

Report No. 42159-BG

**BULGARIA**  
**Resourcing the Judiciary for Performance  
and Accountability**

*A Judicial Public Expenditure and Institutional Review*

July 2008

**Poverty Reduction and Economic Management Unit  
Europe and Central Asia Region**



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## ABBREVIATIONS AND ACRONYMS

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ABA	American Bar Association
BEEPS	Business Environment and Enterprise Performance Survey
BFD	Budget and Finance Department
BUL	Bulgaria
CEELI	Central European and Eurasian Law Initiative
CEPEJ	European Commission for the Efficiency of Justice
DC	District Court
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ECA	Europe and Central Asia
EU	European Union
GDP	Gross Domestic Product
IT	Information Technology
IS	Information Systems
JSA	Judicial System Act
MOF	Ministry of Finance
MOJ	Ministry of Justice
MTEF	Medium Term Expenditure Framework
NAO	National Audit Office
NIJ	National Institute of Justice
NMS	New Member States
OECD	Organization for Economic Co-operation and Development
PER	Public Expenditure Review
PFM	Public Financial Management
PORB	Prosecution Office of the Republic of Bulgaria
RC	Regional Court
SAC	Supreme Administrative Court
SCC	Supreme Court of Cassation
SEE	South-East Europe
SJC	Supreme Judicial Council

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<b>Vice President:</b>	Shigeo Katsu
<b>Country Director:</b>	Orsalia Kalantzopoulos
<b>Sector Director:</b>	Luca Barbone
<b>Sector Manager:</b>	Ronald E. Myers
<b>Task Team Leader:</b>	Amitabha Mukherjee

# Bulgaria Judicial Public Expenditure and Institutional Review

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## EXECUTIVE SUMMARY

1. *The Setting.* Bulgaria's accession to the European Union (EU) on January 1, 2007 was preceded by important steps to modernize its judiciary. Significant Constitutional, legislative and procedural changes have impacted the judiciary's structure and functioning. These include (i) clarifying the responsibilities of the Supreme Judicial Council (SJC) and the Ministry of Justice (MOJ); (ii) increasing transparency in justice sector functioning; (iii) strengthening the Prosecution Office of the Republic of Bulgaria (PORB) and (iv) enforcing judicial decisions more effectively. In addition, policymakers' consistent commitment to improve judicial functioning has been reflected in increased budget allocations: significant amounts have been spent on salary increases for judges; training of judges, court staff, prosecutors and investigators; and judicial infrastructure (premises and information technology). Overall, though, the reforms have concentrated on legislative and procedural changes, while measures to improve judicial performance have so far been somewhat fragmented.

2. *Benchmarking Bulgaria's judiciary* indicates that overall it is comparable to other European countries in terms of resource indicators important for judicial functioning. Crucially, though, Bulgaria has a higher case inflow per capita than other new EU members—especially in regard to civil and administrative cases. While the funds appropriated by the legislature for Bulgaria's judiciary have been steadily increasing, they have mainly been used to raise and sustain judicial salaries. Legislative appropriations for needed capital expenditures have been consistently less than judiciary requests. This seems to have constrained judicial performance which shows modest improvements, but in some areas seems to be deteriorating, demonstrated by indicators pertaining to case disposition, case allocation, and average cost per case. This is also confirmed by survey evidence on how firms and the public view the performance of Bulgarian courts, both over time and comparatively in the region, with respect to efficiency and integrity.

3. Judicial reform therefore remains a key focus of Bulgaria's policymakers even after Bulgaria's accession to the EU. In view of weaknesses in the rule of law and the judicial system in particular, the European Commission introduced a special cooperation and verification mechanism to track Bulgaria's post-accession progress, elements of which relate to the judiciary. There have been conflicting opinions between the legislature, the executive and the judiciary on the reasons for slow progress on judicial performance and efficiency. However, policymakers across the three branches of state agree that consensus between all branches of the state on judicial modernization priorities, financing needs and performance benchmarks is now essential to accelerate, sustain and track progress on judicial performance.

4. *The institutional environment.* This report examines why, given the increasing resources allocated to the judiciary, there seem to have been only modest improvements in judicial performance. It lifts the veil on the conflicting opinions on the reasons for slow progress on performance and efficiency by analyzing the institutional environment within which the judiciary functions and the key incentives propelling the policy stances and actions of major institutional actors.

5. *A supply-demand approach* is then used to review the challenges behind improving judicial performance, focusing on resource allocation and management issues on the supply side and on case inflow on the demand side. This perspective enables consideration of both supply and demand issues

impacting judicial performance and offers an opportunity to suggest actions and policy responses that could enable policy makers to manage demand more effectively while strengthening access to justice.

6. *Examining the key supply factors.* On the supply side, resources have actually been flowing rapidly to the judiciary since 2003—suggesting improved financing over the period. Attention to the details of this financing, on both the revenue and expenditure sides is, however, warranted.

7. Public financial management systems have political, managerial and fiscal significance. There are many entities engaged in Bulgaria's judiciary's public financial management processes. Some process areas are not yet well represented or addressed, however, particularly the foundational strategic planning steps. The lack of a strategic budgeting element weakens the judiciary's ability to advocate for resources. It would be desirable to fill this systems gap by introducing a clear strategic planning process in the sector—especially for high-level policymakers. This could be followed by a more operational process in which all budget entities in the judiciary (including the courts) submit a strategic multi-year plan that shows their past performance against set criteria and identifies specific targets for performance improvement in the coming three years.

8. The new strategic planning processes will require high levels of collaboration from the key role players in the sector. Collaboration is also required in basic budget preparation itself, whether new strategic elements are introduced or not. In 2007 the SJC, MOJ and MOF began informal upstream consultations for the preparation of the 2008 budget – and this was reflected in the lowest variation in years between the MOJ budget request and the MOF opinion on that request. This process looks set to be repeated for the 2009 budget preparation process as well – and is a very welcome development.

9. It would be desirable for the SJC and MOJ to formalize a collaborative model through which they jointly prepare the judiciary's budget. There is significant room for a collaborative agreement to improve the system as it currently exists, starting with basic documents and processes. A more strategic set of budget preparation guidelines—jointly issued by the SJC and MOJ—is urgently required and could act as a crucial coordination mechanism. Improved guidelines will also allow more constructive budget negotiations. A more strategic approach to budget preparation can improve budget quality—enhancing the judiciary's ability to advocate for resources.

10. Capacity to budget for capital spending will need improvement. It would also be desirable to strengthen capital management capacity, covering long-term capital planning, developing realistic and targeted budgets, assessing the validity of capital spending requests, contracting documents pertaining to capital projects, managing project procurement and execution, project oversight, developing and maintaining a facilities and project database, and reporting on facility quality. The MOJ may not be able to perform all the required functions on its own—thus a partnership-cum-capacity building approach could split responsibilities across relevant actors.

11. There are some concerns about cash management processes. Consistent answers do not seem to be available about how cash is distributed across first and second level spending units, and how own revenues (such as court fees) are collected and transferred to the SJC (which is a requirement). National Audit Office reports suggest that such processes are not standardized for budget users and that system variation does raise concerns about inefficient resource use and accountability breakdowns. Similar concerns have been raised regarding procurement practices. There appears to be significant scope to improve procurement transparency and efficiency.

12. Personnel management policies and processes also seem quite ad hoc, even though there is a perception of central control. Evidence indicates that personnel management conditions are highly

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decentralized. A central review of staffing and remuneration variations and the development of a clear judicial personnel management regime is strongly suggested. Accounting, accountability and management functions also require strengthening. Recent steps to strengthen these functions are strongly endorsed.

13. Expenditure patterns do matter, however, and there are various opportunities for improvement in Bulgaria's judicial sector. Salaries and other staffing expenditures have been protected, but other items have not.

14. Staff numbers have risen rapidly, contributing to the increased personnel expenditures. The increased staff numbers have certainly expanded the sector's ability to supply justice, though obviously at a cost. Salary increases have been an even bigger cost driver than new positions, however. These expenditures reflect a judicial strategy to expand human resource capacity, which appears to be purposeful and well-conceived. But evidence suggests unexplained variation in appointment decisions. In the absence of a weighted caseload formula, quantitative data seem to indicate that the creation of new judicial positions in courts tend to follow weak management, and that new positions are having a limited impact on results. Salary patterns also reveal less than purposeful variation.

15. It is a matter of concern that personnel expenditures are budgeted to continue increasing. It would be desirable to reconsider this approach and slow down personnel expenditure increases. In order to assess whether there is a need for further increasing the number of judicial personnel, it would be important to undertake an in-depth study of the human resource inputs required for processing different categories of cases. Such a study would identify appropriate norms (weighted caseload), which – in conjunction with projected trends in demand for judicial services – would provide a clearer notion of the appropriate levels of judicial staffing. In conjunction with statistical data on the size and composition of particular courts' caseload, the weighted caseload norms could also help to allocate staff positions among courts in a more strategic manner, targeted at reducing case backlogs and increasing efficiency in the administration of justice. Finally, weighted caseload norms may also form part of the performance framework for the justice sector.

16. In parallel, a review of personnel expenditure patterns across Bulgaria's judiciary would be helpful, whereby a benchmarking exercise relates caseload to allocated positions, actually filled positions, positions per square meter in housing facility, and to case completion ratios. Such an exercise could allow identification of those bodies and courts that are truly in need of more staff or higher salaries, and those where staff numbers and salary levels are not the major constraint. The exercise could also reveal which courts are struggling to fill positions and which courts appear to have a human resource management strategy that encourages performance.

17. Such a review could also inform a targeted approach to personnel spending in the sector, which is urgently needed. Reviewing personnel expenditures will also assist the sector to identify its capital needs. The authorities could gain a fresh understanding of judicial facilities needs through a review of why new positions are not being filled and why new staff numbers are not translating into improved case completion ratios.

18. Insufficient space is a concern that future budgets will need to address. Past capital budget requests have failed to justify requests for higher capital allocations. It is likely, though, that Bulgaria's judiciary actually required more facilities expenditure over the past decade, and a catch-up may be needed in future budgets consistent within the overall medium-term budget framework. The report suggests approaches to estimate facilities financing requirements.

19. The first step to improve capital budget requests involves being more realistic about how

much can be spent. The second step would require real prioritization, and the third would require improved advocacy of the request. Better arguments can be made for capital requests, even in the short-run. The basic approach involves showing how capital requests provide inputs that one can reasonably assume will improve performance and help the sector meet its objectives. This method would require that budget preparation teams actually use the management and performance metrics at their disposal—something not done in the past.

20. Beyond 2008-2009 this strategic approach could be formalized into a more programmatic budgeting method. A specific recommendation relates to the need for improved capital planning. There are a number of components the judiciary will need to put in place to develop a multi-year capital investment plan.

21. The potential contribution of information technology to judicial efficiency and performance is recognized by Bulgaria's policy makers. In the immediate term, it would be helpful for the MOJ to focus managerial, technical and financial resources to complete the four key application systems still under development. Several other actions – most already taken on board by the MOJ and SJC leadership – are clearly desirable. First, progress on standardization of business processes and technical infrastructure would strengthen provision of judicial services and judicial governance. Further standardization would be helpful in business processes, key application systems, data management and technical infrastructure. Second, urgent steps to strengthen the institutional capacity of the IT Department of the MOJ would be helpful. Third, it would be helpful for the MOJ to identify specific functions that could be outsourced. Even with outsourcing, however, the MOJ and judiciary would still need to maintain a core skill set on business analysis, system design, project management, contract management and vendor management. The MOJ and judiciary would benefit from a judiciary-wide policy to assist court managers in managing this special skill set. Fourth, it would be desirable to develop a human resource policy considerate of the existing market constraints for informatics professionals and appropriate incentives to guarantee a stable and high-skilled set of informatics personnel for the judiciary's IT needs. Lastly, launching a consultation process to update the IT Strategy for the judiciary could significantly contribute to consensus-based system improvement.

22. The national budget increasingly resources the judiciary—with judicial own revenues playing a diminishing role. The decreasing own revenue share reflects policies promoting access to justice, but these policies also impact the relationship between judicial demand and supply. The data suggests a significant gap between case demand and supply in Bulgaria. And this gap is influenced by the pricing effects of own revenue and central budget subsidy levels.

23. *Demand-side policy and process interventions* now need to be systematically considered by Bulgaria's policy makers to complement supply-side actions to improve judicial performance and efficiency. Demand-side interventions could take two complementary and mutually reinforcing forms:

- On the policy front, it would be desirable for the SJC to commission a 'demand management analysis' to review the structure and level of judicial fees and other sources of judiciary own revenues. The results could facilitate formulation of a policy that could permit adjustment of the levels of fees and other charges and thereby manage the explosive rise in the filing and inflow of civil and administrative cases, using higher fees to restrict or reduce the inflow of high-volume small-value cases which may be clogging judicial dockets. Such an analysis could also reveal a need to introduce additional mediation practices for certain categories of cases (e.g. those that have seen major increases in past years such as some appeals in tax cases, traffic fine challenges, and actions firms bring against small debtors) out of the judicial system and perhaps into an administrative or quasi-judicial forum. The argument is strengthened by evidence of a correlation between collected

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court fees and caseload.

- In parallel, on the process side, the executive will need to ensure that access to justice, especially for the poor and vulnerable, is strengthened, including through subsidized legal aid arrangements for eligible categories of litigants. The MOJ has begun an initiative on this, including provision of legal aid in criminal cases and some categories of civil cases. This is very welcome and needs to be scaled up as rapidly as possible, especially in rural and remote areas of Bulgaria.

24. *Monitoring progress.* Based on the analysis in the report and examples of indicators, it would be feasible for the judiciary to agree on a set of core indicators to track progress on judicial performance and efficiency. A mix of indicators is suggested, comprising (a) indicators internal to each of the three elements of the judiciary<sup>1</sup> and those external<sup>2</sup> to them, and (b) indicators for the system as a whole and also those focusing on individual courts. Other indicators that track system conditions would also form part of the indicator set. All of these are supply-side indicators as they focus on the supply of judicial services. It would be desirable to complement the supply-side indicators with a set of demand-based indicators, such as those in Table 1 at system and individual court levels. This set could also include additional survey-based indicators on the efficacy of legal aid and user-provided feedback on issues such as access to, quality of and satisfaction with judicial services.

25. *A performance framework for the judiciary.* Together such an indicator set could constitute a performance framework for the judiciary to track the impact of reform and modernization actions. Published and updated on an annual basis, the performance framework would be a powerful tool for the judiciary to strengthen its advocacy for resources and demonstrate its commitment to performance and accountability.

26. *A different approach.* Overall, therefore, improving judicial performance now requires a shift from increasing the overall level of resources to approaches that do not increase the burden on the central budget. The key challenge now confronting Bulgaria's judiciary is to build on the reforms so far by developing, financing and implementing a judiciary-wide modernization program to sustain the transformation and demonstrate impact through monitorable indicators of performance. The information and analysis in this report – much of it familiar to the leadership of Bulgaria's judiciary, executive and legislature- could facilitate a consensus between the three branches of power on the resources that the judiciary could realistically expect to receive, and on the results that it can be expected to achieve, given existing resource and capacity constraints. In this dialogue, an exclusive focus on judicial independence could risk diverting attention from concrete measures needed to ensure that the judiciary is adequately resourced and that mechanisms to ensure the efficient use of resources and improved performance are in place. Indeed, judicial independence is a fundamental principle guaranteed by the Constitution and laws of Bulgaria, and unconditionally respected with regard to the judiciary's adjudicative functions. However, sustained focus on the achievement of performance goals could have important potential long-term benefits for the judicial system, not only in terms of increased budgetary resources, but more importantly in terms of increased public trust and confidence.

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1 E.g. process-based indicators (average case disposition rates, timeliness of disposition); indicators pertaining to the efficiency of resource use (average cost per case disposed/decided); etc.

2 E.g. survey-based indicators such as those used in BEEPS pertaining to efficiency (speed), integrity (honesty/corruption); fairness and impartiality), cost (affordability) and whether the judiciary is considered a hindrance in doing business.

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# 1. BULGARIA'S JUDICIARY: THE SETTING & CONTEXT

## Background and Overview

**1.1 Bulgaria's accession to the European Union (EU) on January 1, 2007 was preceded by important steps to modernize its judiciary.** Chapter 6 of the Constitution deals with the judicial power, comprising of courts, prosecutors and investigators<sup>3</sup>, and specifies the functions and structure of its constituent elements (Box 1). Article 117 guarantees the functional and budgetary independence of the judiciary. The years preceding accession were notable for two phenomena in the justice sphere: (a) significant Constitutional, legislative and procedural changes aimed to improve the structure and functioning of the judiciary's constituent elements, and (b) a consistent commitment on the part of policymakers to improve the functioning of the judiciary, reflected in increasing budgetary resources allocated to it.

### Box 1. The Judiciary In Bulgaria

Justice is administered by the Supreme Court of Cassation (SCC), the Supreme Administrative Court (SAC), courts of appeal, courts of assizes, courts-martial and district courts. The SCC exercises supreme judicial oversight on the application of the law by all courts, while the SAC exercises supreme judicial oversight in respect of administrative justice and rules on challenges to the legality of acts of the Council of Ministers and individual ministers and of other acts established by a law<sup>7</sup>. The Prosecution Office ensures that legality is observed by: (i) bringing charges against criminal suspects and supporting such charges in criminal trials; (ii) overseeing the enforcement of penalties and other measures of compulsion; (iii) initiating the rescinding of illegitimate acts; and (iv) participating in civil and administrative suits whenever required to do so by law. Investigators perform the preliminary investigation in criminal cases. Bulgaria also has a Constitutional Court, which has ruled that it does not consider itself to be part of the judiciary (see Annex 1).

The governance of the judiciary is entrusted to a Supreme Judicial Council (SJC), chaired by the Minister of Justice, and responsible for recruitment, promotion, reassignment and discipline (including dismissal) of judicial branch personnel. The National Institute of Justice (NIJ), an independent entity, is responsible for the training function.

The judicial branch in 2007 employed about 13,650 personnel. These comprised 8,529 judges and their staff; 3,634 prosecutors and prosecution office staff; 1,362 investigators; 93 SJC staff and 50 NIJ staff. These numbers represent an overall increase of more than 30 percent compared to 2004.

Data Sources: Ministry of Justice; Prosecution Office of the Republic of Bulgaria.

**1.2 The Constitutional, legislative and procedural changes together constitute a significant package of reforms.** These included a new Judicial System Act (JSA) which, with the Constitution, constitutes the core legal framework for the administration of justice (Box 2).

<sup>3</sup> Chapter 6 of the Constitution ("Judicial Power") defines the judiciary as comprising judges, prosecutors and investigators. The term 'judiciary' is used in this sense throughout the report, unless stated otherwise.

# BULGARIA'S JUDICIARY: THE SETTING & CONTEXT

**1.3 In the run-up to EU accession, significant amounts were spent on raising judicial salaries; training judges, court staff, prosecutors and investigators; and upgrading information technology.**

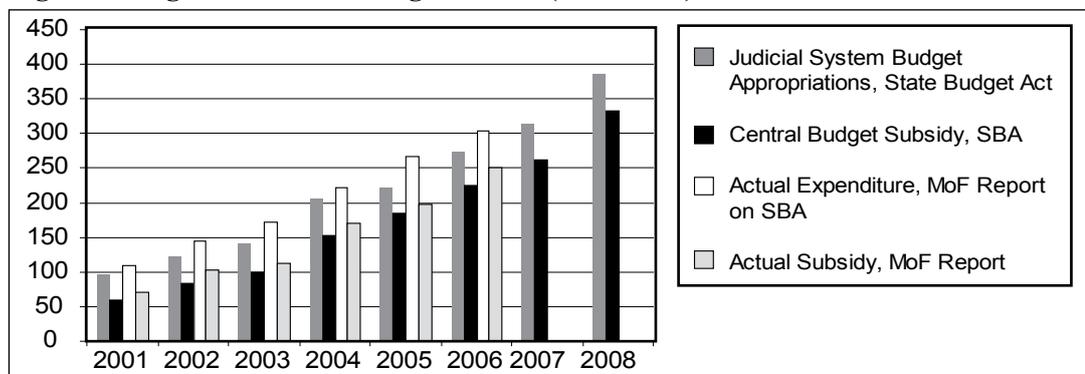
## Box 2. Bulgaria's Key Legal and Judicial Reforms

Bulgaria's most notable legal and judicial reform achievements to date include the following:

- A new **Criminal Procedure Code**, adopted in 2005, which simplifies pre-trial procedures and addresses functional overlaps between prosecutors, investigating magistrates and police investigators. The role of investigating magistrates has been limited, with many functions transferred to the police. This reform, in conjunction with a new fast-track procedure introduced in 2006, aims to expedite the pre-trial phase of criminal cases.
- A separate system of **administrative courts** was created following the adoption of a new Code of Administrative Procedure and changes to the JSA in 2006. 28 new regional administrative courts started operating in 2007. They are expected to alleviate district and regional courts' caseloads in light of the increased inflow of administrative cases.
- The procedures for **recruitment into the judiciary** and criteria for **magistrates' performance appraisal** have been improved. General centralized competitions for initial recruitment into the judiciary have been held since 2004, but direct appointments to judicial posts also continued until 2006, thereby preserving a parallel system of recruitment that allowed court presidents to exercise patronage. The 2006 JSA amendments limited entry-level recruitment to the judicial profession to candidates recruited through general competitions.
- The **enforcement of judicial decisions** has considerably improved following the introduction of private enforcement agents (bailiffs) to supplement the public bailiffs.
- Constitutional amendments in September 2003 and again in February 2007 further **limited the immunity of magistrates**.
- The quality of **judicial training** has improved since the NIJ was established in 2003. However, judges recruited through direct appointments did not undergo pre-service training.

Between 2001 and 2007, the judicial budget more than doubled in nominal terms – an increase of 223 percent, while actual expenditures increased by 180 percent between 2001 and 2006 (Figure 1).<sup>4</sup>

**Figure 1. Bulgaria: Judicial Budget Trends (2001-2008), BGN million**



Most of this increase was financed from the central budget, whose share in the judicial budget grew from 62 percent (2001) to 84 percent (2007). In 2007, the judiciary's budget allocation reached BGN313 million (about 2 percent of government expenditure and 0.6 percent of GDP), comprising BGN262.5 million from the budget and BGN50.5 million from the judiciary's own income from fees and other

<sup>4</sup> Source: SJC. However, Ministry of Finance data on budget execution indicate somewhat higher figures.

sources. In the 2008 budget approved by the Parliament in December 2007, the appropriation for the judiciary was BGN385 million (approximately 2.2 percent of government expenditures) – a nominal year-on-year increase of 23 percent.

**1.4 Personnel costs have absorbed most of the increased expenditure – mainly due to consecutive salary increases and, to a lesser extent, an expansion in staff numbers.** Judicial salaries have increased to levels sufficient to attract young, well-qualified candidates and to retain experienced magistrates.<sup>5</sup> The average salary in the sector rose by 169 percent from 2001 to 2006 (from BGN435 to BGN1,173), with salary increases being the biggest driver of increased judicial expenditures. On the staffing front, overall judicial staffing rose by more than 30 percent between 2004 and 2007. The number of judges increased by 15 percent (257 new positions) and that of prosecutors doubled (513 new posts) between 2004 and 2006. During the same period the number of investigators declined by 43 percent due to the transfer of most investigative functions to the police. In 2006 some 500 investigators left the service to become prosecutors. Furthermore, SJC administrative capacity has been progressively strengthened: between 2003 and 2006, the number of SJC full-time staff almost doubled from 40 to 76.

**1.5 Weak enforcement of decisions has undermined confidence in the judiciary for years, but recent innovations to the enforcement regime have begun to yield results.** Bulgaria introduced private enforcement agents alongside public bailiffs in late 2006. The introduction of this system was assessed by the World Bank's 2006 Doing Business Report as one of the ten most successful reforms in the world. By end-2006, 168 private bailiffs were working in all judicial regions but two; these private bailiffs took on 37,280 cases, executed 5,500 and collected BGN90 million. The system's rapid development led to a considerable increase in the number of judicial decisions executed in 2007: data from the MOJ indicate that the 250 state bailiffs handled 2.25 times fewer cases than private agents, and their collection rate per case was one-fifth that of private agents. Increasing public and business satisfaction with private bailiffs' performance has led to higher demand for their services (80 more are being appointed) and fewer legal complaints about their functioning compared to state bailiffs. The new Code of Civil Procedure enlarges the competence of the private bailiffs to include the serving of documents – this is also contributing to speeding up judicial processes. The assignation of public and private debt collection to private bailiffs is also under consideration; if this happens it could lead to the elimination of the State Receivable Agency and save taxpayer funds. The 2007 amendments to the Private Bailiffs Act clarified ambiguities in the legal regulation of private bailiffs, established a Chamber of Private Bailiffs (with a Discipline Commission on which the MOJ has 4 representatives), strengthened MOJ oversight (the Minister of Justice can directly submit cases of misconduct to the Commission for consideration) and introduced financial inspectors parallel to the existing judicial inspectors. The success of this initiative has prompted the MOJ to aim for 1 private bailiff per 30,000 inhabitants<sup>6</sup>.

**1.6 Overall, though, judicial performance and efficiency appear to have improved marginally: judicial reform hence remains a focus for Bulgaria and the EC.** The reforms were to an extent driven by the requirements for Bulgaria's accession to the EU. On the other hand, it has been argued that it has been difficult to translate the reforms into concrete results in terms of judicial performance and efficiency gains.

**1.7** On the eve of accession, the EC identified the justice system as an important area regarding Bulgaria's capacity to effectively implement its accession obligations. Therefore, it introduced a special cooperation and verification mechanism to track progress with reference to six benchmarks, of which three directly relate to the judiciary (Box 3).<sup>7</sup> The remaining benchmarks require decisive

<sup>5</sup> ABA CEELI, Judicial Reform Index for Bulgaria, April 2006, pp. 34-35

<sup>6</sup> Additional data on the impact of the introduction of bailiffs is at Annex Table 2 (source: MOJ).

<sup>7</sup> EC Decision of December 13, 2007. Such a mechanism was also introduced for Romania, which joined the EU at the same

action to combat organized crime and corruption, in which the judiciary also plays a part.

### Box 3. European Commission Benchmarks Relating to the Judiciary

- **Benchmark 1: Constitutional and legislative changes to remove ambiguities regarding the independence and accountability of the judiciary.** In particular, this benchmark requires the Bulgarian authorities to (a) adopt relevant amendments to the Constitution; (b) amend the JSA; and (c) establish the SJC Inspectorate and publish and evaluate inspection results.
- **Benchmark 2: Legislative changes to increase efficiency and transparency in the judicial system.** In particular, this benchmark requires the Bulgarian authorities to: (a) adopt a new Civil Procedure Code; (b) amend the JSA in line with experts' recommendations; (c) establish a monitoring system for all new Codes; (d) report regularly on the findings of the monitoring process, especially regarding the pre-trial phase and the execution of judgments; and (e) amend other legislation as necessary.
- **Benchmark 3: Continuation of reforms to increase professionalism, accountability and efficiency in the judicial system.** This benchmark requires the Bulgarian authorities to : (a) establish a transparent decision-making process on disciplinary investigations undertaken by the SJC Inspectorate; (b) ensure the application of the Code of Ethics for magistrates; (c) monitor the systems for the competitive recruitment and performance evaluation of magistrates; (d) publish annual evaluation reports on the impact of judicial reform with particular focus on issues related to judicial professionalism, accountability, and efficiency; (e) introduce random case allocation software in the prosecution service; and (f) enhance training on the implications of the new legislation.

**1.8 The first EC Report on the cooperation and verification mechanism, of June 2007, acknowledged Bulgaria's commitment to judicial reform, but called for reform efforts to continue<sup>8</sup> – the June 2008 EC Report will be important for Bulgaria.** The EC interim report issued in February 2008 notes several steps that the Bulgarian authorities undertook to meet the benchmarks, while reserving more substantive conclusions on actual results for the next report due in June 2008. In particular, the interim report refers to the adoption of the new Civil Procedure Code as well as a new JSA in 2007<sup>9</sup>, which *inter alia* established the SJC as a permanent body and clarified the responsibilities of the MOJ Inspectorate and the new Inspectorate with the SJC.<sup>10</sup>

**1.9 There are conflicting opinions on the reasons for slow progress on performance and efficiency.** Bulgaria's judiciary argues that (a) chronic under-resourcing continues, and still constrains judicial performance, and (b) expectations arising from EU accession for more effective judicial performance will continue to require sustained increases in the judiciary's budget to perform to enhanced standards. At the same time, pressure is mounting on the judiciary to demonstrate clearer links between justice sector policies, budgets and outcomes. Analysts can find a long history of differences of opinion between the three branches of the state over the governance arrangements for the judiciary; the performance and accountability implications of the judiciary's functional and budgetary independence; and on the delineation of prerogatives and responsibilities for budget formulation, execution and oversight.

**1.10 Bulgarian policy-makers agree that consensus between the three branches of the state on judicial modernization priorities, financing needs and performance benchmarks is now essential.** The Bulgarian authorities requested World Bank support to analyze the increase in the resources allocated to the judiciary and nature and extent of improvements in judicial performance. In particular, they requested that the analysis (i) review the links between judicial resource allocations, incentives and performance, and (ii) identify institutional issues to be addressed for Bulgaria's

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time as Bulgaria.

8 The European Commission, "Communication from the Commission to the Council and the European Parliament: Report on Bulgaria's progress on accompanying measures following Accession", June 27, 2007.

9 Published in the State Gazette No. 64/7 August 2007.

10 European Commission, "Interim Report from the Commission to the European Parliament and the Council On Progress in Bulgaria under the Cooperation and Verification Mechanism", February 4, 2008.

judiciary to set itself on a trajectory which, through the achievement of verifiable benchmarks, could sustain efficiency and performance improvements.

**1.11 The objective of this report is to suggest options for Bulgaria's policymakers for more efficient and effective management and use of resources to strengthen judicial performance and accountability.** This report reviews selected judicial budget, human resource, incentive and infrastructure issues; suggests a process to strengthen management of judicial resources; and proposes some benchmarks to track progress on performance and efficiency. The key audience comprises policy-makers in the SJC, the MOJ, the Ministry of Finance (MOF) and the National Assembly.

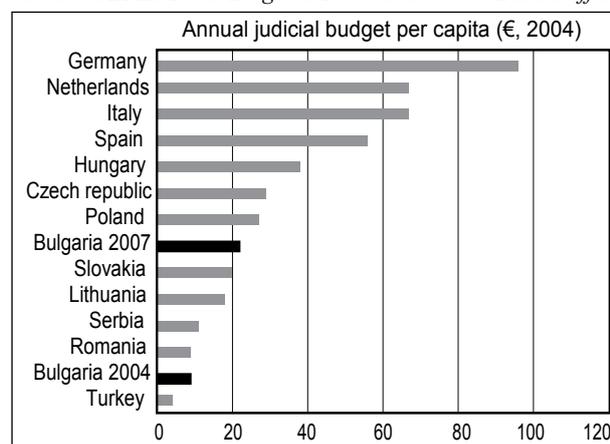
## Benchmarking Bulgaria's Judiciary

**1.12** Against the above backdrop, this section attempts to benchmark Bulgaria's judiciary on selected aspects of resourcing and performance.

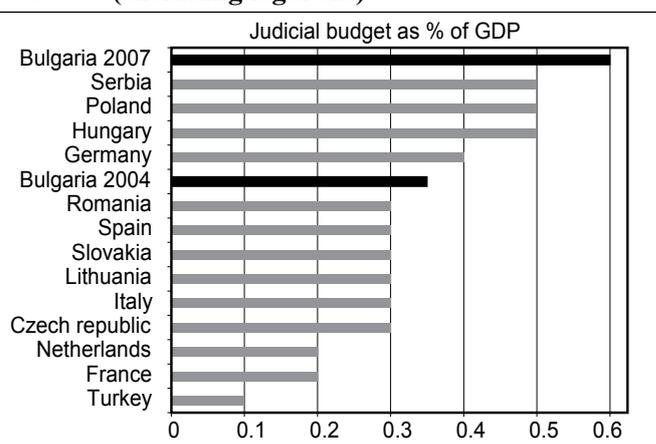
**1.13 Bulgaria compares increasingly favorably with European countries in terms of annual judicial budget per capita and spending on the judiciary as a percent of GDP.** Bulgaria's spending on the judiciary in nominal terms per capita has been rising and is now 'middling' compared to other European countries (Figure 2). This is perhaps not surprising given that Bulgaria has a lower income per capita than most EU members. And Bulgaria's spending on the judiciary as a share of GDP compares favorably with other European countries (Figure 3). It is important to enter a caveat here: the latest data available for the countries come from the 2006 CEPEJ report and relate to 2004 while both 2004 and 2007 data have been used for Bulgaria. Nevertheless, the comparisons remain relevant because in the 'older' EU member states such data tend to be relatively stable over time.

**Figure 2. Judicial Budgets (excluding legal aid)**

Source: CEPEJ 2006. Bulgaria 2007 data: World Bank staff estimates



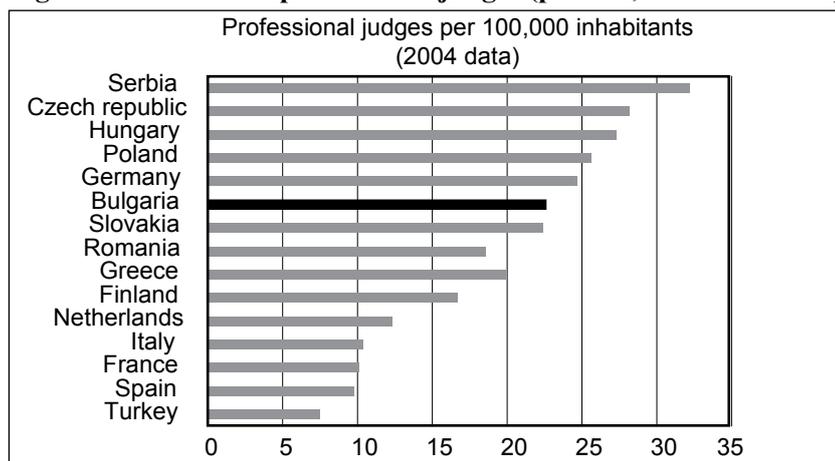
**Figure 3. Spending on the Judiciary (excluding legal aid)**



**1.14 Judicial recruitment has increased: judiciary staffing levels currently compare well with other European countries** (Figure 4). However, caution is warranted here. First, the definition and composition of the judiciary varies across countries and limits the utility of broad cross-country staffing comparisons. Second, staffing level comparisons do not imply that a higher ratio of judges to population is necessarily a 'positive' indicator of performance or reform. All the countries in Figure 4 are new EU member states except for Germany, and it is possible that some of these countries may have too many judges in relation to judicial needs.

# BULGARIA'S JUDICIARY: THE SETTING & CONTEXT

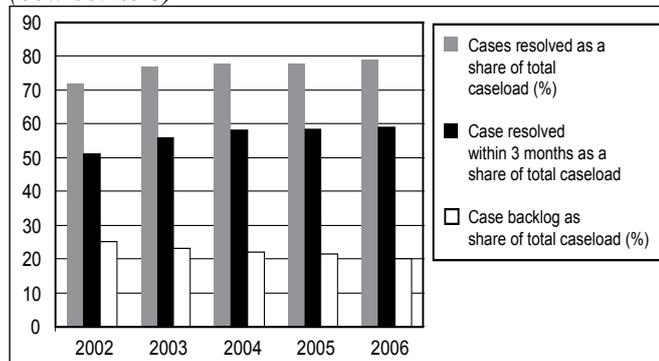
**Figure 4. Number of professional judges (per 100,000 inhabitants)** *Source: CEPEJ 2006*



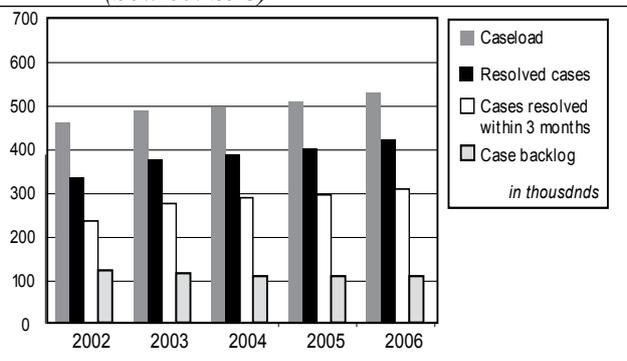
**1.15 Reform efforts and increased resources resulted in modest improvements in courts' effectiveness in terms of case disposition.** Between 2002 and 2006, the following positive trends can be discerned (Figures 5 and 6):

- Despite a 13.7 percent increase in overall annual caseload, the annual number of resolved cases increased by 25.5 percent;
- The rate of case disposition increased from 72 percent to 79 percent;
- The annual number of cases resolved within 3 months increased from 51 percent of all cases to 59 percent in 2006; and
- The annual backlog decreased from 25 percent of cases in 2002 to 20 percent in 2006. Cumulatively, the backlog was reduced by 8.4 percent.

**Figure 5. Trends in Case Disposition 2002-2006 (Except Supreme Courts)**  
*(Source: SJC)*



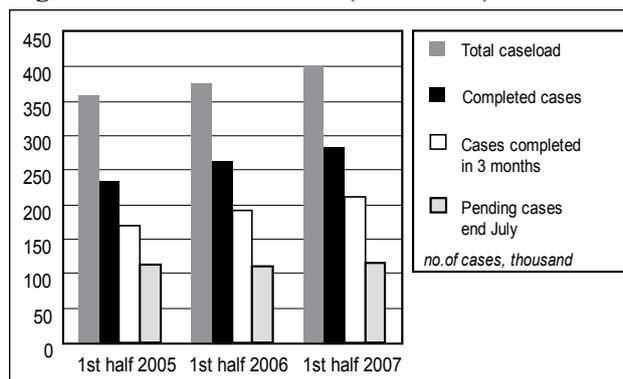
**Figure 6. Trends in Overall Caseload (Except Supreme Courts) 2002-2006**  
*(Source: SJC)*



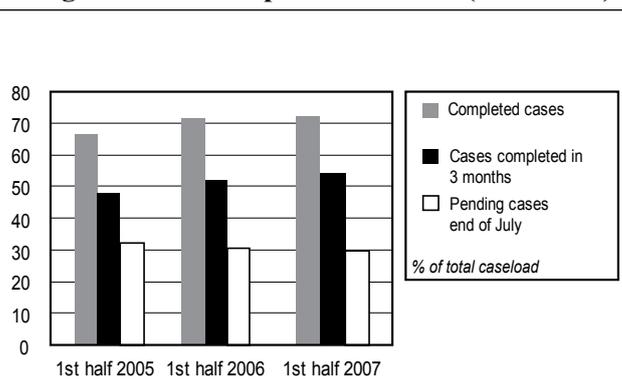
**1.16** Data for 2005-2007 indicate a continuation of the above trends (Figures 7 and 8):

- The courts' total caseload increased by 11.7 percent while the rate of case disposition increased from 65.3 percent to 70.7 percent of total caseload (with the share of cases completed within three months rising from 47.2 to 52.9 percent); and
- Though the total case backlog increased in nominal terms, their share of the total caseload declined from 31.6 to 29.2 percent.

**Figure 7. Caseload Trends (2005-2007)**



**Figure 8. Case Disposition Trends (2005-2007)**

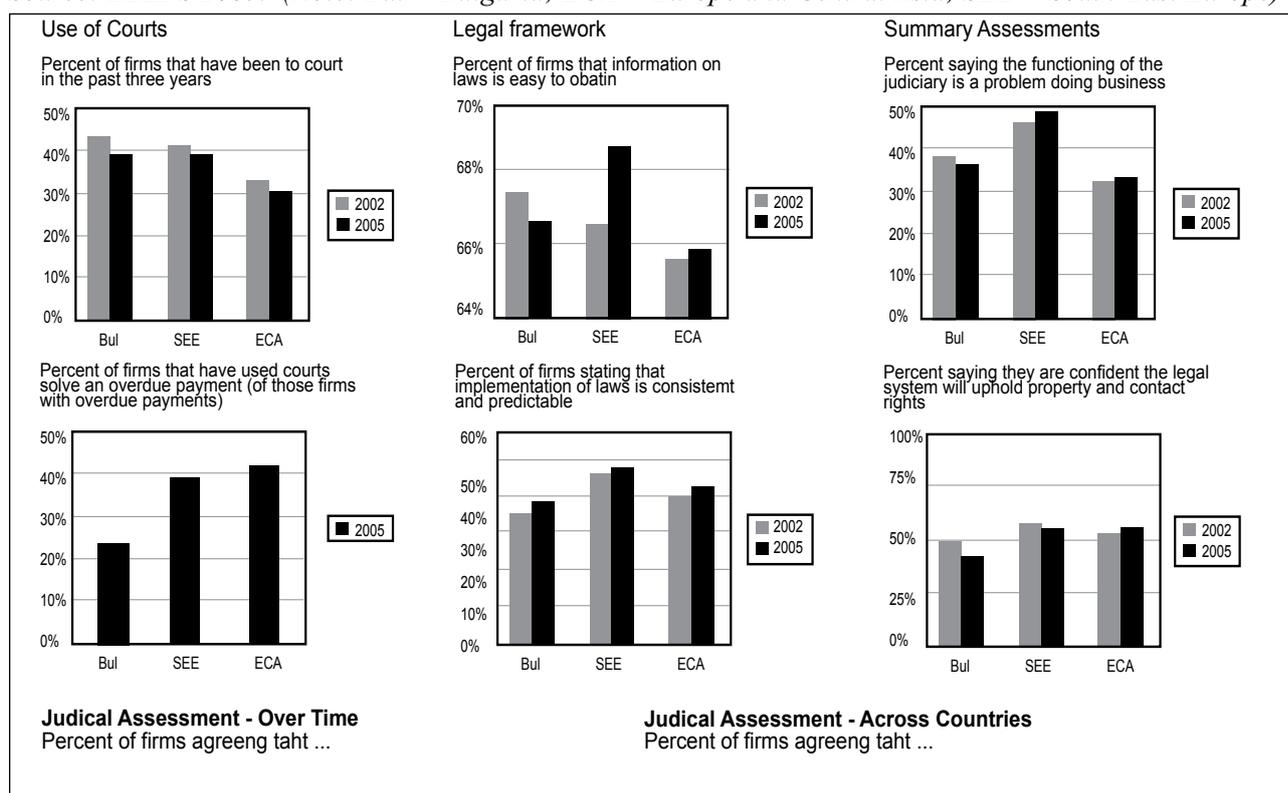


**1.17 Survey data reveal a mixed picture about judicial functioning and efficiency.** The most recent round of the World Bank-EBRD Business Environment and Enterprise Performance Survey conducted in 2005 (BEEPS 2005) discloses a mixed picture (Figure 9). On the positive side, compared to the region as a whole and also South East Europe (i) a higher proportion of Bulgarian firms have been to court in the past 3 years; (ii) a lower and declining proportion of firms in Bulgaria state that the functioning of the judiciary is a problem doing business; and (iii) a higher or similar proportion of Bulgarian firms state that courts are affordable, honest, uncorrupted and able to enforce their decisions.

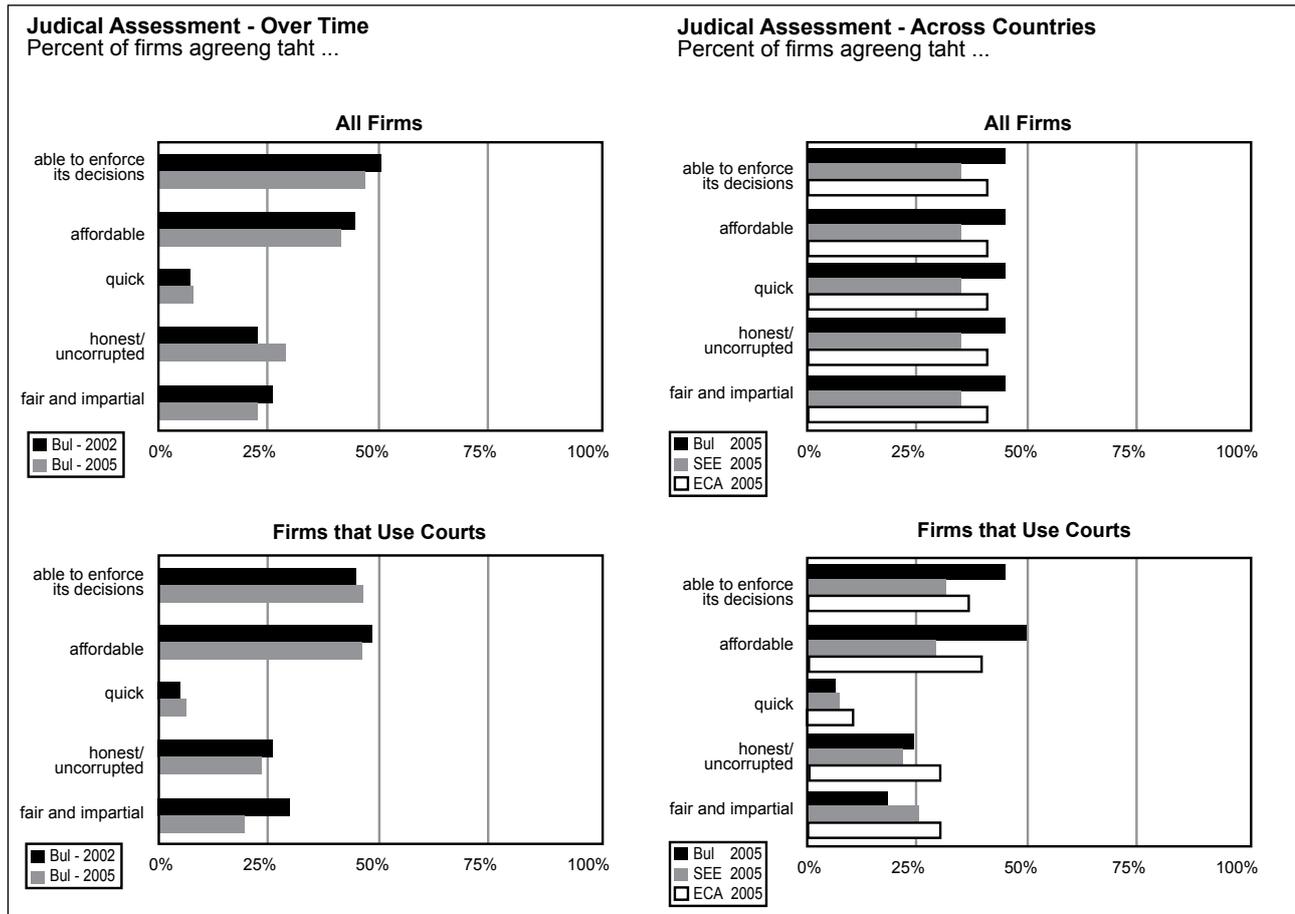
**1.18 Firms view specific aspects of the functioning of the judiciary in Bulgaria as a problem doing business – in particular its speed, fairness and impartiality.** It is instructive to compare the sample of all firms with the sample of only those firms that have used courts in the past year, which approximates the difference between the public perception of courts and the impact of judicial reforms on the users of the judiciary.

**Figure 9. Bulgaria: Firms' Responses on Legal and Judicial Issues**

Source: BEEPS 2005. (Note: Bul = Bulgaria; ECA = Europe and Central Asia; SEE = South-East Europe)



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**1.19 The speed of the judicial process - the biggest complaint in both samples - improved slightly from 2002 to 2005**, according to firms that have used courts. The perception of fairness and impartiality, however, has declined among both groups, and by a wider margin among the users of courts. On the other hand, the perception of corruption in the judiciary among all firms seems to have declined, but the opposite is true among the firms that use courts: a lower percentage of those firms in 2005 thought the courts were more honest and uncorrupted compared to 2002. This could imply that while the general image of judicial integrity may be improving, it has not yet translated into noticeable improvements for those who actually use the courts.

**1.20 In comparative terms, the performance of the Bulgarian courts appears to lag behind that of the EU8, though it tends to compare relatively well with Romania and other South East European countries**, according to both BEEPS 2005 and the *Doing Business* Report (2008). The tardiness of the courts comes to the forefront again as the main drawback of the Bulgarian judicial system compared to other countries.

**1.21 According to the 'Doing Business 2008' Report<sup>11</sup> Bulgaria was one of 14 countries globally that reformed contract enforcement in 2006-07.** Two key efficiency and governance-enhancing reforms comprised: (a) the introduction of private enforcement agents which contributed to a significant reduction of the time taken to enforce a contract (from 150 days in 2006 to 125 days in 2007); and (b) the introduction of random allocation of court cases which began to reduce judicial corruption.

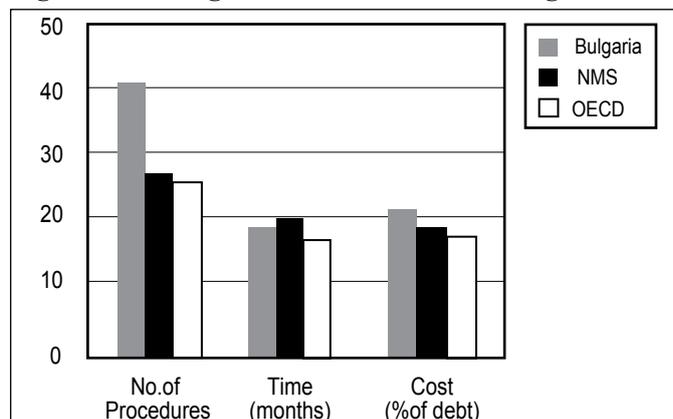
<sup>11</sup> 'Doing Business' is an annual World Bank report that presents quantitative indicators on business regulations and their enforcement across 178 countries. The enforcement of contracts is one aspect of the business environment assessed in the report. Indicators on enforcing contracts measure the efficiency of the judicial system in resolving a commercial dispute. The data are collected through study of the codes of civil procedure and other court regulations as well as surveys completed by local litigation lawyers (and, in a quarter of the countries, by judges as well). The 2008 Report is based on 2007 data.

**1.22 However, enforcing commercial contracts in Bulgaria remains more cumbersome and time-consuming than the average for European and OECD countries** (Figure 10). Enforcing contracts in Bulgaria requires more procedures and is costlier as a share of the disputed amount than the average in OECD countries and the new member states (NMS--all countries that acceded to the EU since 2004 excluding Cyprus and Malta), though somewhat quicker than the NMS average. And enforcing commercial debts through the courts in Bulgaria involves 40 procedures and takes 564 days on average, of which 105 is the average filing period, 334 days the average adjudication period, and 125 days the average enforcement period. A new Civil Procedure Code (CPC), which was enacted in July 2007 and became effective from March 1, 2008, addresses this issue, and the MOJ has established a Working Group chaired by a Deputy Minister to monitor its implementation. The MOJ believes that these measures will, over time, result in further efficiency in enforcing commercial debts. Overall, therefore, while the enforcement of court rulings seems to have accelerated, other indicators do not yet appear to show an improvement since 2003.

**1.23 The BEEPS and Doing Business indicators do not cover all aspects relevant in assessing judicial performance.** In particular, these indicators focus on the performance of the courts and do not consider the work of the prosecution and investigation services. It is precisely these branches of the judiciary, whose work is especially important in addressing the key weaknesses in combating corruption and organized crime, which are highlighted in EC reports. Moreover, the above indicators do not provide information on the professional competence of the judiciary, the quality of judicial decisions, judicial transparency or the accessibility of the justice system to the public at large.

**1.24** The most recent Judicial Reform Index by the American Bar Association Central European and Eurasian Law Initiative (ABA/CEELI) published in 2006 notes improvements in some aspects of transparency such as access of the public and the media to judicial proceedings, but finds no change in important aspects such as the publication of judicial decisions.<sup>12</sup>

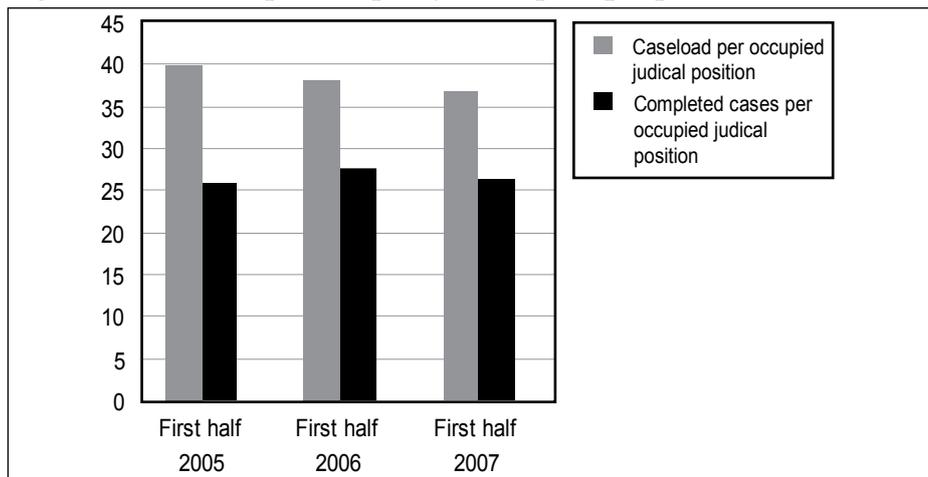
**Figure 10: Doing Business 2008 – Enforcing Contracts (Data for 2007)**



**1.25 The productivity of the courts overall does not seem to have increased.** Between 2004 and 2006, the average annual caseload per judge decreased from 372 to 343 cases (a drop of almost 8 percent), while the average number of completed cases per judge went down from 292 to 272 cases (a drop of almost 7 percent). In conjunction with the steady increase of judicial salaries and other budgetary allocations during this period, the average budgetary cost of resolving a case also increased. Data for the first half of 2007 indicate that the trend towards a decreasing caseload per judge continues with a drop of 7.5 percent between mid-2005 and mid-2007 (Figure 11).

<sup>12</sup> ABA/CEELI, Judicial Reform Index for Bulgaria, Volume III, April 2006, pp. 49-58.

**Figure 11: Caseload per occupied judicial post (per person month worked)**



**1.26 Average caseloads per judge vary widely between different types of courts and among individual courts.** The data suggest that courts whose judges face a lower caseload tend to have higher disposition rates (Military Courts, District Courts, Courts of Appeal), but the correlation is not symmetrical nor does it hold for all courts. For example, while judges of Regional Courts have a much higher average monthly workload compared to their peers in District Courts (in cities where there is a District Court), District Courts have only a marginally higher disposition rate compared to Regional Courts. In the case of Sofia, while the Regional Court has a higher average caseload per judge compared to the City Court, it [the Regional Court] also has the higher disposition rate (Box 4). The Administrative Courts, which started functioning from March 2007, have a low average caseload per judge (10.8 cases per month), but the share of cases completed within three months was 53 percent – the same as the average for Bulgarian courts as a whole for the first half of 2007. Their overall disposition rate (completed cases as a share of total caseload) of 57 percent was significantly lower than the average for all Bulgarian courts (70.7 percent for the first half of 2007). However, the low disposition rate may be due to common start-up problems such as insufficient space for hearings.

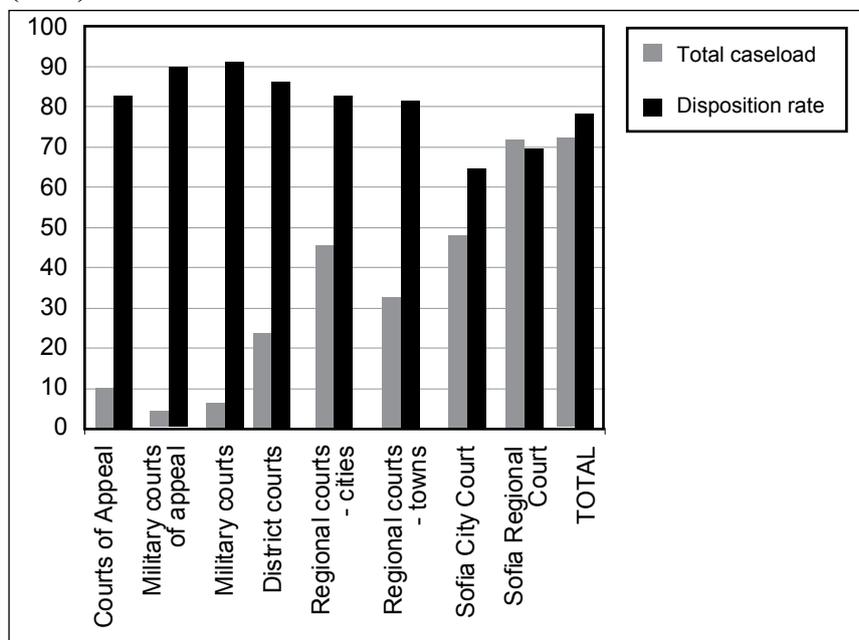
#### **Box 4. The Importance of the Sofia Regional Court**

Sofia's Regional Court has not been well-resourced in past years — receiving only one percent of the total court budget in 2006 (though it accounted for 13 percent of all cases). The court is difficult to manage—with a high caseload per judge and clerk, twice the proportion of unfilled positions as the national average and less than half the average space per staff member (compared with other regional courts in a select sample). It is not surprising that the number of hearings in the court has decreased in absolute terms since 2003 (from 91,000 to 81,000) and as a proportion of all hearings in the country. It is also not surprising that the court has a low case completion rate and even lower rate of cases completed in three months (a rate which has also decreased in absolute terms since 2003, from 32,000 per year to 22,000 per year). At the end of the year one fifth of Bulgaria's pending cases are in this court.

**1.27 Moreover, there are wide disparities in average caseloads per judge among courts of the same type, even among courts within the same judicial district, which seems to indicate inefficiencies in the allocation of judicial posts.** For example, while the average monthly caseload per judge in Regional Courts is 31.6 cases, it varies from a low of 28.5 cases in Silistra RC to highs of 57 cases in the Sliven RC or 58.4 cases in the Razlog RC (Blagoevgrad judicial district). There are wide disparities even within the same judicial district due to a mismatch between courts' caseloads and the number of serving judges. For example, in Gabrovo district, the Dryanovo RC has two judges who have a caseload of 54 cases per month each; the Tryavna RC in the same district also has two

judges with a caseload of 26 cases per month each; and the Sevlievo RC in this district has six judges with a monthly caseload of 26 cases each. Such disparities can also be observed among District Courts, from a low of 11.3 cases per judge per month in the Yambol DC to a high of 29.7 cases in the Varna DC.

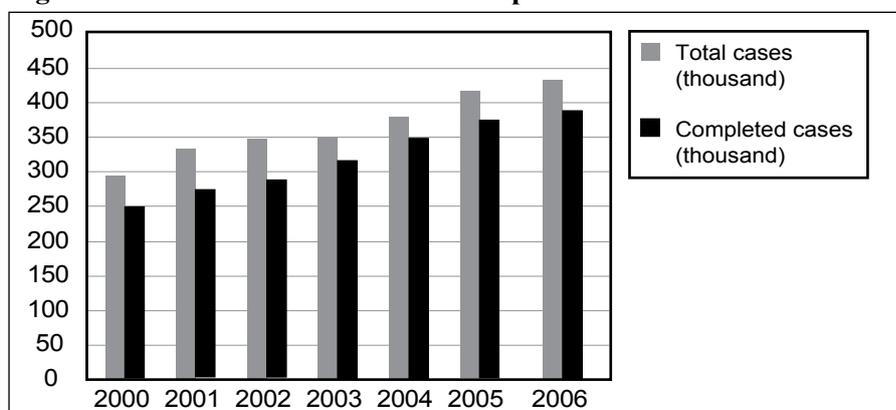
**Figure 12: Average monthly caseload per judge & average monthly case disposition rate by court type (2006)**



**1.28 Data on prosecutors depicts an increasing trend in caseload, and certain indicators suggest that the work of the prosecution has become more effective.** In particular, the following broad trends are evident:

- Between 2000 and 2006 the total PORB caseload increased by 49 percent, while the case completion rate within one year rose from 87 to 90 percent during this period;
- Between 2000 and 2005, the number of prosecution cases brought to court almost doubled (49 percent increase) and conviction rates increased from 71 percent in 2000 to 84.7 percent in 2005.<sup>13</sup>

**Figure 13: Trends in the caseload of the prosecution**



**1.29 The recruitment of a large number of former investigators as prosecutors in 2006 has led to a reduction in the average caseload per prosecutor, but there are wide differences in average**

<sup>13</sup> These rates are calculated as the ratio of defendants to convicted persons, as available data do not permit calculation of the rate of accusatory acts resulting in convictions.

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**caseloads of prosecutors across tiers of PORB offices.** Notwithstanding methodological difficulties in accurately calculating trends in average caseloads per prosecutor over time<sup>14</sup>, increased staffing appears to have significantly reduced the average number of cases a prosecutor works on per year, from over 371 in 2004 to 280 in 2006. At the same time, the average caseload per prosecutor reported by the PORB for 2006 varies from one prosecution office to another at the same level. In addition, there is perhaps also justification for examining the high level of 722 cases per prosecutor in the Sofia Regional Prosecutor's Office. While data on timeframes for case completion are not available for all years, data for cases opened in 2006 show that a third were completed within 7 months, while 30 percent were pending after a year. This suggests that tardiness affects not only the courts but the judiciary more broadly. However, the high dependence of PORB work and success on efforts of the police and the investigation service makes it very difficult to assess PORB effectiveness in isolation.

**1.30 Data on average caseload per magistrate need to be treated with caution for individual performance review purposes.** In fact such data is being collected to monitor and track the impact on caseload due to the implementation of the new Codes of Criminal, Administrative and Civil Procedures. However it has been argued by the MOJ that this indicator is "significant in terms of career development of the magistrates" and that data on individual magistrates could be presented – including in comparison with data on "average caseload per court" and "average caseload for the country" - before the SJC Proposals and Attestation Committee for individual magistrates' performance evaluation and promotion. This approach is fraught with risk. It would be desirable to proceed cautiously and take account of the experience of EU and OECD member countries on this complex issue. Timely disposal of cases is also dealt with in the new JSA, which obliges all chief administrators of judicial entities to present to the SJC Inspectorate and the Minister of Justice, every six months, aggregate data on inflow, processing and disposal of cases and on 'acts...finally overruled by higher instances'. The MOJ rightly observes that this new provision now requires the development of uniform data collection and presentation standards and business processes, and that such data should ideally be integrated into a broader performance management framework for the judiciary.

**1.31 A framework and a methodology for weighted caseload analysis is now urgently needed to develop meaningful performance indicators for the judiciary.** Differences in the complexity of cases handled by different types of courts and PORB offices account for a considerable share of the variation in caseload data. However, the absence of a weighted caseload analysis, which could suggest appropriate average timeframes for the disposition of different categories of cases according to complexity, does not allow us to identify the relative importance of this factor on the efficiency of courts. The elaboration of a weighted caseload formula would allow the SJC to compare workloads more effectively and thereby make decisions on the allocation of judicial positions and financial resources to courts and PORB offices in a more strategic manner.

**1.32 In sum, while public funding for the Bulgarian judiciary has steadily increased, judicial performance seems to be showing modest improvements while in some areas it is perceived to be deteriorating.** This appears to be a key finding on the basis of quantitative indicators, such as rates of case disposition, overall caseload trends, increased budgetary provision versus declining average caseload per judge. These findings appear to be corroborated by survey evidence on how firms and the public in general view the performance of the judiciary with respect to efficiency and integrity.

**1.33 This discrepancy may be attributable to some extent to the time required for institutional reforms and investments, particularly in human resources, to take root and begin to demonstrate verifiable results.** For example, the administrative court system has been functioning for only a

<sup>14</sup> PORB data for some years report workloads as number of acts rather than cases per prosecutor. The EC Interim Report of February 2008 also points to insufficient reliable data particularly regarding the follow-up of cases in the pre-trial phase.

year: it would be unrealistic to expect the new system to be working at full capacity. The recent transfer of responsibility for business and real estate registration from courts to the executive may also show results in alleviating the workload of regional and district courts and thereby accelerate the administration of justice. Likewise, newly recruited magistrates may attain full effectiveness only after sufficient on-the-job experience. And new procedures may take some time before they are fully implemented and translated into more efficient judicial practices.

**1.34** However, perceptions about judicial functioning and efficiency appear to have generated questions about the advisability of further increases in the judicial budget without significant performance and accountability improvements. This skepticism is manifested in the substantial gap between resource requests by the judiciary and the budget appropriations approved by the National Assembly. The authorities are also under pressure from the public and the EU to deliver results in fighting crime and corruption.

**1.35** This chapter has summarized the status of judicial reforms and Bulgaria's position against its comparators on selected indicators of judicial resourcing and performance. The next chapter reviews the institutional environment within which the judiciary functions, setting the stage for examining the complex issue of the judiciary's resource management challenges.

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## 2. THE INSTITUTIONAL ENVIRONMENT

### Separation of Powers: A Summary Institutional Analysis

**2.1 The apparent tectonic collision in Bulgaria between the principles of judicial independence and accountability points to the need for a closer understanding of the judiciary’s institutional environment and dynamics.** This chapter examines the differing priorities, responsibilities, and incentives of the relevant institutional actors responsible for allocation and use of judicial resources. The first section considers the division of functions related to the governance of the judiciary with a special focus on resource allocation. The next section outlines the internal dynamics of the SJC to understand the considerations of the main interest groups within this body. The final section analyses the factors underlying the upward pressure on the judicial budget, particularly with regard to personnel costs – with particular focus on the courts.

**2.2 In Bulgaria, institutional arrangements for the governance and management of the ‘judicial power’ reflect the Constitutional guarantee of judicial independence.** Since its establishment in 1991 the SJC has been tasked with primary responsibility for judicial governance and therefore – to an important extent - for the performance of the judicial system. Its powers are broad and extend to issues of judicial policy, resource management, personnel and discipline (Box 5).

#### Box 5. Bulgaria’s Supreme Judicial Council

The Constitution lays down that the SJC is responsible for the governance and management of the judicial power. The composition of the SJC is governed by the JSA. Chaired by the Minister of Justice, its ex-officio members comprise the SCC and SAC Chairpersons; the Prosecutor General and the Head of the Investigation Service. The ex officio members are appointed by the president, on a motion from the Council, for seven-year terms. The 22 other SJC members are elected for five-year terms: 11 by the National Assembly and 11 by judiciary bodies. The latest amendments introduced a significant change by making the elected SJC members full-time and providing for leave of absence from their substantive appointments for the duration of their SJC term.

Core SJC powers and responsibilities pertain to:

- **Human resource policy and management:** The SJC approves judicial ethics regulations, sets standards for the appraisal of individual magistrates’ performance, and determines the content of judicial training – a responsibility shared with the MOJ. It also appoints, promotes, transfers, and dismisses judges, prosecutors, investigators and court administrative managers. It also decides the total number of posts for each judicial profession and the number of administrative personnel.
- **Budget and resource management:** The SJC submits the draft judicial budget (since 2007 without capital investment) to the Government (equivalent to the Cabinet in other countries) and executes the budget appropriated for the judiciary (except capital investments) by the State Budget Act. The SJC also has the authority to determine magistrates’ remuneration levels (with the exception of the highest and the lowest grades, which are fixed by law) and determine the allocation of resources (except capital investments) to individual spending units within the judiciary.

**2.3 Amendments to the Constitution in 2006 and 2007 altered the division of competencies**

**between the SJC and the executive, particularly with regard to budgetary powers and accountability for performance.** The Third Constitutional Amendment of 2006 limited the SJC's powers with regard to the management of judicial resources by transferring responsibility for the preparation of the draft judicial budget and the execution of the judiciary's capital expenditures to the MOJ. According to the Constitution, the SJC retains the authority to "adopt the draft budget of the judiciary" (Article 130.4), while the MOJ is responsible for proposing the draft budget and submitting to the SJC for consideration (Article 130a.1). As the amendments to the JSA were adopted in July 2006, the new budget process was applied for the first time in preparing the draft judiciary budget for 2008. The SJC's actual level of discretion in revising the draft budget prepared by the MOJ remains unclear.

**2.4 The Constitutional amendment of February 2007 aimed to strengthen judicial accountability without compromising judicial independence.** In particular, the amendment further qualified magistrates' immunity from criminal prosecution and introduced a requirement for the SJC to report annually on the activities of judicial bodies to Parliament. Importantly, it also sought to strengthen the judicial inspection function while safeguarding judicial independence by establishing an Inspectorate "with the SJC" with powers to inspect the administrative activities of judicial bodies; the processing of judicial cases and their disposition within legal deadlines; the enforcement of judicial acts; to approach relevant authorities in cases of violations of rules; to propose the imposition of disciplinary measures on magistrates; and to discuss the draft budget of the judiciary. Inspectors are elected by the National Assembly from among those complying with high-level qualification requirements laid down in the Constitution and the JSA. Thus, this Amendment transferred the inspection of judicial bodies from the MOJ to this Inspectorate "with the SJC", with the MOJ inspectorate responsible for oversight of state and private bailiffs and non-magistrate notaries.

**2.5 The judicial governance arrangements in Bulgaria combine elements of two major models found in Europe today:** the so-called Northern European and Southern European models<sup>15</sup> (Box 6). This is not surprising, given that the institutional development of the judiciary in Bulgaria has taken place during a period of considerable change in judicial governance, not only in Central and Eastern Europe, but throughout Europe. Since the late 1990s there has been a trend towards increasing judicial self-governance, when many European countries established Judicial Councils as self-governing judicial bodies, independent of the executive and the legislature, with the objective of guaranteeing judicial independence.

**2.6 Bulgaria's current judicial governance and management arrangements are still in flux and could be subject to further revisions, including through CC decisions.** The division of powers between the SJC and the MOJ with regard to budget preparation and the management of judicial property has been prone to changes, as the judiciary has contested, through the CC, legislation seeking to limit its autonomy in this area. The role of the CC as arbiter of such disputes throws light on its unique position in the Bulgarian state. Box 7 summarizes the CC's composition and role.

### **Box 6. The Comparative Context of Bulgaria's Judicial Governance Arrangements**

Though the functions of Judicial Councils and their inter-relationships with the executive and the legislature vary across European jurisdictions, the following two main models can be discerned:

- The Northern European model, where Judicial Councils have extensive functions in the day-to-day administration of justice as well as budgetary powers. The main focus of the Northern model is on strengthening judicial resource management and efficiency without compromising judicial independence. Under this model, Judicial Councils are responsible for the administrative provision of the courts, monitoring caseloads and quality standards, managing judicial facilities, court automation, and public information. In the Northern model, individual courts tend to have considerable operational autonomy. Judicial Councils' budgetary powers include budget preparation, resource allocation to judicial bodies, and accounting for

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expenditure. Budgets are typically prepared in close consultation with the Ministry of Finance and the Judicial Council in some countries explicitly contracts for ‘delivery of justice’ in the form of agreement on the number of cases to be decided with the resources allocated. The Judicial Council then contracts with individual courts for case disposal targets in relation to the resources to be allocated, with individual courts having considerable autonomy and flexibility in deciding the allocation of their resources between different expenditure categories. The executive (typically the Ministry of Justice) remains responsible for policy development in the justice sector, with Judicial Councils performing a consultative role. This model can be found in Denmark, Ireland, the Netherlands and Sweden.

- The Southern European model, where Judicial Councils tend to have considerable authority over personnel decisions in the judiciary, in particular recruitment, performance appraisal, promotions, discipline, training and career development. In some jurisdictions, e.g. Spain, the Judicial Council is also responsible for quality standards through the function of judicial inspection. The key objective of the Southern model is to protect and strengthen guarantees of judicial independence, which are typically enshrined in the Constitution. In the Southern model, responsibility for resource management rests with the executive, typically Ministries of Justice. This model characterizes most EU national jurisdictions, including Belgium, France, Italy, Portugal, and Spain as well as in several post-communist countries in Central Europe, including Poland, Slovakia and Romania.

Bulgaria is not the only country with a mixed institutional model. Other countries with institutional models combining elements of the Northern and Southern models include Estonia, Hungary, Norway, Lithuania and Slovenia. However, the extent of judicial budgetary independence in Bulgaria seems to be somewhat unique.

**2.7 The authority of the SJC to manage judicial resources – and of the National Assembly to adopt legislation on this issue – has a contested history.** The Third Amendment of 2006 had been interpreted by experts as going beyond the constitutional powers of the legislature. It had been argued that the National Assembly did not have the authority to introduce constitutional restraints to the powers of the SJC over the management of judicial resources. This argument was based on the interpretation that such a transfer of powers from the SJC to the MOJ would affect the balance of power between the judiciary and the executive and constituted a change in the “form of state structure or form of government”. According to the Constitution (Article 158.3), any such changes may be adopted only by a Grand National Assembly. In earlier cases, the CC has tended to uphold the judiciary’s arguments.<sup>16</sup> Some experts believe that the long history of disputes between the SJC and the MOJ over the judicial budget and management of assets with the CC as the arbiter is due to the vague formulation of the relevant Constitutional provisions that do not clearly specify and delimit executive and judicial competencies.

**2.8** However, this trend seemed to change in 2007. In May 2007 the Prosecutor General challenged the newly introduced Article 130a of the Constitution, which regulates the division of property management powers between the SJC and the MOJ, before the CC. The Prosecutor General argued that the principle of separation of powers required that MOJ competence should be understood to comprise only powers with regard to the immovable property of the judiciary, with movable assets being left within the powers of the SJC.

### **Box 7. Bulgaria’s Constitutional Court – A *Sui Generis* Entity**

The CC has held that it is not part of the judicial or any other branch of the Bulgarian state. It was established on October 3, 1991 by Chapter VIII of the Constitution and the Constitutional Court Act (1991) as an independent entity with the responsibility to guarantee the Constitution. Regulations on the organization of its activities are issued by the Court itself.

The CC is composed of 12 judges, one-third each appointed respectively by the National Assembly; the

<sup>16</sup> In 1992 and 1995 the Constitutional Court upheld the SJC’s independent budgetary authority by ruling that the executive may not alter the SJC budget request before it is submitted to Parliament nor hold budgetary accounts on behalf of the SJC. In 1999 (decision 01/99), the Court ruled that the provision of the Judicial Act that gave the MOJ responsibility for the management of judicial property was unconstitutional, since the Constitution required that the judiciary have an independent budget.

plenary session of the SCC and the SAC; and the President. The Court is a permanent body and its members are elected for 9-year terms of office. They must be legal experts with high professional and personal qualities and at least 15 years' relevant experience. They may not serve two consecutive terms. One-third of judges are renewed every three years by rotation to guard against excessive political influence by the political majority of the day.

The functions of the CC are exhaustively listed in Art. 149 of the Constitution and may not be amended by ordinary legislation. The most important of these is the authority to give binding interpretations of constitutional provisions; to exercise control over the constitutionality of laws, other parliamentary acts and legal acts promulgated by the President; and to rule on the compliance of the Constitution with international treaties prior to their ratification by Bulgaria. The CC also ascertains compliance of legislation with international legal standards, resolves competence disputes between the National Assembly, the President, and the Council of Ministers, and between central and local government bodies. It rules on the constitutionality of political parties and on the procedural validity of presidential and parliamentary elections. The CC hears cases of impeachment filed by the National Assembly against the President on the grounds of high treason or violation of the Constitution.

The CC is also authorized to resolve situations of constitutional relevance such as acceptance of the resignation of the President, the Vice-President or a constitutional judge; permanent failure of these state officials to exercise their official duties; and ineligibility or incompatibility of Members of Parliament. The CC alone has the authority to waive the immunity of constitutional judges.

The CC acts only on the initiative of constitutionally defined authorities (one-fifth of Members of Parliament, the President, the Council of Ministers, the SCC, the SAC, and the Prosecutor General). The Ombudsman may approach the CC only when constitutional rights of citizens have allegedly been abused by legislation. In cases of competence disputes among state authorities, central and local executive bodies have the right to approach the Court. The Constitution does not allow legal and natural persons (e.g. citizens and civil society organizations) to approach the Court on any ground.

CC decisions are final and binding on all citizens and state bodies, including the judiciary. The Court's authority to review the constitutionality of legislation extends to legislation enforced before the adoption of the current Constitution. However, the CC's powers do not apply to the acts of the SCC and the SAC or the acts of the executive branch of government.

**2.9 The 2007 Constitutional Court decision on management of judicial assets and resources, while significant, seems to leave room for future disputes and uncertainty.** The CC disagreed with the Prosecutor General's interpretation<sup>17</sup>. It ruled that property management was an executive function which included different actions, incapable of being exhaustively listed. The CC interpreted judicial property to comprise all categories of assets allocated to judicial entities. These assets were therefore state property subject to management by the Council of Ministers. On this basis, the CC ruled that the right of the MOJ under paragraph 2 of Article 130a to manage such property may not be restricted either to immovable, or to movable, property. The CC expressly stated that the constitutional limit to the management powers of the MOJ emanated from the interest of Bulgaria's citizens and society, which include a genuine separation of powers and an independent judiciary. According to the Court, judicial independence did not imply only non-interference in the adjudication of cases but also required financial security such that there was no possibility of the judiciary being influenced by the executive through the allocation or non-allocation of funds. The Court ruled that in order to execute its constitutional functions in appropriate and timely manner the judiciary must be given operational autonomy to spend funds according to its actual needs. The CC concluded that MOJ management powers over judicial property did not contradict judicial independence as long as they did not constitute an obstacle to the normal functioning of the judiciary, did not jeopardize the efficient exercise of its powers, and did not injure its independence.<sup>18</sup>

**2.10 Judicial budgetary independence has enabled the SJC to diverge from budgetary and**

<sup>17</sup> CC Decision No. 08/2007.

<sup>18</sup> The CC decision, by not establishing criteria to assess whether these conditions are respected in particular cases, seems to have left scope for future disputes and uncertainty.

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**performance monitoring practices applicable to other budgetary entities across government.** In view of the judiciary's budgetary independence, the SJC is not legally bound to comply with the budget circulars issued by the Ministry of Finance, which have only a recommendatory character in respect of the SJC. Unlike executive agencies, the judiciary's budget requests are not compulsorily limited by budget ceilings guided by the MOF's fiscal planning nor is it required to include performance information following the Government's adoption of program-based budgeting. In exercising its independent budgetary authority, the SJC has tended to request substantial year-on-year increases in budget allocations. And its autonomy in judicial budget execution has also led to a unique level of judicial flexibility in re-allocating budgetary funds among categories of expenditure to cover mid-year priorities, which is not possible for executive agencies.

**2.11 These practices have complicated the judiciary's relations with the executive and the legislature.** Concerns have been expressed about the judiciary's performance and ability to ensure efficient management of financial resources. On the other hand, the National Assembly's refusal to grant the judiciary the level of funding that the SJC deems necessary for the judiciary to exercise its functions more effectively appears to have fostered the perception among the judiciary that it remains under-resourced. At the same time, the institutional mechanisms to collect judicial statistics and inspect judicial offices have so far been too limited in scope to allow for meaningful tracking of performance.

**2.12 As a result, a significant gap appears to have emerged in recent years** between the perceptions of the judiciary, on the one hand, and those of the executive and the legislature, on the other, regarding the priorities required to improve judicial performance.

### Differing Incentives, Diverging Priorities

**2.13 From the SJC perspective, investing in human capital has taken priority over other resource inputs into the judicial system for the past few years.** Increasing staff numbers and raising salaries were considered necessary to redress the dire situation that emerged during Bulgaria's difficult transition in the 1990s, when magistrates' salaries – like those of other public employees -- declined in real terms and many magistrates left the judiciary for the private sector. Though minimum salaries for junior magistrates were set by law at double the average salary in the public sector, low pay was widely reported as a key factor undermining the judiciary's capacity to attract and retain qualified personnel and to maintain standards of ethical conduct.<sup>19</sup>

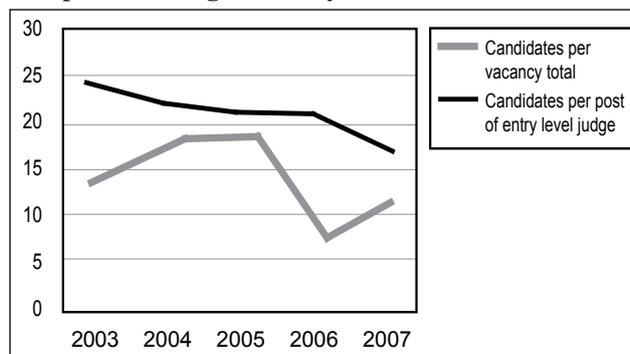
**2.14 Successive increases in personnel allocations and expenditures have allowed increased recruitment and raised judicial remuneration to levels deemed appropriate to attract and retain qualified personnel.** Bulgaria's judicial staffing indicators now compare favorably with other European countries. In parallel, consecutive salary increases, the major driver of increased personnel costs, have reportedly strengthened the judiciary's ability to attract and retain qualified staff. Anecdotal evidence indicates that the previous tendency of experienced magistrates leaving the profession for private legal practice appears to have been diminished and the appeal of a judicial career to law graduates has increased. Recent recruitment competitions for entry-level positions have reportedly attracted applications from highly qualified candidates.

**2.15 However, the number of candidates per judicial vacancy increased between 2003 and 2005, but has since declined, suggesting that the effect of higher salaries in attracting more (if not better) candidates to the judiciary might be somewhat overestimated.** Between 2003,

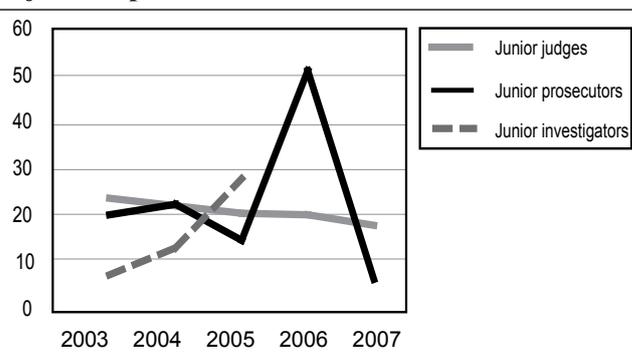
<sup>19</sup> World Bank, Bulgaria Judicial Assessment, March 1999, pp. 11-12; ABA CEELI, Judicial Reform Index for Bulgaria, July 2002, pp. 23-24

when centralized competitions organized by the SJC were first introduced, and 2005 the number of candidates per vacancy rose from 14 to 20 candidates. However, this ratio appears to have declined since. There were 8 candidates per vacancy in 2006, perhaps due to an unusually large recruitment for the new Administrative Courts, while preliminary data for 2007 point to a ratio of 11 candidates per vacancy (Figures 14 and 15).

**Figure 14: Candidates per vacancy in competitions organized by the SJC**



**Figure 15: Candidates per vacancy by judicial profession**



**2.16 The steady increase in the fiscal weight of the judicial wage bill has begun to raise concerns about affordability and sustainability.** Actual personnel costs rose by 208 percent in nominal terms between 2001 and 2006. The share of staff costs in the judicial budget has risen from 82 percent in 2001 to 85 percent in 2007 (but from 70 percent of actual expenditures in 2001 to 77 percent in 2006). Between 2004 and 2006 the average salary in the judiciary increased in nominal terms by 23 percent – a faster rate of increase compared to the earnings of other public employees, which grew by 16 percent during the same period.<sup>20</sup> This trend could pose three main risks – in terms of fiscal discipline in the judicial branch, the technical efficiency of judicial expenditures, and public perceptions of the judiciary.

**2.17 From the perspective of fiscal discipline, further substantial increases in the judicial wage bill could affect the sustainability of judicial expenditures, and also have longer-term implications including on pension liabilities.** Ensuring that the judicial wage bill is affordable and fiscally sustainable has so far been difficult due to the exemption of the judicial budget from the control mechanisms that the MOF exercises with regard to executive agencies. In view of its legal authority to determine personnel numbers and magistrates’ remuneration levels, the SJC has been able to budget for an increasing wage bill without regard to MOF guidelines which apply to the rest of the public sector. In addition, in recent years the SJC has granted mid-year salary increases (unforeseen in the budget), which have taken personnel costs over the ceiling set by the State Budget Act for this category of expenditure. By contrast, such *ad hoc* increases are not possible for executive agencies whose budget execution is subject to MOF oversight.

**2.18 Secondly, increased personnel expenditure could come to the detriment of other categories of expenditure, thereby undermining technical efficiency.** This principle is particularly important in considering which resource inputs could have the greatest potential to improve judicial performance. On the other hand, decisions to increase salaries and/or expand staff numbers may limit the judiciary’s flexibility in planning resource allocation in the future. Staffing and/or salary increases lead to increased recurrent costs, which are very hard to adjust in the short run except through staff attrition. Possibly, a reduction in the judiciary’s personnel costs could be achieved by transferring staff responsible for business and property registration as well as enforcement functions (recordation

<sup>20</sup> According to SJC data, the average monthly salary in the judicial system (including magistrates and administrative staff) rose from BGN953 (Euro 487) in 2004 to BGN1173 (€600) in 2006.

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and execution judges) to the executive.<sup>21</sup> But this would be a zero-sum game for the state budget as a whole. Otherwise, increases in expenditure categories, which may be required to improve the administration of justice, could occur only with further increases in the size of the judicial budget. For example, increased capital investment may be required for premises (e.g. to address the current shortage of courtroom space, cited as a major cause of delays in the scheduling of hearings, especially in the busiest courts such as the district and regional courts in Sofia) and/or information technology (e.g. to roll out functioning judiciary-wide case management systems) .

**2.19 The SJC has so far attempted to address this issue by increasing the size of its overall budget request.** However, while the National Assembly has allocated – to a large extent – the requested funds to cover recurrent costs, especially personnel costs, it has sought to contain the expansion of the judicial budget by constraining appropriations for other categories of expenditure such as capital investment. The judiciary could question whether this will change after the transfer of responsibility for capital expenditure to the MOJ. The SJC’s response of covering financing shortfalls by reallocating across categories of expenditure or over-spending during budget implementation could heighten executive and legislative concerns over judicial budget execution.

**2.20 Thirdly, consecutive pay rises for magistrates could give rise to questions of perceived fairness, especially when judicial performance is not seen to be improving.** Judicial remuneration does need to be periodically reviewed to ensure its relative competitiveness in attracting and retaining high-quality personnel. However, once agreed remuneration levels are in place, further self-awarded *ad hoc* increases could injure judicial credibility. On the one hand, the judiciary’s unique independence in setting remuneration levels for its own members has allowed magistrates’ pay to rise faster than, and widen the income gap with, that of other categories of public employees. On the other hand, as shown in the previous chapter, indicators of judicial performance disclose a mixed picture. There could therefore be a risk of the judiciary being perceived as privileged and unaccountable, as had reportedly been the case before the constitutional amendments of 2003 and 2007 limited the scope of judicial immunity.<sup>22</sup>

**2.21 Questions could therefore be raised about the utility and fiscal sustainability of further increases to the judiciary’s budget envelope, in the absence of evidence confirming performance improvements.** The recently introduced constitutional requirement for the SJC to report to Parliament on the performance of judicial bodies may offer the judiciary an opportunity to publicize its efforts to improve its services and strengthen its case in requesting additional resources. At the same time, given the budget constraint and financing needs for large infrastructure projects financed by EU funds<sup>23</sup>, it is becoming clear that the high rate of increase in the judicial budget observed in recent years may not be fiscally sustainable in the future. According to MOF forecasts, the judicial budget is estimated to remain at around 0.6 percent of GDP for the coming years, implying that annual budget increases would not exceed the rate of growth of GDP.<sup>24</sup> While the MOF has no authority to impose limits on the judicial budget, but only to attach its opinion to the draft judicial budget submitted to the National Assembly, overall fiscal discipline seems to have been preferred over the judiciary’s claim to increased resources.

**2.22 Improving judicial performance seems to now require a shift from increasing the budget envelope to increasing efficiency and productivity.** This suggests that further improvements in

21 The function of business registration was transferred to the executive (under the MOJ) as of July 2007 and real estate registration was transferred as of January 2008; however, recordation judges, who do not have the status of magistrates, have not been transferred to the payroll of the executive.

22 Prof. Plamen Kirov, Judge at the Constitutional Court of Bulgaria, “Amendments of the 1991 Constitution of the Republic of Bulgaria and Adapting of the Constitution to EU Membership”, p. 4

23 There is a cap of 40 percent of GDP on overall government spending. *Republic of Bulgaria: Convergence Program (2007-2010)*, November 2007.

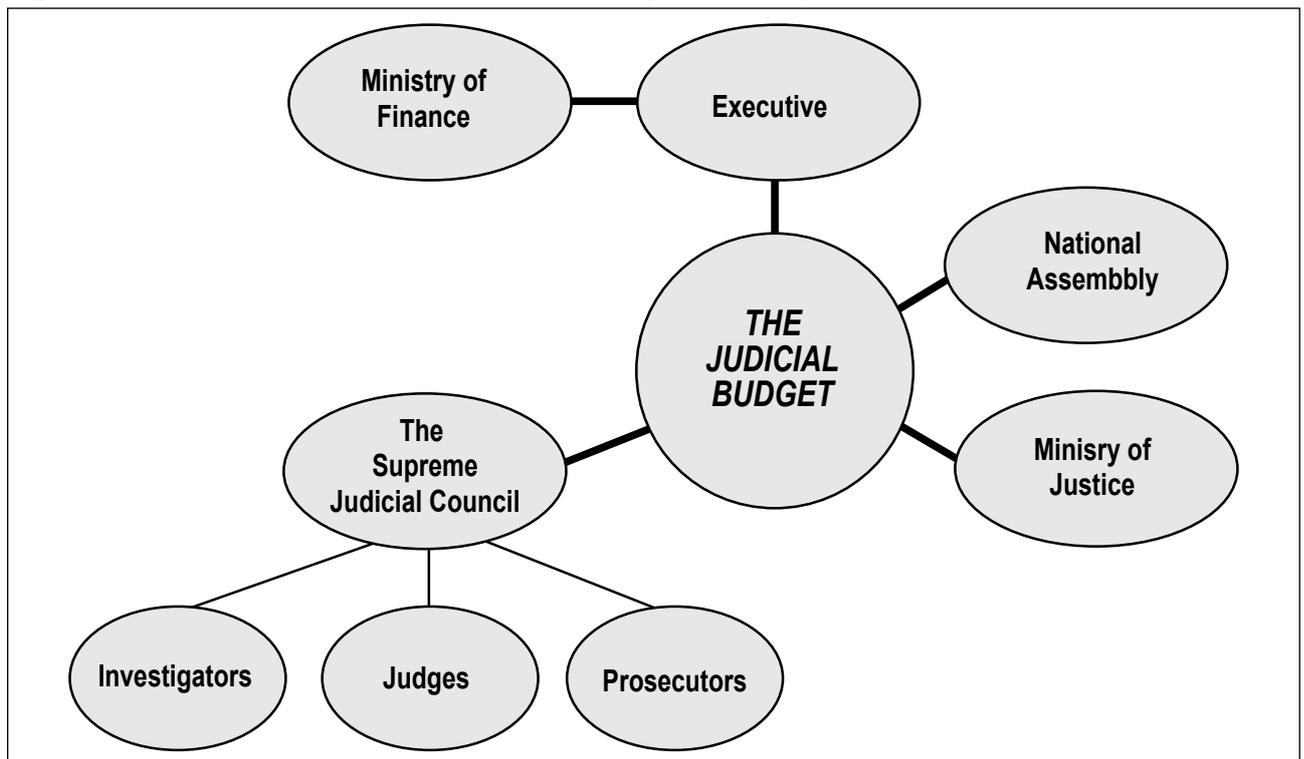
24 MOF, “Report on the Three-Year Budgetary Forecast for the Period 2007-2009”, June 2006, p. 61.

judicial performance may be driven by increases in efficiency and productivity rather than additional recruitment.

### The Dynamics of Resource Allocation

**2.23** As the body responsible for managing the judiciary, the SJC is in charge of allocation of resources to judicial bodies and has a critical role in monitoring judicial performance. This section examines the impact of the composition on the SJC on the management of the judiciary and the allocation of resources. The key institutional actors in the resource allocation process are schematically depicted in Figure 16.

**Figure 16. Judicial Resource Allocation and Management – Key Institutional Actor**



**2.24** Albeit under the overall responsibility of the SJC, the mechanisms for the allocation of resources to judicial bodies and for performance monitoring differ considerably across the three judicial professions. The allocation of resources, including personnel, to individual courts by the SJC presents wide variations that do not appear to correspond to caseloads. Arguably the use of a weighted caseload formula, which is currently under elaboration, could explain some of these disparities in terms of variations in the composition of different courts’ caseloads. While 65 percent of new posts in 2006 were indeed created in courts with higher-than-average caseloads, there were also cases where new posts were created in courts with comparatively low caseloads and with outstanding vacancies. Comparable disparities may be noted in the allocation of material resources, notably funds for building or upgrading court premises.

**2.25** Such instances suggest that the allocation of human and material resources to courts could be influenced by subjective factors such as the activism, persuasiveness, and personal connections of individual court presidents within the SJC. It is so far unclear whether the transfer of responsibility for the execution of capital expenditure to the MOJ will change this pattern with regard to the allocation of investments in judicial facilities.

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### **2.26 The decentralized structure of the court system could be a significant factor accounting for the lack of more systematic mechanisms for determining the allocation of resources to courts.**

The structure of the court system gives individual court chairpersons significant leeway in managing their courts and in formulating and pursuing requests for additional resources. On the other hand, the Prosecution Service has a clear hierarchy with the Prosecutor General at the top, as does the National Investigation Service. Data on the breakdown of material resources allocated to territorial divisions of the prosecution or the investigation service were not available. But anecdotal evidence indicates that resource allocation in these two judicial professions does indeed occur in a more centralized, top-down manner than is the case for the courts.

### **2.27 On the other hand, the composition of the SJC does not seem to result in imbalances in the allocation of resources among the three judicial professions.**

It could be hypothesized that the hierarchical organization of the prosecution and investigation services might place them in an advantageous position vis-à-vis the decentralized courts in formulating and pursuing resource requests. However, budgetary data do not appear to confirm such a hypothesis. For example, in 2006 the budget of the Prosecution Service was half of that allocated to the courts, broadly proportionate to the respective staffing levels of the two judicial branches. The staff of the Prosecution Service stood at 49 percent of that of the courts, though it included a higher share of magistrates (51 percent of all staff compared to 28 percent in the courts), which implies relatively higher salary costs.

### **2.28 Differences in the structure of the three judicial professions may, however, complicate the exercise of the SJC's functions in assessing judicial performance.**

This relates both to the systems for monitoring the performance of judicial bodies and for evaluating individual magistrates. In line with the hierarchical structure of the Prosecution Service, the allocation of workloads, cases, and evaluation of individual prosecutors' work is conducted in a top-down manner throughout the Service, reaching down to its territorial divisions. This centralized system presents advantages in terms of more uniform standards for the allocation of workloads, accountability for performance, and the career progression of individual magistrates. In the case of the court system, individual court presidents have a more influential role in monitoring the caseloads and performance of judges working in their courts. This appears to be corroborated by the diversity of management practices across courts, which may be an important factor underlying the variation in courts' case disposition rates and timeframes as well as other dimensions of court performance. At the same time, the influence of court presidents over the career development of judges working within their courts underscores the importance of clear and transparent performance appraisal and career progression criteria consistently applied across the court system.

**2.29 There are also some concerns among judges that the presence of prosecutors and investigators in the SJC commissions deciding on promotions could potentially constrain judges' independence in adjudicating cases.** However, there does not seem to be any hard evidence of judges having been penalized in terms of career progression as a result of having adjudicated against the position of the prosecution.

**2.30 Representative associations of the three judicial professions comprise a key group of institutional actors, some of whom have played a significant role in judicial reforms.** The reforms have been accompanied by a parallel process of formation of professional organizations of magistrates, which in general aim to protect their professional interests, improve their qualification and working environment, and contribute to the development of a democratic rule-of-law-based civil society and transparent, effective and trustworthy jurisprudence.

**2.31** Bulgaria has two professional organizations for judges, two for prosecutors and one for investigators. The Bulgarian Judges Association (BJA) is the larger and older, established in Sofia

in 1997 as a successor to the Union of Bulgarian Judges, founded in 1919 and active until 1945. In 2007 the BJA consisted of more than 800 judges from all regions and tiers of the court system and had developed 10 local sections in all court districts. Having fulfilled the international standards for a representative, independent and democratic judges' organization, it acquired membership in the International Association of Judges, effective 2005. The BJA has been active in reforms, e.g. the establishment and development of the Educating Center for Magistrates (later transformed into the NIJ), the drafting and enforcement of the Code of Professional Ethics for Judges, the introduction of public relations agencies and press attaches in courts, the creation and implementation of mediation practices in legislation, and the improvement of the professional and ethical qualifications of judges. Through its statements and public initiatives the BJA exercises influence over jurisprudence, legislation and the public image of the judiciary.

**2.32** Bulgaria's EU accession intensified the necessity of improving judges' knowledge of EU law. This was the basis for the establishment in November 2006 of the second judges' association – the Judges for Integral Europe. Formed by several BJA members (who continue to maintain their BJA membership), it currently comprises 100 judges. It has not yet been recognized as a representative of the judicial community.

**2.33** Prosecutors are organized into two national associations: the Association of Prosecutors in Bulgaria and the National Union of Bulgarian Prosecutors. The Association is the older of the two, founded in 1997 and currently having between 360 to 400 members. The National Union was formed when the independence of the Association from the Prosecutor General was questioned, but more recently, the two organizations have embarked on cooperative efforts, especially in training for prosecutors.

**2.34** Investigators are united in the National Chamber of Investigators, formed in 1999. Presently it has more than 650 members from all district and specialized investigation offices, organized in 28 local sections. The Chamber aims to promote modern investigating processes, improve investigators' professional qualifications, develop practices for protection of human rights, and safeguard investigators' independence. After recent legislative amendments substantially reduced the legal powers of investigators and transferred many of their functions to the police, the Chamber's influence has decreased.

**2.35** The foregoing discussion on selected institutional characteristics of Bulgaria's judiciary can now illuminate an examination of the conceptual and process issues pertaining to judicial resource management in Bulgaria - the focus of the next chapter.

# 3. THE MANAGEMENT OF JUDICIAL RESOURCES

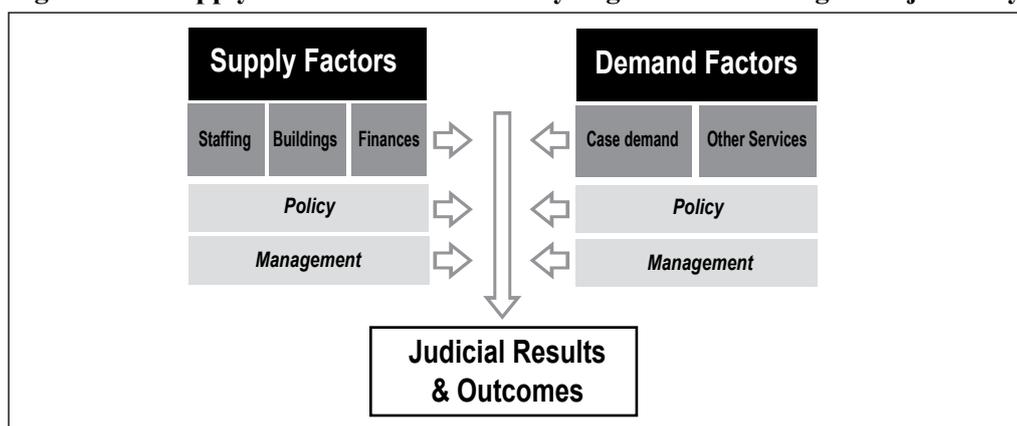
## The Public Finance Challenge

**3.1 The contentious issue of judicial financing highlights the collision in Bulgaria between the two tectonic plates of judicial independence and judicial accountability.** The constitutionally guaranteed principle of functional and budgetary independence is invoked by the judiciary to exercise its prerogative to formulate requests for increased budgets and execute them to perceived priorities including increases in salary and staffing levels. The principle of judicial accountability is invoked by the legislature and the executive to seek justification for the judiciary’s high spending requests and for the manner in which the judiciary’s authorized budget appropriations are actually executed.

**3.2 Many in Bulgaria’s judiciary claim it is under-funded.** This is the perspective of a recent expert report, which reads: “It seems necessary to improve the budget funding for staff, new investments for infrastructures and for the modernisation of the facilities where the public service of justice is rendered. However a trend in the opposite sense is evidenced in the budgets for Justice in the last years which show the disregard by the Executive of the requests made by the SJC in order to allocate and improve resources for the Administration of Justice.”<sup>25</sup> The claim is also manifest in the following motivational introduction to the SJC’s 2008 budget proposal (initial draft): “The approved 2007 judiciary budget is only 0.61 percent of GDP while in EU country members [it] is 2 percent (the SJC proposed 2007 budget is 1.07 percent of the GDP).” The judiciary has also argued that Bulgaria faces inordinate service provision pressures (reflected in high court caseloads) and limited resources (in the form of judicial staff, physical facilities and information technology).

**3.3 This report proposes a supply-demand model to examine this contentious issue.** Figure 17 shows a basic model of the issues examined in this report, starting from common supply inputs (such as financing, staffing and infrastructure) and factors driving Sector demand (case demand and other service demands such as processing affidavits). The model indicates that both supply and demand factors are influenced by policy and management and together lead to judicial results and outcomes. The results focus in the model is in keeping with the general thrust of this report in arguing for a more strategic orientation to budgeting and financial management for Bulgaria’s judiciary.

**Figure 17. A supply-demand model for analyzing finances in Bulgaria’s judiciary**



**3.4 Comparatively, Bulgaria’s demand and supply numbers do not indicate a major resourcing failure.** It is instructive to compare Bulgaria with other NMS of the EU on selected indicators (Table 1). The data are not exhaustive and do not provide a final statement on whether Bulgaria’s judiciary is appropriately financed or not, but they do indicate that the judiciary is not lagging behind as much as some interlocutors suggest, especially in terms of the supply factors. The MOF, for example, understands that it is an “indisputable fact that during the compilation of its budget, the Supreme Judicial Council is not limited by an obligatory ceiling of expenditures, while the executive branch of governance must produce the final draft of the State Budget, taking also into account the specificity of the judicial system within the framework of limited expenditures under a consolidated fiscal program”<sup>26</sup>.

**3.5** Bulgaria has a higher ratio of judges to inhabitants than five other NMS. Its judicial facilities are located in more geographic locations (as a ratio of inhabitants and territory) than most of the other NMS. Its budgetary spending per capita is comparable to, or even higher than, most of the NMS. Service demand is comparatively high, however, with incoming cases per 100,000 inhabitants significantly greater than all other NMS for civil and administrative cases and greater than most for criminal cases.

**Table 1. Comparing Bulgaria with other New Member States of the EU**

(Note: \* denotes per 100,000 inhabitants, \*\* denotes per 100,000 square meters). Sources: CEPEJ (2006) and SJC (2007)

Countries	Supply Factors				Demand Factors	
	Judges	Premises		Financing	Incoming civil and administrative cases*	Incoming criminal cases*
	Professional Judges (full time and occasional)*	Number of geographic locations*	Number of geographic locations	Judicial budget per capita in Euro (courts, legal aid, prosecutions)		
Bulgaria	22.6	2.0	0.14	15 <sup>1</sup>	7388	870
Czech Rep	28.2	1.0	0.12	30	2793	773
Estonia	18.1	1.3	0.04	19	1873	638
Hungary	27.3	1.6	0.17	38	1634	1371
Latvia	16.6	1.8	0.06	15	2551	525
Lithuania	20.2	2.0	0.10	19	4441	514
Poland	25.6	0.8	0.10	28	3045	1436
Romania	18.6	1.2	0.11	9	5321	1922
Slovakia	22.4	1.1	0.12	20	4420	499
Slovenia	39.0	3.3	0.33	64	1268	727

**3.6 They do, however, show the explosive growth of incoming civil and administrative cases and the clear implications of this growth for system stress.** They point to the need for a deeper analysis of the causes of this phenomenon, and potential policy responses to manage this aspect of demand without in any way constraining access to justice for the poor and vulnerable. These issues are examined later, but it is worthwhile to flag them here.

**3.7 On the supply side, resources have actually been flowing rapidly into the judiciary since 2001.** Figure 18 shows a steep increase in both budgeted and actual allocations to the judiciary. The figures indicate a 180 percent growth in financial flows into the judiciary over the 2001-2006 period and budget allocations doubled as a share of GDP. These fiscal increases reflected supply-side expansion. By 2006 the number of judges per 100,000 inhabitants had increased to 25,<sup>27</sup> the number

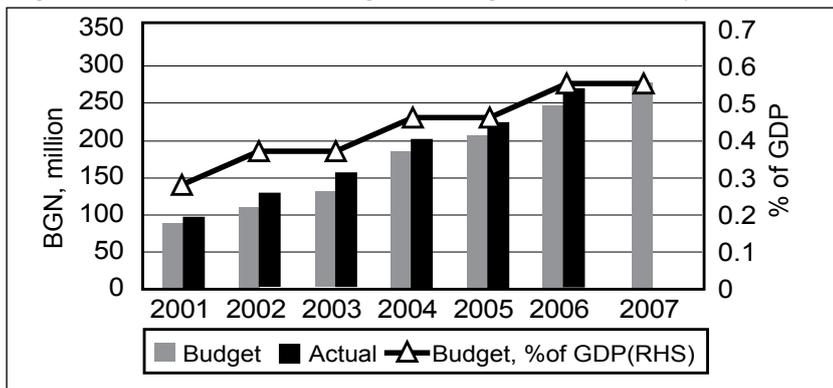
<sup>26</sup> Vide reference number 93-02-56 of March 18, 2008 of the Public Expenditures Directorate of the MOF.

<sup>27</sup> The number of judges is calculated using SJC statistics and includes the number of Magistrates in the Courts plus the SCC and the SAC. This number, calculated in 2004, roughly equals the number provided in the CEPEJ report and is thus considered a

# THE MANAGEMENT OF JUDICIAL RESOURCES

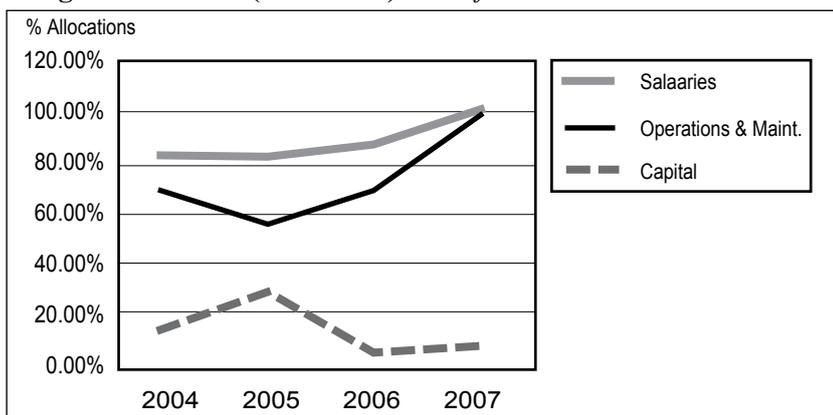
of geographic locations per 100,000 inhabitants had risen to 2.36, and the number of geographic locations per 100,000 square meters had risen to 0.16. The data in Table 1 and Figure 18 do not seem to indicate a major problem with the overall level of financing for the judiciary. However, they do indicate a persistent trend of overspending beyond the authorized appropriation. The reasons for this trend are not clear from the data, and could have been due to a variety of factors both within and outside the control of the judiciary (the explosively high number of civil and administrative cases being an example of the latter).

**Figure 18. Resources Flowing into Bulgaria’s Judiciary, 2001-2007**



**3.8 The judiciary’s overspending raises the issue of the extent to which the legislature appropriated funds to the judiciary against judicial budget requests.** Figure 19 shows the proportion of the budget request actually appropriated by the legislature for salaries, operations and maintenance and capital. Appropriations for the first two items have been consistently high in relation to budget requests. But budget requests have exceeded the authorized appropriations for capital outlays, however, where historically the judiciary has requested extremely large allocations (BGN180 million in 2007), and authorized appropriations are far less (BGN32 million). The high ratios of appropriation to request for (a) salaries and (b) operations and maintenance indicate that these are practically protected items.

**Figure 19. How Well Has The Judiciary Captured Requested Funds? Budget Allocations (2004-2007).** Data from MOJ and SJC

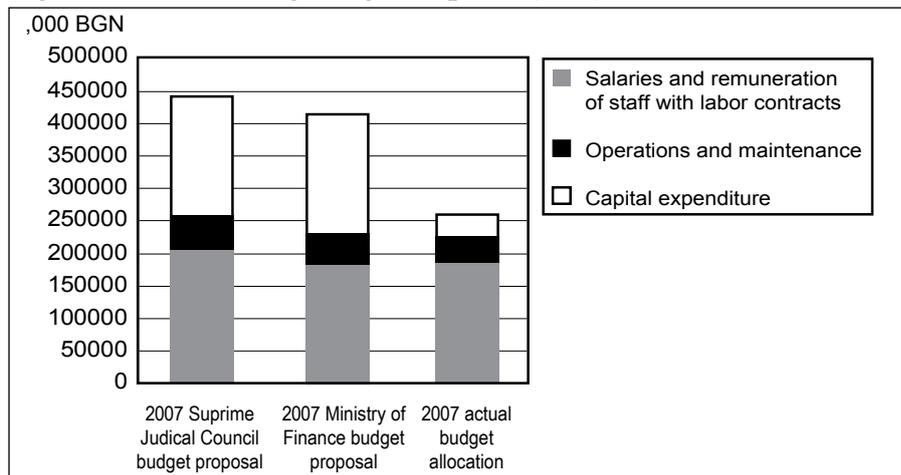


**3.9 The judicial budget is currently submitted to the legislature in two versions.** One comes from the judicial authorities (SJC and MOJ in 2007) and another from the MOF. This situation exists because the MOF is not allowed to directly engage in negotiations on the judicial budget, given the explicit Constitutional guarantee of budgetary independence of the judicial branch of power. The MOF budget version is intended as an alternative for the National Assembly to consider when

relevant comparator.

assessing the validity of the judiciary’s budget request. Commentators in the judiciary have opined that the separate MOF version undermines that of the judiciary. Figure 20 shows this is not the case, at least in 2007 for salaries and operations and maintenance expenditures where the SJC and MOF made very similar proposals (reflecting the protected nature of such expenditures). The two proposals were even similar with regard to capital. The legislature made the final cut on the proposed capital outlay. Whatever the ultimate basis for the National Assembly’s decisions, it appears that the justifications put forward for large capital spending have so far been unconvincing.

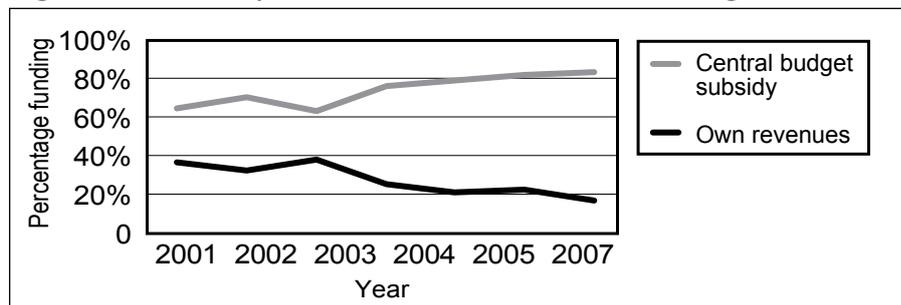
**Figure 20. Contrasting Budget Requests (2007).** *Source: MOJ and SJC*



**Judicial Revenues: Patterns and Demand**

**3.10 The national budget increasingly resources the judiciary, with the judiciary’s own revenues playing a progressively smaller role.** This is shown in Figure 21, a representation of the percentage of judiciary funds derived from central budget subsidies and own revenues between 2001 and 2006. Two third of the judiciary’s funding was from the central budget in 2001, as opposed to 36 percent from own revenues—a gap of 30 percent between the two sources.<sup>28</sup> This gap increased to 60 percent in 2006, where the national budget contributed 83 percent of total judicial expenditures as compared with a 23 percent own revenue share.

**Figure 21. Judiciary Own Source Revenues Are Declining.** *Source: SJC*



**3.11 Decreased own revenue share could reflect policies promoting access to justice; however such policies also impact the relationship between the demand for and supply of judicial services.** Access to justice is a focus of Bulgaria’s judicial policy. It is an important argument why Bulgaria is not overly concerned about the decreasing trend of own revenues in the sector—lower own revenues could reflect lower average court fees which reflect lower absolute fees and more financing for those who cannot pay fees. This may be appropriate in a country with a history of weak access to courts, if excess costs were the factor limiting access. However, it could constitute a problem when low or decreased costs of bringing cases to court could promote unmanageable levels of case filing and

<sup>28</sup> Amounts exceed 100 percent in some years because of negative transfers to Court Buildings Fund and Penitentiary Buildings Fund.

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frivolous litigation. In such situations access could be thwarted by the inability of supply to meet demand—due to limitations on staffing, physical facilities, finance and business processes. This could be problematic where management and organization rather than high costs are the true access constraints.

**3.12** At the initiative of the MOJ, the Council of Ministers has adopted a revision of the judicial fees for civil cases by about 2.5 times. The need to adjust for inflation and increasing property values underpinned this initiative. Fees for execution of judicial decisions, however, were increased in 2006 by six-fold on average, with the judgment-debtor being responsible for the payment.

**3.13 Evidence suggests a significant gap between case demand and supply.** Table 2 shows that the number of cases entering Bulgaria’s judicial system increased by 14 percent during 2002-2006 and the total number of cases from 533,000 to 605,000. Completed cases per annum increased from 383,000 to 480,000 in the same period, showing a 25 percent increase. The higher rate of increase in the share of completed over total cases partly reflects the improved Sector resources and an improved supply capacity (in line with the data supporting Figure 18). However, the gap between demand and supply was only closed between 2002 and 2003—where it dropped from about 150,000 to 125,000. A more static gap existed in all other periods.

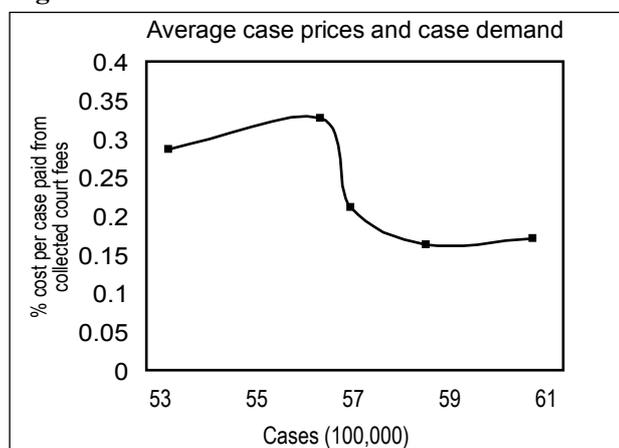
**Table 2. Case numbers and average case costs, by financing source**

Source: SJC. Numbers do not add up because of negative subsidies not shown in the table.

	2002	2003	2004	2005	2006
<i>Calculated out of total cases to be heard</i>	533175	563250	569019	584455	605499
BGN spent (total) per case	269.07	305.38	390.02	425.45	500.66
BGN from central budget per case	192.49	198.62	300.09	336.99	414.35
BGN from collected court fees per case	82.62	107.82	85.86	70.06	87.17
<i>Calculated out of cases completed</i>	383031	434383	445929	458315	480720
BGN spent (total) per case	374.54	395.97	497.68	542.54	630.61
BGN from central budget per case	267.94	257.55	382.92	429.74	521.90
BGN from collected court fees per case	115.01	139.81	109.56	89.34	109.80

**3.14 The demand-supply gap is influenced by the pricing effects of own revenue and central budget subsidy levels.** It is interesting that the gap between total and completed cases was closed in the year where collected court fees accounted for the highest proportion of total case costs (2003, where collected fees made up 35 percent of average total case cost).

**Figure 22.**



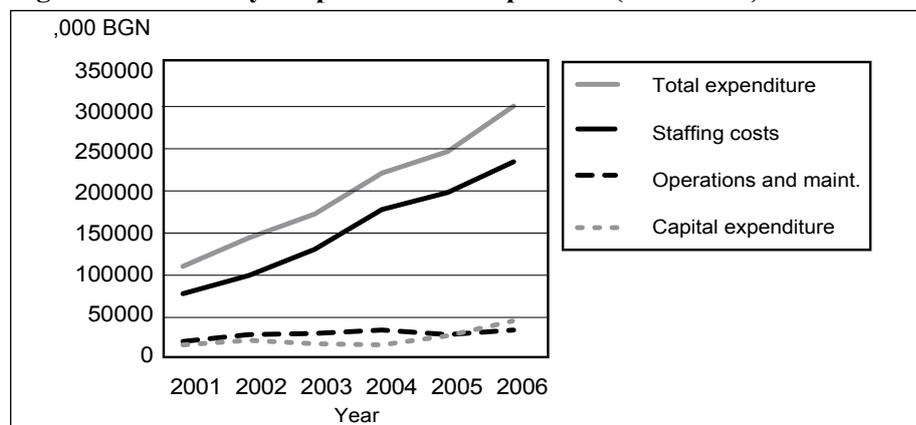
Though the approach may not be classically correct, one could consider the proportion of case costs coming from collected fees as a case price paid upon entry to the judicial system. Figure 22 shows the

typical downward sloping demand curve calculated when the number of total cases is plotted against this price. The slope is -0.74, suggesting a strong pricing effect on case demand (i.e. the lower the cost the higher the demand). As own revenues constitute lower shares of case costs, higher levels of case demand could conceivably be seen in Bulgaria.

**Judicial Expenditure: Patterns and Supply**

**3.15 Expenditure patterns indicate opportunities for improvement.** Since 2001, as already shown, Bulgaria’s increased resources have flowed predominantly into personnel costs. Figure 23 shows how staffing costs have increased between 2001 and 2007. Allocations to staffing and the rate of change in staffing expenditures have far exceeded allocations and rates of change of other items.

**Figure 23. Judiciary: Expenditure Composition (2001-2006).** *Source: SJC*



**3.16 Salaries and other personnel-related expenditures have been protected at the expense of other items: this has crowded out some needed expenditures and in particular undermined capital spending.** Table 3 details the extent to which the judiciary has been granted its budget requests. Allocations and actual expenditures on judicial salaries have been high as a proportion of the budget request. Capital requests have been particularly poorly funded by the legislature. This was partly because of the weakness of capital requests, but is only part of the story. The data show that high rates of growth in staff expenditures have crowded out other spending needs leaving no room for capital expenditures in particular.

**Table 3. How allocations & actual expenditures relate to budget requests, 2005-2007.** *Source: SJC*

	2005 Budget as % of Request	2005 Actual as % of Request	2006 Budget as % of Request	2006 Actual as % of Request	2007 Budget as % of Request
Salaries	84%	98%	88%	98%	87%
Operations and maintenance	60%	68%	72%	68%	89%
Capital	37%	52%	15%	27%	19%

**3.17** However, the issue is more complex than it appears. The establishment of the regional administrative courts is a good example of the creation by the executive and legislature of more courts and judicial positions, and then having to finance them. It is not clear whether the judiciary fully supported all new positions being created. But even if it did, the decision to expand the number of positions was clearly acquiesced in by all branches of the state – perhaps in response to perceived EU accession needs. The point is that staffing increases such as this were the result of conscious state policy agreed to by all branches of the state, not simply due to pressures from the judiciary alone.

**3.18 Staff numbers have risen over the period in question, contributing to increased personnel expenditures.** The increases are more pronounced in some years than in others, and patterns vary



**3.21 Better practice systems are founded on strategic planning processes, ensuring that performance-oriented policy influences financing decisions.** This usually begins with a distinct policy review and development step, wherein a sector's medium term direction is determined. This direction is often reflected at a high level and shows broad sector objectives—the kinds of outcomes slated for production or delivery—as well as perspectives on aggregate resource availability, especially as this is influenced by policies regarding own-revenue collections in the sector. These objectives are sometimes shown as they relate to recommended programs and sub-programs of action, which high-level policy-makers identify as the organizing parameters for the sector. These programs or sub-programs focus on the policy-based objectives the sector leadership deems most important. Annex Table 3 shows these for selected countries. Annex Table 3 provides examples of broad policy programs in Europe which could be of interest to Bulgaria as it proceeds towards better practice systems in judicial budgeting.

**3.22 Strategic budgeting follows as the process where a sector translates its broad policy direction into strategic financial plans.** These plans are more detailed than the broad policy developed in the first stage and incorporate more operational goals—medium term output targets—as well as the inputs required to achieve these goals—staffing, facilities, financial and other. These plans are drafted for individual budget users (courts and other entities in the Judicial sector, who administer finances directly once received) and relate to the broad plan—with output targets linked to broader outcomes targets and resource needs disciplined by broader resource ceilings set for the sector.

**3.23 Strategic planning products lead directly into the formal budget preparation stage,** where budget proposals and drafts are prepared. This is the traditional budgeting step most governments are used to. It involves a central sector entity (like a budget or accounting office) sending instructions to delegated departments and requesting budget proposals. Better practice instructions request information about how the annual request relates to the medium-term plans developed in the strategic budgeting stage, particularly asking for information about the (i) the performance goals for the coming budget year (and how these will be measured) and (ii) how the annual request relates to a medium-term financing plan. These instructions form the basis of a medium-term budget request which helps the central budget entity compile a budget proposal for the current year that includes performance targets and indicative budgets for two to three years into the future.

**3.24 The proposal includes both operational and capital expenditures and shows how the expenditure needs relate to policy directions, often through a programmatic structure.** The programmatic structure simply organizes resource allocations according to specific objectives (where a program or sub-program is generally defined as a set of processes required to meet a specific objective). Allocations to each program can still be broken down to show organizational recipients and economic items, as in the example at Annex Table 4, which depicts in simplified form how a court could compile a budget in two sub-program areas it would share with all other courts. This request may then be negotiated with officials in ministries like Finance and Economy and sometimes with Cabinet and, ultimately, it is defended in front of the Judiciary. The defense is usually led by the political and administrative leadership of the sector, who must show how the overall request is strategically influenced and disciplined by the sector's broad policy direction.

**3.25 Implementing policy-based budgets requires strong and connected budget execution mechanisms.** Resource management processes are vital because they regulate the access sector entities have to resources allocated in budgets. Having formal budgetary authority to access cash, capital, goods or personnel does not always mean that access is realized. Sectors must have effective systems whereby budget entities request and receive the resources they have been allocated, and simultaneously have the capacity to use them. These processes must be strategic (allocating resources to the kinds of inputs and outputs focused on in strategic budgeting documents—like the programs

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and sub-programs shown in Annex Table 5), efficient (allowing timely access to the resources) and effective (imbued with the capacity to use resources once accessed) and ensure high levels of accountability (ensuring that budget users access only those resources they have been allocated and use them appropriately). Better practice processes often use information technology solutions to ensure resource flows work, but even these systems fail when entities lack the personnel capacity to effectively manage these processes.

**3.26 Internal controls, internal audit and monitoring mechanisms are vital for efficiency and accountability.** These mechanisms generate the information managers within sector entities need to manage and ensure efficient and effective implementation of the budget program. Internal controls involve the set of procedural rules and structures that control how entity's work. They set the base requirements for managing cash, capital, goods or personnel. Management can rely on these controls to ensure basic process efficiency and accountability and often use the controls to minimize risk of process failure. Internal audit mechanisms involve ongoing assessments to ensure that that controls exist and are adhered to and to provide ongoing analysis of organizational issues that threaten achievement of the organization's goals. Internal auditors thus provide an ongoing report to managers on organizational progress in its implementation of budgetary programs—from a process perspective (is the integrity of internal controls being maintained?), a financial perspective (are resources being allocated to appropriate areas at appropriate times?), a broader resource perspective (are the resources needed for service delivery being appropriately provided and maintained?), and a performance perspective (is the organizational appropriately focused on reaching its targets, and is performance being consistently and reliably assessed?). The internal audit function is vitally connected to overall monitoring, whereby management regularly gathers information about the organizational progress—regarding adherence to process, financials, broader resource strength and performance. These processes are vital for managers at the operational level to keep watch on progress in meeting targets like those set in Annex Table 4, and for higher level policy-makers and managers to monitor overall progress in addressing program objectives (as set out in Annex Table 3, for example, at the sector level).

**3.27 Accounting and reporting processes are also vital.** These processes ensure that budget users are recording their activities and reporting on them, keeping records of resource access and use. These accounts and reports should reflect the way in which resources are actually allocated in the budget and through the resource management systems (especially cash and procurement systems). In better practice governments accounts and reports show how finances fund inputs and contribute to the provision of outputs (often shown in program-based accounts, with economic item breakdowns in each program, reflecting the classification one would associate with Annex Table 5's budget allocation). Poor accounting and reporting undermines incentives for effective budget implementation and constrains transparency and accountability. Accounting processes contribute to internal control regimes (providing rules about how and when to account for transactions, for example). Better practice accounting and reporting systems require budget users to reflect on financial transactions as well as progress in meeting goals. Reports in better practice governments provide regular information (quarterly, bi-annually and annually) on both issues.

**3.28 External audit (and other accountability) processes provide a link between strategy development/budget preparation processes and budget execution and reporting.** These processes ensure accountability for implementing the budget program, examining process conformance, financial probity and performance (in better practice settings). The external audit is usually conducted by an external agent, most commonly the supreme audit entity which is accountable directly to the legislature. The audit report is usually provided to sector budget users within six months after a budget year is concluded and will note areas of concern. Sector users should be required to respond formally to these concerns and should use the information provided in the reports as an input into

future strategic planning and budgeting initiatives, and to inform initiatives to strengthen the system as a whole.

### **Public Financial Management Processes In The Judiciary**

**3.29 There are many entities engaged in Bulgaria’s judicial sector’s various public financial management (PFM) processes.** Role players tend to be concentrated among central entities in the executive (the Council of Ministers, the MOF and the MOJ), central entities in the Judiciary (the Supreme Judicial Council and its constituent members in the courts, prosecution service, investigations offices and the NIJ) and the Legislature (including National Assembly committees on legislation and budgeting and accounts).

**3.30 Some process areas are not well represented or addressed, however, particularly the foundational strategic planning steps.** This is not to say that there is no strategic planning in the judicial sector. Policy-makers in the sector have produced, for example, the Joint Program of Action on Drugs and Crime (with the United Nations, produced in 2006) and others related to EU initiatives and commitments. These products have not been developed with an eye to influencing actual budgetary allocations, however, and thus have limited value in such context. There is no process in place for annually reviewing sector performance and setting/adjusting sector goals in a manner that could effectively improve the strategic orientation of budgets. The lack of a suitable process manifests in a lack of high-level planning product or direction and a lack of clear sector objectives, which could inform programmatic ideas for the budget.

**3.31 The lack of a strategic budgeting element weakens the judiciary’s ability to advocate for resources. Recent efforts to show policy bases for the judiciary budget are not yet evidence of a new strategic stage.** The SJC has recently realized that a more programmatic approach is required if it is to keep up with the executive (where program budget documents are now routine) and strengthen its ability to advocate for resources. As part of its budget preparation process in 2008 the SJC produced a document titled “Report on the priorities and distribution of budget resources for the Bulgarian judicial system in the period 2008 – 2010.” The report identified policy areas funded through the budget: (i) Ensuring optimum positions to cover the complete work in the judiciary bodies as required by the JSA and to develop access to information mechanisms for the purpose of increasing public trust in judiciary; (ii) Strengthening the professional qualifications of the judiciary bodies; and (iii) Activities of the specialized judicial institutions in relation to the legislative amendments and the drafting of new ones. These policy areas did not develop from any strategic process and do not reflect service delivery objectives of the sector. Rather, they are a continued reflection of inputs needed in the sector—personnel, training and provisions for administrative courts and special prosecutions entities. A reader of the document is still left asking what the resources will fund—beyond new positions and new entities. Bulgaria needs a process for answering this question in the sector, as well as a final answer, if it is to truly introduce a strategic policy-making stage into its budgeting and financial management system.

**3.32 Existing judicial cash management processes raise concern.** These processes are largely decentralized, although the SJC does exercise some central control. The operational budget of each court is largely executed at the court level, for example, although the SJC controls the time of distribution. (Money is distributed by months and execution may not exceed the monthly temporary limits, a common cash management control). Consistent information is not available on, for example, how cash is distributed across first and second level spending units and how own revenues (like court fees) are collected and transferred to the SJC (which is a requirement). National Audit Office reports suggest that such processes are not standardized for budget users and that system variation does raise

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concerns about inefficient resource use and potential or actual control/accountability breakdowns.

**3.33 Similar concerns have been raised regarding procurement practices.** Reports of weaknesses in procurement processes are a reason why the MOJ maintains its voice on capital expenditure decisions at relatively low levels (with a low threshold).

## Human Resource Management

**3.34 Personnel management policies and processes also seem quite ad hoc, though there is a perception of central control.** Personnel expenditures have been consistently high and increasing, with actual expenditures on salaries having risen from BGN119 million to BGN131 million to BGN 159 million between 2004 and 2006. An increase of this magnitude requires careful management. On the one hand there is an appearance of strong central control over this item, manifest in the 2005 order from the SJC that give it authority over new appointment and salary decisions. There are also financial reports that show minimum national salary levels, suggesting strong management of this variable. The perception of a strong central control on numbers and compensation is maintained in the data in Table 4, which shows a fairly standard, accountability-enhancing approach to identifying remuneration levels for judicial staff.

**Table 4. Calculating Judge and Junior Judge Salaries, Using National Numbers**

Source: World Bank staff analysis from SJC data

<b>Judge at a district court (2007) Experience: 15 years</b>	<b>Junior Judge at a district court (2007) Experience: 5 years</b>
<b>SALARY AND ALLOWANCES</b> Base salary: BGN1,470 + 30% allowance for class (BGN441) + Additional allowance (BGN82.22) + Surcharge on additional allowances (BGN19.73) Amount subject to taxes: BGN1,993.22 TOTAL salary and allowances: BGN2,012.95 <b>DEDUCTIONS</b> Social contributions paid by judge: Tax on the Common Income BGN421.37 TOTAL deductions: BGN421.37	<b>SALARY AND ALLOWANCES</b> Base salary: BGN732 + 10% allowance for class (BGN73.20) + Additional allowance (BGN65.68)  Amount subject to taxes: BGN805.20 TOTAL salary and allowances: BGN870.88 <b>DEDUCTIONS</b> Social contributions paid by judge: Tax on the Common Income BGN140.25 TOTAL deductions: BGN140.25
<b>Social Contributions Paid by the Court:</b> Pensions Fund (18 % of BGN1,400) = BGN252 Maternity and common health (3.5% of BGN1,400) = BGN49 Work accidents (0.7% of BGN1,400) = BGN9.80 Universal Pension Fund (5% of BGN1,400) = BGN70 Health Insurance (6% of BGN1,400) = BGN84 Unemployment Insurance (3% of BGN1,400) = BGN42	<b>Social Contributions Paid by the Court:</b> Pensions Fund (18 % of BGN805.20) = BGN145 Maternity and common health (3.5% of BGN805.20) = BGN28.20 Work accidents (0.7% of BGN805.20) = BGN5.60 Universal Pension Fund (5% of BGN805.20) = BGN40.26 Health Insurance (6% of BGN805.20) = BGN48.30 Unemployment Insurance (3% of BGN805.20) = BGN24.10
<b>NET SALARY (to be received by the judge) : BGN1591.58</b>	<b>NET SALARY (to be received by the judge) : BGN730.63</b>

**3.35 Personnel management conditions are highly decentralized.** Data on salary structures and new positions by court indicate that the central rules are not that binding and decentralized decisions seem to determine personnel issues. Annex Tables 7 and 8 show how core components of the salary

structure differ quite significantly across courts—in the sample these are all regional courts (the same type) and in the same district (Sofia). There is no rationale for the high variation in these parameters, which vary even more when looking at other court types (looking at the Sofia regional, city and district courts, for instance). New positions allocation also appears ad-hoc. The national average of finished cases per open magistrate position for regional courts in cities with district courts<sup>29</sup> was 263 in 2005. 2006 staff numbers increased in 22 of 38 of courts with higher workloads (65percent of the total new positions). But numbers increased in 20 of the 48 courts with lower averages as well (35 percent of the total new positions). Breznik<sup>30</sup> increased by three positions including one new magistrate (increasing from 13 to 16 in total) even though workload per magistrate was only 133.5. Kavarna increased total numbers by three (from 17 to 20, with two new magistrates) but its workload pr magistrate was way below average at 153.5. These appointments not only defy central rules, but also lack management rationale: Kavarna had two unoccupied positions when new ones were allocated in the 2006 budget. It still had two unoccupied positions at the end of 2006, for example, suggesting a need for better hiring procedures, not new appointments.

**3.36 These expenditures could be taken as reflecting the judiciary’s intention to expand human resource capacity, which appears to be a purposeful and well-conceived strategy.**

Personnel are an input into the judicial production function. Expanding personnel capacity is a valid strategy to expand capacity to provide judicial services. Expansion could indeed require both increased position numbers and higher salaries (to attract good applicants to the new positions). The focus on human resource capacity building is also evident in investments made in the NIJ (which has seen significantly enhanced personnel capacity funded via the budget and has also received support to build new facilities). The NIJ has a core role of training new personnel, which the SJC argues are required to fill positions created to reflect burgeoning caseloads. Decisions to create new openings are intended to be driven by caseload data, as per a 2005 decision that states: “The criterion for deciding to approve new positions in courts shall be the ratio of the average workload per position calculated on the basis of number of finished cases. When the average workload of the specific court is higher than the average for the country (for the same type of courts) new positions shall be approved until the average of the country is reached.”<sup>31</sup> This appears to be a rational and accountable way of deciding on new appointments. All one would need to do is benchmark an individual court’s caseload against the national average (by court type, as calculated in Table 5) to see if the court qualified for a new position.<sup>32</sup>

**Table 5. Average caseloads for different court types, 2005**

*Source: 2005 Caseload and staffing data collected from the SJC*

	Courts of Appeal (n=5)	Military Courts (n=5)	District Courts (n=27)	Regional Courts in Cities with District Court (n=26)	Regional Courts not in Cities with District court (n=86)	Sofia City Court (n=1)
Finished cases/total open positions	34.5	18.0	61.3	85.8	51.1	83.8
Finished cases/Open magistrate positions	77.3	70.6	191.7	363.7	263.0	329.4
Finished cases/total occupied positions	38.3	19.6	65.4	91.7	53.6	89.2
Finished cases/occupied magistrate positions	83.4	77.1	197.5	384.0	285.7	348.2

29 The average of finished cases per total positions was 50. The correlation between this measure and the average of finished cases per magistrates was 0.86.

30 In the Pernik judicial district.

31 Minutes No. 2, Meeting of the Temporary Judiciary Vacancies Commission, 31 May 2005.

32 There are obviously many improvements that could be made to this approach—including weighting the caseload data and even introducing explicit norms relating excess caseload to actual new appointments.

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**3.37 But evidence suggests unexplained variation in appointment decisions.** New position creation in regional courts not located in cities was analyzed vis-à-vis district courts between 2005 and 2006.<sup>33</sup> The national average of finished cases per open magistrate position for these courts was 263 in 2005. Staff numbers increased in 22 of 38 courts with higher workloads than the national average (accounting for 65 percent of the total new positions). But numbers increased in 20 of the 48 courts with lower averages as well (35 percent of the total new positions). The correlation between new positions created and caseload across the entire population of these courts was only 0.35. The statistic increases to only 0.41 when one considers caseloads in 2006. This indicates that caseload was not the only factor driving new position creation—and probably not the most important factor either. The question was whether increased case numbers themselves were driving new position creation—under the rationale that policymakers observing an upward trend in demand would respond by creating new positions. The answer was no.

**3.38** Annex Table 9 shows new positions in 2006 alongside finished case numbers for 2002 through 2005. New positions were created in six of the eleven courts where 2005 case numbers could suggest systematic increases (but not in the other five). New positions were also created in eight of nine courts where 2005 case numbers do not suggest systematic increases over time.

**3.39 The data might suggest that new position rewards follow weak management.** The correlation between new positions allocated in 2006 and unoccupied positions in 2005 is 0.87. This indicates that courts with open positions that have been routinely unfilled benefit the most from the creation of new positions. The correlation between new positions in 2006 and the number of open positions in the same year is higher, at 0.91, indicating that the new position allocations exacerbate the hiring weaknesses of these courts. Ihtiman Regional Court had three unoccupied positions when new ones were allocated in 2005 and still had four unoccupied positions at the end of 2006, for example. Put simply, the observation is that budgetary resources are being systematically allocated to human resource management systems that cannot absorb them—for whatever reason.

**3.40 The data also suggest that new positions are having only a limited impact on results.** One would hope to see that new positions yield increases in key sector outcomes—notably case completion ratios. This is not apparent, however, as the correlation between the two series is only 0.13. In a court like Ihtiman new positions did not help curb an actual decline in case completion between 2005 and 2006. This is another indicator that new positions follow less than optimal management. Expanding position numbers with static facility space, limited ability to house new staff, limited equipment for new staff to use, and so forth, will not yield improved performance. It is concerning that Bulgaria will struggle to adopt a more strategic resource management framework with such patterns in place. Strategic performance-oriented organizations are built first and foremost on personnel management systems that incentivize performance.

**3.41 Salary patterns also reveal less than purposeful variation.** Budgetary documents provide details of average salaries across the sector as if these imply standard rates. Variation across the sector is extreme, however. Annex Table 8 provides details of variation in key remuneration parameters within one judicial district (Sofia). Within the same court types, variation is significant for the pre-determined individual monthly basic salary, the additional remuneration for rank and the additional remuneration for class. Annex Table 7 shows that this variation also exists within a city. The parameters and changes in the parameters are dramatically different between the City, Regional and District Courts in Sofia. The reasons for these variations are unclear, and it is difficult to establish if data

<sup>33</sup> There are 87 such courts. The average of finished cases per total position was 50. The correlation between this measure and the average of finished cases per magistrates was 0.86.

weaknesses partially explain them. The variations as seen suggest an unsystematic approach to salary policy that most likely undermines efficient allocations and judicial performance.

**3.42 Personnel expenditures are budgeted to continue increasing – this is a matter of concern.**

Projected increases in personnel expenditures between 2008 and 2010 are shown in Table 6. Given this, the SJC has requested significant increases in expenditures for salaries (a 25 percent increase in 2008 alone), in average salary levels, and in staff numbers (a 12 percent increase in 2008, following the 20 percent increase in 2007). In advocating for such request, the SJC states: “The planned number of positions (employees) reflects the minimum requirements resulting from the Government’s mid-term priorities of the Strategy and Program for Judicial Reform.” It lists a breakdown of new positions requested:<sup>34</sup>

- 2008: 15257 payroll positions (incl. 5055 magistrates and 9745 clerks); increase compared to 2007: 1600 payroll positions (incl. 354 magistrates and 1241 clerks);
- 2009: 15466 payroll positions (incl. 5104 magistrates and 9904 clerks); increase compared to 2008: 209 payroll positions (incl. 49 magistrates and 159 clerks);
- 2010: 15651 payroll positions (incl. 5141 magistrates and 10052 clerks); increase compared to 2009: 185 payroll positions (incl. 37 magistrates and 148 clerks).

**Table 6. Projected increases in personnel expenditures, 2008-2010 (BGN) Source: SJC**

Indicators	2007 Budget received from the Government (BGN)	Suggested by the Judiciary’s Prognosis for 2008-2010 (BGN)		
		2008	2009	2010
1. Salary Expenditures	186,428,951	228,107,450	237,369,106	247,101,876
2. Other staff payments and remunerations	23,713,875	33,434,848	34,812,873	37,298,975
3. Social Security Payments	57,092,174	75,826,282	79,452,172	81,519,594
<b>TOTAL SALARIES AND SECURITIES</b>	<b>267,235,000</b>	<b>337,368,580</b>	<b>351,634,151</b>	<b>365,920,445</b>
Average gross monthly salary	1,138	1,246	1,283	1,325
Average year payroll positions number	13,657	15,251	15,417	15,546

**3.43 The close connection between personnel numbers and judicial infrastructure (facilities and information technology) requires more intensive review and could provide important pointers to raise judicial efficiency, productivity and performance.**

There is almost universal recognition that the general condition of court facilities in Bulgaria inhibits the operation of the courts and has a seriously negative impact on the efficiency of court operations. The problem most frequently cited is the lack of space for court operations, resulting in overcrowded, inefficient, and, in some instances, unsafe working conditions for staff and the public. *Herein lies the connection between personnel numbers and facilities.* In the Sofia Regional Court, for example, the lack of space has delayed the hiring of staff; and an inadequate number of courtrooms has meant that judges must routinely extend the deadline for initiating trials for criminal defendants by 30 days beyond the 60-day legal requirement. The PORB has been unable to integrate transferred Investigators into the Prosecutor Offices in many locations because of lack of space, and has postponed hiring prosecutors for the new Administrative Courts because there are no facilities for them. The MOJ points out that (a) the Sofia Administrative court has already been allocated a building by decision of the Council of Ministers and is moving there and (b) most administrative courts in Bulgaria have by now been allocated accommodation in existing buildings or buildings under construction (numerous buildings have been provided by government or municipality councils; for a minority the allocation is yet to be made).

34 Note the numbers in the table differ from those in the original SJC request, cited here.

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**3.44 A review of judiciary personnel policies, benefits and management practices could also yield important information to improve efficiency and reduce fiscal impact.** This report was unable to make any assessment of the complete set of judicial personnel benefits, especially non-monetary benefits such as different categories of leave benefits. This is because of the opacity of and lack of readily available information on such personnel benefits. Examining such benefits, and benchmarking them with respect to appropriate comparator judiciaries from EU member states, could be desirable both from the narrow perspective of estimating the fiscal impact of such benefits and from the larger perspectives of transparency and accountability.

## Judicial Facilities

**3.45 With the above two examples in mind, the judiciary could gain a fresh understanding of its facilities needs through a review of why new positions are not being filled and why new staff numbers are not translating into improved case completion ratios.** Annex Table 9 provides a very basic perspective on the situation in the twenty courts listed in Annex Table 6, for example. Annex Table 9 compares rough measures of the size of court house facilities<sup>35</sup> with the 2005 case completion ratio. The average square meters per staff member is 29 in the sample. The average case completion rate for courts with lower-than-average space per person is 71 percent. It is 84 percent for courts with higher than average levels of space per staff member. This suggests that facilities are a constraint on staff ability to perform. Facility constraints limit courts' abilities to absorb new positions. A more rigorous analysis could help confirm if this is indeed the case, and if so could guide personnel and capital budgeting decisions.

**3.46 Insufficient space is a major concern that future budgets need to address.** The lack of facilities greatly delayed establishing the 28 Administrative Courts that began functioning in 2007. In most locations throughout Bulgaria the Administrative Courts are sharing space with other courts in already overcrowded courthouses, greatly reducing the ability of the Administrative Courts to hear cases. In Sofia, for example, two of the Administrative Courts share space in the Palace of Justice with other court units, and have limited access to office space and courtrooms. The Sofia City Administrative Court with 37 judges and 42 clerks has access to only 1 hearing room and has 2 offices for the judges and 20 square meters of space for all clerks in an archive room used also by the Sofia City and Sofia Regional courts archives. The Sofia Regional Administrative Court with 8 judges and 6 clerks (30 unoccupied positions) has only 2 offices and 1 working place for a court clerk and access to 2 hearing rooms on Friday afternoons only. Office space is so short that most judges work at home and clerks have no chairs or equipment. There does not yet appear to be a comprehensive plan for permanently housing all the Administrative Courts, and no total cost estimates yet developed to provide facilities for them. It appears that the major reason no comprehensive plan to house the Administrative Courts has been developed is that the courts anticipated that local municipalities would make buildings available for refurbishment. This has been very slow to occur.

**3.47 In addition to the lack of space, there are other facility constraints such as:**

- Lack of public spaces such as areas to submit and to view court documents;
- Lack of appropriate space for archives (active and inactive);
- Lack of electrical capacity to support current operations and to accommodate technology; aged, deteriorated, unsafe wiring and electrical panels;
- Structural deficiencies (e.g. roof leaks, poorly fitted windows, deteriorating façades and interiors);
- Inadequate accessibility for handicapped;

<sup>35</sup> Obtained from building passport data, but variously including investigations and prosecutors' facilities and court facilities. This is the most robust data that currently exists on court facilities.

- Inadequately separated circulation for public, prisoners, witnesses and judges; and
- Lack of secure holding space for prisoners in the courthouse waiting to go to courtrooms, resulting in the danger of fights among prisoners and escapes).

**3.48 Past capital budget requests have failed to motivate allocation of necessary resources.** Annex Table 10 indicates that Bulgaria invested BGN121 million in judiciary facilities (including furnishings and IT equipment) between 2001 and 2006. This comprises 1.2 percent of the total capital investments of the government during that period. The level of expenditure, however, is far below the amounts actually requested (about 28 percent of the judiciary’s requests were approved for the years with complete information, 2004-06), although actual capital spending has consistently exceeded budgeted amounts. Earlier sections have already demonstrated that the failure of capital requests is understandable because of their unrealistic size, their lack of convincing detail and lack of evidence of prioritization.

### Information Technology/Information Systems<sup>36</sup>

**3.49 Bulgaria’s judicial leadership recognizes that information technology (IT) and Information Systems (IS) can and should play a major role in facilitating judicial functioning.** Substantial efforts, with support from development partners in some cases, have been – and are still being - undertaken to develop workable judicial IT systems. Significant attempts to introduce case management systems and judicial databases date from the 1990s. The MOJ points out that state enterprise ‘Information Servicing’ created and introduced a business-registration case management system in all 28 district courts in Bulgaria. It still continues to maintain that data base for Bulgarian business entities. In 1996 the same company created and introduced judicial case management system called SAS which at present is used in 58 courts including all 28 district courts. In 1996 the company ‘Parallel – Kodinov’ created and introduced a case management system (EMSG) in the SCC which is used even today. The EMSG system has been in use in 6 other courts in Bulgaria. Both the SAS and EMSG systems were established on a self-financing basis and are used by the courts on a subscription basis—a minimal monthly subscription to cover technical support and development costs. The MOJ is of the view that both these information systems “function without problems; they have high-quality maintenance executed on regular bases; and they answer the needs of more than 1/3 of the courts in Bulgaria. Users of both systems evaluate them highly in terms of convenience, functionality, adjustability and stability.”<sup>37</sup>

**3.50** In 2000, USAID began its Judicial Development Program (JDP) – subsequently succeeded by the Judicial Strengthening Initiative (JSI) - which supported the development and implementation of a decentralized case management system. The MOJ states that the case management system developed with USAID support by the firm ‘Latona’ has been introduced in 29 courts and in 12 courts has been abandoned due to low satisfaction reported by users. It continues to be regularly used in 16 courts and occasionally in one court (Gabrovo RC). Eight of the courts which use this system assess it very positively. These are the courts which have succeeded in attracting highly-qualified system administrators who maintain the system and, importantly, update it to reflect amendments in legislation and changes in the internal organization of the courts.

**3.51** EU PHARE support for judicial IT modernization alone amounts to more than 34 million Euros<sup>38</sup>. The PHARE program has financed the acquisition of hardware and the development of

<sup>36</sup> This section only covers selected core judicial IT systems. Consequently, this Report does not include an assessment of other IT-related MOJ systems such as the registers with the MOJ (e.g. Commercial Register, Property Register, Central Register of Special Deposits, Central Register of the Legal Persons Non-Commercial Purpose, and the Mediators Register).

<sup>37</sup> Based on MOJ information.

<sup>38</sup> Comprising funding under the project BG 0203.01 (“Implementation of the Strategy for reform of the Bulgarian judicial system”: 10 million Euro) as well as supplementary funds for other projects such as BG 2003/004-937.08.02 (3.8 million Euro);

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centralized case management systems for courts and prosecution offices. The MOJ is implementing the project in the courts, while the PORB does so for prosecution offices.

**3.52 The MOJ is responsible for managing the IT infrastructure of the Bulgarian judiciary but its capacity to do so effectively is severely constrained.** MOJ Ordinance 8 of June 2007 effectively gave the MOJ the primary role in managing the information infrastructure for the Judiciary. It also established the rules for MOJ-SJC coordination. The current arrangement is that the MOJ will provide and maintain the judiciary's IT infrastructure (computer equipment, networks, software, systems, applications, and support services). According to the new JSA the MOJ is also responsible for the creation, maintenance, implementation and development of the central nuclear of the Unified Information System for Combating Crime (UISCC), as well as its communication connections with the IT systems of the judicial bodies. These arrangements assume strong MOJ institutional capacity to maintain consistency, develop standards and provide technical support. In reality the MOJ is facing great difficulty fulfilling this role with its available human and financial resources (e.g. the MOJ has only 8 staff to provide IT services to the entire judiciary).

**3.53 An IT Strategy for the judiciary was developed in 2003 and updated in 2006.** As in many other countries, the MOJ in Bulgaria plays a key role in the planning and implementation of judicial-wide IT systems. The Strategy proposed the establishment of the Information Services and Technology Directorate (ISTD) to provide technical support across judicial agencies. The original intention was to consolidate the IT capacity under the ISTD, which could function as an IT Agency for the Judiciary. The current arrangement, however, is that an IT Department in the MOJ functions in collaboration with the IT Department of the Registry Agency (RA), an entity under the MOJ, in developing plans and providing technical support. The 2003 IT Strategy also defined a 5-year roadmap for implementing judicial information systems, in the form of a judicial IT investment plan specifying the sequencing of the deployment of priority systems (Annex Table 2). However, the 2006 Strategy update stopped short of specifying a medium-term investment plan, and shifted its focus from committing to operational timelines (action plan) to defining higher-level requirements e.g. overall capacity gap and strategies on architectures.

**3.54 However, difficulties arose from the outset in strategy implementation.** It appears that the strategy was discussed and approved at a high level but little, if any, investment was made to disseminate it and inculcate its recommendations at the working levels of the judicial system. Furthermore, the resources allocated for implementation seem to have been too stretched. Key application systems included in short term priorities such as a unified court case management system are not yet fully operational. And many judicial actors do not seem to be fully aware of the IT strategy for the judiciary.

**3.55 The result is a collection of disparate systems with limited contribution to streamlining business processes and information-sharing** (Box 8). Overall therefore, there seems to be a lack of coherence on the IT front. A Report 'On the State of IT Systems for the Needs of the MOJ and the Judiciary' commissioned by the MOJ and prepared by a three-expert team refers to nine different applications in use, none of which seems to be highly appreciated by the users.<sup>39</sup> These applications use disparate technical platforms and cannot exchange court case information or documents. Industry views suggest that there is no operational strategy to harmonize hardware, system software, application software, security management and other technical infrastructure. The fragmented efforts in the

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BG 2004/006-070.03.01 (4.05 million Euro); BG 2004/016-711.08.01 (3.30 Euro); BG 2004/017-353.07.01 (5.85 million Euro) and BG 2006/018-343.07.01 (6.90 million Euro). The judicial system is a beneficiary also of the "Administrative Capacity" Operational Program, and is entitled to apply for administrative capacity strengthening and IT development. (Source: MOF vide reference no. 93-02-56 of March 14, 2008).

<sup>39</sup> The EU-PHARE has been the most significant international source of financing. Of particular interest is its ambitious and complex program "Implementation of the Strategy for Reform of the Judiciary in Bulgaria through the Introduction of Information Technologies."

absence of a strategic policy for development and implementation of IT applications for the judiciary have led to large expenditures for creation of systems, whose installation, use and maintenance present significant problems.

**3.56 Taken as a whole, existing IT applications do not yet constitute a functional IT system for the judiciary, jeopardizing enforcement of new legislation and delaying potential efficiency and governance gains.** The MOJ and SJC leadership clearly recognize this challenge. According to the MOJ, the case management system developed by Siemens through PHARE support<sup>40</sup> should have been completed by 2006 according to the contract and introduced in all 156 courts in Bulgaria. Persistent and significant obstacles reportedly continue to plague the creation of a stable functioning version of the system, in its ability to incorporate changes in legislation and the internal organization of the judiciary. The system has been introduced in 4 courts. However, since March 1, 2008 the Sofia RC has reportedly refused to implement it due to its unsatisfactory functioning and instability. According to the MOJ, an international audit of the Siemens system commissioned by the Sofia RC and executed by the ‘Stemo’ Company “has established the instable functioning of the ‘Siemens’ IT system and its incapability to be exploited together with the ‘Index’ IT system for previous conviction records”. A key idea behind this PHARE project was to implement a set of complementary IT applications across the judiciary.

### **Box 8. Bulgaria: IT Application Systems In The Judiciary**

**Four fundamental application systems are currently being implemented.** They are intended to establish uniform business processes in the courts<sup>41</sup> and facilitate monitoring of criminal cases.

- The Case Management System for the Courts (CMSC), implemented by Siemens and financed by EU-PHARE, seeks to put in place a standard court case management environment. There appears to be a view, including significantly from USAID which has financed a competing product in use, that it would be beneficial for the judiciary to implement the CMSC in all courts. The system has been developed and tested in four courts, and deployment was expected to start at the courts that are not yet automated and completed for these courts by the end of 2007. The system, however, needs to be adjusted to accommodate changes in the law. When data migration becomes available, the currently automated courts will also be moved to the new system. The CMSC is proposed to be implemented in district and regional courts, but not in the higher courts. The CMSC at this point in time seems to lack workflow and document management, but such functionality has been developed separately and possibly can be integrated. This system can feed the UISCC with the relevant statutory data.
- The Workflow and Document Management System (WDMS) was also financed by EU-PHARE as part of a separate lot but intended as a companion for the CMSC. The WDMS is based on an off-the-shelf document management system customized to the specific needs of the courts. It has been tested, accepted and is operational in the pilot environment. At this point in time, integration between the two court systems is lacking and the number of licenses for the WDMS is limited.
- The Prosecutors’ Case Management System (PCMS) seeks to establish a standard case management environment for the PORB. It is in use in most offices and functions satisfactorily. The World Bank is supporting further development of the system under an IDF Grant to increase its efficiency and create the technical conditions for it to automatically feed the UISCC with the relevant statutory data.
- The UISCC seeks to provide a standard classification and identification number to cases from their inception. The system then enables the tracking of developments on each process, crime or indicted person before and after completion of the case. The system architecture is based on formalized data collection from the Courts, Public Prosecutors’ Office, Investigation, Police agents, places of detention, and the like.

**3.57 Policymakers are now aware of the urgent need for stronger linkages between IT investments and performance improvements through a better-defined, well-sequenced and realistically costed judicial IT strategy and implementation plan.** Upon assumption of office

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Lot 1 of PHARE Project 2002 – Implementation of the Judicial Reform Strategy via introduction of IT.  
Based on MoJ information

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in mid-2007 the Minister of Justice commissioned, in August 2007, a group of external experts to prepare an independent report on the condition of IT in the judiciary. The group completed its report in October 2007 and presented it to the SJC on December 14, 2007. It concluded that the IT systems developed with external support (PHARE, USAID) had not answered the judiciary's expectations, and that the backbone of the IT systems in the judiciary comprised those IT systems developed through self-financing methods and used and supported through subscription by the courts (i.e. as a service and not through one-time acquisition of software programs which according to the group created maintenance problems). The group also presented aggregate data on implementation of IT systems in the judiciary and users' evaluation for each (Table 7)<sup>42</sup>.

**Table 7. User Ratings of Judicial Information Systems (2007)**

System Name (Vendor name in brackets)	Financing Source	No. of Courts Using	Func- tionality	User Friendliness	Adaptability	Stability	Average Rating
Docuware (Hewlett Packard)	EU PHARE	14	3.72	3.48	3.52	3.86	3.65
Conviction Certificates (Index)	EU PHARE	93	4.24	4.02	3.92	4.15	4.08
CMS (Siemens)	EU PHARE	4	2.67	2.87	2.67	2.8	2.75
Lawchoice	USAID	77	4	3.85	3.85	4.03	3.93
CMS (Latona)	USAID	16	3.73	3.6	3.47	3.77	3.64
EMSG (Parallel)	Budget	7	4.86	5	5.14	5.43	5.11
SAS (Information Services)	Budget	54	4.48	4.38	4.04	4.8	4.42
Temida 2000 - enforcement	Budget	33	4.06	3.83	3.89	3.97	3.94
Temida 2000 - convictions	Budget	24	3.82	4.87	3.46	3.79	3.99

Source: Report of MOJ External Expert Group (October 2007)

**3.58** In the report the external experts propose that the development of IT systems for the Judiciary be executed provided (a) courts are empowered to choose the IT system they would prefer to use and (b) at the same time the providers of such systems are obliged to maintain a common standard for data exchange. According to the experts, this approach has proved its functionality<sup>43</sup>. Another recommendation of the experts is that the contracts for implementation of the IT systems be negotiated as a service included in the on-going maintenance and update, and not as a one-time acquisition of rights to use the software.

**3.59 IT leadership and strategic planning are possibly the most critical dimensions of the IT institutional infrastructure.** In general, the MOJ and judiciary have developed IT solutions in a more or less isolated manner. This has created a substantial burden in maintaining existing court application systems<sup>44</sup>. The revised JSA aims to strengthen cooperation between the SJC and the executive under a more strategic approach. Not only does the JSA refer to IT as a field of joint responsibility (Art.

<sup>42</sup> The Adviser to the MOJ shared with the World Bank on May 22, 2008 a summary of the "Report on the State of the Information Systems for the Needs of the Ministry of Justice and the Judicial Authorities", from which Table 7 is taken. The robustness of the sampling framework and methodology for data collection in respect of the user ratings, or the criteria against which the different IT systems in use have been assessed, are not clear upon a reading of the MOJ report. This report therefore does not offer any comments or suggestions since more detailed discussions will be needed with the external experts (who prepared the MOJ report) and end-users, as well as examination of quantitative data on technical and user specifications, performance parameters and actual performance.

<sup>43</sup> E.g. in Bulgaria the numerous accounting systems present on the market maintain a common standard for data exchange with the National Revenue Agency, the National Social Security Institute and the Customs Agency. Likewise, different information systems for management of pharmaceutical activities exchange data with the National Health Insurance Fund.

<sup>44</sup> Financial Risks, Management Summary section of the "Bulgarian Judiciary IT Strategy 2003-2007".

370.1.4), but attempts to divide relevant responsibilities between the SJC and the MOJ. However, due to insufficient clarity in the JSA provisions, the result is overlapping rather than divided or joint responsibility: both the SJC and the MOJ have powers to approve IT systems (Art. 30.16 and Art. 385.1), while both judicial bodies and the MOJ have competence to maintain the communication connections of the UISCC. The deficit in strategic leadership is also evident in IT budget preparation and approval processes. Assigning responsibility for IT strategic planning and management to the IT Directorate of the MOJ seems to be justified, necessary and timely. However, the Directorate received the mandate but not commensurate resources. Lastly, it continues to be a significant challenge to attract, train, and retain highly-skilled IT professionals to support a significantly automated judiciary.

**3.60 The MOJ plays a key role in preparing the judicial IT capital budget requests, but is severely constrained by staffing constraints.** Until 2006, the SJC was responsible for consolidating and submitting budget requests for the entire judiciary. The new procedure transferred the responsibility of preparation of the capital budget request to the MOJ. The requests from judicial agencies are now forwarded to the IT Director of the MOJ, whose office consolidates all requests and presents the consolidated budget request to the SJC for their comments. The IT Director of the MOJ is responsible for reviewing the proposals and ensuring they are appropriate. Given the staffing constraints in the IT Directorate, such requests tend to be passed to the SJC and forwarded to the Parliament for decision with little or no quality control.

**3.61 From 2004 onwards, judicial IT capital expenditure has fluctuated between BGN1.1 million and BGN1.7 million, and its composition has changed.** More than 90 percent of the expenditure was for purchasing computer, printers and other hardware. The remaining amount was for acquisition of software. The percentage of IT investment in total capital expenditure decreased from 9.9 percent in 2004 to 3.0 percent in 2006. Expenditure by courts<sup>45</sup> accounted for about 60 percent of IT expenditure in 2004. In 2006, it decreased to 52 percent. Spending by the newly created Administrative Courts is expected to start from 2008. The Prosecutors' Offices, which were spending substantially less on IT until 2005, increased their spending in 2006<sup>46</sup> and have requested a further substantial expansion in spending in coming years to address the needs associated with the deployment of their new case management system.

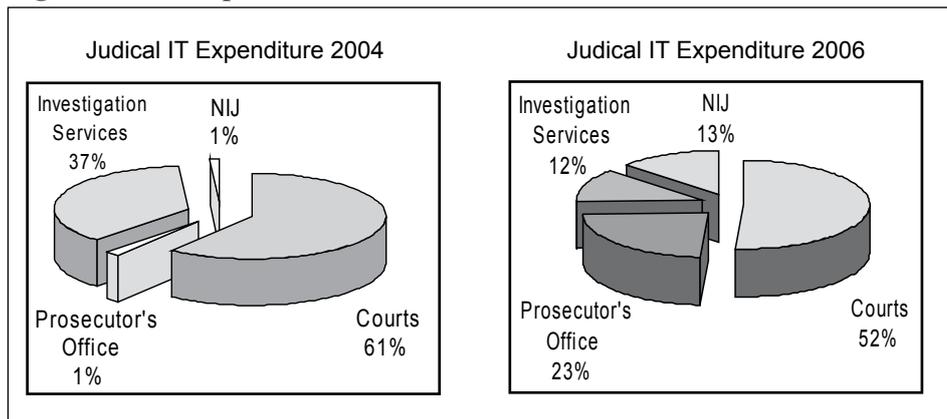
**3.62 The percentage of IT investment within the capital expenditure of judicial agencies also fluctuated substantially between 2004 and 2006,** between 3.6 and 7.1 percent for courts and 2.8 and 23.3 percent for prosecutors' offices. The IT capital request for courts envisages an increase from 4.3 percent in 2007 to 13.0 percent in 2009. The PORB requested a more ambitious investment plan, which assumed that PORB IT expenditure would reach 30 percent of the PORB total capital expenditure. This begs the question of whether, to the extent that such expenditures are incurred or administered by the PORB and NIJ, these agencies have increased (or plan to increase) their respective in-house IT capacities commensurate with the increased need for contract administration and oversight on the one hand and technical support on the other.

<sup>45</sup> Courts include Supreme Court of Cassation, Supreme Administrative Court, Appellate courts, Sofia City Court, District courts, and military courts.

<sup>46</sup> IT capital expenditure of the Prosecutor's offices reached more than BGN250,000 in 2006 from BGN 33,000 in 2005. Most of the increase is for purchasing hardware.

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**Figure 26. IT Expenditures: 2004 and 2006.** *Source: MOJ*



**3.63 The consolidated request shows a general rise in the proportion of IT investment in total capital expenditure over the next three years.** This suggests that the growing need for IT investment is recognized by the judicial leadership. While this implies additional pressure on already stretched IT technical and human resource capacity, data is not available to ascertain whether a commensurate increase has been requested for the IT operation and maintenance budget. Adequate funding and a robust plan for IT operation and support are of critical importance to effectively absorb the expected growth in IT investment.

**3.64** The next chapter outlines concrete steps that could be taken by the judicial leadership – and a beginning has already been made in some areas – to strengthen allocation and management, targeting performance and accountability improvements.

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## 4. ACCELERATING AND SUSTAINING CHANGE

### Improving the Judiciary's Public Financial Management Process

**4.1 This systems gap could be filled by introducing a clear strategic planning process in the sector<sup>47</sup>—for high-level policymakers especially.** This process will focus on generating a set of clear sector policy objectives (like those shown in Table 1) by January of each year, preceding formal budget preparation for the coming year. These objectives should be set for the entire sector and could be used as the basis of a programmatic structure in the sector's budget. The broad objectives should be related to specific performance criteria (as shown in Table 2, but for the entire sector) and targets should be set for the sector (with data showing prior year performance). The target setting process should be informed by a realistic assessment of expected resource ceilings in the future budget. These could initially be identified through the nominal upwards adjustment of the prior year's budget allocation (with a nominal adjustment one or two percent less than expected inflation, for instance).

**4.2 This product should be followed by a more operational process in which all budget entities in the sector (including courts) submit a strategic multi-year plan** that shows their past performance against set criteria and identifies specific targets for performance improvement in the coming three years. At this stage all entities should also be required to show indicative funding needs to meet these criteria over the period, held under the adjusted ceiling. All entities should be allowed to add extra requests in an additional section, with the proviso that strong argument be made for these requests—showing how each request will impact on the entity's performance. The entire request should be short and focused on establishing a link between objectives and financial planning. Annex Table 5 provides an example of a simple worksheet that could be used (and actual ideas of programs and performance indicators are provided in this report and the Technical Annex on Budgeting). The requests are not formal budget proposals, and thus should be submitted before budget preparation instructions are even issued (probably in March). Interestingly enough, this is about the same timetable that holds for budget entities in Bulgaria's executive—but these entities have to provide much more detailed program budget documents in this period.

**4.3 The new strategic planning processes will require intensive collaboration between the key role players in the sector.** The high-level product (a broad sector strategy) will require genuine participation of all parties in the Supreme Judicial Council, as well as their support staff (including the SJC and MOJ administrative units). The more operational products will require collaboration between the SJC and MOF administrative units as well, and the engagement of all second-level (and below) budget users in the judiciary. The former group will have to be responsible for developing the high-level product and translating objectives and programs into a strategic planning guideline and the latter group will need to fill this guideline in and make submission in March—earlier than they have ever produced a budgeting product before. Achieving collaborative structures and harnessing the support and engagement of all parties will require significant political leadership and may be the biggest challenge for the initiative.

<sup>47</sup> The MOF confirms that under the Transitory Financial Instrument, a project has been approved (“Strengthening of the Judicial System Public Management”), with the SJC as the beneficiary. This project seeks to develop recommendations for strengthening the management of the judiciary, including the preparation of programmatic budgets (MOF reference no. 93-02-56 of March 14, 2008).

## ACCELERATING AND SUSTAINING CHANGE

**4.4 Collaboration is also required for basic budget preparation, whether new strategic elements are introduced or not.** The judicial budget preparation process has a strong bottom-up structure, whereby second level budget entities (courts, investigation offices, etc.) submit requests that are simply compiled into a sector proposal by central entities.<sup>48</sup> The SJC Budget and Finance Department (BFD) issued guidelines for the complete budget request and aggregated these into an entire budget proposal until 2007, when this role was split for operational and capital budgets. The SJC Department retained its role in regard to the operational budget but the MOJ was given responsibility for the capital budget. Internationally, separating operational and capital budgeting processes is not considered good practice as it leads to budget fragmentation and reduces the efficacy of holistic resource allocation.

**4.5 It would be desirable for the SJC and MOJ to formalize a collaborative model through which they could jointly prepare the budget.** Given that responsibility for developing proposals and aggregating these has been separated, the onus is on the BFD and MOJ to establish collaborative mechanisms to overcome process separation. The high level of formality in the budget process yields it appropriate that any collaborative model be formalized through an administrative agreement—specifying responsibilities, important dates, capacity-sharing arrangements, meeting timetables and such. A strong collaborative budget preparation process founded on common timetables and guidelines and building on strategic products (as suggested above) decreases the influence of changes in organizational responsibilities.

**4.6 There is ample opportunity for a collaborative agreement to improve the system as it currently exists, starting with basic documents and processes.** Guidelines issued to date—especially the split operational and capital guidelines—have not incorporated a strategic focus, for example. The guidelines for operational requests ask second level budget entities simply to show their request by economic item. Accompanying annexes request explanations and caseload statistics (the latter is used to show own revenues). Explanatory text focuses on input needs, providing detail of staff members needed for example. There is no request for performance information at all, and even the case data is not directly referenced in any strategic manner. (In some cases courts will use the caseload data to explain requests for new personnel, as per a 2005 order that allows new appointments for courts with above average caseloads). The process for gathering information in the capital budgeting process is similarly un-strategic, with second level budget users asked to submit requests and provide basic information about what the spending will cover.

**4.7 A more strategic set of budget preparation guidelines—jointly issued by the SJC and MOJ—is urgently required and could act as a crucial coordination mechanism.** If budget guidelines are structured along the lines of the initial strategic planning guidelines (Table 3) but obviously with more detail—on the economic items, for example—the entire budget preparation process would become more strategic and disciplined. Operational and capital elements could be combined in the request and separated for analysis once requests are received at SJC and MOJ. However, the common guidelines and common focus on programs and objectives would allow the SJC and MOJ a common language for discussing requests and developing a final proposal.

**4.8 Improved guidelines will also allow more constructive budget negotiations.** Budget proposals produced over the past five years betray a lack of structured negotiation, which appears to have significantly harmed the ability to raise certain kinds of resources. The low quality of budget requests is evidenced in regard to capital, however, where it seems that there is nothing to automatically discipline requests to a level more realistic (why are requests so high, year-after-year, when they are never honored?) and more strategic (requests are easier to turn down when they give limited reason

<sup>48</sup> The budget proposal made by the SJC is based on the proposals filed by each of the Courts and secondary bodies which are then incorporated to a sole budget together with the first-level cost centres: Supreme Administrative Court, Constitutional Court, Supreme Cassation Court, State Attorney's Office, National Department of Investigation and National Institute of Justice.

for funding). More strategic guidelines would introduce realistic limits for requests and thus eliminate the excessively inflated unrealistic requests of the past (that suggest weak prioritization) and would also ensure that all requests show how new capital will contribute to sector performance.

**4.9 Making budget preparation more strategic will improve budget quality—ultimately enhancing the sector’s ability to advocate for resources.** The judicial budget is currently submitted to the legislature in two versions. One comes from the judicial authorities (SJC and MOJ in 2007) and another from the MOF. This situation exists because the MOF is not allowed to directly engage in negotiations over the judicial budget (given independence of the judiciary from the executive). The MOF budget version is intended as an alternative for the legislature to consider when assessing the validity of the sector budget. Commentators in the judiciary have opined that the MOF version undermines its own. Figure 20 shows that this is not the case, at least in 2007 for salaries and operations and maintenance expenditures, where the SJC and MOF made very similar proposals (reflecting the protected nature of these expenditures). The two proposals were even similar with regards to capital. The legislature made the final cut in regard to capital. This is at least partly because of the low quality of the request. A more strategic budget request, realistic in amount and showing how allocations contribute to performance, is much harder for legislatures to turn down.

**4.10 Capacity to budget for capital spending needs improvement.** The low quality of capital budget requests suggests weak capacity in this area. There has definitely been a breakdown in capacity since the hand-over of capital budgeting from the SJC to the MOJ, with the latter struggling to staff the new function. Capacity was not significantly higher prior to this either with limitations on the personnel and information side. Regardless of who has been responsible for the function, there has also been no systematic way of compiling data, prioritizing and developing a strong submission. Improved budgets will only flow from stronger abilities to develop such.

**4.11 Capital management capacity also requires attention.** In many respects the judiciary can consider itself fortunate that capital allocations have been lower than requests. Actual spending has in many years amounted to a fraction of initial requests. The MOJ points out that in 2007 it spent almost BGN67 million as against the previous maximum of BGN35 million. Given the importance of considering ability to spend when compiling a budget, a pertinent question could be why the sector continued requesting far more in each year (from BGN63 million in 2004 to BGN182 million in 2007). Its institutional and implementation structures and capacity do not seem to be strong for such allocation levels.

**4.12 Strengthening capital management capacities is an urgent need.** The recent shift in capital management to the MOJ resulted in a loss of all existing, albeit limited, SJC capital management capacity, with staff reallocated and significant failure in the transfer of crucial data. This situation was very problematic and, it could be argued, reflected a short-term and ad hoc approach to capital management in the sector. It would be desirable for the authorities to focus on developing a sector capacity that is not dependent on formal associations. This capacity should reflect the fact that capital management (and indeed budget execution) is actually quite decentralized. A great number of approved expenses, either current or capital, are incurred directly by the first-level entities like the PORB or even below, at the courts. Major investments regarding construction or refurbishment for judicial buildings were previously carried out by the SJC when their cost exceeded a minimum parameter. Current law requires the MOJ to play this role<sup>49</sup>. In order to minimize the constant capacity holes resulting from these shifts, the sector should consider how best to create capacity across its core entities—that is easily transported and in fact allows best engagements of the first and second level entities, the SJC BFD and the MOJ. This includes having the capacity to do long-term capital planning, develop realistic and targeted budgets, assess the validity of capital spending requests, contracting documents pertaining to capital projects, actually manage project procurement and execution, provide project

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oversight, obtain and maintain a facilities and project database, produce reports on facilities quality and project progress, etc.

**4.13 It may be difficult for the MOJ to perform all the required functions on its own—thus a combined partnership-cum-capacity-building approach could more efficiently split responsibilities across all relevant players.** Experts in the SJC are probably better located to collect and organize facilities data, for example, given the fact that they routinely receive other spending reports. First-level spending units and the courts are being given greater responsibility in deciding on smaller expenditures through decentralized approval authority. This would decrease the MOJ's current burden of having to vet all requests above BGN300 and increase end users' flexibility with regard to largely operational decisions regarding purchasing of individual computer hardware objects, software and small furniture purchases. In splitting responsibilities the onus would be on the entity legally responsible for the spending (currently the MOJ) to coordinate a working group. Such working groups are common in many governments and private organizations, especially for issues such as capital management, because of the many interests involved. The MOJ stresses that chief managers of judicial entities are already authorized by the Minister of Justice to organize and execute limited public procurement (provided for in the regulation on small public procurements).

**4.14 There is significant scope to improve procurement transparency and efficiency** in the system. One approach could involve centralising more contracts for common operating and capital expenses such as maintenance, security or roof and sidewalk repairs. Larger contracts, spread over a period of years after transparent negotiation at either national or regional or district level, would allow for a more efficient pricing structure and would reduce the contracts management burden (through fewer contracts and contract procedures).

**4.15 A central review of staffing and remuneration variations, and development of a clear sector personnel management regime, is suggested.** The sector has invested a lot in its staff in the past few years. It is important that the sector know where its personnel management regime is functioning and where it is not. If the sector decides to move towards a more strategic approach to budgeting and financial management it is further important that authorities create a personnel management system that stimulates efficiency and performance. A first step in this direction requires developing a better understanding of why remuneration and staffing numbers vary so dramatically, how staff are managed, and what efficiency variations exist across first and second level spending units. Meanwhile, it would be desirable to reconsider increasing staffing and salary levels, and slow down personnel expenditure increases. Given that salaries have crowded other expenditures out in the past, a continued increase in personnel expenditures is not advised. The evidence of ad-hoc staffing decisions raises further questions as to the efficacy of the continued new staffing and salary requests.

**4.16 The existing situation calls for a review of personnel expenditure patterns across Bulgaria's judiciary to inform a targeted approach to personnel spending in the judiciary and assist the judiciary in properly identifying its capital needs.** This review could be based on a benchmarking exercise that can relate caseload to allocated positions, actually filled positions, positions per square meter in housing facility, and to case completion ratios. This exercise can allow identification of those bodies and courts that are truly in need of more staff or higher salaries, and those where staff numbers and salary levels are not the major constraint. The exercise can also reveal which courts are struggling to fill positions and which courts appear to have a human resource management strategy that encourages performance.

**4.17** Such a review could help inform a targeted approach to personnel spending in the judiciary, which is urgently needed. This report does not suggest that all courts have sufficient staff or that all salary levels are appropriate; in fact, many courts with weak staffing structures and salary levels are

not getting the support they need because of the apparently ad-hoc approach to deciding on personnel expenditures.

**4.18 Accounting, accountability and management functions also require strengthening.** Each spending unit, including courts, currently has its own separate accounting system. Accounting entries are made by each budgetary unit pursuant to an approved coding system and the monthly and cumulative results for each financial year are submitted to the SJC. At the SJC they are consolidated and verified during preparation of monthly accounting summaries which are sent quarterly to the MOF. The SJC thus lacks a discreet accounting system whereby each court makes its own specific accounting entries allowing for real-time monitoring information on a centralised and cumulative basis. This raises questions about the validity of data presented, the ability of the SJC to properly monitor and oversee judicial expenditures, and the efficacy of spending controls. These are undermined by the lack of consistently applied commitment controls, for instance, as well as the large variation in accounting capacity in individual spending units—reports suggest that many courts do not have qualified accountants on staff. Furthermore, the sector has lacked real internal audit to date. Its internal control system (located in the MOJ) has taken the shape of an investigations unit responding to claims of process violations rather than providing ongoing assessment of systems integrity.

**4.19 Recent steps to strengthen these functions are welcome and strongly endorsed.** These steps include an SJC-initiated tender to develop an IT-based accounting system. Progress in the tender is limited, however. There are other tenders by delegated entities in the judicial sector (including the Prosecution) which could further fragment the systems. It is vital that accounting officers across the sector communicate about the systems they are introducing, and work to ensure these are established in an efficient and effective manner and in a way that allows inter-system engagement. These arrangements could be institutionalized in due course. Steps to establish a modern internal audit capacity in the SJC are also highly commendable. It would be appropriate for the SJC to take note of the success in this regard in the executive, and reach out to the internal audit entity in the MOF for assistance. A strong internal audit and monitoring function will be invaluable if the sector is to embrace the vision of more strategic, performance oriented budgeting and financial management.

**4.20 Positive actions in response to this report's recommendations on budget and financial process improvement would contribute to improved financial performance in the sector.** A review of past performance, and indeed of the most recent budget, reveals weaknesses that one can trace back to the current process deficiencies. This review also reveals policy weaknesses on the demand and supply sides.

### Estimating Facility Financing Requirements

**4.21 It is likely that Bulgaria's judiciary actually needed more facilities expenditure over the past decade: a catch-up may therefore be needed in future budgets.** Anecdotal evidence already mentioned indicates that many key courts are not properly housed. Absent a professionally conducted baseline survey it is very difficult to estimate with any accuracy the total funding required to provide Bulgaria's judicial system with adequate, functional facilities that reflect better international practice. Without such an estimate, however, it is also difficult for the government to evaluate the level of funding needed over time to accomplish such a goal.

**4.22 Informed estimates can be used to approximate facilities financing requirements.** In 2006 the SJC staff estimated that of 145 non special court facilities, 43 were usable without modifications. The remainder required modernization, extensions and additions or replacement with new facilities. They had not, however, calculated how much additional space would have to be provided. This report uses industry averages from Bulgaria to estimate the average cost of modernizing 44 locations (81,911

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m<sup>2</sup>), refurbishing 36 locations (45,384 m<sup>2</sup>), adding 25 or 50 percent of space to 36 locations (11346 m<sup>2</sup> and 22,692 m<sup>2</sup> respectively), and replacing 22 locations (5673 m<sup>2</sup> at 25 percent additional space and 13014 m<sup>2</sup> at 50 percent additional space).<sup>50</sup> Annex Table 13 summarizes the resulting figures.

**4.23** Based on these estimates the total cost for refurbishment and new construction/additions for the judicial space would be BGN109.9 million (to refurbish the existing space designated as needing modernization and construct 26,000 m<sup>2</sup> of new space). Adding 25 percent additional space to the 36 locations needing extensions/additions and to the 22 locations that must be replaced could cost an estimated BGN124.2 million. To add 50 percent additional space to those 36 locations could cost an estimated BGN138.5 million. To this number must be added the requirements for the PORB, for which the office is requesting some BGN58.5 million for 2008-10; however, the technical staff estimated that PORB might actually need as much as 34,200 m<sup>2</sup> more space than the roughly 53,577 m<sup>2</sup> now occupied. Completely refurbishing 53,577 m<sup>2</sup> would cost an estimated BGN37.504 million, and creating 34,200 m<sup>2</sup> of new space would be an additional BGN27.36 million. To this rough range of costs—BGN147.4million to BGN203.36 million—must be added furniture and computer equipment. This excludes the cost of new facilities for the new administrative courts, for which some estimates run to about BGN25 million.

**4.24** Another approach could be to calculate the costs of replacing all the space with new construction, adding 25 percent more space, and adding 50 percent more space. Although this solution is not likely to happen, it gives some estimate of the higher end of the range. Replacing the existing judicial space would cost an estimated BGN183.9 million; adding 25 percent more space would cost an estimated BGN229.8 million; and adding 50 percent more space would cost an estimated BGN275.8 million; reconstructing all the current and required PORB space would add another BGN70.2 million. Again, to this rough range of costs—BGN147.4 to refurbish existing space to BGN346 million to reconstruct all current space plus add 50 percent more for courts and 34,200 m<sup>2</sup> for PORB--must be added furniture and computer equipment.

**4.25** The last piece of the puzzle is the likely cost of providing adequate space for the Administrative Courts, for which no estimates have apparently yet been developed. However, the budget projections for 2007-09 developed by the SJC provide some clues. It estimates capital costs for the Administrative Courts of BGN25.2 million for the three years. Although we cannot be certain, it is likely that this amount is only for the interim accommodations of the Administrative Courts, not the longer term solution.

**4.26** **The medium-term program of the judiciary submitted to the National Assembly included about BGN34 million for improving courts' infrastructure during 2008-2010.** In contrast, the requests received by the MOJ from the courts and PORB for the 2008-10 budget cycle initially amounted to BGN334 million - at the high end of the range of total necessary costs estimated in this report. The high requests followed past patterns and were difficult to defend. Following prior year practices, the MOJ in 2007 asked court Presidents and the PORB to submit requirements for capital investments to be funded between 2008 and 2010. The responses received ranged in specificity and usefulness from the very thorough submission of the PORB, to one page letters from individual courts: the capital request for 2008-10 came to over 3 times the total appropriated in the prior 7 years. The request for 2008 alone amounted to five times more than was appropriated in 2007. *This underlines the major variation between past experience and current request.*

**4.27** **The first step to improving this request is greater realism about how much can be spent within the confines of the overall budget framework.** The MOF informally suggested a cap of BGN40 million for the judiciary's capital outlay for 2008. This is more than the judiciary has been able to disburse in any single year since 2001. It would show a realistic approach if the judiciary could

estimate a base request within this limit in future years. This could be the first tier of a more complete budget request, which could be broken into manageable tiers.

**4.28 The second step requires real (and therefore difficult) prioritization.** This was difficult in 2007 given information constraints and is likely to be so in 2008 as well, but a tiered approach could allow for some strategic orientation:

**4.29** *The first tier, for expenditures within the MOF cap of BGN40 million, could include requests that represent the most critical safety, health, and structural problems—and are not huge projects. The approach would accommodate a number of interventions that could even be grouped according to the kind of work done—roof repairs, structural repairs, and so forth. Grouping work in this way could also allow for efficiency-enhancing management processes (like district-wide roofing contracts to cover four courts).*

**4.30** *The second tier could focus on a critical project that by itself consumes a full BGN40 million, such as the critically needed refurbishment of the Regional Court in Sofia, which represents 6.8 percent of all the judges and 12 percent of the finished caseload.<sup>51</sup> This project would have a far greater impact on the efficient operation of the judicial system than any other project, and the Parliament might be willing to fund it over and above the MOF cap.*

**4.31** *The third tier could identify the level of funding needed in 2008 to house the Administrative Courts. These expenditures could be included in the first, critical, tier, but would probably not consume much in the first budget year. As with the Sofia Regional Court, the legislature might be persuaded to exceed the cap for such critically needed work.*

**4.32** *A final, fourth, tier could incorporate all the remaining requests in some logical way—by percentage of the caseload in the court, for example.*

**4.33 The third step would require improved advocacy of the request.** The improvement of strategic orientation in judicial budgets is a theme of this chapter. Improving the prioritization of the budget request is one way of doing this. It is also important to show how the prioritized spending will affect sector performance. This involves showing the legislature and the public exactly what it is buying with its capital expenditures, and giving some assurance that the money will be spent and will be spent well. The capital budget request produced in June 2007 showed only inputs as products (Table 8): the number of buildings purchased, buildings refurbished, and furniture and equipment purchased.

**Table 8. What Will the Capital Expenditures Buy?**

Program Goals: Improving the Working Conditions of Judicial Bodies					
Performance Criteria	Unit of Measure	Achievements			
		2007	2008	2009	2010
1. Acquisition of building (purchase or construction)	Number	3	2	1	-
2. Building reconstruction, reorganization and overhaul	Number	26	111	64	54
3. Acquisition of furniture and equipment	Number	29	127	122	113

**4.34** These are not the kinds of things that legislatures consider when making budget appropriations. As was asked with regard to salary expenditures, “what will the capital expenditures buy in terms of sector production—improved ability to accommodate hearings and improve case clearance, for example?”

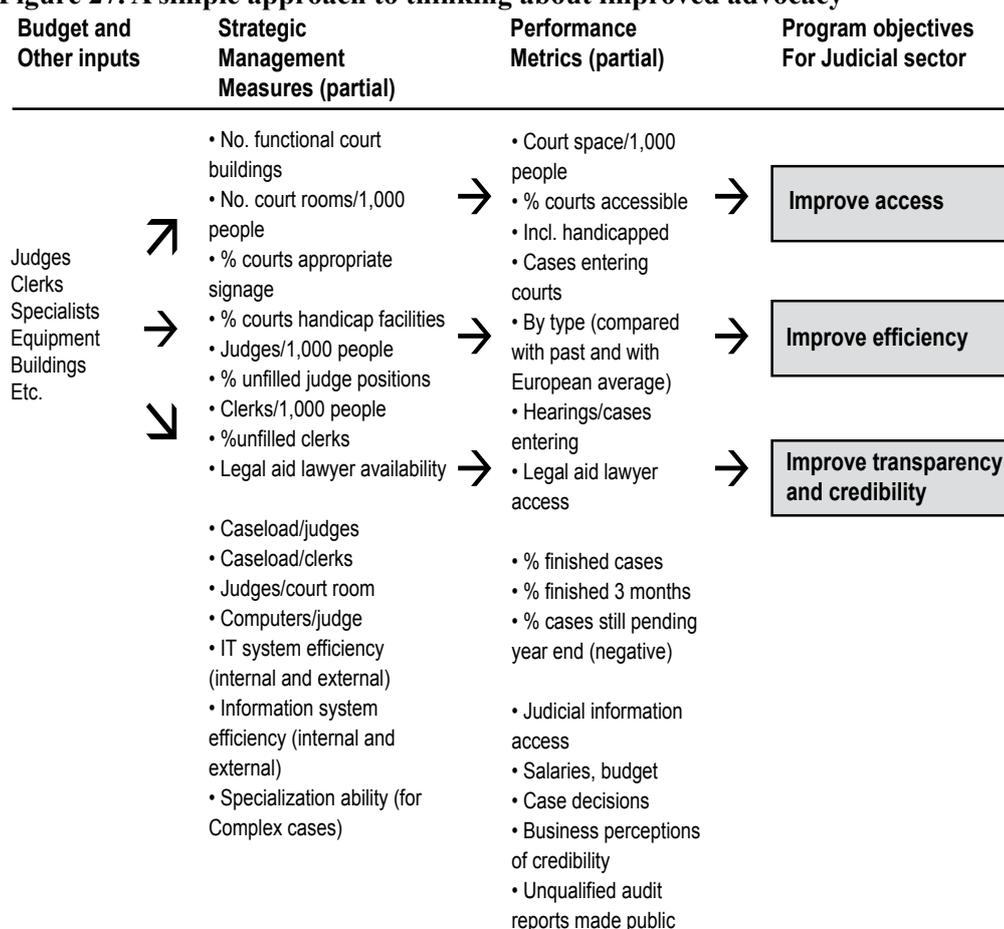
<sup>51</sup> According to 2006 data.

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**4.35 More forceful arguments could be put forward for capital requests, even in the short-run.** Arguments should focus the budget request on policy goals, indicating that results matter and capital financing is needed to improve results. Requests should be framed in terms of broad sector objectives that are usually used to organize programmatic budgets in other settings (as is apparent in Figure 27) — improved access, efficiency, transparency and credibility. Beyond the 2008 budget these could be the starting candidates for sector objectives and the basis of programs for capital and for operational expenditures. In the 2008 budget submission they could be used as the basis of arguing for improved capital funding.

**4.36 The basic approach involves showing how capital requests provide inputs that one can reasonably assume will improve performance and help the sector meet its objectives.** Figure 27 shows how this could be done. For each tiered budget request, the MOJ and SJC could show how financing will yield key inputs. An argument could be made as to how these will improve the capacity for strategic management in the sector and subsequently key performance metrics. For example, an argument could be made that roof repairs in the regional courts in the Sofia district would ensure the functionality of court buildings servicing about 10 percent of the country’s cases. The functionality of these court buildings is vital to having enough court space in the district (a performance measure in the Figure) and facilitating an improved number of case hearings—a key judicial access indicator.

**Figure 27. A simple approach to thinking about improved advocacy**



**4.37 This method would require that budgeting authorities actually use the management and performance metrics at their disposal—something not done in the past.** Much of the information required to develop strategic performance-based budgets actually already exists in Bulgaria. It is not being used at present but could be used to much effect. The experience of countries such as the Netherlands, and the lessons from such experience, could be relevant for Bulgaria (Box 9).

**Box 9. Performance Budgeting in the Netherlands: A Focus on Efficiency**

A performance budgeting approach was introduced in the Dutch judiciary from 2005. The aim was to improve the efficiency and equity of resource allocation among courts, and enhance the transparency and accountability of the judicial system. The new approach is based on a workload analysis and requires a robust monitoring system in place in all courts. During budget negotiations the Judicial Council and the Ministry of Justice agree on an annual caseload for the next budget year based on which the allocations for the courts system are made. The budgeting model is based on estimates of average time for groups of cases and categories of courts and estimated cost of processing each group of cases.

The ‘price’ per case is agreed every 3 years between the Ministry of Justice and the Council and covers the cost of operations and maintenance including personnel. The average time to process each case is estimated on the basis of a detailed time measurement survey conducted every 3 years. Information on the number of cases is produced every quarter. An equalization account covers the difference between the agreed and actual number of cases at the end of the year. For example, courts that have processed more cases than planned can access additional funds from the equalization account up to a certain limit, while courts that “under-produce” in terms of number of cases, have to transfer “unused” or “excess” funds to this account.

The new performance budgeting system provides incentives for improved performance in terms of speed of completion of cases. Its prerequisites are a robust benchmarking system, a detailed monitoring system, and an overall public financial management system based on program budgeting underpinned by agreed and monitorable indicators of performance. However, reservations have been expressed, especially by judges, that this system’s emphasis on cost and speed could compromise the quality of judicial decisions.

Source: Information provided by the Council Bureau, Netherlands

**4.38 The strategic value of an intervention in the Sofia Regional Court would resonate with any legislature, given the proportion of national cases it houses.** Figure 28 provides an example of this (which could be the basis of a second tier capital request). As mentioned in Box 4 and from the analysis in Figure 28, it can be argued that the court’s key constraints relate to space. It could be fair to argue that investment in new premises (or refurbishment) would lead to more space, allow for more employment, greater numbers of hearings, a higher case completion rate and ultimately greater judicial efficiency.

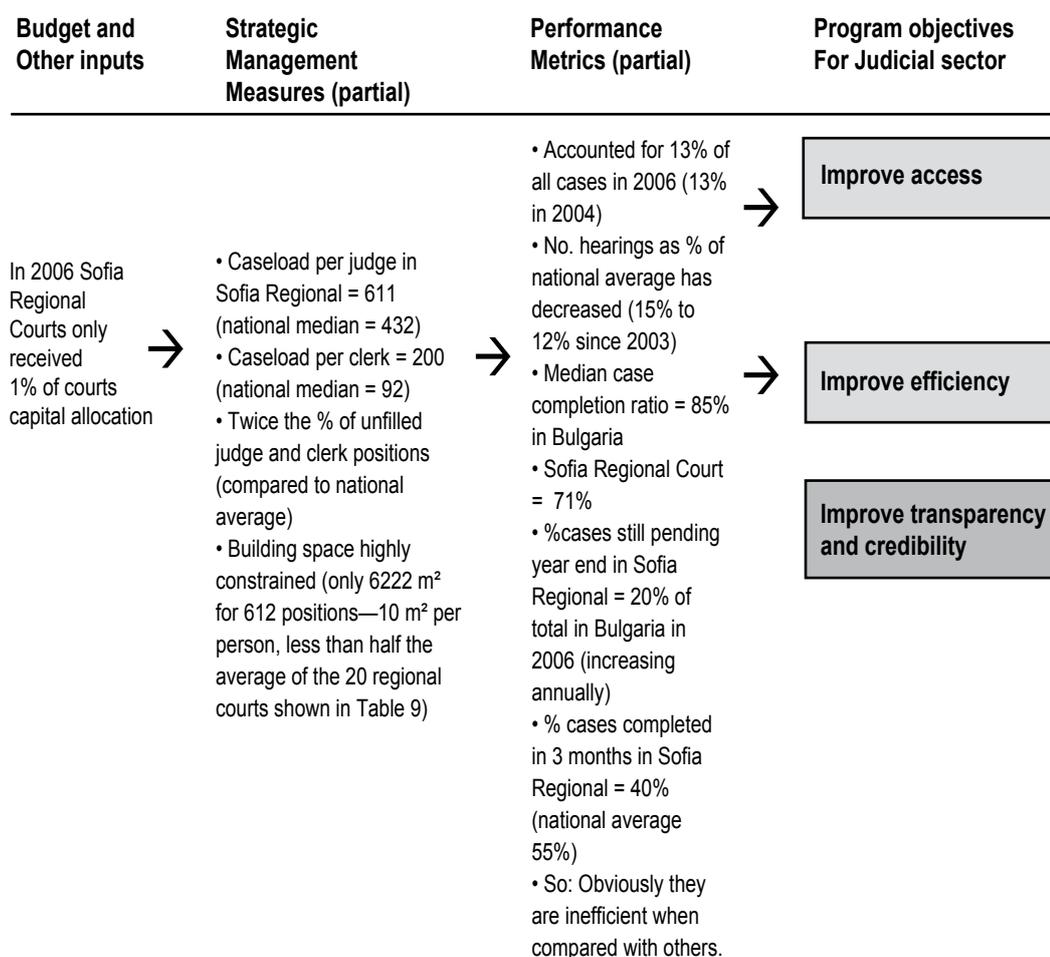
**4.39 Beyond 2008 it would be desirable to formalize this strategic approach into a more programmatic budgeting method.** The basic of this has already been discussed but essentially requires that a planning period be introduced prior to the formal budget preparation period. During this period the sector authorities will identify formal program objectives officially, performance metrics associated with such, and a planning method that allows for effective analysis of needs in the programmatic areas.

**4.40 There is an urgent need for improved capital planning – and a number of components the Judiciary will need to put in place to develop a multi-year capital investment plan.** These include functional assessments, space design guides, long range facilities plans and multi-year capital plans. The planning process will provide the formal method for prioritizing and allocating funding provided by the government each year.

**4.41** Obviously, a comprehensive plan cannot be developed quickly. However, a realistic timeframe to do so must be developed. It should be possible to develop a capital investment plan in time for the next budget cycle if actions begin now. Further, a phased approach to the effort can be helpful even in the current cycle. Two actions are critical even for the preparation of the budget for 2009-11: (a) setting priorities based on programmatic goals for the judiciary and (b) beginning the baseline survey of facilities well before the information is needed for the next budget cycle, focusing first on proposed projects most likely to fit the programmatic goals, and then moving to all other locations.

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**Figure 28. Advocating for funding for Sofia’s Regional Court**



## Information Technology

**4.42 Progress on standardization of business processes and technical infrastructure would strengthen provision of judicial services and judicial governance.** The MOJ’s IT Department will have to decide on several standardization issues. Given the highly decentralized nature of the judiciary and the judicial independence, it would be desirable for standards to be kept to the minimum necessary to achieve the goal of providing users with transparent and reliable access to judicial services. Further standardization would be helpful in the following areas:

- a) *Business Processes:* The use of uniform processes and procedures throughout Bulgaria would be important for consistency in the administration of justice across the country. It would also contribute to establishing a common infrastructure on which integrated strategies to achieve efficiency gains can be built. It appears, however, that courts have been free to adopt different business processes so far as they are rooted in the law. That being said, there now seem to be more uniform business processes in the PORB;
- b) *Key Application Systems:* The implementation of the four key application systems currently under development is a positive development. Effective deployment of the Siemens Case Management system, in particular, could help establish a uniform judicial IT system in the country;
- c) *Data Management:* Further standardization of data management is of fundamental importance for the Bulgarian judiciary to address issues such as high data sensitivity. Training would also have to be provided to users to ensure data protection;

d) *Technical Infrastructure*: The SJC recognized the need to create a uniform automation environment, due to the implementation of numerous unconnected projects, many financed by development partners. Some of these seem to suffer from lack of standards and non-interoperable architecture<sup>52</sup>. Anticipating the future growth and development of the IT system, the existing communication networks will also require investment in higher data bandwidth. This may not be a serious constraint, however, due to ongoing private sector efforts to increase Bulgaria's data highway capacity.<sup>53</sup>

**4.43 It would be desirable to take urgent steps to strengthen the institutional capacity of the IT Department of the MOJ.** This will help formulate an IT investment plan, design architecture, enforce standards, and provide technical support to the judiciary; training for relevant staff; and a strategy for providing support services incorporating measures to contract-out non-core functions to improve the quality of support services.

**4.44 It would also be helpful for the MOJ to identify specific functions that could be outsourced.** Even with outsourcing, the MOJ/judiciary would still need to maintain a core skill set on business analysis, system design, project management, contract management and vendor management. The MOJ and judiciary would benefit from a judiciary-wide policy to assist court managers in managing this special skill set. In particular, it would be desirable to develop a human resource policy considerate of the existing market constraints for informatics professionals and appropriate incentives to guarantee a stable and high-skilled set of informatics personnel for the judiciary's IT needs.

**4.45 Launching a consultation process to update the IT Strategy for the judiciary would significantly contribute to consensus-based system improvement.** While the processes for defining standards would provide the framework at the operational level, the strategy would indicate higher-level goals such as sector-wide objectives, performance monitoring measures, a medium-term investment plan, and sequencing.

**4.46 In the immediate term, it would be helpful for the MOJ to focus financial, technical and managerial resources to complete the four key application systems still under development.** These projects were expected to be completed much earlier based on the roadmap provided in the 2003 IT strategy.

**4.47 It would be helpful to develop a list of amendments to the legal and regulatory framework for management of justice sector resources and assets – and a partnership between the MOJ, SJC and MOF would be most effective for this purpose.** Full support from the MOF is envisaged, especially as the MOF is of the view that this report's "recommendations...presuppose also amendments to the valid legislation"<sup>54</sup>.

## Managing Demand But Strengthening Access

**4.48 Bulgaria now needs to consider demand-side policy intervention to improve the efficiency of its judiciary.** Focusing only on the expenditure side may not be sufficient. Demand-side interventions could take two complementary and mutually reinforcing forms outlined below.

**4.49 It would be desirable for the SJC to commission a demand management exercise based on a review of the structure and level of judicial fees and other sources of judiciary own revenues<sup>55</sup>.**

52 "Bulgarian Judiciary IT Strategy 2003-2007" section 2 – Executive Summary."

53 The strategic direction of the state's network development is not clear at the moment.

54 Vide reference number 93-02-56 of March 18, 2008 of the MOF Public Expenditures Directorate.

55 There is a school of thought that the judiciary ought to be self-financing and should seek to recover as much of its costs as possible through fees and other charges. This report does not suggest this at all. It believes that judicial expenditures and budgets

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The objective would be to formulate a policy that could permit adjustment of the levels of fees and other charges to manage the explosive rise in the filing and inflow of civil and administrative cases, by using higher fees to restrict or reduce the inflow of high-volume small-value cases clogging judicial dockets. Demand could be reduced by increasing the proportionate contribution of court fees to total case costs. Such an analysis could also establish whether it would be desirable to legislate certain categories of cases (e.g. those that have seen major increases in past years—tax challenges, traffic fine challenges, and actions firms bring against debtors, for instance) out of the judicial system and into administrative or quasi-judicial fora. The argument originates from the observation that Bulgaria has a higher per capita case demand than other NMS —especially in regard to civil and administrative cases. The argument is strengthened by the evidence (in Table 2 and Figure 22) indicating a relationship between collected court fees and caseload.

**4.50 In parallel, the executive will need to ensure that access to justice, especially for the poor and vulnerable, is strengthened, including through state-funded legal aid for eligible categories of beneficiaries.** The MOJ has initiated an initiative on this, including provision of legal aid in criminal cases and some categories of civil cases. This is a welcome initiative. It would be desirable to scale this up as rapidly as possible, especially in rural and remote areas of Bulgaria. The MOJ is of the view that active steps are necessary in close coordination with stakeholders such as NGOs, the Supreme Lawyers' Council and the National Bureau of Legal Aid. Development partners, including the World Bank, are likely to be ready and willing to support such MOJ efforts through grant-based financing and technical support.

### Monitoring Progress

**4.51 Based on the foregoing analysis and examples, it would be desirable to establish a set of indicators to track progress on judicial performance and efficiency.** A mix of indicators is suggested, comprising (a) indicators internal to each of the three elements of the judiciary<sup>56</sup> and those external<sup>57</sup> to them, and (b) indicators for the system as a whole and also those focusing on individual courts. Other indicators that track system conditions (such as the ones that track supply factors in Table 1) would also form part of the indicator set. All of these are supply-side indicators as they focus on the supply of judicial services.

**4.52 It would be desirable to complement the supply-side indicators with a set of demand-based indicators,** such as those in Table 1 at system and individual court levels. This set could also include additional survey-based indicators on the efficacy of legal aid and user-provided feedback on issues such as access to, quality of and satisfaction with judicial services. (Courts in some countries survey users when they enter and when they leave the courtroom – and publish the feedback.)

**4.53 Together such an indicator set could constitute a performance framework for the judiciary to track the impact of reform and modernization actions.** Updated and published annually, it could be a powerful tool for the judiciary to strengthen its advocacy for resources and demonstrate its commitment to performance and accountability.

**4.54** When combined with the medium strategic planning and budgeting perspective and process outlined in the previous sections, this could be an excellent starting point for developing a medium

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should generally be subject to the same tests and processes applicable to the other branches of the state. This recommendation suggests using judiciary own revenue solely as a demand management tool and not as an instrument to raise revenue, although increased revenues could indeed be a consequence of such an exercise.

<sup>56</sup> E.g. process-based indicators (average case disposition rates, timeliness of disposition); efficiency of resource use-based indicators (average cost per case disposed/decided); etc

<sup>57</sup> E.g. survey-based indicators such as those used in BEEPS pertaining to efficiency (speed), integrity (honesty/corruption); fairness and impartiality), cost (affordability) etc.

term performance and results-based strategic approach to judicial modernization. Box 10 shows an early application of such an approach by the PORB in its modernization effort.

### **Box 10. Support for the Prosecution Office of the Republic of Bulgaria**

The World Bank is supporting the PORB through a US\$475,000 Institutional Development Facility (IDF) grant to strengthen the capacity and effectiveness of the PORB to track and combat corruption, especially among prosecutors. Corruption among PORB prosecutors is considered to be a serious issue. The Prosecutor-General is committed to reduce corruption within the ranks of the PORB while expediting prosecutions.

The Grant supports the PORB in spearheading this initiative, particularly in: (i) implementing its anti-corruption reform program through expert advice to strengthen accountability, professionalism and institutional capacity; (ii) building capacity for anti-corruption program implementation by improving IT systems such as the case management system and a module for prosecutors' declarations of income and assets; and (iii) expanding PORB cooperation with civil society to increase transparency, public accountability and the credibility of its institutional integrity and anti-corruption work. Civil society monitoring is envisaged as an external check to ensure effective implementation of the PORB's anti-corruption efforts. Increased scrutiny by civil society and the media is expected to help the PORB be more effective and improve public perceptions of its functioning and integrity.

## Concluding Observations

**4.55 The key challenge now confronting Bulgaria’s judicial leadership is to build on the reforms by developing, financing and implementing a judiciary-wide modernization program to sustain the transformation and demonstrate impact through monitorable indicators of performance<sup>58</sup>.** The MOF has indicated its “general agreement with the fundamental findings of the report: the necessity to introduce a strategic approach for the preparation of the budgets of the judiciary branch of governance, including the multiannual planning of capital investment, the strengthening of the capacity of the Ministry of Justice and of the Supreme Judicial Council, the improvement of the institutional coordination within the framework of the budgeting procedures, the need to introduce a more transparent system for the management of financial and human resources and the full utilization of the information systems’ potential”. The MOF is also ready “to provide full support for the judicial system in the refinement of the public funds management process, including the introduction of good practices, such as program-oriented budgeting<sup>59</sup>. Goodwill for the judiciary clearly exists: the time to seize such offers is now.

**4.56 This report points to modest improvements in judicial performance, which could spur greater performance gains through a sustained reform and modernization program.** However, differing perceptions of the three branches of power regarding the appropriate balance between judicial independence and accountability for the use of public funds appear to have compromised the effectiveness of some reform efforts. And different institutional actors seem to have occasionally become more entrenched in their positions. Nevertheless, there is a real opportunity for progress: the true test, according to the MOF, will be whether, “after the consideration and the adoption on behalf of the Government of the Republic of Bulgaria of the recommendations made by the World Bank, measures and actions for their implementation by the respective competent bodies will be undertaken<sup>60</sup>”.

**4.57 This report provides information and analysis to now facilitate a consensus-building dialogue among the three branches of power** on the resources the judiciary could realistically expect to receive, and the results it can be expected to achieve. In this dialogue, an exclusive focus on judicial independence could risk diverting attention from concrete measures to ensure that the judiciary is adequately resourced with mechanisms in place to ensure efficient resource use and improved performance. Indeed, judicial independence is a fundamental principle guaranteed by the Constitution, and unconditionally respected with regard to the judiciary’s adjudicative functions. However, increased accountability for resource use and for achievement of performance goals could have important long-term benefits for the judiciary, not only in terms of increased budgetary resources but more importantly through greater public trust and confidence.

58 The MOF supports “the opinion articulated in the report to the effect that the judicial system needs to persevere with the successful reforms carried out until now by developing, financing and implementing a program for the modernization of the entire judicial system, which will guarantee the sustainability of the transformations, and it must show tangible results by means of measurable indicators for the assessment of its efficiency” - vide MOF Public Expenditure Directorate reference number 93-02-56 of March 18, 2008.

59 Vide reference no. 93-02-56 of March 14, 2008 of the MOF.

60 Vide reference no. 93-02-56 of March 14, 2008 of the MOF.

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## **ANNEX TABLES**

Annex Table 1

Bulgaria's Judiciary: Changes in Staff Numbers (2004-2007)

	2004			2005			2006			2007		
	Total Staff	New Positions Added	% Increase	Total Staff	New Positions Added	% Increase	Total Staff	New Positions Added	% Increase	Total Staff	New Positions Added	% Increase
Supreme Cassation Court	246	8	3.25	254	23	9.06	277	60	21.66	337	60	21.66
Supreme Administrative Court	178	-	0	178	55	30.89	233	35	15.02	268	35	15.02
All other Courts	5,793	198	3.42	5,991	413	6.89	6,404	1,520	23.74	7,924	1,520	23.74
Prosecution	2,250	235	10.44	2,485	508	20.44	2,993	629.5	21.03	3,622.5	629.5	21.03
Supreme Judicial Council	55	-	0	55	23	41.82	78	15	19.23	93	15	19.23
Investigation Services	1,902	48	2.52	1,950	-664	-34.05	1,286	76	5.91	1,362	76	5.91
National Institute of Justice	27	7	25.93	34	10	29.41	44	6	13.64	50	6	13.64
<b>TOTAL</b>	<b>10,451</b>	<b>496</b>	<b>4.75</b>	<b>10,947</b>	<b>358</b>	<b>3.27</b>	<b>11,305</b>	<b>2,342</b>	<b>20.72</b>	<b>13,647</b>	<b>2,342</b>	<b>20.72</b>

Source: Ministry of Justice

Annex Table 2

		FUNCTIONING OF THE STATE AGENTS IN REGIONAL COURTS DURING 2007															
		SECTION 1 - EXECUTION CASES															
cipher of the item	cases pending in the beginning of the reporting period	Case processing - column 3 = col. 4 + col. 5 + col. 6 + col. 7			cases pending at the end of the reporting period				character of execution			number of complaints			summons and documents delivered		
		entered	total / col. 1 + col. 2/	finished	transferred to another bailiff	finished by collecting of the sum	finished due to other grounds	sales of property	entries in possession	delivery of movable property	other	entered	granted	prepared			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
<b>TYPES OF EXECUTION CASES</b>																	
a	6																
TOTAL /cipher:1000 = 1100 + 1200 + 1300 + 1400 + 1500/	355,890	26,545	382,435	30,499	29,124	9,921	312,891	2,983	1,439	727	260	21,749	1,975	380	1,046,303	989,214	
<b>I. TO THE BENEFIT OF THE STATE</b>																	
/cipher:1100 = 1110+1120/	36,069	4,273	40,342	3,075	3,352	282	33,633	1,612	1,46	42	12	2,518	126	41	95,812	89,890	
including																	
a/ public state claims	21,227	1,337	22,564	1,546	2,060	143	18,815	1,481	35	11	4	845	19	8	20,076	19,546	
b/ private state claims	14,842	2,936	17,778	1,529	1,292	139	14,818	131	111	31	8	1,673	107	33	75,736	70,344	
<b>II. TO THE BENEFIT OF LEGAL PERSONS AND TRADERS</b>																	
/cipher:1200 = cipher:1210+1220+1230/	174,544	12,131	186,675	13,787	15,430	6,603	150,855	640	556	117	54	11,005	780	139	561,243	546,270	
including																	
a/ to the benefit of banks	22,396	2,039	24,435	1,716	927	1,381	20,411	119	226	21	8	1,692	147	31	83,939	78,799	
b/ to the benefit of traders	89,235	4,891	94,126	6,390	5,819	2,552	79,365	275	147	42	30	5,425	297	57	368,799	369,000	
c/ to the benefit of other legal persons	62,913	5,201	68,114	5,681	8,684	2,670	51,079	246	183	54	16	3,888	336	51	108,505	98,471	
<b>III. TO THE BENEFIT OF CITIZENS</b>																	
/cipher:1300 = cipher:1310+1320+1330+1340/	140,544	9,555	150,099	13,083	10,188	2,975	123,853	720	730	567	194	7,703	1,055	199	385,366	349,364	
including																	
a/ alimony	52,258	2,911	55,169	4,395	2,121	457	48,196	44	75	7	8	1,716	71	13	60,678	57,930	
b/ labour disputes	25,241	1,287	26,528	2,543	1,487	541	21,957	158	108	7	37	1,006	109	23	57,864	54,807	
c/ child delivery	2,889	124	3,013	104	100	88	2,721	2	14	3	33	61	28	4	2,856	2,523	
d/ other	60,156	5,233	65,389	6,041	6,480	1,889	50,979	516	533	550	116	4,920	847	159	263,968	234,104	
<b>IV. EXECUTION OF FOREIGN JUDGMENTS</b>																	
	516	31	547	85	4	1	457					234	4		709	636	
<b>V. EXECUTION OF SECURITY MEASURES</b>																	
	4,217	555	4,772	469	150	60	4,093	11	7	1		289	10	1	3,173	3,054	

# ANNEX TABLES

## FUNCTIONING OF THE STATE AGENTS IN REGIONAL COURTS DURING 2007

TYPES OF EXECUTION CASES ACCORDING TO CHARACTER AND ORIGIN OF THE OBLIGATIONS	funds to be paid under ex. cases				funds collected								Uncollected sum under warrants at the end of the reporting period
	Since establishment till the beginning of the reporting period	established during the reporting period	Total / column 1 + column 2 / column 3 = column 9 + 11 + 12/	T O T A L / columns 5 + 6 + 7 + 8 + 9/	taxes	additional expenditure	Accepted other expenditure	interests	funds according to warrants	out of the total collected sum / column 4/ amount of the sum paid voluntarily	not collected sums under release, termination, transfer to other bailiff, prescription, invalidation, etc.		
cipher of the item	1	2	3	4	5	6	7	8	9	10	11	12	
a													
TOTAL+A35 /cipher 1000 = 1100 + 1200 + 1300	2,206,183,294	213,768,618	2,419,951,911	152,976,211	5,514,320	606,423	1,212,639	16,262,532	129,380,297	29,522,479	182,492,674	2,108,078,940	
I. TO THE BENEFIT OF THE STATE													
/cipher 1100 = 1110+1120/ including	309,110,952	110,629,956	419,740,908	16,790,826	775,473	51,646	83,083	1,327,319	14,553,306	7,950,003	27,981,371	377,206,231	
a/ public state claims	34,394,028	16,706,238	51,100,266	1,885,922	146,528	18,835	8,486	102,410	1,609,664	619,455	3,564,458	45,926,145	
b/ private state claims	274,716,924	93,923,718	368,640,642	14,904,904	628,946	32,811	74,597	1,224,909	12,943,642	7,330,548	24,416,913	331,280,087	
II. TO THE BENEFIT OF LEGAL PERSONS AND TRADERS													
/cipher 1200 = cipher 1210+1220+1230/ including	1,674,204,445	75,191,167	1,749,395,613	100,803,468	2,809,896	293,805	669,473	10,221,753	86,808,542	14,082,485	123,230,533	1,539,356,537	
a/ to the benefit of banks	490,815,147	17,751,834	508,566,981	16,849,277	887,459	102,143	140,459	3,321,632	12,397,583	3,987,243	27,463,440	468,705,958	
b/ to the benefit of traders	663,184,157	21,146,960	684,331,116	67,432,822	1,056,876	116,588	365,722	4,516,216	61,377,420	6,392,576	41,792,127	581,161,568	
c/ to the benefit of other legal persons	520,205,141	36,292,374	556,497,515	16,521,369	865,560	75,074	163,292	2,383,905	13,033,538	3,702,667	53,974,966	489,489,011	
III. TO THE BENEFIT OF CITIZENS													
/cipher 1300 = cipher 1310+1320+1330+1340/ including	222,731,936	27,739,704	250,471,640	35,378,357	1,928,906	260,972	460,083	4,713,461	28,014,934	7,489,976	31,280,770	191,175,935	
a/ alimony	16,574,003	4,079,571	20,653,574	3,790,360	231,351	20,305	15,729	149,522	3,373,452	998,747	1,272,026	16,005,096	
b/ labour disputes	48,764,202	3,198,429	51,962,631	6,912,846	491,085	43,187	136,502	1,331,068	4,911,003	841,853	3,723,474	43,328,154	
c/ child delivery	48,951	1,105	50,056	10,399	10,379	20				391,705		50,036	
d/ other	157,347,781	20,460,599	177,808,380	24,664,752	1,196,090	197,480	307,852	3,232,871	19,730,459	5,257,671	26,285,271	131,792,650	
IV. EXECUTION OF FOREIGN JUDGMENTS	135,961	207,790	343,751	3,560	45	3,515				15		340,236	

Number of Permanently Occupied Agents	222	person months worked	3259,27
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Source: SJC

## Annex Table 3

## Examples of Broad Policy Programs in Europe

<i>France</i>	<i>United Kingdom</i>	<i>Slovakia</i>
<u>Program 1:</u> Administration of Justice	<u>Program 1:</u> To ensure the effective delivery of justice	<u>Program 1:</u> Remuneration of the Judiciary and Judicial Support Staff. (To provide administrative and managerial services that support the independence of the judiciary, its efficient operation, and its capacity for high-quality judicial decisions)
<u>Program 2:</u> Prison Administration	<u>Program 2:</u> To ensure a fair and effective system of civil and administrative law	<u>Program 2:</u> Operation of the Courts. (To support a fair and efficient judicial process through efficient management and administration of the courts, and To support continuous improvement of the judicial system by ensuring courts have modern and efficient facilities, equipment and information technologies.)
<u>Program 3:</u> Judicial Protection of Youth	<u>Program 3:</u> To reduce social exclusion, protect the vulnerable and children, including maintaining contact between children and a non-resident partner after a family breakdown, where appropriate	<u>Program 3:</u> Administration and Collection of Judicial Revenues. (to ensure full, fair and efficient collection of all fines, penalties and other payments imposed by the courts.)
<u>Program 4:</u> Access to Law and Justice (Legal Aid)	<u>Program 4:</u> To modernize the constitution and ensure proper access to information by citizens	<u>Program 4:</u> Judicial Education and Training. (To ensure that the human resources capacity of the sector is adequate for supporting the effective operation and future development of the judicial system.)
<u>Program 5:</u> Managing Justice Policies and Related Institutions	<u>Program 5:</u> To increase consumer choice in legal services by improving information and by promoting competition	<u>Program 5:</u> Judicial Reform Projects. (To undertake specific, well planned and time-bound reform projects aimed at improving the fairness and efficiency of the judicial system of the Slovak Republic.)
	<u>Program 6:</u> To deliver justice in partnership with the independent judiciary	

Source: Webber, 2006.

## Annex Table 4

## Example Of Budget Programs For An Individual Court (Simplified)

Budget program	Administration of Justice	Access to Law and Justice
<i>Sub-program objective</i>	Deliver judicial decisions in timely fashion	Provide legal aid to those needing it, in timely and cost efficient manner
Performance indicators and targets	<ul style="list-style-type: none"> <li>• Case completion ratio (improve by 10% on prior year's 70% rate)</li> <li>• Number of hearings held (increase by 15%, from 1000 to 1150)</li> <li>• Percentage cases completed under 3 months (improve from 50% to 60%)</li> </ul>	<ul style="list-style-type: none"> <li>• Time to address request for legal aid (decrease average time from 3 weeks to 2 weeks)</li> <li>• Percentage of positive legal aid decisions funded within 3 months of decision (increase from 40% to 60%)</li> <li>• Cost of making legal aid decision (decrease from BGN 100 per case to BGN 80 per case)</li> </ul>
<i>Own revenue expected</i>	BGN 20,000	None
<i>Program allocation</i>	BGN 180,000	BGN 50,000
<i>Breakdown by economic item:</i>		
Personnel	BGN 140,000	BGN 35,000
Operations and Maintenance	BGN 40,000	BGN 10,000
Capital	BGN 20,000	BGN 5,000
<i>Budget increase from prior year? (%)</i>	8	5
<i>Staffing increase from prior year? (%)</i>	2	0

Source: World Bank

### Annex Table 5

#### Example of a Budget Entity's Strategic Request (depicting only one year)

<i>Indicative budget ceiling (prior year's budget allocation + nominal upwards adjustment)</i>		Informed by sector strategy		
	Program or sub-program 1 (identified in sector strategy)	Program or sub-program 2 (identified in sector strategy)	Program or sub-program 3 (identified in sector strategy)	
<i>Proposed allocations (calculated within nominal ceiling)</i>				
Targets, identified for each performance indicator, with information of past three years' results				
Own revenue expected				
Program allocation				
Breakdown by economic item:				
Personnel				
Operations and Maintenance				
Capital				
Budget increase from prior year? (%)				
Staffing increase from prior year? (%)				
<i>Additional funding requests (options) exceeding nominal ceiling, follow the basic structure</i>				
Additional request				
Breakdown by economic item:				
Personnel				
Operations and Maintenance				
Capital				
Staff implications?				
Rationale (explain how the additional expenditure will impact on program objectives).				

Source: World Bank

**Annex Table 6****Relating New Positions to Numbers of Finished Cases**

<b>Court</b>	<b>New positions in 2006</b>	<b>Finished cases 2002</b>	<b>Finished cases 2003</b>	<b>Finished cases 2004</b>	<b>Finished cases 2005</b>	<b>Were 2005 case numbers systematically above prior year numbers?</b>
Breznik RC	3	208	265	310	267	No
Kavarna RC	3	572	777	724	614	No
Tervel RC	1	353	388	355	325	No
Elhovo RC	2	737	655	621	766	Yes
General Toshevo RC	0	543	515	615	643	Yes
Slivnitza RC	2	1,024	1,248	1,301	1,151	No
Svoге RC	2	703	692	564	700	No
Omurtag RC	1	1,007	844	791	927	No
Lom RC	2	1,896	1,886	1,561	1,928	Yes
Balchik RC	2	763	903	873	993	Yes
Cherven Bryag RC	0	843	780	1,002	995	No
Tutrakan RC	0	641	843	704	1,066	Yes
Tzarevo RC	0	589	523	634	893	Yes
Karlovo RC	3	1,954	2,669	1,561	2,126	No
Dupnitza RC	0	2,909	2,913	2,780	3,669	Yes
Aitos RC	0	943	972	955	1,249	Yes
Sandanski RC	2	1,254	1,076	1,261	1,597	Yes
Botevgrad RC	2	1,615	1,088	1,349	1,418	No
Razlog RC	3	1,462	1,832	1,977	2,452	Yes
Petrich RC	4	1,868	2,002	2,574	4,460	Yes

Source: SJC

### Annex Table 7

#### Remuneration Parameter Variations Among Sofia's Courts

	Sofia City	Sofia Regional	Sofia District
<i>Pre-determined individual basic monthly salary</i>			
2004	184,976	237,686	38,219
2005	218,285	266,315	40,121
Change	18%	12%	5%
<i>Additional remuneration for rank</i>			
2004	14,650	17,526	2,325
2005	35,300	37,463	3,500
Change	141%	114%	51%
<i>Additional remuneration for class</i>			
2004	70,048	92,640	14,123
2005	91,845	116,029	15,769
Change	31%	25%	12%

Source: 2004 and 2005 Expenditure Reports provided by the SJC.

Annex Table 8

## Remuneration Parameters Across Regional Courts in the Sofia Judicial District

	Ihtiman RC	Pridop RC	Svoege RC	Slivnitza RC	Elin Pelin RC	Botevgrad RC	Etropole RC	Samokov RC	Kostinbrod RC
<i>Pre-determined individual basic monthly salary</i>									
2004	8599	7704	7134	9099	8294	9814	6269	8534	7754
2005	8807	8064	8137	9549	9119	10315	6932	10441	8117
Change	2%	5%	14%	5%	10%	5%	11%	22%	5%
<i>Additional remuneration for rank</i>									
2004	850	700	735	985	675	700	600	600	800
2005	950	800	965	2000	800	1525	775	1000	1475
Change	12%	14%	31%	103%	19%	118%	29%	67%	84%
<i>Additional remuneration for class</i>									
2004	3718	2977	2511	2826	2962	4164	3275	3454	3131
2005	4060	3319	3082	3534	3581	5018	3758	3367	3768.7
Change	9%	11%	23%	25%	21%	21%	15%	-3%	20%

Source: Financial reports received from the SJC

**Annex Table 9****Relating Case Completion Ratios to Facility Size for Selected Courts**

<b>Court</b>	<b>Completion ratio 2005</b>	<b>Square meters in facility</b>	<b>Square meters/person</b>
Breznik RC	89%	917	57.31
Kavarna RC	50%	347	17.35
Tervel RC	76%	300	23.08
Elhovo RC	82%	776	35.27
General Toshevo RC	70%	761	44.76
Slivnitza RC	79%	1,120	53.33
Svoге RC	59%	220	13.75
Omurtag RC	85%	568	27.05
Lom RC	84%	2,540	61.95
Balchik RC	68%	1,170	39
Cherven Bryag RC	74%	480	22.86
Tutrakan RC	86%	650	29.55
Tzarevo RC	68%	384	29.54
Karlovo RC	73%	622	20.73
Dupnitza RC	73%	2,800	54.90
Aitos RC	79%	365	20.28
Sandanski RC	77%	1,030	46.82
Botevgrad RC	65%	360	17.14
Razlog RC	76%	915	36.6
Petrich RC	81%	489	15.28

*Source: SJC*

**Annex Table 10****Capital Requests, Allocations and Actual Expenditures (2001-2007)**

<b>Year</b>	<b>Budget Requested by Judiciary (BGN '000)</b>	<b>Budget Received from Parliament (BGN '000)</b>	<b>Budget Received as Percent of Request (%)</b>	<b>Budget Spent by Judiciary (BGN '000)</b>	<b>Budget Spent as Percent of Budget Received (%)</b>
<b>2001</b>	NA	5,000	NA	13,822.8	NA
<b>2002</b>	NA	12,000	NA	18,853.3	NA
<b>2003</b>	NA	10,000	NA	15,259.8	NA
<b>2004</b>	64,913.0	15,000	23.1	13,348.2	89.0
<b>2005</b>	63,510.9	17,250	27.2	24,446.3	141.7
<b>2006</b>	132,012.9	20,000	15.2	35,619.5	178.1
<b>2007</b>	167,111.9	32,652	19.5	NA	NA
<b>TOTAL</b>	<b>427,548.7</b>	<b>111,902</b>		<b>121,349.9</b>	

*Source: MOJ, SJC, MOF*

**Annex Table 11****Bulgaria: Condition of Judicial Facilities (end-2007)**

	<b>Number</b>	<b>Current Space (square meters)</b>
Usable and require no modifications	43	76503
Usable but require modernization	44	81911
Require extension/addition	36	45384
Require new construction	22	26027

**Annex Table 12****Requests for Capital Resources 2008-2010**

<b>Item</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Total for the judicial system (BGN)	179,239,173	120,979,065	35,793,585
51-00 Main refurbishment of long term tangible assets (Buildings) (BGN)	63,351,975	13,583,150	7,678,340
52-00 Acquisition of long term tangible assets (LTTA) (BGN)	114,906,378	106,662,365	27,385,045
53-00 Acquisition of long term intangible assets (LTIA) (BGN)	960,820	713,550	730,200
54-00 Acquisition of land (BGN)	20,000	20,000	

*Source: MOJ*

**Annex Table 13****Bulgaria's Judiciary: Approximate Costs of Improving Physical Facilities**

<b>Proposed Action</b>	<b>Area in Square Meters</b>	<b>Cost in BGN</b>
<b>Courts</b>		
Modernize	81,911	57,337,700
Refurbish	45,384	31,768,800
Refurbish and construct	45,384 + 11,346	40,845,600
Refurbish and construct	45,384 + 22,692	49,922,400
Replace	26,027	20,821,600
Replace	26,027 + 5,673	26,027,000
Replace	26,027 + 13,014	31,232,400
Replace all Courts	229,825	183,860,000
Replace current + 25%	287,281	229,825,000
Replace current + 50%	344,738	275,790,000
<b>PORB</b>		
Refurbish	53,577	37,503,900
Refurbish and construct	53,577 + 34,200	64,863,900
Replace all PORB	53,577	42,861,600
Replace all PORB + 34,200m <sup>2</sup>	87,777	70,221,600

*Source: World Bank staff estimates based on MOJ data*

## Annex Table 14

## Bulgaria: Judiciary Computerization Plan – Priorities – IT Strategy 2003

<b>In Progress</b>	
<ul style="list-style-type: none"> <li>• Unified information system to combat crime</li> <li>• Prosecutors case management system</li> <li>• Bankruptcy proceedings (independent subproject of court case management)</li> </ul>	<ul style="list-style-type: none"> <li>• Property register</li> <li>• Court Case Management systems</li> <li>• Technical infrastructure procurements, mainly for office use and supporting administrative functions</li> </ul>
<b>Short Term Priorities</b>	
<ul style="list-style-type: none"> <li>• Unified Court Case Management system</li> <li>• Unified commercial registers &amp; central pledge register</li> <li>• Document management / workflow system (Phase I)</li> </ul>	<ul style="list-style-type: none"> <li>• Data warehouse / management information system</li> <li>• Conviction status certificate system</li> <li>• Legal information system</li> <li>• Prosecutors case management system</li> <li>• Technical infrastructure procurements</li> </ul>
<b>Medium Term Priorities</b>	
<ul style="list-style-type: none"> <li>• Security policy</li> <li>• Investigation Services case management system</li> <li>• Document management &amp; workflow system (Phase II)</li> <li>• Data warehouse / management information system (new systems inclusion &amp; project continuation)</li> </ul>	<ul style="list-style-type: none"> <li>• Prisons and Arrests information management system e-Justice (Phase I)</li> <li>• Enforcement of Judgment System</li> <li>• Financial management (payroll, etc.)</li> <li>• Technical infrastructure procurements</li> </ul>
<b>Long Term Priorities</b>	
<ul style="list-style-type: none"> <li>• Human resource management</li> <li>• Accounting system compatible to the Acquis</li> <li>• e-Justice (continuation)</li> </ul>	<ul style="list-style-type: none"> <li>• Technical infrastructure procurements</li> <li>• Other to be examined</li> </ul>

Source: Bulgaria Judiciary IT Strategy (2003-2007)

Annex Table 15

Bulgaria: Judicial IT Expenditures (2004-06) and Budget Requests (2007-09)  
[BGN 000]

			Courts (incl. military courts)	SCC	SAC	Admin. Courts	Prosecutors Offices
Expenditure	2004	Hardware	597	39	76	n.a.	16
		Software	48	22	21	n.a.	3
		<b>Subtotal</b>	<b>645</b>	<b>58</b>	<b>97</b>	<b>n.a.</b>	<b>19</b>
	2005	Hardware	1,108	27	18	n.a.	12
		Software	21	18	7	n.a.	21
		<b>Subtotal</b>	<b>1,129</b>	<b>45</b>	<b>25</b>	<b>n.a.</b>	<b>33</b>
	2006	Hardware	281	193	29	n.a.	206
		Software	11	24	9	n.a.	44
		<b>Subtotal</b>	<b>292</b>	<b>217</b>	<b>38</b>	<b>n.a.</b>	<b>250</b>
Request	2007	Hardware	3,640	150	200	-	1,590
		Software	512	20	160	-	364
		<b>Subtotal</b>	<b>4,151</b>	<b>170</b>	<b>360</b>	<b>-</b>	<b>1,954</b>
	2008	Hardware	1,783	150	300	1,400	1,033
		Software	324	20	260	-	213
		<b>Subtotal</b>	<b>2,106</b>	<b>170</b>	<b>560</b>	<b>1,400</b>	<b>1,246</b>
	2009	Hardware	1,901	150	500	1,400	1,190
		Software	335	200	410	-	232
		<b>Subtotal</b>	<b>2,235</b>	<b>350</b>	<b>910</b>	<b>1,400</b>	<b>1,422</b>

Source: SJC