

MEMORANDUM

To: Appellant Commercial Court President, Mr. Nikolić
Belgrade Commercial Court President, Mr. Kordić

CC: Georgia Harley
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From: Nicole Ridley

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Subj: **MDTF JSS: Commercial Court Registry Support**
Report on Trip to Serbia, 19 – 29 September 2016

1. INTRODUCTION

The Commercial Courts Needs Assessment conducted in 2015 established a need for support to improve the performance of the registries of these Courts, primarily at Belgrade Commercial Court.

It is essential that registries are efficient as they provide the support necessary for judges to dispose of cases in a timely manner. A court not supported by a well-functioning registry will fail to meet the public's expectations and judges will not meet their productivity norms. With restrictions on the systematization, it is essential that existing staff perform their duties in a manner that maximizes their output and focuses around service delivery. Additionally, registries are the first interface with the justice system and set the tone for the full experience. Evidence shows that if this registry experience is a positive one, all other things being equal, parties are more likely to report a positive experience throughout their navigation of the court system.

Currently, the registries present themselves as well-intentioned but with over-complicated and ineffective processes. In order to improve the support that they provide to judges, the delivery of service to court users and the public's confidence in the court, registries must address these inefficiencies.

This report provides a summary of the analysis of Commercial Court registries and makes recommendations on a program of support to achieve the necessary efficiencies.

While the primary focus was the Belgrade Commercial Court, visits were also made to Pančevo, Čačak, Kragujevac, Niš and Novi Sad. In addition to meeting with the President and registry staff of these courts, meetings were held with the Bar Association and Chambers of Commerce in most locations.

I would like to take this opportunity to express my gratitude to everyone with whom I met for their open and constructive assistance and input. I would also like to acknowledge that in all cases, the respective Bar Associations and Chambers of Commerce made positive comment with regards to the general co-operation they (or their members) received from the Commercial Court registries.

2. OBSERVATIONS AND OPPORTUNITIES

i. Registry Procedures and Practices

Without exception, the Secretary of Court and/or the Head of the Registry are able to articulate the flow of cases through their respective registries and the registry staff are clear in respect of the role or duties they had been assigned.

However, the flow of cases between registry staff and the division of responsibilities varies between courts. In almost all cases, a file moves between multiple staff each responsible for a small 'sub-task' rather than in an efficient manner where tasks are consolidated at one station. For example, one court's process has a new case file pass between 7 people before reaching the judge, where each person is responsible for only one very small task such as writing/printing partial details on the file cover, gluing the documents or putting the file in a judge's pigeonhole. However, one larger court consolidates many of these tasks. The file moves between only 3 staff members and reaches the judge on the same day it is received when filed before 2pm. Each time a file moves between two staff members it creates small but compounding inefficiencies. Due to the volume of work at Belgrade Commercial Court, these compounding inefficiencies have a more significant impact in comparison to courts with much smaller workloads.

Furthermore, this differing division of duties in each registry means that in some courts the burden of work lies with one role more than others. In particular, typists in most courts carry much heavier workloads than registry clerks.

Clients of the registry report that while most timeframes are met, the registries operate with over-complicated processes, creating more work for themselves than is necessary.

Establishing a standardized, efficient flow of a case with minimum transfer between registry staff will enable the optimum delivery of service. It will also ensure a consistent allocation of duties and a more evenly spread workload.

In the short-term, this has the benefit of identifying and eliminating any superfluous tasks and releasing staff to other tasks. It will improve staff morale, reduce errors and increase the response time for parties.

In the longer-term, this will position the Commercial Court registry into the optimum position to transition to an e-registry, where filing and communication occurs electronically and the court functions within an electronic, paperless environment. Currently, the Rules of Procedure still requires the court to work using the physical file and a large number of judges still prefer using this over the electronic version. This contributes to registry inefficiencies as the physical file is transferred between locations in an ad-hoc manner in addition to hearing dates. Identifying opportunities to eliminate manual processes and increasing the courts ability to work in an electronic environment must be a priority.

ii. Training of Registry Staff and Typists

While staff are required to pass the State Exam prior to commencing work in the registry, there is no further formal training provided (with the exception of one-off training during the introduction of Libra between 2006-2008) with respect to the role and responsibility of registry

staff or typists. In all cases, any training provided is ad-hoc, delivered on the job by a senior member of staff and with variable quality.

While all registries had the benefit of experienced Heads of Registries, a lack of standardized training material raises several issues:

- Local variations of practice and superfluous tasks have become embedded in the processes of the registry, such is evident in the division of duties and the affixing of papers in files.
- As raised by several registries, the time involved in training a new staff member distracts significantly from the already substantial workload of senior registry staff particularly in larger courts such as Belgrade.
- New staff are heavily reliant on other staff to answer simple questions and therefore their ability to progress and be effective in their role is restricted. While it is understood that the Rules of Procedure provide direction on many aspects of registry practice, most courts commented that the Rules of Procedures specifies the expectation of what is to be achieved but is silent in some aspects of how to achieve it.

Drafting a manual that converts the Rules of Procedure and Laws of Civil Procedure into a practical daily guide for staff will standardize practices.

This manual will form the basis of a training resource, either as a desk-top reference document for on the job training or, more preferably, as the basis for a more developed self-paced or online learning program. This is a short term priority, which MDTF could support in the first quarter of 2017.

iii. Information and Communication Technology

In many registries, computers are more than 8 years old and servers have reached their capacity. As almost all registry staff use computers in the execution of their duties, these issues impede the speed at which staff can work, particularly in Belgrade Court where a large number of submissions are received on a daily basis. Of significant concern was the issue raised by some typists where computers occasionally fail to save Minutes of the Court. This is due to their age and the operating system being incompatibility with Libra.

The most significant ICT issue is obsolescent scanners. These scanners frequently break down and require significant manual supervision. Some registry clerks spend more than 60% of their time feeding paper into the equipment and often have to start the process over if the scanner refuses to accept a page. Inefficient and time-consuming processes undermine staff's ability to contribute fully to the output of the registry, contribute to low staff morale and reduce the time spent serving clients, particularly in Belgrade. Niš and Novi Sad have recently received new scanners and where other courts are using multiple scanners/staff and still struggling to meet timeframes, these registries use only one scanner/clerk and scan all documents within minutes of receiving them.

Replacing ICT equipment will have a significant impact on increasing the efficiency and productively of registry staff and typists. New computers are be required for reception clerks, registry clerks and typists. Networked printers are required in each reception and registry office, with individual printers required for typists in judge's offices. Large courts will require at least one high-speed scanner and smaller courts require at least one standard scanner. All courts require a server (& rack) with sufficient capacity for predicted workloads.

As electronic storage of files is mandatory, increasing workloads mean an increasing demand on server capacity. This must be more carefully managed. The purchase of new servers should be supported by a plan to guide the courts response to the increasing demands on server capacity and with respect to electronic archiving policies.

The condition of server rooms varies greatly, with some servers being stored in areas that leak or where humidity cannot be controlled. The refurbishment of these areas is essential to ensure that server capability does not adversely affect electronic document storage.

Staff generally spoke positively about Libra, noting it provided them with the necessary reporting and management information. However, all courts stated that Libra had not been harmonized with amendments to the Law of Civil Procedure. Specifically, some manual input is required for fee calculations and two manual registers are being kept for application types not specified in Libra. All courts have raised tickets regarding these issues to the Ministry of Justice, but are yet to hear of any progress.

Larger courts including Belgrade expressed the need for (more) electronic notice boards, these enable the mass display of information. Loaded information electronically will reduce the amount of printing and time required keeping notice boards updated on a daily basis.

iv. Archiving

All courts have archiving issues, with most courts having reached full capacity onsite. Belgrade Commercial Court has exceeded both onsite and offsite storage facilities. The consequence of inadequate archiving is that closed files pile up in the registry compromising file integrity and security, it gives the perception to parties that courts are poorly organized and it creates a demotivating environment for staff. Despite all staff understanding that court files can be destroyed in accordance with relevant archiving provisions, some courts expressed a reluctance to destroy any files at all, and those who are prepared to destroy files lack adequate staff to undertake the task.

In the last two years, Niš and Novi Sad have both completed projects to clean up and reorganize their archiving and have implemented procedures to regularly identify and destroy files. The management of archives at these courts reflects well on the overall organization of the registries, staff reported that they had reduced the response time for archive requests and this was confirmed by the clients of this registry.

The remaining Commercial Courts will benefit from destroying any qualifying archived files. More importantly, consideration must be given to the long-term solution for the overall capacity of the Commercial Court to safely and securely store its archived files. A plan is required to determine a permanent solution be it improving individual onsite capacity or holding temporary archive onsite at courts and establishing a centralized facility that managed all Commercial Court permanent archives.

v. Infrastructure

While civil works falls outside of the scope of MTFD-JSS funding, many comments were made regarding the infrastructure of courts. Many of the Commercial Courts are housed in buildings that have been adapted for use by the court. In most cases, reception and registry areas are disjointed and not optimum for caseload management. Judges and lawyers raised the issue of judge's offices doubling as courtrooms, often being too small to accommodate more than a judge, typist and two lawyers. This situation raises issues of security and, in matters with large

numbers of parties, prevents everyone from being present in the courtroom which has an impact on the public seeing justice being delivered.

Both Belgrade Court and the Belgrade Bar Association raised concerns with the size of this courts reception area, specifically that at peak times the room becomes crowded and clients of the registry can wait extended periods of time for a reception clerk, highlighting again the utility of redeploying staff away from superfluous tasks and towards service delivery for parties. Re-arranging the use of some ground floor rooms to increase the reception area is required, with the possibility of moving all back office functions from the room beside the reception room to another location and creating a second reception area as an over-flow for peak periods.

vi. Searching and Copying Files

The most reoccurring issue raised by the Bar Associations was with respect to the searching of files for which they are already on record as having have power of attorney. Lawyers raised concerns both at the variation of processes and the varying degree of responsiveness from courts. Some courts provided limited information over the phone and other courts do not. Some courts provide immediate access to court files providing the lawyer has power of attorney, some courts provide immediate access once the necessary form is completed and other courts make the file available 24hrs after the written request is made. Where lawyers are required to file a form in person prior to searching the file and to file a separate form to request permission to copy, they must make multiple visits creating an additional burden for the court staff and lawyers and adds unnecessary costs for citizens and small businesses.

Where a lawyer was on record as having power of attorney in a current matter, the most efficient practice observed refers all requests directly to the Head of Registry who approves the request immediately after sighting the lawyer's ID and confirming the power of attorney. Where the lawyer requires copies, a request is filed and considered by the Head of Registry, who on granting such application prints the relevant documents directly from a computer using the electronic file. For requests pertaining to archived matters or on the basis of legal interest, the requests are referred to a judge.

Further, there appears to be a lack of harmonization between the Law of Civil Procedure (Article 149) and the Rules of Procedure (Article 98), where the former allows for photography of court files and the latter does not. Lawyers expressed their desire to be allowed to photograph files as court copying costs are high and they acknowledge that such requests place pressure on court staff.

Standardized practices must be established so all courts follow the same process in responding appropriately and efficiently to these requests.

All Bar Associations have asked for online access to case files using an internet platform of a system that mirrors the information held in Libra. Personal identification numbers would allow them to access only those files for which they are on record as the power of attorney.

3. RECOMMENDATIONS FOR A PROGRAM OF SUPPORT

- i. Work together with Heads of Registry and senior registry staff to reach agreement on efficient and standardized caseload practices including the optimum division of duties within the registry and between registry staff and typists and implement across all Commercial Court registries.

- ii. Work together with Heads of Registry and senior registry staff to draft a manual that sets out the standardized caseflow practices and converts the Rules of Procedure and Laws of Civil Procedure into a practical daily guide for staff.
- iii. Work together with Heads of Registry and senior registry staff to develop self-paced and on-the-job training packages for registry staff and typists using the manual as a basis for the curriculum; and,

Fund the following training:

- a. Technical training for new or recently new registry staff and typists using the developed training packages
 - i. *number to be determined based on advice from individual courts*
 - b. Awareness training for all registry staff and typists on standardized caseflow practices and the manual
 - i. *approximately 150 registry staff including Court Secretaries and 180 typists*
 - c. ‘Train the Trainer’ sessions for 25 people who have been identified as responsible for delivering on-the-job training within each registry.
 - i. *1 or 2 from each court*
 - d. ICT skills training including Word and Excel
 - i. *number to be determined*
 - e. Familiarization training on the transition to working in an electronic environment
 - i. *Number to be determined but to include Judges*
- iv. Purchase the following ICT equipment to replace obsolescent equipment:
 - a. Desktop computers
 - i. *200 based on number of registry staff and typist*
 - b. Printers – Networked and non-networked
 - i. *50 networked – each court requires: 1 x reception, 2 x registry*
 - ii. *80 non-networked – each court requires 1 x printer per typist or courtroom*
 - c. Scanners – high-volume and standard-volume
 - i. *5 high-volume – 1 per larger court*
 - ii. *16 standard-volume – 1 per court*
 - d. Servers (and racks)
 - i. *16 – 1 per court*

These figures are approximate and need to be confirmed. They do not take into account equipment that may recently have been purchased or is the process of being processed.

- v. Purchase electronic notice boards to display daily court lists and court notices.
- vi. Provide technical support to draft a plan to improve server capacity and electronic archiving policies.
- vii. Provide support to Belgrade Commercial Court for the purposes of identifying and preparing files for destruction; and,
Provide technical support to draft a plan that determines the long term solution for Commercial Court archive management.

- viii. Provide technical support to enable Belgrade Commercial Court to make better use of the existing space on the ground floor to increase the reception facilities (without requiring any civil works); and,
Purchase desks, chairs, partitioning and shelving to fit out new reception facilities.