

## Annex 9: Recommendations

### External Performance: Efficiency, Quality, and Accessibility of Justice Services

#### a. Efficiency in Justice Service Delivery

**Recommendation 1: Strengthen performance management in courts by recognizing and rewarding higher-performing courts and implementing performance improvement plans for under-performing courts. Intensify dialogue between courts to exchange good practices and experiences through a more intensive program of meetings, workshops and colloquia.**<sup>977</sup> Lifting under-performers to the current average would considerably improve efficiency and consistency of practice, and bring Serbia's performance closer in line with European jurisdictions. These recommendations can be implemented at relatively low cost, using the Performance Framework indicators (at Annex 2) as an initial reference.

- ✓ Establish a department in the SCC to analyze court performance issues, using the Functional Review and the Performance Framework as a foundation. (SCC – short term)
- ✓ Select a targeted number of indicators that drive court performance and monitor these across all courts (SCC – short term and ongoing)
- ✓ Acknowledge performance improvements and innovations by showcasing their work at regular symposia and through non-financial rewards of recognition (e.g. Court Staff/President of the Year, Best Performing Court of the Year, Most Improved Court of the Year; Innovator of the Year etc.) (HJC with MOJ – short term)
- ✓ Disseminate individual and institutional good practices and innovations through workshops and colloquia among Court Presidents and heads of departments within courts. (SCC with HJC – medium term)
- ✓ Carry out targeted interventions aimed at assisting those courts facing severe performance challenges to rise to the current averages (SCC – medium term)

**Recommendation 2: Prioritize the implementation of the SCC Backlog Reduction Strategy, targeting in particular the utility bill enforcement backlog through analysis and a coordinated package of incentives.**<sup>978</sup> **Develop Ageing Lists as a key tool for managing timeliness and backlog reduction, and monitor the progress of each court.** This builds on the work already underway by the Backlog Reduction Working Group. Results here would help bring Serbia's efficiency in line with other European jurisdictions. Moderate funds may be needed for staff overtime to address the backlogs. The initial recommendations can be implemented at relatively low cost, although technical assistance may be required for some items.

- ✓ Accelerate the backlog reduction program and adopt the measures proposed in the Best Practice Guide to prevent the recurrence of backlogs. (HJC, SCC – short term and ongoing)
- ✓ Monitor prosecutorial investigations to prevent the accumulation of an investigative backlog. (SPC and RPPO – short term and ongoing)
- ✓ Analyze why the Infostan approach to withdraw inactive utility bill cases was so effective, replicate lessons learned with other utility companies. (SCC liaising with MOF, MOE, Utilities – short term)
- ✓ Establish taskforces in those courts most affected by utility bill backlogs. Re-allocate sufficient staff, particularly judicial assistants, from other departments to these taskforces, and provide them sufficient ICT equipment and software. Court Presidents should provide the necessary leadership and

<sup>977</sup> This recommendation aligns with NJRS Strategic Measure 5.1.2.3: Undertaking of regular periodical efficiency analyses of the judicial network using improved methodology; Strategic Measure 5.1.2.4: Adjusting of the judicial network to the needs, pursuant to the results received from periodical analyses; Strategic Measure 5.1.2.5: Undertaking of correctional measures on the level of individual Courts and PPOs with the goal of improving efficiency of the network of Courts and PPOs as a whole.

<sup>978</sup> This recommendation aligns with NJRS Strategic Guideline 5.3.6: Design and implementation of unified backlog-clearance program while respecting equalization of the number of cases per judge, establishing a system of on-going horizontal transfer and relocation of judges and public prosecutors, in accordance with the constitution and with adequate stimulation, and efficient monitoring of the program implementation.

managerial support to enable them to succeed. Develop a comprehensive Ageing List of enforcement cases, and create ambitious yet realistic targets. Closely monitor the results of taskforces and report regularly to the relevant Working Group. Recognize good performers through evaluation, promotion and non-financial recognition and awards. (SCC – short term and ongoing)

- ✓ Create incentives to overcome the stigma that enforcement work is unattractive, such as giving ‘bonus points’ for the resolution of enforcement cases in productivity norms or considering backlog reduction efforts in evaluation and promotion processes. (HJC, SCC – short term)
- ✓ Analyze the non-enforcement backlog with a comprehensive Ageing List. Require that Courts report routinely on resolution of old cases. (SCC – short term)

**Recommendation 3: Monitor the implementation of recent reforms introducing private enforcement agents, including workloads, costs, quality and efficiency of service delivery, and integrity.**

- ✓ Analyze data on the use of enforcement agents to assess their effectiveness and impact on court performance. (MOJ, SCC – short term, ongoing)
- ✓ Create an internal panel of the Chamber of Bailiffs to process complaints against enforcement agents as a first tier. Incorporate remedial training as a potential sanction for agents. Disseminate information regarding avenues for complaint against enforcement agents. (MOJ, Chamber, JA – medium term)
- ✓ Conduct a survey of the cost of enforcement services (including deposits, reimbursable expenses, and fees) in other European countries, and analyze comparative models and affordability. Consider reducing the enforcement deposit and better regulating reimbursable expenses for enforcement agents. (MOJ – short term)
- ✓ Introduce caps on the number of outstanding cases per enforcement agent and avoid assigning additional cases if performance standards are not met. (MOJ, Chamber – medium term)
- ✓ Amend the location from where enforcement agents are appointed from the creditor’s territory to either the creditor’s territory or the territory where the debtor is registered to ease logistical constraints on enforcement. (MOJ – short term)

**Recommendation 4: Establish preparatory departments in all medium and large sized courts. Monitor their results and exchange experiences.**<sup>979</sup> Judges, court staff, and practicing attorneys acknowledged these departments would be useful, particularly for ensuring that cases are ready for hearing, but the lack of staff or commitment to the process hindered the implementation. Departments can be established in the short term, while evaluating the results will require more time. The cost is moderate with the potential for substantially improved efficiency.

- ✓ Establish preparatory departments in those medium and larger courts that lack them. Collect baseline data on time to disposition and procedural efficiency, and monitor results. (SCC, MOJ – short term)
- ✓ Disseminate information about results to all courts and recognize good performance. (SCC, MOJ – medium term)

**Recommendation 5: Develop and monitor performance statistics in PPOs.**<sup>980</sup> Monitoring the workload, via electronic means wherever possible, should be done in the short term for low cost, while making changes to correct problems will follow, with costs depending on what correction actions are taken.

- ✓ Design more detailed and disaggregated performance statistics for PPOs (RPPO – short term)
- ✓ Monitor performance statistics in PPOs to prevent backlog from accumulating, and recognize good performers. (SPC, RPPO – medium term)

<sup>979</sup> This recommendation aligns with NJRS Strategic Guideline 5.3.6: Design and implementation of unified backlog-clearance program while respecting equalization of the number of cases per judge, establishing a system of on-going horizontal transfer and relocation of judges and public prosecutors, in accordance with the constitution and with adequate stimulation, and efficient monitoring of the of the program implementation.

<sup>980</sup> This recommendation aligns with NJRS Strategic Measure 4.2.1.2: Introduction of a centralized data collection and processing system in all PPOs.

**Recommendation 6: Collect and analyze data on procedural efficiency to inform future reforms.<sup>981</sup> Provide practical training to support the rollout of recent procedural amendments. Adjust productivity norms to encourage judges to join related cases.** The CCJE calls for judges to control the timetable and duration of proceedings, from the outset and throughout the legal proceedings. These recommendations can be accomplished in the short term at relatively low cost.

- ✓ Require staff to enter data into existing fields in case management software (AVP and SAPS). Provide training to staff on consistent data entry. Generate regular analytic reports and monitor results. (SCC, Courts, ICT providers – short term. See also ICT Management section)
- ✓ Create new fields in AVP and SAPS, focusing on data needs relating to timeliness, procedural efficiency, and prevention of procedural abuse. (MOJ – short term)
- ✓ Provide training to lower and higher court judges and judicial assistants on issues affecting procedural efficiency, including training to judges on their recently-enhanced powers to manage cases. (HJC, SCC, JA – medium term)
- ✓ Where variations in procedural efficiency exist between Courts, analyze and convene colloquia between courts to share experiences. (SCC – medium term)
- ✓ Analyze the extent of appeals, and procedural abuses; identify causes and develop possible sanctions.<sup>982</sup> (SCC – medium term)

**Recommendation 7: Tighten scheduling practices for court hearings, including by conducting hearings throughout the day and fully utilizing case management software functionality. Collect and monitor data on scheduling patterns, such as reasons for adjournments, to inform future reforms.<sup>983</sup>** Most of these changes could be made in the short term for little cost.

- ✓ To maximize the use of limited courtroom facilities, schedule hearings throughout the day, except in extraordinary circumstances. (SCC/Courts – short term)
- ✓ Collect and analyze data on cancelled and adjourned hearings and the reasons for them. (SCC/Courts – short term)
- ✓ Require that judges close each hearing by setting the next hearing date within a standardized timeframe, with only limited exceptions. (SCC/Courts – short term)
- ✓ Require that all courts use existing case management software to electronically schedule court hearings. Provide training as necessary. (SCC, JA, MOJ – medium term)

**Recommendation 8: Reduce the requirements for service of process and reconsider arrangements for the delivery of service, applying lessons from some Basic and Misdemeanor Courts.<sup>984</sup>** Most of these steps can be taken in the short term at low cost.

- ✓ Monitor the implementation of recent procedural amendments which attempt to close loopholes on service of process. Collect and monitor data on service of process, including attempts and costs, and identify sources for variations in results. (MOJ, SCC, Courts – short term)
- ✓ Re-negotiate the MOJ's outdated MOU with the Postal Service and pay only for successful service (modelling the experience from Uzice Basic Court). Increase training and awareness among postal officers of their requirements and the sanctions for abuse. Create a plan to monitor results and to report on changes. (MOJ – short term)

---

<sup>981</sup> This recommendation aligns with NJRS Strategic Goal 5.2: Establishing of e-justice; Strategic Guideline 5.3.2: Amendments to the normative framework in a manner that would contribute to the reduction of the duration of court proceedings; Strategic Measure 5.3.3.4: Mandatory education of administrative – technical staff and regulation of the issue of competence in the field of their education; Strategic Measure 4.2.1.3: Conducting trainings for employees in courts and PPOs for working with the centralized data collection and processing system.

<sup>982</sup> This aligns with CCJE Opinion No. 6 (2004), which indicates provision should be made for sanctioning abuse of court procedure.

<sup>983</sup> This recommendation aligns with NJRS Strategic Guideline 5.3.4: Infrastructural investments in courts and prosecution facilities targeted at tackling the lack of courtrooms and prosecutorial cabinets, thereby increasing the number of trial days per judge, reducing the time between the two hearings and significantly expediting the investigative proceedings.

<sup>984</sup> This recommendation aligns with NJRS Strategic Guideline 5.3.2: Amendments to the normative framework in a manner that would contribute to the reduction of the duration of court proceedings.

- ✓ Work with Courts to build flexibility into their budgets so that they can innovate, for example by contracting with private couriers (like Sloboda which delivered an inexpensive and successful solution in the Novi Sad Misdemeanor Court), or delivery men, as occurs in the Vrsac Basic Court. (HJC, MOJ – medium term)
- ✓ Provide training to judges on new rules and encourage them to take a proactive approach to managing service of process. (SCC, JA – medium term)
- ✓ Amend procedural laws to create a presumption of continual service after the first service of process, with the onus on the party to notify the Court of any change of address, along with sanctions for non-compliance. (MOJ, HJC – medium term)

## b. Quality of Services Delivered

**Recommendation 9: Improve the organizational methods of Working Groups that develop draft policy and legislation relating to the judiciary. Require that working groups identify policy objectives and options, analyze fiscal and operational impacts of policy options, and prepare detailed implementation plans for the rollout of reforms.**<sup>985</sup>

- ✓ Ensure standard terms of reference for working groups, with accompanying checklists for Chairs of working groups. Ensure that working groups articulate precise policy objectives and criteria. (MOJ – short term)
- ✓ Require that working groups analyze the causes for previous policy failures using system data, surveys and assessments of gaps between the ‘law on the books’ and the ‘law in practice’. Require that all working groups conduct fiscal analyses and operational analyses of proposed reforms and policy options. Base recommendations on evidence. Ensure that draft legislation recommended by each working group includes an estimated breakdown of the costs of implementation. (MOJ – short term)
- ✓ Ensure that each working group includes a specialist in legal drafting to ensure consistency and completeness of draft legislation. Conduct training on legislative drafting and interpretation. (MOJ, JA – medium term)
- ✓ Prepare implementation plans for the dissemination and rollout of new legislation and policy, and engage the Judicial Academy to deliver comprehensive training on new legislation for judges, prosecutors and court staff. (MOJ, JA – short term)
- ✓ Disseminate information about reforms through the media and on the websites of courts and the MOJ to inform citizens and court users. (MOJ, SCC – short term)

**Recommendation 10: Implement basic quality-enhancing measures. Standardize formats for routine procedures in Courts, including through the development of templates and checklists.**<sup>986</sup> The CCJE recommends that simplified and standardized formats for documents be adopted to initiate and proceed with court actions.<sup>987</sup> Initial forms can be created in the short term at relatively low cost. Training can be incorporated into existing programs.

- ✓ Develop and require courts to use standardized templates and forms for routine procedures and processes, applying lessons from the Vrsac Basic Court. (SCC – medium term)
  - ✓ Provide training on their use to judges, prosecutors, and court staff to enhance consistency in case processing (SCC, JA – medium term)
- Disseminate to court users and legal professionals (SCC – medium term)

<sup>985</sup> This recommendation aligns with NJRS Strategic Guideline 1.3.3: Analysis of the results of implementation of the ‘judicial laws’ and amending them pursuant to the results of the analysis; Strategic Guideline 1.3.4: Analysis of the results of implementation of substantial and procedural laws (Criminal Procedure Code, Civil Procedure Code, Law on Enforcement and Security, etc.).

<sup>986</sup> This recommendation aligns with NJRS Strategic Guideline 2.7.4: Improve the judgment drafting methodology and achieve uniformity in this area (through initial and continuous training at the Judicial Academy).

<sup>987</sup> See CCJE Opinion No. 6 (2004) on fair trial within a reasonable time.

**Recommendation 11: Develop pilots in Misdemeanor, Basic and Higher Courts for specialized case processing departments, including a specialized small claims department in Basic Courts with streamlined procedures.**<sup>988</sup> These recommendations can be implemented in the medium term for relatively low cost.

- ✓ Assess the feasibility of establishing small claims departments inside Basic Courts. If successful, start with a number of pilot Courts, and monitor results. Support departments with incentives, such as awards and recognition or consideration in evaluation or promotion, to attract high-quality judges and staff. Develop streamlined procedures and lay guides that could be followed by self-represented litigants. (MOJ, HJC, SCC – short term and ongoing)
- ✓ Create a working group to identify what kinds of cases could benefit from specialized case processing, including for example tax and customs cases in Misdemeanor Courts and gender-based violence and fraud in Basic and Higher Courts. Analyze lessons learned from the Commercial Courts. (MOJ, HJC – medium term)
- ✓ Develop pilot programs in Courts to test the efficacy of specialized proceedings. Monitor results. (MOJ, HJC – medium term)

**Recommendation 12: Implement and augment existing SCC plans to promote uniformity and clarity of court decisions.**<sup>989</sup> This would enhance quality and perceived fairness in line with CCJE and the Magna Carta of Judges' recommendations for improved quality, accessibility, and clarity of decision-making. Consolidating cases are for the short term while other items are for the medium term. All recommendations require relatively minimal cost.

- ✓ Provide guidance and training to judges at both first-instance and appellate levels on how to join related cases. (SCC, JA – short term)
  - ✓ Develop a more standardized approach to judgment writing and train judges on how to apply this approach. (SCC, JA – medium term)
  - ✓ Establish a series of colloquia between Court Presidents to discuss emerging issues in law and practice (SCC – short term)
  - ✓ Establish forums of institutional court users at the local level of each Basic Court (police, prosecution, social welfare, lawyers etc.). Meet periodically to ensure effective coordination of cases (applying lessons from the Zrenjanin Basic Court). (SCC – short term)
  - ✓ Collect sentencing data by Court and offense; compare across case types and court locations. Provide training to reduce variations in sentencing practices. (SCC – medium term)
  - ✓ Compile sentencing tables as a reference guide for prosecutors when developing submissions. Update and elaborate data periodically. (RPPO – medium term)
- Develop bench books on substantive areas of law topics (HJC, JA – long term)

**Recommendation 13: Improve statistical reporting of appeals (including data relating to decisions confirmed, amended or remanded back to the lower court). Combine analysis of the results with a package of training and incentives for courts and judges to promote quality in decision-making.**<sup>990</sup> The COE recommends that steps should be taken to deter the abuse of post-judgment legal remedies. Improved enforcement will discourage appeals by reducing incentives for attorneys and/or parties to delay final judgment.<sup>991</sup> Recommendations can be implemented in the medium term at relatively low cost.

---

<sup>988</sup> This recommendation aligns with NJRS Strategic Guideline 2.4.1: Changes in the normative framework related to the special character of the right to natural judge in cases of specialization and the possibility of derogation from the automatic case assignment when program for solving case backlog is applied.

<sup>989</sup> This recommendation aligns with NJRS Strategic objective 2.7: Uniformity of case law.

<sup>990</sup> This recommendation aligns with NJRS Strategic Guideline 2.7.1: Improvement of the normative framework in order to regulate the harmonization of court decisions and more precisely define the role of the Supreme Court of Cassation in this area, as well as to fully ensure harmonization with the decisions of the European Court of Human Rights and practice of other relevant international institutions.

<sup>991</sup> Committee of Ministers Recommendation No. R (84) 5, Principle 7.

- ✓ Align statistical data on appeals from Basic Court decisions to enable tracking of small and large appellations and analyze variations. Link the Courts' case management systems to allow cases to be tracked through all appeals, related cases and closure. (SCC, MOJ – medium term)
- ✓ Consider the appeal record of individual judges and prosecutors in the evaluation and promotion process. (HJC, SPC – medium term)
- ✓ Adjust the productivity norms of appellate judges to reward those who replace a lower court decision with their own judgment rather than remand it back to the lower court for retrial. Provide training to appellate judges on the implementation of recent procedural reforms requiring judges to amend decisions at the second appeal. (SCC, JA – medium term)
- ✓ Prepare and deliver training on issues that drive up appeals, including issues of concern under the ECHR<sup>992</sup> (SCC, JA – short term)
- ✓ Agree to friendly settlements between the state and parties in mass resolution of cases before the European Court of Human Rights. (MOJ – medium term)

**Recommendation 14: Develop a high-profile campaign to enhance quality and combat corruption in administrative services in Courts, including the development and monitoring of integrity plans.**<sup>993</sup> Creating integrity plans, standards, and a task force can occur in the short term, with other recommendations in the medium term, all at relatively low cost. Monitoring, training, and public awareness should be an on-going process.<sup>994</sup>

- ✓ Prepare and deliver training for judges, assistants and court staff on the purpose and content of court integrity plans. Develop integrity plans for all courts and PPOs. Disseminate existing rules on gift giving and provide relevant training. (ACA with HJC, Courts, PPOs – short term)
- ✓ Create a task force to consider performance and integrity improvements in Misdemeanor Courts for which public trust and confidence has been reduced significantly since 2009 and which impact large numbers of litigants. (SCC – short term)
- ✓ Continue to conduct periodic surveys focusing on court user experiences of corruption. Strengthen the survey methodology and expand the survey to provide more detailed and robust findings to inform future anti-corruption reforms within the judiciary. (Courts, ACA – medium term)
- ✓ Target interventions to deal with the most commonly reported forms of corruption, such as petty bribery of court staff. (HJC, SCC, MOJ – medium term)
- ✓ Develop public relations information on the websites and in brochures at the courts regarding the law and policy on gift giving. (HJC, SPC – short term)

**Recommendation 15: Enhance the capacity of the system to implement and oversee alternatives to prosecution in all locations to ensure equal treatment of defendants across Serbia.**<sup>995</sup> Recommendations can be accomplished by the medium term. Adding staff and enhancing SAPO will require moderate costs, while the other efforts are relatively inexpensive.

- ✓ Consider how recently-enacted Misdemeanor Orders could be used to impose alternative sanctions other than fines. Provide training for Misdemeanor Court judges on the use of alternative sanctions. (Misdemeanor Courts – short term)
- ✓ Expand the number of Offices of the Commissioner to all 26 Higher Court regions to oversee the implementation of deferred prosecutions. Add support staff in Commissioner's offices to enable

<sup>992</sup> This recommendation aligns with NJRS Strategic Guideline 2.7.3: Monitoring case law of the European court of human rights and other relevant international institutions, ensuring that their decisions are analyzed, organized and publicly available; Strategic Guideline 3.2.3: Further improvement of the initial training program at the judicial academy; Strategic Guideline 4.1.3: Amendments to the normative framework in terms of civil liability of the judicial office holders.

<sup>993</sup> This recommendation aligns with NJRS Strategic Guideline 2.1.1: Monitoring of the implementation of integrity plans in judiciary which are fully adapted to the judicial system and their improvement.

<sup>994</sup> See also Governance and Management recommendations.

<sup>995</sup> This recommendation aligns with NJRS Strategic Guideline 5.3.1: Wider implementation of the simplified procedural forms and institutes such as plea bargaining, implementation of the principle of opportunity in criminal prosecution and directing parties towards alternative dispute resolution methods (such as mediation) whenever allowed by legislative framework.

monitoring of fulfillment of the terms of deferred prosecution cases, particularly in rehabilitative sanctions, such as treatment and community service. (Office of the Commissioner; RPPO – short to medium term)

- ✓ Streamline the plea bargaining process by providing more autonomy to Deputy Prosecutors to offer plea bargains for cases meeting criteria set by the RPPO. (RPPO – medium term)
- ✓ Design and deliver a training program for Deputy Prosecutors on the processing of plea bargaining and deferred prosecution cases. (RPPO, JA – medium term)
- ✓ Expand the use of alternative sanctions, particularly in misdemeanor cases. (Misdemeanor Courts, Office of the Commissioner – medium term)
- ✓ Collect data from PPOs on deferred prosecution and plea bargains, and any concerns or bottlenecks. Issue additional instructions on deferred prosecution and encourage more proactive rehabilitative efforts. (RPPO – medium term)
- ✓ Add data collection concerning deferred prosecution and plea bargains to the prosecutors' automated system (SAPO): include number of deferrals and pleas offered, the criminal offense, location, and reasons for any rejections by courts of offered plea bargains. (RPPO – medium term)

### c. Access to Justice Services

**Recommendation 16: Simplify the court fee structure to enable users to estimate likely costs. Remove the cap on court fees. Standardize the court fee waiver process, and collect and analyze data on court fee waivers.**<sup>996</sup> Implementation of this recommendation will align with EU standards and good international practice.<sup>997</sup> The initial steps can be made in the short term for little to moderate costs.

- ✓ Simplify the court fee structure to enhance understanding of likely court costs. Remove the cap of 80,000 RSD on court fees and remove court fees for criminal cases initiated by a private party. (MOJ – medium term)
- ✓ Provide lay formats of information online and in paper brochures about the foreseeable costs and duration of proceedings to enable potential court users to better estimate the costs of their case. (MOJ – medium term)
- ✓ Adopt and disseminate standards for granting fee waivers, and create a standardized fee waiver application form and decision form for use by all courts. (MOJ, SCC – short term)
- ✓ Require staff to enter data on fee waiver requests and decisions in existing fields in AVP. Over time, monitor data fee waivers to encourage compliance with standards. (MOJ, courts – short term)

**Recommendation 17: Remove the Attorney Fee Schedule to enable competition in the market for legal services. Develop a more cost-effective Attorney Fee Schedule to apply only for legal services to the state (e.g., legal aid services and ex-officio attorney appointments). Consider moving away from a pay-per-hearing model.**<sup>998</sup> The CCJE advises that remuneration of attorneys should not be fixed in a way that encourages needless procedural steps.<sup>999</sup> The European Court of Justice has held that mandatory minimum fees violate the EC Treaty. In 42 countries monitored by CEPEJ, lawyers' remuneration is freely negotiated.<sup>1000</sup> Some steps will entail low to moderate costs but they would likely be more than offset by savings in moving from per-hearing payment to per-case payment for court-appointed attorney.

<sup>996</sup> This recommendation aligns with NJRS Strategic Guideline: 2.5.2 Defining the criteria for determining the poverty threshold (in order to abolish or reduce court fees and reduce pecuniary fines in criminal and misdemeanor cases).

<sup>997</sup> See *Measures for the Effective Implementation of The Bangalore Principles of Judicial Conduct*, adopted by the Judicial Integrity Group, undated.

<sup>998</sup> This recommendation aligns with NJRS Strategic Guideline 2.5.1; Defining the structure of the standardized system of legal aid through setting up of a normative framework and establishment of institutional support.

<sup>999</sup> This aligns with CCJE Opinion No. 6 (2004) on fair trial within a reasonable time.

<sup>1000</sup> See *CEPEJ Evaluation Report, 2014* (based on 2012 data). Only Cyprus, Germany, Slovenia and UK-Northern Ireland prevent free negotiation of rates.

- ✓ Remove the Attorney Fee Schedule and allow attorneys to negotiate their fees freely with clients. Develop a lower Attorney Fee Schedule for legal services provided to the state (see below), which could also act as a default schedule for the awarding of costs. (MOJ – medium term)
- ✓ Periodically update Bar Association lists to inform the process of selecting ex-officio attorneys, and provide lists to all relevant stakeholders. Clarify the appointment process and re-instate/establish Bar Association hotlines for attorney referrals. Provide parties with information on how to make a complaint about an ex-officio attorney. (MOJ, Bar Associations – short term)
- ✓ Require court staff to enter data on ex-officio attorney appointments into existing AVP fields. Monitor the use of ex-officio attorney appointments by case type, outcome, appeal rate and time to disposition. Compare with data where attorneys were not appointed ex-officio. Over time, use data to inform future reforms of ex-officio appointments. (MOJ, Bar Association – short to medium term)
- ✓ Provide parties with information on how to make a complaint about an ex-officio attorney. Strengthen quality control mechanisms for ex-officio attorneys. (Courts, Bar Associations – long term)
- ✓ Consider whether the mandatory appointment of ex-officio attorneys in certain cases (known as mandatory defense) should be broadened. (MOJ – long term)

**Recommendation 18: Prioritize the passage of an adequately funded, cost-effective Free Legal Aid law that expands the pool of service providers and limits State costs.**<sup>1001</sup> International standards establish the right to counsel to protect fundamental rights, and the ECHR calls for state-supported defense for indigent parties when the interest of justice demands it. The law should be passed as a priority, and rollout can occur in the medium term. Potential significant costs can be contained by following these recommendations:

- ✓ Prioritize passage of the draft Free Legal Aid Law. Ensure that the operational and fiscal implications of the draft law are adequately addressed. Cost and provide funding for primary legal aid services and ensure its coverage across the territory. Secure funding to implement any expanded mandates provided in the law. (MOJ, MOF – short term)
- ✓ Develop an Attorney Fee Schedule for the reimbursement of providers of primary and secondary legal aid. Consider a payment mechanism whereby clients receive vouchers for legal aid services and can choose their own provider. (MOJ – short term)
- ✓ Task a Working Group within the MOJ to plan and oversee the rollout of the new law. Draft regulations. Provide training to service providers. Establish the proposed quality control mechanism and relevant protocols. (MOJ – medium term)
- ✓ Provide easy-to-read information about court processes in pamphlets and on the web, including guidance on assessing court and attorney fees, and how to make a complaint against attorneys. (MOJ – medium term)
- ✓ Disseminate information to the public about the availability of legal aid services. (MOJ – medium term)
- ✓ Collect and analyze data on the use of legal aid by the public, including the most common case types, the workloads of service providers and the levels of satisfaction of users. (MOJ – medium term)

**Recommendation 19: Improve services for self-represented litigants, including simple forms and checklists for court users, and lay brochures and guides of basic laws and procedures.**<sup>1002</sup> Improved information can enable litigants to proceed smoothly through the system without an attorney, thus improving access to justice, as well as efficiency in the delivery of services.

- ✓ Create fields in AVP to collect data the number of self-represented litigants, their case types, outcomes and times to disposition. Require that staff enter data. Over time, use the data to design more targeted interventions to support self-represented litigants. (MOJ – short term)
- ✓ Building on lessons from Vrsac Basic Court, develop checklists of routine processes for court users and disseminate widely. (Courts – short term)

<sup>1001</sup> This recommendation aligns with NJRS Strategic Guideline 2.5.1: Defining the structure of the standardized system of legal aid through setting up of a normative framework and establishment of institutional support.

<sup>1002</sup> This recommendation aligns with NJRS Strategic Guideline 2.5.1: Defining the structure of the standardized system of legal aid through setting up of a normative framework and establishment of institutional support.

- ✓ Develop lay information packs for case types that are (or could be) most commonly pursued without an attorney, including guides, flow charts and infographics (MOJ – medium term)
- ✓ Develop/improve registries of allied professionals, such as enforcement agents, mediators and private notaries, to include expertise, geographic area, clear fee descriptions, complaint procedures, and disciplinary actions initiated or fines levied against an individual. Include in the bailiff registry a calculator for assessing likely bailiff fees (similar to the court fee calculator). (MOJ, Chamber of Bailiffs – short term)

**Recommendation 20: Operationalize the new Mediation Law, create incentives for court users and practitioners to opt for mediation, and monitor the results. Conduct intensive training among professionals on mediation and disseminate information to potential court users.**<sup>1003</sup> The CCJE recognizes the critical role of judges and lawyers for consensual settlements.<sup>1004</sup> EU Member States are required to ensure training and quality of mediators and mediation confidentiality. While some steps can be taken soon, this is a large undertaking requiring considerable time, money, and political will to accomplish. In order to encourage mediation, the remuneration structure for attorneys will need to be changed from one based on fees paid for hearings to one based on legal services and case resolution.

- ✓ Develop quality standards for mediators and a certified mediator registry. (MOJ – short term)
- ✓ Raise public awareness of mediation through websites, brochures, and public service announcements. Introduce a Mediation Self-Help Test, applying lessons from the Netherlands, so that parties can determine whether mediation would benefit them. (MOJ – short term)
- ✓ Establish a formal Court-annexed mediation program in all Basic and Higher Courts and standards for determining which cases are appropriate for mediation.<sup>1005</sup> Strengthen mediation confidentiality requirements, requiring that judges serving as mediators cannot serve as trial judge in the same case and providing trial judges only with confirmation that mediation was unsuccessful rather than the reasons no settlement was reached. (MOJ, HJC – medium term)
- ✓ Provide incentives to potential users of mediation, including:
  - Lawyers: provide subsidized, tiered training to familiarize attorneys with mediation and those lawyers who decide to become mediators. Require mediators who received subsidized training to provide a specified number of free mediations. Introduce a system of co-mediation and mentoring to enhance mediator skills. (MOJ, Bar Associations – medium term)
  - Judges: develop training and printed materials for Court Presidents and judges about the advantages and mechanics of mediation. Count dispositions achieved through mediation as part of the individual judges' workload. (HJC, JA – medium term)
  - Public: introduce legal aid for mediation<sup>1006</sup> and provide a temporary financial stimulus via free mediation hours. Set fees for mediation at less than court litigation fees, reflecting likely lower court costs than through standard litigation. Reduce the mediation fee in small claims cases to bring it more in line with court fees for these cases. (MOJ – medium term)
- ✓ Create an effective mediation case referral and management system, including: a) criteria for selecting cases; b) procedures for selecting a mediator; c) statistical monitoring and reporting; and d) coordinating activities between the court, litigants and mediators. (HJC – medium term)

<sup>1003</sup> This recommendation aligns with NJRS Strategic Guideline 2.5.3: establishment of an efficient and sustainable system of dispute resolution through mediation, by improving the normative framework and conducting the procedure of standardization and accreditation of initial and specialized training program for mediators, as well as by promoting the alternative methods of dispute resolution. Establishment of the register of licensed mediators in accordance with predefined criteria.

<sup>1004</sup> CCJE Opinions No. 6 (2004) and 16 (2013). See also, De Pala, Giuseppe and Mary B. Trevor, eds., *EU Mediation Law and Practice*, Oxford University Press, 2012.

<sup>1005</sup> For example, civil matters, divorce and/or custody cases, and victim-offender mediation in juvenile cases.

<sup>1006</sup> Fourteen European states offer legal aid for cases in mediation. CEPEJ Final Evaluation Report, undated, Table 8.2.

**Recommendation 21: Make important cases, consolidated legislation, and information about open and disposed cases freely accessible online.**<sup>1007</sup> Implementing this recommendation will advance several CCJE goals.<sup>1008</sup> Most of these efforts can be accomplished in the medium term for low to moderate costs.

- ✓ Provide public information about court processes via court websites and brochures and using radio and television public access channels. Start with information about misdemeanor case process for which citizens indicate that the least information is available and the highest demand for information exists. (MOJ, HJC – short term)
- ✓ Publish consolidated legislation online free of charge. For the most commonly-used legislation, provide annotated commentaries. (National Assembly, Official Gazette – medium term)
- ✓ Ensure that parties in pending cases can access the basic registry and scheduling information about their case on the web portal, applying lessons learned from Croatia. (HJC, MOJ – medium term)
- ✓ As discussed further in the ICT resource section, develop common standards on which appellate decisions should be uploaded to searchable public websites. (MOJ, SCC – medium term)

**Recommendation 22: Develop lay formats of legal information specifically aimed at reaching vulnerable groups.**<sup>1009</sup> CEPEJ reports 17 European states provide special information to ethnic minorities in line with CCJE recommendations<sup>1010</sup> supporting steps to strengthen the public perception of impartiality of judges<sup>1011</sup> Further, providing information to designated groups can be made in the short to medium term for low cost.

- ✓ Develop lay formats of legal information specifically tailored for vulnerable groups, including less educated court users, Roma and internally displaced persons. (HJC – short term)
- ✓ Develop court materials including websites in languages other than Serbian consistent with European standards for providing information in other languages. (MOJ – medium term)
- ✓ Organize training programs in non-discrimination and equal treatment for judges and court staff. (HJC, JA – medium term)
- ✓ Consider the feasibility of establishing a victim of crime service, applying lessons from EU Member States. (MOJ – medium term)
- ✓ Conduct a public campaign to raise awareness on the role of, and right to, a court appointed interpreter. (MOJ – long term)

---

<sup>1007</sup> This recommendation aligns with NJRS Strategic Guideline 2.9.2: improving the transparency of work of the judiciary by establishing public relations offices, info-desks and comprehensive websites.

<sup>1008</sup> CCJE, Opinion 14 (2011), 'Justice and Information Technologies (ICT)'; Opinion 6 (2004) on *Fair Trial Within a Reasonable Time*. See also the Magna Carta of Judges (Fundamental Principles) on Access to Justice.

<sup>1009</sup> This recommendation aligns with NJRS Strategic Guideline 2.5.6: Improvement of the normative framework on the basis of results of assessment related to the access to justice of vulnerable and marginalized groups.

<sup>1010</sup> Opinion 7 (2005) on Justice and Society.

<sup>1011</sup> CEPEJ *Final Evaluation Report*, undated, page 86.

## Internal Performance: Governance and Management of Resources for Service Delivery

### a. Governance and Management

**Recommendation 23: Clearly define the governance structure, organization and goals of the Councils and enhance their management capacities to carry out their current responsibilities and prepare for the transition of additional functions.**<sup>1012</sup> Because of the short time remaining before the scheduled transfer of these functions on 1 January 2016, many of the recommendations will require prompt implementation. Costs for these items are relatively low, with ongoing costs if a General Manager is hired.

- ✓ Complete the Councils' definitions of their working arrangements and internal rules; create subcommittees or other means of allocating members' responsibilities. (HJC, SPC – short term)
- ✓ Amend the Constitution and relevant legislation in line with Venice Commission and CCJE recommendations to enshrine Council and court independence, including regarding appointments and promotions within the judicial system.<sup>1013</sup> In doing so, consider also amending rules on retiring the Council en masse every five years, replacing them with rotational elections that assist the retention of corporate memory and momentum. (MOJ, HJC, SPC, Assembly – medium term)
- ✓ Consider adding a General Manager to each Council to provide managerial oversight, based on a job description that requires prior management experience. (HJC, SPC – medium term)

**Recommendation 24: Create an ongoing strategic and operational planning function in the judiciary to collect and analyze data and plan process improvements.**<sup>1014</sup> The CCJE specifies that the goal of data collection should be to evaluate justice in its wider context,<sup>1015</sup> and the design of data collection procedures, evaluation of results, their dissemination as feedback, monitoring, and follow-up procedures should reside in an independent institution within the judiciary.<sup>1016</sup> Most of these recommendations should be completed in the short term to prepare for transfer of responsibilities from the MOJ. The data gathering and reporting, strategic and operational planning functions will develop over the medium term. The creation of capacity to fulfill these functions will require ongoing and potentially expensive staff costs.

- ✓ Accelerate the Strategy Implementation Commission's definition of its work plan. (Commission, MOJ – short term)
- ✓ Adapt the Functional Review's Performance Framework into a streamlined dashboard-style framework to monitor system performance, with a small number (maximum of 10) of key performance indicators most likely to drive performance enhancements. (Commission, MOJ – medium term)
- ✓ Consider revising the NJRS Action Plan to increase the focus on the effective rollout and implementation of a smaller number of reforms most likely to improve system performance from the perspective of court users. Identify measurable targets. Monitor and document results, especially in the efficiency area. (MOJ, HJC, SPC, Commission – short term)
- ✓ Require all institutions to provide brief and frequent updates on progress against targets. Communicate to stakeholders the baseline results, initiatives and changes in outcomes. (SCC, HJC, SPC – short term)

<sup>1012</sup> This recommendation aligns with NJRS Strategic Guideline 1.2.2: Analysis and division of competences between the HJC and SPC on one side and the MOJ on the other in regards to competences; Strategic Guideline 1.3.1: Strengthening of professional capacity of the HJC and SPC for the analysis of the results of the reform (hiring of experts of suitable profiles in administrative offices, development of data collection system, training of the members of the HJC and SPC in the field of analytics, statistics and strategic planning).

<sup>1013</sup> See for example CCJE Opinion 10 (2007), which states that '*[p]rospective members of the Council for the Judiciary, whether judges or non judges, should not be active politicians, members of parliament, the executive or the administration. This means that neither the Head of the State, if he/she is the head of the government, nor any minister can be a member of the Council for the Judiciary. Each state should enact specific legal rules in this area.*'

<sup>1014</sup> This recommendation aligns with NJRS Strategic Goal 1.3: Strengthening of analytical capacities for strategic planning in the HJC and SPC.

<sup>1015</sup> I.e., including the interactions of the judiciary with judges and lawyers, justice and police etc.

<sup>1016</sup> See CCJE Opinion No. 6 (2004).

**Recommendation 25: Bolster the sector’s capacity to systematically analyze workloads and determine the efficient resource mix to achieve policy objectives.<sup>1017</sup> Adopt a simple case weighting methodology.<sup>1018</sup>**

Adding judges and staff to address performance issues is ineffective without a more rigorous evaluation of system needs. These activities should begin in the short term and would be ongoing.

- ✓ Analyze existing caseloads based on managerial reports in the case management systems. Transfer files from busier courts to neighboring less busy courts, when appropriate and preferably during the early phases of case processing. (SCC – medium term)
- ✓ Collect and analyze data about when and why random case assignments are overruled. Supplement data from random case assignments with analytic reports from case management systems to equalize the distribution of caseloads by case type and age. (HJC, SCC – short term)
- ✓ Finalize a simplified case weighting methodology, applying lessons from the USAID SPP pilot. (HJC, SCC – medium term)
- ✓ Refine the weighting of cases over time to continually improve the allocation of resources to meet needs (HJC – long term)
- ✓ Create a planning, analytic, and statistics unit within each Council, with skilled staff who are capable of collecting and analyzing data about court performance. Task this unit to undertake planning and policy analysis functions focusing on the key performance areas. Work with budget and other management employees to consider and evaluate relative costs/benefits of proposals, analyze trends, develop ‘what-if’ scenarios and assess optimum resource mix. Provide advice to management on reform proposals. (HJC, SPC – medium term)

**Recommendation 26: Supplement statistics from the automated systems with periodic user surveys.<sup>1019</sup>**

This is a best practice noted by the EC, CEPEJ and the International Framework for Court Excellence and an important source of information for the judicial system. This measure is not inherently costly although some technical assistance may be needed to develop remedies and programs.

- ✓ Develop a court user survey, building on lessons from the Multi-Stakeholder Justice Survey. Finance the surveys through the HJC and SPC budgets. (HJC, SPC – medium term)
- ✓ Conduct periodic open and/or focus group discussions with users at the local level. Develop exit questionnaires for court users. Consider results in the formulation of policies. (HJC – medium term)

**Recommendation 27: Re-engineer and streamline administrative processes in the courts and PPOs.<sup>1020</sup>**

Re-engineering can result in more efficient and effective remedies for users, and reduced burden on judges and staff without sacrificing quality. Some tasks should be undertaken in the short term, but the overall effort will be ongoing. Once the analytical unit is established, ongoing costs will be minimal.

---

<sup>1017</sup> This recommendation aligns with NJRS Strategic Goal 1.3 Strengthening of analytical capacities for strategic planning in the HJC and SPC; Strategic Measure 1.3.1.2: Strengthening of the capacities of the HJC and SPC in the field of strategic planning and analytics.

<sup>1018</sup> This recommendation aligns with NJRS Strategic Guideline 1.2.1: Strengthening of professional and administrative capacity of the High Judicial Council and SPC for Planning of the budget for Judiciary (Establishing of the number of judges, public prosecutors and assisting staff required by the Judicial system, analysis of the workload and legal changes); Strategic Guideline 5.1.1: Establishment of an efficient system of allocation of judges based on the principle of equalization of the number of cases per judge, as well as on additional criteria taken into consideration in the process of establishing the new court network; respect of the principle that a judge can be transferred only in the court of the same rank which is overtaking competences from the abolished court; introduction of the system of permanent transfer and reallocation of judges (on voluntary basis in accordance with the constitution and with adequate stimulation) with particular regard to the reintegration of judges who returned office after decision of the Constitutional Court of Serbia in 2012; termination of an office of public prosecutor only if the public prosecutor’s office was abolished.

<sup>1019</sup> This recommendation aligns with NJRS Strategic Measure 2.1.3.2: Regular surveys are conducted in order to identify unethical conduct of judges/public prosecutors in cooperation with other institutions.

<sup>1020</sup> This recommendation aligns with NJRS Strategic Guideline 5.3.3: Relieving the burden on judges in terms of administrative and technical task, which take a significant portion of their time, by reassigning them to the administrative and technical staff and judicial assistants by ensuring uniformity of administrative and technical procedures through the adoption of the relevant rules of procedure enhancing judiciary integrity.

- ✓ Expand significantly the current initiative to revise the Court Book of Rules. Identify opportunities to re-engineer and streamline processes, not only to align with recent legislative reforms but more broadly to improve efficiency and quality of processes. (MOJ – medium term)
- ✓ Establish a working group (comprising business process experts, judges and staff) to consider areas where re-engineering of processes would provide the greatest benefit. (HJC, Courts – short term)
- ✓ Facilitate colloquia for Court Presidents to discuss attempts to innovate processes, to share challenges and lessons and replications. (HJC, SPC in collaboration with MOJ, Court Presidents for local meetings – short term)

**Recommendation 28: Reduce opportunities for conflicts of interest to arise. Fully implement the plan of the Complaints Handling Working Group and strengthen dissemination.**<sup>1021</sup> Offering avenues for court users to complain can be made quickly, with analysis in the medium term. There will be moderate costs for creating the web presence.

- ✓ Require that all Court Presidents use the existing random case assignment software in allocating cases. Require Court Presidents to report on instances when the random assignment is overruled, including the rationale for reach decision. Monitor reports. (SCC – short term)
- ✓ Create fields in AVP to collect data on the exclusions and exemptions of relevant persons (i.e. judges, prosecutors, lay judges, expert witnesses etc.) from cases. Require that court staff enter data on exclusions and exemptions and that Court Presidents monitor trends. (HJC/SCC – medium term)
- ✓ Conduct a large-scale public information campaign to enhance public education on the scope and methods of both complaint and disciplinary procedures. (HJC – short term)
- ✓ Link the outcome of complaints processes to evaluation, discipline and promotion systems for judges and prosecutors. (HJC, SPC – medium term)
- ✓ Provide training for Court Presidents on their key role in complaints handling. Enforce disciplinary proceedings against Court Presidents who do not address complaints lodged or implement findings made (HJC – medium term)

**Recommendation 29: Disseminate information about system performance to target audiences.** Improving public awareness would enhance public trust and confidence, combat persistent negative reports about the judiciary and demonstrate improvements in service delivery in line with Chapter 23.<sup>1022</sup> Costs are relatively low.

- ✓ Improve analytic content of SCC Annual Reports and include summaries in lay formats. Accompany Annual Reports with downloadable spreadsheets of system data for the benefit of analysts and researchers. Maintain email distribution lists for more frequent updates of progress. (SCC, HJC – medium term)
- ✓ Provide more detailed and disaggregated data in the annual reports of the prosecution service. (RPPO – medium term)
- ✓ Develop a communication strategy to explain the role and work of the judiciary and the implementation of the NJRS, to address the perception gap between the general public and court users. (MOJ – short term)
- ✓ Provide summary updates of recent reforms and their implications for court users and inform target audiences of proposed reforms using lay formats. (MOJ, Councils, SCC – medium term)

<sup>1021</sup> This recommendation aligns with NJRS Strategic Guideline 4.2.2: Establishment of a uniform system for the collection, processing and analysis of complaints and petitions relating to the work of judicial office holders.

<sup>1022</sup> This recommendation aligns with NJRS Strategic Guideline 2.9.1: Promoting the results of the courts and PPOs, regular reporting on the work of the judiciary, readiness to respond to media requests, as well as promotion of the activities of the MOJ through the strategy for communication with the media/public; Strategic Guideline 2.9.2; Improving the transparency of work of the judiciary by establishing public relations offices, info-desks and comprehensive websites.

## b. Financial Management

**Recommendation 30: Improve the quality of financial data that decision-makers require for performance analysis and planning.**<sup>1023</sup> Implementation of this recommendation would give Court Presidents, judges and managers the information that would allow their greater and more meaningful engagement in court administration, as per good European practice.<sup>1024</sup>

- ✓ Ensure interoperability of different financial management systems and establish a centralized data storage management system where financial data needs to be entered only once and is then exported to authorized users. (HJC, SPC, SCC, RPPO, MOJ – medium term)
- ✓ Ensure that information management systems align financial and non-financial data around the core business processes (e.g., once a new case is registered in case management software, it should be reflected in accounting systems). (HJC, MOJ – medium term)
- ✓ Do no further harm to information fragmentation by requiring that any future automation initiative does not exacerbate the existing fragmentation between various systems. (MOJ -short term)
- ✓ Utilize the analytical potential of financial data that are already collected, e.g. by developing a standard methodology for calculating cost-per-case and encouraging courts to improve cost-effectiveness. (HJC, SPC, SCC, RPPO, MOJ – short term)

**Recommendation 31: Strengthen court fee collection. Consider establishing a body within the sector that is responsible for the collection of all court fees.**<sup>1025</sup> Implementation of this recommendation would contribute to better collection of court fees and would enable courts with more resources to respond to newly emerging needs.

- ✓ Assess the full budgetary impacts of the transfer of verification services from courts to private notaries. (HJC to lead, MOJ - short term)
- ✓ Consider amendments to Law on Court Taxes and related legislation to enable courts to charge interest and late fees and to refuse hearings to delinquent debtors in certain circumstances. Assess the fiscal impacts. (HJC, SCC – short term)
- ✓ Assess the feasibility of centralizing responsibility for all court fee collection in a specialized organization. (HJC to lead, with MOJ and MOF – medium term)

### Recommendation 32:

16. **Strengthen the accounting of financial commitments and expenditures of the courts and PPOs.**<sup>1026</sup> Enhanced procedures should ensure that delays in registering new commitments are minimized; and that commitment data is accurate, complete and easily reconcilable with the budgets and shared with decision-makers.

- ✓ Within the public sector accounting framework, strengthen procedures for the accounting and reporting of financial commitments by the courts and PPOs (MOJ with HJC, SPC – short term)
- ✓ Generate regular reports that present commitment data against budgets (MOJ with HJC, SPC – short term)
- ✓ Establish a workgroup which will collect and analyze detailed information on arrears within the system. (MOJ with representatives from budget and accounting departments from HJC and SPC – short term)

<sup>1023</sup> This recommendation aligns with the Strategic Guideline 1.2.1: Strengthening of professional and administrative capacity of the High Judicial Council and SPC for Planning of the budget for Judiciary (Establishing of the number of judges, public prosecutors and assisting staff required by the Judicial system, analysis of the workload and legal changes).

<sup>1024</sup> This is provided for in: *European Charter on Statute of Judges*, Article 1.6; *Magna Carta of Judges (Fundamental Principles) – Access to justice and transparency*, Article 22; *Recommendation Number CM/Rec(2010)12, Council of Ministers on judges: independence, efficiency and responsibilities*, Articles 40-41.

<sup>1025</sup> This recommendation aligns with NJRS Strategic Guideline 2.5.2: Defining the criteria for determining the poverty threshold (in order to abolish or reduce court fees and reduce pecuniary fines in criminal and mesdemeanour cases).

<sup>1026</sup> This recommendation aligns with NJRS Strategic Guideline 1.2.2: Analysis and division of competences between the HJC and SPC on one side and the MOJ on the other in regards to competences related with the budget.

- ✓ Based on the analysis of arrears work with MOF on settling existing arrears. (MOJ with HJC, SPC, MOF – medium term)
- ✓ Identify options for ensuring that courts and PPOs are informed when their arrears are about to be collected from the accounts of central government agencies. (HJC, SPC, MOJ and MOF – short term)

**Recommendation 33: Allow the courts and PPOs greater flexibility to reallocate funds within their individual budgets to optimize the use of resources and reduce arrears.**<sup>1027</sup> If implemented, this recommendation would increase the effectiveness of appropriated resources and reduce the number of instances when the courts have to return unspent funds because the funds' economic classification breakdown did not match their needs.<sup>1028</sup>

- ✓ Develop transparent rules and procedures enabling the courts and PPOs to reallocate funds with the approval of the Councils or MOJ respectively, consistently with the Budget Law. (HJC, SPC with MOJ – short term)
- ✓ Prioritize the timely processing of budget reallocation requests, and establish timeliness standards for these processes. (HJC, SPC – short term)
- ✓ Automate the submission of ad hoc reallocation requests by courts and PPOs to their respective Councils to minimize the administrative burden on Councils and enable the Councils to process requests. (HJC, SPC, Courts – medium term)

**Recommendation 34: Clarify the division of financial responsibilities in key areas of the budget.**<sup>1029</sup> **Articulate definitions of capital and current expenditures, and clarify which institution is responsible for each.**<sup>1030</sup> **Clarify the division of financial responsibilities for the costs of legal procedure between the courts and PPOs. Improve coordination with service providers (i.e. prison facilities, attorneys, expert witnesses, and enforcement agents).** Clarity and coordination would improve the effectiveness of resource allocation by the HJC, SPC and MOJ. It would also improve operational efficiency and minimize unnecessary disruptions, reduce arrears and prevent duplication and equivocation among courts and PPOs.<sup>1031</sup>

- ✓ Within the existing regulatory framework, develop transparent criteria for defining and distinguishing between capital and current expenditures. The justice sector does not need to wait for a government-wide solution on the distinction between current and capital expenditures, but should one later be articulated, the justice sector could adapt it and be no worse-off. (MOJ, MOF – short term)
- ✓ Incorporate these definitions into regulations to guide the cycle of budget planning and execution within the judiciary in order to prevent duplications in requests and delays in budget execution. (HJC, SPC, MOJ with approval from MOF – short term)
- ✓ Establish a working group to clarify the division of financial responsibilities for the costs of procedure between the courts and PPOs for mandatory expenditures relating to criminal investigation by either adjusting the regulatory framework or by issuing a binding interpretation. (HJC, SCC, SPC, RRPO and MOJ and participation MOF/Treasury and, possibly, of the Judicial Committee of the Parliament – short term)

---

<sup>1027</sup> This recommendation aligns with NJRS Strategic Guideline 1.2.1: Strengthening of professional and administrative capacity of the High Judicial Council and SPC for Planning of the budget for Judiciary (Establishing of the number of judges, public prosecutors and assisting staff required by the Judicial system, analysis of the workload and legal changes.

<sup>1028</sup> This aligns with *European Charter on Statute of Judges*, Article 1.6.

<sup>1029</sup> This recommendation aligns with NJRS Strategic Guideline 1.2.2: Analysis and division of competences between the HJC and SPC on one side and the MOJ on the other in regards to competences related with the budget.

<sup>1030</sup> This recommendation aligns with NJRS Strategic Guideline 1.2.1: Strengthening of professional and administrative capacity of the High Judicial Council and SPC for Planning of the budget for Judiciary (Establishing of the number of judges, public prosecutors and assisting staff required by the Judicial system, analysis of the workload and legal changes.

<sup>1031</sup> This aligns with *European Charter on Statute of Judges*, Article 1.6.

### c. Human Resource Management

**Recommendation 35: Impose a hiring freeze for judges and do not fill judicial vacancies until a rigorous and transparent methodology is developed to determine the needed number of judges. If adjustments are required, transfer judges with their consent or promote judges within the system to prevent any increase in the total number of judges. Work within the budget process to re-allocate funds earmarked for the salaries of judicial vacancies to more productive areas, such as mid-level specialist staff, ICT and infrastructure.**<sup>1032</sup> The HJC should implement this freeze immediately and maintain it for the medium term until the HJC develops a rigorous methodology to determine the number of needed judges and articulates that methodology. The number of judges needed is likely to be well below the current number of sitting judges, so a process of attrition will be required.

- ✓ Impose a freeze on filling judicial vacancies. If vacancies arise in higher ranks, fill them through promotion of judges from lower ranks. Do not fill the vacancies at lower ranks, given falling demand. (HJC, SCC – short term and ongoing)
- ✓ Gradually reduce the wage bill over time by attrition – i.e. not replacing retiring or departing judges. (HJC – short term and ongoing)
- ✓ If needs arise, transfer existing judicial assistants from less-busy courts to busier courts of the same court level within the same appellate region. (HJC, SCC – medium term)<sup>1033</sup>
- ✓ Work within the budget process to re-allocate funding for unfilled judicial positions to other priority expenditures, such as investments in managerial capacity, training, ICT upgrades and infrastructure improvements. (HJC, SCC, MOJ with approval of MOF – medium term)
- ✓ Request the consent of existing judges to be appointed as substitute judges in courts of the same court level within the same appellate region. Transfer judges temporarily with their consent, where needs arise. (HJC – medium term)
- ✓ Create incentives for judges to consent to transfers and be appointed as substitutes, including financial incentives and consideration in future promotion processes. (HJC, SCC – medium term)
- ✓ Establish a rigorous and transparent methodology at the central level to determine the number of judges needed, taking into account, inter alia, population, geography, demand for court services, demand by case type, domestic legal requirements, recent reforms to court mandates, and the experience of comparator EU Member States. (HJC, SCC – medium term)

**Recommendation 36: Determine staffing objectively and in line with European experience, and adjust staffing when circumstances change.**<sup>1034</sup> Reduce temporary employees and ‘shadow’ staff. Costs would be moderate in the short term, but reforms would produce significant savings.

- ✓ Analyze non-judge staffing needs in the courts based on caseload and economies of scale. Examine outliers to identify immediate staff reductions through layoffs or longer term through attrition. (HJC, SPC, MOJ – short term)
- ✓ Develop a staff reduction program in the courts and PPOs, focusing on rationalizing staff in accordance with the changing mandates of courts (i.e. targeting redundancies of land registry staff, verification staff etc.) and reducing or outsourcing ancillary staff whose roles do not contribute to case processing

---

<sup>1032</sup> This recommendation aligns with NJRS Strategic Guideline 5.1.1.1: Establishment of an efficient system of allocation of judges based on the principle of equalization of the number of cases per judge, as well as on additional criteria taken into consideration in the process of establishing the new court network; respect of the principle that a judge can be transferred only in the court of the same rank which is overtaking competences from the abolished court; introduction of the system of permanent transfer and reallocation of judges (on voluntary basis in accordance with the constitution and with adequate stimulation) with particular regard to the reintegration of judges who returned to office after the decision of the Constitutional Court of Serbia in 2012; termination of an office of public prosecutor only if the public prosecutor’s office was abolished.

<sup>1033</sup> See also Recommendation 1 to improve performance management in courts, including through the transfer of files.

<sup>1034</sup> This recommendation aligns with NJRS Strategic Guideline 1.3.2: Analysis of the Results of work of Courts and PPOs and undertaking of the measures pursuant to the results of the analysis for better deployment of human resources in judiciary (determining the required number of deputies, judges and equitable caseload and allocation of cases).

- (cleaners, drivers, typists, registry staff, maintenance staff, carpenters etc.). (HJC, SPC, MOJ – short term)
- ✓ Offer incentives to staff to move from the courts to the Executive Branch or PPOs as a preferred alternative to layoffs. (HJC, SPC, MOJ – short term)
  - ✓ Strictly limit reasons for hiring temporary or contract employees. Standardize reporting on numbers, roles, and costs of the shadow workforce. (MOJ – short term)
  - ✓ Freeze all volunteer appointments and phase out the volunteer program in courts and PPOs. (SCC – short term)
  - ✓ Create formulas for determining funds and number of case processing staff per judge and administrative staff based on units of work (e.g., standard number of ICT people per device supported). Establish transparent justifications for deviations from the staffing levels set in the standards. Address staffing levels of administration and public employees in the medium term. (MOJ – short to medium term, with HJC advising prior to 2016.)
  - ✓ Create a more sophisticated staffing needs/norms model considering the impact of statutory, administrative, or technological changes on staff needs and include other civil servants and public employees. (HJC – long term)

**Recommendation 37: Establish systems to select, evaluate, and promote the most qualified judges to enhance quality, increase efficiency and public trust in the judiciary.<sup>1035</sup> Use the evaluation and promotion system to recognize good performance and incentivize innovation. Develop and apply remedial actions, including mandatory re-training, for low-performing judges.** Implementation of recently-adopted evaluation rules should be the focus in the short term.

- ✓ Clarify performance evaluation procedures, including how evaluation ratings will be used to make decisions about probation, promotion and discipline. This will entail changes to both statutes and evaluation rules. (HJC, National Assembly – medium term)
- ✓ Establish criteria and rules for filling vacant Court President positions so that temporary appointments, if necessary, are for only a short duration. (HJC – medium term)
- ✓ Implement the recently-adopted rules on the criteria, standards and procedure for promotion and performance appraisal of judges. (HJC – short term)
- ✓ Consider tightening the rules in the following manner (HJC – medium term):
  - Establish more rigorous standards for the achievement of a satisfactory rating;
  - Reduce the periods of evaluation for probationary judges to ease the administrative burden on evaluation panels;
  - Include evaluation criteria that create incentives to improve system performance, including participation in training, mentoring of less-experienced judges and participation in task forces and working groups;
  - Give preference in promotions to judges who have served in multiple courts or voluntarily worked on backlog reduction in their own or other courts.
- ✓ Provide evaluation panels with sufficient support staff to compile information against evaluation criteria, to facilitate panels in the conduct of performance reviews. (HJC – short term)
- ✓ Conduct an education campaign for judges about the skill enhancement and promotional purposes of evaluations. (HJC – medium term)

---

<sup>1035</sup> This recommendation aligns with NJRS Strategic Guideline 1.5.1: Encouragement, strengthening and maintaining the quality of human resources in judiciary, especially through improvement of the system of professional evaluation and management of human resources.

**Recommendation 38: Conduct a comprehensive training needs analysis for existing judges, prosecutors and court staff. Re-balance the focus of the Judicial Academy towards continuing training, and design and implement a significant continuing training program for all judges, prosecutors and staff.**<sup>1036</sup> Enhanced continuous training for judges and assistants should commence in the short term. The significant injection of training will require a moderate investment.

- ✓ Reduce the initial training intakes until a transparent and rigorous methodology has been developed to determine the number of needed judges and legal issues raised in the recent Constitutional Court decision have been resolved. (HJC, SPC, JA – short term)
- ✓ Rebalance the Judicial Academy budget by reducing funding for initial training activities and increasing funding for continuing training activities. Shift the focus of staff towards the preparing continuing training activities. (JA, MOJ – short term)
- ✓ Conduct a comprehensive training needs assessment for existing judges, prosecutors, and staff. (JA, HJC, SPC, MOJ – short to medium term)
- ✓ Focus the Academy as a training center developing rigorous, consistent, and effective training materials and methods, using lessons from the European Judicial Training Network (EJTN) as a guide. (JA, HJC, SPC, MOJ – short term)
- ✓ Adopt a skills-based training program for court staff to enhance performance in their current roles. (JA, HJC – medium term)
- ✓ Create a training plan and provide government-sponsored training to other employees (e.g., Court Managers, registry staff). (JA – medium term)
- ✓ Raise the standards of the initial training curriculum and evaluation. (JA, HJC, SPC – medium term)

**Recommendation 39: Develop effective, efficient, and transparent disciplinary measures to ensure quality of justice and effective access to justice.**<sup>1037</sup> Each of these recommendations is relatively inexpensive; reducing the number of complaints could result in the Disciplinary Prosecutor and Commission becoming more cost-effective.

- ✓ Ensure adequate staffing of disciplinary departments in the HJC and SPC, and consider increasing their salaries commensurate with their responsibilities. Reduce delays in the application of disciplinary procedures. Provide training on disciplinary procedures to judges, prosecutors and court staff. (JA, HJC, SPC – medium term)
- ✓ Issue opinions with practical examples of permissible/impermissible conduct, including online FAQs about ethics. (HJC – short term)
- ✓ Analyze the outcomes of complaints processes at a systemic level, and use data to inform future reforms. (HJC – long term)

**Recommendation 40: Consolidate HR policy development in the HJC and promote a professional, properly-managed staff within Courts.**<sup>1038</sup> This should conform with the CCJE adjudication standards and promote efficiency<sup>1039</sup> in accordance with the Bangalore principles.<sup>1040</sup> While some steps could begin immediately, most tasks are medium term. Centralized staffing and performance pay are long term efforts. These tasks are generally low cost, but some require the addition of a moderate number of staff to the HJC.

<sup>1036</sup> This recommendation aligns with NJRS Strategic Guideline 3.1.2: Further improvement of continuous training at the Judicial Academy.

<sup>1037</sup> This recommendation aligns with NJRS Strategic Guideline 4.1.2: Normative Strengthening of Disciplinary accountability of judges, public prosecutors and deputy prosecutors, particularly emphasizing the obligation to adhere to the code of ethics.

<sup>1038</sup> This recommendation aligns with NJRS Strategic Guideline 5.3.3: Relieving the burden on judges in terms of administrative tasks which take a significant portion of their time, by reassigning them to the administrative and technical staff and judicial assistants by ensuring uniformity of administrative and technical procedures through the adoption of the relevant rules of procedure.

<sup>1039</sup> See CCJE Opinion No. 2.

<sup>1040</sup> 'The responsibility for court administration, including the appointment, supervision and disciplinary control of court personnel should vest in the judiciary or in a body subject to its direction and control.' Implementation of Bangalore Principles of Judicial Conduct, 2010.

- ✓ Invest in mid-level analytical staff in the courts with an additional benefit of creating an attractive career path in court administration for judicial assistants and court staff. Consider a regional approach for analytical tasks for smaller courts. (HJC – medium term)
- ✓ Create a detailed position description, specific evaluation process and career path for judicial assistants (from junior to senior assistant and on to advisor). Develop specific evaluation criteria and a rigorous evaluation process for judicial assistants that recognize their contributions to system performance. (SCC in consultation with HJC – short term)
- ✓ Build capacity within the Councils to take responsibility for the use and number of civil servants and employees. Adjust the systematization by reducing the number of court classifications to allow flexible deployment. (HJC, MOJ – short term)
- ✓ Codify that the HJC and SPC (with dedicated HR units) will be responsible for non-fiscal aspects of court employee policy development. (National Assembly, HJC, SPC, MOJ – short term)
- ✓ Establish uniform civil servant and labor processes for non-judge employees (uniform judicial-sector job descriptions, position-specific recruitment and selection methods, performance evaluations with standardized rankings); identify training needs and candidates for succession. (HJC– medium term)
- ✓ Identify the source of reluctance in certain courts to utilize Court Managers; raise awareness of the how Court Managers are successfully utilized in some courts. Establish standard duties and qualifications for Court Managers. (HJC – medium term)
- ✓ Introduce periodic reviews of performance evaluations by a centralized authority to ensure procedures are followed. (HJC– long term)

#### d. ICT Management

**Recommendation 41: Develop more robust ICT governance structures to ensure future investments target justice sector goals and meet business needs.**<sup>1041</sup> Activities should commence in the short term and require few costs:

- ✓ Establish a strategic cross-institutional ICT Governance Group to include senior managers of relevant institutions. (MOJ, HCC, SCC, SPC, RPPO – short term)
- ✓ Establish an Operational Data Working Group that sits as a second tier in the ICT governance structure to enable front-line managers and staff to provide input to information management reforms. (ICT Governance Group – short term)
- ✓ Establish a technical working group of ICT staff across the sector to discuss detailed aspects of rollout.

**Recommendation 42: To enhance ICT funding: conduct a cross-judiciary technology architecture assessment; establish a long-range budget plan to sustain automation initiatives; and conduct cost- benefit and total cost of ownership (TCO) analyses for all proposed projects.**<sup>1042</sup> Costs would be moderate and additional staffing may be required. Activities could begin immediately, but build in the medium term:

- ✓ Conduct a Technology Architecture Assessment to assess the current technology environment across all judicial sector institutions, and develop a blueprint of future Target State Technology architecture including a transition strategy, roadmap, and solution architecture. (MOJ ICT division and Architecture Consultancy – short term, endorsed by ICT Governance Group)
- ✓ Establish a defined methodology for conducting business case analyses for proposed projects and analyzing their likely total cost of operations. (ICT Governance Group – short term)
- ✓ Create a complete inventory of ICT hardware and software assets, and ICT HR capacities in the judiciary beginning with information in BPMIS. (MOJ – medium term)
- ✓ Based on the inventory, develop a sector-wide long-range ICT budget plan. (ICT Governance Group in cooperation with MOF – medium term)

<sup>1041</sup> This recommendation aligns with NJRS Strategic Guideline 5.2.3: Ensuring sustainable development OF ICT system through financial management and user support services during entire life cycle.

<sup>1042</sup> This recommendation aligns with NJRS Strategic Guideline 5.2.14: Improving the fundraising capacities for ICT and efficient fund management.

- ✓ Review future donor-funded proposals to determine TCO and assess whether the life-cycle costs can be supported with available funding. (MOJ – medium term)

**Recommendation 43: Invest in some ICT management capability, particularly in contract negotiation and oversight.**<sup>1043</sup> Effective contract management would increase value for money and reduce excessive, costly reliance on ICT vendors (vendor lock-in). Beginning immediately, contract arrangements for ICT vendor support should be more explicit and benefit the State more. Analysis of services to be brought in-house should begin in the medium term. These activities are likely to result in cost savings, particularly in light of moderate upfront investment in contract analysis and negotiation.

- ✓ Negotiate the terms of future ICT contracts to ensure that the judiciary, and not vendors, own the data and control ICT operations. As they come due, re-negotiate service-level agreements to specify key details.<sup>1044</sup> (ICT Governance Group, Directorate for E-Government, Ministry of State Administration and Local Self-Government – medium term)
- ✓ Evaluate which ICT services should be brought in-house by preparing feasibility and cost studies comparing vendor and government-provided services. (ICT Governance Group – medium term)
- ✓ Create a disaster recovery site for data collected by courts and prosecutors. (MOJ – medium term)

**Recommendation 44: Develop a cadre of well-trained local ICT staff with defined responsibilities.**<sup>1045</sup> Even with more robust central ICT support services, individual courts require local ICT staff for front-line support which, if not rectified can reduce employee effectiveness and inhibit service delivery. Most of the recommendations in this section can be expected to require mid-range upfront investments (of between 100,000 and 500,000 EUR) and could begin in the medium term after critical ICT operations are stabilized.

- ✓ Develop a staffing plan to add more specialized ICT staff in critical areas<sup>1046</sup> with appropriate education and experience and knowledge of court operations.<sup>1047</sup> (ICT Governance Group – short term)
- ✓ Establish ICT career streams in critical areas to ensure that the interests of the judicial sector are well managed in partnership with the private sector and other implementation partners. (MOJ – medium term)
- ✓ Create ICT staffing norms within courts and PPOs relative to total number of staff in each location. Hire sufficient and appropriately experienced staff at each court, or regionally to cover a number of smaller Courts. (MOJ, HJC, SPC – medium term)
- ✓ Conduct a needs assessment of ICT staff training needs. Based on the needs assessment, develop a training program for ICT staff. (ICT Governance Group – medium term)

**Recommendation 45: Enhance existing case management systems by ensuring all available functions are used and that sufficient training is provided. Add several critical features and fields that are generally present in case management systems. Improve server performance.**<sup>1048</sup> Upgrading AVP software and servers, while more costly, should begin now.

---

<sup>1043</sup> This recommendation aligns with NJRS Strategic Guideline 5.2.7: Achieving sound balance between external and internal services with emphasis on efficiency.

<sup>1044</sup> Details should include: level and ownership of source code; how corrective preventative and upgrade maintenance will be provided, and fixed rates for regular maintenance; details of the development services to be provided; effective version release management so there are no conflicting versions; specifics of how help desk services will be provided (online, on the phone, in person) and the times of services for each mode of delivery; a requirement that vendors create trouble tickets and report on most common help desk assistance and interventions; and specific sanctions if contract terms are not met.

<sup>1045</sup> This recommendation aligns with NJRS Strategic Guideline 5.2.13: Motivating well-performing ICT staff.

<sup>1046</sup> Critical areas include project management, enterprise architecture, system integration, application management, infrastructure and operations management, information security, business process analysis, information management, ICT procurement, technical writing, and so forth.

<sup>1047</sup> There is also a clear need for trained statisticians, data management professionals, and reporting analysts within the judiciary sector. See discussion in Governance and Management Chapter.

<sup>1048</sup> This recommendation aligns with NJRS Strategic Guideline 5.2.6: Improving efficiency of ICT operations through performance measurement.

- ✓ Provide training on case management functionality for judges and court staff. Provide specific training on data entry for court staff, applying lessons from the Commercial Courts. (MOJ – short term)
- ✓ Conduct periodic audits of case management system entries to ensure accuracy and consistency. (MOJ – medium term)
- ✓ Develop a cost estimate for identified improvements in AVP that do not require a complete overhaul of the system. (MOJ – short term)
- ✓ Extend functionality of AVP to include electronic document flows. (MOJ – medium term)
- ✓ Investigate causes of slow server communication speed, and upgrade servers and WAN connections where needed to improve the speed of transactions. Replace distributed AVP architecture (where each court has its own server) with larger server ‘farms’, as recommended by the ICT Strategy Report. (MOJ – medium term)

**Recommendation 46: Implement standard (or at least consistent) information management practices across the judiciary to improve the quality of record-keeping and enable sector-wide data analysis.**<sup>1049</sup>

Resolve problems with the statistical reporting in the judiciary’s automated systems so that data from courts are consistently submitted, accurate and, to the extent possible, generated by the system and not by manual calculations. Low-cost but high-return activities should commence in the short term. Introduction of a statistical umbrella is estimated at three to six months of person effort and should be implemented in the short to medium term.

- ✓ Determine which data fields in AVP should be mandatory and introduce those and greater field validation to AVP to enhance the quality of system data. (ICT Governance Group, MOJ – short term)
- ✓ Evaluate how the dashboard function of BPMIS can be aligned into existing case management systems. (ICT Governance Group, HJC – medium term)
- ✓ Define detailed technical requirements, architecture, and implementation plans for an Information Integration, Data Warehouse and Business Intelligence Solution to support decision-making, management reporting, and access to case file information and history regardless of format and system of record. (ICT Governance Group, MOJ – medium term)<sup>1050</sup>
- ✓ Develop and formalize data management mechanisms consistent with ISO/IEC TR 10032:2003 framework to include (ICT Governance Group – medium term and ongoing):
  - A sector-wide Corporate Data Model and Data Dictionary to document and maintain business and technical definitions across time and facilitate discussions with the judges, court staff as well as HR/FM staff.<sup>1051</sup>
  - Data management processes, including data management roles and responsibility, data ownership and stewardship.
  - A data quality management process that includes ongoing maintenance and review of the data across subject areas (see ISO 8000 Standard for Data quality and Master Data).
  - Data quality audits on a regular basis, including audits of business processes that may contribute to data quality problems.

**Recommendation 47: Link the judiciary’s ICT systems and share documents electronically wherever possible.**<sup>1052</sup> Establishing standards should begin in the short term and continue into the medium term. These activities will require a moderate investment. The first and most critical of these activities is estimated at

<sup>1049</sup> This recommendation aligns with NJRS Strategic Guideline 5.2.4: Achieving uniformity of ICT services, tools and methods across the entire judicial sector.

<sup>1050</sup> This task should follow the overall Technology Architecture assessment

<sup>1051</sup> This also will be the basis for a Metadata registry that will enable a metadata-driven exchange of data internally and externally (see ISO/IEC 11179 standard for representing an organizations data in a metadata registry).The exchange is based on exact semantic definitions of data elements independent of their representation in particular systems.

<sup>1052</sup> This recommendation aligns with NJRS Strategic Guideline 5.2.11: Introducing diversified communication channels by using modern ICT tools.

20,000 to 100,000 EUR. Development of data exchange protocols is likely to be in the 100,000 Euro range.<sup>1053</sup> While electronic data flows between the courts would be quite costly, improving scanning to allow document sharing is a low-cost alternative.

- ✓ Ensure interoperability by developing and implementing standards required of vendors/ developers. For example, every ICT system needs to be able to export data from particular fields (e.g., parties' names, relevant dates, assigned judge) using XML structures. (ICT Governance Group – short term)
- ✓ Review standards for scanning documents to increase the number and types of documents scanned. Address existing barriers to scanning by increasing the quantity and quality of scanners and strengthening server capability. (ICT Governance Group, MOJ – medium term)
- ✓ Develop data exchange protocols to improve interoperability between existing systems. Install middleware to allow integration of data among existing systems. (MOJ – medium term)
- ✓ Install and use middleware to share data between the courts and prosecutors. (ICT Governance Group, MOJ – long term)
- ✓ Expand data exchange protocols and common technical standards to allow interoperability between the judiciary and external institutions, the law enforcement, the National Criminal Sanction database, and financial institutions. (MOJ – long term)

**Recommendation 48: Capitalize on e-justice by moving beyond providing information about the system to providing specific case information and allowing two-way interaction (e.g., paying fees, completing forms).**<sup>1054</sup> Doing so will also allow Serbia to take advantage of the European Justice Portal as a one-stop shop for citizen access. The cost of implementing the short-and medium term recommendations is estimated in the ICT Strategy Report at less than 20,000 EUR:

- ✓ Evaluate the e-filing pilot,<sup>1055</sup> make changes as needed, and expand to other Courts.<sup>1056</sup> Upon expansion, shift resources in courts from data entry to tasks which support the modest costs of implementing e-filing. (ICT Governance Group – medium term)
- ✓ Create common look-and-feel standards for all court websites. Improve existing websites or create new websites for all first instance courts to move from basic functionality to providing dynamic, case-specific information and allowing two-way interaction, including forms to be downloaded for completion. (HJC, SCC – medium term)
- ✓ Develop common standards about appellate decisions to be uploaded to the public websites. (SCC – medium term)
- ✓ Prepare to participate in the EU's e-justice strategy prescribing a European Justice Portal as a one-stop shop for citizen access. (ICT Governance Group – long term)

**Recommendation 49: Require new and continuing employees to demonstrate computer literacy and provide staff with relevant ICT training.**<sup>1057</sup> Computer literacy requirements should be introduced in the short term with training in case management systems implemented in the medium term. Costs of this item are unknown but are likely to be moderate.

- ✓ Require that all future job classifications in the sector require a minimum level computer software and word processing skills. (MOJ, HJC, SPC, Courts – short term)

<sup>1053</sup> This contrasts to migrating to a single system, which is estimated at a minimum of 500,000 EUR and in excess of 1,000 person days of effort not including associated licenses and communication connections. The judiciary also does not have the specialized staff needed to manage this transition and is unlikely to for the medium to longer term.

<sup>1054</sup> This recommendation aligns with NJRS Strategic Guideline 5.2.13: Increasing the level of information available across judicial sector.

<sup>1055</sup> Implementation at the pilot courts required only that two personal computers, two printers, one reader and scanner for each court, a smart card for each participant, and a shared time stamp account.

<sup>1056</sup> This recommendation aligns with NJRS Strategic Guideline 5.2.15: Improving of the functionality and coverage of the judicial sector by ICT systems.

<sup>1057</sup> This recommendation aligns with NJRS Strategic Guideline 5.2.9: Improving ICT competencies of end users, ICT staff and management.

- ✓ Provide ICT literacy course to judges, prosecutors and court staff. Offer ICT refresher courses on-site in courts. (MOJ, HJC, SCC – short term)
- ✓ Develop a training program focusing on case management system training. Distinguish between ICT specialists, super-users, and other employees to tailor ICT needs to different staff, including on the benefits of information management (case data capture and quality) and how statistical reporting can assist their work. (HJC, SPC, Judicial Academy – medium term)

### e. Infrastructure Management

**Recommendation 50: Conduct an inventory of all buildings in the judiciary, clarify ownership of each building and assess its current condition.**<sup>1058</sup> This activity can commence in the short term and continue in the medium term for moderate costs.

- ✓ Confirm that the MOJ (and not the HJC) is responsible for maintaining the inventory and secure funding through the state budget to prepare the inventory. (MOJ, HJC, MOF – short term)
- ✓ Conduct the inventory, applying lessons from the USAID-funded JRGA project for the Misdemeanor Courts. Include basic information, such as ownership of buildings, and an assessment of conditions. (MOJ with HJC, SPC – medium term)

**Recommendation 51: Based on the inventory, create an adequately-funded infrastructure plan that enables multi-year implementation. Closely monitor the implementation of the plan to ensure that budgets are fully executed in accordance with the plan.**<sup>1059</sup> These items can be accomplished in the medium and long term. Overall costs for full implementation will be significant, but donors may be willing to provide support, particularly if the judiciary makes progress in the implementation of other recommendations outlined in this Review.

- ✓ Increase the capacity of the Investment Department by re-allocating staff within the MOJ (or from other ministries) and provide relevant training. (MOJ – short term)
- ✓ Develop, regularly update and continuously implement a long term investment strategy for renovation of facilities. (MOJ, HJC, SPC, with international assistance – medium to long term)

**Recommendation 52: Ensure the maximum use of scarce courtrooms and investigative chambers.**<sup>1060</sup> Maximizing use of courtrooms can be done quickly, without funds.

- ✓ Expand the daily court schedule to ensure that hearings take place throughout the day using facilities to their maximum capacity. (Court Presidents with Court Managers – short term)

**Recommendation 53: Develop guidelines with minimum rules for design and maintenance standards for Courts and PPOs.**<sup>1061</sup> An expert team or working group should develop terms of reference for developing design and maintenance guidelines. IMG developed a ‘Model Court Guideline’ that can be used as a baseline for design and operation standards. Standards for the number, size and configuration of courtrooms and chambers are needed to determine each facility’s requirements.<sup>1062</sup> The standards should reflect full use of existing space. Tasks commence in the medium term and involve moderate costs.

<sup>1058</sup> This recommendation aligns with NJRS Strategic Guideline 1.2.2: Analysis and division of competences between the HJC and SPC on one side and the MOJ on the other in regards to competences related with the budget; Strategic Guideline 1.2.3.

<sup>1059</sup> This recommendation aligns with NJRS Strategic Guideline 5.1.6: Development of infrastructural investment planning procedures based on the level of priority to enable the Ministry’s assessment of a clearly defined and prioritized list submitted by the HJC and the SPC.

<sup>1060</sup> This recommendation aligns with NJRS Strategic Guideline 5.3.4: Infrastructural investments in courts and prosecution facilities targeted at tackling the lack of courtrooms and prosecutorial cabinets, thereby increasing the number of trial days per judge, reducing the time between the two hearings and significantly expediting the investigative proceedings.

<sup>1061</sup> This recommendation aligns with NJRS Strategic Guideline 5.1.6: Development of infrastructural investment planning procedures based on the level of priority to enable the Ministry’s assessment of a clearly defined and prioritized list submitted by the HJC and the SPC.

<sup>1062</sup> Recommendation Number CM/Rec(2010)12, Council of Ministers on judges: independence, efficiency and responsibilities.

- ✓ Conduct a functional analysis of the current needs of users. (MOJ in coordination with HJC, SPC – medium term)
- ✓ Develop the design and maintenance guidelines. (MOJ through external consultants – medium term)
- ✓ Form an infrastructure team with appropriate background and experience representing the primary institutions to set standards for number of needed courtrooms and chambers, as well as appropriate size and configuration standards taking into account the profile of the Court/PPO and the physical limitations of each facility. (MOJ, HJC, SPC – medium term)
- ✓ Secure state and international funding support. (MOJ – long term)

**Recommendation 54: Improve access to courthouses and PPOs to persons with physical disabilities.**<sup>1063</sup>

Improved information can be provided and initial assessments conducted in the short term at low cost.

- ✓ Provide physical layout information on court websites, including information about restrictions to accessibility. (HJC, SCC – short term)
- ✓ Conduct a campaign to raise awareness among judges and staff about access limitations for those with physical disabilities, applying lessons from the current campaign in Leskovac Basic Court. (HJC – short term)
- ✓ Assess structural impediments for persons with physical disabilities and evaluate the effectiveness of signs and markers. (MOJ – medium term)
- ✓ Improve court and prosecutor facilities to accommodate the needs of persons with physical disabilities. (MOJ– long term)

---

<sup>1063</sup> This recommendation aligns with NJRS Strategic Guideline 5.1.6: Development of infrastructural investment planning procedures based on the level of priority to enable the Ministry's assessment of a clearly defined and prioritized list submitted by the HJC and the SPC.