



**ASSESSMENT OF INTERNATIONAL ASSISTANCE
FOR JUDICIAL REFORM
IN THE REPUBLIC OF SERBIA**

Prepared Under European Union Framework Project Number 2008/167579

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**ASSESSMENT REPORT
ON INTERNATIONAL ASSISTANCE TO THE JUDICIARY
IN THE REPUBLIC OF SERBIA**

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I. EXECUTIVE SUMMARY

The international donor community has been working in the Republic of Serbia for a number of years to establish democracy, promote the independence of the judiciary and the separation of powers, protect human rights, establish a free market economy, and strengthen the Rule of Law. Progress is crucial for Serbia's integration into the international community and establishing closer relations with the European Union, and is now considered a national priority. The requirements are both significant and diverse, and recognised by many parties. The response includes investment in major assistance projects targeting all categories of judicial reform, in a dedicated albeit sometimes fragmented manner. Significant results have been achieved, particularly with regard to institutional development and human resources development, with cooperation and support from many parties.

However, progress has been uneven, below expectations, and not always a reflection of the amount of resources committed. Unfortunately, the reform process lacked strategic focus until recently, the legal and institutional framework for the judiciary has been delayed, and political considerations have thwarted efforts to reach consensus and adopt a disciplined approach. Therefore, as Serbia works to implement a new wave of judicial reforms in 2009, including a package of major framework laws, it is appropriate to take stock of how the reform process has been carried out, what has been achieved, what still needs to be done, and how it can best be done. This Assessment Report aims to do just that, by identifying lessons learned from experience, and providing recommendations concerning how to move forward.

The Assessment Report follows a strategic approach, based on analysis of the projects implemented by all members of the donor community, and consultations with numerous interested parties (including a very wide range of Serbian counterparts). The methodology is based upon a Typology of Judicial Reform Initiatives, which categorises assistance so that it can be meaningfully analysed. Difficulties in accessing information had to be overcome, and the timeframe for the work was limited (February through May 2009). Nonetheless, it has been possible to identify the major obstacles to judicial reform, describe the international response, and present a wide range of recommendations. The recommendations are broken down according to the Typology, and then go on to address programming and policies, project planning and implementation, and donor coordination.

With respect to the Legal Framework (LF), the priority should be implementing the laws passed in 2008. Work on the Institutional Framework (IF) and Institution Building (IB) should continue to be a major priority, focusing on sustainability, involving governmental institutions, diversification and decentralisation, strategic planning, and monitoring and evaluation. Human Resources Development (HR) should also continue to be a major priority, and be strengthened through better Training Needs Assessment, decentralisation, focus on court personnel, use of electronic media, work with Law Faculties, and greater attention to professional ethics. Court Management and Operations (CM) are crucial for meeting the legal needs of citizens, and require more attention to physical assets, automation, case management, transparency, the provision of services, and the enforcement of judgments.

Jurisprudence (JU), which combines legal reform and better laws, should be expanded to improve and open the legislative drafting process, and enhance legislative drafting skills, while enhancing horizontal compatibility, technical soundness of laws, and transparency. Access to the Justice System (AJ) deserves greater prominence, by being incorporated into other areas of work (such as Court Management and Operations and Information Resources), and there should be

more visibility, greater engagement of the legal professions, and enforceable standards for handling legal aid cases (ethical codes). Dispute Settlement (DS) can be strengthened by including mediation services in the courts, enhancing the enforceability of decisions and awards, developing human resources, and engaging in public outreach.

Information Technology (IT) has been somewhat controversial and yielded mixed results, particularly when it comes to procurement and software design, so there should be careful needs assessment, focus on improving rather than replacing software, greater verification of end use, coverage for recurring expenses, more training, promotion of transparency, and attention to combining automation with business re-engineering and change management. Work on Information Resources (IR) has not yielded anticipated results, making it necessary to refocus needs assessments, carefully involve end users in initiatives, obtain commitments regarding end use, and focus on sustainability. Finally, Transparency and Anti-Corruption (TC) require renewed attention, through formal inclusion in judicial reform projects and particularly Court Management and Operations, greater involvement of Non-Governmental Organisations and the media, more focus on professional associations, and greater transparency in the legal profession.

Further recommendations start with combinations of these specific areas of assistance which are most effective. With regard to programming and policies, recommendations cover depoliticising initiatives, utilising Serbian strategic plans, employing needs assessments, establishing realistic objectives, distinguishing objectives and outputs, prioritising information management, and ensuring the integrity of work product. Recommendations concerning project planning and implementation cover strategic design, timing, duration, budgeting, securing commitments from counterparts, project management, capacity development, the effective use of expertise, and establishing horizontal communications. Finally, donor coordination should focus on establishing a development assistance framework, employing strategic planning, and improving information management.

Both the donor community and Serbian counterparts should thoroughly consider these recommendations in detail, in order to take full advantage of the current opportunity to re-focus and re-energise the judicial reform process.

II. INTRODUCTION

Judicial reform in the Republic of Serbia is necessary to strengthen democracy, promote economic development, protect human rights, and fully establish the Rule of Law. Judicial reform is also a major pre-requisite for the Republic of Serbia's integration into the international community and closer relations with the European Union. Recognising the importance of these objectives, the Republic of Serbia has taken significant steps in recent years to make the judiciary more independent, modernise its functions, and improve the skills and professionalism of key personnel. This has been accompanied by legal reforms, institution building initiatives, and development of the legal profession.

The international community has played a key and extremely active role in these developments. Programmes and projects providing technical assistance and valuable resources have been organised by the European Union and a wide range of multilateral donors, bilateral donors, independent institutions, Non-Governmental Organisations, and other interested parties. It is clear that this assistance has been crucial for and made a significant contribution to judicial reform. However, it is equally clear that this assistance has not always lived up to expectations, or achieved all of the intended objectives. As a result, the reform process has taken longer than

expected, and has not progressed in a consistent, even, or linear fashion. There are still many challenges to legal and institutional reform, professional development, and effective operation of the court system. And consensus remains elusive. These circumstances stand in the way of Serbian national priorities and European Union objectives.

III. BACKGROUND AND OBJECTIVES OF THE ASSESSMENT REPORT

This Assessment Report is prepared under the auspices of European Union – financed Framework Project Number 2008/167579. The research and drafting have taken place from February to May 2009. The Project Team includes Team Leader Mark Segal, Legal Experts Siniša Rodin, Stevan Lilić, and Božo Prelević, and Project Assistant Sonja Postolović. In accordance with the Project Terms of Reference, the objective of the Assessment Report is to improve future assistance for judicial reform in the Republic of Serbia, by a) providing an overview and review of the assistance already provided, b) identifying lessons learned, and c) making recommendations for enhancing the effectiveness of programming and project implementation.

Specifically, this Assessment Report can benefit future assistance by:

- Identifying programming needs and initiatives that contribute to judicial reform;
- Providing information and guidance for effective and efficient programme and project design;
- Facilitating prioritisation of initiatives on the basis of likely impact and results;
- Facilitating formulation of initiatives and identification of mechanisms that bring results;
- Helping identify key parties and institutions which can be catalysts for judicial reform, benefit from assistance, and serve as project partners. (N.B. the term “project partner” will be used throughout this Assessment Report, rather than “beneficiary”, to emphasise the fact that judicial reform and assistance projects are collaborative process, indeed partnerships, wherein Serbian counterparts also have responsibilities and obligations, beyond the passive receipt of “benefits” from the donor community).

The above information and analysis can set the stage for a more harmonious and integrated approach to judicial reform, prevent the duplication of effort, and maximise results.

This Project and Assessment Report are extremely important and timely. Categorising and investigating the assistance that has been provided, and determining what has worked best and why, is the only way to design effective and efficient interventions which can continue to move the reform process forward. In addition, Serbia is now at a turning point, and there are good prospects for moving ahead with judicial reforms, depending upon the success of pending measures to address certain long-standing challenges.

IV. METHODOLOGY AND PROCEDURES FOR THE ASSESSMENT REPORT

This Report follows the traditional/standard methodology and format for assessments carried out under European Union auspices. The work has included intensive information gathering exercises, review of a wide range of reports and documents, meetings with numerous representatives of international donors and projects, consultations with a wide range of Serbian counterparts and stakeholders, in-depth evaluation of a diverse sample of reform initiatives pursuant to criteria established by the Project, and the formulation and review of

recommendations. Throughout this work, the methodological approach has been structured by a variety of typologies, charts, and questionnaires. Finally, the draft version of the Assessment Report has undergone a consultative process, culminating in a Workshop with key counterparts.

A. Procedures for Preparation of the Assessment Report

The following specific steps were taken in order to prepare and finalise the Assessment Report:

1. Collection, review, and analysis of information about key and high-priority international assistance projects supporting judicial reform. The selection of projects for review started with comprehensive listings and information provided by donors, and was refined through identification of a representative sample of subject areas, types of interventions, donors, and implementers. The assessment covered project rationales, objectives, relevance, outcomes/impact, timeliness, impact, and prospects for sustainability. Original project materials, reports, and supplementary sources were regularly consulted.
2. Preparation of required methodological guidelines and practical documents. This included the Typology of Judicial Reform Initiatives (discussed in detail in Section IV (C) below), various charts, and questionnaires, which were all used for structuring interviews, assessments, and analysis.
3. Interviews and meetings with members of the international community, representatives of donors, and international experts. The objective was to ascertain the international perspective towards assistance for judicial reform, evaluate which initiatives and practices were most/least successful, and identify best practices. The format for meetings and interviews was informal, and based on direct individual contact. The identity of these parties is specified in the Contact List (Parties Consulted), attached as Appendix “C”.
4. Interviews and meetings with Serbian counterparts and legal professionals. The objective was to ascertain the Serbian perspective towards international assistance for judicial reform, evaluate what initiatives and practices were most/least successful, identify best practices, and collect feedback for presentation to donors and project implementers. Contact was made with stakeholders involved in different initiatives, representatives of the legal professions (Judges, Prosecutors, Lawyers, Law Professors, and court personnel), and individuals who are familiar with judicial services. These parties were selected on the basis of their familiarity with key issues relating to judicial reform, and their knowledge of/involvement in specific judicial reform initiatives. The format for these consultations included direct interviews and small roundtables for specific target groups. See the Contact List (Parties Consulted), attached as Appendix “C”.
5. Site visits to select project locations, and direct meetings with project partners. The objective was to assess the results of initiatives and their prospects for sustainability, and meet key personnel, *in situ*.
6. Assessment of the overall efficiency, effectiveness, results, and prospects for sustainability of international assistance for judicial reform. This was based upon the Typology of Judicial Reform Initiatives and other project charts. It included a determination of what areas of work are achieving the most positive results, and what kinds of initiatives are working best (and in what combinations).
7. Consultations with key counterparts concerning preliminary conclusions and recommendations. This was designed to test the validity and relevance of the preliminary analysis, and improve the formulation of the initial conclusions and recommendations.
8. Drafting of the Assessment Report, and initial dissemination. After being submitted to the EC Delegation for initial review/comments, the draft Assessment Report was shared with main counterparts and stakeholders. Feedback was obtained, and revisions were made.

9. Organisation of a Workshop involving main counterparts and stakeholders. The Workshop was interactive and informal. All participants received the draft Assessment Report in advance. The Workshop led to further feedback, and ensured that the Assessment Report was completed in a collaborative and transparent manner.
10. Finalisation and dissemination of the Assessment Report. The final version of the Assessment Report was prepared with the maximum possible attention to feedback received, before being officially disseminated.

Significant questions asked throughout this process included:

1. Are the goals for judicial reform established by the donor community appropriate, realistic, correctly formulated, and in line with Serbian requirements and expectations?
2. To what extent are the goals of the donor community with respect to judicial reform being realised (as a result of assistance initiatives)?
3. What concrete changes have been achieved with respect to the specific objectives established for judicial reform?
4. What major obstacles were encountered, what measures were taken to overcome them, how effective were those measures, and what other measures might have been advisable?
5. How can the methodology for initiatives and interventions be improved, in order to deliver better results in future?
6. How can Serbian counterparts make better use of assistance that is offered and available?

The Project Team decided to rely upon desk study and direct consultations to answer these questions, rather than polling techniques and questionnaires. Previous experience has shown that:

- Many parties, and most particularly legal professionals, are reluctant to document sensitive information/viewpoints concerning the judiciary in writing. This is the case even when confidentiality is promised.
- It is difficult to get busy professionals to devote the time that is required for preparing meaningful written answers to questionnaires. As a result, this task may end up being assigned to a junior person who has less knowledge and experience. Indeed, it is difficult to track exactly who fills out questionnaires.
- There are numerous obstacles to defining and accessing representative sample groups, and ensuring that they understand the rationale for the exercise.
- It is extremely difficult to obtain a representative sampling (cross-section) of responses. Often, a low percentage of recipients actually respond, and only certain kinds of recipients respond. This renders statistical analysis inaccurate. In other words, “sample bias” compromises and undermines the probative value of the entire exercise.

Therefore, analysis was supplemented by face-to face-interviews and small group consultations. This gave counterparts a fair opportunity to speak frankly and confidentially to a receptive audience, without risk of attribution. Of course, the analysis and interviews were structured by the typologies, charts, and questionnaires (used by the Project Team).

B. Issues Concerning Information Resources

Access to information is crucial for any assessment exercise of this kind. Obviously, access to information is limited by the way that the information is managed. Further, access becomes more

problematic when more parties manage the information, and a wider range of information is required. This affected the work of the Project Team in a number of ways:

- The Project Team frequently encountered difficulties accessing information. Sometimes only hard copies of documents were available, making it necessary to photocopy and work with paper, instead of utilising electronic formats. Sometimes it was necessary to search for information from a number of different sources, because it was not maintained where it should have been. Websites were not always complete or updated, making it necessary to supplement electronic research with direct contacts. Indeed, some Websites had been allowed to lapse after the completion of projects, resulting in the loss of valuable information. It is important to stress that every assistance provider and counterpart contacted by the Project Team was helpful and professional, and some dedicated significant time to locating and sharing information. However, the fact remains that the Project Team often depended on good will and personal contacts to obtain information, and this could create barriers for parties outside the donor community.
- Information was often not formatted in a user-friendly manner. Short, concise, and precise descriptions of projects, initiatives, and the work of assistance providers in specific areas were not regularly available. Occasionally, the only source of written information was lengthy project reports, which a) contain a great deal of extraneous administrative information, and b) are not customarily distributed or provided for public consumption. It would have been much more helpful to have executive summaries of what donors are doing in different areas and what projects have achieved. Another obstacle arose from the way reports relate time and activities. Materials such as annual reports and monthly newsletters present comprehensive information on a wide range of subjects for a specific/short time frame. However, counterparts and stakeholders do not have the time or motivation to learn about everything being done during a reporting period or calendar year. They want details about what has been done in a particular sector relating to their work over a longer period of time. In short, not nearly enough energy or attention is devoted to the preparation of user-friendly Public Relations materials.
- Past information and institutional memory were often inaccessible. Far too frequently, access to information depended upon identifying and gaining access to the right individual, and securing a forthcoming response. When personnel change, or after projects close, much of the information and institutional memory gets lost. To a certain extent, this is inevitable. However, there are a number of measures and mechanisms which preserve information and ensure continuing access to documents. Recommendations are presented in Section VI (A) and Section VI (C) below.
- Certain kinds of informational materials were considered confidential or unsuitable for dissemination. This was sometimes the case even though much of the content would be useful for other parties. Unfortunately, it is not standard practice to prepare abridged or public versions of documents like reports, by eliminating sections which are unsuitable for public release. As a result, the combination of useful and confidential information becomes a pretext for not disseminating anything at all. Clearly, this practice reduces access to non-confidential information.

The Project Team worked around these obstacles. However, due to time limitations and the significant scope of the assignment, it was necessary to take a practical approach, and work with the materials which were actually available.

C. The Typology of Judicial Reform Initiatives

“Judicial reform” is an extremely broad concept, which is best broken down into manageable components in order to be meaningfully analysed. Therefore, the Project Team has developed a Typology of Judicial Reform Initiatives. It divides the world of judicial reform into separate categories, into which projects can be grouped. This makes it possible to get a clearer picture of the results of assistance from the donor community. It also facilitates analysis, and helps structure recommendations.

The main categories identified in the Typology include:

- A. Legal Framework (LF)
- B. Institutional Framework (IF)
- C. Institution Building/Strengthening/Capacity Development (IB)
- D. Human Resources Development (HR)
- E. Court Management and Operations (CM)
- F. Jurisprudence (JU)
- G. Access to the Justice System (AJ)
- H. Dispute Settlement (DS)
- I. Information Technology (IT)
- J. Information Resources (IR)
- K. Transparency and Anti-Corruption (TC)

Further details concerning the exact content of each of these categories can be found in the Typology of Judicial Reform Initiatives, which is attached as Appendix “B”.

Of course, categorisation is not an exact science. In this case, the categories are inter-related, and far from mutually exclusive. Individual projects, while focusing on certain categories, invariably touch others. However, despite these limitations, the Typology serves incredibly well as the backbone of the methodology for the Assessment Report.

It is important to emphasise that the Project Team deliberately decided not to focus excessively on measuring/evaluating the results of individual projects or the work of specific donors. Such a narrow approach would not have served the objectives of the assignment. Further, it would have been extremely presumptuous. Instead, the idea was to analyse projects in an overall context, looking at the results achieved in different areas of work, the effectiveness of different types of initiatives, and the utility of different implementation mechanisms. By categorising “judicial reform” into separate and more manageable contexts, the Typology served as an analytical bridge between the overall reform process and the individual projects contributing to it. This approach made it possible to assess the big picture, draw poignant conclusions concerning the overall results of assistance for judicial reform, and make specific recommendations concerning future requirements. This approach was explained to the parties consulted, and approved by the Delegation of the European Commission.

V. FINDINGS AND RECOMMENDATIONS CONCERNING AREAS OF ASSISTANCE

This section of the Report starts with an introductory discussion of the obstacles to judicial reform and an introductory discussion of the international response to them. Then, utilising the categories of the Typology of Judicial Reform Initiatives, it a) reviews the success of the work

that has been performed (from the perspective of both the donor community and the Serbian counterparts), and b) makes specific programming recommendations.

A. The Obstacles to Judicial Reform

It is beyond the purview of this Assessment Report to analyse the overall status of the judiciary or the numerous challenges that it faces. However, in order to understand the objectives, activities, and results of international assistance, it is helpful and indeed necessary to summarise the key obstacles that stand in the way of judicial reform.

The following circumstances need to be highlighted:

- Political instability, social dislocation, and international conflict/isolation have compromised the overall reform process. These circumstances have created structural, legal, and institutional problems which are difficult to overcome, and blocked consensus concerning the objectives of the reform process and the means for realising them. Meanwhile, the political parties have exercised excessive influence over a very wide range of governmental functions. The legislative drafting process, in particular, is highly politicised, with insufficient attention to Regulatory Impact Analysis and practical constraints affecting implementation, and not enough consultation with interested parties. As a result, a) the environment for international support and technical assistance is problematic, b) programmes and projects are more difficult to implement, and c) the “receptivity” and “absorptive capacity” of Serbian counterparts is diminished.
- Socialist rule and political interference in the operations and management of the judiciary and court system have compromised judicial independence, hindered the development of key institutions, complicated efforts to raise professional qualifications, and prevented the judiciary from becoming responsive to the needs of citizens/clients. For many years, the court system served as an instrument of the executive and/or governing party. Indeed, some of the most fundamental issues relating to the separation of powers between the three branches of government are still being addressed. For example, current efforts to (re-)establish the High Court Council are compromised by the inherent contradiction between judicial self-regulation and the legislative and political processes which establish the institutional mechanisms which it requires.
- The legal framework for the judiciary has been a constant “work in progress”. Key provisions of basic laws (such as the Law on Courts and the Law on Judges) have been imprecisely formulated and repeatedly amended. For the Criminal Procedure Code, revisions are being considered for the version that was approved but not applied, while an older and in some respects unsuitable version remains in affect. Legal vacuums and the incomplete application/implementation of laws have created inefficiency, confusion, and in some cases dissension. In a real sense, until the passage of six key laws at the end of 2008, there was no integrated legal framework for the judiciary, but rather a “patchwork” of incomplete and sometimes conflicting laws, inconsistently and only partially implemented, and in a politicised manner. Problems start with lack of clarity/consensus concerning objectives of legislation, continue through procedural and technical aspects of the drafting process, manifest themselves in the quality/provisions of legislation, and then go on to impact the application of laws and the work of legal professionals.
- The absence of a guiding strategy for the reform process has complicated development and modernisation of the judiciary. The National Judicial Reform Strategy of 2006 was a very positive step in this direction, based on principles of independence, transparency,

accountability, and efficiency. However, there were delays in implementation, and follow-through by the Strategy Implementation Commission and Strategy Implementation Secretariat did not fully meet expectations. This was in spite of donor assistance (including the European Union Project “Implementation of the Judicial Reform Strategy” in 2006-7). In addition, it has not proven possible to design a strategic approach to key principles concerning the legal/judicial system, such as the adversarial process, investigative prosecution, and professional self-regulation. This has resulted in “amalgams” of provisions which are not fully complementary and difficult to implement. It has also hindered institutional development.

- The development and strengthening of judicial institutions has been delayed and compromised by political, legal, and operational uncertainties, insufficient funding, and limitations in managerial expertise. In some cases (such as with the Appellate Courts and Administrative Courts), the very establishment of the institution was jeopardised and delayed. In other cases, the absence of a sound and comprehensive legal framework has made it difficult for new judicial institutions to assume their proper roles/functions, set up appropriate structures, engage in strategic planning, build capacity, and develop human resources. In addition, the inter-relationships between these institutions are still developing, as they seek to establish their relative positions and exercise influence.
- The operation of the courts and the handling of court cases has not been sufficiently modernised in recent years. While there have been improvements, most notably in the Commercial Courts, there has not been sufficient attention to case management, the professional skills of staff, automation and the use of information technology and software solutions, infrastructure, the state of facilities, and measures for meeting public needs. Court operations, in particular, will face significant challenges in 2009-2010, as the number of courts and Judges are reduced, and appellate structures are put in place.
- Human Resources Development has been hindered by institutional instability in the judiciary, uncertainties concerning the status and mandates of institutions, funding constraints, and frequent changes in the status of legal professionals and staff. This is most clearly exemplified by the current process of lustration/re-qualification for Judges. All Judges are now obliged to re-apply for their current positions through an open competition, according to criteria and pursuant to procedures which are only now being formulated, and which have generated some controversy (particularly from Judges). In addition, there are not enough resources for hiring and retaining the most qualified legal professionals, and providing them with continuing education that raises their professional qualifications. It is important to note that these challenges concerning human resources development and managerial expertise are also faced by ministries and governmental institutions, particularly as a result of constraints in resources.
- Insufficient information resources concerning laws, judicial functions, the court system, court decisions, and the status of cases, compounded by difficulties accessing this important information, negatively impact the work of legal professionals. The lack of information resources and obstacles to access have reduced the quality of jurisprudence, complicated the work of Judges, Lawyers, and Prosecutors, and prevented citizens from obtaining access to justice (and thereby protecting their human rights).
- Limited transparency and accountability on the part of the judiciary have reduced its efficiency and exacerbated corruption. The court system is currently struggling to re-orient its operations to more effectively and efficiently meet the needs of citizens. Consequently, the people of Serbia have an extremely low level of trust in judicial institutions, and often search for extra-judicial means to resolve disputes.

As a result of these circumstances, democratic development and judicial reform in Serbia have not progressed as quickly as they should have, or at the same pace as other countries. And the judicial system is now in a state of reconstruction and flux, creating significant risks. However, it appears that the legal framework and political situation are stabilising, thereby creating greater consensus for progressive reforms. This has opened an important window of opportunity, offering a credible chance for sustainable progress.

B. The International Response

While international assistance to Yugoslavia began in the 1980's and continued during the 1990's, for present purposes the latest and most definite phase of the process began with the fall of the Milosevic regime in 2000. To be sure, the last nine years have not been a smooth or unitary period. Political, socio-economic, and legal factors, along with national events (such as the assassination of Prime Minister Djindjic in 2001 and perennially inconclusive elections leading to a series of coalition Governments) have significantly affected the reform process. Indeed, they have impacted the pace, content, and results of reforms, as well as the ability of the donor community to carry out its initiatives. Nonetheless, it is possible to speak of a multi-faceted yet fairly consistent overall international agenda, which a large group of multi-lateral and bi-lateral assistance providers has tried to advance, through diverse but inter-related initiatives and interventions.

As explained in Section IV (C) above, it is neither helpful nor necessary, for purposes of this Assessment Report, to present a huge amount of descriptive information concerning what each donor has been doing and plans to do, or to present detailed descriptions of specific projects, or to assess the results of specific projects in a narrow context. To place the work of donors and projects into an overall context, and provide information about what is being done by whom in which areas, the Project Team has prepared a Chart entitled "Overview of Judicial Reform in the Republic of Serbia – Donors and Major Projects". It is attached as Appendix "A". Further details concerning these initiatives can be obtained directly from the sources indicated. While listings of projects and initiatives have been prepared from time to time (and not always maintained), it is believed that this is the first attempt to comprehensively map and categorise international assistance for judicial reform.

The principle multi-lateral and bi-lateral institutions promoting judicial reform during this period (dramatis personae), whose activities are identified in Appendix "A", include:

- The American Bar Association Rule of Law Initiative (Formerly ABA-CEELI Program)
- Booz Allen Hamilton (with funding from USAID)
- The Canadian International Development Agency (CIDA)
- The Council of Europe
- The United Kingdom Department for International Development (DFID)
- The Dutch Embassy (Royal Embassy of the Netherlands)
- The European Union (European Agency for Reconstruction and EC Delegation)
- The French Embassy and Government of France
- The German Foundation for International Legal Cooperation (IRZ)
- Gesellschaft fur Technische Zusammenarbeit (GTZ)
- The International Centre for Migration Policy Development (ICMPD)
- The International Management Group (with funding from the Government of Norway)
- The National Center for State Courts (with funding from USAID)

- The Swedish International Development Agency (SIDA)
- The Open Society Fund
- The Organisation for Security and Cooperation in Europe (hereinafter OSCE)
- The United Nations Development Fund (hereinafter UNDP)
- The United States Agency for International Development (hereinafter USAID)
- The United States Department of Justice (USDOJ)
- The World Bank

This list is not exhaustive, and many other international parties are also making a valuable contribution to judicial reform. For example, the Multi-Donor Trust Fund also includes the Embassies of Denmark, Norway, Slovenia, and Switzerland. However, it is necessary to limit the scope of any formal analysis, and so a cut-off point had to be adopted. One important conceptual/methodological challenge that should be mentioned is the handling of institutions which implement projects on behalf of donors who provide funding. It would be possible to focus exclusively on donors, and simply mention the implementers. However, to provide a more complete picture of the work underway, it was decided to include a sampling of implementers which have played a leading role in on-going or recently completed major projects.

The Typology of Judicial Reform Initiatives, discussed in Section IV (C) above, was used to place the work of these parties into a more manageable framework, for analytical purposes.

Support for Judicial Reform from the European Union

Because of the importance of ultimate EU accession, for both Serbia and the European Union, and the affect that this has had on the entire judicial reform process, it is appropriate to provide additional details concerning the background and objectives of the EU in Serbia.

While European Union assistance to Yugoslavia began in the 1980's, it was only after the fall of the Milosevic regime in 2000 that concerted efforts to reform the judiciary got under way. The Stabilisation and Association Process (SAP) served as the policy framework for development in the Balkans. It supported stabilisation and swift transition to a market economy, regional cooperation, and country preparations for eventual EU membership. The SAP included Stabilisation and Association Agreements, autonomous trade measures, financial assistance, and regional cooperation. The Community Assistance for Reconstruction, Development, and Stabilisation (CARDS) Programme began in 2001. The Enhanced Permanent Dialogue was designed to encourage and monitor reforms on the basis of the European Partnership, adopted by the EU Council in June 2004, and revised for Serbia in January 2006. The European Partnership calls for Serbia to promote reforms in the justice sector, address the status and professional formation of Judges and Prosecutors, and fight organised crime and corruption.

Key reforms were supported by the European Agency for Reconstruction, established in February 2000. In the period 2000-2006 a total of M€ 1.082 was allocated under the CARDS programme. Between 2001 and 2008, more than 76 Million Euro was dedicated specifically to judicial reform, including work on the legal framework, the professional formation of Judges and Prosecutors, institutional reform (such as the High Court Council), Alternative Dispute Resolution, the provision of IT equipment and software solutions, legal information management, etc. The following chart shows total spending and the amount which was dedicated to judicial reform:

SUPPORT TO JUSTICE REFORM IN SERBIA FROM THE EUROPEAN AGENCY FOR RECONSTRUCTION								
	2001	2002	2003	2004	2005	2006	2007	Total
Assistance For Justice Reforms	5 Million Euro	3 Million Euro	14 Million Euro	10.2 Million Euro	13.8 Million Euro	11 Million Euro	11 Million Euro	76.8 Million Euro
Total Assistance Provided	194 Million Euro	172 Million Euro	220 Million Euro	202 Million Euro	152 Million Euro	142 Million Euro	165 Million Euro	1,247 Million Euro
Percentage for Justice Reforms	2.5 %	1.7 %	6.4 %	5.0 %	9.0 %	7.7 %	11 %	6.2 %

Source: EAR Belgrade Operational Centre, and Inter-Sectoral Development and Aid Coordination Network

Special mention should be made of signature of the Stabilisation and Association Agreement (SAA) and the Interim Agreement on Trade and Trade-Related Issues by the European Union and the Republic of Serbia, on 29 April 2008. Article 1 of the SAA calls for greater international cooperation and legal approximation, and strengthening democracy and the rule of law. Article 80 of the SAA calls for promoting judicial independence and strengthening legal institutions. These priorities are included in the Serbian European Integration Strategy. Also of major importance was signature on 4 April 2008 of the financing agreement with the European Commission related to the Instrument of Pre-Accession Assistance (IPA). This creates a new mechanism for supporting democratic institutions and the rule of law, reforming public administration, carrying out economic reforms, increasing respect for human and minority rights, and enhancing alignment with the *acquis communautaire*.

Throughout the SAA process, the CARDS Programme, the EU Multi-Indicative Programme, and now the IPA, the European Union has consistently supported a) good governance (the rule of law, legislative reform, institution building, judicial strengthening, public administration, and the protection of human rights), b) development of a market economy, and c) social development and the strengthening of civil society. Independence, professionalism, and efficiency have been regularly cited as the three main challenges confronting the Serbian judiciary.

The Multi-Donor Trust Fund for Justice Sector Support (MDTF)

The Multi-Donor Trust Fund for Justice Sector Support also deserves special mention. This initiative, administered and executed under the auspices of the World Bank, with leadership from the Ministry of Justice, offers an excellent opportunity to rationalise and coordinate assistance for judicial reform. It brings together several assistance providers, such as the Kingdom of Denmark, the Kingdom of Norway, the Republic of Slovenia, the Swiss Confederation, and the United Kingdom (acting through its Department for International Development). A large and inclusive group of official institutions and non-governmental counterparts and stakeholders also have an important and consistent role in MDTF decision-making processes and operations. The Memorandum of Understanding launching the MDTF was signed on 24 October 2008. The MDTF became operational after the first general meeting in March 2009.

The five key areas of work for the Multi-Donor Trust Fund are:

- 1) Institutional capacity. This includes strengthening the ability of the Ministry of Justice, Ministry of Finance, and judiciary to design, coordinate, and implement judicial reforms.
- 2) Resource Management and Aid Coordination. This includes facilitating leadership in the justice sector, to rationalise the utilisation of donor assistance and enhance results through improved collective delivery methods.
- 3) Legal and Institutional Environment. The objective is to strengthen the legal and institutional framework, so that specific judicial reforms can be more effectively and efficiently carried out.
- 4) Judicial Facilities and Infrastructure. This includes systematic modernisation of the court system and prosecution, strengthening the management of physical facilities and Information Technology resources, and modernising operations.
- 5) Outreach, Monitoring, and Evaluation. The objective is to track and report on the progress and impact of reform initiatives, utilising defined parameters and benchmarks, and relating them to assessments of the baseline situation.

The MDTF should enable the Ministry of Justice to guide and facilitate justice sectors reforms in line with national priorities and international/EU guidelines, strengthen the capacity of official institutions, establish a justice sector performance framework, focus and increase the level of resources dedicated to judicial reform, and rationalise/strengthen the work of donors and their coordination. It should also support implementation of the National Judicial Reform Strategy, build capacity to implement, coordinate, and monitor and evaluate judicial reforms, promote peer-based learning, and increase stakeholder participation through its Partners Forum and Justice Partners Advisory Committee. Of course, the degree to which these objectives are achieved depends greatly upon successful management of the MDTF, positive engagement on the part of the Ministry of Justice, significant international support, and the effective participation of the other designated counterparts.

The National Judicial Reform Strategy (NJRS)

The National Judicial Reform Strategy was adopted by the Serbian National Assembly on 25 May 2006. Its overall objective is to establish the rule of law and promote legal certainty, thereby restoring public trust in the judiciary and paving the way for international integration. The NJRS is based on four key principles: independence, transparency, accountability, and efficiency. Development of legal institutions, the formation of legal professionals, modernisation of court functions, improved information management and dissemination, and the effective use of Information Technology play prominent roles. Through realisation of these principles and practices, the Strategy is designed to bring judicial functions into line with international norms and standards, thereby facilitating eventual EU accession.

The National Judicial Reform Strategy has been favourably received, and used to set objectives and standards for both international and national initiatives to reform the judiciary. Several donor-supported initiatives have addressed important components of the NJRS, and a number of projects (including two funded by the European Union) have been specifically dedicated to its implementation (through support to the Strategy Implementation Secretariat, High Judicial Council, and State Prosecutorial Council). The Multi-Donor Trust Fund, described above, is the latest effort to provide impetus to this process. Despite this support, however, due to political/bureaucratic obstacles and insufficient focus, implementation of the NJRS has not kept up with the anticipated pace, and has not yet delivered the desired results.

Having reviewed the context/challenges facing judicial reform initiatives, and the international response thereto, it is now appropriate to take a closer look at the work which has been done and the results which have been achieved.

C. Findings and Recommendations, According to the Typology of Judicial Reform Initiatives

This section presents findings and specific recommendations concerning assistance for judicial reform. It is broken down according to the Typology of Judicial Reform Initiatives. For each category of the Typology, it a) discusses the experience and perspectives of the international community, donors, and companies which implement projects, b) presents feedback concerning the views of Serbian counterparts such as government officials, Judges, Prosecutors, Lawyers, legal scholars, and independent experts, and c) presents recommendations concerning general programming and specific projects. This section concludes with recommendations concerning how to most successfully combine work in different categories.

By way of introduction, it should be pointed out that assistance for judicial reform has touched upon every area of the Typology at one time or another. Further, there have been achievements across the board. However, both the depth and the sustainability of these achievements vary greatly. So does the level of return in comparison with the resources which have been invested.

C (1): Legal Framework

Initiatives in this category deal with “framework” laws which a) structure the judiciary and court system, b) establish/configure judicial institutions and define their roles and functions, c) set parameters for the work of legal professionals, or d) codify substantive law or procedural law in major subject areas (civil, penal, administrative, labour, etc.). Work on the legal framework is distinguished from jurisprudence, covered in Section V (C)(5) below, which deals with the overwhelming majority of laws that address specific subjects.

The donor community has treated replacement of the previous “Socialist” legal framework, and creation of a new system more suitable for a democratic society, as one of the highest priorities for judicial reform in Serbia. Initiatives to reform the legal framework for the judiciary have been implemented by the American Bar Association (“Development of the Rule of Law”), Canadian International Development Agency (implementation of the NJRS), Council of Europe, European Union (including several projects for implementation of the NJRS), French Embassy (including secondment of a legal expert at the Ministry of Justice), OSCE (including work on Codes of Civil and Criminal Procedure), UNDP, and USAID (See Appendix “A” for additional details).

However, assistance in this area has met with only limited success. The main source of obstacles and delays for reform of the legal framework for the judiciary has been the Serbian political environment. This includes the strength/influence of the political parties, their inability to reach consensus concerning the direction of the reform process, and their continuing desire/willingness to interfere in the judiciary. Simply stated, coalition governments made up of political parties interested in continuing to influence the judiciary under the existing system are not conducive to judicial reforms. Not surprisingly, many Serbian legal professionals acknowledge the role of politics in impeding overall reform of the system.

Another obstacle arises from the fact that “framework” laws require Serbian consensus concerning the direction of the system. In the absence of such consensus, piecemeal efforts have

been made, in good faith, most notably on laws affecting the work of legal professionals and legal institutions. However, this approach is far from optimal. It is very difficult to address “framework” issues in isolation, or one at a time. And, in contrast to substantive laws, technical assistance and project interventions are overmatched by the challenges. Unfortunately, the result has often been less legal coherence, clarity, and compliance, and more cynicism concerning the entire reform process.

Consequently, much of the old system has remained in place, in the juridical sense and on the ground. This has compromised independence, professionalism, impartiality, and effectiveness of the judiciary. In response, donors and projects have been forced to shift much of their legislative reform work from “systemic” laws to specific substantive laws (jurisprudence). They have also been obliged to move on to “second tier” initiatives, such as strengthening existing institutions (despite their temporary/amorphous mandate and uncertain status), training to develop human resources, improving information management, etc. This explains, in part, the great level of interest in institutions such as the Judicial Training Centre. But the absence of an integrated and democratic legal framework for the judiciary has made it extremely difficult to put in place an optimal institutional framework, which is a pre-requisite for creating/strengthening the institutions which are required for an independent, efficient, and accountable judiciary. It has also complicated human resources development, information management, and judicial operations. Difficulties with “second tier” initiatives caused by the absence of a suitable legal framework are discussed further in Section V (C)(2) below.

Final passage of the package of six laws at the end of 2008 appears to have finally put in place the new (and long-promised) legal framework for the judiciary. The package included the Law on Judges, the Law on Prosecutors, the Law on the High Court Council, the Law on the State Prosecutorial Council, the Law on the Territorial Organisation of Courts, and the Law on the Seat of Courts and Prosecutor’s Offices. This is clearly a major step forward, and it will give impetus to further implementation of the National Judicial Reform Strategy. Hopefully, the legal framework now in place will make it possible to embark upon more sustainable initiatives in other areas.

However, past experience indicates that initiatives based on this revised legal framework will face a number of difficulties:

- The process of preparing any required secondary laws (regulations, protocols, etc.) is likely to be time consuming, affected by different and perhaps even conflicting interests, and subject to legal uncertainty (as the exact meaning of provisions is established).
- New and reformed institutions are unlikely to be able to fulfil additional and modified mandates within the limited timeframes allotted. The fact of the matter is that it is extremely difficult to simultaneously build, re-orient, and operate judicial institutions.
- Implementation of the legislation will take time, as different government officials, functionaries, and legal professionals try to determine what is required from them and how their obligations can be met.
- Scarcity of resources (particularly financial and human) will probably cause delays in fulfilling new mandates.
- There are likely to be challenges to different aspects of the new system. The planned lustration/re-appointment of Judges has created the most salient challenge, but there are others, relating for example to the relative responsibilities of judicial institutions, the work of legal professionals, etc.

Embarking on projects and initiatives in the face of these circumstances will be challenging. On the other hand, it is counterproductive to wait for important issues to be “resolved” before assistance is provided. And, such a strategy increases the chances of sub-optimal final results. Therefore, it is necessary to strike a balance, by helping elaborate the content of the new legal framework, while integrating its requirements into other areas of assistance. Thus, taking into account the limitations and cautions mentioned above, it is strongly recommended that assistance in this category continue to be prioritised, to help implement the new legal framework. This is best done through the other categories of assistance discussed below.

C (2): Institutional Framework and Institution Building

The main difficulties with donor assistance regarding the institutional framework and the strengthening of specific institutions result directly from the absence of a sound and democratic overall legal framework, and the persistence of elements of the old system, as discussed above. Simply stated, it is not possible to put in place a new institutional framework for judicial bodies and the court system in the absence of clear and democratic legislation governing their status, independence, governance, responsibilities/missions, functions, operations, and inter-relations. In addition, deficiencies in the framework for judicial institutions compromise all efforts to build and strengthen individual institutions.

Because deficiencies in the legal framework have complicated establishment of the institutional framework and building/strengthening individual institutions, it is appropriate to consider these latter two areas of assistance together, for purposes of the present analysis. They have been treated separately in the Overview of Judicial Reform in the Republic of Serbia – Donors and Major Projects (Appendix “A”) and the Typology of Judicial Reform Initiatives (Appendix “B”). The legal framework and institutional framework can be treated separately, particularly when there are obstacles to implementation of legislation creates a bottleneck.

In Serbia, judicial institutions (some of which are already semi-operational under pre-existing mandates) are expected to function in accordance with the newly established legal framework right away. This means that there is little chance to work out issues relating to the institutional framework. Assistance must be focused on implementing the legal framework and institutional framework by making specific institutions functional right away. Under these circumstances, the only way to integrate the three aspects of this work and obtain concrete results is by making sure that institution building/strengthening takes full account of the legal and institutional framework being created. However, unanswered questions in the recent legislation make this a difficult task.

Juxtaposing legal reform and institutional reform creates numerous difficulties. Ideally, institutional reform should be carried out as part of the smooth and timely implementation of legal reform, defined via both primary and secondary legislation. It takes time for a law on the books to be implemented, and for the roles and responsibilities of institutions to be defined in practice. And when judicial institutions are given mandates and instructed to carry them out at the same time, questions arise concerning the separation of powers, and how courts and legal professionals will both continue and modify their work. The current EU Project working with the High Court Council and State Prosecutorial Council is facing the challenges associated with institution building to ensure operational status immediately after legislative reform, and working while the necessary pre-conditions are only slowly falling into place. Clearly, technical assistance is harder to deliver when legal reform and institution building are not appropriately sequenced.

Issues relating to the legal framework and institutional framework also complicate capacity building through human resources development. This is particularly the case when the institutional mission is not sufficiently defined and structured. One of the key parameters for defining the efficiency of human resources is how well institutional goals are achieved by staff. If institutional goals are not settled, then the work of legal professionals is less focused and more random. This has dramatically affected the court system (see Section V (C)(4) below).

In spite of the above, one of the principle successes in this area, from the perspective of both the donor community and Serbian counterparts, is the Judicial Training Centre (JTC). It has been a focal point of assistance, and has assumed a crucial role in raising the professional qualifications of legal professionals. The JTC has received significant support from the European Union, French Embassy, Open Society Fund, OSCE, Swedish International Development Agency, UNDP, and several other donors, and it has delivered numerous training seminars in the context of project activities. Still, the work of the JTC has been affected by the slow development of the legal framework, the significant demands from different donors and counterparts, and uncertainties regarding the work and responsibilities of Judges and Prosecutors. This has affected its governance, curriculum development, and staff development.

Indeed, challenges in these areas are set to increase, with passage by the National Assembly of the pending Law on the Judicial Academy. Already fully functional, the JTC will be expected to re-organise into a Judicial Academy, with a new legal framework and institutional status. It will be obliged to re-register as a state institution, undergo internal restructuring, and assume major additional responsibilities (regarding the Initial Professional Formation of Judges and Prosecutors). This necessitates a new round of technical assistance, related to “business re-engineering”, which cannot fully build upon (and in some respects compromises) what has already been done. Of course, this does not diminish the value of the excellent substantive work performed to date, including numerous training seminars. However, institutional support related to governance, internal structure, fulfilling the mission, and staff responsibilities/skills is likely to be less relevant now, since it was geared to different requirements. Adjustments will be required.

Progress has also been reported from initiatives carried out with the Association of Judges and the Association of Public Prosecutors and Deputy Public Prosecutors. Both of these institutions have received core and operational support from the American Bar Association, the OSCE, and other donors. Their motivation and sense of mission have been noted by many parties, from the donor community and the Serbian legal professions.

The following recommendations concerning institution building arise from the review of projects and the consultations which have taken place during the course of the project:

- Sustainability should be the main priority of institution building exercises. Sustainability has to be incorporated into design and implementation of the work, and be the focus of targeted activities towards the end of projects. Institution building exercises often end up achieving only short-term results, which do not continue after the project or funding ends. A typical example of this was European Union support for the Strategy Implementation Secretariat for the NJRS. This yielded transient results, which did not persist after the project, as the Secretariat became progressively less active. There have been similar outcomes for institution building exercises involving ministries, including a twinning project with the Ministry of Justice in 2004-2006. For sustainability, new practices should be documented in organic documents and workplans, and integrated into actual practice, via functional exercises and on the job coaching.

- Follow-up should be planned in advance, to promote sustainability. When an institution building exercise is succeeding, project termination seems to arrive prematurely. Because institution building is long-term objective, project interventions should continue for as long as possible. Unfortunately, logistical issues related to tendering and setting up follow-on projects make this an unsuitable option. Donors should, therefore, try to set aside extra/contingency funds that can be released during the course of projects, to extend or intensify them. This can serve as an incentive for implementers. There may also be mechanisms for continuing benefits beyond the end of projects, for example by making multi-year purchases for memberships in international networks or access to databases.
- Successful performance by project partners should be rewarded. Generally speaking, project partners have few incentives for successfully completing institution building exercises, other than professional satisfaction. However, institutions and their staff often respond better to challenges, opportunities, and competition. Donors and project implementers should look into modest and dignified means for spurring performance. This could include awards, certificates, publicity, media reports, etc. The final decision should be made by senior representatives of the project partner.
- Official institutions should be included in capacity building exercises. Governmental capacity for policy making, planning, and operational performance must also be increased, to complement the work of judicial institutions. Otherwise, official institutions can end up standing in the way of progress. The Multi Donor Trust Fund is an excellent vehicle for this kind of work, and the Ministry of Justice, along with other ministries, can benefit from different kinds of support.
- Institution building and capacity building should be diversified. Work in this area often ends up being concentrated on a few institutions which are seen as “donor friendly”, and which can responsibly serve as implementing mechanisms for project activities. The Judicial Training Centre is a prime example. Most donors have worked with the JTC at one time or another, as a recipient of institutional support and/or as a vehicle for carrying out activities. In a way, this is natural and positive. The JTC is and must be a focal point for raising professional qualifications, it has the capacity to assemble audiences for donor-sponsored training, and it deserves support. However, when carried too far, this policy creates a “traffic jam”, as the capacity of the JTC is stretched, and its core operations are diverted (by excessive focus on donor and project objectives). In addition, attention gets diverted from other worthy institutions, such as the Association of Judges and Association of Prosecutors and Deputy Prosecutors.
- Institution building and capacity building should be geographically decentralised. Work in this area often tends to be concentrated in capital cities, where facilities and expertise are concentrated. However, there are distinct advantages to developing regional/local capacity, even at the risk of diluting the assistance. An excellent compromise has been found in Serbia, through support to the regional (local) branches of the Judicial Training Centre in Nis, Novi Sad, and Kragujevac. The European Union, OSCE, and UNDP have provided combinations of facilities, equipment, and staff training to help the JTC expand its geographical outreach and local delivery. This sound and sustainable approach should be extended through work with the regional (local) representation of other institutions, such as professional associations (representing Judges, Prosecutors, and Lawyers) and Non-Governmental Organisations. Assistance providers who are able to implement smaller scale projects or pilot initiatives outside of Belgrade should consider doing so.
- Institution building exercises should clearly delineate strategies pertaining to short, medium, and long-term objectives. Many of the institution building exercises carried out to date in Serbia have focused on a variety of short, medium, and long-term objectives,

without adequately distinguishing between them, or between the different ways which they should be achieved. Then, to demonstrate rapid progress during the course of the project, diverse interventions are carried out simultaneously, and results are lumped together. Better results would be achieved by tailoring the work to the nature and time frame of the needs being met, and dealing with different degrees of progress (particularly with respect to long-term objectives) in an intellectually honest manner. Special care should be applied to exercises such as strategic planning, which need to be carried out regularly over time (not once and for all), and human resources management, which takes time to yield results.

- Institution building should be distinguished from core funding and operational support. Sometimes institutions accept capacity building as a *quid pro quo* to obtain support for core expenses (overhead, salaries, and equipment) and/or operational expenses (activities that benefit constituents). They may also accept operational support in lieu of funding for core expenses. Training institutions, such as the JTC, often face this dilemma. Donors may fund activities (such as seminars) which do not include core expenses, or make support for core expenses contingent upon participation in institution building exercises. When an institution is motivated by the need to obtain funding for core and operational expenses, institution building exercises are unlikely to make real progress. This dichotomy has often been noted in projects in Serbia, particularly with respect to strategic planning exercises, curriculum development, and human resources management. Fortunately, in the case of the JTC, several donors provided core funding, which complimented the training seminars supported by others. However, it is unclear if this will be the case with other institutions, such as the High Court Council. The bottom line is that donors must carefully assess the need and level of motivation for institution building, and projects should be attentive to actual performance and the level of sincerity.
- Institution building support should take full and careful account of the absorptive capacity of project partners. Projects which provide diverse kinds of institutional support in a short time frame in order to meet internal deadlines and reporting requirements do a disservice to the institution, and should not be rewarded by donors. The timing and delivery of institution building support should closely match the capacity and the schedule of the recipients, so they are able to integrate the assistance into their work, and utilise it on a long-term basis.
- Monitoring and evaluation of institution building should follow a specialised approach. The true test of success for an institution building or capacity building exercise is its sustainability. Following on the previous recommendation, the question to ask is whether the assistance has been absorbed and integrated to the point where improved practices are standardised. In other words, are governance, strategic planning, human resources management, financial oversight, and outreach being carried out the way they should be *after* the project ends? Form cannot be allowed to obscure substance.

The programming recommendations presented above can be supplemented with recommendations for working with specific project partners:

- The High Court Council and State Prosecutorial Council are likely to require institution building support for several years. Due to the short interim between the passage of framework legislation and their obligation to assume significant responsibilities (discussed above), their current capacity to absorb assistance is limited. Both institutions have significant responsibilities concerning the administration of justice, the appointment, promotion, and discipline of Judges and Prosecutors (respectively), and

raising professional qualifications (both initial and continuing). The lustration/re-appointment of Judges, in particular, is controversial, challenging, under-funded, and taking place under great time pressure. When donors decide how to support these institutions, they should consider all aspects of their mandates, and how politicised/controversial they are.

- The Association of Judges and Association of Public Prosecutors and Deputy Public Prosecutors would benefit from further institutional support, to strengthen their roles in the judicial system. Both institutions have significant obligations to represent and enhance the qualifications of their members, and liaise with numerous national and international counterparts. The responsibilities of the Serbian Association of Judges will change markedly, as it moves from being a founder of the JTC (a Non-Governmental Organisation) to a consumer of services from the Judicial Academy (a state institution). With respect to Initial Professional Formation, both institutions will need to help a) develop entrance criteria, b) prepare curricula, c) deliver training, d) support internship programmes, and e) contribute to monitoring and evaluation. Both institutions are natural targets for assistance, have benefited from previous support, and have shown capacity to develop. Finally, as professional associations, they have greater leeway to grow.
- The Judicial Training Centre will require significant institutional support to transform itself into the Judicial Academy. Internal restructuring is likely to be necessary to meet its new mandates, including choosing between a programmatic approach (separate departments for initial and continuing professional formation) and a thematic approach (separate departments for different areas of law, the current arrangement). Management will face new challenges concerning human and information resources. There will be additional responsibilities for budgeting, public relations and outreach, and record keeping. Initial Professional Formation requires constant and intensive attention to Candidate Judges and Prosecutors over a two-year period, including designing and setting up an internship programme. Strains usually arise when an institution receives additional mandates while being restructured. As a result, the JTC will need assistance with business re-engineering (to streamline its operations) and change management (to engage its employees). The European Union and OSCE are poised to deliver this assistance.
- The courts should receive institution building support. This assistance actually falls under Court Management and Operations. It is discussed in Section (C)(4) below.
- Greater attention should be paid to the Law Faculties. Although not traditionally recipients of institution building support, Law Faculties have a key role to play in the legal system. Yet they are not currently producing enough highly educated and reliably qualified professionals. In particular, it is necessary to make legal education more practical, perhaps through internship programmes, and take measures to ensure quality control. Professional associations can be engaged in this effort.
- The Bar Association needs to become more actively engaged in legal reforms. Moving beyond its primary role of representing the interests of lawyers, the National Bar Association and its regional (local) affiliates need to a) become proponents for legislative reform, b) support greater access to justice and legal counsel, c) assist with the formation of a notary system, d) assist with mediation and Alternative Dispute Resolution systems, and e) take a leading role in Continuing Professional Formation for Lawyers. Even though it has its own resources, institution building could help the Bar Association to make a greater contribution to the reform process.

It is clear from the general and specific recommendations presented above that institution building and capacity development deserve considerable attention in the very near future.

C (3): Human Resources Development

Human Resources Development has been one of the principle areas of focus for the donor community. In part this is a result of efforts to tackle the legal framework, institutional framework, and operations of judicial institutions in an indirect fashion. It also reflects the importance of people and skills for making a legal system work, and the fundamental nature of human resources (which change slowly). After all, legal professionals (Judges, Prosecutors, Lawyers, court staff, officials at certain ministries, and law professors) are trained to work under a specific legal system. It is not possible to change a system without changing the working practices of the people within it.

Initiatives to raise the professional qualifications of legal professionals have been sponsored and delivered by almost all members of the donor community. This includes the American Bar Association, Canadian International Development Agency, Council of Europe, Embassy of France, European Union, GTZ, Norwegian Government, Open Society Fund, OSCE, Swedish International Development Agency, UNDP, USAID, US Department of Justice, and World Bank. The subjects covered are extremely numerous, ranging from international law to human rights to commercial law to criminal law. Amongst Serbian training providers, the JTC, Association of Judges, and Association of Public Prosecutors and Deputy Public Prosecutors have been praised by the donor community and national counterparts.

Conceptually speaking, it is possible to divide human resources development into two categories: substantive training (legal subjects) and technical training (skills and techniques relating to job performance). To highlight this categorisation for Judges, we can distinguish between training on human rights law or bankruptcy law, and training on how to prepare decisions using a computer or effectively manage cases.

With regard to substantive training, Serbian counterparts indicate that it is not always sufficiently specific, or related to the local context. It may be excessively focused on international practice or the approach in other jurisdictions. While this is helpful and appropriate, it cannot always be put to practical use. For this reason, substantive training must optimally combine international and national expertise, and ensure that international experts have as much knowledge and experience as possible concerning the Serbian context.

Technical training is most useful when it focuses on the skills and obligations actually required for job performance. The main problem in this regard is that when institutional goals are unclear, professional obligations are changing, and employees do not have job descriptions, it is difficult to be precise concerning which skills individuals actually require. In addition, individuals are often reluctant to learn skills which will or should be necessary (in the future or after reforms are in place). They prefer to learn what is necessary right now, to get through the working day. Therefore, it is important to create incentives for skills development, and make sure that its value is carefully defined and acknowledged. This is particularly the case with training for institutional development (such as strategic planning and outreach), which has less immediate significance for individual employees and their career development. Hopefully, as the legal and institutional framework in Serbia become more settled, it will be possible to bring more clarity to this aspect of human resources development.

To deliver this assistance, a number of mechanisms have been employed. Training seminars are most common, followed by coaching and the direct provision of technical assistance. Information resources (such as legal databases and court documents) have been used to develop

human resources. Study Tours and different kinds of activities have also been organised. The most common comment on all of these mechanisms concerns the importance of using modern, interactive, and learner-centred methodologies. Far too often, traditional techniques based on antiquated methodologies (such as lecture and recitation) still prevail. While the donor community has been working to change this, progress has not been uniform. The methodology for legal education at the Law Faculties, in particular, remains unreformed. It is interesting to note that while many Serbian counterparts complain about outdated methodologies, many also seem quite comfortable with continuing to employ them, particularly when they require less work.

The following recommendations can be presented:

- Training Needs Assessment (TNA) should be regularly carried out. TNA is an up-front investment that pays off well by improving the quality and relevance of training. It helps determine what is actually required, and makes it easier to explain the rationale for training, thereby increasing motivation. In addition, participants develop a sense of ownership over the training process when they contribute to its design. Because of the logistics involved, it may be appropriate for this to be done on a larger scale, perhaps by the Multi-Donor Trust Fund. Using this background information, individual institutions and projects could conduct mini-TNAs before instituting specific training programmes.
- Human Resources Development should be decentralised. Comments concerning the decentralisation of institution building in Section V (C)(2) above also apply to human resources development. There are significant benefits from the provision of training in the location and context where participants actually work. It can be more focused, more convenient, less costly, and create a greater sense of ownership of the process. In this context, donors are advised to help the JTC make full use of its three regional (local) branches (in Nis, Novi Sad, and Kragujevac). In addition, donors can help professional associations (particularly for Judges, Prosecutors, and Lawyers) extend more responsibility to their affiliated local offices. The Bar Associations already have the infrastructure in place, since the National Bar Association is in essence a confederation of local institutions. Finally, local NGOs which are active in specific areas of Serbia can be recruited into training programmes.
- Courts need to play a larger role in the human resources development of their staff. The court system and individual courts need to become more active in raising the professional qualifications of staff, including administrative personnel engaged in tasks such as asset management, financial operations and accounting, security, archive and document management, etc. This includes the preparation of protocols and job descriptions, building merit evaluations into human resources management, and holding regular informational sessions. The High Court Council can play a supporting role in this process, but donors and projects also need to try to work directly with the courts.
- Human Resources Development should take advantage of electronic media. Although the level of computerisation in the courts and the prevalence of computer skills is still low in Serbia (see Section V (C)(4) and Section V (C)(8) below), it is time to start planning for distance learning and electronic coursework. These delivery mechanisms offer significant cost advantages, are convenient, and promote self – learning. It is not suggested that they replace live and personal training. However, they can be used in a complementary fashion. For example, it is easy to provide training modules, supplemental self-study materials, or materials combining classroom and individual learning in electronic format.

- Law Faculties need to make a greater contribution to development of the legal profession. Pages could be written concerning requirements for making the legal education system more practical, like modernising teaching methodologies, offering internships, standardising and clarifying educational requirements, rewarding excellence, enhancing transparency and impartiality, and rooting out corruption. Suffice it to say here that Law Faculties are sometimes the last institutions to reform, and that they deserve more attention from the donor community and project implementers to spur progress.
- Professional ethics should be included in all training curricula. Ethical obligations should be systematically covered in all degree programmes, and the Initial Professional Formation for Judges and Prosecutors. They should also be a component of Continuing Professional Formation and substantive training seminars. The best approach is to use case studies, role plays, and other “thinking” exercises, since lecturing on ethical requirements (preaching) is generally ineffective. While it would be naïve to suggest that coursework will directly modify behaviour, it has been shown that practical coverage of ethical obligations can sensitise people and promote their professional development.

Finally, greater effort needs to be made to encourage Serbian “ownership” of human resources development. Several of the Serbian counterparts who were consulted feel that this kind of work does not meet their actual needs, that it is donor driven, and that the right participants are not always included. Sound Training Needs Analysis, systematic consultations, and the inclusion of local institutions in the design and delivery of training can go a long way in this regard.

C (4): Court Management and Operations

Court Management and Operations are at the heart of judicial reform. The courts are where people and commercial operators go when they have legal disputes, and they are what the public and media see as the face of justice. The key issues include court supervision, court management, case management, the provision of services to litigants and legal professionals, and the enforcement of judgments. This work is closely related to issues of access to information and transparency. In Serbia, problems have been noted with the operational structures, the physical assets (buildings and equipment), human resources, case management, transparency, and meeting the needs of citizens. These problems affect the quality of jurisprudence and enforcement of the rights of parties. Lawyers and court users regularly complain about these issues, and express disappointment at the pace of progress towards addressing them.

In response, the donor community has been quite active. The European Union, Norwegian Government/International Management Group, OSCE, and USAID (through Booz Allen Hamilton, the East West Management Institute, and the National Centre for State Courts) have all worked to improve court operations and management. Particular appreciation has been expressed for European Union assistance with physical facilities, including the renovation of courtrooms and the provision of equipment, and for improved court administration. Assistance to special courts provided by USAID (through the National Center for State Courts), the OSCE, and UNDP was also highly regarded. The work of the Norwegian Government/International Management Group has yielded very concrete results in the Municipal Courts, by taking an integrated approach to case handling, information management, and transparency, and through improved coordination with other institutions (like correctional facilities, law enforcement institutions, local governments, and the Prosecutor’s offices). Particularly positive results were achieved by the Commercial Court Administration Strengthening Activity (CCASA), implemented by Booz Allen Hamilton, with funding from USAID. This project managed to

reform and modernise the High Commercial Court and regular Commercial Courts, through well managed interventions in a combination of areas, including court operations, court calendaring, case management, computerisation/software solutions, information and statistical management, electronic information sharing and networking, and outreach to the media.

Review of the work in this area reveals that the best results are achieved when an integrated approach (with mutually supporting and complementary interventions) is applied to a defined constituency (such as the Commercial Courts or select Municipal Courts) which truly want to participate). Motivating project partners and providing positive incentives, through recognition for progress, awards, and media attention, also yielded positive results. For example, in September 2008 the Commissioner for Public Information awarded the Commercial Courts a prize for the greatest contribution from a public institution to improved public access. It deserves mention that the approach adopted by the CCASA Project also facilitated monitoring and evaluation of the work performed. In contrast, results were not as significant in areas where standardisation and close coordination between donors and project implementers are required, such as case management systems.

In spite of this progress, there is still an extremely long way to go with regard to Court Management and Operations:

- Physical assets. Court facilities in Serbia require significant upgrading, and resources for this effort are limited at best. It is not suggested that the donor community engage in this work directly and in a large-scale manner, since the main requirement is resources, not expertise. However, support for planning, help rationalising the use of existing resources, and advice concerning how to make facilities more “user-friendly” can be provided.
- Automation. Many court functions are still handled through paper (see Section (C)(8) below). This has a significant impact on court operations, particularly case management and access to information. The High Court Council should be encouraged to play a leading role in automation, and arrangements for training to improve computer skills and usage.
- Case Management. This is an area where donors and projects can make a great contribution. However, investments in case management to date, both in terms of financing and technical assistance, have not always yielded anticipated returns. Standardisation and efficient use of existing capacity have been difficult to achieve. A highly coordinated approach from the donor community is required, along with strategic methods for overcoming the tendency to “manipulate” initiatives in this area.
- Transparency. Court operations must become more transparent. For this purpose, information technology, information resources, and outreach must be tackled through integrated initiatives. This issue is also discussed in Section (C)(10) below.
- Service Provision. From physical layout to information resources to staff behaviour, the courts must be re-oriented towards the service of provisions to the public (who are essentially clients of their services). This can only be achieved through a combination of human resources management, information management, and information technology. Donors and projects can play a key role in this regard, by providing information and helping establish mechanisms that highlight and reinforce improvements.

Finally, it is necessary to emphasise the need to strengthen the enforcement of judgments. In some respects, this issue eclipses those listed above. According to current statistics, only a miniscule proportion of court judgements are actually enforced. Depending upon the kind of

case, enforcement rates are often below ten percent. In other words, court judgments are rarely more than a piece of paper. This raises the following question: what is the value of legislative reform, raising the qualifications of legal professionals, and improving court and case management, if the most litigants can obtain from their day in court is a judgment which is unlikely to be enforceable or enforced? This situation contributes to low public esteem for the court system, and it prevents people from protecting their rights, both of which undermine the rule of law. USAID is currently funding a project entitled “Bankruptcy and Enforcement Strengthening Activity”, implemented by Booz Allen Hamilton, which includes a component dedicated to legislative and institutional reform to improve the enforcement of judgments (approaching this issue from the perspective of commercial litigation). This work should be treated as a major priority. Because of the multifaceted nature of the problem, it deserves attention from the Multi-Donor Trust Fund, as well as from individual donors.

C (5): Jurisprudence

Jurisprudence refers to substantive legal issues, relating to international and national law, uniform application of law, and due process. Substantive laws dealing with specific juridical topics are distinct from “framework” laws which structure the entire legal system or court system. Although both are legislation, they have different functions, and should be treated differently by donors and project implementers.

Jurisprudence is always prioritised by the donor community. Almost all social and economic issues are related to and need to be addressed through legislative acts. The mechanisms for working in this area include technical assistance (legal analysis and support for drafting), the provision of information (often concerning best practices and laws in other jurisdictions), and skills enhancement. Training seminars and study tours are commonly employed. Serbian counterparts have generally praised this work, while at the same time raising questions about certain aspects of focus and delivery. These relate to the quality and timing of technical assistance, and the variability of results. On the other hand, the donor community considers that difficulties arise from the way that legislative drafting is carried out. The following paragraphs explain the origin of these difficulties.

One of the main problems the donor community regularly encounters is the opaque nature of the legislative drafting process. Working Groups often proceed according to their own particular approaches and procedures, which are variable and depend upon the personalities involved. The handling of policy development is particularly salient. The best practice is to agree on policies and approach, and then draft specific provisions. Ideally, policy guidance should come from the Government and senior parties responsible for the legislative programme, or be settled at the first meetings of the Working Group (in either case, with appropriate input from experts). Then, technical assistance provided by international and national experts can be meaningfully directed towards drafting provisions which implement policy, in a practical and effective manner, and in accordance with international standards. However, in the absence of consensus on policy, and/or when the Working Group will not make an up-front investment in clarifying policy, time pressures may be used to justify proceeding directly to the drafting process. This merely postpones policy debate, and transfers it to the context of drafting specific provisions (which becomes much more contentious). As a result, the value of technical assistance is reduced, and it may be seen as an obstacle to rapid decision making. Sometimes Working Groups marginalise outside experts (for example, by scheduling separate sessions) just to expedite the process.

Lack of transparency also complicates efforts to stay informed about drafting work. Sometimes there are different versions of draft laws, and it is not clear who is working on which one, or which one is most current. Sometimes there are even competing versions, as different ministries work separately. This can become extremely complicated for parties who need to base their work on translations, unless they have constant access to translators who can regularly compare and update drafts. Finally, there is no overall mechanism for coordinating different Working Groups when they work on different laws which are in fact inter-related.

Another major obstacle to improving jurisprudence, which has been mentioned by many parties, is an inherent “incongruence” between the legislative drafting process and the technical assistance process. Legislative drafting proceeds according to a somewhat intermittent schedule and work flow which includes periods of intensive work (when drafts are due according to deadlines) and intermissions (when drafts are being considered by different parties, or waiting to be placed on the legislative calendar). Assistance projects, on the other hand, work with fixed inputs according to delivery schedules, and must regularly report on progress towards outputs and objectives. It can be difficult for projects to time legislative drafting assistance, which is sometimes required urgently on short notice, and other times not required for indefinite periods. Short-term experts may not be able to schedule their work to accommodate the intensive periods of activity, while long-term experts may find themselves with little to do over certain periods.

Some of these problems can be avoided by making sure that draft laws receiving technical assistance are included in Governmental programmes and strategies, and have strong official backing. This can also help settle the procedures and timing for the Working Group, and keep it on schedule (thereby facilitating short-term international expertise, and preventing delays). In addition, the proper combination of international and national expertise (including having a national expert or regular liaison in the Working Group) also facilitates technical assistance. Further, it is important to be ready and willing to clarify the importance of approaching policy development and legislative drafting in a complementary manner, either before the Working Group is established, or as part of its initial operations. Finally, it may be advisable to maintain political contacts, since jurisprudence is often subject to political considerations (most recently with regard to commercial reforms and regional development).

Perhaps the biggest limitation in the approach adopted to date is the focus on individual laws, at the expense of improving the legislative drafting process and the overall quality of laws. In a real sense, changing a legal system one law at a time is like changing the parts of an old car one at a time. This may improve the part without improving the operation of the car. Indeed, because all parts of a car are inter-related and must work together, improving one part can actually diminish the overall performance of the car. The same can be said with laws. Efforts to improve one law run up against the old system, as it is amended without consultation by parties who lack drafting skills and a practical focus. Further, if one law is improved, but other laws which relate to it are not, lack of harmonisation can cause both the new law and the legal system to be less functional.

There are two aspects to this work: improving the procedures through which legislation is adopted, and improving the quality of the drafting work.

With regard to the procedures for drafting legislation, the main areas of focus should be improving policy development and incorporating outside input. Policy development has proven extremely complicated to date, but officials may now, finally, be more amenable to addressing this subject. Opening the legislative process is extremely important, because only through consultation can draft laws be improved via expertise from different sectors of society.

Parliament is the natural arena for open legislative processes. This work could be combined with strengthening the committee system, and improving the legal skills of Members of Parliament.

With regard to drafting, it is important to a) make legislation more practical and effective (through Regulatory Impact Analysis), b) employ normative drafting techniques, and c) make legislation more technically sound (through standardising the structure and technical approach). The donor community and Serbian counterparts regularly mention that legislation is not consistently subject to Regulatory Impact Analysis. There is inadequate/inaccurate consideration of administrative obstacles, funding limitations, human resources issues, and technological challenges. As a result, Serbian legislation is extremely difficult to implement. Indeed, the impracticality of legislation interferes with the functionality of the entire legal system, makes it more difficult for courts to reach sound judgments, impedes dispute resolution between private parties, and ultimately affects economic development.

The following recommendations can improve the quality and delivery of assistance directed towards improving jurisprudence and legislative drafting:

- Legal reforms should carefully focus on specific objectives which are achievable, not controversial, stable, and capable of realisation in the timeframe provided. Too often in Serbia, the objectives of legal reform initiatives are not practical under the circumstances. The scope of initiatives has to be very carefully considered. One possibility is to focus on secondary legislation or protocols which will be required for implementing primary legislation, which constitute a more defined task.
- Legislative initiatives should be coordinated horizontally with existing law. Because work in this area is carried out in a somewhat *ad hoc* manner by different donors and projects, according to their own priorities and the background/experience of the experts who happen to be involved, legislative reform ends up looking like a patchwork quilt. Unfortunately, laws do not function in isolation, but rather as integral parts of a web of legal provisions and judicial institutions. A law or approach that works in one country, with its particular institutions and historical practices, cannot simply be imported wholesale into another country, without carefully analysis of the potential results. Greater attention must be paid to the legal and institutional milieu for legislative reforms, to determine whether they will function in practice, and meet both national and international requirements. While it appears that this issue relates primarily to the quality of international expertise, it actually starts with donor coordination and inter-project communication concerning specific legal reforms. Donors and projects need to take a strategic and pro-active approach to coordinating legal reforms with each other and with the legal framework in Serbia, and Serbian expertise needs to be recruited for this effort.
- The donor community should work to open the legislative drafting process and make it more transparent. The goal is to improve the quality of legislation through consultation with parties having different kinds of expertise, particularly practical experience with key issues, and public debate. Ideally, work to expand access to all draft laws and regularly incorporate commentary thereupon should be performed on its own merits, as a separate project. However, it is also possible to include smaller scale work in projects which focus on a single law. For example, it would be possible to organise an open hearing, or take concerted measures to publicise a draft law and obtain/consider comments.
- The donor community should work to improve the soundness and technical quality of legislation. This should focus on 1) making legislation more practical and effective, and 2) standardising technical drafting. Ideally, this work should be performed on its own

merits, as a separate project. However, it is also possible to include smaller scale work in projects which focus on a single law. For example, Working Groups could be trained on how to perform Regulatory Impact Analysis and apply normative drafting techniques in the context of the specific law that they are charged with preparing.

- Donors and their counterparts should perform background work to generate the support necessary for legislative reforms. Ideally, this would include incorporating the initiative into national strategies, government programmes, or official workplans, so it has formal and unequivocal backing, *a priori*. In addition, if it subsequently appears that the “buy-in” is insufficient, the donor should be prepared to step in and offer support. After all, there are limits to what can be achieved through technical assistance within a project format, especially when it comes to accelerating the passage of legislation.
- Legislative reform initiatives should be carefully timed, so they do not begin too early or too late. This is particularly difficult with respect to drafting exercises, which can quickly move from the back burner to the front burner and *vice versa* (while projects are being tendered and set up). Therefore, the best approach is to dedicate a set amount of technical assistance over a longer period, and build in flexible timing, so the project implementer can adjust the work to actual requirements. In addition, it is important to properly time the sequencing between legislative reforms and institution building exercises.
- Legislative reforms should be designed as a single and ancillary project component, not a primary objective. Further, other project components should not directly depend upon progress with legislative reform. In other words, this work should be somewhat insulated, so that difficulties or delays do not end up affecting other work or the entire project.
- Legislative reforms should be designed with built-in secondary objectives or contingency plans. It is necessary to take full account of the risks inherent in legislative drafting. Projects should not be forced into “creative technical assistance and reporting” to appear to meet unrealistic objectives simply because there are no viable alternatives within the existing timeframe. There should always be a “Plan B”, if not in the Terms of Reference, then in the project planning and deployment schedule.
- Experts charged with this kind of work should have a wide range of abilities. This should include diplomatic and interpersonal skills, and practical experience with implementing legislation, so that they can handle the many different obligations which might arise. In addition, experts should be able to determine what will work best in the Serbian context, and thereby facilitate compliance with international requirements without undue reliance upon models from other specific jurisdictions.
- When there are too many doubts, caution is advisable. If the above rather stringent pre-conditions and precautions cannot be met, then it is best to simply forego work on legislative drafting, and focus on other interventions which are less ambitious. This could include institution-building exercises or training, once the legal issues are settled. While this secondary approach has its limitations, it is best to avoid legislative drafting work if it cannot be done successfully, since there is a significant chance of doing as much harm as good, by complicating other initiatives and attracting negative visibility.

Implementation of the recommendations presented above can significantly further work in the area of jurisprudence.

C (6): Access to the Justice System

Access to Justice focuses on the protection of legal rights (in their widest sense), and ensuring that there are remedies for violations of legal rights. It includes access to legal information,

access to legal assistance and counselling, and access to legal representation (through the court system). Access to Justice is sometimes defined to include obtaining “just results” for legal problems. This makes the concept extremely broad, encompassing virtually all aspects of court operations, case management, and judicial decision-making. In the present context, the focus is on access to the justice system, which is more narrow and concrete, rather than on the quality of justice achieved at the end of the day.

The Canada Serbia Judicial Reform Project has worked in this area, in the context of implementation of the NJRS, with particular emphasis on juvenile justice and gender equality on the local level. The British Department for International Development approached this topic in the context of human rights in its Project “Citizen Focused Safety, Security, and Access to Justice”. The European Union has addressed Access to Justice through implementation of the NJRS and in individual components of projects. A project implemented by the German Foundation for International Legal Cooperation (IRZ) worked with the Policy and Legal Advice Centre. Under its Capacity Development for Accountable Governance Cluster, the UNDP Project “Creating an Effective and Sustainable System of Providing Free Legal Aid” is improving the legal and institutional framework for the Legal Aid system, and creating a Legal Aid Fund which will expand access to legal services for marginalised groups. UNDP is also working on this issue on a regional basis, from its Office in Bratislava. Finally, work by the Council of Europe to expand compliance with the European Convention on Human Rights is also designed to help litigants redress grievances through the court system.

The donor community considers legal information, assistance, and representation to be crucial for the protection of human and economic rights. Although Serbia does not confront the geographical challenges faced by large countries with dispersed population centres, there are many different minority groups in distinct areas who do not have full access to legal services or the legal system. In a real sense, they can be considered geographically isolated as well as marginalised, and dedicated efforts are required to reach them. Serbian counterparts, particularly Lawyers, expressed support for expanding access to legal assistance and representation. Non-governmental Organisations, especially those dealing with the protection of human and social rights, have expressed great interest in becoming more fully engaged in this effort. Unfortunately, this issue does not seem to have the highest priority for the Serbian legal profession. The Bar Associations, for example, have not supported development of additional sources of legal services, preferring to take a parochial approach based on preserving their areas of influence and sources of income.

To improve Access to Justice, the donor community should:

- Continue the approach being taken by UNDP. Its focus on creation of the appropriate legal and institutional framework for Legal Aid, complemented by work with Non-Governmental Organisations, outreach to marginalised groups, and systematic efforts to secure funding sources, has been positively assessed. Current involvement of the Ministry of Justice in this work could create the pre-conditions for support from the Multi-Donor Trust Fund.
- Include Access to Justice in projects with relevant components. This would be appropriate for projects working on access to information, gender equality, juvenile justice, human trafficking, migration, and local governance. Indeed, local and municipal governments can play a key role in facilitating access to Legal Aid, by providing

information about services which are available, and facilities where consultations can take place.

- Include Access to Justice in work related to Court Management and Operations. Courts are the most natural venue for Access to Justice. They can distribute information, offer facilities and practical support for Legal Aid services, and even arrange for consultations to be provided according to a fixed schedule. This would have the additional benefit of improving the image of the courts, by making them into a place where individuals can get help with legal problems.
- Raise the visibility of Access to Justice issues. This could be done at the strategy development level in cooperation with central government authorities, or in the context of planning documents. Work with the media on visibility issues can act as a catalyst for reforms.
- Try to fully engage the legal profession in this work. Ideally this should be through the Bar Associations. However, there might also be ways to diversify the provision of legal services through specialised Non-Governmental Organisations (dealing with gender issues, minority rights, Internally Displaced Persons, etc.), legal clinics, and even internship programmes at the Law Faculties.
- Develop standards for handling Legal Aid cases. Guidelines which establish professional standards and serve as an ethical code for Lawyers handling Legal Aid cases should be prepared, and form the basis of training to raise professional qualifications. It would also be appropriate to develop Guidelines for organisations which arrange and help deliver Legal Aid services. If this cannot be done through professional associations, then official parties have to be engaged.

Finally, in conjunction with the above recommendations, the donor community should send consistent messages concerning the importance of ensuring Access to Justice in accordance with Serbia's commitments under the Stabilisation and Association Agreement and Serbian European Integration Strategy. In addition, Serbian counterparts should be reminded of the importance of progress in this area as a precondition for Serbia's further integration into the international community and European institutions.

C (7): Dispute Settlement

This area includes court-annexed mediation and private (extra-judicial) mediation and arbitration. Alternative Dispute Resolution (ADR) mechanisms can reduce case backlogs in the court system, and serve as convenient and expedited means for handling legal disagreements (particularly those relating to commercial issues). However, ADR is not favoured by the Serbian legal community or the general public. There is only limited support for initiatives to improve ADR, and some of the legal professionals who were consulted advised that it be de-emphasised. This is interesting, given the extremely low rates of enforcement of court judgments (discussed in Section V (C)(4) above). Some Serbian Lawyers have commented that court judgements are actually the first stage of ADR, since they primarily serve as an indicator of which party has the stronger case during the inevitable private negotiations which follow litigation. However, this is a sub-optimal way to enforce judgments and carry out ADR.

Non-judicial ADR systems depend upon an appropriate institutional framework, legal means for enforcement, sufficient human resources (trained Mediators and Arbitrators), and public access to information concerning available services. The European Union included all aspects of this work in its earlier projects "Support for Out of Court Settlements" and "Public Awareness

Campaign for ADR”. These projects helped prepare an Action Plan to reduce backlogs of civil cases, worked on both the legislative and institutional framework for ADR, provided training for Mediators, performed public outreach, and introduced ADR in the First Municipal Court. UNDP has included mediation in its anti-discrimination projects. Most recently, the International Finance Corporation of the World Bank has established a Republic Centre for Mediation and a network of Mediation Centres in Municipal, District, and Commercial Courts, and provided information and training, with funding from the Government of the Netherlands.

In order to continue work in this area, the donor community should:

- Look for ways to incorporate settlement procedures in the judicial process. This is the most direct means for reducing case backlogs and introducing citizens to the benefits of mediation. By carrying out differentiated case analysis and statistical research, the courts can determine which types of cases benefit from settlement conferences and negotiation, and also identify the stages of the cases where judicial intervention is most fruitful.
- Take an integrated approach to Alternative Dispute Resolution. ADR is often viewed primarily as a mechanism for handling commercial disputes. However, it can actually serve a wider purpose, complementing standard forms of litigation through the court system, and serving as a counterbalance. In this context, certain aspects of ADR can be incorporated into assistance with Court Management and Operations.
- Consider the advantages of community-based mediation. Sometimes there are traditional mechanisms for resolving disputes on the community level, in accordance with local mores and practices. Community-based mediation is often neglected and sometimes even suppressed, in order to standardise recourse to the courts. However, this approach overlooks alternatives to litigation, and neglects pre-existing traditions.
- Enhance the enforceability of decisions and awards. ADR cannot play its intended role in the legal system unless decisions and awards are enforceable. The International Finance Corporation has included enforcement issues in its recent work with the Mediation Centres. This work should be strengthened and expanded. There may also be ways to integrate this work into initiatives concerning the enforcement of court judgments.
- Develop human resources required for ADR. One of the main problems with training for Arbitrators and Mediators is that it is not focused on individuals who will actually provide these services. Too often, training is diluted by the inclusion of participants who only have a general interest in the subject, and will not actually get involved. Arbitrators and Mediators must be carefully selected and prepared, and then given opportunities to practice their new skills. While there may be general benefit in training legal professionals concerning the purposes and uses of ADR, there is little point in developing skills which will not be used.
- Engage in public outreach concerning services. Expanded demand for ADR is required in order to build and sustain the system. In the absence of trust and interest on the part of individuals and commercial operators, it is not possible to create the foundation for an ADR system. One of the most effective means for generating long-term demand is including arbitration clauses in commercial contracts. However, it should be noted that this is unlikely to generate cases in the short-term.

To date, this area has not received a great deal of attention from the donor community. This may be due to the corresponding lack of interest from the Serbian legal profession. In the near future, attention is most likely to gravitate around the resolution of commercial disputes and court-annexed initiatives.

C (8): Information Technology

Work in this area includes the procurement of computer and office equipment, software solutions, internet connectivity, and electronic data applications. Despite limited use of the Internet in the court system and amongst certain legal professionals, assistance in this area is popular with and desired by most Serbian counterparts. There is also a clear need, particularly in the courts. Court operations require significant automation, internal court communications and statistical record keeping need to be upgraded, and communication links between the courts and other legal institutions need to be improved.

The European Union has provided IT support to the Ministry of Justice, the court system, Prosecutors, law enforcement agencies, and the JTC. The JTC also received IT support from the other parties who assisted with its capacity development, including the OSCE and UNDP. USAID has focused its support on the courts, including work by the National Center for State Courts and the CCASA Project implemented by Booz Allen Hamilton (described in Section V (C)(4) above).

Generally speaking, the donor community has reported mixed results from its IT assistance. The main problems include difficulties in assessing actual needs, obstacles in adapting software solutions to operating requirements, and inability to ensure appropriate use after delivery. In addition, there has been a marked lack of strategic vision on the part of project partners, causing incompatibility and inefficiency. It often seems that the supply of IT equipment and the design of software are subject to manipulation, and that new systems replace instead of building upon existing systems. The reasons for this are unclear, aside from potential financial advantages. Furthermore, on many occasions, the ultimate use does not closely correspond to the initial rationale for assistance. Perhaps because the CCASA Project integrated IT solutions into other related activities, and focused assistance on a motivated client (the Commercial Courts), it was able to achieve better results. Nonetheless, the obstacles for work in this area are considerable.

In light of the above, it is not expected that the donor community will make additional significant investments in IT solutions for the Serbian judiciary. In case initiatives are planned, donors should:

- Conduct a thorough and independent needs assessment. It is important to determine in advance exactly what IT equipment and software solutions will do, and why this is necessary. These findings should be documented in binding and enforceable memoranda or similar documents, which can be applied to the ultimate use.
- Make sure software solutions build upon existing systems. Replacement and/or redesign of software should not take place without adequate justification and verification. The first choice, when possible, should always be to improve existing software, or adopt systems already in use in other institutions. In addition, compatibility should be ensured. Financial incentives should not play any part in decision-making in this regard.
- Verify the end use of IT equipment. While it is difficult to monitor and control how IT equipment is used once delivery is made or after projects close, donors should consider what types of documents and practices might discourage diversion. This could include formal ex-post monitoring, to assess the continuing value of the assistance. Or, it may be possible to place contingencies on future assistance. In any event, premature declarations of victory in project reports and de facto impunity for project partners are an inadvisable combination.

- Ensure coverage for recurrent expenses. Assistance regarding IT procurement and software solutions often turns out to be unsustainable because it fails to cover future expenses which the project partner cannot cover. These include system management (IT expertise), system maintenance, spare parts, licenses, and upkeep. Means for covering these costs should be settled in advance, or commitments for co-financing should be obtained from the project partner. If it is not possible to cover the expenses necessary for maintaining operational status, then the assistance is probably ill-advised from the start.
- Provide necessary training. IT equipment and software solutions have little value if they are not utilised in the intended manner by skilled individuals. Necessary training and capacity development should be combined with delivery and installation. In addition, the IT equipment and software should be integrated into job functions and put to good use. During this process, it is important to take account of the fact that individuals with IT experience command better salaries than others, and are often unwilling to remain within the civil service system.
- Use IT to promote transparency. Automation, electronic record keeping, and software solutions can contribute to transparency and reduce corruption. For example, random case distribution systems and automated case management systems have radically altered operations in the Commercial Courts. The best way to achieve positive results is by carefully identifying the benefits which can be achieved, and integrating them into other components of the project. In this regard, it is particularly important to involve the end users of IT, and make sure that IT solutions are integrated into job performance.
- Combine automation with business re-engineering and change management. IT equipment and software solutions should not simply automate existing (manual) functions, so that they are performed electronically. Instead, the process of automation should be utilised to improve the way that work is performed. Business re-engineering combines new technologies with new operational procedures. It should be accompanied by change management, so that employees understand what is taking place, buy into the process, and end up being able to carry out the work that is expected of them.

By taking full account of the above recommendations, the donor community can enhance the results of assistance relating to IT equipment and software solutions.

C (9): Information Resources

Work in this area is designed to improve the quality and comprehensiveness of information resources, and expand access to them. Information resources, including databases of laws and court decisions, are extremely important for the work of Judges, Prosecutors, and Lawyers. Information concerning the status of cases is extremely important for Lawyers and litigants. While new legislation is available through the Official Journal (Službeni List), it is not always optimally cross-referenced, and access to judicial decisions is more problematic. Judges in particular face constraints due to lack of access to legal sources and the Internet. Unfortunately, support for work in this area from Serbian counterparts is not uniform. It appears that parties who have access to the information they require are not sensitive to the needs of others, while parties who are not “connected” resent their status. It may be necessary to sensitise certain parties to the fact that limitations in access to information affect the system as a whole, and thus have a detrimental affect on everyone. However, this perspective is somewhat foreign to parties who benefit from the limited flow of information.

In recent years, the American Bar Association, Canadian International Development Agency, European Union, Norwegian Government/International Management Group, OSCE, UNDP, and USAID have all worked to improve the quality and accessibility of information resources. This has included creating legal databases, improving communications, and automating through IT. In addition, the American Bar Association worked on implementation of the recently-passed Law on Access to Information. Unfortunately, while progress has been made, it has been fragmented, and focused on individual institutions. Furthermore, information resources did not always end up being available to the appropriate end users. It appears that needs have not been accurately defined, that consensus has not been reached on the content of databases, that users have differing preferences for structure, that procedures for updating and maintaining databases are variable, and that commercial interests have interfered with the results.

Better results seem to be achieved when the project partner is fully engaged and sincerely intends to integrate information resources into different aspects of its work. The CCASA project was able to link all of the commercial courts into a computer network with Internet services, thereby providing access to an electronic legal database and a case data system. This facilitated the generation of statistical reports, and improved accountability, transparency, and public access. The Norwegian Government/International Management Group has also obtained positive results through close work with carefully selected courts in its project “Improving the Delivery of Justice in Courts in Serbia”.

In order to work more successfully with information resources, donors and projects should:

- Carefully assess the need for specific information resources. While official sources should be included in design, end users of information resources are in the best position to define the content and search features which will most effectively meet their needs. Accordingly, end users should be thoroughly consulted well before the work starts.
- Include end users in implementation. The best way to ensure that work is completed is to make it demand driven, by enabling end users to play an active role in encouraging the work and exercising oversight. With respect to the courts, for example, once Lawyers and litigants are informed about the key information resources which can be made available, and are given a chance to influence and follow the work closely, the prospects for successful implementation increase dramatically.
- Obtain commitments regarding use and access. Results from certain projects were diminished by failure on the part of project partners to comply with their commitments regarding access and utilisation. Memoranda of Understanding and similar documents may be appropriate. This issue can also be addressed through project governance mechanisms.
- Include access issues in project design. Sometimes there is reluctance to fully share information resources, or efforts are made to manipulate their use. By settling access issues well in advance, preferably during the project design phase, prospects for transparency and full access are enhanced.
- Focus on sustainability. As with IT equipment and software solutions, information resources such as databases often require maintenance, updating, inputting of new information, purging of outdated information, and other kinds of continuing attention. If the source of payment for these services is not settled as early as possible, the chances for long-term success are diminished. Provisions should be made by project implementers in advance, wherever possible, or commitments for co-financing from project partners should be obtained.

The next phase of work concerning information resources is likely to include the courts and new judicial institutions (such as the High Court Council and High Prosecutors Council). The JTC, once it is transformed into a Judicial Academy, will also have new and expanded requirements in this regard. Adherence to the above principles will enhance the prospects for success.

C (10): Transparency and Anti-Corruption

These two categories of judicial reform are considered jointly, since they complement each other and are closely inter-related. Work in these areas covers public access to court services, the availability of information concerning the work of the courts and specific cases, public relations and outreach on the part of judicial institutions, enforcement of the rules of conduct for the legal profession, and measures to prevent, publicise, and/or prosecute corrupt practices. Of course, most legal assistance projects can be seen to promote transparency and reduce corruption, at least indirectly, since these are overall objectives for judicial reform. Indeed, these issues serve as a barometer for the general level of democratisation, since they reflect political, social, and economic factors.

Work in this area is extremely important for Serbia, and at the same time faces immense challenges. The donor community has responded accordingly, despite some lack of enthusiasm from Serbian counterparts. Much of the assistance provided to the court system by the European Union, Norwegian Government/International Management Group, OSCE, UNDP, and USAID has been targeted towards enhancing transparency, and making information about operations and cases more available to interested parties. Work to implement the NJRS has included transparency issues. In addition, several projects have addressed corruption directly. The European Union has provided assistance to prevent economic crimes. The OSCE has worked on legal issues and helped prepare an anti-corruption strategy. And the US Department of Justice has worked closely with Prosecutors on this subject.

Despite this assistance, the Serbian judiciary does not get very high marks for transparency (with the possible exception of the Commercial Courts). In addition, corruption is reported to be (or considered to be) a significant problem in the judiciary. A treatise could be written about interventions for ameliorating these problem. Therefore, the following recommendations are limited in nature, taking into account the current practice of the donor community to treat transparency and corruption as ancillary objectives of projects.

- Transparency should be formally included in judicial reform projects. Although it is not normally suitable for a separate project component, transparency can be treated as an intermediary objective for activities in a number of different categories of judicial reform. For example, institution building, jurisprudence (legislative drafting), Court Management and Operations, and information resources can all incorporate work on transparency. To make sure that specific activities to promote transparency are woven into project components, factors relating to transparency should be included in the indicators, and covered in the Logical Framework Matrix.
- Work on Court Management and Operations, in particular, needs to incorporate transparency. Lack of transparency in operations is one of factors contributing to low public esteem for the court system. Work to promote transparency and expand access to information for Lawyers and court users can easily be integrated into activities in this category of assistance.

- Interventions should be combined to create synergies. Because of the multi-faceted nature of corruption, it is important to tackle it from a number of different and complementary directions, thereby building synergies. Possible combinations of interventions include institution building and automation, or professional formation concerning ethics and public outreach. The objective is to combine different sources of oversight (such as IT, publicity, and direct supervision), which make corruption more difficult to hide.
- Non-Governmental Organisations and the media should play a role in promoting transparency and reducing corruption. NGOs and the media can act as independent sources of oversight, and serve as watchdogs in the fight against corruption. Public outreach and publicity can serve positive goals, and help motivate and reward project partners (as demonstrated by assistance to the Commercial Courts).
- Professional associations should have an important role. Professional associations can establish standards of conduct and apply them to their members. Unfortunately, the current tendency is for professional associations to promote the interests of their members, which are deemed to include the preservation of impunity. While it may be difficult and time consuming to change this situation, the fact of the matter remains that professional associations are key actors in the fight against corruption.
- Objective and verifiable standards for educating and grading law students must be established. The fight against corruption in the legal profession should start at the beginning, namely the legal education system (Law Faculties). Clearly, the validity and value of law degrees is critical for ensuring basic professional qualifications, and must be verified. The tradition of holding oral examinations makes it difficult to verify the validity of grades according to objective standards, and opens the door to “arbitrary” results. In addition, many parties have commented that there should be more avenues for motivated and highly qualified law students to advance their skills through supplemental activities such as practical internships. Donors can address different aspects of the legal education system in assistance projects.
- Objective and verifiable standards for selecting Judges must be established. Assistance projects should include efforts to build transparency in the judicial appointment system, through work with institutions such as the High Court Council and JTC. Initial Professional Formation, if it serves as an entry point into the judicial profession, must be completely transparent and based upon merit. It is reported that at the current time, Court Presidents have the power and prerogative to choose assistants, who are then on a fast track towards the judicial profession. Donors and projects should look for ways to eliminate arbitrary and irregular practices that lend themselves to corruption.
- Donors and projects should keep their own houses in order. Activities from procurement to the selection of experts (international and local) should maintain and demonstrate the highest standards, and serve as examples. Also, the donor community should maintain a united front. Serbian counterparts should not be allowed to engage in “donor shopping”, to identify the softest or least demanding sources for funding or services.

Experience in other countries which have joined the European Union demonstrates the importance of addressing transparency and corruption issues as early and as seriously as possible. It is likely that these issues will be given considerable prominence in the case of Serbia.

D. Combinations of Areas of Assistance

The previous section looked at different categories of judicial reform activities, individually, to determine how the work in each can be made more effective and efficient. The next step is to look

at how to combine work in different categories of judicial reform, in order to obtain the best possible results.

By strategically combining work in different categories into a single project, donors can create synergies and enhance results. Conversely, poorly selected or haphazard combinations can create bottlenecks that diminish results. Selection of the combinations of components and areas of assistance must be performed systematically and strategically. Donor coordination is extremely important in this process, since different donors invariably work in the same areas and with the same counterparts.

The following combinations have yielded positive results:

- Institution Building and Human Resources Development. Work in these two categories has been combined very often. The results are generally positive, since they complement each other. However, it is still important to carefully select the specific aspects of Institution Building and Human Resources Development which are addressed, to promote the greatest degree of harmonisation and synergy.
- Institution Building and Information Technology. Institutions can be strengthened through the appropriate use of IT, particularly with respect to human resources management, outreach, public relations, and the delivery of services to constituents. However, staff must know how to effectively use the IT, and it must be correctly designed for the right purposes. This is especially important for software and databases. It is also necessary to make sure that the timing is right for this combination of initiatives, since IT deployment often gets delayed.
- Human Resources Development and Court Management and Operations. Practically speaking, it is difficult to work on these two issues separately, since changing the ways courts work requires and depends upon changing how court employees work. Often, Information Technology is included as well. However, this can get complicated, since IT must correctly change court operations, and training must be geared towards all relevant objectives. This is where business re-engineering comes into play. Indeed, business re-engineering is essential for making sure that IT and Human Resources Development move Court Management and Operations in the right direction. Finally, Information Resources and public outreach can be incorporated into the process.
- Human Resources Development and Information Technology. Human Resources Development can be furthered by IT. The two are often combined for Institution Building purposes (see above). And, IT cannot serve its purposes without Human Resources Development, particularly training concerning utilisation. Therefore, these two categories of assistance can be considered reciprocal. Synergies can be enhanced through the strategic addition of outreach and public relations activities.
- Information Resources and Information Technology. These two categories are also in many ways reciprocal, since Information Resources often cannot be utilised without IT, and IT is often used to improve the management, utilisation, and dissemination of information. However, the combination can also be problematic, as exemplified by results with court management software and legal databases. This combination must be very carefully designed and managed, with secure commitments from project partners.
- Access to Justice and Court Management and Operations. The courts can and should play a leading role in improving Access to Justice. This can be done by a) arranging their operations to best serve the needs of clients/litigants, b) expanding access to information about the judiciary, court operations, and how to protect legal rights through the court

system, and c) providing Legal Aid services through the courts or at court facilities. Indeed, projects which improve Court Management and Operations can almost certainly include meaningful measures to improve Access to Justice.

- Access to Justice through Institution Building and Human Resources Development. Work with judicial institutions and their staff can also be designed to meet legal needs through improved Access to Justice. This is obviously the case with institutions which provide legal services (such as Legal Aid Clinics and Non-Governmental Organisations), but is also true for official institutions such as the High Court Council and State Prosecutorial Council. Adding work on information resources can create additional synergies.
- Dispute Settlement through Institution Building, Human Resources Development, and Information Resources (Outreach). In order to make Alternative Dispute Resolution into a realistic choice, institutions must be developed, Arbitrators and Mediators must be trained, and information concerning available services must be disseminated to potential users. In other words, these three categories of work are inter-connected and mutually reinforcing, and must be combined in order to successfully promote ADR.
- Transparency and either Institution Building, Court Management and Operations, Jurisprudence, or Information Resources. Transparency can be considered a cross-cutting area of activity. It is appropriately combined with Institution Building, Court Management and Operations, Jurisprudence (most particularly the legislative drafting process), and Information Resources (particularly management and dissemination). Indeed, in a very real sense, progress in these other areas is more likely and more pronounced when transparency is also increased.

While many combinations of initiatives can be considered more advisable than others, relatively few combinations of initiatives are truly problematic. However, the following combinations have yielded significantly less positive results:

- Legal Framework and Institution Building. Because of the lead time involved, work on the Legal Framework is best carried out separately from Institution Building. The same can be said for Human Resources Development, Court Management and Operations, and Dispute Settlement. Perhaps the only other category of assistance that can be coordinated with work on the legal framework is Transparency.
- Jurisprudence and Information Technology or Court Management and Operations. Assistance to improve Jurisprudence does not really benefit from being combined with IT or work on Court Management and Operations. These categories of assistance are separate, and do not create synergies.

The above combinations are far from exhaustive. It is possible to come up with many more combinations, and analyse them in the context of assistance for judicial reform in Serbia. The point here is that donors and project implementers should take a careful look at which categories of assistance they are combining, and see what the actual results of those combinations have been. Naturally, previous results may reflect specific circumstances, such as the interests of the project partner, or the skills of the experts involved, or the state of the law at the time. However, there are definitely principles and patterns concerning how assistance in different categories can best be combined, and they should be carefully considered well in advance of implementation.

VI. RECOMMENDATIONS FOR PROGRAMMING AND IMPLEMENTATION

This section presents recommendations for how donors and project implementers should work in order to most effectively and efficiently achieve sustainable results. These recommendations complement the findings and recommendations presented in Section V, which more directly focus on which areas of assistance donors and project implementers should focus on in order to most effectively and efficiently achieve sustainable results.

This section is divided into three categories:

- A. Enhancing effectiveness and sustainability through programming, policies, and procedures. This refers to general issues regarding the work of donors and assistance providers, and measures which can be applied to most if not all projects and initiatives before they start.
- B. Enhancing results and sustainability through project planning and implementation. This refers to measures which can be applied for the realisation of specific projects and initiatives.
- C. Donor Coordination. This refers to ways that the international assistance community can rationalise and harmonise its common work, in order to achieve greater overall results and more success with specific projects and initiatives.

Naturally, these categories complement each other, and must be considered in an inter-related fashion. The use of three categories should be seen as a conceptual exercise, to facilitate grouping and analysis. And each recommendation stands on its own merits. Therefore, excessive focus on the categorisation of recommendations is unwarranted. Finally, the recommendations are listed in rough order of salience, from general to specific. However, they are not strictly prioritised, and no major significance should be accorded to their order.

A. Enhancing Effectiveness, Results, and Sustainability – Programming, Policies, and Procedures

This section presents general recommendations concerning steps that donors can take to make sure that their overall programming, policies, and procedures yield the best possible results.

- Judicial reform initiatives should be technical and apolitical, and measures should be taken to insulate them from political influence. Section V (A) discusses the problem of politicisation, which has permeated judicial and legal reforms. This issue is not fading into the background; passage of the six framework laws in 2008 has opened the door to another round of executive branch influence over the re-structuring of judicial institutions. Experience shows that only the most technical issues escape the influence of politics and the interests of the political parties, and that these are the areas where reforms are most likely to succeed. Thus, Institution Building is preferable to work on the Institutional Framework (which directly affects power structures). Institution Building is more successful when directed towards technical institutions (such as the Judicial Training Centre and professional associations), instead of the High Court Council and State Prosecutorial Council. Work on Court Management and Operations, case management, and Information Resources generally escapes politics. Of course, sometimes it is necessary to engage in reforms with political repercussions. However, this causes additional challenges, and obliges donors to take appropriate measures to secure necessary support.

- Judicial reform initiatives should respect the “hierarchy of categories”. The problems associated with “putting the cart before the horse”, for example by engaging in Institution Building without a suitable Legal Framework and Institutional Framework, have been covered at length in Section V (A), Section VI (C)(1), and Section VI (C)(2). Suffice it to say here that these lessons must not be forgotten. While it appears that most of the required laws are now in place, there are still unresolved issues, which may only be clarified through secondary legislation, implementing regulations, protocols, etc. And certain aspects of the institutional framework will only be settled over time, as new institutions grow into their roles and start working together. Initiatives not based on cogent analysis of the exact status of the Legal Framework and Institutional Framework proceed at their own peril.
- Judicial reform initiatives should be based on Serbian strategic documents whenever possible. Reforms carried out to date have generally been more successful when they implement and reflect priorities which are officially sanctioned in policy documents, protocols, and workplans. There are two reasons for this. First of all, reform initiatives are always more successful when they reflect the interests of the counterparts, instead of being donor driven. Second, such initiatives have greater authority. Strategic documents include the Stabilisation and Association Agreement, the Serbian European Integration Strategy, and the National Judicial Reform Strategy. Of course, following strategic documents is not a guarantee of success. These documents are not always fully implemented on a priority basis, and some provisions receive more attention than others. However, initiatives based on strategic documents have greater authority and stature. Further, project implementers can approach their work from “high ground”, by pointing out how they are promoting national interests and complying with official directions.
- Donors should try to include their objectives in Serbian strategic documents whenever possible. This is the other side of the previous recommendation. There are numerous examples of project components dedicated to issues that could have been included in strategic documents such as the NJRS, had suitable groundwork been done. Donors need to plan for the implementation of their objectives well in advance, and take steps to set the stage for projects in advance, by obtaining official sanction. There is little advantage in leaving everything up to the project, and assigning it an uphill task. For example, the reform of substantive legislation (improving jurisprudence) can be included in the official legislative programme before projects begin. If a project is forced to spend time moving a non-prioritised draft law through the legislative process, it is distracted from the main task of providing technical assistance to improve the quality of that law. The best of both worlds is achieved when the project partner is involved in preparation of the strategic document, so that its interests are fully covered.
- Judicial reform initiatives should be based on meaningful needs assessments. Particularly in the earlier years of the reform process, projects were characterised by inadequate planning and preparation. There were few feasibility studies, needs assessments, surveys, and consultations. This resulted in overly ambitious project objectives that did not always meet the (perceived) needs of the counterparts. This, combined with unrealistic/insufficient budgetary allocations, compromised the results of projects, and led to problems with implementation. Some project reports clearly reveal efforts to take remedial actions, modify the design of components, justify sub-optimal interventions, and assign responsibility/blame. While the situation has improved greatly in recent years, amidst clearer signals concerning Serbian requirements, donors can still be cautioned to devote serious resources to assessing the situation and designing initiatives *in advance*, rather than leaving it up to projects to formulate remedial actions. Particularly with

respect to larger and more complex projects, feasibility studies and assessments are a good investment. An ounce of prevention is worth a pound of cure.

- Judicial reform initiatives should include institutions from the executive branch when appropriate. Sometimes the prospects for success are enhanced when the executive branch and ministries share in technical assistance and work alongside counterparts in the judiciary. Raising the capacity of the executive branch to engage in policy development, strategy formulation, and the implementation of reforms can create momentum and develop partnerships which further the process. The NJRS is an excellent example of this principle. The Multi-Donor Trust Fund also appropriately develops partnerships between the Ministry of Justice and judicial institutions, legal professionals, and civil society.
- Donors should try to minimise the consequences of changes in leadership. Judicial reforms have been compromised by frequent changes of leadership in official institutions (such as the Ministry of Justice) and counterparts (such as the Judicial Training Centre). Of course, these developments are beyond the control of donors and projects. However, given the recurrent nature of this obstacle, certain preventative measures are prudent. For example, projects should be based on objective institutional needs (which are likely to persist), not the preferences of specific individuals (which are easily reversed). In addition, measures can be taken to document agreements and make them more binding, using Memoranda of Understanding. Further, project governing bodies (such as Steering Committees) can exercise more authority, to make sure that decisions based on long-term objectives and requirements are documented and enforceable. Finally, donors should be prepared to step in and exercise influence when this is required by project teams.
- Donors should design projects with realistic objectives which are achievable in light of the allotted time and resources. After reviewing numerous project documents and Logical Framework Matrices, the Project Team has concluded that donors need to focus more on whether objectives are feasible, given the available time, level of expertise, and funding. Often the objectives were too grandiose, forcing implementers to make promises that could not be kept. Additionally, the level of interest and absorptive capacity of project partners was often over-rated. This necessitated re-organisations and extensions, and sometimes caused work to be left half done. The first and best place to settle these kinds of issues is in the project Terms of Reference.
- Donors should make sure that all of their projects carefully distinguish objectives and outputs. This issue is closely related to over-ambitious project design, discussed above. Often there is a lack of clarity concerning the distinction between project deliverables and actual results. Far too often, projects are allowed to simply report that seminars were delivered, reports were prepared, recommendations were presented, technical assistance was provided, computers were purchased, etc. without indicating what has changed as a result, and how these activities have actually contributed to overall objectives. Did the seminars help participants with their work? Were the reports read and used? Were the recommendations followed? Was the technical assistance valuable? Were the computers put to their intended use? Part of the problem, as discussed in Section VI (A)(2) above, is that objectives are mixed together, regardless of whether they can be achieved during the course of a project or only over the long-term. In addition, projects are sometimes allowed to take a “process oriented approach” instead of an “output oriented approach”, focusing on meeting deadlines instead of building real capacity. Donors should insist that projects report on results, and projects should structure their activities and documentation to achieve and demonstrate results, not simply prove that outputs have been delivered.
- Donors should enable judicial reform initiatives to be tailored to the actual situation at the time of implementation. The context for judicial reform in Serbia is subject to frequent

change. By the time projects start, aspects of the Terms of Reference (which may have been drafted several months before) can be outdated or inapplicable. This may still be the case even when the project has been designed to account for contingencies and “hit a moving target”. It is important to complement contingencies in project design with opportunities to modify initiatives once they actually get underway. Naturally, the mechanisms for doing this vary from donor to donor, depending upon the modalities being employed. Still, the requirement is universally applicable.

- Donors should prioritise information management. The obstacles faced by the Project Team with regard to information resources, discussed in Section IV (B) above, were considerable, and add poignancy to the following recommendations. Donors should prepare concise and user-friendly public relations materials that discuss their work, area by area, with key facts and contact details. Comprehensive and well-organised electronic libraries should be maintained, so donors can instantly access materials, and make them available to interested parties (according to documented policies). There should be standard and straightforward file names which indicate the content. Materials such as reports, surveys, studies, training materials, etc. should also be available on CD-ROMs, and subject to rapid dissemination as appropriate. Public materials in electronic libraries can be linked to Websites. It may also be useful to keep a small library with printed copies of materials. Information resources, and particularly Websites, need to be regularly updated. These steps would enhance access to information, improve the image of donors, and mitigate problems which arise from changes in personnel.
- Donors and senior project personnel should carefully control the “integrity of work product”. In the electronic age, characterised by virtually open access to libraries of written materials and previously prepared documents, there are constant opportunities to re-use, copy, plagiarise, ghost write, and engage in other forms of academic dishonesty. While it is natural for Project experts to build upon previous work, there is a definite line between not reinventing the wheel and trying to get paid twice for the same job. Vigilance in this regard is imperative. Measures should be put in place to ensure that research, investigation, documentation, and reporting are properly/honestly carried out, and to sanction any misconduct.

The above general recommendations can be complemented by one specific programming suggestion. Renewed emphasis should be placed upon the National Judicial Reform Strategy. With the Multi-Donor Trust Fund focusing on implementation of the NJRS, and engaging numerous official and non-official institutions in this work, it is a propitious time to use the NJRS as the basis for additional judicial reform initiatives.

B. Enhancing Effectiveness, Results, and Sustainability – Project Planning and Implementation

This section presents recommendations concerning practices and measures which can be applied for and during the realisation of specific projects and initiatives. While conceptually different from the recommendations presented in Section VI (A) above, they are closely related and complementary.

- Projects need to be designed and implemented strategically. It is important to take full account of the strategic framework for projects, and implement activities according to an overall vision. Far too often, and particularly in the earlier years of the reform process, projects were structured and implemented as “a collection of interventions which should

yield positive results”. To this day, projects sometimes mix components which do not fully complement each other to achieve strategic goals. This tendency was particularly noted in Institution Building projects, which often included a menu of activities, valuable in their own right, but insufficiently integrated. Similar problems also arose with work on the Legal Framework and Jurisprudence. In some ways, a diffuse (“shotgun”) approach is a natural response to the large number of important reforms requiring prompt attention. However, projects which lack a strategic framework are limited to delivering outputs and producing results, without achieving major objectives. One way to test compliance with this recommendation is to see if all project components can be fully anchored to closely related objectives from a single source, such as the NJRS. If this does not appear to be the case at the start of a project, the implementer should immediately try to reorient activities to build strategic focus. This is a problem which does not go away; it worsens over time.

- Projects need to be carefully timed. Particularly in countries where conditions change frequently and rapidly, it is extremely inadvisable to make decisions concerning *what* to do without also considering *when* it can/should be done. One of the major factors limiting the effectiveness of initiatives in Serbia, and causing resources to be wasted, has been ineffective project timing. To be fair, timing is a challenge, given how long it takes to do programming, project design, tendering, project set-up (obtain premises and equipment), and then begin activities. Still, judicial reform projects in Serbia are replete with examples of project teams being unable to work because laws were not passed on schedule, institutions were not set up on time, plans were changed, activities were delayed, project partners were not available, etc. Further, perhaps in part due to initial delays, projects often ended too soon, with laws not passed, institution building exercises incomplete, curricula unfinished, books not purchased, etc. Therefore, it may be justifiable to delay project start-up until necessary pre-conditions are in place, even though this inconveniences implementers and experts. Or, in the alternative, projects could be launched, but with greater duration, so resources can be used intermittently, at least initially.
- Projects should have the necessary duration. Criteria for setting the length of projects are often obtuse. The main factor may be funding, but this does not explain choices concerning the intensity of input use (for example the number of months over which a set number of working days should be performed) or the allocation of inputs between different components. Sometimes the length of projects does not fully correspond to the period of time required for completing work. Or, conversely, some components may have too much time, while others do not have enough. It is hard to deliver a short-term solution to a long-term problem. One possible solution is to provide the longest possible duration, and grant the implementer flexibility over timing. Inputs could be intensified and components shortened, or inputs could be spread out and components extended, as required (always with proper approvals). Another possibility would be to allow the transfer of a limited amount/percentage of inputs between components (if appropriate, with proper approvals, but without penalty).
- Projects should not be based on unlikely preconditions. Far too often in Serbia, project teams were forced to look for ways to achieve outputs despite the absence of important pre-requisites which were out of their control. This was often the case when legal reform, institutional development, and training were combined. Under these circumstances, implementation is complicated and results are diminished. Many of the problems encountered in these situations could have been ameliorated through contingency planning and greater flexibility concerning the timing and order of activities. In addition, more serious focus on the risks and assumptions underlying initiatives (which are often

placed in a *pro forma* section of project reports) could facilitate pro-active responses to challenging developments. It may even be advisable to assume that assumptions will not materialise, for purposes of project planning.

- Project budgeting should be flexible enough to allow for limited contingencies. Financial accounting requirements are usually stringent, in order to ensure adequate control. However, there may be ways to provide for limited flexibility, depending upon which types of activities turn out to be most advantageous. For example, projects could be allowed to re-allocate a fixed total amount of funds amongst publications, seminars, retreats, or study tours, depending upon which will be most effective. In its report on work with the JTC, UNDP mentioned that the initial arrangements for handling finances did not prove adequate, making it necessary to take remedial steps by transferring greater responsibility to the JTC under the National Execution modality. This exemplifies the value of being able to make mid-course corrections, based upon actual circumstances.
- Utmost efforts are required to secure commitments from project partners. Judicial reform initiatives are most likely to succeed when they take place in a stable environment characterised by consensus and serious commitment on the part of Serbian counterparts. However, many projects faced broken promises and lack of discipline from parties who were supposed to play a supportive role. Often the project was left with little recourse, since the commitment was not documented, and could not be enforced. Even on the rare occasions where a Memorandum of Understanding (MOU) was signed, it was not always respected. The most common breaches of promises have occurred with respect to providing premises for project teams, utilising equipment, developing software, using/ updating databases, and attending events. Promises to cooperate were also not always kept. This was very problematic in twinning cases. Sometimes, senior personnel at project partners, including ministry officials, refused to honour commitments made by their predecessors. Unfortunately, failure to enforce agreements in the past has reduced their value, caused a loss of credibility, and lead to further breaches.
- Project management standards should be improved. Internal project management and governance structures need to be utilised to their full potential. Steering Committees and Project Implementation Units are sometimes treated as mere formalities, whose purpose is to sign reports and approve payments. However, they are actually powerful mechanisms for resolving problems, steering projects in the right direction, and facilitating project work/activities. Projects should prepare Protocols for Steering Committees and Project Implementation Units, and teach their members how to help realise objectives. Minutes of Meetings should be treated as legal documents which set policy, document decisions, and authorise work. Their preparation should not be delegated to administrative staff. Finally, Team Leaders should work with consulting companies to most effectively utilise project governance and management mechanisms.
- Donors and projects should educate counterparts concerning how they work. One of the biggest obstacles to project implementation is lack of understanding between project teams and project partners concerning how projects operate, what they do, and what they cannot do. It is not being suggested that project cycle management be included in the general educational curriculum. However, when counterparts understand the basics about how projects work, and how experts provide technical assistance, they are better able to utilise and benefit from support being offered. Every kind of assistance in Serbia, from institution building to training to software design, has been rendered less effective at one time or another by the inability of project partners to meaningfully participate in elaboration and implementation. The work of international experts and the rules for

procurement are particularly misunderstood. Deficiencies in this regard should be immediately addressed by the project team.

- Project implementation should be effectively timed. This goes beyond time management (doing the most work in the least amount of time). It concerns how project implementers and their partners synchronise interactions and mutual work. This, in turn, depends upon how well they understand each other. Unfortunately, contradictory perspectives towards time create friction. While projects face time pressures to produce deliverables according to deadlines, counterparts expect to work on issues over longer periods, as part of on-going duties, or according to their own (hierarchically imposed) deadlines. This difference is not just philosophical. It can have major practical consequences. For example, temporary postponement of an event which seems minor to the project partner can force the project to pay an expert to wait, or cause an excellent expert to become unavailable. Timing issues particularly affect short-term expertise. The best short-term experts have busy schedules, must be contracted in advance, and do not appreciate cancellations. The shorter the timeframe, the more difficult it is to get the best expertise. Finally, timing must be flexible to meet multiple objectives, especially when they are not contemporaneous. Otherwise, planning problems cause problems with timing, which create problems with utilisation of resources, which diminish results.
- Project implementers must invest the time to build capacity. Capacity development can only be called a success if, after completion of the intervention, the project partner is capable of continuing the exercise independently. This requires on-the-job coaching and hands-on work, not just classroom training. However, on-the-job coaching is time-consuming, and gets neglected when there is pressure to meet project targets. Project implementers often face pressure to do work themselves, to meet deadlines or produce outputs, instead of devoting the time required to build the capacity of project partners. However, when a study, protocol, or plan is produced by the project team and handed to the project partner, it does not have the same result as if the counterpart learned how to do it, and generated its own work product. Simply stated, incentives to take unilateral action must be resisted, to balance the achievement of outputs and sustainable capacity development.
- Project implementers must work to establish absorptive capacity. Capacity development, as described above, depends upon the ability of project partners to integrate new information, new skills, and new working practices. It is not sufficient to describe reforms; they must be put in place. One of the greatest obstacles to this is lack of time, interest, and ability on the part of project partners. The most difficult challenge in this regard is getting highly qualified individuals, and those who have received training, to stay at their posts. Governmental institutions, and those which offer salaries equivalent to civil service status, often lose highly competent individuals to the private sector. While this process is hard to control, it is sometimes possible to secure a commitment to work for a certain period in return for training, participation in a study tour, etc. In any event, problems in this regard must be incorporated into the planning for all capacity development exercises.
- Projects should carefully balance international and national expertise. Serbian counterparts regularly raised concerns about the distribution of project tasks between international and national experts. Sometimes international expertise could not be fully utilised because it was insufficiently specific, or due to translation requirements. This issue arose frequently with respect to Working Groups drafting legislation.
- Projects should require their partners to designate liaisons/interlocutors. Streamlined communications between project teams and project partners is crucial. To facilitate this

process, and channel communications, there should be one focal point for addressing issues relating to planning, scheduling, implementation, events, etc. Indeed, complicated projects may benefit from having a liaison/interlocutor for each component.

- Projects should systematically address issues related to horizontal communications. Insufficient or ineffective communications between Serbian institutions sometimes complicated project implementation. Under such circumstances, project teams are obliged to take pro-active measures to facilitate inter-institutional collaboration and co-operation. These can include scheduling meetings, preparing and sharing concise Concept Papers, setting up email lists, etc.
- Projects should regularly apply principles of business re-engineering and change management. Business re-engineering combines improvements in what is done with improvements in the way things are done. It is particularly effective with automation. Change management can help leadership to mobilise and include the rank and file in implementing reforms. Both of these processes can be facilitated by assistance projects, in order to make results more sustainable.
- Projects need to pay extra attention to information management and dissemination, including public relations materials. Every project should manage information to benefit its partners and promote the interests of its sponsors. In the first place, there should always be a “project brochure”, which describes in a few pages the project rationale, the main activities, and the members of the project team, and provides contact information. This document should be regularly distributed at meetings and events. Copies of important materials, such as studies, research reports, and training materials, should always be available on Websites and CD-ROMs. Summaries of project reports, with internal and confidential information removed, should be widely available (abridged versions are also more likely to be read). Of utmost importance is the preparation of final materials at the end of projects, indicating what has been done and what still needs to be done. In addition to the added value from information sharing, this practice also sets a positive example for others, and promotes transparency.
- Projects should focus on exit strategies from the very start. The time to start exit planning is during project start-up. This makes it possible to initiate and integrate measures which promote sustainability from the earliest possible moment. There are many different kinds of exit strategies, and the choice will depend upon the category of assistance. One interesting possibility, which was utilised successfully with institution building projects in Serbia, was a “phased approach”, under which successively greater responsibilities were extended to the project partner. A phased approach was used by UNDP in its work with the Ministry of Justice for the JTC, starting with institutional costs, and moving on to staffing costs and then programming costs. The European Union, OSCE, and USAID also reported success with this model.

Many of these recommendations seem like common sense, and in a way that is what they are. However, while the general principles seem logical, their implementation is far from uniform. Much work can be done to improve project delivery in Serbia through the systematic application of these recommendations.

C. Donor Coordination

Donor Coordination is crucial for judicial reform in Serbia. It is most important with respect to programming decisions, project implementation, and information management. However, despite the close relationships between donors, and the manageable size of the country (which has good

communications), more work needs to be done. To date, donor coordination has depended heavily on personal relationships between personnel at different institutions. It is not based on an institutional approach, or integrated mechanisms.

Perhaps the most important step to improve donor coordination would be formulation of a Development Assistance Framework (DAF). This is an integrated and comprehensive document which shows exactly what is being done, in what categories, by whom, and when. Development Assistance Frameworks facilitate strategic planning, programming, and project implementation. They enable donors to move beyond information generation and sharing, towards planning and implementing, based on a comprehensive, strategic, and integrated analysis of the requirements, objectives, and priorities for judicial reform in Serbia. Through clarification of what is being done in each area, by whom, where, and when, donors and projects can build a framework for judicial reform, identify how specific activities fit into the process and meet defined objectives, eliminate duplication, improve timing, and focus attention on high priority objectives.

The DAF could also help donors harmonise and integrate project activities in order to maximise results, by enabling them to take full account of:

- The areas and subject matters of assistance
- The project partners and counterparts
- The mechanisms utilised to carry out initiatives
- The timing of initiatives
- The locations of initiatives

When these factors are properly accounted for, it is possible for donors to work in the same areas with the same institutions and achieve significant synergies. For example, it would be possible for one donor to set up premises and supply equipment for an institution, while another steps in to provide training for the employees to better carry out their job functions. Or, one donor could provide assistance with establishing the legal basis for an institution, while another steps in afterwards to assist with institution building exercises. Or, complementary work could be divided between donors or projects on the basis of geographical location.

Appendix “A”, the Overview of Judicial Reform in the Republic of Serbia, is a major step in the direction of formulating a DAF. Inverting its matrices, and organising information on the basis of the type of intervention instead of the identity of the donor/project, would provide additional information. Further work on a DAF could be appropriate under the Multi-Donor Trust Fund, which is bringing together several donors, and engaging key counterparts, in collective work.

In addition, work on a Development Assistance Framework under the Multi-Donor Trust Fund would help develop the capacity of the Ministry of Justice and other governmental institutions (such as the High Court Council and State Prosecutorial Council) to engage in donor coordination. This will be especially required in the area of human resources development, since training Judges, Prosecutors, and Lawyers is due to receive greater attention in coming years.

Additional practices and procedures which would strengthen donor coordination include:

- Regular Donor Coordination Meetings. Quarterly Roundtables involving all key parties working towards judicial reform should be scheduled. The objectives include sharing

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information, discussing programming decisions and plans, distributing documents and materials, and exploring possibilities for cooperation and collaboration. If necessary or appropriate, there could be working groups or smaller thematic groups, addressing specific subjects.

- A Calendar of Major Events and Expert Activities. An information clearinghouse and calendaring mechanism covering events, activities, and schedules of international experts could be extremely valuable. The objective is to ensure that this information is systematically available and regularly utilised. A Website or Electronic Bulletins could be appropriate.
- Intra-Donor Cooperation and Coordination. In contrast to the above work between donors, this focuses on collaborative work between projects under the umbrella of single donors. The objective is to better standardise work on issues such as achieving and measuring results, updating policies and procedures, handling public relations and outreach activities, and communication.

Finally, information management must be improved. The most advantageous step would be creation of a Consolidated Information System, as a concrete and sustainable mechanism for ensuring the widest dissemination and use of key project outputs. It would make information concerning judicial and legal reforms, copies of training materials, copies of reports, information concerning scheduled events and activities, and Website contacts available to the donor community and legal professionals, including interested parties outside of Serbia. Having a single location for this valuable information would obviate the need to search numerous different Websites on a regular basis. Further, it would prevent the loss of valuable information when projects and Websites close.

Challenges in this area should not be underestimated. After seeking and reviewing information concerning many of the judicial reform initiatives carried out over the past eight years, the Project Team felt obliged to document the difficulties which it had obtaining information (see Section IV (B) above). Therefore, it is strongly recommended that:

- Donors should systematically publicise their work. Concise and precise informational materials about what donors are doing and why should be made widely available, particularly for key target groups. Difficulties in obtaining this information create a lack of appreciation on the part of Serbian counterparts, and undermine momentum for judicial reforms.
- Projects should systematically publicise their work. Concise and precise informational materials about what projects are doing and why should be made widely available, particularly for key target groups. In addition, project outputs should be widely disseminated. Research studies, analytical documents, training materials, and the like should be distributed, placed on donor and project Websites where they can be accessed, and carefully archived. These materials should be used to highlight the achievements of project partners, and motivate them. Generally speaking, there should be less emphasis on providing excruciating details to donors, and more emphasis on providing basic details to counterparts and (when appropriate) the public at large.

The above recommendations would facilitate a more strategic and integrated approach to donor coordination, thereby enhancing the judicial reform process in Serbia.

VII. CONCLUSION

Assistance provided by the donor community has played a crucial role in promoting judicial reform in the Republic of Serbia. A number of noteworthy achievements have been recorded, and there has been definite progress. However, particularly considering the amount of attention and money which has been spent by a large number of highly motivated donors and project implementers, the results are somewhat disappointing, and not where they should be. There is a discrepancy between the objectives and expectations of the donor community and those of its Serbian counterparts. Clearly, more needs to be done. The conclusions and recommendations presented in this report should be carefully and systematically discussed by all interested parties, utilising the methodology put in place through the Typology of Judicial Reform Initiatives. The current time is propitious, since there are excellent prospects for refocusing and re-energising the judicial reform process.

VIII. Appendix “A”: Overview of Judicial Reform in the Republic of Serbia – Donors and Major Projects

OVERVIEW OF JUDICIAL REFORM IN THE REPUBLIC OF SERBIA – DONORS AND MAJOR PROJECTS			
DONOR/ IMPLEMENTER	AREA(S) OF WORK	TIME- FRAME	PROJECT(S) AND INITIATIVES
American Bar Association Rule of Law Initiative	Legal Framework (LF) Institutional Framework (IF) Institution Building (IB) Human Resources (HR) Jurisprudence (JU)	2001-2009	“ <u>Development of the Rule of Law in Serbia</u> ”. See description under USAID section.
Booz Allen Hamilton	Court Management (CM) Legal Framework (LF) Institution Building (IB)	2006-2010	“ <u>Bankruptcy and Enforcement Strengthening Activity</u> ”. See description under USAID section.
	Court Management (CM) Information Technology (IT) Information Resources (IR) Transparency (TC)	2004-2008	“ <u>Commercial Court Administration Strengthening Activity (CCASA)</u> ”. See description under USAID section.
Canadian International Development Agency (CIDA)	Legal Framework (LF) Human Resources (HR) Institutional Framework (IF) Transparency (TC) Access to Justice (AJ)	2006-present	“ <u>Canada Serbia Judicial Reform Project</u> ”. Implemented by Genivar and the University of Ottawa. Support for implementation of the National Judicial Reform Strategy, with particular emphasis on access to justice, juvenile justice, and gender equality in specific communities (such as Kraljevo and Zrenjanin). Cooperation with the Judicial Training Centre to develop specific training modules in gender and other cross-cutting issues. Conducted a review of the current situation in courts relating to geographically targeted programmes. Also working to strengthen court efficiency, enhance access to justice, and bring civil society into the process of removing barriers to the protection of rights.
Council of Europe	Legal Framework (LF) Human Resources (HR) Jurisprudence (JU)	2002-present	<u>Implementation of the National Judicial Reform Strategy in Serbia</u> . Support for the Ministry of Justice and government for implementation of the NJRS. Work to bring the Serbian judiciary into compliance with international standards, including the review of draft legislation and the provision of European expertise, via the Venice Commission. Training and the provision of information on the European Convention

			for the Protection of Human Rights and Fundamental Freedoms (particularly Articles 5 and 6), for Judges, Prosecutors, and legal professionals. Monitoring of cases involving Serbia before the European Court of Human Rights.
Department for International Development (DFID)	Institution Building (IB) Human Resources (HR) Access to Justice (AJ)	2001-present	Since 2001, DFID has provided £30 Million to reduce poverty, reform the social welfare system, improve governance, promote EU integration, reform the civil service, improve budgeting, and prevent conflict. It has also supported the Serbian Development and Aid Coordination Unit. Work in the area of governance has included the Project on Citizen Focused Safety, Security, and Access to Justice. DFID assistance to Serbia is scheduled to end in 2010.
East West Management Institute	Court Management (CM) Human Resources (HR)	2008-2013	“ <u>Separation of Powers Program</u> ”. See description under USAID section.
European Consultant’s Organisation	Institution Building (IB) Legal Framework (LF) Transparency and Anti-Corruption (TC)	2008-2010	“ <u>Assistance to the Implementation of the National Judicial Reform Strategy</u> ”. See description under European Union section.
European Union (Delegation of the European Commission and European Agency for Reconstruction)	Institution Building (IB) Legal Framework (LF) Transparency and Anti-Corruption (TC)	2008-2010	“ <u>Assistance to the Implementation of the National Judicial Reform Strategy</u> ”. Implemented by the European Consultant’s Organisation. Institution building and strengthening for the (reconstituted) High Judicial Council and State Prosecutorial Council, assistance with the execution of their mandates according to newly passed legislation. Assistance with the delineation of criteria for judicial and prosecutorial re-appointment. Implementation of National Judicial Reform Strategy and associated Action plan. Drafting and implementation of secondary legislation, by-laws, rules of procedure, instructions, and manuals. Organisation of public debates and public informational campaign regarding judicial reform strategy and its implementation. Collaboration with the Ministry of Justice. Total funding of €2,000,000.
	Institution Building (IB) Information Technology (IT)	2004-2006	“ <u>Support to Juvenile Detention Facility</u> ”. Delivery of WET procurement. Training for Detention Facility Staff. Organisation of Workshops. Purchase of IT equipment, and new ambulance room. Total funding €1,000,000.
	Institutional Framework (IF) Institution Building (IB)	2006-2007	<u>Implementation of the National Judicial Reform Strategy in the Republic of Serbia</u> . Work to improve justice system according to the National Judicial Reform Strategy. Institutional support for the Secretariat of the Strategy Implementation Commission in charge of carrying out NJRS, including technical assistance and the preparation of organic documents. Promotion of donor coordination through database and cooperation in line with strategic goals, and outreach to the legal community. Total funding of €1,100,000.

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European Union (Delegation of the European Commission and European Agency for Reconstruction)	Jurisprudence (JU) Legal Framework (LF) Law Enforcement	2005-2007	“ <u>Project Against Economic Crime</u> ”. Strengthened legislative and institutional framework for preventing and combating economic crime. Worked on law enforcement, and to improve the capability of Judges and Prosecutors to adjudicate and prosecute economic crimes. Performed diagnostic of court and public prosecutor services, to calculate costs associated with the National Judicial Reform Strategy. Total funding of €1,499,290
	Institution Building (IB) Human Resources (HR)	2004-2007	“ <u>Judicial Training Centre</u> ”. Enhancement of training capacity of the Judicial Training Centre. Strengthened internal infrastructure of JTC, including business planning, governance, and teaching capacity. Conducted a training needs analysis, and assisted with development of the training curriculum Provided targeted legal training for Judges, Prosecutors, and court staff. Total funding of €2,700,000.
	Information Resources (IR) Information Technology (IT)	2004-2006	“ <u>Database for Legal Practitioners</u> ”. Development of a database system containing legislation, regulations, and case law, in cooperation with the Ministry of Justice and the Official Gazette. Work to ensure dissemination of updated legal materials to the legal profession, and expand access to information resources. Total funding of €1,163,972.
	Institution Building (IB)	2003-2006	Twinning Project “ <u>Strengthening the Capacity of the Ministry of Justice</u> ”. Building the capacity of the Ministry of Justice to carry out legal reforms, assistance with legal reform initiatives. Total funding of €1,491,028.
	Dispute Settlement (DS) Human Resources (HR) Legal Framework (LF)	2004	“ <u>Support for Out of Court Settlements</u> ” and “ <u>Public Awareness Campaign for ADR</u> ”. Introduction of Alternative Dispute Resolution system. Preparation of Action Plan to reduce backlog of civil cases, analysis of the legislative/regulatory requirements for improving court procedures, identification and design of institutional structures for ADR/Mediation, professional profiling for mediators, development of training programme for mediators, preparation of public awareness campaign to introduce ADR system to professionals and wider public. Introduction of ADR in the First Municipal Court. Total funding of €697,878.
	Court Management (CM) Human Resources (HR)	2004-2005	“ <u>Support to Court Administration (Phase I and II) and IT Training</u> ”. Modernisation and improvement of court efficiency and case management, to reduce backlogs and rationalise case handling. Delivery of training to strengthen capacity of the Ministry of Justice and Judges according to judicial requirements. Total funding in Phase One of €2,743,093 Provision of IT training with focus on throughout Serbia, for System Administrators and Technical Support Staff in courts. Development of training skills for Technical Support staff in courts; with focus on application software, capacity building for IT staff in the Ministry of Justice. Total funding in Phase Two of €293,400.

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European Union (Delegation of the European Commission and European Agency for Reconstruction)	Information Technology (IT)	2004	<u>Sena Software</u> . Work for Ministry of Justice, to change Linux Platform to Microsoft. Total funding of €161,600.
	Institution Building (IB)	2005	“ <u>Refurbishment of JTC Premises in Nis and Belgrade</u> ”. Renovation of entire wing of Judicial Training Centre in Belgrade, installation of facilities.
	Court Management (CM) Institution Building (IB)	2004-2006	<u>Support to the Reform of the Justice System</u> . Capacity building for the Ministry of Justice, improvement of court administration system, and up-grading of the civil and court registries. Work to make the judicial process more efficient and effective. Total funding of €2,400,000.
	Court Management and Operations (CM)	2003	Reconstruction of the Courtroom Number One in the District Court of Belgrade, including renovation of HVA and security equipment. Total funding of €996,534.
	Information Technology (IT)	2002-2004	“ <u>IT Support to Serbian Judiciary</u> ”. Procurement of IT Equipment, software, and electrical equipment and materials for the District Court of Belgrade and Five Belgrade Municipal Courts. Total funding of €3,300,000
	Information Technology (IT)	2003	“ <u>Supply of IT Equipment to Prosecutors</u> ”. Establishment of a modern IT system in the Office of the Public Prosecution in Belgrade. Procurement of hardware and software, three types of servers, LCD rack monitors, rack console switches, racks, UPS racks, workstations, printers, routers, switches, firewall, LAN cabling, and antivirus software. Total Funding of €412,183
French Embassy and Government of France	Legal Framework (LF) Institution Building (IB) Human Resources (HR)	2007-2010	Placement of a legal advisor attached to the Ministry of Justice. Work to support legislative reform and judicial reform. Development and analysis of information concerning judicial reforms underway and legal assistance projects, provision of technical assistance and advice concerning institution building exercises and the management of legal information.
	Jurisprudence	2008-2009	Organisation of regional conferences on subjects relating to the rule of law, judicial reforms, and criminal law.
	Institution Building (IB) Human Resources (HR)	2003-2006	Institutional support and training for the Judicial Training Centre. This included technical assistance, library materials, and organisation/delivery of training for Judges and Prosecutors (particularly concerning juvenile justice and family law). Total funding of €450.000.
Genivar and University of Ottawa	Legal Framework (LF) Human Resources (HR), Institutional Framework (IF) Transparency (TC)	2006-2009	“ <u>Canada Serbia Judicial Reform Project</u> ” See description under CIDA section.

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German Foundation for International Legal Cooperation (IRZ)	Institution Building (IB) Human Resources (HR) Jurisprudence (JU) Access to Justice (AJ)	2004-present	Support for the Policy and Legal Advice Centre and the Serbian Cartel Authority. Work with the Constitutional Court on its procedural rules. Assistance with legislation related to the administration of justice and access to justice. Training for Lawyers concerning applications to the European Court of Human Rights. Training on Internet Crime.
Gesellschaft für Technische Zusammenarbeit (GTZ)	Jurisprudence (JU) Human Resources (HR)	2001-present	“ <u>The GTZ Legal Reform project</u> ”. Work on the National Judicial Reform Strategy, and laws in the fields of insolvency bankruptcy, property, land registration, restitution, and enforcement. Conducted conferences, workshops and roundtables, and provided training for Judges, Lawyers, and civil society representatives.
	Jurisprudence (JU)	2001-present	“ <u>The GTZ Open Regional Fund for South East Europe – Legal Reform</u> ”. Work on economic laws (enforcement, bankruptcy, consumer protection, company law) and private international law in support of EU accession. Support for regional cooperation between responsible institutions, harmonisation of national laws, and exchange of regional experience through regional conferences and workshops. Support for curriculum development at the Judicial Training Centre.
International Centre for Migration Policy Development (ICMPD)	Human Recourses (HR)	2002-2004	Development of an Anti-Trafficking Training Module for Judges and Prosecutors. Provision of training for Judges and Prosecutors on human trafficking, and work to build the capacity for the provision of further training and the development of additional information resources in this field. Work in the region as well as Serbia.
	Information Resources (IR)	2004-present	“ <u>Programme for the Enhancement of Anti-trafficking Responses in South Eastern Europe – Data Collection and Information Management</u> ”. Improvement and harmonisation of data related to human trafficking. Development of a database on human trafficking, and measures to ensure its accessibility and use. Monitoring of information management concerning human trafficking.
National Center for State Courts (NCSC)	Court Management (CM) Human Resources (HR) Legal Education	2004-2006	“ <u>Serbian Rule of Law Project</u> ”. See description under USAID section.
	Court Management (CM) Human Resources (HR) Information Technology (IT)	2003-2004	“ <u>Assistance to the Special Courts</u> ”. See description under USAID section.
The Norwegian Government/ International Management Group	Court Management (CM) Information Resources (IR) Transparency of Court Operations.	2007-present	“ <u>Improving the Delivery of Justice in Courts in Serbia</u> ”. Worked with twenty Municipal Courts to 1) improve efficiency and accelerate the completion of cases (through improved statistics, better summons procedures, more organised handling of documents, and mediation), 2) improve coordination between the courts and their constituents (including individuals and other institutions), 3) promote transparency

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			through access to information and fair/equal treatment, and 4) improve court infrastructure through building projects. Now working with ten Municipal Courts and ten District Courts, focusing on anti-corruption and independent court budgeting. Work with Municipal and District Courts, Ministry of Justice, Supreme Court, Association of Judges, and Judicial Training Centre. Total funding of 8,673,040 Norwegian Krone for the first phase.
Open Society Fund	Institution Building (IB) Human Resources (HR)	2002	“ <u>Judicial Training Centre – Establishment and Capacity Building</u> ” Support to the Judicial Training Centre, including drafting of basic documents, staff development, procurement of equipment, assistance with fundraising, transfer of know-how, design and delivery of seminars and training, support for the Advisory Board and Programme Council, international cooperation and networking (including study visits to other training centres), and participation in annual conferences of OSI-supported training centre. Total funding of €70,000.
	Jurisprudence (JU)	2004-2007	Juvenile Justice. Reform of the system of choosing measures and imposing sanctions. Delivery of seminars around Serbia, to raise the skills of parties engaged in the juvenile justice system, including social centres, police, Prosecutors, special courts for juveniles, etc. and to promote the use of alternative sanctions.
Organisation for Security and Cooperation in Europe (OSCE)	Legal Framework (LF)	2002-2009	Technical assistance and advice for legislative drafting, review of draft laws, provision of information concerning best practices and expertise, organisation of study tours and events for working groups. Includes work on civil procedure code, criminal procedure code, war crimes law, enforcement of penal sanctions law and related by laws, execution of judgments, asset seizure, mediation, mutual legal assistance, witness protection, organised crime strategy.
	Human Resources (HR)	2003-2007	Increasing minority representation in the judiciary, through training of young lawyers in regions. Work with Ministry of Justice to expand diversity of Judicial Assistants. Training in regions, assistance with preparations for bar exams.
	Court Management (CM) Institution Building (IB)	2004-2009	Support to Constitutional Court and Supreme Court concerning their appellate procedures, case management, issuance of opinions, on-line functions, and media relations. Support for different courts throughout Serbia, including procurement of equipment, access to legal information via databases, provision of information to court users and the public (via websites). Trial monitoring and reporting on compliance with international standards. Capacity building of the High Judicial Council (2006-2007), including conferences on regional and European best practices, and study visit to selected jurisdictions.
	Institution Building (IB)	2002 – 2009	Work with Judicial Training Centre. Institutional support. Capacity development and managerial assistance. Delivery of training on numerous subjects, including criminal

Organisation for Security and Cooperation in Europe (OSCE)			and civil codes, execution of judgments. Delivery of training for newly appointed judges (with less than three years of experience). Assistance with setting up branch of JTC in Novi Sad. Capacity development and managerial assistance. Delivery of trainings for the members of the court guards on psychological approach to victims/witnesses family members and supporters of the accused in the courtroom public gallery.
	Institution Building (IB) Jurisprudence (JU)	2002-2009	Work with Association of Judges. Institutional support. Delivery of training. Organisation of conferences and seminars. Organisation of workshops on draft legislation. Work on the legal setting for professional associations. Funding for newsletter and website. Work with the War Crimes Prosecutors' Office and the War Crimes Trial Chamber. Delivery of training. Study visits to countries with comparative models. Funding the maintenance of websites.
	Institution Building (IB) Jurisprudence (JU)	2002-2009	Work with Association of Public Prosecutors and Deputy Public Prosecutors. Institutional support. Delivery of training. Organisation of conferences and seminars. Organisation of workshops on draft legislation. Funding for publications.
	Institution Building (IB) Jurisprudence (JU)	2002-2009	Support for penal institutions, including technical assistance, staff training, organisation of events, and provision of information. Promotion of penal reform and alternative sentencing, promotion of transparency and accountability. Establishing a Prison Training Centre and two drug free units in prisons. Work on alternative sentencing. Supporting prosecution for war crimes. Fighting economic crime and cross-border crime.
	Transparency and Anti-Corruption (TC)	2005-2009	Support for drafting of anti-corruption legislation and development and implementation of anti-corruption strategy. Organisation of trainings for judges and prosecutors to enhance financial investigations techniques and increase inter institutional cooperation both at local and central levels. Awareness raising concerning corruption issues. Collaboration with the Ministry of Justice.
Swedish International Development Agency (SIDA)	Institution Building (IB) Human Resources (HR) Jurisprudence (JU)	2000-present	The Swedish International Development Agency has provided institutional support to the Judicial Training Centre (see Section on UNDP). It has also worked to modernise public administration, reform the police force, improve juvenile justice, promote gender equality, support the human rights of minority groups, foster economic reforms, and protect the environment.
United Nations Development Programme (UNDP)	Institution Building (IB) Human Resources (HR)	2001-2006	Two projects to support the Judicial Training Centre: " <u>Development of a Centre for the Continuous Training of Judges and Prosecutors</u> " and " <u>Strengthening the Judicial Resource and Support Functions in the Judicial Training Centre</u> ". Establishment of the JTC, training of JTC staff, training of trainers, curriculum development, information management and setting up database, strengthening research capacity. In

United Nations Development Programme (UNDP)			co-operation with the Ministry of Justice. From 2001-2004 with financing from the Swedish International Development Agency and the Royal Netherlands Embassy in the amount of \$1,697,190. From 2004-2006 with financing from the Canadian International Development Agency in the amount of \$745,148.
	Information Resources (IR) Institution Building (IB)	2005	“ <u>Judicial Education for Development – Turn Guide</u> ”. Preparation of a comprehensive Guide for developing and implementing judicial training functions and building the capacity of judicial training institutions. Prepared for practitioners on a global scale, based on UNDP experience with the JTC in Serbia. Total funding of \$200,000 from UNDP.
	Jurisprudence (JU) Institution Building (IB)	2006-2010	Two projects to combat discrimination: “ <u>Developing a Comprehensive Framework for Preventing and Combating Discrimination</u> ” and “ <u>Support to the Implementation of Anti-Discrimination Legislation and Mediation</u> ”. Development of a legal framework for anti-discrimination and implementation specific legislation. Strengthening of institutions and raising public awareness. Promotion of mediation as a mechanism for dispute resolution. In cooperation with the Ministry of Human and Minority Rights, the Council of Europe, and the Ministry of Labour and Social Policy. Total funding for first project of \$410,000 provided by the European Agency for Reconstruction. Total funding for second project of €2,000,000 provided by the European Union.
	Court Management (CM) Human Resources (HR)	2004-2007	“ <u>Strengthening the System of Misdemeanours and Magistrates Courts</u> ”. Delineation of the legal status of magistrates through the improvement of governing regulations, promotion of their professional standards through a code of ethics, and the provision of training. Performed a functional review of the Ministry of Justice to enhance the efficiency of its operations and promote human resources development and to examine linkages between the Ministry of Justice and the Magistrates. Total funding of \$1,139,940 provided by the Swedish International Development Agency.
	Jurisprudence (JU) Information Resources (IR) Transparency (TC)	2005-2007	“ <u>Transitional Justice Programme</u> ”. Strengthening research, training and public information capacities of post-conflict social institutions to provide access to justice for past mistreatments. Total funding in the amount of \$2,732,000 provided by UNDP and the Royal Netherlands Embassy.
	Access to Justice (AJ) Legal Framework (LF) Institutional Framework (IF)	2007-2009	“ <u>Creating an Effective and Sustainable System of Providing Free Legal Aid</u> ”. Development of the institutional and legal framework for delivery of legal aid and assistance, and enhancing access to justice through funding (a Legal Aid Fund) and outreach to marginalised social groups. In cooperation with the Ministry of Justice and non-governmental actors. Total funding of \$1,200,000 provided by the Swedish International Development Agency.

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United Nations Development Programme (UNDP)	Human Resources (HR) Jurisprudence (JU)	2004	“ <u>Strengthening Human Rights Protection Mechanisms</u> ”. Enhanced application of international human rights standards, through work with the Judicial Training Centre, training for Judges and Prosecutors and a large public awareness campaign. Total funding of \$100,000 provided by UNDP.
	Jurisprudence (JU)	2008-2009	“ <u>War Crimes Trials and Notions of Justice</u> ”. Upgrading local and regional capacities in terms of outreach in the context of war crimes trials. Developing a methodology to impart expertise in outreach from the international sector to local stakeholders who lack experience in international law and proceedings, with the idea of creating a flexible and exportable outcome, while providing the international experts with ideas for better mechanisms to incorporate a localized approach in their own outreach efforts. In cooperation with the Judicial Training Centre. Total funding of \$296,000 provided by the Government of Romania.
United States Agency for International Development (USAID)	Court Management (CM) Human Resources (HR)	2008-2013	“ <u>Separation of Powers Program</u> ”. Implemented by the East West Management Institute. Work with the courts to improve court operations and management, improve case management, reduce case backlogs, and introduce position of Court Administrator. Introduction of a program-oriented budgeting and budget management system for the courts, and strengthening of budget and finance offices. Also includes assisting with the institutional development of the National Assembly and its staff to represent constituent interests and exercise oversight functions. Total funding of \$9,493,510.
	Jurisprudence (JU) Court Management (CM) Institution Building (IB)	2006-2010	“ <u>Bankruptcy and Enforcement Strengthening Activity</u> ”. Implemented by Booz Allen Hamilton. Improvement of legal framework for bankruptcy and for the enforcement of judgments. Work with Bankruptcy Supervision Agency and Privatization Agency Bankruptcy Unit to strengthen their capacity to implement new Law on Bankruptcy, collect statistics, and accelerate procedures for privatisation/reorganisation of insolvent companies (including State and Socially-Owned Enterprises). Improvement of the enforcement system for commercial court decisions, including non-judicial remedies and pre-judgment expedited procedures. Procurement of IT equipment and support for the Privatisation Agency Bankruptcy Unit. Publication of Creditors’ Bankruptcy Manual. Collaboration with the Ministry of Economy and Regional Development, Ministry of Justice, Ministry of Finance, and Commercial Courts. Total funding of \$9,425,948.
	Legal Framework (LF) Institutional Framework (IF) Institution Building (IB) Human Resources (HR)	2001-2009	“ <u>Development of the Rule of Law in Serbia</u> ”. Implemented by American Bar Association Rule of Law Initiative. Support for passage of key legislation governing the judiciary. Capacity development of the professional associations of Judges, Prosecutors, and Magistrates. Support for continuing education and development of

United States Agency for International Development (USAID)	Jurisprudence (JU)		legal professionals, including the provision of training and development of electronic learning solutions. Preparation of three editions of the Judicial Reform Index. Assistance with implementation of the Law on Access to Information. Work to prevent domestic violence and trafficking. Training on Mediation (Access to the Justice System). Training courses for Prosecutors concerning Code of Criminal Procedure. Collaboration with the Ministry of Justice, Courts, Judicial Training Centre, professional associations of Judges, Prosecutors, and Magistrates, law faculties, bar associations, etc. Total funding of \$8,700,000.
	Court Management (CM) Human Resources (HR) Legal Education	2004-2006	“ <u>Serbian Rule of Law Project</u> ”. Implemented by the National Center for State Courts (NCSC). Improvement of case management systems in the courts of general jurisdiction. Carried out studies concerning backlogs and how to reduce them. Implemented case management reforms in select pilot courts. Also helped improve the administration of law faculties, and deliver courses on legal ethics, legal research, and European Union law. Collaboration with the Ministry of Justice and courts of general jurisdiction. Total funding of \$3,486,594.
	Court Management (CM) Human Resources (HR) Information Technology (IT)	2003-2004	“ <u>Assistance to the Special Courts</u> ”. Implemented by the National Center for State Courts (NCSC). Provided case management software and IT equipment to the Belgrade District Court for War Crimes and organised crimes. Delivered training on change management and outreach to Judges, Prosecutors, and court staff. Designed a digital database to store evidence and transcripts of hearings and interviews. Total funding of \$1,298,544.
	Court Management (CM) Information Technology (IT) Information Resources (IR) Transparency and Anti-Corruption (TC)	2004-2008	“ <u>Commercial Court Administration Strengthening Activity (CCASA)</u> ”. Implemented by Booz Allen Hamilton. Improved operations of the High Commercial Court and 16 first instance Commercial Courts. Improved court operations, and developed and introduced case management system (including software solutions and delivery of training). Connected all commercial courts through computer network with 500 workstations, established electronic legal database, and put in place Case Data Collection Instrument to generate statistical reports. Improved transparency and accountability through a web portal enabled electronic information sharing system, linking the courts and public, and providing case listings, hearing schedules, and case statistics. Also provided IT and computer networking equipment for Commercial Courts. Work with Commercial Courts and media to improve outreach and communication. Reconstruction of Commercial Court Building in Novi Sad. Collaboration with the Ministry of Justice and Supreme Court. Total funding of \$13,721,445.

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United States Agency for International Development (USAID)	Human Recourses Development (HR)	2003-2006	<u>Training for Judges and court staff</u> , delivered through the Judicial Training Centre. Implemented by the USAID Economic Policy and Finance Division and under the Commercial Court Administration Strengthening Activity. Significant focus on commercial law training. Total funding of \$804,303.
United States Department of Justice (with OPDAT and the Regional Legal Advisor Office in Belgrade)	Legal Framework (LF) Human Resources (HR) Jurisprudence (JU)	2003-present	“ <u>Capacity Building of Serbian Authorities Combating Organized Crime</u> ”. Providing assistance with legislative drafting, training courses, equipment, and study visits for Judges, Prosecutors, and Witness Protection Police. The objective is to strengthen the capacity to investigate, prosecute, and adjudicate organised crime cases. Work with Judges handling organised crime cases, Prosecutors, and witness protection police.
	Legal Framework (LF) Human Resources (HR) Jurisprudence (JU)	2003-present	“ <u>Capacity Building of Serbian Authorities Processing war crimes</u> ”. Provided assistance with legislative drafting, training courses, equipment, regional conferences, and study visits for Judges and Prosecutors handling war crimes cases and the Special Court’s Victim/Witness Support Service. Also facilitated international legal assistance. The objective is to strengthen the capacity to investigate, prosecute, and adjudicate war crimes cases. Work with Judges and Prosecutors handling war crimes, and the Special Court's Victim/ Witness Support Service.
	Legal Framework (LF) Human Resources (HR) Institution Building (IB) Transparency and Anti-Corruption (TC)	2006-present	“ <u>Capacity Building of Serbian Authorities Combating Corruption</u> ”. Assisting with legislative drafting and providing legal advice concerning establishment of specialised anti-corruption departments at the main Prosecutor's Offices. Organising training and study visits for Prosecutors and Police engaged in fighting corruption, and also equipping Prosecutor's Offices. The objective is to strengthen the capacity to investigate, prosecute and adjudicate corruption cases. Work with the Republic Prosecutor's Office, specialized anti-corruption prosecutor's departments, other prosecutors and police
	Legal Framework (LF) Human Resources (HR) Institution Building (IB) Transparency and Anti-Corruption (TC)	2007-present	“ <u>Assistance to Criminal Justice Reform</u> ”. Assisting with legislative drafting and the implementation of laws relating to the criminal justice system (through training courses, and the donation of equipment). Work on the Criminal Procedure Code and Criminal Code. The objective is to strengthen the capacity of authorities to prosecute serious crime, including money laundering, financial crimes, trafficking in persons, cyber crime, etc. Work with the Ministry of Justice, Judges, and Prosecutors.
World Bank	Legal Framework (LF) Institutional Framework (IF) Institution Building (IB) Court Management (CM) Human Resources (HR)	2008-present	<u>Multi-Donor Trust Fund</u> . The MDTF brings together a large number of assistance providers, official Serbian institutions under the leadership of the Ministry of Justice, and Serbian institutions engaged in legal and judicial reforms. It is designed to implement the National Judicial Reform Strategy through identification, formulation, and support for implementation of specific initiatives. Subjects being addressed

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World Bank	Jurisprudence (JU) Access to Justice (AJ) Information Resources (IR) Transparency (TC)		include 1) institutional capacity, 2) resource management and aid capacity, 3) the legal and institutional environment for the judiciary, 4) judicial facilities, and 5) infrastructure, and outreach, monitoring, and evaluation.
	Institution Building (IB) Jurisprudence (JU) Dispute Settlement (DS)	2006-present	“ <u>Alternative Dispute Resolution Programme</u> ” and <u>Improvement of the Climate for Investment</u> ”. The objective of the ADR programme is to improve access to legal protections for businesses and individuals. Work to reform the legal framework for the enforcement of contracts, and procedures for the execution of judgements. Establishment of the Republic Centre for Mediation and a network of self-sustaining mediation centres in the Municipal, District, and Commercial Courts. Work to rationalise court administration. Provision of information concerning mediation, and provision of training for mediators, including training of trainers. Work carried out by the International Finance Corporation, as part of its Advisory Services, funded by the Government of the Netherlands, in cooperation with the courts and the Dispute Board Federation.

Appendix “B” Typology of Judicial Reform Initiatives

TYPOLGY OF JUDICIAL REFORM INITIATIVES

A. Legal Framework (LF)

1. Laws governing the judiciary and judicial institutions
2. Laws governing the structure of the court system (appellate jurisdiction and cassation, specialised courts, number of courts and their locations)
3. Laws governing court procedures, case procedures, and enforcement of judgments
4. Laws governing the legal profession (including rules of professional conduct)

B. Institutional Framework (IF)

1. Organisation and functions of ministries and governmental bodies
2. Organisation and functions of judicial bodies (responsible for selection/appointment, enforcement of rules, etc.)
3. Organisation and functions of Professional Associations (Judges, Prosecutors, Lawyers)
4. Miscellaneous “Juridical” Institutions (Constitutional Court, Penal and Correctional Institutions, Public Defenders, Ombudsmen, Law Faculties)

C. Institution Building/Strengthening/Capacity Development (IB)

1. Operational capacity of governmental, court, and juridical institutions (including ability to fulfil missions, organisational structures, governance, strategic planning, general management, human resources management, financial management, information management, provision of services to constituents, outreach, etc.)
2. Operational support (facilities, renovations, assets, office equipment, IT equipment, supplies)

D. Human Resources Development (HR)

1. Continuing professional formation and development of Judges, Prosecutors, Lawyers
2. Initial professional formation and development of Judges, Prosecutors, Lawyers
3. Continuing professional formation and development of court staff
4. Initial professional formation and development of court staff
5. Skills enhancement for government and ministry officials involved with judiciary
6. Legal education (Law Faculties)

E. Court Management and Operations (CM)

1. Court supervision (role of Court Presidents, Supreme Court, Ministry of Justice)
2. Court management (financial, administrative, human resources, property/assets, equipment)
3. Case management (filing, processing, documenting, electronic procedures, information management and utilisation, archives)
4. Providing services for legal professionals, litigants, general public
5. Legal remedies and enforcement of judgments

F. Jurisprudence (JU)

1. Application of international law (ECHR, ICCPR, etc.)
2. Improvement of specific substantive national laws (including regulations, codes, etc)
3. Uniform application of law, judicial decision-making, and legal certainty
4. Procedural due process (including jurisdiction, fair trials, time limits, appeals, etc.)

G. Access to the Justice System (AJ)

1. Protection of human rights, remedies for violation of rights,
2. Access to legal information
3. Access to legal assistance and counselling
4. Access to legal representation for court action and lawsuits

H. Dispute Settlement (DS)

1. Court-related dispute resolution
2. Alternative Dispute Resolution
3. Mediation

I. Information Technology (IT)

1. Computers, office and video conferencing equipment (procurement, installation)
2. Software solutions
3. Internet connectivity, electronic data retrieval, distance learning capacity

J. Information Resources (IR)

1. Legal Databases
2. Publication of court decisions
3. Access to and search-ability of legal information (including electronic mechanisms)

K. Transparency and Anti-Corruption (TC)

1. Public access to information about the judiciary and court procedures (including Public Relations and outreach activities such as websites, publications, use of media)
2. Public access to court services, and user-friendly court facilities/procedures
3. Litigant access to case-specific information
4. Enforcement of Rules of Professional Conduct (Judges, Prosecutors, Lawyers, Court staff, Government officials)
5. Measures to prevent, publicise, or prosecute corrupt practices

Appendix “C” Contact List (Parties Consulted)

ASSESSMENT OF INTERNATIONAL ASSISTANCE TO THE JUDICIARY IN THE REPUBLIC OF SERBIA CONTACT LIST			
	INSTITUTION	PERSON	TITLE
1.	Assistance to the Implementation of the National Judicial Reform Strategy (European Union)	Elli Xenou	Team Leader
2.	Assistance to the Implementation of the National Judicial Reform Strategy (European Union)	Stephanos Kareklas	Deputy Team Leader
3.	Assistance to the Implementation of the National Judicial Reform Strategy (European Union)	Aivars Ostapko	Project Expert
4.	Association of Public Prosecutors and Deputy Public Prosecutors	Marina Matić	Strategic Development Expert
5.	Bankruptcy and Enforcement Strengthening Activity	Milo Stevanović	Chief of Party
6.	Bankruptcy and Enforcement Strengthening Activity	Marc Lassman	Enforcement Advisor
7.	Bankruptcy and Enforcement Strengthening Activity	Ljiljana Urzikić Stankovic	Staff Lawyer
8.	Bar Association of Belgrade	Vojislav Nedić	President
9.	Bar Association of Belgrade	Jasmina M. Pavlović	Vice-President
10.	Bar Association of Belgrade	Suzana Cvetanović	HR Sector
11.	Canada Serbia Judicial Reform Project	Isabeau Vilandre	Country Project Director
12.	Commercial Court Belgrade	Stevo Djuranović	President of the Court
13.	Commercial Court Zaječar	Branislav Nedeljković	President of the Court
14.	Council Of Europe	Vladan Joksimović	Human Rights Advisor
15.	Council Of Europe	Maja Stojanović	Project Assistant
16.	Council Of Europe	Silvija Panovic- Đurić	Project Manager
17.	Delegation of the European Commission to the Republic of Serbia	Bogdan Turudija	Project Manager - Operations
18.	Delegation of the European Commission to the Republic of Serbia	Ana Tanasković	Assistant, Operations
19.	District Court Belgrade	Siniša Važić	President of the Court
20.	District Court Belgrade	Ivana Ramić	Spokesperson of the Court
21.	District Court Novi Pazar	Čamil Hubić	President of the Court
22.	District Court Special Department	Aleksandar Vujičić	Special Court Judge

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	for Suppression of Organised Crime		
23.	East West Management Institute (Serbia Separation of Powers Project)	Kenneth Stuart	Chief of Party
24.	Embassy of Canada	Srdan Svirčev	Counsellor Programme Officer
25.	GTZ	Thomas Meyer	Project Manager
26.	GTZ	Athenstaedt Christian	Project Manager
27.	GTZ	Ivanka Tirnanić	Project Manager
28.	International Management Group	Torgeir Hannas	Project Manager
29.	High Commercial Court	Branislava Goravica	Judge
30.	International Management Group	Halvor Gjengsto	Project Manager
31.	International Management Group	Aleksa Ognjanović	Project Officer
32.	International Management Group	Labud Raznatović	Project Officer
33.	Judges' Association of Serbia	Dragana Boljević	President
34.	Judges' Association of Serbia	Omer Hadžimerović	Deputy President
35.	Judicial Training Centre	Nenad Vujić	Director
36.	Ministry of Justice of the Republic of Serbia	Dragana Lukić	Special Advisor for EU Integration and International Projects
37.	Ministry of Justice of the Republic of Serbia	Stephane Thibault	Advisor on Judicial Reform
38.	Ministry of Justice of the Republic of Serbia	Slobodan Homen	State Secretary
39.	Ministry of Justice of the Republic of Serbia	Maja Matija Ristić	Ministry Secretary
40.	Municipal Court I Belgrade	Miodrag Majić	President of the Court
41.	Municipal Court I Belgrade	Tanja Bezmarević	Judge
42.	Municipal Court V Belgrade	Milica Popović-Đuričković	President of the Court
43.	Municipal Court Zrenjanin	Tatic Divna	President of the Court
44.	Organisation for Security and Cooperation in Europe	Mato Meyer	Legal Advisor on Judicial Reform
45.	Organisation for Security and Cooperation in Europe	Ivana Ramadanović Vainomaa	National Legal Advisor
46.	Organisation for Security and Cooperation in Europe	Borko Nikolić	Senior Legal Assistant
47.	Parliament of the Republic of Serbia	Boško Ristić	Chairman of the Committee on Justice and Administration
48.	Partners for Democratic Change – Serbia	Blažo Nedić	Director
49.	Public Prosecutor's Office of Belgrade	Goran Ilić	Public Prosecutor
50.	Public Prosecutor's Office of Belgrade	Svetlana Nenadić	Senior Assistant to Public Prosecutor
51.	Prosecutor for War crimes	Veselin Mrdak	Prosecutor

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52.	Prosecutor for Organised Crime	Dragojlo Stanković	Prosecutor
53.	United Nations Development Programme	Olivera Purić	Resident Representative
54.	United Nations Development Programme	Joanna Brooks	Project Coordinator Judicial Reform and Rule of Law Cluster
55.	United Nations Development Programme - Legislative Development Project	Natasa Rasić	Coordinator
56.	United States Agency for International Development	Ellen Kelly	Senior Rule of Law Advisor
57.	United States Agency for International Development	Jelena Bulatović	Banking and Finance Specialist
58.	United States Department of Justice	Eli Richardson	Regional Legal Advisor
59.	World Bank Belgrade	Lazar Sestović	Country Officer
60.	World Bank Belgrade	Alexandra Rabrenović	Consultant
61.	World Bank Washington DC	Robert N. Buerghenthal	Senior Counsel Justice Reform Legal Vice Presidency
62.	World Bank Washington DC	Klaus Decker	Counsel Justice Reform Practice Group Legal Vice Presidency
63.	World Bank Washington DC	Mikko Vayrynen	Consultant Poverty Reduction and Economic Management Unit
64.	World Bank Washington DC	Sayyora Umarova	Consultant Public Sector and Institutional Reform Cluster
65.	World Bank International Finance Corporation	Philip Condon	Head of Advisory Services for Southern Europe