



Improving Court Performance through Improved Communication and Coordination with Other Courts and Agencies: Serbia's Experience

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Introduction

This paper presents the experience of Serbian courts in improving their performance through improved coordination and communication with other agencies working in the justice area, as well as through exchanges of ideas and approaches among courts in Serbia. The initiatives described below were funded by the United States Agency for International Development (USAID) through a contract with the East-West Management Institute (EWMI), which is implementing the Separation of Powers Program (SPP) in Serbia, a project designed to assist Serbia attain EU membership by strengthening its parliamentary and judicial capacity. One aspect of SPP has been to improve the efficiency of justice by introducing the position of professional court managers, providing improved training on court administration, and by working with 10 partner courts to reduce their case backlogs and increase case processing efficiency.

This paper reports on SPP's efforts to improve court performance through the input from local counterparts, entities that are the most frequent users of courts, and from other courts with similar features.

I. Local Partners

Background

Lack of coordination with other groups and institutions involved in the delivery of justice can lead to delays in case processing. Courts are dependent on good cooperation with various external partners to process criminal, civil and administrative cases efficiently. Cooperation with the police and the public prosecution are of main importance in criminal cases. Good cooperation with the bar associations and lawyers can contribute to efficient judicial proceedings in civil law cases.

To prevent delays in proceedings, courts must seek active cooperation with external partners rather than work in isolation. A good understanding of the various needs and requirements of those partners can contribute to more effective cooperation, the efficient exchange of information, and shorter judicial procedures. Meetings should be held on a regular basis to exchange information and discuss ways to prevent unnecessary delays in judicial proceedings.

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This cooperation depends chiefly on identifying potential causes for delays. Parties, attorneys, experts, public prosecutors, and other external actors often cause delays in proceedings. This section will explain how certain external partners – from an organizational point of view - can instead contribute to preventing delays.

Solution

With respect to criminal procedures, regular meetings among the courts, police, public prosecutor's office and prisons can foster greater efficiency and prevent backlogs. Regular communications with the police can prevent delays or mistakes in the delivery of judicial summonses. Effective organization of logistics among the courts, police, and prisons can ensure that detained persons are transported to and from the courts on time, reducing delays in hearings. Similarly, the courts can similarly reduce delays by scheduling the hearings of detainees from one prison on the same day. Videoconferencing is another proven method for improving efficiency. The Belgrade Higher Court uses videoconferencing in criminal trials to improve the scheduling of court hearings and reduce the time and costs associated with proceedings. Courts in many other European countries use videoconferencing for the same purposes. Detailed examples and manuals can be found at the European e-justice web portal - <https://e-justice.europa.eu/home.do?action=home>.

Other partners that can play a role in expediting criminal judicial procedures are centers for social care and special mental hospitals, especially in cases where psychiatric hospitalization is required. The Basic Court in Vrsac entered into a Memorandum of Understanding with the social care centers in the region and a local branch of the Bar Association, pursuant to which free legal aid is provided to the centers' clients who are often victims of domestic violence.

<p>In November 2011, the Government of Serbia introduced a new protocol for combating violence against women. The protocol provides concrete instructions for all relevant institutions on how they can cooperate effectively and help victims of domestic violence. The courts and the public prosecutor's offices are included in this protocol.</p>
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In the civil law area, bar associations and lawyers must play an active role in preventing delays and backlogs. Problems can be identified and potential solutions discussed in regular meetings among lawyers, the association, and the courts, particularly on matters such as the introduction of new evidence, curbing procedural abuses resulting in postponements of hearings, setting time limits for within which parties must submit documents to the courts, and the provision of free legal assistance. It is important to note in this respect that these meetings are *not* meant for discussing concrete individual cases, but to exchange views from judges and lawyers with respect to improving the efficiency of proceedings. A separate section of this Guide will more fully explore problems and practices in civil proceedings (see section 10 below, Civil Procedure Measures).

The *Annual Backlog Reduction Plan Template*¹ illustrates how communications with external partners can be structured:

The court will communicate X times per month with the outside institutions involved with the activities that influence the work of the court: the Police, the Prosecutors Office, the Public Defender's Office, the correctional facilities, the local Bar Association, the Post Office, the Social Services, etc. Presidents of appropriate court departments should attend the meetings held between the court and one or more such institutions. The court will initiate the signing of various Protocols on Cooperation that will serve to identify mutual rights and obligations, and take steps to ensure their compliance. Protocols on Cooperation serve as a basis for regular and stable functioning of the outside institutions regarding their court-related duties. The court should form a team consisting of representatives of both the court and external institutions. The team will deal with problems that arise in backlog cases and the reasons for their occurrence.

Practical Court Experiences

Since 2005, the Municipal Court in Nis has instituted memoranda of understanding with the police, prisons, media and judicial experts. Standardized forms have been introduced for the police, including instruction on bringing detainees to court. Moreover, criminal hearings are scheduled so that the hearings of different prisoners from the same prison are held on the same day. The courts are regularly informed about the status of warrants by the police. International warrants issued by the Ministry of Justice are reviewed as well. If a domestic or international warrant is not issued within 90 days, the warrant will be registered as a special category of case that requires regular reporting by the judge.

The Basic Court in Uzice has also benefitted from better relations with external partners. By improving cooperation with the police and social care center, the court receives reports on crime victims and juvenile offenders within three days, well under the legally prescribed deadline, thereby allowing proceedings to continue without delay.

As noted above, the Basic Court of Vrsac enhanced its cooperation with the social care center, prosecutor's office, bar association, special hospital for psychiatry, and police on mandatory hospitalization. Their memorandum of understanding clarifies each party's jurisdiction and responsibilities in such matters, and has resulted in free legal aid for persons requiring hospitalization.

Results

The clearance rates at the Basic Court in Vrsac show positive results in the period 2010 – 2012, were an increase of the clearance rates in the civil law and family cases have significantly increased after the court and local counterparts started to implement MOUs.

¹ This template was developed by the USAID Separation of powers program for the use of its ten partner courts. The template was recognized as an example of good practice by the Ministry of Justice and recommended for use to all Serbian courts. The template is available both in English and Serbian languages at: <http://www.ewmispp.org/archive/BLR%20template%20eng%281%29.pdf>

Basic Court of Vrsac	31.12.10	30.09.11	31.12.11	31.03.12
Criminal	90.38	91.24	81.66	93.09
Family (P2)	88.06	79.41	86.68	137.04
Civil (P1+P2)	99.17	88.52	99.57	141.26

Table: Clearance rates - Basic Court of Vrsac (civil, criminal and family cases) in the period December 31, 2010 – March 31, 2012

II. Other Courts

Background

Due to the lack of harmonization in the field of court operations, the citizens of Serbia receive unequal treatment, both in substance and procedure. Restrained coordination and communication between the courts also prevent exchange of ideas, experiences and good practices, which excludes the possibility for courts to improve their work based on other courts' successful innovations.

Solution

To unify court practices and to improve their operations and services, courts organize peer-to-peer meetings where representatives of a small number of courts directly address backlog reduction and case management problems. In selecting potential partners, courts take into account similarities between them and other court(s) (e.g., number of judges, number of cases, similarity of the problems, etc.) and the possibilities of transferring certain experiences from one court to another. The meetings are dedicated to various topics depending on the most burning issues in the participating courts (e.g. inefficient proceedings, large number of old cases, disharmonized court practices etc.). This form of direct communication enables court representatives to share new insights and to generate new ideas, and it also proved beneficial for the national wide expansion of the most successful court practices. Furthermore, exchange of the best practices in improving court services leads directly to the greater satisfaction of the court users.

Practical Court Experiences

In June 2011, a roundtable brought together 10 select courts. Some participants shared their experiences in reorganizing the work of registry offices with colleagues from other courts. Following the roundtable, most of the courts reorganized their registry offices in such a way that every clerk takes responsibility for managing a certain number of cases instead of all clerks being responsible for all the cases. In this way, each clerk is more familiar with the cases that he/she is handling. Courts also believe that this reorganization will increase the accountability of registry offices and the responsibility of its clerks in handling the cases. Results show that the number of complaints about the registries' work significantly decreased in courts that conducted this reorganization.

In March 2012, SPP and Subotica Higher Court organized a meeting of civil department judges from the higher courts under the jurisdiction of the Novi Sad Appellate Court. The judges used the opportunity to share techniques for improving case and court management and harmonizing court practice. They also adopted conclusions that should help their courts manage cases more efficiently. These conclusions will be published in a bulletin sponsored by SPP. As a result of this meeting, the courts will continue to meet regularly to discuss issues of court practice and exchange best practices.

Following the positive experience of the court-to-court meeting held in Subotica in March, the SPP initiated a peer-to-peer exchange of experiences between criminal case judges from neighboring basic courts in Uzice and Cacak. The meeting was held in April 2012 at the Basic Court in Uzice and gathered court presidents and criminal case judges from both courts, as well as supporting staff from registry offices. Considering that criminal department in Uzice was recognized as the country's second most efficient in the annual report of the Supreme Court of Cassation, the Uzice court judges shared some of their techniques for good preparation of cases and eliminating trial delays.

Furthermore, the judges explained in detail how to ensure fulfillment of all the procedural requirements for closing criminal cases in one or two hearings. The judges from the Basic Court in Cacak did not achieve as positive results in 2011, and highlighted some of the most pronounced challenges they are facing, such as unsatisfying level of coordination with the basic prosecutor's office. It was agreed that in the next quarter, the Court in Cacak should work with SPP on organizing a coordination meeting with the prosecutors to discuss areas for improvement including application of postponement of prosecution and plea bargaining. The meeting also underlined some concerns regarding the inconsistent court practice of the Appellate Court in Kragujevac. The two courts discussed the possibility of communicating their questions jointly to the subordinate court.

The participating judges agreed that meeting was a very valuable forum for exchanging views. After the meeting, it was reported that courts continued communication oriented toward finding the best solutions for the identified mutual problems.

Conclusion

The participants of the meetings described above agree that before encouraged by SPP, they rarely had the opportunity to discuss practical aspects of their work with their peers. It is apparent to SPP from the reactions and level of participation that increases as time goes by, that such discussions were very useful and that knowledge participants obtain will positively assist the courts' future work. The results depicted above already show that.

There is a significant need for continuous sharing of good case management practices among courts and in months to come that will be major SPP focus. Direct communication enables court representatives to regularly share new insights and to generate new ideas, and it also contributes to the national expansion of the best practices. SPP will keep gathering the most productive case management examples from courts into a Best Practices Guide(s) that can serve as a bench book for those courts which are not directly involved with SPP work, and can also function as an invitation to those courts to contribute their own practices and productive experiences to the Collection.