

## **Minutes from the Second meeting of Justice Sector Partners' Forum**

Second meeting of Justice Sector Partners' Forum hosted and chaired by the Ministry of Justice of the Republic of Serbia (hereinafter MoJ) took place on **Tuesday, July 7, 2009**, at the premises of the **Judicial Training Center (JTC)**, **from 14:00 until 15:00**.

The purpose of this Partners' Forum was to:

- i. Discuss and finalize the Terms of Reference (TOR) for the Partners' Forum;
- ii. Engage in a policy dialogue with the Partners on the Annual Report of the Ministry of Justice (covering the period from July 2008 to June 2009), as well as the Ministry's immediate future plans for 2009-2010.

MoJ together with the World Bank drafted and distributed the material for the meeting a) Partners' Forum TOR outlining the mission, mandate and the execution arrangements of the Partners' Forum b) the Annual Report of the MoJ presenting the activities of the MoJ during the past year; and c) Summary of the future plans of the MoJ providing an overview of the priority areas which MoJ plans to address in 2009-2010 in close cooperation and consultation with the Partners.

Considering the fact that the Partners Forum is envisaged to be the space for broad policy dialogue on issues pertaining to topical policy issues, direction and vision of the judicial reform process in Serbia MoJ presented these three important documents in order to engage in an open and candid discussion, receive comments, advice and guidance from the Partners.

Mr. Slobodan Homen, State Secretary of the Ministry of Justice and the Chair of the Partners forum opened the meeting with the introductory remarks in which he thanked the participants and their respective institutions together with the entire donor community for their contributions to the reform process.

Key note speaker Mrs. Nata Mesarovic, President of the Supreme Court and President of the High Judicial Council addressed the participants by presenting the current state of affairs in the ongoing reform process (implementation of the Package of Judicial Laws, establishment of the High Judicial Council and the Criteria general election of judges). Mrs. Mesarovic stated that everything is ready for the oncoming general election of judges since the High Judicial Council is established, administrative office for the general election is formed and the Criteria of the High Judicial Council are finalized. Mrs. Mesarovic underlined the importance and the need for the new institution such as the High Judicial Council since the previous institution, High Court Council, seriously underperformed in implementing disciplinary provisions and measures. Mrs. Mesarovic highlighted that High Judicial Council adopted all necessary legal acts for its functioning (Rules of Procedure, Decision on establishment of the office), as well as Decision on number of judges. Main prerequisites of the Criteria are worthiness, expertise, experience of the candidates for the judicial function. Work of the high Court

Council will be public thus this institution is constantly open for dialogue on the reform in order to contribute to the forthcoming process.

Minister of Justice Mrs. Snezana Malovic addressed the audience by welcoming them to this important event. Minister Malovic spoke of the importance of the justice reform and its significance for the reestablishment of trust of the society and its citizens in judiciary and justice. In that respect Mrs. Malovic accented the importance of the Package of Anti-corruption laws and the Package of Judicial Laws as well as the oncoming amendments and supplements to the Criminal Code and the Criminal Procedure Code and the long anticipated Law on the Judicial Academy. Consequently, there is a need and importance for the creation of a broad consensus and partnership with all relevant actors including the Association of Judges and the Prosecutors Association of Serbia.

Slobodan Radovanovic, the Republic Public Prosecutor, addressed the Partners Forum presenting the comprehensiveness and the importance of the reform not only in the light of the new laws such as the Package of the Judicial Laws, Law on Seizure and Confiscation of the Proceeds from Crime, amendments to the Criminal Code and Criminal Procedures Code and The Law on organization and responsibilities of state bodies in combating organized crime, but also the forthcoming amending of the procedural laws, but also through the introduction of several new criminal acts such as trading in influence. Mr. Radovanovic also reflected on Criteria for election of Prosecutors and announced a meeting which will be organized by the State Prosecutorial Office on the 15<sup>th</sup> of July where it is expected that further enhancement of cooperation of state bodies will be established.

Chairman Homen informed the participants that the Law on classification of data is finalized as well as the Law on Judicial Academy which is waiting for the opinion of the Council of Europe. It is expected that in October – November 4 to 5 new laws will be introduced (i.e. Law on Notaries, Law on Layers etc.) which will become fully operational on the 1<sup>st</sup> of June 2010. Also, throughout the reform process a new IT system in the judiciary will be established, at least the 1<sup>st</sup> level of software requirements while with the assistance of the EU by June 2010 entire court network will be covered with the new software system which has been successfully piloted in the Commercial Court.. MoJ is also working diligently on the improvement of the office capacities through obtaining loans which would enable reconstruction and adaptation of several MoJ buildings and prisons. The loans will enable reconstruction of the building in Karadjordjeva Street which will serve as the future headquarters of the MoJ and the Judicial Academy, Palace of Justice and the construction of the brand new building for the headquarters for the Republic Public Prosecutor Office as well as the construction of new prisons in Pancevo and Kragujevac. Throughout the construction of two new prisons MoJ will achieve two goals, first anticipate the stricter application of the new laws and stricter penal policy as well as attempt to get closer to the European standards with regards to detention and imprisonment. With regards the reform in the Sector of administration for enforcement of penal sanctions of the MoJ a project regarding introduction of alternative sanctions will

also tackle the problem of overcrowded prisons and adequate enforcement of certain criminal acts.

Assistant Minister Dragana Lukic invited all the participants to analyze in detail the submitted ToR and in the following months, no later than the next meeting, provide the MoJ with their comments and suggestions regarding this document. Ms. Lukic also invited the participants to analyze the provided documents (the Annual Report of the MoJ presenting the activities of the MoJ during the past year and Summary of the future plans of the MoJ providing an overview of the priority areas which MoJ plans to address in 2009-2010) and inform the MoJ on their opinions and perception of the course of the reform process, provide their input and suggestions how this process could be further upgraded and improved. Ms. Lukic informed that the MoJ for the first time is not asking for the financial support and contribution but rather substantial comments and analysis regarding the possible improvement particularly having in mind that the National Strategy for the Judicial Reform has been largely fulfilled and there is an urgent need for it to be redefined.

Upon the expose of Assistant Minister Ms. Lukic Chairmen Homen invited the Partners to present their comments and reflections.

*Jim Stein, USAID*, inquired about the status of the Law on Bankruptcy, in particular when and if it is expected that this law will be passed.

Chairmen Homen stated that the Law on Bankruptcy is expected to be completed sometimes by late October or November at the latest since the first draft has been provided through the USAID project. At the moment this document is being revised but the political decision has been made that this law should be passed as soon as possible.

*Livio Sarandrea, OSCE*, pointed out that the focus of the reform should not be only on the judiciary but on the justice sector as a whole including the penalty system. In particular, there is a need for the short-mid strategy for resolving the overcrowdings in prisons as well as for the introduction of the alternative sanctions.

Chairman Homen concurred with the observation of mr Sarandrea stating that according to the estimates of the MoJ approximately 90% of the existing National Strategy has been fulfilled thus there is an urgency for redefining it as well as drafting the Strategy for the reform of the prison system, thus MoJ is open for discussing the suggestions and initiatives in that respect. Nevertheless, according to Chairman Homen, MoJ is of the opinion that there are few key areas that should be stressed in the future such as strengthening of the monitoring in the field of prison reform and Sector of administration for enforcement of penal sanctions of the MoJ. With regards to the comprehensive reform Chairman Homen stressed other initiatives of the MoJ in that respect such as resolving the problem of cases backlog. Even though there are no capacities at this moment in order to tackle this problem, MoJ started planning means of resolving this problem (such as introduction of working Saturdays) and contacted all

relevant institutions in order to provide financial means (additional salaries for the engaged judges).

*Elli Xeonu, ECO Project*, congratulated both the MoJ and the Partners on the accomplished achievements suggesting that in order for this Forum to be more productive, more operational and performance oriented it should be of a more formal structure. Moreover, more stakeholders besides the MoJ and High Judicial Council should be included in the reform process.

Chairman Homen responded to this comment saying that all decisions have to go through the High Judicial Council, therefore it is not our intention nor mandate to change such a decision making process.

Assistant Minister Ms. Lukic also added that the ToR of the Partners Forum envisages this initiative to be the space for broad policy dialogue on issues pertaining to topical policy issues, direction and vision of the judicial reform process in Serbia. Nevertheless, paragraph 9 of the ToR also foresees *“If jointly decided, there may be a possibility to establish sub-working groups with specific foci comprising bodies/organizations currently implementing activities in the justice sector to ensure better coordination and monitoring of, and reporting from ongoing activities, or with the purpose of implementing specific recommendations or activities of the Partners’ Forum.”*

*Paul Wafer, DFID*, noted that the Partners Forum is rather broad and convenient forum for policy dialogue. However, we need to distinguish two groups of stakeholders pertaining to this Forum - domestic and international stakeholders. One has to recognise that both of these groups have the same interest but different roles, authorities and clout in this process, therefore the ownership of this process should rests on the domestic stakeholders.

Assistant Minister Ms. Lukic confirmed that the ownership of this process will completely rely on the domestic stakeholders.

#### Conclusions and action points by the Chair

Both Chairman Homen and Assistant Minister Ms. Lukic emphasized the role of the international stakeholders in the consultative process, in the process of helping and facilitating the MoJ and the Republic of Serbia in meeting its international obligations and commitments, as well as to strengthen and improve the capacities of the MoJ.

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