IT needs for the justice sector due to the appointment of more judges or in case of the construction of new court houses.

Seyada II supported with great efforts the Palestinian judiciary and public prosecution in their judicial training efforts, aimed at improving the professional ability of members of the judicial system, supporting a permanent and systematic judicial training system for judges and public prosecutors, and maintaining a team of national experts specialized in professional judicial

training. The project supported the organizational establishment of the **Palestinian Judicial Institute (PJI)** including a multi annual strategic plan PJI, assisted in the development of relevant regulations and curricula for the Two-Year Judicial Studies Diploma Program (Diploma Program) including the establishment of a 1,5 million euro EU grant, provided training for trainers (TOT) activities to serve Palestinian judges and public prosecutors, organized and conducted ad hoc interim (initial) training for newly-appointed judges and public prosecutors (until such time when the Diploma Program is up and running), assessed the needs and develop a comprehensive training program for non-judicial staff at the Palestinian courts and public prosecution offices (including IT training), assisted in the implementation of the Two-Year Diploma Program, assisted the PJI in the fund management of the grant by the EC to the PJI, and responded to any emerging “continuing training” needs by the judiciary or the public prosecution throughout the lifetime of the project. The target public were the Palestinian judges, public prosecutors, clerks and court administrators and other non-judicial staff.

During the second phase, **the Palestinian Bar Association** received more donor support. The EU was able to support its reform and facilitated the lawyers training. The PBA was established in 1997 by presidential decree no. (78). It is governed by its General Assembly and Board. The main office of the Bar Association is located in Ramallah, and there are other seven branches in Nablus, Tulkarem, Jenin, Bethlehem, Hebron, Gaza and Khan Younis. The PBA is the only official body granted a primary role in governing the legal profession. The PBA exclusively exercise various duties to regulate the legal profession, upholding professional standards and ethics, protect its members, licensing and training. In 2012, the PBA developed 2 branches: Westbank and Gaza with their own financial administration. Seyada II supported the institutional building and the capacity building of the PBA. Based on a multi annual strategic plan, the main activities were dedicated to support the effective organization and functioning of the Bar Association, including the revision of existing by-laws regarding the Bar Association organizational structure, staff improvements and the media and public outreach programs. Seyada II supported the establishment and functioning of a Technical Office and enhanced the professional ability of lawyers through initial and continuous training system. The Seyada also supported the development of a 1, 5 million EU grant towards the PBA which is now in its phase of implementation. Finally, Seyada supported the training of a team of experts specialized in professional judicial training.

Seyada II developed a more institutionalized approach towards **Legal Aid** in PA including the set-up of a Legal Aid Working Group with the membership of all key- actors such as HJC, MOJ, AG and PBA and other important players. Together, the Seyada supported the development of a Legal Aid policy and supported the agreed draft law Legal Aid under the MOJ. There is no system or special law that governs legal aid in Palestine. There are some scattered provisions that deal with legal aid in the criminal cases but these provisions are insufficient. Consequently, there is no comprehensive system to regulate the legal aid process

and there are no guarantees to ensure that the rights of the poor and marginalized are properly protected. Setting up an efficient legal aid system became a demand by the PBA, the High Judicial Council and the legal community.

Seyada II supported the introduction of a judicial review of legislation in the hands of a Constitutional Court, which is foreseen in articles 103 and 104 of the Basic Law, stating inter alia that Palestinian High Court convenes as a constitutional court until the PA establishes the actual court. Due to the strong political implications the Court has not been established yet and Seyada II focused on the judicial review of legislation, being **constitutional review** in the oPt relatively new. Seyada II direct beneficiary was the PA in general and the HJC in particular. This approach allowed working on different activities in coordination with the HJC, in training judges on constitutional issues and working on other related aspects. Seyada II also aimed to assist judges in developing knowledge and skills in the area of judicial review. A working group, composed of outstanding legal professionals, was nominated by the CJ advising the project on enhancing judicial review in Palestine and at identifying deficiencies within the current Law on the CC and propose amendments or bylaws if needed.

Due to the strategic relevance of Seyada II and its contribution to the EU/Palestinian Authority Action plan which attached special importance to advancing on establishing a functioning judiciary and an effective enforcement of legislation, several monitoring and external evaluation missions took place during the implementation of the project. In September 2010 there was a first monitoring mission followed by an evaluation mission in November 2010 with the result of the production a comprehensive evaluation report, containing both the ex-post evaluation of Seyada I and the mid-term evaluation for Seyada II. The report highlighted the good level of impact and effectiveness of Seyada II. A second evaluation mission would take place in March 2012, four months before the end of the project implementation.

Equality between women and men is one of the European Union's founding values. Gender equality which is crucial to sustainable development and poverty reduction is a key issue for the law and justice sector. The Palestinian Basic Law mentions equality of all citizens, regardless of gender or other listed social attributes. However, it has historically been difficult for Palestinian women to have their voices heard within the society when they have spoken out against gender discrimination and violence because the occupation and political situation is a priority in the national agenda. Women in the oPt are grossly underrepresented in the justice sector, especially in management and decision making positions, and there is discrimination in treatment of female practitioners and trainees. There are numerous national and international organisations engaged in the field of gender in the oPt. Seyada II always encouraged the cooperation with institutions and stakeholders that were operating in this field.

Five out of eight of the key experts and seconded staff in Seyada II were women and the project tried to involve women on short term positions. Support was given to the PBA to work

with UNDP-Access to Justice Program in implementing a project on promoting dialogue and networking among female lawyers and the establishment of a body within the Palestinian Bar Association to represent female lawyers: the Women Affairs Committee PBA. In February 2012 Seyada II hired an international expert with a long standing experience in gender. The mission aimed at identifying the role of the committee and the membership, duties and relationship with the Board. The expert prepared a training program on gender justice. Seyada project also developed a gender assessment and set of recommendations on gender mainstreaming for the HJC. The assessment was focused on gender and career.

2. Description of progress and results achieved

2.1 Component I High Judicial Council

Activity I.1 Inspection Office

Status: Completed

Methodology

Seyada II focused in the last weeks of the implementation of the project in its activities on court administration as well as on the inspection office which has been one of the activities more difficult to implement due to the political implications when it comes to judicial independence. The project followed a first approach through the input of a senior French expert who developed a strategy for the institutionalization of the office and the scope of the power of inspection. This approach took also into consideration the possibility of the unification of the inspection for judges and prosecutors. Nevertheless, as per request of the beneficiaries the project organized the mission of another senior expert, a Spanish judge who introduced a different model, the Spanish model for the Inspection Office which has separated offices for both judges and prosecutors. Upon an invitation of the Spanish General Council of the Judiciary –CGPJ- a study visit to Madrid for three senior judges, including the Chief Justice and the head of the inspection office at the HJC and two prosecutors, including the Attorney General Deputy was organized to learn more about the Spanish model.

Planned results and outputs

- Comparative models of evaluation and inspection of judges and prosecutors provided
- Draft bylaw which regulates the functioning for the inspection office at the Attorney General Office finalized.

Evaluation and recommendations

The unification of inspection office between the HJC and the Public Prosecution is a highly politicized issue, which is linked to wider relations between both institutions as stipulated in the Judicial Authority Law. For reasons related to the local structure of the justice sector, Seyada II did not manage to assist the HJC and the AGO to establish a unified office. Empowering the inspection office has been a priority of the Chief justice and the Planning department. The Chief Justice acknowledged the fact that there is a need to have more qualified inspectors and that the inspection office needs to be restructured. However, steps in this direction have not been taken yet.

Further technical support on the evaluation and promotion system is needed as well as on the scope of the power of inspection. The current system of promotion is mainly build on seniority which has a negative impact on the institution and on judges. There is also a need to automate the inspection and evaluation procedures within the inspection office.

Activity I.2 Technical Office

Status: Completed

Methodology

The HJC Technical Office is a well-established and up running institution. One of its tasks is the publication of judicial principles in both hardcopies and softcopies. It provides research and legal opinion to the HJC and to the Cassation Court. Linkage between Mizan II and the technical office is achieved and one can have access to data in the computers. The current judges and staff at the technical office are qualified and trained. The Seyada II project supported the publication of judicial principles of the Cassation Court, the High Court of Justice and General Assembly of the Cassation Court for the years 2007, 2008 and 2009. Important Laws related to the judiciary were published in a booklet for the use of judges. The project also organized training for non-judicial staff of the technical office. The training was held at the HJC premises during February 2012.

Seyada also contributed with a needs assessment study and recommended capacity building and technical advice on court statistics to the TO employees.

Planned results and outputs

- Judicial principles were compiled and published in hardcopies

- Training on Arabic linguistic and drafting for 12 members of the TO staff
- Need assessment report, guidelines and training to TO statistics section employees.

Evaluation and Recommendations

The automation of extracting of principles out of judgments is needed. The current judges at the technical office did not see this as a priority. More training, in case of appointing new judges and staff at the office and more support to the publication of judicial principles is needed. Although the current judges at the technical office are satisfied about the indexing of judgments, technical support is needed. This will make the review of judicial principles friendlier.

Activity I.3 Media Department

Status: Completed

Methodology

Seyada II supported the Media department with advice on best practices on media policy and the judiciary including public relations, public awareness and data processing topics. The updated HJC website was launched in Arabic but due to the lack of translators in the HJC, the English version only has a website template.

Planned results and outputs

- The HJC has a well-established and running Media department
- Trained staff on public relations, public awareness and data processing
- New modern and advanced website is launched in Arabic

Evaluation and recommendations

The project finalized a media outreach and a Strategic plan for the public relations section and for the outreach which was necessary for the modernization of the Media department. An active Media department that allows easy access to HJC news and functions is necessary also as public awareness tool on the judiciary. As media development is constantly requiring updates, more specialized training for the staff and further support to the publications of the Media department is needed. This has been partially conducted by USAID Justice Enhancement Program.

Activity I.4 Cassation Court

Status: Completed

Methodology

Reviewing the Palestinian judicial decisions rendered by different level of courts revealed the need to improve the quality of court decisions. This activity was designed under the wish of the former Chief Justice who wanted to train high court judges on the reasoning of judicial cases. The current Chief Justice saw the need that the training should be to judges from all levels apart from the high court judges and workshop training was conducted in Amman on the reasoning of judgments for 10 judges from the cassation court and from the appeal court.

Planned results and outputs

- A manual on the reasoning of judgments is published through a CD-ROM.
- Training program on best practices of legal reasoning, and extracting of legal principles conducted

Evaluation and recommendations

Seyada believed that organising specialized trainings that expose participants to best practices and other comparative experiences will allow the judges to improve the quality of their work.

Activity I.5. Court Management

Status: Completed

Methodology

A statement of the Courts of the West Bank from 1/5/2012 to 31/5/2012 shows that the number of closed cases is stable since 2008, but there is an increase in the number of incoming cases which could be interpreted as a sign of more trust in the judiciary. Seyada II encouraged and facilitated the setting up of a well functioning and active working group on time management at the HJC. The project hired a senior expert, a French Cassation Court judge who discussed the best approaches on time management with the working group HJC. As a result of the discussion a workshop was organized for 20 judges and senior clerks. Two trainings on notification system were organized in Nablus and Bethlehem on notification system with the attendance of around 120 persons.

The establishment of an efficient judiciary requires sufficient human resources and qualified staff, adequate and modern equipment, acceleration of court proceedings and reduction of

pending cases. In the oPt the majority of clerks at courts that entered the system had little preparation adequate to the position needs. Moreover, there is a need to limit the number of non-judicial tasks performed by judges by assigning such tasks to other persons and bodies and to reduce any excessive workload of the courts in order to improve the administration of justice. Court management development may only be successful if the judges are supported by well trained and professional staff including an upgraded infrastructure. Seyada identified the need for further training based on the changes in laws and due to increased number of documents that were processed in the courts every day. Seyada II organized a training program for non-judicial staff on the topics: notification department, execution department and notary public, training on land issues, related fees and registration, training on the unified procedures and guidelines for the courts on handling with the public.

Furthermore, during the last reporting period the project team supported the High Judicial Council in planning and organizing the Second Court Administration Conference. Seyada II project coordinated this activity with the UNDP in order to allocate all the resources available to assist the court administration department in implementing their annual plan for clerks. Recommendations were adopted on the conference on strategic planning and training strategies.

Planned results and outputs

- Needs assessment conducted
- Commitment of the HJC to the development of an efficient court management system with the establishment of a working group
- Study on the court notification system, including recommendations report finalised
- Study on expertise system on reduction of cases before courts, including recommendations report finalised
- Second Court Administration Conference organized with UNDP: 220 clerks and admin staff attended
- Training for non-judicial staff at the HJC and courts registry staff on notification department, execution department and notary public, training on land issues, related fees and registration, training on the unified procedures and guidelines for the courts on handling with the public finalised: 480 non judicial staff trained
- Training on notification system finalised: 60 people trained

Evaluation and recommendations

The Planning Department at the HJC has demonstrated a strong institutional commitment towards court management having set up an active working group and supporting all the activities. However, not all the recommendations of technical support are taken into account and one of the main causes is because the Palestinian Legislative Council is not functioning. Without a functional legislative council there can be minimal hope to adopt legislative reform.

Nevertheless, Seyada II recommended the HJC to support the time management activity and the Court Administration Department, in particular the capacity building to clerks and the implementation of the results in relation to the notification system and the expertise system. And last but not least, Seyada also recommends once the PLC convenes the legislative reform of the Palestinian Civil Procedure Law, the Palestinian Penal Procedure Law and the Palestinian Judicial Authority Law.

Activity I.6 Archiving System

Status: not implemented

Methodology

Based on the needs assessment report conducted by the Seyada project, the USAID project agreed to provide further assistance to the HJC on the archiving system. Seyada Team concluded that the real needs of the HJC are out of the scope of Seyada project and only touched some related aspects through MIZAN II and through the court management approach.

Activity I.7 Libraries

Status: completed

Methodology

The Seyada project hired a senior short term expert to prepare the foundation of the procurements. A draft Technical Specifications Form and Budget were prepared for the establishment of 6 libraries in 6 court-houses in the West Bank. The team continued to support the beneficiary to manage the funds and the procurement process.

Planned results and outputs

- Technical Specification of the procurement on the establishment of libraries at courthouses of 6 districts is achieved.

Evaluation and recommendations

The procurements of books and other materials for court libraries are important supporting mechanisms for the HJC. Constant updates are required to keep up with modernization of the hardware and the depreciation resulting from ordinary use and exposure. Seyada II recommended the HJC to develop a procurement plan on a multi annual basis approach instead of an ad hoc basis.

Activity I.8 IT Equipment

Status: completed

Methodology

Technical Specification of the procurement on the purchase of hardware is achieved

Planned results and outputs

- Needs assessment conducted on hardware needs
- Tender documents for the procurement of IT equipment are prepared

Evaluation and recommendations

Recommendations on data protection and privacy were submitted to the HJC. A strong recommendation is to develop a clear procurement plan with a multi annual basis approach instead of an ad hoc basis.

2.2 Component II Palestinian Judicial Institute

Activity II. 1 Operational establishment

Status: partly completed

Methodology

The PJI was established in 2008 by virtue of Presidential Decree no. (6) of 2008 related to the Judicial Institute (“**the decree**”), as well as the subsequent Cabinet By-Laws no. (4) of 2008 (“**the by-laws**”). However, since its establishment in 2008, the PJI has been besieged in conflicts on affiliation, mandate, structure, roles, and responsibilities which has significantly hampered its operations and obstructed its work. The conflict has been mainly centred on whether the PJI is an independent body, is part and parcel of the Ministry of Justice or is part and parcel of the HJC. Moreover, the structure of the Board of Directors (BOD) of the PJI, as well as its organizational structure (or lack thereof) has also triggered considerable debate and controversy. The establishment of training bodies within the HJC and the public prosecution throughout the last few years has further ignited frictions and complicated an already complex state of affairs.

The source of such conflict can be attributed to the unclear and problematic legal framework governing the PJI, the location of the PJI itself, and the often sporadic and un-harmonized interventions of the international community in support for the PJI—though in conflicting directions. In order for the PJI to achieve its objectives, it is instrumental to clarify the vagueness and to address the conflict between the different stakeholders within the Palestinian Authority on the affiliation, structure, mandate and roles and responsibilities of the PJI. Seyada II always believed that consensus should be built within the Palestinian Authority on such complex matters, and stands ready to provide any needed assistance or advice. To that end, a workshop bringing together all relevant parties held in September 2010 could have helped achieve this objective.

Sources of Conflict

1. Unclear and Problematic Legal and Regulatory Framework

As stated above, the legal and regulatory framework of the PJI is indeed problematic and unclear, and in some instances is contrary to the principles of separation of powers and the independence of judiciary. Article (2) of the decree states: “the PJI shall have an independent legal personality and an independent budget to be annexed to the budget of the Ministry of Justice”. The annexation of the budget of the PJI to the budget of the Ministry of Justice may have far reaching ramifications, and is inconsistent with the principles of separation of powers and independence of judiciary. The budget of the PJI, as the “training arm” of the judiciary, should not be part of the budget of the Executive Authority, but should be part of the budget of the judicial authority. Towards that end, article (18) of the by-laws provides a different approach than that of the decree; article (18) of the by-laws states that the budget of the PJI “shall be independent, and is to be attached to the budget of the judiciary.” This approach is more in line with the principles of rule of law and good governance. This is one example on how the decree and the by-laws, both of which supposed to govern the PJI, conflict. On the other hand, article (5) of the decree specifies in detail the composition of the PJI’s BOD. According to article (5) (as well as article (4) of the by-laws), the BOD consists of (9) members and is chaired by the Minister of Justice.

In addition, according to article (8) of the decree, the director of the PJI “is to be appointed by the President of the PNA, based upon the recommendation of the Minister of Justice and acceptance of the Council of Ministers...” Article (7) of the by-laws, however, provides for a different mechanism for the appointment of the director of the PJI. Article (7) of the by-laws states that: “the directorship of the PJI shall be assumed by a judge whose grade is no less than appellate judge. (The Director) is to be appointed by the Supreme Judicial Council, based upon the recommendation of the Head of the Supreme Judicial Council for one-extendable year, and the approval of the Council of Ministers.” The approach adopted by the decree indeed promotes the control of the executive authority over the PJI. The aforementioned provisions of the decree and/or the by-laws emphasize those problems: As indicated above, there are many conflicts between the language of the decree and the language

of the by-laws. With such conflicting legal framework, it is difficult to move forward with addressing PJI-related issues. Accordingly, it is instrumental that the Palestinian Authority resolves the said conflict and addresses the aforementioned issues in the legal and regulatory frameworks governing the PJI.

2. Sporadic and un-harmonized Support by Donors

Despite the stated problems in the PJI, the donor community has been often providing ad hoc support to the current structure without a unified vision. Often, the donors' interventions have been reactive and not strategic and aimed to respond to arising opportunities or recent developments, without a vision for institutional development that is based upon principles and practices of rule of law and good governance. In addition, donor assistance has sometimes targeted other bodies providing training for judges and prosecutors without partnership or even coordination with the PJI. Uncoordinated and sporadic assistance for the judicial training activities in Palestine has proven to be harmful for the institutional building of the Palestinian judiciary.

Judicial training activities are currently planned and organized by 3 distinct bodies in Palestine: the PJI, the Judicial Training Department within the HJC (for judges), and the Judicial Training Department within the Public Prosecution (for public prosecutors). Often, training activities that are organized by the judicial training departments within the HJC or the Public Prosecution are also coordinated with the PJI; but sometimes, they are not. Also, in few instances, donor-funded projects organize, conduct and evaluate training programs without coordinating with, or even contacting, the PJI.

Since his appointment as the new Chief Justice in early 2010, the CJ has announced a new policy of cooperation with and support for the PJI. This new policy has been demonstrated by encouraging judges to participate in judicial training activities within the PJI, as well as other means of visible support. Yet, and due to the limited resources available to the Palestinian judiciary, the HJC has been unable to provide material support to the PJI; and much of the announcements were only materialized in the form of verbal political support. Also, in many instances, and despite the announced policy of support for the PJI, the training department within the HJC continued to organize and conduct training activities for the Palestinian judiciary.

As to Seyada II, the project has been trying since its inception phase in August 2009 to assist the institutional development of the PJI, as well as to delineate the roles of the PJI and the training departments within the different institutions. Seyada's successes in that field, however, have been modest; as the ever changing dynamics within the PJI, coupled by different (and often conflicting) interventions from Palestinian as well as international stakeholders have hampered Seyada's initiatives to that end.

International best practices with respect to the affiliation of judicial training institutes could be summarized as follows:

a) Single Institution Responsible for Training

A quick survey of regional and international judicial training institutes reveal that the planning, conduction, management and evaluation of judicial training activities should be carried out by a single organization. Arab and European countries surveyed revealed this outcome. Having multiple organizations undertake the same activity would lead to waste in resources, confusion in the jurisdiction, roles and responsibilities, and would defeat the efforts to achieve institutional development in this field. This is the case in Palestine today.

b) High Judicial Training Departments/Committees Responsible for Policy and Strategy Planning

In some instances, there is one organization conducting judicial training (judicial training institute); but yet, there is a judicial training committee attached with the judicial council. In such instances, the training committee would be responsible for policy and strategy planning vis-à-vis judicial training (what the training needs are, how many judges need to be recruited and thus, trained, etc), while the training institute would be responsible for the actual planning, delivery and evaluation of the training courses.

c) Training Organization headed by Judge

In many Arab countries, the training institute remains to be part and parcel of the Ministry of Justice. Some countries, however, decided to follow a more progressive approach that is more consistent with principles of good governance. In Lebanon, for example, the Lebanese Judicial Institute is attached to the Ministry of Justice; however, its chairperson is a judge. Similarly, in many European countries, the judicial training institute is either chaired by a senior judge (often Supreme Court judge); or part of the judicial council. In short, even if the judicial training institute has a link with the Ministry of Justice, it would still be chaired by a judge; and would not fall under the authority of the Executive Authority.

Planned results and outputs

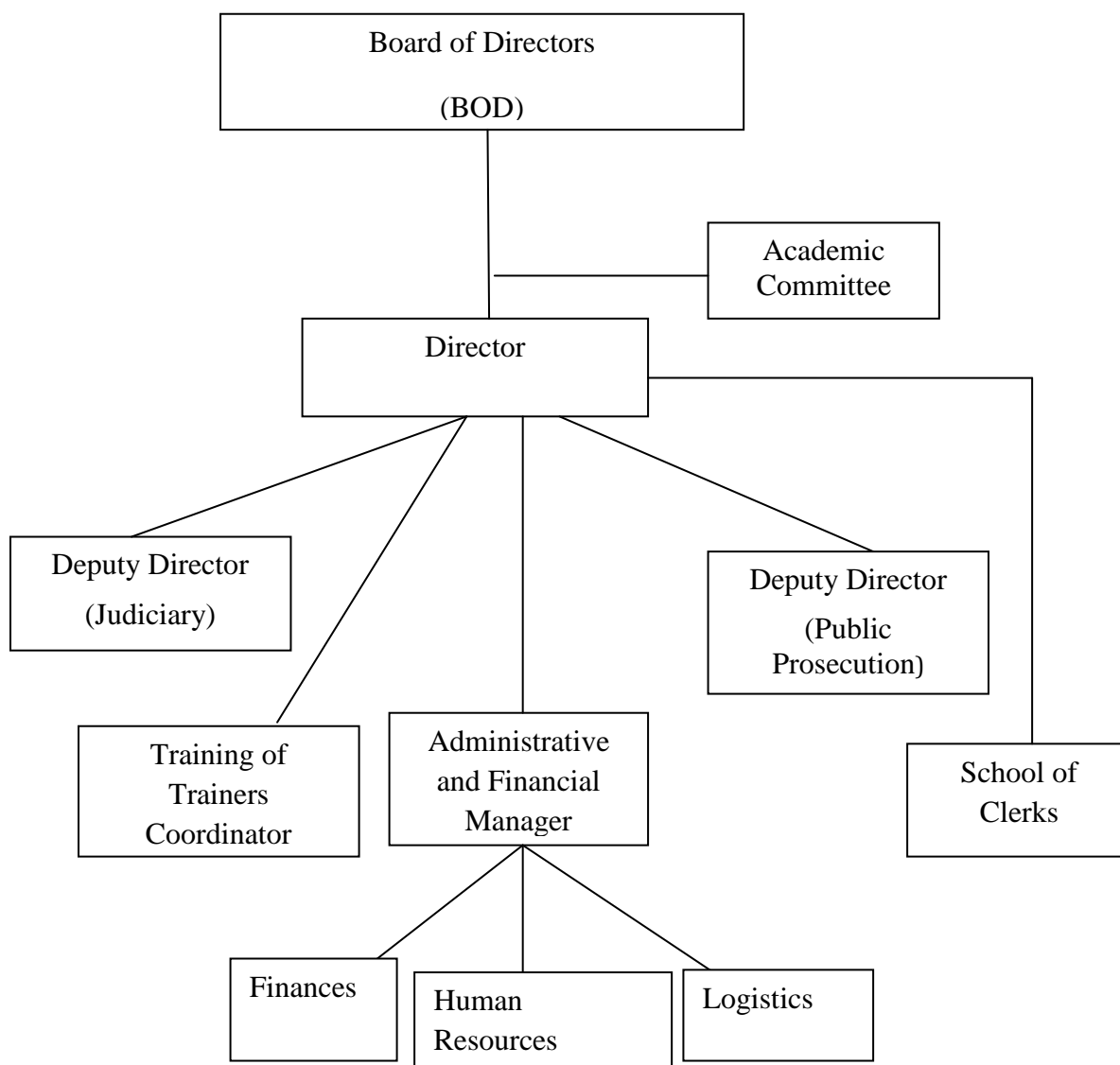
- One seconded staff at the PJI premises
- MoUs draft model prepared and submitted to the Director PJI. The PJI has signed agreements and MoUs with the following international institutions:
 - The Arab Council for Judicial and Legal Studies of the Arab League in Beirut
 - The Arab European network

- Judicial Institute in Jordan
- Raoul Wallenberg Institute, Sweden

Evaluation and recommendations

Throughout the last year, Seyada II has been working to develop different options for advancing the institutional building of the PJI and to address the aforementioned issues. Seyada II has thoroughly analysed the dynamics within as well as surrounding the PJI, and the lessons learned from previous interventions and initiatives aimed at supporting the institutional building of the PJI. Built on its national and international experts' longstanding knowledge and expertise, as well as deliberations that Seyada II had throughout the last few months with both national and international stakeholders, especially with its beneficiaries (namely the PJI and the HJC, Seyada II believes that in order to advance any initiative aimed at supporting the institutional development of the PJI it is instrumental that consensus be built *within the Palestinian Authority* on the affiliation, structure and mandate of the PJI. The current disagreement on whether the PJI ought to be independent, attached to the Ministry of Justice, or deemed part and parcel of the judiciary cannot go forever and the Palestinian Authority needs to decide, once and for all, on the status of the PJI. This decision should not come from Seyada II or from any other donor organization, or donor-funded project. It needs to come from the Palestinian Authority itself. Seyada II as well as other donor-funded organizations can indeed provide technical assistance and advice; they can moderate discussions and they can provide examples of international models and best practices but they cannot and should not be allowed to decide on behalf of the Palestinian Authority. Similarly, the structure of the PJI needs to be clarified and an improved organizational structure reflecting institutional building rather than personal competencies needs to be agreed upon. To that end, Seyada II has developed a model structure that could be adopted by the PJI as illustrated below. The Palestinian context coupled with international expertise and best practices were taken into consideration when developing the following proposed structure.

Proposed Organizational Structure for the PJI



Last but not least, the Palestinian Authority should decide on the mandate of the PJI and draw clear lines between such mandate and those of the training departments of the HJC and the public prosecution. Absent such delineation, efforts to support the institutional development of the PJI would go futile as different organizations will continue to undertake the same roles and different national and international players will continue to play on the differences between the Palestinian organizations. During a roundtable discussion that was called for by Seyada II on 22 June 2010 bringing together senior judicial officials including the Director of the PJI the senior justices have expressed their support for efforts aimed at building consensus on the affiliation, structure and mandate of the PJI. To that end, the participants called upon Seyada II to organize a workshop that would bring together all relevant stakeholders with the

aim of debating and building consensus on such complex issues. The proposed date for such intervention was September 2010. The workshop brought together representatives from the HJC, the public prosecution, the PJI, the Ministry of Justice, the Cabinet, the Office of the President, among other organizations. If the intervention succeeds in building consensus on such matters, this could open the door for the introduction of new legislative amendments that would reflect and realize the agreed-upon vision. A strategic plan was developed and handed out to the partners but is still waiting its full implementation. A strong recommendation is to approach the plan as soon as possible.

Activity II. 2 Curricula 2-years Diploma

Status: completed

Methodology

Seyada carried out the action plan and recommendations of the missions in close cooperation of PJI executive management to implement the two-year judicial studies. Through the support of the project, the academic committee and the admission committee were able to execute the action plans that were already drafted in the preparation phase of the program. The Seyada project attended all the academic committee and the admission committee meetings and supported all the steps and decisions required to move forward with the implementation and launching of the program. Seyada supported the academic committee in taking the decisions over some courses and the teaching materials which was needed for the first semester courses. Moreover, Seyada also supported the PJI management in nominating experienced trainers to be recruited for the delivery of the courses.

Planned results and outputs

- A 2-year Diploma in Judicial Studies agreed. A comprehensive curricula was approved and endorsed by AGO, HJC and PJI board of directors
- Regulations and curricula manuals and guidelines developed
- 2 year Diploma programme started

Evaluation and recommendations

The full responsibility of the program now remains in the hands of the PJI management and board of directors. They will have to launch and implement the two-year planned curricula and to manage the 1.5 million euro grant. Seyada II has executed all needed preparations for the delivery of the courses and the prepared the curricula to professionally qualify the candidates to be future judges or prosecutors. The admission committee will need further

support to function effectively and efficiently in order to launch the program in the future after finalizing the selection of the judicial candidates.

Activity II. 3 Training of trainers program

Status: completed

Methodology

Seyada developed a proposal on ToT and a policy paper on trainers' incentives and career development. Upon the Attorney General request, the project implemented a didactical skills program related to designing, delivering and evaluating the training program. The aim was to empower the public prosecution trainers and to activate their role at the PJI.

Planned results and outputs

- A pool of Palestinian trainers is prepared to provide training for judges and public prosecutors

Evaluation and recommendations

Following the achievement made by the project under this activity with the institutionalization of the training of trainers program implemented in earlier stages, the project conducted a series of training of trainers programs for judges and prosecutors. The project pursued to increase the Chief prosecutor's participation in delivering the initial and continues training courses at the PJI. Ultimately, the PJI also benefited from such a course using the pool of specialized trainers.

Activity II. 4 Interim initial training seminars

Status: completed

Methodology

Seyada implemented an initial training for 36 prosecutors. The last two sessions from the training were conducted during June and July 2012 on the Palestinian financial system and banking crimes. This training was delivered by local experts. The second initial training for 8 new Yemenite judges started on 29th May 2011. The PJI and training department at the High Judicial Council agreed to provide initial training for 8 new judges who didn't complete their studies. Other 5 remaining judges followed the two-year program at the PJI with the rest of selected judicial candidates.

Planned results and outputs

- Skilled and newly appointed judges and public prosecutors are advanced during the interim period
- Training manuals for initial and continuous training are developed

Evaluation and recommendations

The importance of those trainings has been highlighted by the Chief Justice and the Attorney General. The project encourages the EU to keep on providing support to the beneficiaries and to coordinate with other donors to avoid the discontinuity of financial resources.

Activity II. 5 Non judicial staff

Status: partially implemented

Methodology

Due to lack of capacity at the PJI, this activity was directly under the HJC upon agreement with the Planning department and the Court administration department.

Planned results and outputs

- Training needs non judicial staff assessed
- Report on training needs non judicial staff produced

Activity II. 6 IT training for non-judicial staff

Status: not implemented

Methodology

Due to lack of capacity at the PJI, the project agreed with the Planning department and the Court administration that the trainings will be held under the HJC.

Activity II. 7 Initial training program

Status: completed

Methodology

Through the efforts of the different short term experts hired by the project the academic committee was able to approve and adapt the two years initial judicial training program which was later endorsed by the board of directors. The project hired an expert to advice on the judicial candidate's admission procedures. The mission was followed up with the development of the templates, guidelines and regulations and the establishment of an admission committee approved by the board members. The project also advised on the required number for the initial judicial training based on the judiciary needs of recruitment and turnover. The study was introduced to the beneficiaries and PJI stakeholders in a workshop to further discuss the calculation methods and the recommendations which will benefit the institute in the long term planning of the initial trainings programs.

Planned results and outputs

- Regulations for the Admission Competition at the Palestinian Judicial Institute
- Report on the optimal number of accepted Judicial Candidates for the two-year Diploma program

Activity II. 8 Mentorship courses

Status: completed

Methodology

Seyada project organized different STE missions to support the Academic Committee at the PJI to tailor-made its own program on mentorship based on the best practices from other judicial institutes. For this purpose, Seyada held different meetings with training departments and the PJI to work on the selection of court houses, public prosecution offices and mentors from both sides. During the last months of implementation, Seyada project made emphasis in the importance of such program in the learning process of the two- year's studies. The program was a great opportunity for judicial candidates to learn by doing and it will be the first program to be implemented under the supervision of courts presidents who select the mentors to be trained at a later stage. Seyada organized several Senior STEs missions to support the PJI in creating and structuring the program and hosting the Chair and Director of the Netherlands Judicial Institute who advised the PJI director, CJ, AG and MoJ.

Planned results and outputs

- Mentoring skills of the judges and public prosecutors selected are advanced in an Initial Training Program
- Selection criteria, manual, best practices, fees and evaluation system guidelines developed

Evaluation and recommendations

The Chief Justice and Attorney General responded positively and supported the preparation of this program through the selection of court houses and public prosecution offices. A joint meeting took place on the 21 and 22 October 2011 at the Bethlehem Interactive Training on Mentorship. The team, however, strongly recommends more engagement from the part of the PJI management.

Activity II. 9 Grant management

Status: completed

Methodology

Seyada supported the EUREP in reaching an agreement with the PJI on signatory powers. The project hired a senior short term expert to support the PJI management and staff in developing the grant application and budget. The expert worked with the director, financial manager and academic committee to finalize the grant documents based on the EU requirements. A second senior expert was hired to design the internal structure for the PJI and to conduct training on grant management.

Planned results and output

- Proposal and grant budget drafted

Activity II. 10 Continuous training courses

Status: completed

Methodology

Seyada worked closely with the Judicial training department at the HJC and the Judicial training department at the Public Prosecution to develop and implement the training plan on continuous training. The project responded to the request of the Chief Justice and the Attorney

General office by providing all the required support on time for first instance court judges and chief prosecutor's action plans. The project organized both trainings to take place at the PJI premises. The summary of the implemented trainings are detailed as follows:

- **Continuous training for first instance and magistrate judges: a) the Code of Civil and Commercial Procedures and Case Management. b) Drafting legal skills in Arabic language.** The training plan was designed based on the judiciary needs as identified by the training department at the High Judicial Council. The aim of the program was to increase the knowledge of judges in laws and to enhance their performance in speeding the process to close cases in order to reduce the backlog. The training plan was not implemented as it was planned upon the request of the judicial training committee at the High Judicial Council who decided to exclude the first instance judges. Only 77 magistrate judges attended and the number of sessions was reduced.
- **Continuous training plan for assistant public prosecutors: a) Land laws and problematic issues, b) Banking issues; skills and Operations, c) Methods of Appeal, d) Crimes against public interest, e) Issues related to the government cases.** The target group were 36 assistant prosecutors with one year experience.

Planned results and outputs

- Magistrates and assistant prosecutors are advanced in specialized topics

Evaluation and recommendations

Seyada encouraged the use of local expertise and both trainings were delivered utilizing local expertise from judges and chief prosecutors and from Palestinian short term experts which proved to be successful. Seyada acknowledges the importance of the cooperation of the HJC and AOG in the organization of the trainings.

2.3 Component III Palestinian Bar Association

Activity III. 1 Needs assessment

Status: completed

Methodology

Seyada II acknowledges that supporting PBA institutional development is not an activity with an immediate result. It is an indispensable accumulative process that requires gradual building

up and extensive support to cultivate sustainable long lasting results. Needs assessment, priorities setting, data collection, monitoring and evaluation are continuous tools that the PBA will continue to use together with the beneficiary to conduct PBA activities. During the project phasing out from May to August 2012 Seyada finalized, collected and edited all PBA outputs (more than 85 outputs). All PBA outputs and the 11 interim reports and their annexes were handed over to the recently elected Board of the PBA. Furthermore, Seyada II advised the newly appointed staff members, mainly the PBA Financial Manager, Public Awareness Coordinator, Technical Office Manager (Head of Research and Publication) and Control Management.

Planned results and outputs

- PBA need assessment reports finished: Legal and Regulatory Frameworks governing the PBA, a comprehensive organizational & management review for the PBA, a thorough needs assessment for the existing training program, and a thorough assessment for PBA financial and administrative management.
- 11 Interim reports handed over to the new PBA Board

Evaluation and recommendations

The needs assessment and the strategic plan coming out of these exercises provided the PBA for an excellent basis to ground their work. The PBA enjoyed fully support from the EU and Seyada II Project and benefited from their capacity and institutional building assistance.

Activity III. 2. Laws/regulations/by-laws and the organisation

Status: completed

Methodology

The PBA went through various changes and stages throughout the lifetime of the project. Not only was the Board changed twice but also the separation with Gaza created a more flexible PBA in the Westbank. The complicated reality that lays its shadow on the PBA and continues to obstruct concrete developments of the legal and regulatory frameworks governing the Bar was that Palestinian legislative council was in absentia therefore, no amendments were introduced to the law of 1999 governing the law profession in Palestine. The complexity of the Palestinian political situation made difficult to work on developing any of the legal or regulatory frameworks.

Nevertheless, Seyada II advised the PBA in the formulation of a Code of Responsibility and Professional Conduct. The project conducted a review and assessment according to best practices of the data, regulations and proceedings available on the matter from the Complaints

Committee and Disciplinary Councils since 2006. The PBA lawyers' general assembly endorsed the Code of Responsibility and Professional Conduct, the first in the history of the Palestinian lawyers' association.

Seyada also worked on developing bylaws for PBA functions. The by-laws regulate the work of the PBA board and PBA committees. It sets clearly their powers, capacities and jurisdiction. By-laws also regulate the work of the staff and their relationship with the board. They transcribe PBA structure and authority matrix. By-laws also entail the jobs descriptions of all PBA staff.

A per diem scale and a travel allowance system were developed to set unified mechanisms for compensation at the PBA. The proposed systems were thoroughly studied and evaluated prior proposing them to the board. Comparisons were made to other organizations and syndicates to ensure proposing practical and updated schemes.

An analysis for PBA budget was also developed to assist the board and the financial department in having a better picture for the financial status of the PBA.

Planned results and outputs

- Organizational & Management Review for the Palestinian Bar Association (PBA) published.
- Proposals for Organizational Model and Structure for the Palestinian Bar Association published
- Three Years Strategic Plan 2009-2011 for The Palestinian Bar Association; Towards improved law profession in Palestine developed
- Policy, Planning & Budgeting Manual for the Palestinian Bar Association published.

Evaluation and recommendations

The PBA showed strong institutional commitment to institutionalize the function of the strategic plan. Accordingly, and built up on the PBA strategic plan 2009-2011 that was formerly prepared with the support of Seyada, the project continued its support by upgrading PBA strategic plan. The new strategic plan 2012-2014 ensured the drawing of the road map for future PBA activities.

Seyada also provided close support to the PBA staff recommending the EU to hire an EU-PBA Senior Advisor on Executive Management. Further support from the EU will be a must. There is a need for appropriate premises to accommodate the gradually growing staff and activities, and the PBA will have to invest in staff training and capacity building in the coming years to be able to face the challenges ahead.

Activity III. 3. Technical Office

Status: completed

Methodology

The establishment of a functioning Technical Office “TO” was financed through a fund from the EU. In accordance to the law of 1999 the PBA considers the establishment of a TO as a top priority. Seyada project advised the PBA in setting the basis of the office preparing a logical framework matrix to focus on the establishment of a TO able to publish a newsletter, law journal and bulletin. An Internal Regulations Manual was developed to identify the rationale behind establishing a TO. Furthermore, samples “PBA Bulletin” – the Newsletter of the PBA & PBA Legal Journal were developed for the use of the PBA. An agreement was also reached with PBA Chair to form the editing committee (Board of Editors).

Seyada II trainings for lawyers **on Journaling Skills and Legal Research Methodology** contributed to the first edition of PBA newsletter. Seyada supported PBA in issuing its first edition of its newsletter as part of EU Grant to PBA. The newsletter was edited in Arabic then translated into English.

Graphic identity, advertising material and corporate identity for the PBA were developed with the aim to support PBA Public Awareness and Technical Office.

Planned results and outputs

- Stationary including pens, envelopes, letter head, certificates, recognition certificates, roll-up banners;
- First edition of PBA Newsletter (first edition in February 2012)
- Training on legal journaling and on Legal Research Methodology

Evaluation and recommendations

Infrastructural impediments and space limitations hold back the PBA from expanding its activities including the TO.

Activity III. 4 Assist in the connection to other/international Bar Association

Status: completed

Methodology

Seyada project continued to provide close support to PBA in implementing its communications strategy. The project team networked with several international organizations, universities and institutions. As a result, the PBA was officially admitted to the Union Internationale des Avocats (UIA) in Paris. Mutual agreement on the scope of the Memorandum of Understanding (MoU) with the Paris Bar was reached.

Seyada also supported the PBA in establishing cooperation with the Johns Hopkins University (JHU) in Washington D.C, USA. Coordination meetings were made with the Director of the Protection Project at Johns Hopkins University to offer a full scholarship to the Palestinian lawyer and a draft memorandum of understanding was prepared on the following fields:

- Development of a standard law on legal profession and bar association in Palestine;
- Promotion of the aforementioned law as a model law in the Arab world organizing a regional conference for Arabic bar associations.
- Supporting PBA in developing its training program by developing curriculum that meets international standards.

Seyada facilitated an agreement with The Global Network for Public Interest Law- PILnet:to accept one Palestinian lawyer in its fellowship program in public interest law in New York.

An agreement was also reached with the International Institute of Higher Studies in Criminal Sciences (ISISC) in Siracusa to send a Palestinian student to enrol in their summer school between May and June 2012.

Planned results and outputs

- MoUs with foreign partners signed; admission to the Union International des Avocats (UIA)
- Agreements with international reputed universities on fellowship programs for Palestinian lawyers

Evaluation and recommendations

Seyada encouraged the external institutional communications between the PBA and other bar associations and international institutions with the aim to foster exchange of ideas and information and to promote professional growth and the opportunity for fellowship programs.

The team was very active networking in favour of the PBA institution which produced relevant outcomes and initiated contacts which could bring eventually new cooperation opportunities.

Activity III. 5 Assist in Public Awareness activities for the Bar Association

Status: completed

Methodology

Seyada acknowledges the importance of the PBA having a corporate identity. Graphic identity, advertising material and corporate identity was developed with the aim to promote public awareness. A facebook group was created with more than 690 followers so far: https://www.facebook.com/groups/216750145069125/239350369475769/?notif_t=lik

Seyada and PBA continued to publish and disseminate press releases following each of the activities organized. The project organized a series of workshops with civil society in Palestine to promote public awareness on the activities of the PBA, media coverage on PBA elections and developments, development of talk show on Palestinian television, coordination with the UN Women to implement activities with the PBA.

Seyada organized a Final Conference PBA as a concluding event for EU-Seyada support to PBA. The event took place on the 2nd July 2012. During the conference, distribution of training certificates took place for the lawyers that participated in the training programs.

Planned results and outputs

- Enhanced public awareness of PBA and its involvement in public events
- Communication Strategy Plan developed
- PBA publication of a new lawyers directory and phone book
- Brochure “The Palestinian Bar Association, Promoting Rule of Law, Rule of Law and Human Rights” published
- PBA Final Conference and graduation ceremony

Activity III. 6 Grant management

Status: completed

Methodology

Seyada supported the PBA in establishing a steering committee for the EU grant formed by the PBA Chairman, Secretary General and three other members. Furthermore, it provided training for PBA Steering Committee on the EU Grant. The training aimed to familiarize the

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committee with the grant management, EU requirements, visibility requirements, reporting and financing.

Due to the elections that took place in the West Bank on the 7th April 2012, nine new board members were elected, eight of them representing the mainstream political party in Palestine. Two women ran for elections but none of them made it to the board. The change of management PBA slowed down the implementation pace of the grant. Yet several activities saw the light such as a launching event, the PBA newsletter, the purchase of electronic devices to facilitate the implementation of the PBA activities, preparation for the management information system, preparation for curriculum development, and the preparation for training programs.

Planned results and outputs

- Training on procurement and grant management developed and organized

Evaluation and recommendations

As already mentioned before, there is a need for appropriate premises to accommodate the gradually growing staff and activities.

Activity III. 7 Training of Trainers (ToT programme)

Status: completed

Methodology Seyada managed to support the PBA with a professional pool of TOT. It is recommended to continue to work on the TOT as a whole and to look at needed fields of specializations needed for the work of the lawyers and to have a pool of trainers that are capable to deliver practical trainings based on practical scientific modern standards.

Planned results and outputs

- ToT program for 15 trainers in the main office and 5 trainers in each branch
- Trainee Guidebook; A Guide Book for Trainee Lawyers at The Palestinian Bar Association
- Trainee Note Book; A Note Book for Trainee Lawyers at The Palestinian Bar Association

Evaluation and recommendations

This has been the first continuous career development program that took place in the PBA. In April 2012 a group of 15 experienced practicing women and men lawyers from all over the

West Bank concluded their ToT Program. Based on this, a training a pilot training program was designed by the PBA. The 15 trainees delivered training program for PBA young lawyers resulting in a positive feedback and evaluation. Accordingly, at the time this report was due preparations for a second round of a ToT Programme to be implemented as part of EU Grant's activities were underway. The overall aim of the ToT Programme is to have a pool of trainers that are capable to deliver practical trainings based on practical scientific modern standards.

Activity III. 8 Initial and Continuous training

Status: completed

Methodology

As a result of Seyada's efforts in institutionalizing the PBA and as an indication of better internal management process between November 2011 and April 2012 nine training programs for different groups were organized. Selection criteria were identified, announcement was released, transparent selection process place was done through a committee and final lists were made public. During each training roles and duties were identified; constant follow-up, support was given to trainees and trainers, evaluation and media coverage.

- **International Comparative Criminal Law practical training.** Participants: 15 trainees and practicing lawyers from all over the West Bank. Three of the lawyers participated in a conference on International Criminal Law in Montpellier. Arrangements were also made for a Palestinian lawyer to conduct a three months internship in a law firm in France.
- **Curriculum and Manual Development.** Participants: 12 senior lawyers from all over West Bank received training on how to design training curricula. PBA is contracting these lawyers to develop training curriculum as part of PBA grant activities.
- **Planning, Budgeting and Reporting.** Participants: 35 PBA employees from all over West Bank received briefing about PBA developments.
- **Legal Aid Issues.** Participants: 20 practicing and trainee lawyers to address legal aid issues.
- **Gender Justice & Gender Equality in Society:** 20 male and female lawyers from all over West Bank. Institutionalized the work of the Women Committee at the PBA and developed a vision and a mission statement and a work-plan for PBA Women Committee, including how to organize campaigns that relate to gender based issues.
- **Legal Research Skills:** 15 trainee lawyer from all over West Bank.

- **Legal Articles writing and journaling skills:** 15 trainee and practicing lawyers from all over West Bank received this training. Their efforts contributed to PBA Newsletter. Some are currently involved in supporting PBA-TO in preparing its first Law Journal

Planned results and outputs

- Continuous training program tailored to PBA needs designed and conducted
- Training curricula developed

Evaluation and recommendations

The design of the training program was initially discussed with the PBA to tailor it to the PBA needs and there was also discussion after the trainings took place to measure the impact and level of satisfaction of the trainees.

2.4 Component IV Legal Aid

Activity IV.1 Assessment of legal existing legal aid mechanisms in the oPt and possible options /schemes for a legal aid system

Status: completed

Methodology

Legal aid is the most common approach to improve access to justice as it conveys the assistance provided by the society to its weaker members and disadvantaged social classes, in order to protect their rights and liberties.

In the oPt there was a need for a coherent national legal aid policy. It took some efforts and time to create understanding among the partners (national and international) on the process of institutionalization of Legal Aid in Palestine. As this topic is more seen from an NGO perspective and not from a governmental and institutional perspective, the Seyada team developed information sessions and working groups to discuss the process to establish a legal aid system regulated by a law that clearly defines the roles and responsibilities of the key institutions and is financed by sustainable funding mechanisms.

Planned results and outputs

- Legal aid draft law
- Explanatory memorandum on the legal aid fund draft law
- Report on the methodology that was followed to draft the legal aid fund law
- Needs and cost analysis of legal aid in Palestine

- Vision towards creating a procedures regulation for legal aid files by the relevant stakeholders
- Overview on eligibility criteria to receive legal aid in penal cases
- Proposal on regulatory guidelines on the organizational structure of the legal aid fund
- Report on the roles and responsibilities of the relevant stakeholders in the legal aid fund
- Executive plan for managing and organizing the legal aid fund.

Evaluation and recommendations

In the oPt there is no ad hoc legislation on legal aid but only some provisions on legal aid in criminal cases. Seyada's approach was to prepare the grounds of the future legal aid system. The project increased the coordination with the stakeholders involved in Legal Aid and organized activities with the aim to facilitate the decision making of the working group like the legal aid cost analysis that aimed to assessing the possible costs of establishing a legal aid system in Palestine.

Further recommendations are to develop for the PA a multi annual strategic program for Legal Aid related to the PA and the Justice Sector (MoJ, PBA, HJC, AG), and to integrate in the strategic plan the newly agreed legal framework and the to-get-established Independent Legal Aid Agency (body) based on the new law including the possible EU support to Legal Aid. It is necessary to develop the secondary legislation, regulations and procedures in accordance to the LA law in order to strengthen the functions of the Legal Aid Agency and its relations with the various justice sector institutions (MoJ, HJC, AG and PBA –inter alia); regulations on Eligibility criteria for legal aid; the procedural arrangements between the HJC, PBA and the LA fund/Agency and regulations regarding lawyer's fees.

Activity IV.2 Coalition platform

Status: not implemented

Methodology

The initial agreement between EUPOLCOPS and the EUREP was to have a NGO responsible for the Legal Aid database. However, the agreement between all the stakeholders was not reached and the NGO Secretariat was never set up. Seyada project could not continue with this activity and established other priorities.

Activity IV.3 Working group/workshops/conferences

Status: completed

Methodology

In support of the institutional development of the legal aid system, Seyada project continued to hold individual consultative meetings with key players with the aim of coordinating approaches and sharing ideas concerning the institutionalization process. An agreement has been made by Seyada and the working Group on the meeting of 15.03.2011 to establish a legal drafting committee that will be assigned with the responsibility of preparing the legal aid law which includes agreeing on the policies that the law will be based on, setting forth the parameters as well as the funding mechanisms which should maintain sustainability of the legal aid system.

Furthermore, and in order to formalize the process an agreement was made with the Ministry of Justice being the representative of the government the carrier of the committee, Accordingly, the Ministry invited all relevant stakeholders to nominate an expert to represent their institution in the in the committee. The first meeting for the legal drafting working group on legal aid was finally held on 15.05.2011 at the Ministry of Justice with the participation of all the represented institutions.

Last meetings with the Ministry of Justice and the Deputy Minister of Justice as well as with other donors and stakeholders that have worked on capacity building on legal aid took place during the month of July 2012. At the time this report was finished, the draft law legal aid was waiting for its endorsement and signature by the President PA.

Planned results and outputs

- Consultative meetings with relevant institutions
- Workshops
- Working group meetings every 3 months

Evaluation and recommendations

The Strategic Plan for the development of the Legal Aid Unit in MOJ that includes institutional development of the unit, capacity building of the staff, and to develop a proper archiving system at HJC for legal aid cases should be endorsed. Seyada also recommends the coordination with other donor programs such as UNDP who are working in the field of Legal Aid.

Activity IV.4 Other activities

Status: completed

Methodology

Seyada project supported the PBA and the PJI through development of new approaches towards providing a specialized training program on legal aid. The project aimed to build capacities both to implement activities and to contribute to the development of the legal aid system. Seyada contracted a specialized expert to develop the training program. The program aims at providing a comprehensive learning program for lawyers on legal aid and further has the objective of strengthening their capacities and their learning skills in issues related to defence in criminal aspects. The short term expert also prepared a TOT.

Seyada also facilitated training on strategic planning and in developing policies related to legal aid. After the system is ready, the focus should be made on raising the awareness of the public towards the legal aid system and the right to access justice. Since the training was not included in the budget line of the legal aid component these activities were agreed with the PBA and the HJC.

Planned results and outputs

- Legal Aid Outreach & public information campaign organized. Developed an awareness building approach on legal aid through the Ministry of Justice.
- Legal aid system at the Bar Association strengthened. A program on the certification of lawyers was designed. Agreements and procedures on quality control and archiving system.
- Legal aid system at the HJC and the AOG enhanced. Special training programs for lawyers and for judges on legal aid were organized. The archiving system and the Mizan program to categorize the cases related to legal aid within the prosecution and in the courts were developed. A list of instructions was developed so that cases categorized under legal aid are heard before the courts in a speedy process.
- Legal aid Unit at the Ministry of Justice supported through the development of a strategic plan including the advice on the priorities for the segments of the society that would benefit from the legal Aid program.
- Funding Mechanisms developed.

Evaluation and recommendations

Seyada encourages the EUREP to further support the legal aid system facilitating dialogue and cooperation among the justice institutions and providing technical assistance.

2.5 Component V Constitutional Court review

Activity V.1 Working group

Status: completed

Methodology

The introduction of judicial review in the hands of Constitutional court which is foreseen in articles 103 and 104 of the Basic Law of 2006 has important political implications. So far the High Court still convenes as a constitutional court.

Planned results and outputs

- Strategic plan prepared
- Working group established and functional every second month during the lifetime of the project

Evaluation and recommendations

During the last months of the project implementation the WG discussed the needs for future support from the EU or from other donors once Seyada resumes. The members also decided to continue with the WG meetings.

Activity V.2 Technical advice

Status: completed

Methodology

Seyada project focused its activities first, on increasing the awareness by the judiciary and later, on building capacities. The objective was to prepare the ground until the policy decision was taken.

Planned results and outputs

- Deficiencies in the law were analysed. Draft amendments to the law of 2006 were discussed by the WG.
- Draft Rules of Procedures and explanatory memorandum submitted to the WG.
- Knowledge of the HJC on constitutional review increased

Evaluation and recommendations

The activities of Seyada have been focused on increasing the awareness of the judiciary on the implications of judicial review of legislation with the aim to prepare the ground. The project worked to broaden the knowledge of judges and lawyers on the content of judicial review and highlighted the importance of including the protection of human rights and democracy in the revision. All these activities will ultimately contribute to the establishment of the court once the political situation is mature. Once the court is set up there will be a need to further work on the substance of the constitutional review. Assistance in planning and organizing logistical issues relating to the establishment of the Court, e.g. identification of a suitable location for the court, recruitment of staff, planning of training for staff, as requested by the President will be also needed. Seyada recommends that once the members of the Court are appointed by the President to organize a study visit for the new appointed judges to a Constitutional Court in the Arab countries or Turkey.

Activity V.3.Organisational set-up of the court

Status: not implemented

Activity V.4 Study visit

Status: completed

Methodology

A study visit for 7 senior judges took place in December 2011. The judges had the opportunity to learn about recent developments in the Turkish and the Hungarian Constitutional Courts. Both courts in these two countries underwent recent reform, i.e. the introduction of the direct complaint by individuals before the Constitutional Court in Turkey. The study visit focused on the rules of procedures since it is the goal of the Palestinian High Judicial Council to adopt them. The Working Group on the CC at the HJC with the support of a Constitutional Court judge from Turkey worked on the rules of procedures.

Planned results and outputs

- Best practices and the constitutional court systems from Turkey and Hungary introduced
- Capacities of the HJC on constitutional law enhanced
- Debriefing report

Evaluation and recommendations

The Constitutional court systems from Hungary and Turkey were relevant for the component so the participants showed high interest and satisfaction with the study visit. Furthermore, the outcome also resulted on an enhanced cooperation with the Turkish Constitutional court.

3. EU Visibility

The project ensured that the visibility standards, as set out by the Communication and Visibility Manual for EU External Actions, were followed throughout project implementation. All written reports, formal project invitations, or other project documents (e.g. timesheets) contained the EU flag and the information that the project was funded by the European Union. Furthermore, the project applied the official EU flag together with the official project title on the office building entrance signboard. In addition, the official EU flag was printed on all business cards.

4. Summary of expert input utilisation

The project team was composed by 5 key experts, Mr. Alfons Lentze (KE 1/TL), Mr. Feras Milhem (KE 2/DTL), Mr. Rasem Kamal (KE 3), Mrs. Zaina Jallad (KE 4) and Mrs. Rana Bahu (KE 5) and 4 local staff. From August 2009 until January 2011, Mrs. Saskia Auler was the responsible Project director on behalf of the contractor. In January 2011, Mrs. Marta Vázquez-Pimentel took over the position as Project director. On behalf of the EU Representation office the project was managed by Mrs. Silke Clausning Task manager and Mr. Jose Luis Vinuesa-Santamaria, Head of Section - Economic & Financial Cooperation / Institutional Reforms at the EUREP.

On September 2009 the project already had to submit a contract addendum request asking for the replacement of the Key Expert 4, Junior Legal Expert Bar Association, Mrs. Malvina AlKoury who withdrew from the project and was replaced by Mrs. Zaina Jallad. On the 9 September 2010 the project submitted the second addendum request asking for reallocation of working days and the replacement of Key Expert 3, PJI Rasem Kamal who resigned and was replaced by Mrs. Samar Sayegh, already member of staff as project manager. The reallocation of working days was necessary because the initial 550 working days from the Junior STE pool mainly used for national experts were almost consumed. The cooperation with junior experts had been positive and the beneficiaries requested to have further national expertise available in order to benefit from their specialized knowledge of the Palestinian judicial system, and because it was advantageous from the point of view of participation and ownership on beneficiary. The pool was increased considerably from 550 working days to 1077 to provide sufficient expert days for the remaining two years of implementation. Thus, the remaining working days for the Senior Short term expert days was decreased from 759 to 600 working days. These experts were mainly international experts and as such rather assigned for general best practices know how transfer than for specialized know how transfer which requires Arabic language skills and a thorough knowledge of the Palestinian Judicial system and legislation. On June 2012 the project requested a last reallocation of working days from the Junior STE pool increasing in 25 the number of working days of the Deputy Team leader and Junior Key Expert PJI.

Experts	Total WD	WD used	Remaining WD
Key experts			
Team Leader	690	690	0
Deputy team leader (KE2)	715	715	0
Legal Expert PJI	551	551	0
Legal Expert PBA	660	660	0
Legal Expert Legal Aid	450	450	0
Non Key Experts			
Senior Legal Experts (HJC, PJI, PBA, Legal Aid)	640	638	2
Senior Short Term Experts	600	568	32
Junior Short Term Experts	1027	978,5	48
Project personnel			
2 Junior Project Management & Administration	1320	1320	0
1 Junior Financial Management	700	640	60
1 Junior Translation Interpretation	660	659	1
3 Junior Assistance PJI, HJC, PBA	1971	1831	140

5. Conclusions

The general objective of Seyada was to incorporate mechanisms for Justice Sector institutions to be effective, efficient and modern. The project managed to produce immediate effects in some components, like setting up an operational Legal Aid working group, the approval of the organisational needs assessment study by the PBA, the setting up of a working group in constitutional review. Some other outcomes are not palpable yet, for example the final agreement on the PJI organisational framework. Others depend on the enactment of new legislation. Seyada also introduced features that could lead to sustainability like the use of Training of Trainers' approaches, the implication of many national experts, and the development of a Diploma for Judicial Studies.

Seyada's endeavour to ensure that progress on activities was reported and assessed against work plans has not always been successful due to the strong political implications of some of the activities, the patterns of interaction and communication between the stakeholders and the situation in the region. Therefore, Seyada's approach was to support the national partners to define the results they wanted to attain and to design policies and activities to achieve those results. All in all, the effective cooperation between the key institutions operating within the judicial sector and Seyada team has been good. The team has always endeavoured to play a mediation role which had a positive impact in the implementation of the activities and tried to involve the stakeholders in a creative and participatory process of learning about how to improve the programme on a continual basis. The project believes that the support and the involvement of the institutions could contribute to a more efficient and effective justice system.

In this complex situation and regarding the sustainability of Seyada's outcomes, there is a need for further support to the infrastructure developments at the PJI and the PBA that will lead eventually, to further institutional development, but it is also a prerequisite from the beneficiaries' side the adoption of the aforementioned decisions and regulations.