World Bank Multi-Donor Trust Fund for Justice Sector Support in Serbia

Serbia Judicial Functional Review

Status Update
Purpose of our Meeting

• Update on where we’re at in the Functional Review process
• Share some of the main issues we’re identifying through the process
• Seek your views on these ‘main issues’
  – Are these the main issues?
  – What do you think about them?
  – Are we missing something important?
• Outline next steps for completion of the Functional Review
Where are we at in the FR process?

• Data collection
  – Most data collected – thanks to institutions
  – Some inconsistencies & gaps identified
  – Some follow ups needed
• Survey work
  – Multi-stakeholder survey (6030 respondents)
  – Access to Justice survey & focus group discussions
• Field visits
  – More than 20 field visits conducted
  – 3 more field visit scheduled for May 2014
• Interviews
  – More than 100 people met in interviews
  – A few more interviews in May 2014
• Workshops / Forums
  – 11 workshops held
  – Further workshops in May, June 2014
FR Report: Draft Contents Page

• Executive Summary
• Performance Framework
  – Indicators
  – EU standards
  – Data sources
• Performance Assessment
  – Demand for justice services
  – Efficiency in the delivery of justice services
  – Quality of justice services
  – Access to justice services
• Analysis of the Functioning of the System
  – System governance
  – Management & coordination
  – Resource analysis: finance; HR, ICT; Infrastructure
• Recommendations
• Risk Management
• Annexes
  – Background info, data, desk review, tables etc.
Performance Framework

• Performance (outputs and services)
  – Indicators: Efficiency; Quality; Access
  – Setting indicators against EU standards

• Resources (what goes into producing services)
  – Management & coordination
  – Finance, HR, ICT, Infrastructure
  – Setting indicators against European standards

Challenge: EU standards are not always readily identifiable. And where they are, they’re not always precise and quantifiable.
Performance Assessment

What’s the current picture in terms of efficiency, quality and access?
Performance Assessment - Efficiency

- Overall number of incoming cases is decreasing
- The caseload data are somewhat inflated
- Sifting out inflated numbers reveals that judicial workload is modest
- Serbia’s judicial system performs well in terms of timeliness at 1st instance.
- Serbia’s backlog is bigger than comparator EU countries.
- Clearance rates have improved and are within or above EU range.
- Large disparities in performance, especially backlog and judicial productivity
- A range of challenges with procedural efficiency & abuse of process
Filings per judge vs. Size of Court, Basic Courts 2013

Per judge dispositions vs. per judge filings, Basic Courts 2013
Performance Assessment - Quality

• Quality of laws is perceived to be low in terms of clarity & fairness
• Quality of decision-making is perceived to be low
• Appeal rates & abolition rates vary but are not so bad
• ECHR complaints are problematic but confined to specific types of cases
• Perception of corruption remains widespread but is improving
Problems estimated to occur often in the implementation of laws, 2013

- Inconsistent interpretation of laws: 82, 84, 82
- Inconsistent jurisprudence: 88, 83, 84
- Selective enforcement of laws: 32, 31
- Non-enforcement of laws: 26, 27

- Judges
- Lawyers
- Prosecutors
Perception of Absence of Corruption in the Judicial System, 2009-2013

Percentage of respondents claiming that there is NO corruption

- 2009
- 2013
Performance Assessment - Access

• Affordability is the largest barrier to access to justice
• Access to information is also a challenge
• Geographic / physical barriers aren’t the biggest barriers
• Lack of ADR / mediation options limits access
Perception of Costs by Quality of service – citizens with experience, 2013

One half of all citizens with experience perceive overall expenses in their court case as excessive, but...

If the quality is perceived as good then the costs are not perceived as excessive.
Performance Assessment - Overall

• In all, performance meets EU standards in some areas, and is below in others. Still is within reach
• Performance is improving in efficiency areas, less in quality and access
• After many structural changes, the system craves stability
• Efficiency, quality and access are highly related
Reason for Evaluating the Judiciary System as not fully fair – Professional Staff, 2013

% of PROFESSIONAL STAFF WHO DID NOT EVALUATED FAIRNESS AS “LARGELY FAIR”

No difference between 2009 and 2013.
Resource Analysis

What goes in to producing justice services?
Resource Analysis – Governance

• Governance has focused largely on judges and laws
• The next phase will need to focus on system performance & improvements
  – Developing a framework & methodologies for defining performance
  – Easy monitoring of that performance across the system by specialized staff in HJC & SPC
• Significant work will be required to transfer functions to HJC & SPC
  – Planning should be prioritized/implemented now
Resource Analysis – Management

• The evidence base to inform management does exist
  – But is under-utilized because systems are fragmented and unwieldy

• Resource mix is imbalanced
  – 80% of budget tied up in salaries
  – Lack of flexibility to move funds and other resources where and when needed
  – Little room for transformations in ICT, infrastructure, innovation etc.

• With constrained resources, collaborative programming and choices will be required
2010-13 Structure of Executed Court System Budget in 2013 RSD/CPI

<table>
<thead>
<tr>
<th>Year</th>
<th>Salaries</th>
<th>Current Less Salaries</th>
<th>Capital Investments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>15,837,508,310</td>
<td>4,132,417,327</td>
<td>280,615,397</td>
</tr>
<tr>
<td>2011</td>
<td>17,540,596,790</td>
<td>4,972,580,362</td>
<td>555,740,845</td>
</tr>
<tr>
<td>2012</td>
<td>17,119,287,454</td>
<td>5,629,666,970</td>
<td>1,000,222,142</td>
</tr>
<tr>
<td>2013</td>
<td>17,417,187,460</td>
<td>4,192,777,476</td>
<td>291,499,710</td>
</tr>
</tbody>
</table>
Resource Analysis - Finance

- Financial tools are underutilized in measuring and managing performance
- Funding levels are generally consistent with EU trends
- Consumption exceeds budget for large and increasing arrears in Basic and Higher courts
- Lack of disbursement predictability, unfunded mandates and reallocation restrictions leave courts in constant survival mode, without sense of control and interest in taking initiative
- Fragmentation of financial management
- Lack of a common understanding of distinction between capital investment and maintenance hinders allocative efficiency and accountability
- Little evidence of abusing the financial management system for private gain
Serbia and Selected EU Countries:
Court Budget per Capita in Comparison with GDP per Capita

2012 Appropriated Court Budget Per Capita, Current EUR

2012 GDP Per Capita, Current EUR
2010-13 Court System Appropriation, Budget Adjustment and Arrears as % of Consumption

<table>
<thead>
<tr>
<th>Year</th>
<th>Appropriation, BLN 2013 RSD/CPI</th>
<th>Arrears, BLN 2013 RSD/CPI</th>
<th>Adjustment, BLN 2013 RSD/CPI</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>22.37</td>
<td>1.65</td>
<td>-2.12</td>
</tr>
<tr>
<td>2011</td>
<td>28.52</td>
<td>2.65</td>
<td>-5.45</td>
</tr>
<tr>
<td>2012</td>
<td>28.16</td>
<td>1.93</td>
<td>-4.41</td>
</tr>
<tr>
<td>2013</td>
<td>24.72</td>
<td>2.84</td>
<td>-2.81</td>
</tr>
</tbody>
</table>
Court 2010-13 FY Arrears as % of Executed Current Budget Net of Salaries

<table>
<thead>
<tr>
<th>Year</th>
<th>Higher</th>
<th>Basic</th>
<th>Misdemeanor</th>
<th>Appellate</th>
<th>Commercial</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>56.00%</td>
<td>53.07%</td>
<td>25.70%</td>
<td>3.37%</td>
<td>15.57%</td>
</tr>
<tr>
<td>2011</td>
<td>85.66%</td>
<td>77.14%</td>
<td>13.78%</td>
<td>2.60%</td>
<td>14.52%</td>
</tr>
<tr>
<td>2012</td>
<td>73.49%</td>
<td>64.06%</td>
<td>12.94%</td>
<td>7.77%</td>
<td>11.22%</td>
</tr>
<tr>
<td>2013</td>
<td>143.20%</td>
<td>91.28%</td>
<td>44.69%</td>
<td>29.38%</td>
<td>13.51%</td>
</tr>
</tbody>
</table>
Resource Analysis - HR

- Large numbers of people in the system
- Staffing structure is imbalanced & unplanned
- The system lacks the flexibility to perform
- Judge evaluation and discipline improving
- Judicial Academy could do more to support the transformation
Comparatively High Ratios of Staff per Judge

![Bar chart showing the ratio of total non-judge staff per judge across various countries. Malta has the highest ratio, and Serbia has the lowest.]

Countries: Romania, Finland, Bulgaria, Greece, Germany, Netherlands, Hungary, France, Austria, Czech Republic, Portugal, Slovenia, Slovakia, Lithuania, Belgium, Poland, Croatia, Latvia, Italy, Sebia, Estonia, Cyprus, Ireland, Luxembourg, Malta.
Ancillary Staff a Large Proportion of Total Staffing

The ratio of ancillary employees to core, non-enforcement case-related staff demonstrates the courts have a significant number of employees who are not engaged in the courts’ core functions.

<table>
<thead>
<tr>
<th>Court Type</th>
<th>Total Non-Judge Employees</th>
<th>All Case Processing Related Positions</th>
<th>% Comprising Case Processing Related</th>
<th>Other Employees</th>
<th>% Comprising Other Employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appellate</td>
<td>589</td>
<td>504</td>
<td>86%</td>
<td>85</td>
<td>14%</td>
</tr>
<tr>
<td>Higher</td>
<td>1644</td>
<td>1141</td>
<td>69%</td>
<td>503</td>
<td>31%</td>
</tr>
<tr>
<td>Basic</td>
<td>5948</td>
<td>4011</td>
<td>67%</td>
<td>1937</td>
<td>33%</td>
</tr>
<tr>
<td>Commercial</td>
<td>749</td>
<td>619</td>
<td>83%</td>
<td>130</td>
<td>17%</td>
</tr>
<tr>
<td>Misdemeanor</td>
<td>2053</td>
<td>1403</td>
<td>68%</td>
<td>650</td>
<td>32%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>10983</td>
<td>7678</td>
<td>70%</td>
<td>3305</td>
<td>30%</td>
</tr>
</tbody>
</table>

Source: MDTF Mega Data Table
Resource Analysis - ICT

• Systems are improving and gradually replacing paper processes
• Systems remain under-utilized
• Variety of unlinked systems with limited exchange
• Lack of in-house ICT capacity
• Long-range ICT budget planning required
Resource Analysis - Infrastructure

- Continuous changes to the system make infrastructure planning challenging.
- Absence of multi-year capital planning* doesn’t allow for planning.
- Fragmentation of planning responsibility between MOJPA and HJC/SPC.
- Low capacity in MOJPA and HJC for capital planning and investments
- Maintenance and investments is mainly done on the ad hoc basis
- Lack of courtrooms and use of judges’ chambers as substitutes creates challenges to efficiency and transparency.
Planned and realized funds for capital expenditures for the judiciary
Court infrastructure – renovation needs
Reconciling performance & resources?

• Demand is tapering off
  – Services are being outsourced
  – Inflow of cases is falling

• Inputs have increased
  – Resource consumption has increased, mainly by increasing arrears
  – HR has increased, mainly via ad hoc recruitment

• Outputs have stagnated
  – Caseload figures are steady
  – Little backlog reduction

Question: why hasn’t performance and value for money been so much stronger?
And what can be done given existing resource constraints to improve performance?
Next steps?

• Welcome feedback on these issues
• We’ll share draft documents along the way
• Further meetings to share this PPT with stakeholders
• Workshop in June to discuss Recommendations and Risks
• Share full draft report
• Receive comments
• Finalize report
Questions?