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**Justice Sector – Assessment and Recommendations for Judiciary
Program Budget Preparation**

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INTRODUCTION

In many countries, the process of specifying the annual budgetary allocations of funds to the judicial system is an extremely complex process that gives rise to numerous disagreements. Requirements of one power (e.g., the executive power requires "restrictiveness" and "accountability" of finance management) are rather often interpreted as imposed restrictions to the principles of another power (such as the "right to a fair trial" and "independence" that are the main principles of the court authorities). In most cases, insufficient funds are not the only problem, although this is almost always the main cause of dissatisfaction, but the root problem lies a number of various viewpoints of both parties because of which there is no mutual understanding between them and no respect for their respective jurisdictions and goals.

One of the most often consequences of this tension are mutual, permanent doubts in motives of those who are in charge of the public finance system on the one hand, and employees of the judiciary sector, on the other. Even in more developed public administrations and judiciary systems, resistance against cooperation for the purpose of creating a new, more practical approach to the budget may be felt. In such circumstances, the public finance management and judiciary bodies get the worst of it.

The very nature of the judiciary sector can often be credited to a great extent for the existence of the problem. The judiciary sector is traditionally conservative, strict in its views and processes and not willing to accept changes or corrections when doubts about its results are expressed. Some employees of the judiciary use their personal authority to interfere in budgetary issues, while other show minimum interests in operational issues or simply do not give any relevance to financial rules and conventions. In some parts of the judiciary, even some resistance against the idea of granting the jurisdiction over the court management or budgetary issues to professional managers (i.e. people who are not from the judiciary) might be felt. This resistance often hampers the development of certain skills and systems. The issue of who should be the one to set goals to be achieved by the judiciary sector – the executive power or the judiciary power or both of them – also goes deep into the very essence of the issue of court independence. Finally, employees of the judiciary also very often express a resolute refusal to accept the fact that this sector is only one of many that are competing for limited financial assets to be granted to them from the budget, and that it does not have any advantage or priority as compared to other items of public spending.

This study also examines the said issue from the aspect of professional budget preparation. In the majority of countries that have gone through this kind of transformation, development has been achieved to the greatest possible extent through the use of improved methods for budget preparation that satisfies the needs of state bodies, including the judiciary, but at the same time comply with imposed restrictions, and that are also favourable for increased management autonomy. These improvements in budget preparation for the judiciary, together with mutual efforts of both powers made in that respect, provided for a more efficient use of financial assets, better functioning of the judiciary and undoubtedly, although less visible, more effective results of the judiciary. In fact, less developed countries may have advantage in introducing these improvements because in such countries the role, position and status of the judiciary is often less rooted into tradition, conventions and historically established expectations.

In the past ten years, the awareness of the connections between the judicial reform and the legislative reform, good governance and economic and social development significantly increased. This awareness has incited several new initiatives for legislative and court reforms in various regions.

In many regions the key element of the judiciary system reforms implies the reorganization and modernization of the judiciary and the court system. In all these cases, needs and activities in the judiciary are primarily financed from the assets of the central budget or by the combination of assets from the central (or federal) budget and the local one. Thus, the implementation of efficient judicial reforms implies a direct conflict of demands, i.e. restrictions in many cases, of the state systems for finance management. The process of learning how to work more efficiently within the frameworks imposed by the restrictive budgetary rules and procedures may often be frustrating, but this experience is necessary for those who are managing the judiciary and conducting the system reforms.

Many of these frustrations have occurred due to three main reasons. Firstly, often there are inherited and deeply rooted tensions between the executive power and the judiciary power, originating from the fundamental principle of *independence of the judiciary*. Secondly, these tensions are most distinctive and most severe when discussions about the *distribution of funds for the judiciary sector* are held. In these discussions, the most common causes of disagreements are various levels of reimbursements to be paid in the judiciary, the necessity (but obviously ineffectiveness) of certain legal procedures that are too long as well as repeated requests for extended and significantly improved court premises.

Thirdly, those who are employed in the judiciary are without exceptions sensitive to questions dealing with *working results in the judiciary* and the *liability of the management*. How can these aspects be measured? Who should have the authority and capacity to monitor, compare and comment activities or effectiveness of judges and legal procedures? What are the incentives that may lead to more efficient results in the judiciary and do these incentives automatically incite better results in the enforcement of justice?

Any of the aforementioned questions has direct implications on the financing of the judiciary system. As it has already been mentioned before, demands of the judiciary for the allocation of budgetary assets have to be reviewed annually, and very often that is done in a politicized context in which there are many other equally important demands for public spending. If demands of the judiciary for the allocation of budgetary assets are not presented effectively, the chances that this sector would be granted the financial support it requires are rather small, which is often a key element of every reform in the judiciary.

It is generally accepted that improved budgetary practices that were conducted in a number of countries in the past few years have significantly contributed to the modernization of judicial procedures, which is mostly achieved by redirecting the focus to the quality of managerial activities and responsibilities within the very judiciary sector. However, some significant changes and improvements in the management of the judiciary must also be ascribed to many other reforms of the public sector and factors (internal and external in relation to this sector) that are beyond the scope of this study.

DIVISION OF POWER AND MATERIAL INDEPENDENCE OF COURTS

The Constitution of the Republic of Serbia in compliance with the tradition of all modern democratic constitutions has instituted the principle of the division of powers as the fundamental principle of the state governance as such. In that respect, the Constitution defines three main forms of state governance, i.e. the legislative, executive and judicial power. Each of these three forms of power has a special position and role defined under the Constitution, Constitutional Law and special laws that regulate in more details their legal position. These three forms of the state governance are implemented through activities of special bodies that perform their duties independently, within the framework of their respective jurisdictions granted to them as well as their clearly defined authorities.

The meaning of the principle of the division of power is implied in the democratic principle of preserving power which does not let any of these powers having prevalence over the other two, but which demands instead the establishment of the functional balance within the unique state power.

The special position is given, beyond any doubt, to the court power that has a special role and significance for the successful functioning of a state, especially for the functioning of other two forms of the state power - the legislative power and the executive one - through the control of the constitutionality and legality of acts passed by the legislative power bodies, performed by the Constitutional Court as well as the control of legality of individual acts passed by bodies of the executive power and administrative bodies, performed by the Supreme Court now, and by the Administrative Court in the future.

Because of this special constitutional position, the principle of the independency of the judiciary is imposed on the court power as a special imperative because it is the main guarantor for the successful functioning of the court power and its distance from the legislative power and the executive power under the Constitution.

The independence of the judiciary is a principle that goes back to the antique times as the principle which did not remain on the level of a moral principle, but instead, it has been built into legal norms of that time, regulating the position and manner of functioning of courts and judges.

In the modern history, i.e. the second half of the 20th century, numerous international conventions and declarations have been adopted, regulating the issue of the judiciary independence. Among them the first one to be mentioned is the Universal Declaration of the Independence of the Judiciary adopted in Montreal in 1983 and the Basic Principles of Independence of Justice adopted in Milan in 1985.

The court power is implemented through institutions (courts of general and special jurisdiction) but for the constitutional and lawful functioning of courts as institutions it should be kept in mind that institutions are made of individuals enforcing the court power (judges), and therefore, the independence of the judiciary as a general category has two dimensions: institutional and personal one. In that respect, the independency of the judiciary is implemented through the independence of the judiciary as an institution and the independence of judges as individuals that are directly executing the court power.

The independence of the court as an institution is implemented through its independence in relation to bodies of the legislative power and the executive power (item 2.04 of the Universal Declaration). It is especially important to mention that the independence of work is implemented in relation to other entities: state bodies and organizations, bodies of territorial and local self-government, chambers and syndicates, political parties, associations, centres of power, powerful individuals, public opinion and other sources of influence.

Courts are independent in relation to other courts of the same or a higher ranking, i.e. to the same or other types of courts (item 2.03 of the Universal Declaration). Courts of a lower ranking observe decisions passed by higher courts, but they should be free in passing their own decisions, despite the obligation to act in compliance with remarks pointed out by a higher court.

Independence of judges as individuals is implemented through their freedom to pass their decisions independently, on the basis of their own assessments of facts and their own understanding of the law, without limitations, impacts, incentives, pressure, threats, interference or interventions, indirect or direct, from anyone and for whatever reason (item 1.03 of the Universal Declaration and item 2 of the Basic Principles).

Various sources of influence constantly try to reach the court and whether they will succeed in their efforts depends primarily on the personality of a judge, the judge's integrity, i.e. "subjective objectivity", **for which there should not be any other authority except the application of the law based on the acknowledgement of justice.**

The independence of the judiciary as an institution and the independence of judges as individuals cannot be based only on the constitutional proclamation that courts are independent in their work. Therefore, their independence has to be safeguarded by the whole system of guarantees. That system should be established for the purpose of stimulating the very judiciary to be independent, but also for the purpose of raising awareness of all citizens that the judiciary is really independent.

According to the source of making norms, guarantees of the judiciary independence may be classified into three groups: those established by the Constitution, those established by the law and those that are among generally accepted rules of international law.

In the period after World War II the issue of human rights ceased to be in the exclusive sovereignty of a state. Member countries of international and regional organizations accept by the very membership that this issue may be discussed before these institutions as well. In order not to have human rights only as a declaration and theory, it is necessary that states provide for the effective, independent and unbiased judiciary. This essentially has had an impact on the improvement and development of standards in the judiciary, but also in the development of special standards that have to be met in order to regard the state a state governed by the law. Conventions and recommendations are a "living instrument" that is constantly being improved. Not only they set up the limits of the state interference into the functioning of the judiciary, but also, by using the principle of positive obligations, they redefine positive actions that states have to undertake in order to fulfil the standards. International instruments show welcome signs of expending positive obligations of a state in the direction of the independent and unbiased judiciary and the obligation of government representatives to restrain from any interference into the work of the judiciary.

However, more and more attention is paid to the accountability of the judiciary and its obligations in a democratic society. Striking this balance between obligations of the state to create conditions for the independent judiciary and obligations of the judiciary to contribute to the democratic development of a society is a guarantor for the creation of a state governed by the law.

Judges and prosecutors have a key role in the creation and improvement of the rule of law. Before all, they are crucially important for the maintenance of the rule of law. Nothing has such a detrimental effect for the rule of law as the absence of law, especially when criminal offences are committed by public administration officials. Secondly, the absence of the rule of law in a state presents a violation of its international legal obligations. Everyone who is responsible for the enforcement of justice should be aware of its role in preventing the state finding itself in such a position. Thirdly, while the executive and legislative power may find itself tempted to ignore the rule of law, ignoring thereby the human rights as well, responding in that way to pressures from the public to increase protection against the increased rate of crime, organized crime and transnational terrorism, the judiciary power is responsible to safeguard the society in order not to let it fall into a trap by allowing short-term efficacy to suppress long-term institutional stability and fundamental values of a society.

While for the execution of many governmental jobs it is sufficient to have routine, for a successful execution of the judiciary function, the extremely strong power of decision making and judging is needed. A judge decides about life and death, about freedom and the absence of freedom, about one's belongings and property, about damage and indemnification, about truth and lies, about happiness and unhappiness, about spirit and evil spirits, about lawfulness and unlawfulness, about constitutionality and unconstitutionality, about justice and injustice. In other words, about the most important and most subtle values, goods and interests of people and their communities. Therefore, the judge must become worthy of its sublime vocation. That is how (s)he will gain the confidence of people.

Confidence is earned by strengthening one's reputation, by living honestly, by making unbiased judgements, by one's integrity, dignity and courage. A scared and obedient judge is not noticed by citizens, by the public opinion and even by those who made him(her) be like that. Such a judge is remembered only when needed. After "being used" he is returned again into the last rows of the social life, and tapped on the shoulder from time to time. A judge having integrity and dignity is not a loved one, but he is respected. No one taps him on the shoulder, but respect him instead. And he is not called when there is a need for someone to finish a dirty job of daily politics.

The independence of the judiciary as an institution, and the independency of judges as individuals, cannot only rely on the constitutional proclamation that courts are independent in their work. Therefore, their independence has to be protected by the whole system of guarantees. It is established for the purpose of stimulating the very judiciary to be independent, but also for the purpose of raising awareness of people that it is really independent.

One of the key guarantees is material independence. **The autonomous court budget is a financial condition for the independence of the judiciary. Unified and integrated interests of the judicial power should be represented by the highest court body – High Judicial Council.**

All international acts unanimously stress out how important it is that the state ensures material and technical preconditions for the purpose of securing an independent and efficient functioning of the judiciary bodies, i.e. judges, first of all, but also the auxiliary staff that upholds their work and makes it more efficient.

There is no direct recommendation or regulation that indicates what organizational solution should be applied in order to implement that or what institution should be directly competent for the execution of the court budget. In the comparative practice there are two main solutions for how to provide for the necessary funding for the judiciary and in reference to that a decade long conflict has been instigated, especially in countries going through the process of transition, related to the issue of whether the independent budget is a necessary prerequisite for the independent judiciary.

International acts do not give a direct answer to that question, but the countries should look for the organizational solution by themselves that should be in compliance with their own legislative framework and tradition, and each country should chose between the traditionally centralized continental model of Germany and Austria in which the key role in the judiciary system management is assigned to the Ministry of Justice, which is therefore directly competent for budgetary issues or to the solutions in practice that are known as Anglo-Saxon solutions, but that are increasingly present in transitional countries in which the High Judicial Council or the Supreme Court are let to take care about the needs and expenses of courts and judges and these needs are satisfied through an independent budgetary body.

This conflict of interpretation and the way of thinking maybe originates from the very interpretation of the meaning of the word "INDEPENDENCE". In traditional continental systems, the independence of the judiciary is interpreted as its essential but the narrowest meaning and it is reduced to **the independence of an individual judge passing a court decision in a concrete case**. Keeping in mind the long-term tradition of well-established democracies that are the origin of the continental law and the respect and permanency of the position held by a judge in these countries, it is not surprising that German or Austrian judges in its initiatives for reforms do not insist on the budgetary independence. The system that functions without any flaws in their countries does not raise any concerns for them, nor it threatens them anyhow, and therefore, the do not detect or feel the deficiencies that their colleagues in transitional countries feel on a daily basis. When there is sufficient funding for regular and appropriate salaries and an unimpeded functioning and performance of the judiciary function, judges do not have to think about who is the one who plans and enforces, i.e. manages the court budget.

But what is happening in countries with limited resources and where there is a strong fight on a daily basis about the distribution of the available budgetary assets to all priorities and government sectors as well as the role of the judiciary as an independent branch of power, and those who should represent the interests of the judiciary. The tendency is that transitional countries are turning more and more to the Anglo-Saxon practice in which independence is interpreted in the more general sense of the meaning, and where the model of independence in decision making, budgetary independence and independence in the administration management is applied, that not only transfers the jurisdiction over the assets to the court representatives, but also the full accountability to citizens. Out of transitional countries, this model is most successfully applied in Hungary where it has been fully functioning since 1985, and it was followed by Macedonia, Bulgaria, Montenegro, and partially Slovenia, etc. Some countries have opted for a hybrid model in order to test and prepare court capacities to plan and execute the budget. In hybrid models, the transitional period is introduced,

during which the Ministry of Justice and the High Judicial Council jointly prepare and negotiate the budget, and when court capacities are strengthened enough, the full transfer of the budgetary authorities is transferred to the judiciary. A representative model of an intermediate solution is the Netherlands and this practice is more common in northern European countries where judiciary councils are increasingly assuming the contentious and administrative role in the judiciary, instead of the role of keeping its institutional independence, and that is the practice of the traditional French and Italian councils.

In models in which the responsibility for managing the court system is divided between the Ministry of Justice and the Judicial Council (the Ministry is competent for the court management and budget and judges are independent), there might be problems of split-up responsibility which we see very often at our news. If there is an omission or the case has become statute-barred, harsh reactions of the media and the public will first be directed to the court and the judge. But, when the court representative comes out with an explanation that the court cannot meet either financial or technical preconditions for work and that the working conditions are bad, that there is an insufficient number of court rooms, that the Minister has not approved the funding for court-appointed experts and defence counsels, an average citizen does not know whom to believe any longer and who to blame for such an omission. On the other hand, citizens loses trust in the judicial institutions and the state as a whole, justice and functioning of the judicial system and tries to find some alternative solutions, turns to violence and crime, sometimes taking justice in his own hands. These are some of the reasons why transitional countries turn to the Anglo-Saxon solution. When the state has a modest GDP at its disposal and limited resources, the solution for having peace at home is to let everyone manage its own finances, however scarce these funds might be. This, of course, does not exclude the principle of the purposeful spending and observance of the Constitution and lawfulness.

OVERALL REFORMS IN THE PUBLIC FINANCE SECTOR, NEW TASKS AND OBLIGATIONS TO BE FULFILLED BY COURTS, AND POSITIVE EFFECTS THAT ARE TO BE ACHIEVED BY IMPELEMENTING REFORMS RELATED TO INCREASED TRANSPARENCY

Besides demands to strengthen the "independence" of the court budget, reforms stipulated by the National Strategy for the Judiciary Reform have to follow up general trends of public finance reforms conducted by the Ministry of Finance, because the budget of the judiciary system is only one segment of the comprehensive state budget and therefore, it cannot be reviewed outside that system. In reference to that, the transfer of budgetary responsibilities from the Ministry of Justice to the High Judicial Council planned after the adoption of the Law on the High Judicial Council will cause a series of structural changes and the need for the new staff and training, as well as a requirement for great efforts to be made for the purpose of achieving this important goal. The introduction of the program dimension into the system of the budgetary classification will be one more novelty for courts and Prosecutor Offices of the Republic of Serbia. A new way of thinking and planning of finance will instigate, at first, significant resistance because of the lack of understanding and fear from the unknown, but in the mid-term and long term, it will provide significant savings because of its transparency and purposefulness of expenditures that will be ensured.

If both reform initiatives that are to be implemented in the future are seriously examined, at the first sight they would seem complicated and too ambitious for the implementation in the justice sector that is already complex anyway, and a question may be raised of whether it is reasonable to conduct such radical reforms at once and immediately. In my opinion, the answer is YES, because after a relatively short period of time of making great efforts and investments into the staff and its education, results that will be significantly better even in comparison to the objectives set by the Strategy may be achieved, and everyone would benefit from that: the judicial system, since it would have better control over its financial assets that the judiciary would dispose of and manage independently; citizens because of the improved transparency of public funds spending (the citizens' interest should not be forgotten, since the citizens are the one who provide finances for the judiciary by paying taxes); and the executive power as well, that will not exercise control over the planning and implementation of funds allocated to the judiciary, but that will have, instead, even a more clear insight into the real costs and demands of the judiciary due to reports based on the program classification.

In this section of the present study, the comprehensive reforms of the public finance sector will be presented as well as the new tasks and obligations that will have to be mastered by courts in the process of transformation, but also positive effects that will be achieved by conducting reforms that in many ways show the justifiability of such an overall reform process.

The Government of the Republic of Serbia initiated the introduction of the program dimension into the budget system classification in the year 2005. This step presents only one phase of the wider process of reforms aimed at the public finance management. The Republic of Serbia is at this moment in a very interesting phase of the reform process. There is a clear intention to change the manner in which the budget is presented, which is currently based on inputs, and the changes would go into the direction of the budget presentation that would have a wider focus and encompass short-term and long-term results. International experience in the program budget shows that such type of the political will to improve connections between the budget and strategies, by paying attention to

short-term and long-term goals, is the main prerequisite for the successful implementation of the program budget.

A need to introduce the program budget into the Republic of Serbia arises from the Government's needs in reference to the planning of strategic policies, their connection with necessary funding, efficient implementation and a possibility to control and monitor them. In a certain sense of the meaning, this need arises from the awareness that the current mechanisms of strategic planning and budget preparation are not sufficiently efficient for the implementation of the Poverty Reduction Strategy and European integration processes. The Ministry of Finance is currently allocating funds to the ministries but it does not have a clear insight into the goals achieved through the use of funds, i.e. to which segment of the economic policy the funds has contributed. The Government is not able to determine to what extent the processes stipulated by the Poverty Reduction Strategy and European integration processes are successfully implemented.

The program budget offers possibilities for the removal of these deficiencies. The introduction of the program dimension in the qualification structure, however, is only one of the steps (although the crucial one) in the change of the focus of budgetary processes and planning from inputs (engaged resources) to the short-term and long-term results. In that respect, the program budget is by itself only one phase in the transition to a more comprehensive system of the public finance management – the system of monitoring results.

A purposeful spending of budgetary assets earns more and more relevance in all countries that strive to fulfil goals and priorities of the state politics, because citizens demand public services which are of better quality and more easily accessed, and the greater efficacy and transparency of operations of governmental institutions. Especially for economies going through transition and development, the improvement in achieving this strategic goal presents a prerequisite for achieving long-term development goals.

Accountability, transparency, predictability and participation present important tools for the budget management, but are also essentially important and therefore, they are generally regarded as four pillars of good governance.

If bodies competent for the budget management do not comply with the authorities granted to them by the Parliament or if public funds are used for private purposes, the possibility of achieving such overall fiscal discipline is put into question as well as the efficient distribution of budgetary assets, or both. Demands to comply with the authorities granted by the Parliament and the accountability to the Parliament essentially originate from the rule that is assigned to the Parliament in a democratic society. In modern societies, citizens expect honesty from people who are responsible for the work performed by the Government. Legal norms and actions are of the crucial importance for the protecting of civic rights and the development of the client-oriented approach in operations of public services.

Corruption, which presents the abuse of one's office or private position for the purpose of achieving indirect or direct personal benefit, presents a moral and legal issue and it is one of the main sources of inefficiency of public spending reforms. One of the main ways to fight corruption is to strengthen the system of public spending management, including the more transparent process of budget planning and the development of clear and measurable programs that present a direct link between the state policy and expenses that have been incurred in the implementation of the policy.

Often in countries going through the process of transition, inspection services deal with relatively irrelevant irregularities, while significant corruption cases are not investigated and remain unpunished. Such examples may often be found in "hidden" segments of the annual budget (such as potential obligations, extra budgetary items, multiannual obligations that have been undertaken). Further on, the budget of public expenses does not present the only potential source of corruption. Weak systems of the Tax Authority, the management of state debts, the Customs Authority, privatization, etc. are all fields inclined to corruption and frauds. Fiscal transparency and accountability and the appropriate review systems are necessary in order to fight corruption in each of these fields.

The issue related to a lack of consistency and coordination in the short-term and middle-term policy presents a great challenge today. In the previous period, a large number of countries put great efforts in the modernization of the system of public revenues management.

The program model of drafting the budget presents an attempt to integrate activities related to planning, budgeting and taking over responsibility into a unique process with the mid-term perspective. The program model of drafting the budget does not include only priorities, but a group of government activities as a whole that may be modified to reflect the Government priorities. It is directed into the achievement of goals, which is a key term for insuring the integration of the aforementioned fields of the Government activities. In a fully developed system of the program model of drafting the budget, the budget debate should not be directed to such an extent to details related to inputs, but to the review of the assessment of expenses and effectiveness of proposals on activities (the program) and to decisions about alternative implementation solutions, which is of the utmost relevance.

The introduction of the program model of drafting the budget should lead to better availability of information about the effectiveness of expenses and costs for the Ministry of Finance, Government and the National Parliament, so that they may better allocate resources to strategic priorities on every level. That should also ensure the better control as well as transparency and responsibility for all public revenues and the results of these revenues. Finally, that should create better motivation of the ministries and other budgetary beneficiaries and of all courts so that they may be motivated to be innovative, to examine activities and programs, and to spend financial assets in a more efficient and effective way.

New tasks and responsibilities of courts

A successful introduction of the majority of new initiatives in courts requires different preconditions that uphold the reform. This is certainly true for the introduction of techniques aimed at drafting a goal-oriented budget. Several important steps have to be taken in order to help creating such conditions:

- ***Creation of positive opinions: better support to budget drafting – better justice.*** The introduction of the financial management reforms in the judiciary requires confidence and support for the process in many fields, especially among judiciary and court officials. Positive opinions about these changes are of the essential relevance for the initial acceptance of the reforms and for possible success. Stressing out that the new and improved methods of drafting budget may really strengthen the independence of the judiciary ("let managers to

manage and judges to judge“) may help the creation of positive environment. Showing *how* this may be implemented shall give additional weight to these arguments.

- ***Knowing the process that is going on.*** Different assessment systems and methods for budget drafting have been developed during all these years, together with other developments and improvements that have been introduced into the public administration and management. Countries that are reforming themselves may benefit and learn from other the experience of other countries, but they should not expect immediate success when they apply the latest concepts and methods of budget drafting to their own judiciary system. A simple delivery or copying of successful packages of the improved system for budget drafting and financial management are not possible and the creation of one's own system presents a great challenge.
- ***Expanding the cooperation between the fiscal and judicial authorities.*** A small number of countries have reports on the cooperation of the fiscal and judicial authorities in the reform process. A successful introduction of budgetary reforms in the justice sector requires good knowledge of the nature and purpose of these reforms as well as good communication, and the knowledge on how the both branches of the Government may benefit from them. Senior managers in courts are often in a better position to offer initial leadership that is necessary in order to interconnect any historical differences between financial officers and the judiciary.
- ***Increasing the focus on managing the achievements.*** Public administrations in many developed countries of the world are now focusing on *managing the achievements* as "the next important thing". Members of the judiciary and officers of the judiciary sector cannot be neglected or not included in these developments. The judiciary administration and the application of the rule of law will benefit a lot from the improved governance and financial achievements, which will have a significant impact on the efficacy of the court system. The practice of drafting the budget **with an emphasis on programs** that are based on strategies and the issues related to achievements have significant potential as fuel for the introduction of modernization and other required effective and efficient improvements into the court system, and the improvement of the accessibility to justice. That should be clearly presented to those who are employed in Serbian courts in order to participate in the reform process in a motivated manner.

Central control over the court management and funds ensured from the budget

According to the current model of management of the judiciary in the Republic of Serbia, local courts manage their own work, while being supervised by the Ministry of Justice, with certain operational and administrative limitations imposed by laws, rules and norms that specify the manner in which courts will be managed by various administrative procedures. The overall planning and allocation of funds to individual courts is performed through the Ministry of Justice that is competent for the budget of the judiciary pursuant to the Law on the Budget System.

Contrary to many other countries that have much stricter continental law, the Government has granted the jurisdiction over the basic human resources policy of the courts in the Republic of Serbia

to the court presidents. Court presidents have the authority to directly select, employ, promote, punish or dismiss those who are employed in the court administration. Employees of the court administration are employed by courts, not by the Ministry of Justice or some other state body or organization. The policy and procedures of the court are conducted in compliance with the applicable legislation (Law on Judges, Law on the Organization of Courts, Law on the Litigious Procedure, Law on the Criminal Procedure, etc.) and by-laws (Court Rule Book, Rule Book of the Ministry of Justice, etc.). Various norms, above all the Court Rule Book, go into the smallest details of a procedure, explaining in detail minor and irrelevant procedures that could easily be assigned to courts to decide about them in compliance with their discretionary right. There is no doubt that preoccupation by such details discourages officials and employees of the judiciary system from trying to develop and adopt more efficient ways for the performance of tasks related to the manner in which a court procedure is conducted. At the moment amendments to the Court Book of Rules are being introduced that will give greater freedom and innovativeness to court employees in managing and improving working procedures.

Inability to get timely and correct information about the working results, efficiency and the condition of the judiciary bodies is one of the greatest problems that limits the capacity of the judiciary managerial staff to pass decisions.

There are several questions and topics to which the current system cannot give a precise answer:

- It is the fact that at the moment, in the Republic of Serbia there is no established comprehensive system for the analysis of the performance of the judiciary bodies (courts, the Prosecutor's Offices, bodies and councils dealing with petty offenses);
- Even when statistical data may be obtained, problems related to the accuracy and correctness of the information may arise due to manual processes that are applied rather often, while the possibility to check the accuracy of data obtained in such a way is reduced to the minimum. The additional problem is the lack of training, information and knowledge on how to use the data;
- Objectives of such a system are not clearly defined as well as indicators that would present working results in numbers and compare them per individual judicial bodies;
- Inability to allocate funds precisely due to a lack of parameters for the cost assessment of a case per type;
- Inability to make a comparative analysis of the results of work and efficiency of the judicial bodies which prevents the redistribution of funds within judicial bodies.

This obstacle will be removed by the automatization of courts that is currently under way and that will in a few years result in updated and timely data about the overall efficiency of the courts and individual efficiency of every individual judge. Various levels of the managerial staff in the justice sector will be assigned with various authorities and access to the available data. However, this comprehensive effort to provide for a better insight into the efficiency of the judiciary by computerization will also facilitate the management of the budget and planning of expenses in compliance with real needs.

The table below presents the total assets that are allocated from the budget of the Republic of Serbia to the judiciary per judicial body and the percentage of the judicial budgetary assets in the overall budgetary assets for the year 2007. The percentage of 4.51% is obtained if assets that will be earned from the judicial bodies as revenues from court fees in the year 2007 are taken into account (RSD 3,805,000,000).

BUDGETARY ASSETS ALLOCATED TO THE JUDICIARY IN 2007				TOTAL BUDGETARY ASSETS FOR YEAR 2007	share of budgetary assets allocated to the judiciary in the total budgetary assets for year 2007
1.	JUDICIAL BODIES	4,291,804,000.00	5,579,361,702.00		
1a)	Judicial Centre	27,981,000.00			
2.	SUPREME COURT OF SERBIA		488,834,186.00		
3.	HIGH JUDICIAL COUNCIL		17,570,000.00		
4.	PROSECUTORS		30,100,000.00		
5.	SUPERIOR COMMERCIAL COURT		148,274,834.00		
6.	REPUBLIC PUBLIC PROSECUTION		170,418,000.00		
7.	WAR CRIMES PROSECUTION		85,903,000.00		
8.	REPUBLIC PUBLIC PROSECTUR'S OFFICE		240,291,278.00		
9.	DISTRICT COURTS		2,617,590,000.00		
10.	MUNICIPAL COURTS		6,992,634,000.00		
11.	COMMERCIAL COURTS		857,895,000.00		
12.	DISTRICT PUBLIC PROSECUTOR'S OFFICES		562,986,000.00		
13.	MUNICIPAL PUBLIC PROSECUTOR'S OFFICES		1,021,576,000.00		
14.	COUNCIL FOR PETTY OFFENSES		117,711,000.00		
15.	MUNICIPAL BODIES FOR PETTY OFFENSES		20,300,008,000.00		
			37,338,633,000.00		4,51%
16.	MINISTRY OF JUSTICE		1,926,011,000.00		
17.	AUTHORITY FOR THE EXECUTION OF PENITENTIARY SANCTIONS		4,143,220,000.00		
			6,069,231,000.00		
TOTAL:			43,407,864,000.00	646,466,666,100.00	5,44%

Keeping in mind restrictions in public spending that are typical for any country in transition, and therefore, for the Republic of Serbia as well, the main budgetary issue at the moment is the permanent lack of financial assets. Public spending depends on the level of the gross national product which in the Republic of Serbia is always insufficient to cover all costs of the state and public apparatus, and therefore, not a single branch of the Government receives the funding it demands. The increase of production and export will also bring more financial assets to the judiciary. Or, if the rationalization measures and savings are successfully implemented, there will be a better distribution of the available funds. In that respect, the program budget will be of great importance.

It is highly unlikely that the changes in the transfer of power over the control of the judiciary budget (from the Ministry of Justice to the High Judicial Council) will significantly improve the condition. For a long time now, a part of court fees that belong to courts is spent in courts, although it happens with a short delay because invoices and bills are sent to the Public Revenues Authority and they go through the Ministry of Finance before the funds are returned to the courts. However, court fees

cover only a small portion of overall costs of the judiciary (about 30%), and they are usually used to improve and to provide for regular operations of courts through reconstruction, equipment, covered costs for which financial assets could not be obtained from the budget.

Numerous discussions have been held, dealing with the issue of whether the courts should get the total proceeds from the court fees, instead of a certain percentage prescribed by the law, and whether that would improve the overall functioning of court. The solutions were looked for and the ratio of how much the judiciary is finance from the budget and how much from its own revenues by analogy with other agencies and state institutions. In Austria, for example, 80% of the judiciary costs are covered from the own revenues but there courts still earn profit by collecting court fees for cadastral books and registers of companies that are given in our country to special agencies and institutions.

The conclusion that is clearly imposed is that there are various models and solutions, and in these various models the judiciary is financed in one way or another, but courts should never be viewed or treated as commercial enterprises, because their main function is to ensure the rule of law and legal safety of citizens and not to earn profit.

Having in mind the complexity of the judiciary budget and its scope, courts and their staff have a comprehensive task dealing with the strengthening of the financial management, which includes processes, trainings and information technologies. The improved process, IT system and training for positions in finance (e.g. a capacity to assess the costs of the results) for the purpose of strengthening the financial management will lead each individual court to earning the greatest benefit from investments ("value for money").

OVERALL CHANGES IN THE CURRENT BUDGET PASSING PROCESS

Better quality assessment and explanation of the future requirements for financial assets

The initiative to improve the capability of the Ministry of Justice to explain its future requirements for financial assets in the budget proposal submitted to the Ministry of Finance presents a natural supplement to the initiative to identify possibilities for the internal disposal of funds. Taken together into account, they present a powerful argument in the budget proposal of the Ministry: "We use this year level of financial assets to the best possible extent and we will be able to offer the explanation per item for the difference between that level of financial assets and assets that we ask for the next year".

The Ministry of Finance in the reviewed Memorandum on the Budget for the Judiciary has established the following: "By adopting the new Constitution of the Republic of Serbia and the Constitutional Law for the enforcement of the Constitution of the Republic of Serbia, significant first steps have been made after which in the next period new laws have to be passed by which the judiciary will be regulated: the Law on Judges, the Law on the Organization of Courts, the Law on the High Judicial Council, the Law on Public Prosecution, the Law on the State Prosecutors Council, the Law on the Constitutional Court, the Law on the Protection of Personal Data and Personality, the Law on the Criminal Procedure, the Law on Amendments and Supplements to the Criminal Code, the Law on the Criminal Liability of Legal Persons, the Law on Seizing Property, the Law on the Organization and Jurisdiction of State Bodies in War Crime Procedures and the laws on the ratification of conventions related to the suppression of the high tech crime, terrorism, money laundering, human trafficking and corruption and the Law on the Protection of Children from Sexual Crimes and Abuse.

In compliance with the *National Strategy for the Judiciary Reform*, it is necessary to establish the new network of courts and Prosecutor's Offices that would include all courts dealing with petty offenses, the Appeals Court and the Administrative Court for the whole territory of Serbia. In the period 2008-2010 the establishment of the national institute for the training of the judiciary staff (Judiciary Academy) is planned, the services of the administrative office are established and they will be integrated into the High Judiciary Council and the Supervisory Board for the High Judiciary Council. Thereby the reform of the judiciary system is continued for the purpose of establishing the rule of law and protecting property and contracts.

The reform of the judiciary system will ensure strengthening of the independence of courts and the achievement of greater efficacy and accuracy in their work, the creation of stable and real sources of finance for jobs falling under the jurisdiction of the judiciary bodies, the modernization of the outdated infrastructure and improvement of material and technical as well as spatial working conditions, the introduction of the contemporary IT technology and computer network and the application of measures and criteria for the establishment of necessary operational costs and financing of judiciary bodies.

The judiciary reform will primarily be directed to the modernization and improvement of the efficacy of courts, faster solving of court cases, digitalization of cadastral books and fight against corruption, by which more efficient functioning of the legal system will be ensured, thus ensuring more favourable conditions for investment activities.

In the next period, in the Authority for the Execution of Penitentiary Sanctions activities related to the development of the IT system on the level of the Authority will be undertaken as well as the professional improvement of employees, finalization of the legal framework and reforms of the supervisory system over the functioning of institutions; all that will have to be followed up by the construction of the new and adaptation of the already existing infrastructure. Besides that, the construction in compliance with the European standards of new capacities for the accommodation of convicts is necessary. Also, conditions for the implementation of alternative sanctions have to be created and activities aimed at rights enjoyed by the convicts as well as their protection have to be undertaken. Also, measures aimed at the improvement of the position of juvenile persons and adequate medical protection of all convicts should be taken.

In compliance with the Rule Book of the Judiciary Guards, judiciary institutions are to be secured in a better way, which implies the regulation and organization of the judiciary guards, procurement of uniforms, means of coercion and personal weapons, metal detector doors, hand-held detectors, scanners and video surveillance equipment.

For the normal functioning of judiciary bodies and the implementation of reforms in the judiciary, a stable and real source of financing will be ensured, which is a prerequisite for the independent work of the judiciary.

In the long-term planning towards the adoption of the best practice of budget planning and preparation, there will probably be a tight connection between the activities and assets in the form of distribution of budgetary assets that is established on activities or the full assessment of costs from zero, i.e. without taking into account expenses from the previous years (full zero-based budgeting). Short-term, until the transfer of jurisdiction to the High Judicial Council is performed, the Ministry is the only one that can continue with the incremental distribution of budgetary assets (by increasing expenses). In other words, the budgetary request for every year is formed through an increase and decrease of the budget level by a certain sum, without the full understanding of the manner (or certainly without strict identification) in which the said budgetary level relates to the activities of the Ministry. Within the restrictive approach to the fundamental budget preparation, the best thing that the Ministry may do in terms of its budgetary demands is to be as precise and clear as possible in making the assessment of the difference in the required financial assets between two years, and new initiatives for the introduction of the program model of budget drafting will contribute a lot to that.

In the current model, in the beginning of the budgetary cycle, the Ministry of Justice demands from its indirect beneficiaries (courts) to submit a detailed budget proposal in compliance with the guidelines submitted to them by the Ministry of Finance. Also, in compliance with the guidelines issued by the Ministry of Finance, the Ministry of Justice demands from all units to submit the explanation for the differences between the current budget and the budget application for the next year (with a clear presentation of costs for all employees, the costs that are not related to the employees and investment expenses). Within each of these categories, units must submit a detailed description, explanation and qualified (numerical) report of the required financial assets.

In theory, these demands look like the one that fulfil the needs for a precise and clear explanation of differences between the two years. However, in practice, the quality of the explanation submitted by the units is often of insufficient quality or there is no explanation at all, which places large pressure and an obligation on the Finance Sector in the Ministry to unify within the short term the budget

proposal for the judiciary and to prepare the Minister to defend and explain such a proposal before the Minister of Finance.

In the new, reformed model, the High Judiciary Council will become a direct beneficiary, and it will have a special department with trained personnel that will deal with the improvement and enforcement of budget planning and reporting. In that way, the judiciary will be given a chance to dispose of the funds by itself and to be responsible for its own expenses and a great burden of control over such complex and comprehensive system will be removed from the Ministry of Justice.

The new Law on the Budget System that is currently going through a procedure in the National Parliament, judiciary bodies are defined as direct budget beneficiaries. Hereby the actions aimed at the establishment of an "independent budget for the judiciary" are speeded up. However, it should be stressed out that the "independent budget for the judiciary" does not imply a special budget, because pursuant to the Constitution of the Republic of Serbia, the Republic of Serbia has **only one budget** in which all revenues and salaries as well as all expenses and costs are presented that are necessary for an unimpeded functioning of the obligations of the Republic of Serbia.

"An independent budget of the judiciary" is only a concept by which it should be stressed out that judiciary bodies are now only direct beneficiaries of the budget of the Republic of Serbia, and their title will be mentioned in the budget individually only for the judicial bodies for which the title should be listed individually in the budget, and other judicial bodies will be listed collectively in the budget, per their type. However, it is important to mention that the judicial bodies that are to be presented collectively in the budget, will be presented within the section of the High Judicial Council and the State Prosecutors Council, and in that manner the separation of the judicial and executive powers (Ministry of Justice) have been performed.

In the proposal of the Law on the Budget System, the budget calendar is as follows:

Calendar	Step	Description
April 1	The Ministry of Justice, High Judicial Council, State Prosecutors Council and judiciary bodies that should be listed name by name, i.e. direct beneficiaries of the budgetary assets – proposals of priorities	The Ministry of Justice, High Judicial Council, State Prosecutors Council and judiciary bodies that should be listed name by name, i.e. direct beneficiaries of budgetary assets submit to the Ministry of Finance proposals for the establishment of priority fields that are to be financed in the budget year and the next two fiscal years
April 30	The Ministry of Finance prepares the Memorandum on the Budget and Economic and Fiscal Policies	The Ministry in cooperation with other ministries and institutions competent for the economic policy and the judiciary system prepares the Memorandum that contains the economic and fiscal policies of the Government, with projections for the budgetary and the next two

Calendar	Step	Description
		fiscal years
May 15	The Government adopts the Memorandum on the Budget and the Economic and Fiscal Policies	Fiscal expectations provide guidelines for the budget. The Memorandum on the Budget and the Economic and Fiscal Policies of the budget for the year 2008 and the next two fiscal years stipulates that for the normal functioning of the judicial bodies and the implementation of reforms in the judiciary, stable and real sources of financing should be provided for, which is a prerequisite for the independent functioning of the judiciary.
June 1	The Minister passes the guideline for the preparation of the draft budget of the Republic of Serbia	The guideline for the preparation of the draft budget with detailed instructions, i.e.: <ul style="list-style-type: none"> - basic economic presumptions and directions for the draft budget preparation; - the assessment of revenues and expenses of the budget for the budgetary year; - the scope of assets that may contain a proposal of the financial plan of the budgetary beneficiary; - guidelines for the preparation of the annual and operative plans; - the dynamics of the budget preparation and financial plan of direct beneficiaries.
June 1	The Ministry of Finance submits to the direct beneficiaries the Guideline for the Preparation of the Draft Budget of the Republic of Serbia	It is expected that the Guideline for the Budget in Year 2009 will be similar to the one for the year 2008, where the proposal of the financial plan has to be made (a written explanation and financial request) of the following tables with written explanations: <ul style="list-style-type: none"> - Request for current expenses and costs;

Calendar	Step	Description
		<ul style="list-style-type: none"> - Request for additional assets; - Request for fixed assets; - Request for expenses and costs that are expressed according to the program classification; - Human Resources Plan;
Beginning of June	The Sector of Finance of the Ministry of Justice submits guidelines to indirect beneficiaries and judiciary bodies as direct beneficiaries	The Sector of Finance forwards the questionnaire from the Ministry of Finance to indirect beneficiaries in the Ministry of Justice and judicial bodies as direct beneficiaries
End of June	The Financial Administration should receive the budget per organizational unit.	Units prepare the budget only on the basis of expected needs in cash, that are adjusted to the changes in the policy, prices and organizational structure, and they submit it as a hard copy and a CD.
August 1 – submitting the budget	The Sector of Finance of the Ministry of Justice reviews and consolidates the budget	<p>On the basis of the submitted financial plans, the Ministry of Justice, after considerations, prepares, has consultations and consolidates the financial plan on the level of the Ministry of Justice.</p> <p>Assessments on the expected revenues are mainly based on the revenues in the last year, while the Ministry of Justice is entitled to the right to keep 50 percent of revenues that it collects from the court fees, but not from fines and penalties</p>
August	Negotiations between the Ministry of Finance, the Ministry of Justice and judicial bodies	There is permanent communication between the budgetary team of the Ministry of Finance and the Sector of Finance in the Ministry of Justice, after which the Minister of Finance, the Minister of Justice and Court Presidents meet.

Calendar	Step	Description
September 1	Ministry of Justice and judicial bodies submit a proposal of the Financial Plan to the Ministry of Justice	The proposal of the Financial Plan is drafted on the basis of the Guideline and discussions held between the Ministry of Justice, the Ministry of Finance and judicial bodies.
October 1	Upon a proposal made by the Ministry of Finance, the Government adopts a revised Memorandum on the budget	The Memorandum on the budget is revised on the basis of the updated macroeconomic framework that occurred after April 30
October 15	The Ministry of Finance submits to the Government the draft Law on Budget	This is the last chance for the Minister of Justice to exercise influence on the budget
November 1	The Government adopts the proposal of the Law on Budget and it submits it to the National Parliament for its consideration and enactment	MPs may intervene by submitting amendments to the Proposal of the Law on Budget
December 15	The National Parliament passes the Law on Budget of the Republic of Serbia for the next budgetary year	Since the National Parliament passes the budget, it is published in the Official Gazette of the Republic of Serbia

The proposal of the Law on the Budget System, besides the aforementioned solutions, offers some other solutions that may speed up the application of "the independent budget for the judiciary".

ACTIVITIES THAT COURTS ARE REQUIRED TO TAKE TO PREPARE THEIR ANNUAL OPERATING PLANS AND THEIR RESPECTIVE BUDGETS

The speed of legislative changes has resulted in a great deal of pressure on the work of court employees and a constant need for advanced training and mastering of new tasks. As regards the strategy, plans and budget, changes are being implemented in various spheres. This particularly refers to changes in operative and administrative procedures aimed at improving efficiency, launched by the Ministry of Justice, and changes in budget planning and execution, launched by the Ministry of Finance. Moreover, the general course of changes undertaken by the Ministry of Finance aims to step up the central control of funds, which results in a red tape increase.

After receiving the Instructions for the preparation of the budget for the budget year and the next two fiscal years (which the Ministry of Finance undertakes on the basis of the parameters laid down under the Memorandum on the Budget and Economic and Fiscal Policies), the Ministry of Justice was confronted with a complex and difficult planning process. The Instructions were to be circulated to all judicial bodies and the Authority for the Execution of Penitentiary Sanctions which, in turn, submitted their financial plans, prepared in accordance with the Instructions, to the Ministry of Justice. The Ministry of Justice was tasked with analyzing all of the plans received, classify them by type of judicial body and Authority for the Execution of Penitentiary Sanctions, review the needs, redistribute the funds among the judicial bodies, and submit an annual financial plan, along with a narrative rationale, to the Ministry of Finance within a set time frame.

This method of preparation of the annual financial plan demonstrated the following **weaknesses**:

- Lack of a strategic planning dimension and distribution of budgetary resources;
- Limited information about the costs and results achieved;
- The fact that the incremental budgetary practices were pursued;
- Lack of coordination between the available donor funds.

The process of budget resource distribution should be viewed in a broader context where all components must be integrated in order for the positive effects to be achieved. Such positive effects include the following **improvements**:

- The identification of overall organizational priorities and programmes;
- Medium-term planning for the purpose of realizing the set priorities;
- The requirements for a medium-term financing of the plan;
- The preparation of a budget that effectively supports such plans;
- The coordination of donor funds for the purpose of upholding the priority spheres in case budget resources are lacking.

Higher quality processes produce a large number of **positive effects**, such as:

- The allocation of resources (material and human) in accordance with the priorities;
- Expanding opportunities for receiving funds from the state and external sources (donors), given that the financing requirements are associated with the priorities and plans;

- Performance measuring in order to determine whether the funds are used properly and identifying the possibilities for deriving more benefit from the invested funds;
- The possibility for the processes to become swifter and more efficient, which will create the conditions for employees to devote more time to analytical work that is of greater value.

The budget should be a financial expression of the plans that are logically derived from the strategy. However, the introduction of a fully operative strategic cycle calls for an array of preliminary steps, one of them being the establishment of a clear numerically expressed relationship between costs and key results. This helps to develop the understanding of the costing method – the manner in which costs are regarded as a mass or one in which they are regarded as a qualitative amount of services differ. In its extremes, costing and budget resource allocation “from bottom to top” or “zero-based costing” (with no references to those from the previous year/s) are aimed at putting fund requirements on a “blank piece of paper” along with the overall budget which directly pertains to the activities leading to the set goals and results.

Meanwhile, the Ministry of Justice must find the best possible solution to the process of budget resource allocation against the background of current restrictions. The Ministry of Justice and the Ministry of Finance must have realistic expectations when it comes to the issue of what a “better budget” can mean in a short term. It is difficult to define precise measures of effectiveness. The evaluation of effectiveness calls for the determination of the scope and limits to which the ministry is accomplishing its objectives. This task is difficult in the case of the Ministry of Finance because it seems that the goals are not defined up to the level of specificities, which would facilitate the relevant evaluation.

The definition of the function of the Ministry of Justice is set out in the Law on the Ministries, and its main goals are laid down in annual programmes.

The budgetary resources intended for the judicial bodies are centrally controlled by the Ministry of Justice. The annual budget cycle procedure is defined by the Law on the Budget System. The procedure would commence with a scheduled completion date of 10 July of the current year, until which time the presidents of all courts in the territory of the Republic of Serbia, including the Supreme Court, were to prepare an estimate of annual funds required for operation on an application form provided by the Ministry of Finance. The following applications were submitted separately: an application for ongoing expenditures and expenses, an application for additional funds and an application for fixed assets (capital expenses, procurement of vehicles, etc.).

Filled out applications with detailed explanations in writing were filed directly to the Ministry of Justice without prior official audit by any judicial body. The Ministry considered and processed the applications and submitted same as budget requests per type of judicial body to the Ministry of Finance until August 1 of the current year. The Ministry of Finance would then prepare an annual budget and submit it to the Government for review and decision-making.

The draft annual budget that the Government would submit to the National Assembly for review and adoption was passed by the National Assembly by no later than December 15 of a current year.

Although the National Assembly is entitled to review and amend the draft budget, the National Assembly seldom alters the draft budget. The Ministry of Justice determines the budget for each judicial body on the basis of the draft execution plan of each individual court, the number of employees, executed budgetary resources in the course of the previous year, the number of cases and costs of proceedings of each court and infrastructure-related costs. In view of the limited balance possibilities of the budget, fewer funds are always set aside for the judiciary than required by the Ministry of Justice. The Ministry of Justice then distributes the funds to courts in order to cover their operating and other costs, and sometimes even for certain capital projects in situations assessed as critical.

The presidents of courts of all instances have often voiced their concern over the fact that courts do not manage the budget resources. This concern most often refers to the following four issues: First, the judges fear that the Ministry of Finance is not fully aware of the sustained insufficient funding of the judicial system, because of which some courts have extensive budgetary deficits which directly and adversely affect their capability of efficiently and successfully administering justice. Secondly, the judges are concerned that the competent executives at the Ministry of Justice who are in charge of budget allocation are guided by no standards whatsoever when identifying the priorities, because of which the most urgent requests fail to gain precedence. To say the least of it, this points to poor communication between the judges and the Ministry because the Ministry earmarks the resources in accordance with numerous regulations: the Budget Law, the Law on the Budget System, annual plans of courts, case statistics and monthly benchmark norms as the basic budgeting criteria. Thirdly, due to process restrictions, it is generally believed that a large percentage of court fees remains uncollected, which substantially reduces the funds available to the judicial system as a whole. Finally, the judges claim that the executive authority has the last say in the allocation of funds, which compromises the institutional independence of the judicial system.

Due to the limited resources in the budget of the Republic of Serbia, court budget planning has, under the circumstances, become a short-term task based on uncertainty and patching up of the lack of funds in order to ensure the minimum service level. These problems of insufficient funding are also evident when it comes to capital expenditures. Even though the courts, just like other budget beneficiaries, along with requests for funding ongoing expenses and expenditures, used to forward requests for additional funds to cover the expenses for which no funds were planned or were insufficiently planned (the construction of new or reconstruction of old buildings), such requests were seldom accommodated. It is for this reason that court presidents are not able to create and implement essential business plans of expenses or reliably to project the amount of funds to be available for great capital projects.

Court presidents often claim that the amounts distributed by the Ministry of Justice to courts are far lower than those originally requested for their courts, particularly in the case of larger city courts. The courts should finance their operation without exceeding the amount allocated thereto, which is often difficult and at times implies the suspension of provision of the basic court services for a longer period of time, because in line with the provisions of the Law on the Budget System, the obligations assumed by the judicial bodies may only be up to the amount of funds envisaged under the budget law for individual appropriation; therefore they cannot assume obligations exceeding that amount. This problem is exasperated by the fact that the Ministry of Justice is in default with the monthly transfer of operating assets – usually, the reasons for this lie in an untimely submission of requests by the Ministry of Justice to the Ministry of Finance, and budget liquidity.

The lack of a clear connection between the priorities plans and budget results in the fact that decisions on outlays are arbitrary (due to an alleged importance or personal influence) or simply seem to be arbitrary. For instance, in the past, if the Ministry of Justice failed to receive the requested funds, the deficit used to be transferred to organizational units pro rata to the requested funds instead of determining general priorities. The organizational units are dissatisfied because they do not always understand why they received or did not receive funds.

The courts encounter difficulties in projecting and covering attorney fees for official defence and services of court-appointed experts. In this sphere, there were extensive outstanding debts.

Three employees of the Ministry of Justice are in charge of internal control (on the order of the Ministry of Justice). They are responsible for signing all expenses prior to their submission to the Minister for endorsement. However, there is no work post at the Ministry of Justice for the control of efficient budget spending.

Whereas most of the funds intended for court financing are set aside from the Republican budget, 10-30% of the funds are derived from the revenues generated by the courts through the collection of court fees (depending on the amount and annual collection of fees by the courts). Under the law, 60% of the proceeds from the collection of court fees are refunded to the judicial system – this total amount is then distributed to courts according to their needs and in proportion to their original financial requests. Regardless of the importance of this source of revenues, currently neither the Ministry of Justice nor the Supreme Court maintains systematic records evidencing the extent to which the collection of court fees is efficient.

The established method of collecting court taxes has three weaknesses. **Firstly**, the law does not envisage effective executive mechanisms for collecting taxes, so that they often remain uncollected. **The second weakness**, which stems from the first, is that certain courts are not especially encouraged to collect taxes, because they may not at all benefit from implementing a successful court tax collection regime. The earlier regime according to which the courts used to get a certain percentage of court taxes that they had collected themselves, resulted in a greater motivation of courts to collect taxes, but also in an unequal distribution of funds, because due to the sphere of their activity and different possibilities to collect tax from business entities, the commercial courts had a significant advantage over the courts of general jurisdiction. **Thirdly**, major city courts are the ones that suffer most due to the court tax regime, because they collect the majority of court taxes, receive the largest number of cases and have the highest overheads, but still get less money from court taxes than they did in the old system when they received an established percentage of revenues from court taxes. Contrary to the established percentage of tax revenues that provided a certain degree of financial security, the current regime leads to less budget security and obstructs budget planning because court presidents cannot, based on the records of court proceedings, predict how much funds, generated by collecting court taxes, will be granted to their courts.

Seen in a wider context, wide administrative powers of executive authorities over the judicial bodies pose a danger in the sense that they could possibly undermine the continuity and stability of the judicial system. The current political climate in the Republic of Serbia is such that elections bring frequent and significant changes in creating the executive and legislative policy. Such uncertainty poses a special danger to judicial bodies whose strength should be based on stable and non-political commitment to the implementation of justice. As long as the executive authorities have such important competencies over the judicial authorities, the judicial bodies will unintentionally be

subject to such changes of plans and priorities.

The successfulness of court presidents is limited by numerous procedural rules that require them to resolve many non-judicial issues that take up a lot of time. In continental law countries, the primary duty of a court president is to manage and handle the court. The auxiliary staff in these courts performs only administrative duties. Serbia is only partly an exception to this model. Article 6 of the Court Rule Book says that “The President shall manage the court administration duties”. Although the court secretaries, who are present in the courts with more than 15 judges, are authorized to assist the court presidents in managing court administration, there are no provisions that would allow the presidents to transfer certain non-judicial competencies onto the secretaries.

Such an organizational model leads to the fact that court presidents, especially the presidents of major city courts, spend most of their working hours performing the duties that have nothing to do with the judicial function. A court president in Serbia is most often a synonym for a court manager.

Responsibility and competence over the majority of these duties could be transferred to court managers who would previously undergo appropriate training and who would handle court administration and budget in a qualified way, as is the case in an increasing number of European and other countries.

These countries, of which many are also continental law countries, have founded independent court administration offices and propose their own budgets to the parliament, because it has been generally accepted that it is greater and not lesser independence of the judiciary that represents the way to improve court efficiency and effectiveness. This could be a long-term vision for the Republic of Serbia, although a gradual short-term or mid-term attainment of independence of the judicial administration is both more realistic and recommendable.

Annual Operating Plan (AOP) and Budget

Planning means turning strategy into actual work programs. Plans are mostly considered on two levels.

- strategic plans that present priority activities in the following 3 to 5 years for the achievement of political goals and desired changes;
- operating plans that are related to the strategic plan and that set out the work to be done in the following year and represent a detailed ‘business’ plan that is created on the annual level.

Annual Operating Planning (AOP) represents a system of planning and budgeting according to the defined goals, and a system of monitoring and reporting according to the results. AOP also represents a mechanism for coordination of the relevant ministries and central Government institutions.

There is no detailed operating plan for the Ministry of Justice as a whole. Also, there are no indications concerning the results expected from the given activities and the way that these results contribute to the established goals.

The process of preparing the budget is burdened by legal regulations. The Finance Department within the Ministry of Justice now coordinates the Ministry's budget in the widest terms possible – including the judicial bodies, prisons, etc. The idea of establishing “*An Independent Court Budget*” is very topical and basic mechanisms of a new way of operative planning and strategic decision-making, which includes the decision on introducing a program budget, are being prepared.

The Ministry of Justice currently has three strategies, as follows: the reform of the judiciary; the reform of the prison system and the anti-corruption strategy.

The long-term goal of the Ministry of Justice has been harmonized and defined as follows:

“By the end of 2012 conditions will be created that allow the citizens to regain trust in the judicial system of the Republic of Serbia, which will be established as an independent, efficient, responsible and transparent system.”

Also, the Working Group for Annual Operating Planning has defined mid-term goals of the Ministry of Justice, as follows:

Mid-Term Goals

Reform of the judiciary by the end of 2009 and 2010:

1. create conditions for establishing a functional High Judicial Council and a State Prosecutors' Council, as a guarantee of court independence, i.e. prosecutors' independence;
2. establish a standardized system of training judges and prosecutors;
3. modernize the work of judicial bodies;
4. create all the necessary conditions for the establishment of “an independent court budget”;
5. strengthen the administrative capacity of the Ministry of Justice and establish functional relations with the High Judicial Council;
6. reorganize the judicial bodies network;
7. establish a functional system of free legal assistance;
8. reform the legal framework in order to simplify court proceedings;
9. reduce the level of corruption in the judiciary by n% compared to 2007;
10. mid-term goal(s) related to the prosecutor's office.

Authority for the execution of penitentiary sanctions

1. by the end of 2011 harmonize convict life and accommodation standards with the international standards;
2. by the end of 2009 implement new treatment programs in penitentiary and non-penitentiary institutions, in accordance with the internationally recognized programs for the resocialization of persons with social behaviour disorders,
3. by the end of 2009 achieve a certain level in the treatment of juvenile delinquency that is in accordance with the verified programs of UNICEF and other international and local organizations and institutions;
4. by the end of 2011 institutionally resolve the issue of business units in penitentiary institutions and perform the reorganization and reconstruction of the business infrastructure in penitentiary institutions;
5. by the end of 2009 form an integral information system within the Authority for the execution of penitentiary sanctions.

Functional revision of strategy, planning and budgeting in the judiciary

The aim is to build capacities in the judiciary in the fields of creating strategy and operating planning, and the preparation of the annual budget.

This includes:

- the evaluation of the current arrangement and the procedure for strategy and operating planning development and budget preparation;
- analysis of the circumstances that restrict the efficient strategy and operating planning development, and the effective and efficient distribution of resources;
- development of initial recommendations for overcoming such restrictions through measures such as:
 - new design of processes and organizational units that coordinate these processes;
 - training and development of employees;
 - improving information systems in order to support the process of creating strategy, plans and the budget;
 - amending the laws, as necessary, in order to achieve institutional changes.
- Creation of a top-level action plan for the implementation of the proposed changes.

Key advantages that will arise from improving the process of creating strategy, plans and the budget.

- allocation of resources in accordance with the priorities;
- maximum exploitation of the opportunities for collecting funds from the state and the external sources such as donors, by relating the requests for funds to priorities and plans;
- evaluation of the performance in order to establish whether the funds have been spent well and whether there are opportunities to use the funds in a better way;
- certain processes will possibly be faster and more efficient, which will allow the employees to spend more time on hard, analytical work.

The best practice has shown that the developed countries tend to base the entire budget cycle on programs in order to be able to satisfy the demands of democratic society for a greater budget control of public funds and transparency of the planning and execution processes.

Budget planning based on programs requires a developed system of planning (strategic and operating) on all levels of the state administration system, from the highest/general (the Government) to the individual (the Ministries, bodies).

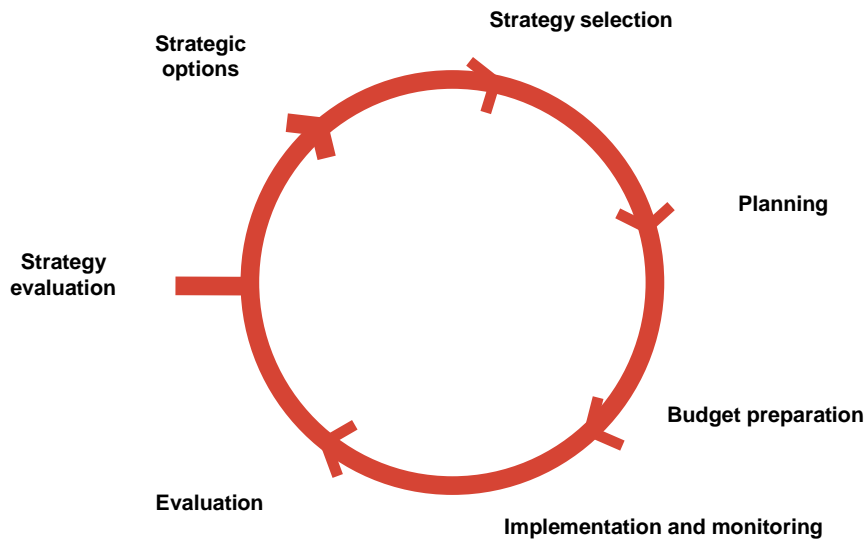
Politics means turning the government's political priorities and principles into work programs and guidelines from the given sectors, ministries or parts of ministries, in order to implement the required goals or changes.

In accordance with the best practice, the process of formulating individual, sector-related strategies should be performed within the framework and in accordance with the entire cycle of formulating the Government's strategies. It is also of key importance to have the strategies adequately implemented, modernized and revised in accordance with the changes and needs, and supervised by mechanisms of evaluation and monitoring by means of measurable success and performance indicators.

For such a serious approach it is necessary to form special capacities in the Ministry of Justice, a team i.e. a unit which would be responsible for coordination.

The strategy formation cycle model (see below) offers a framework for the analysis of current processes.

Strategy formulation cycle



The comprehensive strategy formulation cycle can offer a framework for the following:

- establishing the general priorities of the Ministry's strategy and programs;
- mid-term strategic planning that will enable the implementation of these priorities;
- mid-term top-level financial needs of the strategic plan;
- short-term operating planning;
- preparation of the budget which will support mid-term and short-term plans;
- coordination of donor funds in order to support the areas of the priority strategy and provide compensation in case there are shortages in the domestic budget that could mean that the Ministry will not be able to achieve its goals.

In formulating the strategy, plans and the budget, it is necessary to cooperate with other ministries, government agencies and external factors, and take into account the social, economical and political circumstances. A well-formulated strategy means the establishment of priorities and turning ideas into options for ministers who decide which options are appropriate, having in mind the government's priorities, the possible costs and benefits and the general context.

The strategic options must be clearly analyzed with consultations with the key factors. The cost-benefit studies and impact studies must be performed, along with the assessment of risk involved in accomplishing the desired goal. The options can then be documented and presented to the ministers so that they can decide on adopting the appropriate strategy.

Key problems and challenges in the budget preparation process

The budget accounts for the resources necessary for the implementation of the Ministry's activities. A good budget preparation process will allow for the Ministry and the Government itself to earmark the funds for the most justifiable purposes. What is missing at this moment is a strategic dimension in the budget preparation. The budget instructions call upon the competent ministries to describe «services» and «activities», however, there are no detailed guidelines on what the Ministry should ask for, or on the manner in which it should use the data. It is not quite obvious that the allocation of resources in the Ministry of Justice is at an optimum level. For example, the requirements for allocating larger funds in certain unit budgets are included in the proposal to be submitted to the Ministry of Finance, without an internal filtering process.

Therefore, the key positive sides are as follows:

- the annual action plan of the Ministry of Justice is in place;
- the budget presentation has been improved owing to a good cooperation between the Finance Department and the Accounting Department in operative units;
- the setting of priorities in the costs of facilities and equipment requires the expertise of the employees in the Ministry of Justice;

The key negative sides are as follows:

- the lack of strategic dimension in the budget planning and preparation, i.e. lack of interconnection between the strategic goals, lines of business, operating goals, activities and costs;
- limited data on the cost of activity (e.g. costs of closed cases) because costs are currently recorded per unit and per case, which is additionally limited by an inaccurate allocation of overheads per unit;
- the budget analysis for certain purposes, whereby analysis is focused on the changes in costs that were proposed, instead of the overall costs and justification of the overall costs.

Budget implementation process

Expenditures	The Ministry of Justice receives payment requests from the organizational units, and forwards all such requests to the Ministry of Finance. The authorised requests are transferred to the account of the organizational unit (a sub-account within the consolidated treasury account). The Ministry of Justice is informed each month on the funds that it will receive the next month (quotas)
Revenues	All revenues are collected through the Public Revenue Service on behalf of the Ministry of Justice and are paid directly on the consolidated treasury account. Taxes and other revenues that are not used for the approved expenditures during a financial year for the Ministry of Justice are transferred back to the budget.
Reports	The Ministry of Finance only produces reports on budget execution, which makes it more difficult for the Ministry of Justice to exercise control over the funds and consolidate the differences between the Ministry of Justice and the Ministry of Finance.

ADVANCED METHODS FOR PLANNING AND ESTIMATION OF THE EXPENDITURES OF THE JUDICIAL SECTOR (MULTI-ANNUAL PLANNING AND PRESENTATION OF THE BUDGET)

The introduction of relevant methods of budget preparation relying on a program model also allows for certain improvements in other spheres of budget preparation and planning in the judicial sector, and provides for a better utilization of funds. The text below describes two important aspects: the preparation of the draft budget, particularly in the context of multi-annual budget planning, and the harmonization of the fund allocation requests made by the judiciary.

Multi-annual budget planning and presentation

In a large number of countries there are a lot of opportunities for improving the relations between the judicial sector and central fiscal authorities. Likewise, there are numerous examples about how to make a significant progress in terms of transferring budgetary funds in order to satisfy the needs of the judicial sector and provide support to the reform programs in the judicial sector. Judicial authorities could significantly speed up the management of their budget allocation requests by using the application format as a basis for conducting other good practices in the budget management domain.

One of the instruments that are proposed for less developed countries for the purpose of improving their budget planning process are multi-annual or medium-term spending plans. However, the preparation of such plans requires certain analytical capacity and a certain degree of reliability of budgetary funds. All countries that are implementing the financial reform lack both of these factors. Recent experience in the introduction of the instrument called the Medium-Term Expenditure Framework (MTEF) showed rather disappointing results in many countries.

The alternative approach – which is increasingly popular in modern financial administrations - implies the use of the budget reference bases for the estimation and control of the costs of the current policies for the period from the next budget year on. Essentially, the budget reference base is the estimation of costs that will be imposed by the current policies and operation in the years to come, and are presented as liability or budgetary fund provisions in the medium term.

In case additional budgetary funds have to be provided for the next fiscal year, when deciding on budget allocation, focus is placed on the newly-proposed expenses of each individual body, which participates in public spending. If the available budgetary funds are restricted, and the fund allocation requests are mutually competitive, the body which demonstrates, in the best possible way, the method in which the new spending would contribute to the basic functions, providing, at the same time, for a higher efficiency and larger benefits with respect to services, will gain a significant advantage in the allocation of at least one portion of new funds. If it is conducted in a proper manner, the budget preparation made by using reference bases can make the presentation, analysis and selection of new proposal more transparent.

A possible lack of the approach implying the use reference bases lies in the fact that it may result in laying too much emphasis on the benefits from the newly proposed expenses to the detriment of current activities (usually larger and more expensive). Central fiscal authorities that apply such an approach respond to this trend mostly by making periodical «overviews of reference bases» (usually

in three-year intervals) in order to, for example, check the efficiency and effectiveness of all main current programs or subprograms within one appropriation.

The key advantage of this format is that it enables the judicial authorities to use the program structure in order to draw the government's attention to the current (reference) costs that are incurred in rendering main judicial services and programs with an additional option of presenting the scope of the funds required, which would speed up the achievement of the policy goals or improve the implementation of the envisaged reform activities or projects. Such a presentation also allows for the judicial officials to make a clear distinction between the spending proposals that are defined as short-term, and those that might have to be included in the future estimation of the reference expenses. Such a distinction enables both the judicial and fiscal authorities to discuss and harmonize their views on which of the newly proposed expenses should be subject to various types of tracking and performance criteria.

Inter-relation between budget estimations and case management – courts

In the majority of countries in which the program budget was introduced in the judicial sector, the largest program in financial terms is «the Operation of Courts». Within this program, one of the key challenges for the financial managers in the judicial sector is how to secure that each court level and each individual court within the respective level have a budget which is adequate for their needs and current circumstances. However, during the several past years, budget techniques have developed to such an extent that they can now provide for a more effective and precise budget estimations.

Developed countries have improved their methods of preparation of the budgets allocated to for the operation of courts. More sophisticated budget techniques not only enabled that the allocation of budgetary funds is more accurate and objective, but they also strengthened the responsibility and performance on all levels of court management. Less developed countries have an option of analysing and adopting the concepts and methods underlying the described improved budget techniques, but they can also «bypass» certain phases in this development process.

The former approach to the budget preparation based on inputs, which is still applied in many underdeveloped judicial administrations undergoing transition, can be improved in time and can evolve into more sophisticated methods, where funds are allocated mostly on the basis of actual and projected demands for the types of services rendered by courts and on the basis of the costs incurred in rendering those services. In that way, courts have the opportunity to achieve higher operational efficiency, which makes it possible for the court system to operate on better and fairer grounds.

The methods of budget preparation in the judicial sector evolved from the simplest one towards more comprehensive methods, so that the model has developed for years by introducing „step-by-step“ improvements. In practice, the implementation of judicial reforms may imply certain consolidation or acceleration of certain phases, when resources and capacities allow so. Yet, experience showed that the shift from the least sophisticated to highly sophisticated techniques, in reality, may require around 2 decades of institutional development. The methods and techniques developed in other countries can be used as a benchmark, but they can not be translated to the Republic of Serbia, since they require a special analysis and training of individual courts.

The Serbian court network has still not been defined in its final form. The rationalization of the court network has been the subject of discussions and activities for years, but the final form has not been established yet, and will not be until the adoption of a new set of judicial laws. Before that time, it is very difficult to make an accurate analysis of the demands for education and setting up of financial departments in courts, since the scope of action and workload substantially differ from court to court. For example, the financial department of the District Court in Belgrade will necessitate more qualified and complex personnel structure of the financial department than the Municipal Court in Ada, which has only three judges and a small number of cases. The courts with more complex and numerous competences, and a heavy workload, such as the District Courts in Belgrade, Novi Sad, Kragujevac and Niš will require better training and higher involvement of personnel in charge of financial affairs as well as more qualified and more competent management team able to deal with such issues. On the other hand, municipal courts in small towns and the new budget planning model can operate with one or maximum two employees in charge of financial affairs. For that reason, it is necessary to perform, after designing and putting into operation of the new court network, a detailed demand analysis for individual courts, as well as for the High Judicial Council, specifying the demands for financial departments and further training and education of personnel.

What is it that is particularly difficult and complicated in translating court services into the program structure? The very essence and type of service. In modern and developed economies everything can be presented as goods or service. However, it is very difficult to measure the value of individual services for different types of services in the government administration and judicial sector when drafting the budget. If the judicial sector is particularly at issue, various attempts have been made in many countries in order to derive a formula that would help measure the cost of the average court case. These efforts have been invested for the purpose of an easier preparation of the budget and a more transparent reporting and explaining of costs to service users, i.e. citizens who finance this complex system by paying taxes. Yet, it proved to be very complicated to obtain any average value and cost, since court cases significantly differ per complexity and the length of process, and there are also those that incur low costs and those long-lasting that require a large number of witnesses, court witnessing, ex-officio defence, and which, at the final stage, turn out to be extremely expensive for the state. What has to be taken into account in each improvement of the budget planning in the judicial sector is that the court is not an enterprise, that there is no simple production and costing, and that the court as an institution that should not be expected to generate profit, but rather to satisfy the basic human right – right to court protection. Naturally, in order that this basic human right could be exercised in an efficient and effective manner, it is necessary to reform the archaic method of budget planning and spending based in inputs, and to introduce new, more sophisticated budget planning techniques by adopting the model applied in developed countries.

GREATER INDEPENDENCE IN BUDGET PREPARATION FOR THE JUDICIAL SYSTEM AND THE JUSTICE SECTOR: FINAL COMMENTS AND RECOMMENDATIONS

In order to apply the budgeting innovations described in the previous chapters, it is crucial to have an existing rational programme framework of expenditures. Moreover, new methods demand competent (compatible) systems and adequate capacities for identification, collection, and follow-up of the judicial statistics and data on legal proceedings. In many underdeveloped judicial administrations that are undergoing the transition process, the functions of data collection are frequently insufficiently funded and barely stimulated. However, the fact that information received from courts will play an increasingly important role in budget preparation and associated managerial

decisions, as well as the decisions related to distribution of funds, provides an additional argument (and a vital incentive) for improvement of the quality and efficiency of the process of data collection in these fields.

Implementers of the judicial reform will recognize the “advanced model based on demand per case type” as an opportunity to introduce other important improvements into court management. To be exact, this model not only enables redistribution of funds on the annual basis or even more frequently, in compliance with changes in demand for judicial services, but also introduces the culture of flexibility into court management, which may bear influence on a range of topics related to managerial decisions and efficacy of courts. In other words, this model may help remove cultural or systemic rigidity that in itself represents an obstacle on the road of successful implementation of various reforms in the justice sector.

In the majority of judicial sectors, the “Work of Courts” represents the largest programme in financial terms. Within this programme, one of the major challenges before financial managers within the justice sector is ensuring that each court level, and each individual court on a level, has a budget adequate for their particular needs and circumstances. Nevertheless, budgeting techniques have undergone such development during the last several years that they now permit more effective and precise budget assessments.

The more sophisticated budgeting techniques have not only enabled more precise and impartial distribution of budget funds, but also strengthened the responsibility and efficiency on all levels of court management. Developing countries have the option to analyse and adopt concepts and methods behind the improved budgeting techniques described above, but they may also “skip” certain phases in the development process.

The key factor for accomplishment of the described advantages and positive results is having the judges accept that fact that court managers charged with improving the budget preparation do not dispute their authority or their judicial independence. Quite the opposite, the modern process of budget preparation may additionally strengthen the authority and independence of judges, allowing them to direct their focus more towards legal issues and the process of decision-making in courts, and less towards operational details.

There is no single model or a packet of methods for “implementation of budget preparation”, i.e. a “universal approach suitable for all” is simply not possible. Nevertheless, there are basic characteristics or principles that are vital for effective introduction of modern concepts and techniques of improving managerial and financial accomplishments in the justice sector.

The determination of how well and how fast the new principles are to be introduced and applied should be made according to the following criteria:

- *Existing budgeting system and reform plans.* The degree to which the entire public sector is moving towards accomplishment management approach will impact not only the characteristics of the selected model applied in the judicial sector, but also the timeframe within which various elements should be implemented. Slow transition does not necessarily prevent the judicial sector from preparing for these changes through different steps, such as development of relevant programmes of expenditures, related assessment of needs for parameters of accomplishment, and establishment of basic indicators.

- *Existing structure of the judicial system and programme direction of the legal reform.* An effective budget preparation system must be linked directly to the institutional framework of the justice sector and the county's "court map". The suggested changes in the structure of courts will, for instance, have to be adjusted within the sub-programming framework. Plans for major expenditures of institutions comprised within the judicial system may demand separate budget categories. The new or revised constitutional provisions may also dictate separate budget categories for the suggested changes in expenditures related to the justice sector.
- *Expertise levels of the public sector, financial management, and court management.* An assessment of the current level of expertise within the justice sector organizations, including courts, may have a significant impact on solutions of methods focused on accomplishments, or may suggest the need for carefully presented implementation. Some improved methods of budget preparation and practice described in this study may at first prove to be too advanced for the systems that still lack basic skills and capacities in budget preparation, management, court administration and financial reporting.
- *Availability of important information.* Introduction of accomplishment-oriented budget preparation practices also demands, to say the least, fundamental capacity for gathering and reporting on data and information. Although these capacities may be built and strengthened largely through introduction of an accomplishment-oriented system, there must be a pronounced acceptance of the need for solid information within the sector, especially the courts, as well as a political will for open reporting and delivering the information, even if it may shed the light on problems in judicial accomplishments and/or limit individual rights before the law.
- *State of communications and information technology.* Introduction of technologies described in this report does not necessitate the latest communication and information technology within the public sector or within the courts. Nonetheless, gathering, sorting, and reporting on major budgeting information and results may be greatly assisted by the modern information technology, starting from the basic table calculations to computerized case management systems. A draft accomplishment-based approach must take into account the ease and effectiveness with which the requested data and information may be gathered and resolved.

Each budget in the justice sector is unique according to the way it is applied in certain principles that justify the accomplishment-based approach. However, each also reflects numerous vital common characteristic:

- *Programming structure.* A reliable programming structure for expenditure activities is crucial for effective division and management of funds within the justice sector. Programmes must include key functional responsibilities and governmental strategic goals for the sector. Well-devised programmes represent underpinnings of a successful accomplishment-oriented system of budget preparation.
- *Types of expenditures.* Although some programming parts of amounts distributed within the justice sector will vary from one country to another, it is widely accepted that expenditures of judicial strategies, court administration, special judicial structures (e.g. constitutional courts or reconciliation processes) and reforms of law should be clearly distinguished on this level. Inclusion of budget programme for prison administration in the amounts distributed within

the justice sector is typical, but not essential. Expenditures of judicial incomes and fees may also be credited to a unified programme.

- *Basic programme function.* At first, programmes were generally determined through a basic function. However, the accomplishment-oriented approach to budget preparation also demands that these programmes either be expressed as main strategic *goals* within themselves, or comprise gathering of outcomes and activities that may individually and entirely be attributed to the given goals and aspirations for the whole sector.
- *Divided budget.* Each major programme should be large enough to include several sub-programmes. The sub-programmes may then be further divided into operational units or centres of expenditures. Judicial administrative programme, for instance, should comprise separate sub-programmes that reflect the structure of the justice system: Supreme Court, superior courts, and district courts (or courts of first instance). Separate sub-programmes are always welcome in strengthening court decisions and provisions of legal aid. The decision on whether to assign the same main expenditure activities to either higher (programming) or lower (sub-programming) budget level may often depend on what is deemed suitable for the local circumstances and institutional authority.
- *Well-defined strategic goals and aspirations.* The accomplishment-oriented system of budget preparation demands effective articulation and assignation of goals on each budget management level. These goals must be realistic and measurable, but also useful in the context of determining whether the funds have been effectively defined in the main strategic objectives as efficiently used for that purpose. A research of the developed countries given in this study provides a succession of practical examples of developing accomplishment goals linked to different aspect of the judicial reform and justice sector management.
- *"Smart" parameters of accomplishment.* These are indicators of success that enable the fiscal and judicial authorities to clearly assess progress against strategic goals and distinct characteristics of the accomplishment-oriented system of budget preparation. On the international level, there is now a wide range of available measures that may be applied to accomplishments and reforms of the justice system in order to support the focus on strategy and accomplishments, including the questions of variety of outcomes (effectiveness) and results (efficiency and accountability). Many of these measures appear in the researched judicial budgets in this study.
- *Quality over quantity.* An effective budget preparation system demands but a few measures. While it is being increasingly acknowledged that a combination of carefully selected goals and outcome measures works the best, the fact remains that solid basic information, precision, timeframes, and desire to receive and provide direct consequences of results are more important than a variety of accomplishment measures. In addition, public researches of attitudes towards and experiences within the justice system are now starting to play an increasingly important role in measuring outcome accomplishments.
- *Weaknesses and inefficiencies.* Contrary to certain expectations, accomplishment measures are seldom likely to produce sufficiently strong and timely information so as to guide the annual division of budget funds among different strategic goals or competing funding needs. The accomplishment measures may rather indicate the weak or inefficient areas that demand

attention of the managers, or that need improving. Allocation of smaller or bigger amounts from budget funds to these problem areas may represent only a fraction of the required effects.

- *Accomplishment measures for activities produced by budget income.* Accomplishment measures may and should be applied to functions produced by budget income of the budgeting sector, such as collection of fines, court costs and expenses. However, it is more important that incentives originating from this focus do not influence the quality of justice, for instance, through ardent collection measures. For the same reason, all gathered judicial research should be returned to the central government treasury and should in no way directly contribute to the budget or to funding of the justice sector.

Regular, open, and informative reporting system. Extensive reporting on finances and management is essential for credibility as well as for enabling proper functioning of the accomplishment-oriented system. For example, the more information is gathered during the court management process, prior to their being collected or extracted from case files, the sooner such efficient information is sent back for managerial or budgeting assessments. It is unlikely that a substantially accomplishment-oriented budget preparation system may be successfully presented and maintained in places where data collection and reporting systems are slow, unreliable, or incomplete.

Concrete measures that need to be undertaken in the Republic in Serbia so that the authority transfer process could be carried out painlessly and successfully, and court employees be adequately prepared, dictate primarily defining of clear steps and indicators that may be used in the analysis of the efficacy of courts.

The measures, i.e. data needed to determine the indicators, may be divided into financial and non-financial measures.

Financial measures may be the following:

1. Costs of contracted services;
2. Costs of materials;
3. Charged court costs;
4. Costs of court-appointed experts;
5. Costs of court-appointed interpreters;
6. Costs of public defenders;
7. Costs of judge jurors.

Non-financial measures are numerous and somewhat vary depending on a court, as follows:

1. Unresolved (transferred) cases;
2. Case inflow;
3. Cases resolved during a certain year, while received prior to that year;

4. Number of judges (prosecutors) and their assistants per each case type;
5. Total number of employees and number of permanent employees;
6. Number of appeals (appealed cases);
7. Number of sustained appeals (sentences of the first-instance courts annulled and commuted);
8. Number of postponed hearings;
9. Number of judge jurors;
10. Number of cases with public defenders;
11. Number of cases with engagement of court-appointed experts.

Current practice of budget planning and preparation relies mainly on the amount of budget funds executed in the previous years and increased by the inflation rate, corrected by the amount of funds needed for support to new laws passed by the National Parliament, after one budget cycle.

The key recommendation is to project, develop and implement an organized, comprehensive system that would integrate all elements of the budget cycle: formulation of a strategy, financial budget plans and their implementation, follow-up, and evaluation results.

This could be called a “system for strategic and operative planning with developed mechanisms for evaluation and monitoring“.

RECOMMENDATIONS:

Recommendation 1= Development and introduction of a system for strategic operative planning and evaluation

The key recommendation is to design, prepare, develop, and implement a comprehensive **system for strategic operative planning and evaluation** that would comprise all elements of the strategy formulation cycle: formulation of a strategy, plans, and budget, their implementation, along with monitoring and evaluation of results.

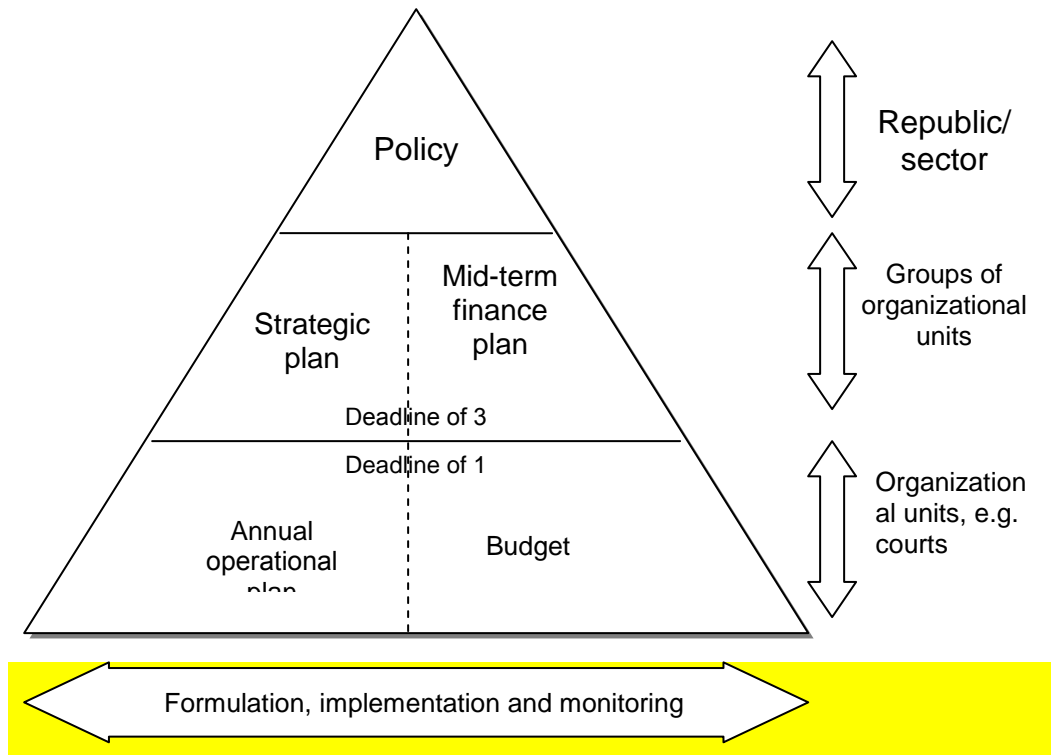
The system would provide and enable an integrated approach to the following:

- formulating a strategy and preparing mid-term strategic plans and expenditure frameworks, as well as annual operational plans and budgets;
- executing strategies, plans, and budgets;
- continuous monitoring and evaluation of results so as to identify the fields for improvement of efficiency and determination of the future strategy, plans, etc.

The system for strategic operative planning and evaluation should meet the basic criteria of a good strategy formulation cycle, e.g. consultations with stakeholders – including the public – development of strategies and plans.

It will take time to design, develop and implement such a system, which will further necessitate an extremely high degree of ability for change, thus dictating an approach **in stages**.

The elements of the system for strategic operative planning and evaluation are illustrated in the following diagram:



What are the advantages?

The problem of solvency that the Republic of Serbia is facing increases the need for the improvement of capacities for obtaining funds and for allocation of meagre resources on the basis of a clearly defined strategy, strategic goals, work results, parameters of efficiency and objectives. Some of the foreseen advantages for the Ministry of Justice if the recommendations are implemented are described in the table below.

Recommended approach	Foreseen advantages
Strategic dimension of budget planning and preparation	<p>Facilitates determination of priorities and tough decisions on distribution of funds</p> <p>Improved, more memorable information for the external factors, such as the Ministry of Finance and the donor community</p> <p>Stimulating field of work; enhances the employees' feeling of usefulness</p>

Recommended approach	Foreseen advantages
Consistent framework / system for development of strategies, plans and budgets	Working tools and staff training can be standardized Ease of analyzing and consolidating information through different operational units
Clarification of processes and roles / responsibilities	Enables return to organizational structures for the purposes of planning etc., may eliminate doubling of efforts and open the possibilities to employees for development and promotion Identification of places where different interested individuals may be included in the process
Mid-term planning	Increased predictability of prospective completion of initiated activities / projects
Work on follow-up and evaluation of results against strategies, plans, etc.	Basis for identifying the areas for improvement and provision of data for formulating a strategy, etc.

The most important factor hindering greater efficiency and effectiveness is the fact that many tasks are performed manually. Manual processes result in increased scope of work, and at the same time limit employees' options to perform more rewarding and important activities. There is little time left for comparison of data on efficiency, analysis of expenditures, development of relations with suppliers, etc.

Recommendation 2 = Improvement of employee qualifications/experience and preparation of a manual for programming budget preparation in the justice sector

Short-term, the staff engaged on financial matters should be offered further training, in compliance with new processes and procedures demanded by the Ministry of Finance, which are related to the permanent treasury system as well as the software currently in use. The Treasury Department of the Ministry of Finance now conducts intensive trainings for work in the permanent treasury system, which will, among other things, provide to all budget users a simpler and faster control of use and execution of budget funds. Moreover, under way is preparation of a manual, i.e. materials with guidelines for use of the permanent treasury system. Further communication will be improved through seminars and circular letters containing information on the current condition as well as new initiatives for improvement of work.

Mid-term, and in accordance with the decisions made by the Ministry of Justice to implement changes of processes and procedures, recommendations are as follows:

- to conduct continual complete training and assessment of needs for further development, and at the same time to carry out a continuous process of training development;
- to conduct a full revision of the earnings, in accordance with other positions in the public sector and relative to similar jobs on the market.

It is also necessary to prepare a comprehensive MANUAL that will facilitate training of court employees engaged on financial matters, as well as a quick dissemination of the needed knowledge and instructions for work under the new procedures.

Recommendation 3 = Update of software

Short-term, the training (which will be clearly defined and planned) is aimed at facilitating the increased use of the present financial information systems and business software.

Mid-term, options for introduction of a standardized financial information system should be explored. A lot can be learned from experiences of various organizational units that use different software within the Ministry of Justice and other Ministries, as well as from the experiences and plans of the Ministry of Finance related to this field. This will soon be resolved through introduction of a permanent treasury system that became functional on January 03, 2008.

Recommendation 4 = Improved follow-up and evaluation of results

Judicial bodies (courts) are in need of a better management process, based on the system for following the productivity relative to the set goals. This would ensure careful monitoring of productivity in order to identify causes of problems as well as possibilities for a better quality, efficacy and effectiveness of rendering services to citizens through establishment of a programming budget model in the judicial bodies.

- Key mechanisms that need to be built are:
- Structure of a new system for following productivity, including processes and responsibilities;
- A database comprising productivity data gathered and analysed relative to the concurred productivity indicators, alternatives, and recommendations for a more qualitative productivity and future goal tasks;
- Guidelines and materials for the training on productivity monitoring, as well as for development of a holistic system.

Recommendation 5 = Improved collection of court fee payments

In view of the financial difficulties encountered by many courts and the fact that payment of a significant percent of court costs and fees never gets collected, the Ministry of Justice and the Supreme Court should approve the initiatives, preferably under the existing donor programmes, for investigating alternative procedures for collecting fee payments in certain pilot courts aimed at overall improvement of fee payment collection. Such measures, once proven effective and applied throughout the judicial system, should increase the fee collection rate, which will in turn increase the funds for financing of courts.

A pilot solution has already been tested in Commercial Courts in Novi Sad and Belgrade, where collection of fee payments went up by almost 70% in a single year as a result of introduction of an automated programme for court registers (receipt and distribution of cases). Beside other characteristics, the programme registers and calculates due fee on the day of receipt of a petition, and then reminds the court clerk that fee payment has not been collected as the date of time bar for collection approaches. In case of manual entry characteristic for most other courts, the clerk might completely forget to contact and remind the party to settle their obligation, but in this way, the clerk is automatically alerted to action. Practice has shown that this model yields exceptionally positive results in overall collection of payments.

The legal solution existing in the United States may also be considered, under which legal proceedings would be initiated only upon receipt of confirmation on payment of court fees. This solution may be seen as controversial, and there are legal opinions that this would deny the indigent citizens the right to access to justice, which is guaranteed in the constitution. However, the adoption of the Law on Free Legal Aid will grant the right to free legal representation to all those unable to pay, which would make this solution a viable option. It is estimated that it would lead to a significant decrease in the number of frivolous lawsuits caused by quarrels between neighbours about the boundary line dividing their respective properties or similar altercations typical for our mentality, or would at least make it impossible to set the expensive judicial mechanism into motion over such conflicts due to high fee costs.

Recommendation 6 = Approve delegation of basic administrative tasks to court officers – establishment of court managers/administrators

A working group, comprising selected representatives of municipal, district, and commercial courts, should be formed to define and prioritize administrative tasks that are at present the responsibility of presiding judges, but that could be delegated to non-judicial staff employed within the court administration, including new court managerial positions similar to those established in other European countries.

Having defined those tasks, the working group should draft amendments that would enable gradual delegation of the said tasks from presiding judges and judges with long-term working experience to

non-judicial staff, i.e. investigate the feasibility of establishment of a new court manager position into bigger courts, including the scope and area of his/her jurisdiction.

ANNEX 1 – LEGAL FRAMEWORK

The following text lists articles of numerous international conventions that imply the need for establishment of an independent budget, as well as all relevant articles of applicable domestic legislation regulating this field. It also quotes selected articles of the new Constitution of the Republic of Serbia that indicate significant innovations in enhancement of judicial independence, and presents parts of the National Judicial Reform Strategy relevant for this study. In conclusion, the Annex presents legal modifications to draft versions of the Law on High Judicial Council and the Law on Judges, which clearly indicate that the tendency of the Ministry of Justice to strengthen the independence of the judicial budget has been converted into legal provisions, a certainly positive development. What now remains is but hard work and serious preparation of court staff, which will now along with new rights have to take on new responsibilities.

INTERNATIONAL ACTS ON INDEPENDENCE OF THE JUDICIARY

- GUARANTEES OF THE FINANCIAL STATUS-

BASIC PRINCIPLES OF INDEPENDENCE OF THE JUDICIARY were adopted on the Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders, held in Milan on 26 August - 06 September 1985, and accepted in the UN General Assembly resolution 40132 of 29 November 1985 and resolution 401146 of 13 December 1985. Item 7 of the section on Independence of the judiciary stipulates as follows:

"It is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions."

Item 11 of the section on Conditions of service and tenure says as follows:

"The term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law."

RECOMMENDATION no. R (94) 12 of the Committee of Ministers of the Council of Europe to Member States on the Independence, Efficiency and Role of Judges adopted by the Committee of Ministers on 13 October 1994 at the 518th meeting of the Ministers' Deputies, in item 2, part a) of Principle I – General principles on the independence of judges, states that member states should take the following measures to promote the principle of independence:

ii "the terms of office of judges and their remuneration should be guaranteed by law "

In Principle III – Proper working conditions, this Recommendation states the following:

"Proper conditions should be provided to enable judges to work efficiently and, in particular, by:

a) recruiting a sufficient number of judges and providing for appropriate training such as practical training in the courts and, where possible, with other authorities and bodies, before appointment and during their career,

b) ensuring that the status and remuneration of judges is commensurate with the dignity of their profession and burden of responsibilities,

d) providing adequate support staff and equipment, in particular office automation and data processing facilities, to ensure that judges can act efficiently and without undue delay."

EUROPEAN CHARTER ON THE STATUTE FOR JUDGES (Strasbourg, 08-10 July 1998) in regard to material guarantees, in chapter 1 – General principles, stipulates the following:

"The State has the duty of ensuring that judges have the means necessary to accomplish their tasks properly and in particular to deal with cases within a reasonable period."

Chapter 6 of the Charter defines the material status and rights of judges as follows:

"6.1. Judges exercising judicial functions in a professional capacity are entitled to remuneration, the level of which is fixed so as to shield them from pressures aimed at influencing their decisions and more generally their behaviour within their jurisdiction, thereby impairing their independence and impartiality.

6.2. Remuneration may vary depending on length of service, the nature of the duties which judges are assigned to discharge in a professional capacity, and the importance of the tasks which are imposed on them, assessed under transparent conditions.

6.3. The statute provides a guarantee for judges acting in a professional capacity against social risks linked with illness, maternity, invalidity, old age and death.

6.4. In particular the statute ensures that judges, who have reached the legal age of judicial retirement, having performed their judicial duties for a fixed period, are paid a retirement pension, the level of which must be as close as possible to the level of their final salary as a judge."

CURRENT LEGISLATION OF THE REPUBLIC OF SERBIA

In our legislation, material presumptions for work of courts and judges are regulated as follows:

- **Law on Organization of Courts** (Official Gazette of the RS, No. 63/2001, 42/2002, 27/2003, 103/2003, 29/2004), Chapter VIII regulates the financing of courts:

"Chapter VIII

FUNDS FOR THE WORK OF COURTS

Basic provision

Article 77

Funds for the work of courts are provided by the Republic of Serbia in its budget. Funds must have such volume and timing of flow to sustain independence of judicial power and at any given time ensure proper operation of courts.

Use of funds and own incomes

Article 78

Revenues from work of courts are separately set out in the Republic of Serbia budget and allocated for upgrading court operation.

The amount and purpose of funds under paragraph 1 of this Article is determined in the Budget Law.

Revenues accrued by courts and bodies for minor offences are set out separately in the budget of the Republic of Serbia to be allocated towards construction of judicial facilities, facility investment maintenance, procurement of equipment, material expenses, housing, and professional training.

The amount and purpose of funds under paragraph 1 hereof are specified in the Budget Law.

Settlement of court costs

Article 79

Detailed requirements, amounts, and manner of payment of court costs settled by litigants and other parties in proceedings are prescribed by the minister in charge of the judiciary."

- **Law on Judges** (Official Gazette of the RS, No. 63/2001, 42/2002, 60/2002, 17/2003, 25/2003, 27/2003, 29/2004, 35/2004, 44/2004), regulates the principle of judges' financial independence:

"Financial independence

Article 4

A judge is entitled to a salary sufficient to maintain his independence and support of his family. Salaries of judges are determined by the law, in accordance with parameters stipulated in this Law."

The salary of a judge must be commensurate with the dignity of judgeship and the burden of responsibility so as to prevent corruption, and taking into account the constrictions, i.e. the fact that judges are denied the option to carry out other business activities due to incompatibility of the judge's function, which is regulated in the next section:

Salaries of judges are regulated in Section IV of the Law:

"V. FINANCIAL STATUS OF A JUDGE

Base salary

Article 30

A judge's salary is determined on the basis of base salary.

The base salary under this Law is the value that does not include the percentage for years of service.

Base salary of a Judge

Article 31

Base salary of a judge of the Supreme Court of Serbia may not be smaller than the base salary of a Government Minister.

Base salaries of judges of the Appeals Court, the Superior Commercial Court, and the Administrative Court are smaller by 6% than base salaries of the Supreme Court judges, while the base salary of a judge of the next lower-ranking court is smaller by 10% than the base salary of a judge of the court ranked immediately above.

Base salary of a Presiding Judge

Article 32

The base salary of a Presiding Judge of the Supreme Court of Serbia may not be smaller than the base salary of the Prime Minister.

The base salaries of a Presiding Judge of the Appeals Court, the Superior Commercial Court and the Administrative Court is 5% higher than the base salary of the Supreme Court Judge.

The base salary of a Presiding Judge of District and Commercial Courts may not be smaller than the base salary of the Appeals Court judge.

The base salary of a Presiding Judge of a Municipal Court may not be smaller than the base salary of a District Court Judge.

Depending on a particular scope of assignment, the High Judicial Council may increase the salary of a Presiding Judge by up to 8%.

Base salary of a Judge assigned to another court

Article 33

A Judge who is assigned to another court is entitled to a base salary of a Judge of the court to which (s)he is assigned, if more favourable.

The emoluments and other earnings of a Judge assigned to another court are stipulated by the High Court Council.

Increment to the base salary of a Judge

Article 34

The base salary of an Investigative Judge and a Judge adjudicating exclusively or primarily in criminal cases in a District Court is increased by up to 20%, in an amount determined by the High Judicial Council.

The High Judicial Council may increase base salaries of other judges by up to 20%, if they exercise their judicial functions under special circumstances.

The High Judicial Council may determine that base salaries of judges serving in a court in which judge positions cannot be filled may be increased by up to 75%.

Supplement to Judges' salaries

Article 35

The High Judicial Council may propose to the National Assembly to introduce a supplement to salaries of judges.

Introduction of a supplement to salaries of judges is proposed under exceptional circumstances, if the independence of judges becomes compromised by the increase of the cost of living."

NEW CONSTITUTION OF THE REPUBLIC OF SERBIA

Division of power

Article 4

The legal system is unique.

The government system shall be based on the division of power into legislative, executive and judiciary.

The relation between the three branches of power shall be based on balance and mutual control.

The judiciary power shall be independent.

In its Section 7 titled "Courts", it deals with the judicial power.

Types of courts

Article 143

The judicial power in the Republic of Serbia shall belong to courts of general and special jurisdiction. The establishing, organisation, jurisdiction, system and structure of courts shall be regulated by the Law.

Provisional courts, courts-martial or special courts may not be established.
The Supreme Court of Cassation shall be the Supreme Court in the Republic of Serbia.
The seat of the Supreme Court of Cassation shall be in Belgrade.

8. The High Judicial Council

Status, constitution and election

Article 153

The High Judicial Council is an independent and autonomous body which shall provide for and guarantee independence and autonomy of courts and judges.

The High Judicial Council shall have eleven members.

The High Judicial Council shall be constituted of the Presiding Judge of the Supreme Court of Cassation, the Minister responsible for justice and the President of the authorised committee of the National Assembly as members ex officio and eight electoral members elected by the National Assembly, in accordance with the Law.

Electoral members shall include six judges holding the post of permanent judges, of which one shall be from the territory of autonomous provinces, and two respected and prominent lawyers who have at least 15 years of professional experience, of which one shall be a solicitor, and the other a professor at the law school.

Presiding judges may not be electoral members of the High Judicial Council.

The tenure of office of the High Judicial Council's members shall last five years, except for the members appointed ex officio.

A member of the High Judicial Council shall enjoy immunity as a judge.

Jurisdiction of the High Judicial Council

Article 154

The High Judicial Council shall appoint and relieve of judges, in accordance with the Constitution and the Law, propose to the National Assembly the election of judges in the first election to the post of judge, propose to the National Assembly the election of the Presiding Judge of the Supreme Court of Cassation as well as presiding judges, in accordance with the Constitution and the Law, participate in the proceedings of terminating the tenure of office of the Presiding Judge of the Supreme Court of Cassation and presiding judges, in the manner stipulated by the Constitution and the Law, and perform other duties specified by the Law.

NATIONAL JUDICIAL REFORM STRATEGY

Having recognized and accepted the need for faster judicial reforms, the National Assembly, at the Government's proposal, adopted the National Judicial Reform Strategy on 25 May 2006, with the basic objective to restore public trust in the judicial system of the Republic of Serbia by establishing the rule of law and legal certainty through a reform of judicial bodies and the overall justice system, and make further progress in the process of ascension to the European Union. Fundamental values of the National Judicial Reform Strategy are proclaimed in the Constitution and represent basis for a

more modern and more effective justice system. The Government adopted the Action Plan for implementation of the Strategy in July 2006.

Under the National Judicial Reform Strategy, an effective justice system relies on four key principles: independence, transparency, accountability and efficiency. These four principles ensure a general framework for the establishment, development and organization of judicial institutions. The responsibility for the implementation of the goals and activities envisaged in the Judicial Reform Strategy and Action Plan is entrusted to the 10 member Strategy Implementation Commission. The Commission membership includes representatives of all relevant judicial institutions (the Ministry of Justice, the Supreme Court, the National Assembly Judiciary Committee, the Public Prosecutor's Office, the Association of Judges, the Association of Prosecutors, the Bar Association of Serbia, the Judicial Training Centre, the Belgrade University Law School). Apart from the representatives of the judiciary institutions, the Ministry of Finance will have one representative in the Commission to serve as a link and guarantor of the sustainability of the Strategy implementation in accordance with the budgetary capacity of the Republic of Serbia.

The National Judicial Reform Strategy recognizes several key weaknesses of the judiciary identified in various analyses conducted in the previous four years, which primarily include a lack of integrated planning, budgeting and performance measurement capacities, which reduces the judiciary ability to perform effectively, as well as poorly equipped and maintained court facilities.

In order to eliminate the above weaknesses, the Government of the Republic of Serbia undertakes to implement the reform program to achieve a more effective, adequate and modern judiciary recognizing the right of Serbian citizens to equal access to justice and fair trial within reasonable time by an impartial tribunal.

Through the implementation of the key principles, the Strategy will facilitate the EU association process for the Republic of Serbia by ensuring respect for the standards and norms set for the performance of judicial functions in relevant international documents.

Speaking of an independent court system, the Strategy clearly indicates the necessity of an independent budget authority that will ensure full independence of the judiciary in financially technical terms.

Now it is primarily the Ministry of Finance, with participation of the Ministry of Justice, who has a key role in the budget definition and allocation. The judiciary erroneously assesses the capacity of financial resources of the Republic of Serbia available for public use, not realizing that it is hard to provide sufficient funds to meet all the needs and priorities of the judicial system.

The above is particularly true if the system has an uneconomical court network and oversized court administration, which places the Ministry of Justice in a difficult position in court budget negotiations, and particularly in allocating the funds approved by the Budget Law. Modern solutions for management of the judicial budget stipulate transfer of the budget authority to those most informed and most aware of conflicting requirements and operational priorities, i.e. the courts themselves, in order to achieve rational spending of funds and develop a degree of responsibility among budget beneficiaries.

Achieving independence of the judiciary requires the introduction of an independent court budget, but only after establishing the infrastructure and capacities for adequate planning and effective financial management within the judiciary. Until the full capacity for independent financial management is achieved, a transitional budget model will apply as an interim solution and preparation for future challenges. Under this transitional model, the High Court Council will present the integrated court budget to the Ministry of Justice and the process of consultations with the representatives of the judiciary will improve.

Under the transitional model, the Ministry of Justice will continue to represent the judiciary in negotiations with the Ministry of Finance until the budgetary authority gets completely transferred to the judiciary in 2011, and until the High Court Council has gained the capacity and authority to develop, approve and apportion the budget for the judicial system, in conjunction with the Republic Treasury and the Ministry of Finance.

The Administrative Office will play an important role in supporting the High Court Council in tackling this enormous task, and, by means of the Budget Law, the National Assembly of the Republic of Serbia will issue final approvals for an independent court budget based on needs and availability of funds. The state will strive to ensure that judges are provided all the funds necessary for proper performance of their duties, while salaries and material position of judges will in the shortest possible time be defined in such a manner as to provide protection of judges from any pressures with regard to their decision-making duty.“

Short-term reforms 2006-2007	Mid-term reforms 2008-2009	Long-term reforms 2010-2011
A plan for the transitional budget process should be developed and adopted, with the support of the High Court Council and the Administrative Office, and necessary amendments to laws are prepared.	The High Court Council assumes the authority to prepare the judicial budget and the Administrative Office prepares the integrated budget for the Ministry of Justice. Capacities are strengthened for further transfer of responsibilities and legal changes.	The High Court Council assumes the full authority for the judicial budget on January 1, 2011, and Administrative Office is ready to support and implement the new budget process.

NEW LEGISLATIVE FRAMEWORK – WORKING VERSIONS OF LAWS

In early March 2008, preparation of a package of new judicial laws was brought to completion, representing an accomplishment of greatest significance for continuance of the judicial reform. The laws comprised within this package are as follows: Law on Organization of Courts, Law on Judges, the High Court Council Act, Law on the Public Prosecution, Law on State Association of Prosecutors, Law on Seats and Territorial Jurisdiction of Courts and Offices of the Public Prosecutor. Crucial importance of adoption of this unified package of judicial laws for the justice reform is obvious primarily in light of establishment of new judicial institutions (Supreme Court of Cassation, Appellate Courts, Administrative Court, High Magistrate’s Court). This will represent a

major contribution to improvement of efficiency and relieving the burden of the existing court network. Moreover, these laws prescribe establishment of institutions such as the High Court Council and State Association of Prosecutors, which are for the first time stipulated as constitutional categories. To ensure efficient functioning of these institutions, given their substantially wider scope of jurisdiction compared to the present High Judicial Council, they are foreseen to receive support through establishment of Administrative offices. The new laws also stipulate establishment of independent judicial budget, along with clear and measurable criteria for selection, promotion, disciplinary procedures, and dismissal of judges and prosecutors, which the High Court Council and State Association of Prosecutors shall apply in conducting performance evaluations of judges and prosecutors.

Even though these laws still exist only as working versions and are thus subject to change until the time they are passed by the Serbian National Assembly, it would be interesting to illustrate strengthening of budget independence stipulated therein, in line with EU standards and recommendations of the Council of Europe.

- **Working version of the High Court Council Act stipulates as follows:**

Funds for the work of the Council

Article 3

Funds for the work of the Council are provided in the budget of the Republic of Serbia, upon proposal of the Council.

The Council independently avails of the funds specified in paragraph 1 hereof.

II. THE COUNCIL'S JURISDICTION AND MANNER OF WORK

Jurisdiction

Article 13

The Council:

- drafts proposal of the scope and structure of budget funds necessary for functioning of the courts, and controls the use thereof;
- takes charge of the financial status of the judiciary;

- **Working version of the Law on Judges stipulates as follows:**

Financial independence

Article 4

A judge is entitled to a salary sufficient to maintain his independence and support of his family.

The salary of a judge must be commensurate with the dignity of judgeship and the burden of responsibility.

- **Working version of the Law on Judges stipulates as follows:**

Financial independence

Article 4

A judge is entitled to a salary sufficient to maintain his independence and support of his family. The salary of a judge must be commensurate with the dignity of judgeship and the burden of responsibility.

VI. FINANCIAL STATUS OF A JUDGE

Base salary

Article 36

A judge is entitled to a salary commensurate with the position to which he is elected.

A judge's salary is determined pursuant to base salary.

The base salary is determined by multiplying the coefficient for calculation and payment of salary with the base for calculation and payment of salary.

The Government of the Republic of Serbia determines the base for calculation and payment of salaries of judges.

The coefficient for calculation and payment of salary is determined by classifying each judge into one of five pay grades.

Each pay grade for judges has two pay levels, except the fifth pay grade.

The base salary under this Law is the value that does not include the percentage for years of service.

Pay grades for judges

Article 37

Judges are classified into five pay grades, each having salary levels expressed in coefficients.

The first pay grade includes judges in magistrate courts.

The second pay grade includes judges of municipal courts.

The third pay grade includes judges of commercial courts, district courts, and the high magistrates court.

The fourth pay grade includes judges of the Appellate Court, High Commercial Court, and the Administrative Court.

The fifth pay grade includes judges of the Supreme Court of Cassation.

Salary levels for judges

Article 38

The first pay grade shall have salary levels of 2.00 and 2.50.

The second pay grade shall have salary levels of 3.00 and 3.50.

The third pay grade shall have salary levels of 3.50 and 4.00.

The fourth pay grade shall have salary levels of 4.00 and 4.50.

The fifth pay grade shall have salary level of 6.50.

Classification of judges to pay grades

Article 39

The coefficient is determined through a decision issued by the High Court Council.

The decision on the coefficient defines the pay grade to which a judge belongs, salary level and coefficient.

At the time of election, a judge is classified to a lower salary level in the pay grade to which he belongs.

A judge classified to a lower salary level of his pay grade, who received two consecutive ratings of “very good” and “excellent” in performance evaluation, is classified to the higher salary level of his pay grade.

A judge classified to the higher salary level of his pay grade, who received a rating of “failed to meet requirements”, or two ratings of “satisfactory” and “good” in performance evaluation, is classified to the lower salary level of his pay grade.

Base salary of Presiding Judge

Article 40

The base salary of a presiding judge is determined by increasing the salary of a judge of that court who is classified to the higher salary level by:

- 5% in courts with up to ten judges;
- 10% in courts with up to 20 judges;
- 15% in courts with up to 40 judges;
- 20% in courts with more than 40 judges.

Base salary of the Presiding Judge of the Supreme Court of Cassation

Article 41

The base salary of the presiding judge of the Supreme Court of Cassation is equal to the salary of the Speaker of the National Assembly.

Base Salary of a Judge Transferred and/or Assigned to another Court

Article 42

A judge who is transferred and/or assigned to another court, state body or institution is entitled to a base salary of a judge of the court and/or state body or institution to which he is transferred and/or assigned, if more favourable.

The High Court Council stipulates emoluments and other earnings of a judge who is transferred and/or assigned to another court, state body or institution.

A judge under disciplinary sanction of transfer to another court is not entitled to emoluments referred to under paragraph 2 of this Article.

Increment to Base Salary of a Judge

Article 43

The base salary of a judge serving in a court in which judge positions cannot be filled may be increased by up to 50%.

The base salary of a judge adjudicating in criminal offence cases with organised crime and war crime element may be increased by up to 100%.

The decision on the increase of base salary stipulated in paragraphs 1 and 2 of this article is made by the High Court Council.

ANNEX 2 – OVERVIEW OF FUNDS FOR FINANCING THE WORK OF JUDICIAL BODIES

The table below provides an overview of funds for financing the work of judicial bodies from the budget of the Republic of Serbia, according to detailed purposes, in the period 2005-2007. The table serves as an illustration of the complexity and intricacy of the system. In addition, it demonstrates how sizable the funds for financing the work of judicial bodies really are, thus reiterating the necessity of proper planning.

Section	Chapter	Function	Economic classification	DESCRIPTION	Execution 2005	Execution 2006	Index 2006/2005	Plan 2007	Index 2007/2006	Execution 2007	% execution in 2007
1	2	3	4	5	6	7	8	9	10	11	12
4				CONSTITUTIONAL COURT							
	330			Courts							
			411	Employee salaries, bonuses, and fringe benefits (earnings)	26,496,339	30,364,830	114.6	60,489,000	199.2	53,500,070	88.45%
			412	Welfare contributions charged to employer	4,544,104	5,028,726	110.7	10,207,000	203	8,828,204	86.49%
			413	In-kind compensations	53,999						
			414	Employee welfare benefits	-108,818	2,808,045	2,800.00	200,000	7.1	-189,055	-94.53%
			415	Reimbursements of expenses for employees	1,423,175	567,298	39.9	675,000	119	580,600	86.01%
			416	Rewards to employees and other special disbursements	335,306	2,222,082	662.7			134,550	
			421	Running costs	484,299	627,303	129.5	486,000	77.5	315,673	64.95%
			422	Travel expenses	230,638	468,082	203	600,000	128.2	209,374	34.90%
			423	Contracted services	721,217	606,784	84.1	650,000	107.1	256,219	39.42%
			426	Materials	728,688	1,036,957	142.3	780,000	75.2	686,789	88.05%
			515	Non-material assets				500,000		78,228	15.65%
				Sources of funding for function 330:							
			1	Income from budget	34,908,946	43,730,108	125.3	74,587,000	170.6	64,400,652	86.34%
				Total for function 330:	34,908,946	43,730,108	125.3	74,587,000	170.6	64,400,652	86.34%
				Sources of funding for section 4:							
			1	Income from budget	34,908,946	43,730,108	125.3	74,587,000	170.6	64,400,652	86.34%
				TOTAL FOR SECTION 4:	34,908,946	43,730,108	125.3	74,587,000	170.6	64,400,652	86.34%

		JUDICIAL BODIES						
330	Courts							
411	Employee salaries, bonuses, and fringe benefits (earnings)	79,304,064	121,220,509	152.9	209,438,000	172.8	164,463,085	78.53%
412	Welfare contributions charged to employer	14,327,593	21,749,918	151.8	38,336,000	176.3	29,602,685	77.22%
413	In-kind compensations	5,826,635						
414	Employee welfare benefits							
415	Reimbursements of expenses for employees	33,770,363	25,295,736	74.9				
416	Rewards to employees and other special disbursements							
421	Running costs						55,800,683	
422	Travel expenses	270,964	264,745	97.7				
423	Contracted services	99,565,333	254,753,447	255.9	280,000,000	109.9	279,913,927	99.97%
425	Current repair and maintenance						35,353	
426	Material							
483	Court-ordered fines and penalties	273,407						
511	Buildings and construction facilities		340,354,567		1,110,015,000	326.1	927,448,739	83.55%
512	Machines and equipment							
Sources of funding for function 330:								
1	Income from budget	233,338,357	763,638,923	327.3	1,637,789,000	214.5	1,457,644,471	88.98%
Total for function 330:		233,338,357	763,638,923	327.3	1,637,789,000	214.5	1,457,264,471	88.98%
Sources of funding:								
1	Income from budget	233,338,357	763,638,923	327.3	1,637,789,000	214.5	1,457,264,471	88.98%
Total:		233,338,357	763,638,923	327.3	1,637,789,000	214.5	1,457,264,471	88.98%

5.1

330

SUPREME COURT OF SERBIA**Courts**

411	Employee salaries, bonuses, and fringe benefits (earnings)	154,221,083	195,659,916	126.9	287,865,000	147.1	287,737,879	99.96%
412	Welfare contributions charged to employer	26,089,628	34,250,587	131.3	51,977,000	151.8	51,916,576	99.88%
413	In-kind compensations	92,353	226,394	245.1	275,000	121.5	201,662	73.33%
414	Employee welfare benefits	450,614			215,000		106,915	49.73%
415	Reimbursements of expenses for employees	9,358,690	11,665,509	124.6	12,930,000	110.8	12,135,061	93.85%
416	Rewards to employees and other special disbursements		1,898,120					
421	Running costs	1,523,915	1,966,782	129.1	2,200,000	111.9	2,042,369	92.83%
422	Travel expenses	1,379,608	753,116	54.6	1,000,000	132.8	877,541	87.75%
423	Contracted services	1,884,370	3,288,351	174.5	3,275,000	99.6	3,237,703	98.86%
425	Current repair and maintenance	327,732	288,791	88.1	430,000	148.9	399,174	92.83%
426	Material	730,222	1,999,390	273.8	2,000,000	100	1,997,524	99.88%
482	Taxes, mandatory duties and penalties	19,306	22,931	118.8	60,000	261.7	19,966	33.28%
Sources of funding for function 330:								
1	Income from budget	196,077,521	252,019,886	128.5	362,227,000	143.7	360,672,368	99.57%
Total for function 330:		196,077,521	252,019,886	128.5	362,227,000	143.7	360,672,368	99.57%
Sources of funding for chapter 5.1:								
1	Income from budget	196,077,521	252,019,886	128.5	362,227,000	143.7	360,672,368	99.57%
Total for chapter 5.1:		196,077,521	252,019,886	128.5	362,227,000	143.7	360,672,368	99.57%

5.2		ADMINISTRATIVE COURT			
	330	Courts			
	411	Employee salaries, bonuses, and fringe benefits (earnings)	9,667,000		0.00%
	412	Welfare contributions charged to employer	1,731,000		0.00%
	512	Machines and equipment	11,000,000		0.00%
		Sources of funding for function 330:			
	1	Income from budget	22,398,000		0.00%
		Total for function 330:	22,398,000		0.00%
		Sources of funding for chapter 5.2:			
	1	Income from budget	22,398,000		0.00%
		Total for chapter 5.2:	22,398,000		0.00%
5.3		APPEALS COURTS			
	330	Courts			
	411	Employee salaries, bonuses, and fringe benefits (earnings)	97,825,000		0.00%
	412	Welfare contributions charged to employer	17,511,000		0.00%
	511	Buildings and construction facilities	1,200,000,000	61,145,870	5.10%
	512	Machines and equipment	200,000,000		0.00%
		Sources of funding for function 330:			
	1	Income from budget	1,515,336,000	61,145,870	4.04%
		Total for function 330:	1,515,336,000	61,145,870	4.04%
		Sources of funding for chapter 5.3:			
	1	Income from budget	1,515,336,000	61,145,870	4.04%
		Total for chapter 5.3:	1,515,336,000	61,145,870	4.04%

5.4		STATE PROSECUTORS COUNCIL			
	330	Courts			
	411	Employee salaries, bonuses, and fringe benefits (earnings)	7,500,000		0.00%
	412	Welfare contributions charged to employer	1,300,000		0.00%
	423	Contracted services	8,360,000		0.00%
		Sources of funding for function 330:			
	1	Income from budget	17,160,000		0.00%
		Total for function 330:	17,160,000		0.00%
		Sources of funding for chapter 5.4:			
	1	Income from budget	17,160,000		0.00%
		Total for chapter 5.4:	17,160,000		0.00%
5.5		HIGH JUDICIAL COUNCIL			
	330	Courts			
	411	Employee salaries, bonuses, and fringe benefits (earnings)	4,500,000		0.00%
	412	Welfare contributions charged to employer	810,000		0.00%
	423	Contracted services	5,050,000	2,449,319	48.50%
		Sources of funding for function 330:			
	1	Income from budget	10,360,000	2,449,319	23.64%
		Total for function 330:	10,360,000	2,449,319	23.64%
		Sources of funding for chapter 5.5:			
	1	Income from budget	10,360,000	2,449,319	23.64%
		Total for chapter 5.5:	10,360,000	2,449,319	23.64%

5.6

330

SUPERIOR COMMERCIAL COURT

Courts

411	Employee salaries, bonuses, and fringe benefits (earnings)	40,564,527	48,457,000	119.5	92,525,000	190.9	79,100,463	85.49%
412	Welfare contributions charged to employer	7,352,189	8,603,000	117	16,636,000	193.4	14,096,469	84.73%
413	In-kind compensations	33,000	45,000	136.4	60,000	133.3	60,000	100.00%
414	Employee welfare benefits	374,118	140,223	37.5	500,000	356.6	203,500	40.70%
415	Reimbursements of expenses for employees	4,078,500	4,640,177	113.8	6,250,000	134.7	5,375,287	86.00%
416	Rewards to employees and other special disbursements							
421	Running costs	475,000	4,962,340	1,044.70	5,575,000	112.3	4,621,191	82.89%
422	Travel expenses	704,718	488,222	69.3	500,000	102.4	313,454	62.69%
423	Contracted services	496,297	375,730	75.7	350,000	93.2	348,530	99.58%
425	Current repair and maintenance	20,554	15,145	73.7	330,000	2,178.90	236,983	71.81%
426	Material	567,601	498,371	87.8	600,000	120.4	583,623	97.27%
482	Taxes, mandatory duties and penalties	38,395	21,940	57.1	37,000	168.6		0.00%
512	Machines and equipment				3,000,000		2,947,194	98.24%
515	Non-material assets				100,000		99,680	99.68%
Sources of funding for function 330:								
1	Income from budget	54,704,898	68,247,149	124.8	126,463,000	185.3	107,986,375	85.39%
Total for function 330:		54,704,898	68,247,149	124.8	126,463,000	185.3	107,986,375	85.39%
Sources of funding for chapter 5.6:								
1	Income from budget	54,704,898	68,247,149	124.8	126,463,000	185.3	107,986,375	85.39%
Total for chapter 5.6:		54,704,898	68,247,149	124.8	126,463,000	185.3	107,986,375	85.39%

5.7

330

**REPUBLIC PUBLIC PROSECUTORS
OFFICE**

Courts

411	Employee salaries, bonuses, and fringe benefits (earnings)	49,127,180	71,861,624	146.3	127,290,000	177.1	121,081,987	95.12%
412	Welfare contributions charged to employer	8,538,774	11,946,441	139.9	16,471,000	137.9	17,874,797	108.52%
413	In-kind compensations	335,709	286,410	85.3	180,000	62.8	119,883	66.60%
414	Employee welfare benefits	131,076	292,120	222.9	200,000	68.5		0.00%
415	Reimbursements of expenses for employees	1,912,329	2,684,053	140.4	3,000,000	111.8	2,988,359	99.61%
421	Running costs	896,756	1,009,965	112.6	1,600,000	158.4	952,284	59.52%
422	Travel expenses	2,086,552	2,365,153	113.4	2,820,000	119.2	2,069,151	73.37%
423	Contracted services		961,723		1,200,000	124.8	1,154,070	96.17%
424	Specialized services	1,029,481			200,000		3,291	1.65%
425	Current repair and maintenance	333,369	450,547	135.1	1,200,000	266.3	255,419	21.28%
426	Material	1,071,796	1,774,425	165.6	1,407,000	79.3	1,347,889	95.80%
482	Taxes, mandatory duties and penalties	56,413	31,494	55.8	320,000	1,016.10	54,945	17.17%
483	Court-ordered fines and penalties	577,293						
512	Machines and equipment		75,968		530,000	697.7	324,076	61.15%
Sources of funding for function 330:								
1	Income from budget	66,096,728	93,739,922	141.8	156,418,000	166.9	148,226,152	94.76%
Total for function 330:		66,096,728	93,739,922	141.8	156,418,000	166.9	148,226,152	94.76%
Sources of funding for chapter 5.7:								
1	Income from budget	66,096,728	93,739,922	141.8	156,418,000	166.9	148,226,152	94.76%
Total for chapter 5.7:		66,096,728	93,739,922	141.8	156,418,000	166.9	148,226,152	94.76%

5.8

330

WAR CRIMES PROSECUTION**Courts**

411	Employee salaries, bonuses, and fringe benefits (earnings)	20,130,749	28,845,643	143.3	49,740,000	172.4	47,567,279	95.63%
412	Welfare contributions charged to employer	3,516,010	5,528,236	157.2	9,164,000	165.8	8,060,620	87.96%
413	In-kind compensations	103,125	68,686	66.6	50,000	72.8	46,173	92.35%
414	Employee welfare benefits				500,000		20,000	4.00%
415	Reimbursements of expenses for employees	968,511	429,164	44.3	500,000	116.5	490,495	98.10%
416	Rewards to employees and other special disbursements		2,272,417					
421	Running costs	669,826	666,399	99.5	1,800,000	270.1	1,359,998	75.56%
422	Travel expenses	995,160	1,182,497	118.8	1,200,000	101.5	1,281,864	106.82%
423	Contracted services	627,495	1,020,177	162.6	1,750,000	171.5	1,652,478	94.43%
425	Current repair and maintenance	344,940	577,778	167.5	900,000	155.8	426,774	47.42%
426	Material	683,454	2,174,037	318.1	1,975,000	90.8	1,975,000	100.00%
482	Taxes, mandatory duties and penalties	15,962	50,154	314.2	170,000	339	71,074	41.81%
512	Machines and equipment		297,796		972,000	326.4	940,479	96.76%
Sources of funding for function 330:								
1	Income from budget	28,055,232	43,112,984	153.7	68,721,000	159.4	63,892,234	92.97%
Total for function 330:		28,055,232	43,112,984	153.7	68,721,000	159.4	63,892,234	92.97%
Sources of funding for chapter 5.8:								
1	Income from budget	28,055,232	43,112,984	153.7	68,721,000	159.4	63,892,234	92.97%
Total for chapter 5.8:		28,055,232	43,112,984	153.7	68,721,000	159.4	63,892,234	92.97%

5.9

330

REPUBLIC PUBLIC PROSECUTION

Courts

411	Employee salaries, bonuses, and fringe benefits (earnings)	33,005,341	78,663,115	238.3	114,892,000	146.1	104,403,305	90.87%
412	Welfare contributions charged to employer	5,556,704	14,108,408	253.9	20,997,000	148.8	18,690,066	89.01%
413	In-kind compensations							
414	Employee welfare benefits	346,378	313,622	90.5	30,000	9.6		0.00%
415	Reimbursements of expenses for employees	834,032	1,820,912	218.3	2,200,000	120.8	2,156,756	98.03%
416	Rewards to employees and other special disbursements		6,014,001				916,627	
421	Running costs	2,942,008	4,012,237	136.4	4,000,000	99.7	3,745,999	93.65%
422	Travel expenses	559,581	610,890	109.2	380,000	62.2	312,876	82.34%
423	Contracted services	2,583,010	7,984,904	309.1	86,800,000	1,087.10	63,469,410	73.12%
425	Current repair and maintenance		71,885		143,000	198.9	142,060	99.34%
426	Material	286,247	1,070,028	373.8	765,000	71.5	760,155	99.37%
483	Court-ordered fines and penalties	231,020						
512	Machines and equipment				300,000		215,942	71.98%
Sources of funding for function 330:								
1	Income from budget	46,344,319	114,670,002	247.4	230,507,000	201	194,813,195	84.52%
Total for function 330:		46,344,319	114,670,002	247.4	230,507,000	201	194,813,195	84.52%
Sources of funding for chapter 5.9:								
1	Income from budget	46,344,319	114,670,002	247.4	230,507,000	201	194,813,195	84.52%
Total for chapter 5.9:		46,344,319	114,670,002	247.4	230,507,000	201	194,813,195	84.52%

5.10

330

DISTRICT COURTS

Courts

411	Employee salaries, bonuses, and fringe benefits (earnings)	755,851,156	873,165,517	115.5	1,344,582,000	154	1,285,797,570	95.63%
412	Welfare contributions charged to employer	135,554,999	156,420,392	115.4	240,650,000	153.8	229,345,299	95.30%
413	In-kind compensations	10,694,006	15,758,751	147.4	16,075,000	102	13,504,229	84.01%
414	Employee welfare benefits	480,453	566,848	118	1,800,000	317.5		0.00%
415	Reimbursements of expenses for employees	3,499,913	17,161,546	490.3	34,790,000	202.7	34,787,302	99.99%
421	Running costs	79,841,358	136,922,996	171.5	168,000,000	122.7	167,857,753	99.92%
422	Travel expenses	3,947,091	3,439,376	87.1	1,820,000	52.9	1,817,840	99.88%
423	Contracted services	69,797,306	257,700,662	369.2	330,000,000	128.1	329,957,613	99.99%
425	Current repair and maintenance	3,925,447	2,994,524	76.3	9,000,000	300.5	8,962,272	99.58%
426	Material	23,897,865	44,226,456	185.1	46,900,000	106	46,865,634	99.93%
482	Taxes, mandatory duties and penalties	238,968	585,504	245	940,000	160.5	437,607	46.55%
511	Buildings and construction facilities		2,993,485					
512	Machines and equipment		11,000,000					
Sources of funding for function 330:								
1	Income from budget	1,087,728,562	1,522,936,057	140	2,194,557,000	144.1	2,119,333,119	96.57%
Total for function 330:		1,087,728,562	1,522,936,057	140	2,194,557,000	144.1	2,119,333,119	96.57%
Sources of funding for chapter 5.10:								
1	Income from budget	1,087,728,562	1,522,936,057	140	2,194,557,000	144.1	2,119,333,119	96.57%
Total for chapter 5.10:		1,087,728,562	1,522,936,057	140	2,194,557,000	144.1	2,119,333,119	96.57%

5.11

330

MUNICIPAL COURTS

Courts

411	Employee salaries, bonuses, and fringe benefits (earnings)	2,582,202,203	2,944,894,077	114	4,189,607,000	142.3	3,970,548,551	94.77%
412	Welfare contributions charged to employer	481,465,147	545,908,947	113.4	748,487,000	137.1	712,952,975	95.25%
413	In-kind compensations	32,971,616	65,655,631	199.1	71,000,000	108.1	70,794,422	99.71%
414	Employee welfare benefits	6,443,767	1,164,304	18.1	3,600,000	309.2	3,299,917	91.66%
415	Reimbursements of expenses for employees	4,998,160	43,933,822	879	62,000,000	141.1	61,890,589	99.82%
421	Running costs	279,283,688	374,226,456	134	383,000,000	102.3	383,427,681	100.11%
422	Travel expenses	4,557,056	4,902,378	107.6	5,000,000	102	5,031,249	100.62%
423	Contracted services	85,914,201	561,747,902	653.8	371,500,000	66.1	372,653,912	100.31%
425	Current repair and maintenance	8,508,352	5,795,848	68.1	12,200,000	210.5	12,239,778	100.33%
426	Material	70,898,138	99,669,906	140.6	69,000,000	69.2	69,191,469	100.28%
482	Taxes, mandatory duties and penalties	1,206,549	1,621,926	134.4	1,900,000	117.1	1,733,941	91.26%
Sources of funding for function 330:								
1	Income from budget	3,558,448,877	4,649,521,197	130.7	5,917,294,000	127.3	5,663,764,484	95.72%
Total for function 330:		3,558,448,877	4,649,521,197	130.7	5,917,294,000	127.3	5,663,764,484	95.72%
Sources of funding for chapter 5.11:								
1	Income from budget	3,558,448,877	4,649,521,197	130.7	5,917,294,000	127.3	5,663,764,484	95.72%
Total for chapter 5.11:		3,558,448,877	4,649,521,197	130.7	5,917,294,000	127.3	5,663,764,484	95.72%

5.12

330

COMMERCIAL COURTS

Courts

411	Employee salaries, bonuses, and fringe benefits (earnings)	330,426,718	376,763,086	114	548,318,000	145.5	525,989,890	95.93%
412	Welfare contributions charged to employer	60,020,737	68,378,000	113.9	99,507,000	145.5	94,196,041	94.66%
413	In-kind compensations	6,134,414	8,447,269	137.7	8,600,000	101.8	8,221,110	95.59%
414	Employee welfare benefits	91,760	493,537	537.9	500,000	101.3	113,100	22.62%
415	Reimbursements of expenses for employees	1,999,942	9,570,764	478.6	11,000,000	114.9	10,947,629	99.52%
421	Running costs	41,961,814	49,928,356	119	50,000,000	100.1	49,708,655	99.42%
422	Travel expenses	1,949,400	1,894,088	97.2	940,000	49.6	909,984	96.81%
423	Contracted services	9,951,527	9,805,043	98.5	3,500,000	35.7	3,667,770	104.79%
424	Specialized services				3,500,000		3,495,227	99.86%
425	Current repair and maintenance	1,990,547	1,480,500	74.4	770,000	52	764,958	99.35%
426	Material	9,441,787	8,862,303	93.9	6,500,000	73.3	6,498,085	99.97%
482	Taxes, mandatory duties and penalties	40,000	147,000	367.5	210,000	142.9	209,000	99.52%
Sources of funding for function 330:								
1	Income from budget	464,008,646	535,769,945	115.5	733,345,000	136.9	704,721,449	96.10%
Total for function 330:		464,008,646	535,769,945	115.5	733,345,000	136.9	704,721,449	96.10%
Sources of funding for chapter 5.12:								
1	Income from budget	464,008,646	535,769,945	115.5	733,345,000	136.9	704,721,449	96.10%
Total for chapter 5.12:		464,008,646	535,769,945	115.5	733,345,000	136.9	704,721,449	96.10%

5.13

330

DISTRICT PUBLIC PROSECUTIONS

Courts

411	Employee salaries, bonuses, and fringe benefits (earnings)	199,043,742	227,476,363	114.3	354,083,000	155.7	338,266,093	95.53%
412	Welfare contributions charged to employer	35,627,325	40,595,315	113.9	64,470,000	158.8	60,320,010	93.56%
413	In-kind compensations	5,060,366	4,690,258	92.7	5,000,000	106.6	4,982,225	99.64%
414	Employee welfare benefits	96,991	581,127	599.2	350,000	60.2	85,048	24.30%
415	Reimbursements of expenses for employees	770,349	4,838,663	628.1	4,430,000	91.6	4,420,266	99.78%
421	Running costs	5,968,346	5,955,670	99.8	4,600,000	77.2	4,587,552	99.73%
422	Travel expenses	988,239	965,053	97.7	464,000	48.1	452,567	97.54%
423	Contracted services	2,163,172	1,653,254	76.4	9,170,000	554.7	6,675,390	72.80%
425	Current repair and maintenance	946,182	896,860	94.8	290,000	32.3	268,960	92.74%
426	Material	3,105,032	3,429,039	110.4	3,600,000	105	3,585,589	99.60%
482	Taxes, mandatory duties and penalties	153,000	104,006	68	430,000	413.4	167,000	38.84%
511	Buildings and construction facilities				500,000			0.00%
512	Machines and equipment				1,115,000			0.00%
Sources of funding for function 330:								
1	Income from budget	253,922,745	291,185,607	114.7	448,502,000	154	423,810,699	94.49%
Total for function 330:		253,922,745	291,185,607	114.7	448,502,000	154	423,810,699	94.49%
Sources of funding for chapter 5.13:								
1	Income from budget	253,922,745	291,185,607	114.7	448,502,000	154	423,810,699	94.49%
Total for chapter 5.13:		253,922,745	291,185,607	114.7	448,502,000	154	423,810,699	94.49%

5.14

330

MUNICIPAL PUBLIC PROSECUTIONS

Courts

411	Employee salaries, bonuses, and fringe benefits (earnings)	420,592,838	488,567,559	116.2	726,893,000	148.8	695,368,324	95.66%
412	Welfare contributions charged to employer	75,221,285	87,599,485	116.5	130,244,000	148.7	124,200,262	95.36%
413	In-kind compensations	4,020,595	7,979,063	198.5	8,500,000	106.5	8,387,811	98.68%
414	Employee welfare benefits	158,229	1,171,118	740.1	1,000,000	85.4	178,044	17.80%
415	Reimbursements of expenses for employees	1,499,133	6,784,360	452.6	7,500,000	110.5	7,498,162	99.98%
421	Running costs	14,824,583	14,910,497	100.6	15,000,000	100.6	14,941,365	99.61%
422	Travel expenses	1,643,479	1,115,163	67.9	1,000,000	89.7	904,533	90.45%
423	Contracted services	2,831,911	2,354,025	83.1	14,000,000	594.7	13,447,578	96.05%
424	Specialized services				100,000			0.00%
425	Current repair and maintenance	803,246	722,695	90	230,000	31.8	226,770	98.60%
426	Material	8,137,782	7,408,714	91	7,500,000	101.2	7,464,879	99.53%
482	Taxes, mandatory duties and penalties	240,866	208,980	86.8	500,000	239.3	393,663	78.73%
Sources of funding for function 330:								
1	Income from budget	529,973,947	618,821,659	116.8	912,467,000	147.5	873,011,391	95.68%
Total for function 330:		529,973,947	618,821,659	116.8	912,467,000	147.5	873,011,391	95.68%
Sources of funding for chapter 5.14:								
1	Income from budget	529,973,947	618,821,659	116.8	912,467,000	147.5	873,011,391	95.68%
Total for chapter 5.14:		529,973,947	618,821,659	116.8	912,467,000	147.5	873,011,391	95.68%

5.15

330

COUNCILS FOR PETTY OFFENCES

Courts

411	Employee salaries, bonuses, and fringe benefits (earnings)	44,714,419	50,941,993	113.9	80,259,000	157.5	75,317,301	93.84%
412	Welfare contributions charged to employer	8,085,227	9,213,565	114	14,380,000	156.1	13,540,602	94.16%
413	In-kind compensations	1,353,133	1,281,207	94.7	1,400,000	109.3	1,185,340	84.67%
414	Employee welfare benefits	-52,170			200,000			0.00%
415	Reimbursements of expenses for employees	466,162	1,013,278	217.4	1,600,000	157.9	1,426,484	89.16%
421	Running costs	6,985,427	6,279,826	89.9	6,000,000	95.5	5,935,606	98.93%
422	Travel expenses	493,500	449,900	91.2	500,000	111.1	480,730	96.15%
423	Contracted services	2,495,080	2,042,697	81.9	2,000,000	97.9	1,999,043	99.95%
425	Current repair and maintenance	909,732	603,926	66.4	500,000	82.8	477,500	95.50%
426	Material	2,196,404	2,231,220	101.6	2,200,000	98.6	2,195,646	99.80%
482	Taxes, mandatory duties and penalties	9,400						
Sources of funding for function 330:								
1	Income from budget	67,646,915	74,057,611	109.5	109,039,000	147.2	102,558,253	94.06%
Total for function 330:		67,646,915	74,057,611	109.5	109,039,000	147.2	102,558,253	94.06%
Sources of funding for chapter 5.15:								
1	Income from budget	67,646,915	74,057,611	109.5	109,039,000	147.2	102,558,253	94.06%
Total for chapter 5.15:		67,646,915	74,057,611	109.5	109,039,000	147.2	102,558,253	94.06%

5.16

330

MUNICIPAL BODIES FOR PETTY OFFENCES

Courts

411	Employee salaries, bonuses, and fringe benefits (earnings)	800,421,767	911,871,974	113.9	1,260,613,000	138.2	1,189,712,789	94.38%
412	Welfare contributions charged to employer	148,524,904	169,434,268	114.1	226,374,000	133.6	213,450,035	94.29%
413	In-kind compensations	15,107,020	25,798,993	170.8	26,000,000	100.8	25,735,929	98.98%
414	Employee welfare benefits	322,473	2,526,586	783.5	600,000	23.7	1,702,713	283.79%
415	Reimbursements of expenses for employees	3,401,177	14,292,867	420.2	18,600,000	130.1	18,578,036	99.88%
421	Running costs	119,131,340	119,108,032	100	123,000,000	103.3	123,225,555	100.18%
422	Travel expenses	779,334	755,022	96.9	1,200,000	158.9	1,199,405	99.95%
423	Contracted services	7,873,551	5,948,567	75.6	6,400,000	107.6	6,431,337	100.49%
425	Current repair and maintenance	3,536,449	2,713,677	76.7	3,350,000	123.4	3,361,034	100.33%
426	Material	23,866,873	22,904,526	96	27,750,000	121.2	27,776,459	100.10%
482	Taxes, mandatory duties and penalties	203,388	113,808	56	130,000	114.2	129,649	99.73%
511	Buildings and construction facilities		21,152,341		57,613,000	272.4		0.00%
Sources of funding for function 330:								
1	Income from budget	1,123,168,276	1,296,620,662	115.4	1,751,630,000	135.1	1,611,302,941	91.99%
Total for function 330:		1,123,168,276	1,296,620,662	115.4	1,751,630,000	135.1	1,611,302,941	91.99%
Sources of funding for chapter 5.16:								
1	Income from budget	1,123,168,276	1,296,620,662	115.4	1,751,630,000	135.1	1,611,302,941	91.99%
Total for chapter 5.16:		1,123,168,276	1,296,620,662	115.4	1,751,630,000	135.1	1,611,302,941	91.99%
Sources of funding for section 5:								
1	Income from budget	7,709,515,023	10,310,348,119	133.7	16,214,213,000	157.3	13,894,952,319	85.70%
TOTAL FOR SECTION 5:		7,709,515,023	10,310,348,119	133.7	16,214,213,000	157.3	13,894,952,319	85.70%

360

MINISTRY OF JUSTICE**Public order and peace not classified elsewhere**

411	Employee salaries, bonuses, and fringe benefits (earnings)	51,464,388	56,949,931	110.7	65,258,000	114.6	59,920,847	91.82%
412	Welfare contributions charged to employer	9,273,524	10,734,130	115.8	11,870,000	110.6	10,763,233	90.68%
413	In-kind compensations	168,000	197,000	117.3	300,000	152.3	111,000	37.00%
414	Employee welfare benefits	1,186,327	224,139	18.9	380,000	169.5		0.00%
415	Reimbursements of expenses for employees	1,575,803	2,205,879	140	2,200,000	99.7	1,781,402	80.97%
416	Rewards to employees and other special disbursements	3,261,920	4,287,640	131.4	97,550,000	2,275.10	88,626,797	90.85%
421	Running costs	3,739,670	4,409,184	117.9	5,032,000	114.1	4,488,414	89.20%
422	Travel expenses	3,263,278	6,172,186	189.1	7,000,000	113.4	6,208,323	88.69%
423	Contracted services	9,647,536	17,293,399	179.3	19,000,000	109.9	14,086,858	74.14%
425	Current repair and maintenance	406,260	379,710	93.5	500,000	131.7	475,453	95.09%
426	Material	2,088,374	2,480,582	118.8	2,800,000	112.9	2,753,924	98.35%
482	Taxes, mandatory duties and penalties	126,889	104,468	82.3	800,000	765.8	263,125	32.89%
483	Court-ordered fines and penalties	61,305,464						
485	Compensation of damages for injury or harm inflicted by state authorities	48,736,903	126,160,297	258.9	361,055,000	286.2	322,118,927	89.22%
511	Buildings and construction facilities		159,578,559		40,825,000	25.6	500,000	1.22%
512	Machines and equipment		138,738		2,000,000	1,441.60	54,881	2.74%
551	Non-financial assets financed from funds for realization of the National Investment Plan		164,838,309		1,294,450,000	785.3	531,088,307	41.03%
Sources of funding for function 360:								
1	Income from budget	196,244,334	556,154,151	283.4	1,911,020,000	343.6	1,043,241,492	54.59%
Total for function 360:		196,244,334	556,154,151	283.4	1,911,020,000	343.6	1,043,241,492	54.59%
Sources of funding:								
1	Income from budget	196,244,334	556,154,151	283.4	1,911,020,000	343.6	1,043,241,492	54.59%
Total:		196,244,334	556,154,151	283.4	1,911,020,000	343.6	1,043,241,492	54.59%

13.1

340

**AUTHORITY FOR THE EXECUTION OF
PENITENTIARY SANCTIONS**

Prisons

411	Employee salaries, bonuses, and fringe benefits (earnings)	1,529,384,142	1,833,239,126	119.9	2,157,924,000	117.7	2,166,558,431	100.40%
412	Welfare contributions charged to employer	412,752,209	513,515,590	124.4	530,606,000	103.3	527,402,531	99.40%
413	In-kind compensations	22,932,614	29,399,998	128.2	33,200,000	112.9	36,226,368	109.12%
414	Employee welfare benefits	971,011	999,264	102.9	1,400,000	140.1	1,399,999	100.00%
415	Reimbursements of expenses for employees	4,855,030	10,999,998	226.6	16,000,000	145.5	21,871,532	136.70%
416	Rewards to employees and other special disbursements		28,585,493				31,184,733	#DIV/0!
421	Running costs	203,455,571	285,858,910	140.5	375,000,000	131.2	365,284,355	97.41%
422	Travel expenses	7,224,649	11,988,632	165.9	7,800,000	65.1	7,789,774	99.87%
423	Contracted services	17,950,538	27,997,601	156	30,440,000	108.7	30,439,999	100.00%
424	Specialized services	14,360,385	33,951,082	236.4	49,800,000	146.7	49,800,000	100.00%
425	Current repair and maintenance	54,455,753	84,994,199	156.1	73,000,000	85.9	73,000,000	100.00%
426	Material	348,681,711	409,774,216	117.5	490,000,000	119.6	485,386,598	99.06%
472	Social security compensations from budget				6,000,000		6,000,000	100.00%
482	Taxes, mandatory duties and penalties	1,772,761	2,994,000	168.9	1,800,000	60.1	1,799,999	100.00%
483	Court-ordered fines and penalties	3,040,406	3,499,998	115.1	4,350,000	124.3	4,350,000	100.00%
511	Buildings and construction facilities	263,387,274	310,999,300	118.1	283,600,000	91.2	283,599,999	100.00%
512	Machines and equipment	93,296,098	104,972,378	112.5	46,800,000	44.6	46,799,981	100.00%
522	Production stock							
Sources of funding for function 340:								
1	Income from budget	2,978,520,151	3,693,769,786	124	4,107,720,000	111.2	4,138,894,298	100.76%
Total for function 340:		2,978,520,151	3,693,769,786	124	4,107,720,000	111.2	4,138,894,298	100.76%
Sources of funding for chapter 13.1:								
1	Income from budget	2,978,520,151	3,693,769,786	124	4,107,720,000	111.2	4,138,894,298	100.76%
Total for chapter 13.1:		2,978,520,151	3,693,769,786	124	4,107,720,000	111.2	4,138,894,298	100.76%
Sources of funding for section 13:								

1	Income from budget	3,174,764,485	4,249,923,936	133.9	6,018,740,000	141.6	5,182,135,790	86.10%
TOTAL FOR SECTION 13:		3,174,764,485	4,249,923,936	133.9	6,018,740,000	141.6	5,182,135,790	86.10%

BALANCE

411	EMPLOYEE SALARIES AND BONUSES	7,116,950,656	8,338,942,263	117.2	11,789,268,000	141.4	11,165,333,863	94.71%
412	WELFARE CONTRIBUTIONS CHARGED TO EMPLOYER	1,436,450,359	1,703,015,008	118.6	2,251,728,000	132.2	2,135,240,404	94.83%
413	IN-KIND COMPENSATIONS	104,886,585	159,834,660	152.4	170,640,000	106.8	169,576,151	99.38%
414	EMPLOYEE WELFARE BENEFITS	10,892,209	11,280,933	103.6	11,475,000	101.7	6,920,182	60.31%
415	EMPLOYEE FRINGE BENEFITS	75,411,269	157,904,026	209.4	183,675,000	116.3	186,927,960	101.77%
416	REWARDS, BONUSES AND OTHER SPECIAL DISBURSEMENTS	3,597,226	45,279,753	1,258.70	97,550,000	215.4	120,862,707	123.90%
421	RUNNING COSTS	762,183,601	1,010,844,953	132.6	1,145,293,000	113.3	1,188,295,134	103.75%
422	TRAVEL EXPENSES	31,073,247	37,814,503	121.7	32,224,000	85.2	29,858,666	92.66%
423	CONTRACTED SERVICES	314,502,544	1,155,534,266	367.4	1,173,445,000	101.5	1,131,841,155	96.45%
424	SPECIALIZED SERVICES	15,389,866	33,951,082	220.6	53,600,000	157.9	53,298,518	99.44%
425	CURRENT REPAIR AND MAINTENANCE (SERVICES AND MATERIALS)	76,508,563	101,986,085	133.3	102,843,000	100.8	101,272,487	98.47%
426	MATERIAL	496,381,974	609,540,170	122.8	663,777,000	108.9	659,069,264	99.29%
472	SOCIAL SECURITY COMPENSATIONS FROM THE BUDGET				6,000,000		6,000,000	100.00%
482	TAXES, MANDATORY DUTIES AND PENALTIES IMPOSED BY ONE LEVEL OF POWER TO ANOTHER	4,121,897	6,006,211	145.7	7,297,000	121.5	5,279,970	72.36%
483	FINES AND PENALTIES ORDERED BY COURTS AND JUDICIAL BODIES	65,427,590	3,499,998	5.3	4,350,000	124.3	4,350,000	100.00%
485	COMPENSATION OF DAMAGES FOR INJURY OR HARM INFLICTED BY STATE AUTHORITIES	48,736,903	126,160,297	258.9	361,055,000	286.2	322,118,927	89.22%
511	BUILDINGS AND CONSTRUCTION FACILITIES	263,387,274	835,078,252	317.1	2,692,553,000	322.4	1,272,694,608	47.27%
512	MACHINES AND EQUIPMENT	93,296,098	116,484,880	124.9	265,717,000	228.1	51,282,553	19.30%
513	OTHER BASIC CAPITAL							
515	NON-MATERIAL ASSETS				600,000		177,908	29.65%

551	NIP (National Investment Plan)	164,838,309		1,294,450,000	785.3	531,088,307	41.03%
TOTAL:		10,919,197,861	14,617,995,649	133.9	22,307,540,000	152.6	19,141,488,760 85.81%