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BEST PRACTICES GUIDE

Backlog Prevention & Reduction Measures For Courts In Serbia



JULY 2012

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DISCLAIMER

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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INTRODUCTION AND
OUTLINE FOR THE BEST
PRACTICES GUIDE

INTRODUCTION AND OUTLINE FOR THE BEST PRACTICES GUIDE

The Separation of Powers Program (SPP) in Serbia is funded by the United States Agency for International Development through a five-year contract with East-West Management Institute (EWMI) that ends in August 2013. SPP is designed to help Serbia move closer to European Union accession by strengthening the division of power and authority more equitably among Serbia's three branches of government. SPP's work is structured around three tasks:

1. **Judicial branch financial independence:** Increasing the capacity of the Serbian judiciary to allocate, acquire, and manage its budgetary resources;
2. **Improved court administration:** Assisting the Serbian judiciary in making the administration of justice more efficient and responsive to the needs of users by helping to create a position of court administrator; training judges and court administrators on the effective management of judicial institutions; and assisting courts in improving case management by reducing case backlogs and delays; and
3. **Legislative branch financial independence:** Building the capacity of the National Assembly to create and manage its own budget and resources by helping to create an improved budget office with greater capacity for long-term planning.

As part of its efforts to improve court administration, SPP is working closely with ten partner courts – the Basic Courts in Cačak, Nis, Sremska Mitrovica, Subotica, Uzice, Vranje, and Vrsac, and the Higher Courts in Belgrade, Novi Pazar, and Subotica - to reduce their backlog of cases and improve case processing efficiency. The courts are using various backlog reduction and prevention

measures to achieve these goals. The most successful techniques and subsequent results achieved by the courts are summarized in this Best Practices Guide.

The guide is structured to facilitate improvements in other courts. General backlog reduction and prevention measures are presented first. Specific measures are then provided for criminal and civil cases. In each case, key problems are identified and potential solutions given, followed by a description of the experiences of SPP's partner courts in implementing such solutions, results achieved (in terms of decreasing backlogs and increasing court performance) and a reference to relevant legal provisions.

SPP recognizes and congratulates its partner courts for their commitment to delivering justice to Serbia's citizens in a more timely and efficient manner. This Best Practices Guide chronicles their many successes in reducing backlogs and improving case processing efficiency, and also provides practical guidance to other Serbian courts.

BACKLOG REDUCTION TEAM



I. BACKLOG REDUCTION TEAM

PROBLEM:

Insufficient information about the number of old cases and the causes of processing delays can result in increased backlogs. The lack of information also reduces court performance and leads to lower clearance rates: the ratio between the number of resolved cases and incoming cases in a given period. A clearance rate above 100% means that a court is reducing its backlog by resolving more cases than it receives. Courts confronted with a high number of backlog cases should take necessary actions to solve these problems.

SOLUTION:

Backlog reduction teams, composed of a case department chairperson or deputy, judges, and a member of the registry staff, should be created to review the case backlog, analyze cases to determine causes of delay, and provide recommendations on how to resolve the cases. Judges on the team should discuss modalities for finalizing cases, such as inviting parties to provide evidence or other relevant documents, organizing additional hearings, or encouraging settlement. The teams should also monitor progress in implementing their recommendations and closing cases. Each court should decide if it will create one or more teams, and whether the team(s) will focus on a specific case category or on several case types. If required, the backlog reduction teams may be expanded to include employees from the court's delivery service, the information technology department, and/or a retired judge. The expertise and additional capacity provided by a retired judge can be particularly beneficial to courts with an insufficient number of judges and courts with high case loads.

The following steps should be taken when the team approach is used as a part of a backlog reduction plan:

1. The court president establishes a court backlog reduction team.
2. The chief of registry and registry staff identify the number of cases of each case type that are more than 2 years old and more than 5 years old (and investigative cases that are more than 6 months and 1.5 years old, respectively) from the date of filing.
3. The backlog team selects one or more case types for backlog reduction activities.
4. The court registry makes a chronological list of each case to be included in the backlog reduction plan, including the case number, case name, date of filing, current status and next steps. The registry places a colored label on each case file in the backlog program to increase the file's visibility and designate the case's priority. See Appendix 1, *Annual Backlog Reduction Plan Template*, section III.B.6.
5. The backlog team establishes goals, such as the number or percentage of old cases that will be resolved in a given period.
6. An expert team, composed of two judges, a registry clerk and a process server, reviews the backlog case files, discusses them with the assigned judges, and recommends steps to be taken towards final resolution.
7. Every assigned judge provides progress reports on a regular basis (e.g., monthly) to the head of his/her department about the number of backlog cases resolved and those still pending, including the number of cases that became part of the backlog during the period.



Vrsac Basic Court's Acting President Analyzes Backlog Reduction Results.

PRACTICAL COURT EXPERIENCES:

In the District Court of Novi Pazar, a team composed of the assigned judge, the president of the criminal department, officers of the criminal department registry, and the court's delivery service reviewed all of the court's old criminal cases to identify procedural obstacles to their resolution. Specific recommendations were developed on how to proceed with each case based on reports from the assigned judge and discussions with the criminal department. Through this team approach, the court was able to solve 30% of cases older than two years and 50% of cases older than five years in the seven month period from May to November 2009. Similarly, the Basic Court of Nis established backlog reduction teams for civil, labor and criminal cases. Each team was composed of an experienced judge, a recently appointed judge, and a registry clerk. The teams discussed problematic cases on a regular basis and provided concrete recommendations for efficient resolution. Nearly 50% of the court's old civil cases were resolved in a ten month period (September 2010 – June 2011) using the team approach.

Examples of problems that were identified and overcome include: abuses of procedural rights, failure to follow court orders, and the lack of fully harmonized practices in the appellate courts.

RESULTS:

As noted above, the District Court of Novi Pazar successfully used the team approach to reduce its backlog of investigative cases by 30% in the six month period from May to November 2009. Using proven techniques, the newly established Higher Court in Novi Pazar managed to successfully finish almost all backlogged civil cases, with only two unsolved cases remaining in March 2012. The Basic Court in Nis used backlog reduction teams to reduce its backlog of civil and criminal cases by 60% and 30%, respectively, from March 2011 to March 2012.

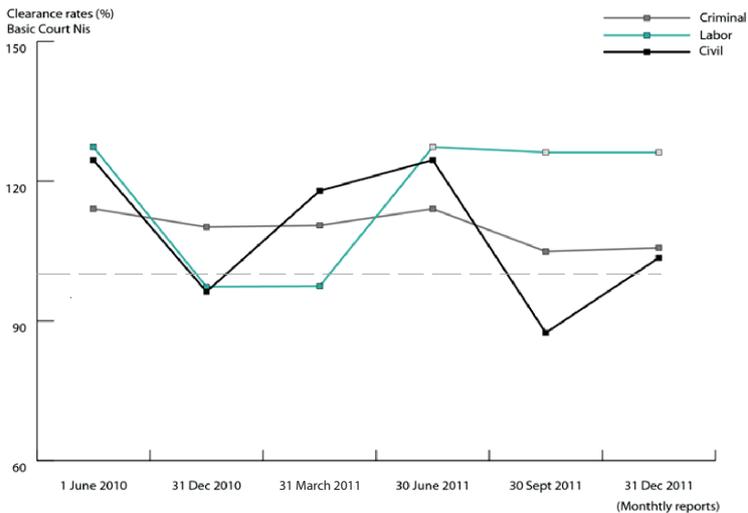


Figure 1 Clearance Rates for the Basic Court in Nis. A clearance rate above 100% indicates that the backlog is being reduced.

LAW PROVISION: Book of Court Rules, Article 12

The Court President shall create a backlog reduction program (hereinafter: the Program) at the latest by January 31 for the current year if, during the analysis of the annual work report, it is determined that there exists a larger number of unsolved cases.

MONITORING AND LABELING BACKLOG CASES



II. MONITORING AND LABELING BACKLOG CASES

PROBLEM:

Courts do not systematically analyze and monitor their backlogs on a regular basis and, as a result, are not taking appropriate actions to resolve older cases. Such monitoring and analysis is required to design a backlog reduction program that adequately addresses the nature and scope of a court's backlog and related causes of case processing delay.

SOLUTION:

To reduce case backlogs, a court should start by collecting information about the number, average age, and type of its cases. The registry, a preparatory department and/or a dedicated backlog reduction team (see Section I) can play an important role by identifying causes of delays and developing strategies for resolving older cases.

Court management, e.g., the court president assisted by a court manager or head of registry, must also take responsibility for monitoring the backlog. Ideally, all backlogged cases pending for more than two years and more than five years, as well as cases where a statute of limitations will soon be reached, should be identified and labeled so that they can be easily distinguished. The court management team can then prioritize cases based on statistical information about the backlog, aiming to quickly resolve older cases and reduce the overall backlog.

The *Annual Backlog Reduction Plan Template* (see Appendix I) provides useful guidance in labeling backlogged cases:

The labeling of backlogged cases and the role of the court registry

The Registry Office will compile a list within each type of backlogged case to be included in the program, in chronological order, including the number of cases, grounds for the dispute, date when the case was first filed in the court, the current phase of the case, and the next step in the proceedings. During the inventory, the Registry Office will identify and register cases that will be included in the program and cases that will become backlogged cases in 2012. The Registry Office will also highlight the cases that must be marked with special markings: after the filing number that has been used to file the case in the registry books of the Court in _____, the year of reception of the initial act in the court will be added in parentheses, for example: PI 2/11 (2009).

During the classification and allocation of cases, Article 421 of the Book of Court Rules must be followed and the Registry Office must allocate backlogged cases to judges in an equitable manner.

Criminal “K” cases and investigative “Ki” matters should be consolidated when the defendants are the same. The consolidated case should be assigned to the judge who had the oldest case before consolidation.

At the end of each quarter, the Registry Office will forward a list of backlogged cases to the Court President, all Panel Presidents, the Court Secretary, and the Head of the Registry Office. This list will be classified by legal matters and Panels from the Case Management Software (AVP).

Case files of all the backlogged cases will be marked with a special sticker in color, or with another appropriate marking in color. For the purpose of easier monitoring, related records and receipts of expedited and returned court documents will be marked as well, in order to draw attention to said cases.

The Registry office will keep a separate record of backlog “P” and “K” cases using a special template that includes the following information: claim filing date or another initial act; case number assigned in the registry book at the time of reception, including all later changes made to the case number; initial act filing date; case type; date and type of the last action taken in the case; next activity type and its scheduled date. Once the above information is entered into the template, the template will be taken - without further delay - to the acting President of the Panel who will include the reasons that influenced the length of proceedings, and activities that he/she is proposing in order to complete the case. If possible, the President of the Panel should also provide an estimate for the amount of time needed to complete the case.

PRACTICAL COURT EXPERIENCES:

The Second Municipal Court Belgrade backlog reduction team analyzed and grouped older cases into three categories: cases filed in 1999 and earlier; cases filed from 2000 to 2004; and cases filed after 2005. The head of the registry labeled the files for action based on these categories. Judges, at the recommendation of the backlog reduction team, were instructed to close the cases within the following deadlines: 100% closure of all cases filed in 1999 and earlier; 80% reduction of the backlog of cases filed from 2000 to 2004; and a 50% reduction of backlog cases filed in the period between January 2005 and December 2006.

Table 1 *Backlog Reduction Results of the Second Municipal Court in Belgrade.*

Types of Cases in the Backlog Reduction Program (BLR): Belgrade Second Municipal Court – Civil Cases		
Category	May 2009	November 2009
Total number of all cases	8985	7799
Total number of cases older > 2 years	2204	1428
Total number of cases older > 5 years	479	201
Number of civil cases in the BLR program	3876	3031
Number of civil cases in the BLR program > 2 years	3212	2930
Number of civil cases in the BLR program > 5 years	664	563
Number of civil cases in the BLR program solved on this date	0	845
Number of Judges working in the BLR program	6	12

DELIVERY AND SERVICE OF DOCUMENTS



III. DELIVERY AND SERVICE OF DOCUMENTS

PROBLEM:

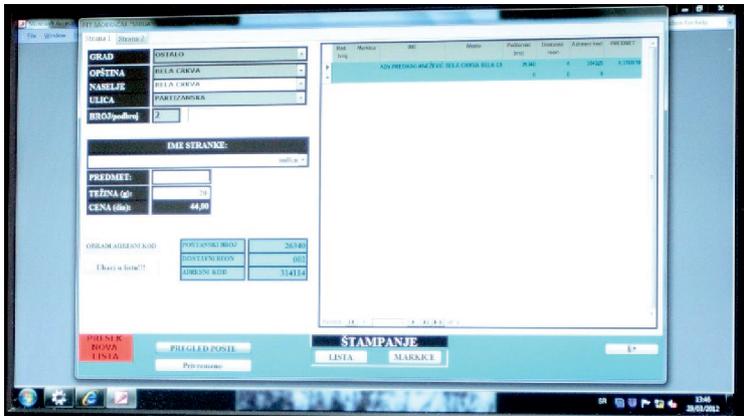
Delivery of judicial documents is often late or unsuccessful due to the lack of coordination between the courts and the post office. The problem is exacerbated because the delivery rules of the post office are not aligned with the procedural laws of the courts. Additionally, the courts cannot use an alternate means of delivery due to an agreement between the Ministry of Justice and the post office that requires all court documents to be delivered through the postal services. Furthermore, the courts must pay the post office even when delivery is unsuccessful. These inefficiencies lead to longer judicial proceedings and higher costs.

Issues with a court's internal delivery services can also contribute to higher backlogs. This is especially true when the court's delivery service works from 7:30 a.m. to 3.30 p.m., as many people are not at home to be served with judicial documents before 5:00 p.m.

A lack of good cooperation between the courts and police can also result in delivery delays for judicial documents to suspects or offenders in criminal cases.

SOLUTION:

Problems with the delivery of judicial documents can be reduced by improving cooperation between the courts and the postal office. Increased cooperation can be fostered by a Memorandum of Understanding that outlines quality standards for the timely delivery of judicial documents.



The postal service provides courts with a database of accurate street names and numbers in all towns in Serbia.

Alternatively, court bailiffs can deliver judicial documents in situations where the post office is unsuccessful (see Appendix I, *Annual Backlog Reduction Plan Template*, section III.C.2.). The use of court bailiffs in such circumstances can help shorten the duration of procedures, prevent backlogs, and reduce costs.

Similarly, extending the working hours of the court's delivery services through the use of shifts can increase the success rate in delivering judicial documents. This approach is consistent with Article 139 of the Civil Procedure Code, which allows service at home between 7:00 a.m. and 10:00 p.m. and at work during normal working hours.

The local police station can designate a liaison officer to improve coordination between the courts and police on criminal cases. The liaison officer would coordinate communications between the two groups and ensure that court orders are received and served.

The *Annual Backlog Reduction Plan Template* provides useful guidance for improving cooperation with the post office:

The court will provide training for delivery personnel, harmonize delivery with the employees of the Postal Service, and ensure familiarity and proper use of all available opportunities for delivery. The acting Court President nominates a judge to oversee this process. Incomplete and illegible deliveries, as well as delivery forms that do not contain necessary information, should be sanctioned. The court should also consider the possibility of delivering subpoenas and other court documents by use of electronic mail and SMS messages.

To facilitate more efficient resolution of backlogged cases, delivery will be performed efficiently by use of the court delivery services for all backlogged cases. If this cannot be done, then, at the request of the President of the panel acting in the backlogged case, the Court President can grant the court delivery person the use of an official vehicle. Delivery is also possible through the Police, or through other avenues, in accordance with the provisions of the Criminal Procedure Code and the Civil Procedure Code.

In alignment with the decision of the acting Court President, the court delivery service should organize its work in mid-shifts as well, on business days from 10:00 a.m. until 6:00 p.m.

Provisions of the Criminal Procedure Code that pertain to delivery must be applied strictly. The court delivery personnel must make a full effort when delivering documents relating to backlogged cases. They should attempt to make delivery in a timely fashion and, if necessary, attempt the delivery several times. They must inform the acting President of the panel or a judge - in a timely manner - about any problems they are encountering.

To provide for the efficient and proper delivery of court documents, the acting Court Presidents and the Heads of the Court Registry Office will hold regular monthly meetings with all staff members employed in the court's delivery ser-

vice. If needed, they will hold additional meetings to address outstanding issues.



The classification of outgoing and incoming court mail in the Vrsac Basic Court.

PRACTICAL COURT EXPERIENCES:

The Basic Court in Uzice is using all of these recommended measures to improve the delivery of judicial documents. It has entered into a Memorandum of Understanding with the post office, extended the working hours of its delivery services from 7:30 a.m. until 6:00 p.m., and arranged for a liaison officer to be appointed at the local police station to facilitate the delivery of documents. The court's delivery services work in two shifts - the first shift from 7:30 a.m. to 3:30 p.m. and the second shift from 10:00 a.m. to 6:00 p.m. These extended hours have helped improve the rate of successful deliveries. Comparable measures were also introduced in the Basic Court of Vranje. In 2010, the Basic Court of Subotica identified that service of documents was a serious backlog genera-

tor. It entered into a Protocol of Cooperation with the local post office in 2011 (Appendices 2 and 3), with both parties agreeing to explore ways of improving service and decreasing delays. Improvements were made by introducing stronger internal controls at the postal office and by monitoring the successful delivery of judicial documents. The court, in turn, ensured that all documents and subpoenas were complete and legible, thus enabling the postal service to act upon them in a timely manner. The Basic Court in Nis is also working with the post office to improve document delivery. They exchange information from their internal databases to ensure that the court has the correct address for all documents to be delivered.

Article 9 of the Protocol of Cooperation between the Basic Court in Subotica and its local post office indicates that the court should contact the delivery controller identified in the protocol if there are problems with the delivery of court documents. The Head of the Postal Service should be contacted if the controller fails to take adequate measures to carry out the protocol.

RESULTS:

As the result of these efforts, the Basic Court in Subotica increased its success rate for delivery of judicial documents from 60% to 76% within six months. Similarly, the Basic Court of Vranje improved its rate of successful deliveries from 55% to 87%. Improved delivery directly impacted overall case processing efficiency in these courts, as the following Table shows:

Table 2 – Clearance Rates for Three Selected Courts.

	1 June 2010	3 Dec. 2010	31 March 2011	30 Sept. 2011	31 Dec. 2011	31 March 2012
BC Nis	111.23%	82.52%	105.70%	100.34%	99.11%	133.86%
BC Subotica	N/A	97.55%	N/A	98.34%	109.95%	130.00%
BC Uzice	N/A	100.95%	N/A	102.58%	73.81%	115.56%

LAW PROVISION: Book of Court Rules Article 212
(provisions related to case management)

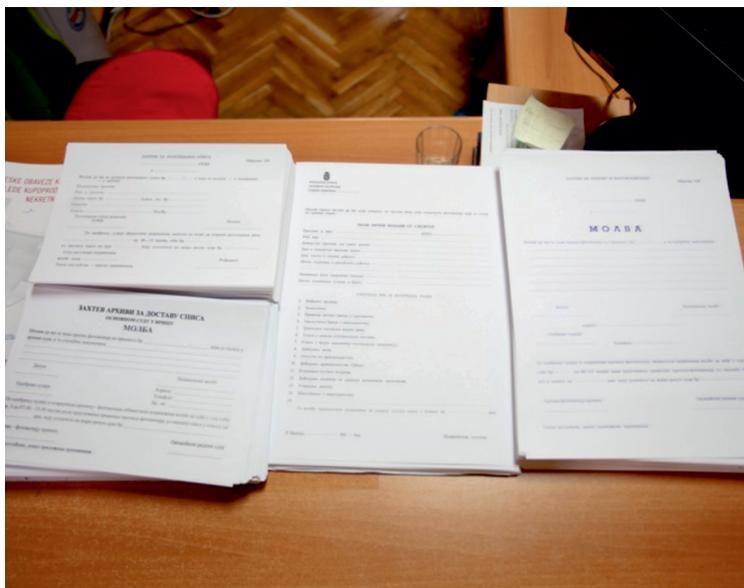
Delivery of court documents to parties and other participants in proceedings shall be performed in accordance with provisions from procedural laws.

Court documents shall be delivered directly in the court, by Postal Service, through another legal entity registered to perform delivery of court documents, through the court delivery service, or in another manner in accordance with a separate law.

The deliverer shall present the court document to the correct person each day at the person’s place of employment or residence, between 7:00 a.m. and 10:00 p.m. Delivery may be performed at other times and locations as a special decision of the court. The deliverer is obligated to show the decision or order upon request by the recipient.

In case of doubt, the court deliverer may request that recipients be present at the delivery location and provide proof of identity. If recipients refuse to provide proof of identity, the court deliverer may request Police assistance to determine identity.

The deliverer is obligated to produce official identification upon request by the recipient.



The templates developed by Vrsac Basic Court enable fast and efficient internal and external communications.

PREPARATORY
DEPARTMENT AND
COURT REGISTRY

IV

IV. PREPARATORY DEPARTMENT AND COURT REGISTRY

PROBLEM:

Backlogs increase because there are few monitoring mechanisms in place to track older cases. Old cases, i.e., those in the system for more than two years or more than five years, are not separately identified and labeled. Additionally, specialized staff is not available to monitor progress. The lack of tracking and monitoring systems for old cases increases the likelihood of further processing delays.

SOLUTION:

The creation of a Preparatory Department, consistent with Article 16 of the Book of Court Rules, will reduce the amount of time that judges spend on administrative matters. A Preparatory Department is typically composed of judge's assistants whose duties include drafting procedural orders for judges and reviewing case files to determine if procedural conditions, such as compliance with deadlines and payment of court fees, are met. These efforts allow judges to focus on substantive issues so that cases can move forward quickly.

The efficiency of Court Registries also can be improved by organizing the registry in such way that a clerk is only responsible for cases from a specific set of judges rather than cases from all judges. Assigning registry clerks to particular judges or case types such as investigative or criminal cases, as reflected in the *Annual Backlog Reduction Plan Template* (see Appendix 1), can improve accountability and performance. With this strategy, each clerk will be more familiar with, and can accept greater responsibility for, the cases that he/she is handling. Such knowledge will eliminate many of the inefficiencies that delay proceedings. Since the clerks will

be better positioned to detect potential problems and initiate appropriate measures in cooperation with the acting judges, this will prevent further delays, especially in backlogged cases.



The Registry Office in the Vrsac Basic Court.

PRACTICAL COURT EXPERIENCES:

The Basic Court in Vrsac established Preparatory Departments in its criminal and civil departments where judge's assistants verify indictments, check the application of procedural rules, and perform similar administrative tasks. In the Basic Court of Subotica, 15 judicial assistants work under a judge's supervision to conduct legal research, collect relevant documents, and prepare draft judgments, all for the purpose of increasing efficiency. Registry clerks also regularly update judges on specific developments in a case, thereby allowing judges to take the steps required to avoid delays in proceedings.

The Basic Courts in Sremska Mitrovica, Vranje and Cacak assigned each registry clerk to work on the cases of two or three judges within the criminal department or civil department. This resulted in increased case processing efficiency as Table 3, below,

shows. The chief of registry in the Basic Court of Sremska Mitrovica is deeply involved in identifying all relevant aspects of criminal proceedings and identifying deadlines for the judges. The Basic Court in Cacak reorganized its Registry Office so that certain clerks register new civil cases, others register new criminal cases, etc. As a result, all new cases are now registered within 24 hours.

At the Basic Courts in Uzice and Vrsac, old cases are specifically marked and labeled with special attention given to criminal cases where the statute of limitations will soon expire. These old cases are then prioritized for further action. Old cases are not specially marked by the Basic Court of Nis. Instead, the registry office submits a list of such cases to the court president on a monthly basis. These lists are used by the president to monitor the progress of old cases and take concrete actions to conclude them.

Uzice Basic Court established a Preparatory Department and also uses it to assist with post-trial matters such as calculating costs, expediting decisions, and other administrative duties. This allows judges to devote their time to newly filed and scheduled cases.

RESULTS:

The effective utilization of Preparatory Departments and Court Registries, combined with other measures, has helped the Basic Courts in Vranje, Subotica, and Uzice significantly reduce their backlogs of investigative cases in 15 months, as shown in Table 3.

Table 3 *Backlog Reduction Results for Investigative Cases in Three Selected Courts.*

	31 Dec. 2010	30 Sept. 2011	31 Dec. 2011	31 March 2012
BC Vrsac	33	25	11	6
BC Subotica	594	630	506	194
BC Uzice	51	27	28	19

LAW PROVISION: Book of Court Rules Article 16
(preparatory department)

Preparatory Departments may be established within court departments for the purpose of assessing the process required to conduct proceedings, decide legal remedies, and perform other tasks.

The annual schedule of tasks gives a detailed description of the tasks performed in the Preparatory Department, the judges' assistants and their associated tasks, and the supervising judge.

The Book of Court Rules Article 224 (registry office) states: Employees of the Registry Office shall take care that cases are handled in the appropriate manner, neatly and on time; that all regulated or determined deadlines are honored; that whatever may hinder the timely action of a judge in the case is resolved; and that the judge is given all cases on time whenever a document or report is received that requires a decision or some other activity.

An employee of the Registry Office may alert the judge or the judge's assistant that certain deadlines expired or that certain technical errors occurred, etc.

Each month, the head of the registry office informs the president about court decisions that are not written within the legal deadline. In the court administration, there is a special register of such cases for each judge.

The Registry Office adds appropriate notes to the case file with regard to parties' and other persons' activities. These notes may include failures to act when needed, such as "the requested report was not submitted", "reply to the lawsuit was not received", "the appeal was not filed", or "the party failed to act within a set amount of time".

In the case of a document that involves a deadline, such as a legal remedy, a court employee shall compare the date when

the decision was delivered against the type of the legal remedy filed. If the issue at hand is a legal remedy that does not require a reply, he/she should forward the case to the higher court. After it has been determined that the document was not sent on time, the document will receive the mark “untimely” and the case will be forwarded to a judge. Appropriate stamps or forms are used in said cases.

Book of Court Rules Article 74 (judge’s assistant): A judge’s assistant studies cases given to him/her by a judge and prepares them for trials; performs entrusted tasks in the Preparatory Department; takes minutes at meetings and sessions of panels and departments; prepares professional reports, analyses, and notifications upon orders of the judge; records statements of parties; processes citizens’ complaints; and performs other tasks as determined in the Annual Schedule of Tasks and in the act on internal organization and systematization of job positions in the court.

A judge’s assistant may be entrusted with other tasks, under the supervision of the judge, such as: preparing draft decisions relating to the process needed for conducting court proceedings, drafting rulings or decisions on permissibility of a legal remedy, preparing reports for a reporting judge, determining the amount of court tax, and classifying cases.



The Court Registry in Cacak Basic Court.

COOPERATION WITH EXTERNAL PARTNERS OF THE COURTS



V. COOPERATION WITH EXTERNAL PARTNERS OF THE COURTS

PROBLEM:

Courts are dependent on various external partners to process criminal, civil, and administrative cases efficiently. The lack of coordination with these other groups and institutions involved in the delivery of justice can lead to case processing delays.

SOLUTION:

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, efficient exchanges 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.

Cooperation with the police and public prosecutors is of main importance in criminal cases. Good cooperation with the bar associations and lawyers can contribute to efficient judicial proceedings in civil cases. How this cooperation can be arranged depends chiefly on identifying potential causes for delays. Parties, attorneys, experts, public prosecutors, and other external actors often cause delays in proceedings. This section explains how certain external partners – from an organizational point of view - can instead contribute to preventing delays.

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 reduce delays by scheduling the hearings of detainees from one prison on the same day.

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 (see Appendix 5). 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 (see Appendix 4), pursuant to which free legal aid is provided to the centers' clients who are often victims of domestic violence.

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, including the courts and public prosecutors' offices, on how they can cooperate effectively and help victims of domestic violence.

Bar associations and lawyers must play an active role in preventing delays and backlogs in civil cases. Problems can be identified and potential solutions discussed in regular meetings among lawyers, associations, and the courts, particularly on matters such as the introduction of new evidence, curbing procedural abuses that result in postponements of hearings, setting time limits within which parties must submit documents, and the provision of free legal assistance. It is important to note that these meetings are not meant for discussing concrete individual cases, but to exchange views between judges and lawyers about improving the efficiency of proceedings. A separate section of this Guide will more fully explore problems and practices in civil proceedings (see Section X: Civil Procedure Measures).

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

The court will communicate X times per month with the outside institutions involved in activities that influence the work of the court: the police, the prosecutor's office, the public defender's office, the correctional facilities, the local bar association, the post office, 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 instituted Memoranda of Understanding with the police, prisons, media and judicial experts. Standardized forms have been introduced for the police, including instructions 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 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 (see Appendix 5), and resulted in free legal aid for persons requiring hospitalization.



The Basic Court in Vrsac trains local counterparts on the new Civil Procedure Law.

RESULTS:

The clearance rates at the Basic Court of Nis improved significantly from 2010 to 2011, especially in the area of labor cases. The clearance rates at the Basic Court in Vrsac show positive results from 2010 to 2012. Clearance rates in civil and family cases dramatically improved after the court and local counterparts implemented Memoranda of Understanding.

Table 4 *Clearance Rates in the Basic Court of Vrsac for Civil, Criminal and Family Cases for the Period December 31, 2010 – March 31, 2012.*

BC Vrsac	31 December 2010	30 September 2011	31 December 2011	31 March 2012
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

EFFICIENT SCHEDULING OF COURT HEARINGS

VI

VI. EFFICIENT SCHEDULING OF COURT HEARINGS

PROBLEM:

Inefficient scheduling of court hearings can contribute to delays and backlogs. The problem often occurs when insufficient time is scheduled for court hearings, especially in situations where significant time is needed to discuss the sources of evidence and/or the legal grounds of a dispute. The problem is compounded when parties are not properly prepared for a hearing and request postponement.

SOLUTION:

Judges must actively manage cases and hearings to reduce delays as much as possible. This includes setting time limits for each case, scheduling a sufficient amount of time for each case and hearing, and striving to resolve each dispute on the date and time scheduled. It is recommended that judges leave time in their weekly court schedules so that postponed or continued hearings can quickly be rescheduled.

PRACTICAL COURT EXPERIENCES:

The Basic Court in Uzice schedules hearings to promote efficient proceedings. For example, if a party makes a request to recuse a judge, the trial is postponed only for a few hours and not for an indefinite period of time. Within this short period, the court president makes his/her decision on the request for recusal. If the request is rejected, the trial continues on the same day. A similar practice is followed in situations where criminal records are need-

ed. During a court hearing, judges will send a clerk to secure the criminal records immediately. Therefore, the trial is not postponed.

RESULTS:

One judge in the Basic Court of Uzice closed more than 700 criminal cases in a period of 20 months using the foregoing and other techniques. The court's criminal department also doubled its case processing efficiency from 65% to 130% in one year (December 31, 2010 to December 31, 2011).

LAW PROVISION: Book of Court Rules Article 204

Court staff is required to ensure that all parties are ready and that all preconditions are met for a court hearing to be productive on the date and time that it is scheduled. Court staff, in particular the judge's assistant, should review the case in advance of the hearing to verify if the case is ready, including whether the notice was delivered, whether all relevant documents from the experts were received, and whether the court fees were paid. If the conditions are not met, court staff should repeat the verification process until the case file is ready to be discussed at the hearing.

Book of Court Rules Articles 178 and 179

Article 178: The president of the panel, that is, the individual judge, will immediately determine the date and hour of the hearing, unless there is a need to perform some other activity.

Hearings will be scheduled so that there is sufficient time to present all proposed evidence (concentration of evidence). Hearings for multiple cases may not be scheduled at the same time.

When persons are summoned to a hearing, attention must be paid to traffic and weather conditions, the distance between the places of residence of summoned persons and the location of

court activity, as well as to other circumstances, for the purpose of timely delivery.

If a party has several cases pending in the court, the court shall endeavor to schedule the cases for the same day (grouping cases).

Hearings that involve summonses and letters of request sent abroad shall be scheduled in a manner that provides sufficient time for acting.

Article 179: Hearings will be first scheduled for cases that are particularly urgent, that is, urgent by nature or by law, cases from the Backlog Reduction Program, and lengthy cases.

Hearings will be scheduled at least three days per week, with the highest possible number of hearings in one trial day. In days when no hearings are scheduled, the president of the panel, that is, the individual judge, will write decisions, study documents, and perform preparations needed for future hearings.

In courts that use case management software, scheduled hearings will be noted, as well as records of summoned persons.

E-JUSTICE MEASURES

VII

VII. E-JUSTICE MEASURES

PROBLEM:

The courts in Serbia do not take full advantage of e-justice measures to promote judicial efficiency and information exchanges with external partners. Better utilization of case management information systems and court websites, as well as greater use of electronic court files, videoconferencing, digital recording, and other e-justice measures, will decrease the time and costs associated with registering and processing cases.

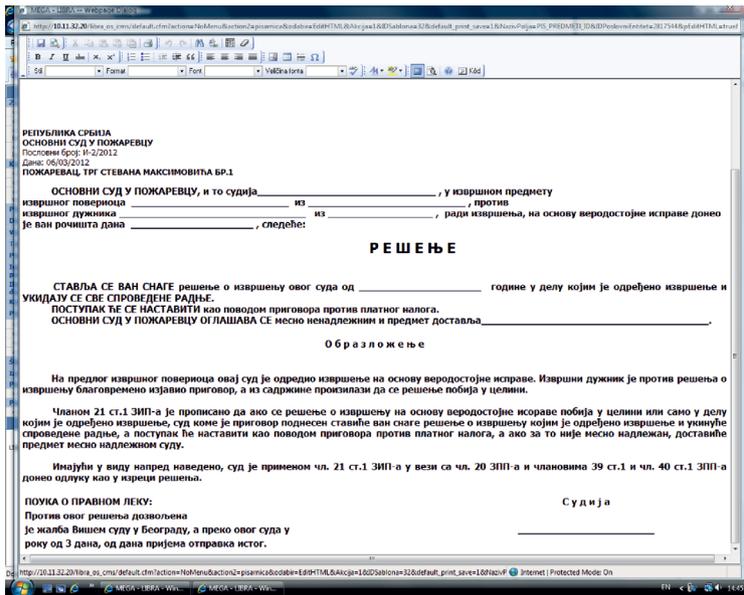
SOLUTION:

Judges can generate several standard and concise templates for written enforcement decisions from the case management systems currently used in different courts. Use of these e-justice tools helps to standardize and enhance court proceedings, resulting in faster case processing, especially in routine cases. Additional templates can be developed as e-Justice tools become more common and software applications continue to improve, such as forms for filing cases, submitting petitions, and delivering subpoenas.

Digital audio recording or other means of automatically producing verbatim records of hearings can provide accurate, reliable transcripts of judicial proceedings in a cost-effective manner. Digital audio recordings can also help appellate courts quickly find essential parts of a hearing conducted at the lower courts. Videoconferencing is another proven method for improving efficiency.

Efficiency can also be increased by allowing citizens and companies to download and complete electronic forms and to monitor the progress of their cases through dedicated court websites (see, for example, <http://www.portal.sud.rs>, where citizens

can monitor their cases online: they are enabled to see the entire flow of any case through the court system.)



An Example of the Case Management Software Enforcement Registry Book “I”.

Examples in other European countries show that for specific disputes, such as uncontested financial claims, a fully-automated procedure can be used (e.g., the UK Money Claim online). A major reduction of the workload of the courts can be achieved by introducing such procedures.

PRACTICAL COURT EXPERIENCES:

Currently, all the courts in Serbia, aside from misdemeanor courts, use an automated case management system. Information about cases from the basic, higher and commercial courts is available through a web portal, <http://www.portal.sud.rs>, that allows court

users and the public to view information about cases, the court network, and court jurisdictions.

There are also several automated tools that assist court users and the general public. The Basic Court in Subotica allows users to retrieve and submit electronic forms at: <http://www.su.os.sud.rs/p/informator>. Similarly, the Basic Court of Vrsac's website provides downloadable guidance for filing a family law case at: <http://www.osnovnisudvrsac.rs/page6.html>. This guidance was downloaded 3,275 between October 2011 and April 2012. The Belgrade First Basic Court provides online tools for court users to calculate court fees and schedule reviews of their case files. These applications, as well as other templates, are available at: <http://prvisud.rs/uverenja1/title.php>.

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>.

ON-LINE НАРУЧИВАЊЕ УВЕРЕЊА ДА НИЈЕ ПОКРЕНУТ БРАКОРАЗВОДНИ ПОСТУПАК

Први основни суд у Београду је омогућио грађанима да електронским путем поднесу захтев за издавање уверења да против њих није покренут бракоразводни поступак.

ВАЖНО
 Молимо Вас да прецизно унесете Ваше податке користећи следећа карактеристична за наше писмо (филшајње).
 Формулар можете погледати на Интернету или путем е-поште.
 Странке морају лично преузети уверење и понети са собом личну карту и њену фотографију.
 Уверења наручена до 14 часова ће бити припремљена за преузимање за два радна дана (осим у случају викенда)

Обавезно попуните сва поља означена звездицом

Подаци подносиоца молбе

<input type="text" value="* име"/>	<input type="text" value="* презиме"/>
* Дан рођења <input type="text" value="1"/>	* Месец рођења <input type="text" value="Јануар"/>
<input type="text" value="* место рођења"/>	* година рођења <input type="text"/>
<input type="text" value="* матични број"/>	<input type="text" value="занимање"/>
<input type="text" value="* адреса"/>	<input type="text" value="* општина"/>
<input type="text" value="* е-пошта"/>	<input type="text" value="мобилни телефон"/>

Online forms, available on Belgrade First Basic Court’s website, <http://prvisud.rsluverenja/marriage.php>, make case processing easier.

LAW PROVISION: Book of Court Rules Articles 183 and 184 (transcripts)

Article 183: Transcripts are created about activities taken during the hearings, important statements and information given by parties or other participants outside the hearings, and other activities when determined by special regulations.

The transcript is created by a transcript clerk. A judge’s assistant is also allowed to create transcripts.

A transcript is usually created and printed with information-communication technology or a typewriter.

If a hearing or certain portions of it are recorded with audio or video equipment, a party may be provided with a copy of the

transcript. The transcript may be created in an electronic form forwarded to parties, in accordance with special regulations.

Article 184: When the law does not require creation of a transcript, an official note may be used as a substitute. The note will include the performed official activity, date, and location of activity. This pertains particularly to statements or information of lesser importance provided by parties, or for various announcements to parties.

The official note will be signed by the judge or the staff member who created it. If the note contains a statement of the party who is present at the time, or an announcement made to the party, the party shall sign the note.

COURT EXPERTS

VIII

VIII. COURT EXPERTS

PROBLEM:

Expert witnesses are often overused in civil cases. They can delay proceedings if their opinions are insufficient or unreliable, or if they fail to appear at or finalize their reports before a scheduled hearing.

SOLUTION:

Court experts are vital in certain judicial proceedings. To ensure that experts are used effectively, judges should:

1. Clearly specify the nature and extent of the required expert assistance. Judges should provide experts with a list of concrete questions to be answered in a particular case, and should avoid sending court files to experts without an explanation of the assistance required.
2. Set time limits as a part of their order for an expert witness opinion. If those time limits are not met, sanctions should be imposed against the expert (up to and including removing the expert from the official list of court experts).
3. Be more selective in their use of experts. Court presidents, heads of departments and senior judges should instruct their courts that experts be engaged only when strictly necessary.

Quality standards and a list of registered and accredited court experts can also help judges and parties select the right expert and maintain a minimum level of quality. The online database of court experts, available on the Ministry of Justice's website, is a good starting point in this regard. The database can be found at: <http://www.mpravde.gov.rs/cr/registar>.

www.gov.rs/cr/registar

Министарство правде
Република Србија

Министарство Законодавна активност Правосуђе Борба против корупције Стручно усавршавање Мађународне активности, ЕУ интеграције и пројекти Правосудни испити Вести

Име (није обавезно поље)

Презиме (није обавезно поље)

Надлежност суда
1. ВИШИ СУД У БЕОГРАДУ

Област вештачења
Економско-финансијска

Претрага

резултати претраге: 'Име: Презиме: 1. ВИШИ СУД У БЕОГРАДУ - Област: Економско-финансијска' у регистру судских вештака

ред. бр. уписа: 1 Топаловић (Момчило) Вељко

Година рођења: 1979.
Дипломирани економиста
Београд, Булевар Зорана Ђинђића 35/53
Област: Економско-финансијска
Ужа специјалност: Рачуноводство, ревизија и финансијско управљање
Број и датум решења: 740-05-04382/2010-03 од 06.07.2011 године
Мобилни: 063 - 8717202
Фиксни: 011 - 2138643

ред. бр. уписа: 2 Жугић (Благота) Раде

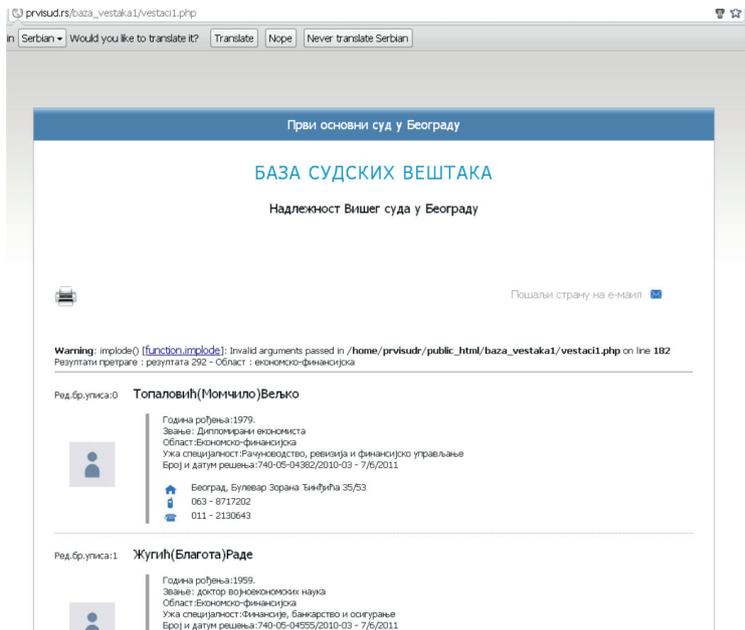
Година рођења: 1959.
доктор војноекономских наука

An online database of court experts is available on the Ministry of Justice's website: <http://www.mpravde.gov.rs/cr/registar>.

PRACTICAL COURT EXPERIENCES:

In 2008, the Municipal Court in Nis created a Memorandum of Understanding for court experts operating in its jurisdiction. The document covered topics such as communicating with the court via e-mail, receiving court summons through e-mails and text messages, following guidelines and instructions issued by the court, respecting deadlines, and paying fees in installments. Experts who failed to sign the document or follow its terms were not engaged again. While in effect, these memoranda significantly helped reduce delays caused by court experts.

The First Basic Court in Belgrade developed a good process for selecting court experts and developing a list of registered court experts, which can be accessed on its website. Visitors can use the website to help select the most appropriate expert for a case based on specific areas of expertise: http://prvisud.rs/baza_vestaka/vestaci_en.php.



Belgrade First Basic Court's online database of court experts, available at http://prvisud.rs/baza_vestaka/vestaci_en.php, simplifies the selection of court experts.

CRIMINAL PROCEDURAL MEASURES



IX. CRIMINAL PROCEDURAL MEASURES

PROBLEM:

Various impediments lead to an increase in the duration of criminal proceedings and backlogs. Some of these impediments relate to the role of the public prosecutor and definition of his/her authorities. Other hindrances relate to the use of plea bargaining, requirements to investigate a case in detail at a court hearing, and requirements for crime victims to testify in person.

SOLUTION:

The public prosecutor plays a critical role in determining the criminal case load of a court. Several tools can be employed by prosecutors to reduce the inflow of cases to the courts and speed existing proceedings. Courts should hold coordination meetings with prosecutor offices to jointly identify potential problems and find the best ways to proceed. Such problems could include overlap of jurisdictions, repetition of administrative actions, or cases reaching statutes of limitation. Prosecutors should be encouraged to apply the principle of opportunity more frequently. This principle defers prosecution - as prescribed by articles 236 and 237 of the old Criminal Procedure Code and article 283 of the new Code - to reduce the inflow of criminal cases to those most suited for trial. This principle, in general, provides prosecutors with discretionary authority to drop the charges against a suspect if he/she believes that there is insufficient evidence to obtain a conviction or that conviction is highly unlikely.

Similarly, prosecutors should be encouraged to impose sanctions or fines in minor offense cases rather than proceeding to trial. If the defendant pleads guilty during the investigation, the prosecutor can propose a hearing before an investigative judge

instead of a trial, as outlined in Article 455 of the old Criminal Procedure Code. In such cases, the verdict is rendered by the investigative judge and the costs and time associated with a trial are avoided. Similarly, Articles 512-518 of the new Criminal Procedure Code authorize the prosecutor to initiate only the sanctioning piece of criminal proceedings if the circumstances of the case and its complexity imply that a trial is not necessary.

Plea bargaining is another tool that public prosecutors can use to lessen the courts' burden. If a suspect pleads guilty, the prosecutor can offer an appropriate sentence or sanction befitting the crime. Greater use of plea bargaining will reduce the volume of criminal cases entering the courts, allowing judges to spend more time on other criminal and civil cases.

Another solution is waiving the right to appeal. If both parties waive their rights to appeal, judges will not be obliged to provide lengthy rationales in their written decisions.

Judges can also modify the behavior of parties, lawyers and expert witnesses during criminal proceedings through the use of pre-trial conferences and sanctions. Many hearings are postponed when a subpoenaed witness fails to appear, expert reports are not received in due time, or lawyers fail to appear or request additional time to produce new evidence. Sanctions should be imposed in accordance with the Criminal Procedure Code if such persons abuse their procedural rights, as detailed in Articles 297-300 of the old Criminal Procedure Code and Articles 370-375 of the new Criminal Procedure Code.

Pretrial conferences can be used to reduce postponements and better manage criminal proceedings. At a pretrial conference the parties will, among other things, explain their positions on the criminal charges, list the evidence to be examined at trial, make proposals for new evidence, determine the facts and legal questions to be discussed, and consider a plea agreement. This technique is especially useful in complex criminal cases because it helps determine early on what evidence is required and how many witnesses will be called.

A well-organized pretrial conference can be used to:

- Determine the schedule of hearings;
- Determine the personal details of hearing participants (e.g., addresses of the defendant, victims, witnesses, and court experts, information about other proceedings involving the same parties, etc.);
- Establish a list of evidence to be presented during the main hearing and the order of its presentation;
- Establish timeframes for completing events in the proceedings; and
- Instruct the parties to follow the procedural discipline and avoid delays, and that sanctions will be applied in cases of abuse.

Another method for increasing efficiency relates to the drafting of verdicts. Standard motivation text blocks of verdicts can be used for certain criminal offenses. Instead of preparing lengthy verdicts, a brief explanation of the legal reasoning behind the verdict may be sufficient. In short and simple procedures, the legal reasoning for the verdict is not required at all, according to Article 429 of the new Criminal Procedure Code.

Guidelines for a well-written judgment:

- Written in a clear, concise, and straightforward manner;
- Written with the understanding that it is a public document, and that its reasoning should be easily understood by the parties and the public;
- Written thoroughly, but avoiding redundancy;
- Organized in a logical manner, and not necessarily the order presented at trial.

Requiring crime victims to testify in person at court hearings can often result in delays. As noted in the Section VII E-Justice, above, these delays can be avoided by using video-conferencing and/or other audio-video tools.

The Separations of Powers Program developed a checklist for the efficient organization of a criminal hearing. The checklist, presented in the following text box, is currently in use at several courts and can help determine evidentiary and legal issues, the time required to hear the case, and related matters.

CRIMINAL CASE MANAGEMENT CHECKLIST

1. Verify the completion of the initial act.
2. Which factual issues are undisputed?
3. Which factual issues are disputed?
4. What evidence is necessary to reach a decision regarding these issues?
5. Which legal issues are undisputed?
6. Which legal issues are disputed?
7. What is necessary to resolve these issues?
8. How much time will the sides need to present their evidence at the main hearing?
9. How many hours should be planned for the remaining hearings?
10. When will they be conducted?
11. Will court experts be needed? If so, what type of expertise will be necessary?
12. When is the deadline for the court expert's report?
13. Are there any language barriers that require the services of an interpreter or some other type of assistance?
14. Will audio/video equipment be needed at the main hearing?

PRACTICAL COURT EXPERIENCES:

The judges of the Basic Court in Uzice regularly use the Criminal Case Management Checklist to prepare for criminal trials. In addition, the public prosecutor uses the principle of opportunity and plea bargaining to reduce the inflow of criminal cases.

The Higher Court in Subotica noted two cases in 2010 that were successfully resolved by plea bargaining. Both cases related to grave offenses against public transport security. The Basic Court in Uzice is using status conferences to expedite criminal proceedings, particularly in complex cases with multiple defendants. Status conferences are useful to determine if the number of hearings scheduled at the pretrial conference is sufficient, if additional evidence is required that was not known at the time of the pretrial conference, or if hearings need to be rescheduled due to unforeseen events, such as illness.

RESULTS:

Figure 2 shows the disposition rate of criminal cases in the Sremska Mitrovica Basic Court. This high rate, as compared to the disposition rate for investigative cases, is largely due to the prosecutor's exercise of the principle of opportunity. 936 cases were closed in this manner between June 2010 and June 2011, significantly reducing the number of cases going to trial.

Judges in the Basic Court of Uzice's criminal department closed an average of 30 cases per month during the first quarter of 2011 by implementing pretrial conferences and other improved procedures. This court also achieved a clearance rate of 140% for criminal cases during the same period.

The Basic Court in Vrsac reduced its backlog of old criminal cases by 52% in 2010, closing 155 out of 298 criminal cases older than 2 years. During the first six months of 2011, the court also reduced its overall backlog of criminal and investigative cases by

11% and 24%, respectively. The court’s annual report shows that the number of old cases decreased from 210 on January 1, 2010 to 143 as of December 31, 2010, which represents around a 30% decrease.

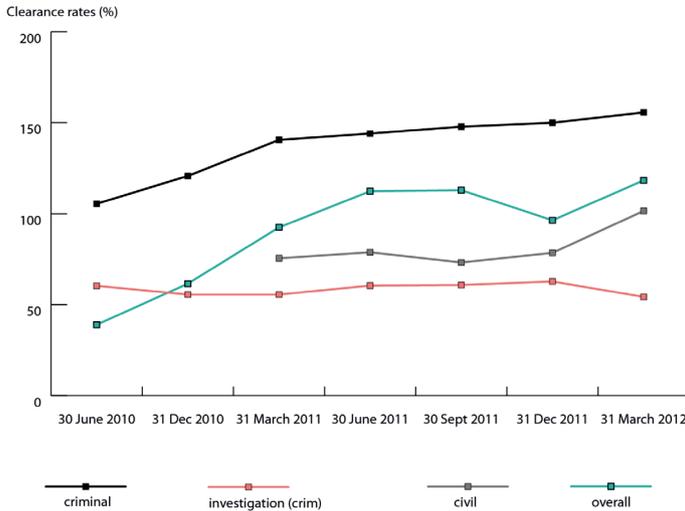


Figure 2 Clearance Rates for Different Case Types in the Basic Court of Sremska Mitrovica.

LAW PROVISION: New Criminal Procedural Code Articles 345 – 352 (pretrial conference).

Article 345: At the pretrial conference, the parties state their positions in relation to the charges; explain the evidence that will be examined at the trial and propose new evidence; determine the factual and legal questions that will be discussed at trial; decide whether a plea agreement is appropriate; discuss detention and discontinuing criminal proceedings; and decide on other questions the court finds relevant for the trial.

The pretrial conference is held before the president of the panel, in camera.

In the summons for the pre-trial conference, the president of the panel will caution the parties and the injured party that the main hearing may be held at the pretrial conference, according to Article 350 paragraph 6.

Provisions on the trial are applied according to the pretrial conference unless specified otherwise by this Code.

Figure 3 demonstrates that participating Basic Courts achieved promising results by implementing their backlog reduction and prevention programs. In particular, the Basic Courts of Sremska Mitrovica and Vranje achieved high clearance rates for criminal cases.

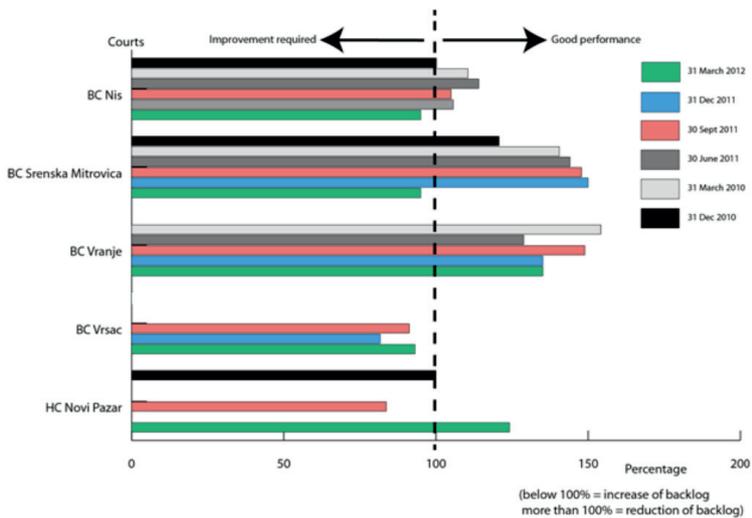


Figure 3 Clearance Rates for Criminal Cases in Select Basic Courts and Higher Courts.

CIVIL PROCEDURAL MEASURES



X. CIVIL PROCEDURAL MEASURES

PROBLEM:

The duration of civil proceedings is negatively impacted by postponements of hearings and abuses of procedural rights. An analysis of civil proceedings in the courts working with the Separation of Powers Program also showed that trials could be better organized. Caseload is often unpredictable because parties lack a clear understanding of, and proper respect for, schedules and deadlines set by the courts. These inefficiencies result in longer proceedings and lead to additional backlogs.

SOLUTION:

Articles 301-309 of the new Civil Procedure Code require that preparatory hearings be held in all cases where there is a factual dispute. Court presidents should promote the use of preparatory hearings in their courts to limit backlogs and increase efficiency.

Judges are obliged under the new Civil Procedure Code to propose settlement at an early stage in each case. Judges should convene a preparatory hearing shortly after the defendant's response is registered, at which the parties can discuss settlement. Good conditions for settlement exist where:

- The parties understand and agree on the evidence that will be presented;
- The parties agree on what a reasonable outcome of the case might be; and
- The parties understand the risks of going to trial.

If settlement cannot be reached, the hearing will be used to plan proceedings, such as setting time limits for submitting documents and evidence to the courts, determining which experts will

be used and to what extent, and setting the time and dates for court hearings.

The number of successful settlements in Serbia is currently limited, as neither lawyers nor parties prefer to settle. Preferences may change, however, once they recognize that trials are quick, hearing dates are firm, and requirements are understood before a trial starts. Preparatory hearings are very effective for setting such expectations.

Judges can also use preparatory hearings to encourage parties to consider mediation, particularly in divorce and commercial cases. The new Law on Mediation should contribute to better and more frequent use of mediation. This will reduce the inflow of cases to the courts and the number of trials required.

The main elements of a preparatory hearing are presented in the following figure.



Figure 4: *The Main Elements of a Preparatory Hearing.*

There may be situations where additional hearings are required to organize a case and ensure its timely processing. This can occur when:

- The number of hearings scheduled at the first pretrial conference is insufficient to complete the case.
- Additional evidence is needed that was not known at the time of the first pretrial conference.
- Deadlines and hearings must be rescheduled due to unforeseen events, such as illness.

A status conference can be scheduled in such instances to review and discuss whether an extension is warranted. The following questions must be answered at a status conference:

- What additional witnesses or evidence must be presented?
- How many additional days will it take?
- What evidence and witnesses will be heard on which dates?

Evidentiary matters and adjourned hearings are major causes of delay in cases that cannot be settled or mediated. To minimize such delays, the ability of parties to identify and add new evidence should be restricted after the preparatory hearing and should be allowed only during the early stages of proceedings. Similarly, judges should actively manage proceedings to keep adjournments to a minimum. As an international example, the European Court of Human Rights in Strasbourg identified adjournments as one of the main causes for unreasonable delays. The application of sanctions, such as a fine or other financial penalty, is also effective in discouraging inappropriate procedural actions by a party or an attorney.

Random assignment of cases is also recommended to ensure that judges receive a similar mix of cases. Additionally, there should be sufficient freedom to reallocate cases to a more specialized and experienced judge in situations where special expertise is required. A case weighting system is also under development.

Once completed, it could provide standard times for judges and court staff to conclude different types of cases, thereby making it easier to define the optimal case mix for each judge.

The Separation of Powers Program developed a case management checklist for civil proceedings that can be used to determine key issues relating to time and evidence when a case arrives at court.

CIVIL CASE MANAGEMENT CHECKLIST

1. Use time standards in case processing.
2. Orchestrate early intervention to bring attention to the case as soon as possible.
3. Schedule early preparatory hearings related to the case.
4. Ensure proper preparation of attorneys and parties.
5. Identify key issues.
6. Identify the schedule of court activities.
7. Investigate the possibility of settlement.
8. Conform to the schedules of attorneys within reason.
9. Accept the fact that there may be cases when it is necessary to change the schedule.
10. Expect the attorneys and parties to inform the court in advance about the requested postponements and to provide explanations and reasons.
11. Develop and apply sanctions in cases of abuse of postponement by attorneys or parties.
12. Classify cases according to complexity by use of objective categories: number of claims and counter-claims, number of parties in proceedings, number of other participants in proceedings (intervener, witnesses, and court experts).
13. Honor deadlines set for court activities.
14. Create a schedule of hearings in the case after consultations with attorneys or parties who are representing themselves.
15. Express expectation that court activities will take place on scheduled dates.
16. Develop methods for monitoring the efficiency of scheduling.
17. The date of the next activity should always be determined, in each case.

PRACTICAL COURT EXPERIENCES:

The Basic Court of Subotica was able to reduce its backlog of labor cases in the period June 2010 – June 2011 by more than 40%. By creating a team of judges and staff to analyze common causes for delays, this court found ways to close labor cases earlier, thereby freeing judicial time to handle other civil law cases. Cacak is also organizing preparatory hearings to tackle and prevent backlogs. The court limits the presentation of evidence to one hearing where possible. Trial discipline is strictly enforced and sanctions are imposed when parties fail to appear at hearings. As a result of this and other measures, only 16% of the court's 1,882 pending cases as of February 2011 were old cases. Judges in these courts now focus on handling complex and backlogged cases.

Before Articles 10 and 308 of the new Civil Procedure Code (see Law Provision below) officially came into force, Vrsac Basic Court used preparatory hearings to determine trial schedules and timeframes. The court faced little resistance to this measure, since it gave parties and attorneys the impression that their cases would be closed in a timely and predictable manner.

RESULTS:

The Higher Courts in Subotica and Novi Pazar and the Basic Court in Nis significantly increased their clearance rates for civil cases in 2011. The Basic Court in Nis, one of the three largest basic courts in Serbia, increased its clearance rate from 92% to 106%. Despite a shortage of judges, the Higher Court in Novi Pazar increased its clearance rate by 13%, including both its first and second instance cases. Most impressive were the results of the Higher Court in Subotica, where the clearance rate for second instance civil cases doubled from 72% to 145% in the course of one year.

Table 5 *Civil Case Clearance Rates in the Higher Courts in Subotica and Novi Pazar and the Basic Court in Nis.*

	BC Nis	HC Subotica	HC Novi Pazar
December 2010	92.94%	72.26%	87.79%
September 2011	97.85%	142.16%	99.37%
December 2011	106.61%	145.40%	100.56%
March 2012	123.87%	147.32%	82.36%

Figure 5, compares the clearance rates and number of backlogged civil and labor cases in the Basic Court in Nis. The court’s backlog of civil cases, in particular, dropped significantly as its case processing efficiency increased.

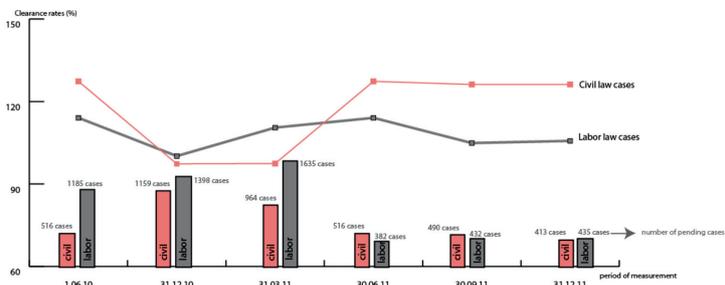


Figure 5 *Clearance Rates and Number of Backlogged Civil and Labor Cases in the Basic Court in Nis.*

LAW PROVISION: New Civil Procedure Code Article 308 (preparatory hearing)

A party will present all the needed facts that support his/her proposals no later than at the preparatory hearing, and at the first trial hearing if a preparatory hearing is not mandatory (Article 302). The party will also propose evidence that confirms the presented facts; respond to statements and evidence provided by the opposing party; and propose a timeframe for the trial.

At the hearing from Paragraph 1 of this Article, the court will determine which facts are undisputable, that is, generally known, and which are disputable and should therefore be addressed in court.

At the hearing from Paragraph 1 of this Article, the court will decide which evidence will be presented at the main hearing. The court will determine the timeframe for the trial in the form of a decision (Article 10, Paragraph 2).

The determination of the timeframe will include: the number of hearings; the dates of scheduled hearings; the schedule according to which evidence will be presented at hearings and the schedule of other process activities; court deadlines; and the total duration of the trial.

If the court should find proposed evidence to be of no consequence to the outcome of the trial, it will reject it in the form of a decision. A separate appeal against this decision will not be allowed.

SUMMARY AND
CONCLUSION

XI

XI. SUMMARY AND CONCLUSION

The ten courts participating in the Separation of Power Program's backlog reduction and prevention program have proven that courts can successfully reduce backlogs and case processing delays through improved teamwork, coordination, and other practical techniques. These techniques, and the results achieved through their use, can easily be replicated by other courts. The following paragraphs provide additional guidance that judges and court staff can use to select the right measures for their courts and determine the steps required to implement such measures.

As illustrated in Figure 6, the backlog reduction techniques described in this Guide fall into three categories - (1) internal organizational measures, (2) external organizational measures, and (3) procedural measures.

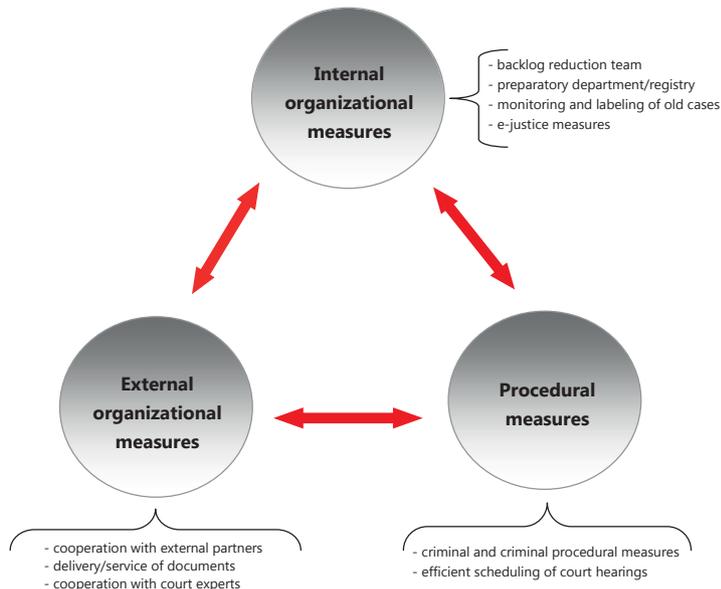


Figure 6 Relationship between Different Backlog Prevention and Reduction Measures.

Internal organizational measures focus on improvements in court organization. Courts suffering from high backlogs or unduly long proceedings of one or more case types should develop a list of backlogged cases and label old cases for prompt action. A backlog reduction team should be appointed to identify the main causes of delay, develop concrete recommendations for terminating or closing old cases, and monitor their implementation. Depending on the availability of a sufficient number of judges, an individual judge or a group of judges should be given responsibility for reviewing backlogged cases and making the decisions needed to close the cases.

Good organization and cooperation within the court is required to effectively reduce and prevent backlogs. The preparatory department can relieve judges of many administrative tasks so that judges can focus on delivering judgments. The registry office also plays an important role in monitoring case flow and ensuring efficiency. Courts can manage their caseloads more effectively when cases are registered efficiently, court performance data is readily available, and old cases can be easily identified. E-justice measures, such as electronic forms, electronic court files and videoconferencing, can also be used to improve internal organization.

External organizational measures, such as improved cooperation with external partners, can also help to reduce and prevent backlogs. Greater efficiency can be realized through the implementation of memoranda of understanding, training programs, and information exchanges with post offices, prosecutor's offices, public defender's offices, and others. Better cooperation with judicial and court experts, combined with selective procedural measures, such as setting time limits and imposing sanctions, can reduce delays caused when experts provide unreliable reports or fail to appear in court.

Procedural measures are also important tools for fighting backlogs. A public prosecutor, for instance, can reduce the inflow of cases to the courts by exercising measures such as the principle of proportionality, plea bargaining, and waiving the right to appeal. Judges can contribute to more efficient procedures by better managing cases and hearings. Strategies for improving case processing efficiency include improving the organization of preliminary hearings, improving the system for scheduling court hearings, minimizing adjournments, limiting the parties' ability to submit new evidence, and promoting early settlements and mediation.

PLANNING OF ACTIVITIES:

With this information in mind, courts should develop concrete action plans for reducing and preventing backlogs. While each court is free to select the measures most suitable to its needs, it is highly recommended that all courts include forming a backlog reduction team and identifying and labeling old cases in their plans (see Sections I and II above).

Courts can take the following steps to develop their backlog reduction and prevention plans:

- Step 1* Identify the number of backlogged cases and differentiate them by case category and average age.
- Step 2* Develop a backlog reduction and backlog prevention program (see Appendix I as a template). This program should contain targets to be met and a list of measures to be implemented as part of the program, including internal organizational measures, external organizational measures and/or procedural measures.
- Step 3* Implement the backlog reduction and prevention program.

Step 4 Evaluate the program's results and determine future actions for improving court performance.

If all these steps are taken, it is highly likely that many additional courts will achieve results similar to those realized by the courts working with the Separation of Powers Program. Courts are strongly encouraged to apply this guide to help meet and exceed the standards set forth by European institutions with respect to delivering justice in a timely and efficient manner.

PROMOTING JUDICIAL EFFICIENCY AND EU ACCESSION:

Independence, efficiency, quality, and impartiality are main reference points for European standards relating to the judiciary of current and candidate European Union (EU) Member States. This is underscored in Chapter 23 of *EU Acquis Communautaire: Judiciary and Fundamental Rights*.



Chapter 23: Judiciary and fundamental rights. *EU policies in the area of judiciary and fundamental rights aim to maintain and further develop the Union as an area of freedom, security and justice. The establishment of an independent and efficient judiciary is of paramount importance. Impartiality, integrity and a high standard of adjudication by the courts are essential for safeguarding the rule of law. This requires a firm commitment to eliminating external influences over the judiciary and to devoting adequate financial resources and training. Legal guarantees for fair trial procedures must be in place. Equally, Member States must fight corruption effectively, as it*

represents a threat to the stability of democratic institutions and the rule of law. A solid legal framework and reliable institutions are required to underpin a coherent policy of prevention and deterrence of corruption. Member States must ensure respect for fundamental rights and EU citizens' rights, as guaranteed by the acquis and by the Fundamental Rights Charter.

Serbia's progress in implementing the standards of Chapter 23 is described in the analytical report of the European Commission for the European Parliament and the European Council of 2011 (SEC(2011) 1208)¹ relating to Serbia's application for membership in the European Union. The report notes that Serbia has undertaken several important reforms since the adoption of its new Constitution in 2006 and the National Judicial Reform Strategy, including: the establishment of self-governing judicial bodies, creation of a new court network, reduction in the overall number of courts, introduction of an automated case management system, and adoption of new procedural laws in 2011. While these reforms should lead to increased efficiency and shorter proceedings, the report also noted that backlogs remain a large problem for Serbia's courts and that every court must invest efforts in tackling this problem. The results achieved by the Basic Courts in Cacak, Nis, Sremska Mitrovica, Subotica, Uzice, Vranje, and Vrsac, as well as by the Higher Courts in Belgrade, Novi Pazar, and Subotica, demonstrate that backlogs can be reduced and prevented through teamwork, innovation, and the commitment to deliver justice in a timely manner. The Separation of Powers Program encourages other courts in Serbia to reduce their backlogs by utilizing the techniques outlined in this Guide, and further encourages the courts to explore and share additional techniques for increasing case processing efficiency. These and other best practices can provide the backbone for a national backlog reduction program meeting Chapter 23 requirements and tackling remaining case backlogs.

¹Commission staff working paper, Analytical Report accompanying the Communication from the Commission to the European Parliament and Council, Commission Opinion on Serbia's application for membership in the European Union, {COM(2011) 668}, European Commission, Brussels, 12.10.2011. SEC(2011) 1208, p. 100-105, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_analytical_report_2011_en.pdf

the 1990s, the number of people in the world who are illiterate has increased from 1.2 billion to 1.5 billion.

It is not only illiterates who are excluded from the benefits of the information society. The poor are also excluded. The World Bank estimates that 1.2 billion people live on less than \$1 a day.

It is not only the poor who are excluded from the benefits of the information society. The disabled are also excluded. The World Bank estimates that 1 billion people are disabled.

It is not only the disabled who are excluded from the benefits of the information society. The elderly are also excluded. The World Bank estimates that 600 million people are aged 65 and over.

It is not only the elderly who are excluded from the benefits of the information society. The women are also excluded. The World Bank estimates that 1 billion women live in poverty.

It is not only the women who are excluded from the benefits of the information society. The children are also excluded. The World Bank estimates that 1 billion children live in poverty.

It is not only the children who are excluded from the benefits of the information society. The people in the developing countries are also excluded. The World Bank estimates that 1 billion people live in the developing countries.

It is not only the people in the developing countries who are excluded from the benefits of the information society. The people in the rural areas are also excluded. The World Bank estimates that 1 billion people live in the rural areas.

It is not only the people in the rural areas who are excluded from the benefits of the information society. The people in the slums are also excluded. The World Bank estimates that 1 billion people live in the slums.

It is not only the people in the slums who are excluded from the benefits of the information society. The people in the informal sector are also excluded. The World Bank estimates that 1 billion people live in the informal sector.

It is not only the people in the informal sector who are excluded from the benefits of the information society. The people in the urban areas are also excluded. The World Bank estimates that 1 billion people live in the urban areas.

It is not only the people in the urban areas who are excluded from the benefits of the information society. The people in the industrial areas are also excluded. The World Bank estimates that 1 billion people live in the industrial areas.

It is not only the people in the industrial areas who are excluded from the benefits of the information society. The people in the service areas are also excluded. The World Bank estimates that 1 billion people live in the service areas.

It is not only the people in the service areas who are excluded from the benefits of the information society. The people in the agricultural areas are also excluded. The World Bank estimates that 1 billion people live in the agricultural areas.

It is not only the people in the agricultural areas who are excluded from the benefits of the information society. The people in the manufacturing areas are also excluded. The World Bank estimates that 1 billion people live in the manufacturing areas.

It is not only the people in the manufacturing areas who are excluded from the benefits of the information society. The people in the construction areas are also excluded. The World Bank estimates that 1 billion people live in the construction areas.

It is not only the people in the construction areas who are excluded from the benefits of the information society. The people in the mining areas are also excluded. The World Bank estimates that 1 billion people live in the mining areas.

It is not only the people in the mining areas who are excluded from the benefits of the information society. The people in the energy areas are also excluded. The World Bank estimates that 1 billion people live in the energy areas.

It is not only the people in the energy areas who are excluded from the benefits of the information society. The people in the transport areas are also excluded. The World Bank estimates that 1 billion people live in the transport areas.

It is not only the people in the transport areas who are excluded from the benefits of the information society. The people in the communication areas are also excluded. The World Bank estimates that 1 billion people live in the communication areas.

It is not only the people in the communication areas who are excluded from the benefits of the information society. The people in the health areas are also excluded. The World Bank estimates that 1 billion people live in the health areas.

It is not only the people in the health areas who are excluded from the benefits of the information society. The people in the education areas are also excluded. The World Bank estimates that 1 billion people live in the education areas.

It is not only the people in the education areas who are excluded from the benefits of the information society. The people in the social services areas are also excluded. The World Bank estimates that 1 billion people live in the social services areas.

It is not only the people in the social services areas who are excluded from the benefits of the information society. The people in the housing areas are also excluded. The World Bank estimates that 1 billion people live in the housing areas.

It is not only the people in the housing areas who are excluded from the benefits of the information society. The people in the water supply areas are also excluded. The World Bank estimates that 1 billion people live in the water supply areas.

It is not only the people in the water supply areas who are excluded from the benefits of the information society. The people in the sanitation areas are also excluded. The World Bank estimates that 1 billion people live in the sanitation areas.

It is not only the people in the sanitation areas who are excluded from the benefits of the information society. The people in the electricity areas are also excluded. The World Bank estimates that 1 billion people live in the electricity areas.

It is not only the people in the electricity areas who are excluded from the benefits of the information society. The people in the gas supply areas are also excluded. The World Bank estimates that 1 billion people live in the gas supply areas.

APPENDICES

APPENDIX I: ANNUAL BACKLOG REDUCTION PLAN TEMPLATE

Having considered the annual report of this court for the year 2011 and the identified number of unfinished backlog cases in all the departments of the court, on the basis of Article 12 of the Book of Court Rules (“The Official Gazette of the Republic of Serbia” No. 110/09), the Acting Court President _____ of the _____ court in _____ hereby adopts the following:

BACKLOG REDUCUTION PROGRAM OF THE _____ COURT IN _____ FOR THE YEAR 2012

I ANALYSIS

Based on the annual report on the work of the _____ Court in _____ for the year 2011 and the table provided in Annex I, the court has determined the following state of facts:

- On January 1, 2011, the _____ Court in _____ had a total of _____ unsolved cases, of which _____ were backlog cases, that is, _____% of the total number of unsolved cases in all legal matters.

- During the reporting period from January 1 – December 31, 2011, this court received _____ cases, meaning that there were _____ cases pending in 2011.

- During the same period, _____ cases were solved, of which _____ were backlog cases, representing _____ % of the total number of unsolved cases.

- On December 31, 2011, there remained _____ unsolved cases, of which _____ were backlog cases, representing _____ % of the total number of unsolved cases.

The ratio between unsolved cases and backlog cases during the reviewed period, divided by legal matter, was as follows:

In the criminal matter "K": out of the total of _____ unsolved cases, _____ backlog cases remained unsolved, representing _____% of the total number of unsolved cases.

In the investigative matter "Ki": out of the total of _____ unsolved cases, _____ backlog cases remained unsolved, representing _____% of the total number of unsolved cases.

In the civil matter:

"P": out of the total of _____ unsolved cases, _____ backlog cases remained unsolved, representing _____%.

"PI": out of the total of _____ unsolved cases, _____ backlog cases remained unsolved, representing _____%.

"P2": out of the total of _____ unsolved cases, _____ backlog cases remained unsolved, representing _____%.

Considering the information provided above, in civil matters (P, PI and P2) _____ cases out of a total number of _____

unsolved cases are backlog cases, representing ____% of the total number of unsolved cases.

In the enforcement matter:

”I” : out of the total of ____ unsolved cases, ____ backlog cases remained unsolved, representing ____%.

”IV” : out of the total of ____ unsolved cases, ____ backlog cases remained unsolved, representing ____%.

”I_{pv}” : out of the total of ____ unsolved cases, ____ backlog cases remained unsolved, representing ____%.

Considering the information provided above, in enforcement matters (I, IV and I_{pv}) ____ cases out of a total number of _____ unsolved cases are backlog cases, representing ____% of the total number of unsolved cases.

In the non-litigation matter:

”O” : out of the total of ____ unsolved cases, ____ backlog cases remained unsolved, representing ____%.

”IP” : out of the total of ____ unsolved cases, ____ backlog cases remained unsolved, representing ____%.

”P” : out of the total of ____ unsolved cases, ____ backlog cases remained unsolved, representing ____%.

Considering the information provided above, in non-litigation matters (O, IP and P) ____ cases out of a total number of _____ unsolved cases are backlog cases, representing ____% of the total number of unsolved cases.

According to the report for the period from January 1 – December 31, 2011, the age of cases that remained unsolved as of December 31, 2011 in the _____ Court in _____, divided by matter, is as follows:

In the criminal matter “K”: out of the total number of _____ unsolved backlog cases, there are _____ cases older than 5 years and _____ cases older than 2 years.

In the investigative matter “Ki”: out of the total number of _____ unsolved backlog cases, there are _____ cases older than 5 years and _____ cases older than 2 years.

In the civil matter “P”: out of the total number of _____ unsolved backlog cases, there are _____ cases older than 5 years and _____ cases older than 2 years.

In the labor disputes “Pi”: out of the total number of _____ unsolved backlog cases, there are _____ cases older than 5 years and _____ cases older than 2 years.

In the enforcement matter:

“I”:

out of the total number of _____ unsolved backlog cases, there are _____ cases older than 5 years and _____ cases older than 2 years.

“Iv”:

out of the total number of _____ unsolved backlog cases, there are _____ cases older than 5 years and _____ cases older than 2 years.

“Ipv I”:

out of the total number of _____ unsolved backlog cases, there are _____ cases older than 5 years and _____ cases older than 2 years.

“I_{pv} I_v”: out of the total number of _____ unsolved backlog cases, there are _____ cases older than 5 years and _____ cases older than 2 years.

In the non-litigation matter:

“O”: out of the total number of _____ unsolved backlog cases, there are _____ cases older than 5 years and _____ cases older than 2 years.

“P”: out of the total number of _____ unsolved backlog cases, there are _____ cases older than 5 years and _____ cases older than 2 years.

II

OBJECTIVES AND PRINCIPLES OF THE PROGRAM

The objective of this Program is to introduce and implement measures that would provide for the timely performance of tasks in the court in accordance with the Book of Court Rules and with the corresponding positive legal regulations that serve to regulate the organization of courts and the work of judges, as well as compliance with the deadlines prescribed in procedural laws.

The following techniques, used to improve backlog reduction and prevention by speeding up court proceedings, shall be applied during the implementation of the Program.

The Court hereby adopts the following concrete objectives for the period lasting until December 31, 2012:

- To reduce the total number of unsolved backlog cases in the _____ matter that are older than 2 years by _____ % in comparison to the number of unsolved cases from December 31, 2011;

- To reduce the total number of unsolved backlog cases in the _____ matter that are older than 2 years by ____ % in comparison to the number of unsolved cases from December 31, 2011;
- To reduce the total number of unsolved backlog cases in the _____ matter that are older than 2 years by ____ % in comparison to the number of unsolved cases from December 31, 2011;
- To fully complete all the backlog cases in criminal, civil, and enforcement matters that are older than 5 years; and
- To reduce the total number of the court's old cases by _____ %.

Backlog cases will receive a priority status and must be solved in chronological order, as they have been filed in the court, except in emergency backlog cases. In accordance with the law or by decision of the President of the Court Department, certain cases can receive special priority (for example, when a criminal case is in danger of violating the statute of limitations).

The Acting Court President will form a backlog reduction team consisting of the following members: Court President, Deputy Court President (one or more), President of the Department, judges from the Court Practice Department, Head of the Registry Office, Court Secretary, and information technologies (IT) specialist. The team will be charged with the creation and monitoring of the annual backlog reduction program.

III

MEASURES AND TECHNIQUES FOR THE IMPLEMENTATION OF THE PROGRAM

A) CREATION AND OPERATION OF BACKLOG REDUCTION TEAMS

- 1) Presidents of all departments included in the Program will form their own expert teams. The teams will consist of: two judges from each department, a Registry Office clerk, and a delivery person (if delivery happens to have caused the backlog). If possible, each team should include a retired judge.
- 2) The team will review the backlog cases, meet with the judges to whom these cases have been allocated, discuss the cases, and provide recommendations about the steps that could be taken to facilitate the conclusion of the cases. Judges working on these cases will have the right to accept advice/recommendations or to follow their own path, thus protecting their independence. The team should never provide a recommendation that pertains to the ruling itself. Judges acting in cases should meet with the expert team at least once per month.

B) THE ROLE OF THE REGISTRY OFFICE

- 1) The Registry Office will compile a chronological list within each type of backlogged case to be included in the Program, including the number of cases, grounds for dispute, date when the case was first filed in the court, the current phase of the case, and the next step in the proceedings. During the inventory, the Registry Office will identify and register cases that will be included in the Program and cases that will become backlogged cases in 2012. The Registry

Office will also highlight the cases that must be marked with special markings: after the filing number that has been used to file the case in the registry books of the _____ Court in _____, the year of reception of the initial act in the court will be added in parentheses, for example: PI 2/11 (2009).

- 2) During the classification and allocation of cases, Article 421 of the Book of Court Rules must be followed and the Registry Office must allocate backlogged cases to judges in an equitable manner.
- 3) Criminal “K” cases and investigative “Ki” matters should be consolidated when the defendants are the same; assign backlog cases according to this criterion to judges who have previously been assigned consolidated cases.
- 4) At the end of each quarter, the Registry Office will forward a list of backlogged cases to the Court President, all Panel Presidents, the Court Secretary, and the Head of the Registry Office. This list will be classified by legal matters and Panels, from the Case Management Software (AVP).
- 5) The list from Item 4 of this paragraph will be reviewed at the first regular session of all judges.
- 6) Case files of all the backlogged cases will be marked with a special sticker in color, or with another appropriate marking in color. For the purpose of easier monitoring, related records and receipts of expedited and returned court documents will be marked as well, in order to draw attention to said cases.
- 7) The Registry Office will keep a separate record of backlog “P” and “K” cases using a special template that includes the following information: claim filing date or another initial act; case number assigned in the regis-

try book at the time of reception, including all later changes made to the case number; initial act filing date; case type; date and type of the last action taken in the case; and next activity type and its scheduled date. Once the above information is entered into the template, the template will be taken without further delay to the acting President of the Panel who will include the reasons that influenced the length of proceedings and activities that he/she is proposing to complete the case. If possible, the President of the Panel should also provide an estimate for the amount of time needed to complete the case.

- 8) The Head of the court Registry Office must keep his/her own separate record about the movement of the oldest and regular backlog cases, and orally inform the Court President on a regular basis once every 15 days. Written reports must be forwarded simultaneously with the monthly and quarterly reports about the work of the court.
- 9) Registry Office clerks/record keepers must treat backlog cases with particular care with regard to all deadlines, especially deadlines for pre-evidence and evidence that may not exceed 15 days.
- 10) If possible, hearings in backlog cases should be scheduled every month. To enable the timely verification of delivery, these cases should be placed in pre-evidence 15 days prior to the scheduled hearing.

C) COURT DELIVERY SERVICE

- 1) The court will provide training for delivery personnel, harmonize delivery with the employees of the Postal Service, and ensure familiarity and proper use of all available opportunities for delivery. The acting Court President

nominates a judge to oversee this process. Incomplete and illegible deliveries, as well as delivery forms that do not contain necessary information, should be sanctioned. The court should also consider the possibility of delivering subpoenas and other court documents by use of electronic mail and SMS messages.

- 2) To facilitate more efficient resolution of backlogged cases, delivery will be performed efficiently by use of the court delivery services for all backlogged cases. If this cannot be done, then, at the request of the President of the panel acting in the backlogged case, the Court President can grant the court delivery person the use of an official vehicle. Delivery is also possible through the Police, or through other avenues, in accordance with the provisions of the Criminal Procedure Code and the Civil Procedure Code.
- 3) In alignment with the decision of the acting Court President, the court delivery service should organize its work in mid-shifts as well, on business days from 10:00 a.m. until 6:00 p.m.
- 4) Provisions of the Criminal Procedure Code that pertain to delivery must be applied strictly. The court delivery personnel must make a full effort when delivering documents relating to backlogged cases. They should attempt to make delivery in a timely fashion and, if necessary, attempt the delivery several times. They must inform the acting President of the panel or a judge - in a timely manner - about any problems they are encountering.
- 5) To provide for the efficient and proper delivery of court documents, the acting Court Presidents and the Heads of the Court Registry Office will hold regular monthly meetings with all staff members employed in the court's delivery service. If needed, they will hold additional meetings to address outstanding issues.

D) COOPERATION WITH OUTSIDE INSTITUTIONS

1) The court will communicate X times per month with outside institutions involved in activities that influence the work of the court: the police, the prosecutor's office, the public defender's office, correctional facilities, the local bar association, the post office, 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 to deal with problems that arise in backlog cases and the reasons for their occurrence.

E) BACKLOG PREVENTION MEASURES

- 1) The Registry Office will quickly forward all newly received cases to the acting judges. Judges, in turn, will immediately review the state of procedural assumptions necessary for the grounds of the appeal (allowability, timeliness, and completeness of the claim).
- 2) Once per month, the Court Practice Department will hold sessions where positions will be adopted about disputable legal issues that will contribute to the faster resolution of backlog cases.
- 3) Preparatory departments (if they exist) will verify process assumptions needed for the conduct of proceedings and other activities, contributing to more efficient functioning of the court. The annual schedule of tasks for the year 2012 will identify the tasks performed by the preparatory de-

partment in greater detail, as well as the judicial assistants who will execute them.

- 4) If possible within the appropriate case type, measures should be taken to conduct a mediation procedure, or to attempt to conclude a case by use of settlement, plea bargaining, or chapter XXVII of the Criminal Proceedings Code.
- 5) In order to realize this Program and strengthen procedural discipline, it is necessary to strictly apply the provisions of positive procedural laws that serve to prevent the abuse of procedural authority. Hearings should be postponed only in exceptional cases and for reasons provided by law.
- 6) For the purpose of better preparation for the trial and more efficient resolution of cases, it is hereby recommended that judges use checklists for preparatory hearings in civil matters, and for hearings in civil and criminal matters, in the form of templates that represent an integral part of this Program (Annexes 2 to 4).
- 7) In order to conduct proceedings more efficiently and write decisions more quickly, expansion and implementation of information and communication technologies will be provided in accordance with the financial abilities of the courts.
- 8) To relieve the judges from the burden of administrative tasks related to the collection of court fees resulting from the written orders of judges, during the course of the proceedings and following the finalization of the ruling, the authorized court Registry Office staff will be in charge of the court fees, starting on _____, 2012.

The above listed measures of the Program must be applied to all the court's backlog cases.

IV

MONITORING OF THE IMPLEMENTATION OF THE PROGRAM

In line with Article 12 Paragraph 6 of the Book of Court Rules, the Acting Court President will monitor and supervise the implementation of this Program to find out if it needs to be changed, supplemented, or eventually terminated.

The court backlog team should meet every three months to talk about the Registry Office's quarterly report on backlog cases and about the reports of court departments, to create a new strategy for backlog reduction, and to propose changes to the annual plan and/or quarterly and annual objectives relating to backlog reduction. The college of judges should meet every three months to review and discuss proposals of expert teams and approve the eventual changes to the annual program and the targeted number of solved backlog cases. The Court President should submit a quarterly report about the realization of the Program to the President of the immediately higher court, President of the Supreme Court of Cassation, and the Ministry of Justice.

All judges must inform the Presidents of their own departments and the Court President/Deputy Court President in a timely manner about any delays and problems they may encounter while working on cases or during the realization of this Program.

At the end of each month, the Court President must be informed about the measures taken as part of this Program.

In order to successfully realize this Program, its contents should be shared with all court employees, as well as with other institutions important to the work of this court.

This Program shall come into effect immediately.

Acting Court President

Appendix I - Annex I: Table for Tracking Number of Old Cases

#	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
	Matter	No. of judges, by matter	Total transferred	Transferred, backlog	% backlog VS total	Total received	Backlog, out of total number	% of backlog VS received	Received, by judge	Total, pending	Total pending, per judge	% of backlog per judge	Total, solved	Total backlog, solved	% of solved backlog in relation to total solved	Average solved, per judge	Inflow management	Remained unsolved	Remained unsolved, backlog	% of new VS backlog (unsolved)
	K																			
	Ki																			
	P																			
	PI																			
	I																			
	Iv																			
	O																			

1 - Court 2 - Number of judges, by matter 3 - Transferred (unsolved) at the beginning of the reporting period 4 - Transferred (unsolved) backlog cases 5 - % of backlog cases in relation to the total number of transferred cases (% of backlog cases in relation to the total number of transferred cases can be obtained by applying the following formula: "Total number of transferred backlog cases = 100: X → X = number of transferred backlog cases × 100, divided by the total number of transferred cases. What is obtained is the % of backlog cases in relation to the total number of transferred cases) 6 - Total number of cases received during the reporting period 7 – Number of backlog cases, out of the total number of received cases 8 - % of backlog cases in relation to the newly received cases (formula from Item 5 is applied here as well)) 9 – The average number of cases received, per judge, within the legal matter 10 – Total number of pending cases in the court 11 – Number of pending cases, per judge 12 - % of pending backlog cases, per judge (this % is obtained by use of the following formula: % of backlog cases in relation to the total number of cases is obtained by use of the formula: "Total number of pending cases: number of pending backlog cases = 100: X → X = number of pending backlog cases × 100, divided by the total num-

ber of cases per judge. What is obtained is the % of backlog cases in relation to the total number of pending cases, average, per judge, per legal matter) 13 - Total number of solved cases (within a legal matter) 14 – Total number of solved backlog cases 15 - % of backlog cases out of the total number of solved cases (formula from Item 5 is applied here as well) 16 – Average solved, per judge 17 – Handling of the inflow (total number of solved cases, divided by the number of received cases) 18 – Cases that remained unsolved 19 – Number of backlog cases, out of the previous number 20 - % of backlog cases in the total number of unsolved cases (formula from Item 5 is applied here as well)

Appendix I - Annex 2: List of Backlog Cases

LIST OF BACKLOG CASES

Date: _____ Old cases as of (date): _____

Judge (name) _____ Matter: _____

LIST THE CASES IN ORDER IN WHICH THEY HAVE BEEN FILED, STARTING WITH THE OLDEST CASE

Case number	Filing date	Case type	Last activity/ date	Next scheduled activity / date	Action to be taken	Reason for the length of pro-ceedings – problem	Loose estimate of time of conclusion of the case

Appendix I - Annex 3: List for the Preparatory Hearing

1. Verify the completion of the initial act.
2. Are there procedural obstacles to conduct the proceedings?
3. Which factual issues are undisputed?
4. Which factual issues are disputed?
5. What evidence is necessary to reach a decision regarding these issues?
6. Which legal issues are undisputed?
7. Which legal issues are disputed?
8. What is necessary to resolve these issues?
9. How much time will the sides need to present their evidence at the main hearing?
10. How many hours will be needed for the main hearing?
11. When will the main hearing be conducted?
12. What should be prepared so that the parties exchange information?
13. Will court experts be needed? If so, what kind of expertise will be necessary? What is the deadline for the court expert's report?
14. Are there any language barriers that require the services of an interpreter or some other type of assistance?
15. Will audio/video equipment be needed at the main hearing?
16. Did the parties consider the possibility of settlement? Would they consider mediation?

Appendix I - Annex 4: Civil Case Management Checklist

1. Use time standards in case processing.
2. Orchestrate early intervention to bring attention to the case as soon as possible.
3. Schedule early preparatory hearings related to the case.
4. Ensure proper preparation of attorneys and parties.
5. Identify key issues.
6. Identify the schedule of court activities.
7. Investigate the possibility of settlement.
8. Conform to the schedules of attorneys within reason.
9. Accept the fact that there may be cases when it is necessary to change the schedule.
10. Expect the attorneys and parties to inform the court in advance about the requested postponements and to provide explanations and reasons.
11. Develop and apply sanctions in case of abuse of postponement by attorneys or parties.
12. Classify the cases according to complexity by use of objective categories: number of claims and counter-claims, number of parties in proceedings, number of other participants in proceedings (intervener, witnesses, and court experts).
13. Honor deadlines set for court activities.
14. Create a schedule of hearings in the case after consultations with attorneys or parties who are representing themselves.
15. Express expectation that court activities will take place on scheduled dates.
16. Develop methods for the monitoring of the efficiency of scheduling.

Appendix I - Annex 5: Criminal Case Management Checklist

1. Verify the completion of the initial act.
2. Which factual issues are undisputed?
3. Which factual issues are disputed?
4. What evidence is necessary to reach a decision regarding these issues?
5. Which legal issues are undisputed?
6. Which legal issues are disputed?
7. What is necessary to resolve these issues?
8. How much time will the sides need to present their evidence at the main hearing?
9. How many hours should be planned for the remaining hearings?
10. When will they be conducted?
11. Will court experts be needed? If so, what type of expertise will be necessary?
12. When is the deadline for the court expert's report?
13. Are there any language barriers that require the services of an interpreter or some other type of assistance?
14. Will audio/video equipment be needed at the main hearing?

UNOFFICIAL TRANSLATION

**APPENDIX 2: MEMORANDUM OF
UNDERSTANDING WITH
POSTAL SERVICE**



Republic of Serbia
THE BASIC COURT IN SUBOTICA
Su.II-14 Number 6/11
Date: August 18, 2011
S U B O T I C A

On August 18, 2011,

The Basic Court in Subotica, represented by Acting Court President Rozalija Tumbas, and

the Public Company for Postal and Telegraph Traffic “Serbia”, the Working Unit of Postal Traffic “Subotica” (hereinafter: the Postal Service “Serbia”, Working Unit “Subotica”), represented by Director Nebojša Daković,

concluded the following

MEMORANDUM OF UNDERSTANDING

The Basic Court in Subotica and the Postal Service “Serbia”, Working Unit “Subotica”, as signatories of this Memorandum,

hereby express their consent about the need to regulate and improve their mutual cooperation.

The signatories of this Memorandum hereby express their joint opinion that greater mutual understanding of the roles and responsibilities from the scope of the parties' competences shall significantly contribute to faster case processing and reduction of the number of old cases that represent the end goals of this Memorandum.

Article 1

Mutual cooperation of the signatories of this Memorandum shall be fulfilled in accordance with positive statutory regulations of the Republic of Serbia that influence their mutual cooperation; the signatories of the Memorandum shall, therefore, consistently comply with all positive statutory regulations as well as with internal acts, recommendations, measures, instructions and conclusions resulting from a mutual agreement about the interpretation and implementation of positive statutory regulations important for their work and mutual cooperation, or from an achieved oral or written compromise.

The signatories of this Memorandum shall take care to resolve, in agreement and without delay, any and all misunderstandings and difficulties that might eventually occur during the implementation of the Memorandum, guided by principles of efficiency and economy of court proceedings.

Article 2

The signatories of the Memorandum shall create a database that shall serve as the basis for their permanent, full-day, and unhindered cooperation. The database shall contain the first and last names of persons appointed as contacts on behalf of the Ba-

sic Court in Subotica and the Working Unit “Subotica”, addresses, telephone numbers, e-mail addresses, as well as other information that shall facilitate the communication between the signatories. The described database shall also contain information about deputies of persons appointed as contacts on behalf of the signatories.

The signatories of the Memorandum shall also, upon special request, forward each other all other information they might acquire while performing their duties, if such information is deemed potentially important for the performance of tasks from the scope of competences of the signatories of the Memorandum.

Article 3

The signatories of this Memorandum shall inform each other in a timely manner about all changes relating to the information contained in the established database described in Article 2 of this Memorandum. The Court shall be informed through the Court Secretary, who shall inform all the judges and court staff about the changes without delay.

Article 4

While performing deliveries in rural areas, the Postal Service “Serbia”, Working Unit “Subotica” shall, whenever possible, provide assistance to the Court in order to facilitate the timely and proper delivery of court documents; in accordance with its abilities and depending on the number of parcels, the Basic Court in Subotica shall take into consideration the schedule of deliveries in rural areas.

The Postal Service “Serbia”, Working Unit “Subotica” shall inform the Basic Court in Subotica about any and all changes to the schedule, by use of electronic mail.

Article 5

During the transport, the Postal Service “Serbia”, Working Unit “Subotica” shall pay greater attention to court documents in order to ensure that documents are delivered or returned to the Court undamaged or unopened.

Article 6

The Postal Service “Serbia”, Working Unit “Subotica” shall forward the Basic Court in Subotica the needed and valid postal numbers and other postal designations, as well as the electronic search engine. This shall serve to enable the Court to more easily locate the needed postal designations, preventing the Court from incorrectly expediting court documents, and to provide the Postal Service with a precondition needed for timely delivery.

Article 7

Through its systems of internal controls, and to the greatest extent possible, the Postal Service “Serbia”, Working Unit “Subotica” shall endeavor to accelerate its work, directly contributing to faster case processing and increased efficiency.

The Postal Service “Serbia”, Working Unit “Subotica” shall consider the possibility to introduce the delivery of court documents during the afternoon hours within the city limits.

Article 8

The Basic Court in Subotica, as a signatory of this Memorandum, shall ensure that all parcels expedited by the Court are neat and legible, thus enabling the Postal Service to act upon them in a timely and proper manner.

Article 9

In the case of future problems with delivery, the Basic Court in Subotica shall first contact the “Delivery Controllers”, an internal body of the opposing signatory party. They control the work of the Postal delivery service in the field, and their contact information shall always be available and updated. Only after the Delivery Controller fails to take adequate measures from the scope of his/her competences shall the Court address the Head of the Postal Service. The Postal Service “Serbia”, Working Unit “Subotica” shall forward the information – first and last names as well as telephone numbers - of persons performing the duties of Delivery Controllers.

Paragraph 1 of this Article does not exclude the possibility for a judge to directly contact the Head of the Postal Service should he/she find it necessary in a concrete case.

Article 10

If one of the Memorandum’s signatory parties should find it impossible to act upon a request of the opposing signatory party, it shall inform the opposing party without delay about the reasons that are preventing it from acting upon a said request.

Article 11

Considering the fact that the delivery of decrees on enforcement is regulated differently in the provisions of the Law on Enforcement and Securing of Claims (“The Official Gazette of the Republic of Serbia “No. 31/11), the Postal Service “Serbia”, Working Unit “Subotica” and the Basic Court in Subotica – having reviewed these provisions and the possibility of their implementation – shall conclude a special technical agreement about delivery in the enforcement proceedings.

Article 12

The signatories of this Memorandum hereby express their agreement, readiness, and willingness to continue their mutual cooperation, to work jointly to overcome any problems that they might face in their mutually connected activities, to modernize and, in practical terms, simplify both the expedition and their mutual cooperation.

Article 13

The signatories of this Memorandum shall – periodically, depending on the need, yet no less than once per year – hold meetings between the representatives of the signatory parties to analyze the cooperation defined in this Memorandum and find additional concrete ways to implement it.

Article 14

The implementation of measures foreseen in this Memorandum shall not include a time limitation. The Memorandum itself may be signed by other Working Units of the Postal Service “Serbia” if they are important to the functioning of the Basic Court in Subotica. Should additional Units sign the Memorandum, they shall be obligated to comply with all the principles contained within, as well as with the already established good practice.

On behalf of the Basic Court in Subotica,
Acting Court President

Rozalija Tumbas

On behalf of the Public Company for Postal and Telegraph Traffic “Serbia”, the Working Unit of Postal Traffic “Subotica”,

Director of the Public Company for Postal and Telegraph Traffic “Serbia”, the Working Unit of Postal Traffic “Subotica”

Nebojša Daković

UNOFFICIAL TRANSLATION

APPENDIX 3: PROTOCOL ON COOPERATION WITH POSTAL SERVICE

On September 23, 2010,

the Basic Court in Užice, represented by the Acting
Court President, Branka Janković

and

the Public Postal Service "Serbia, Working Unit "Užice",
represented by Deputy Director, Nenad Mijailović

concluded the following

PROTOCOL ON COOPERATION

The Basic Court in Užice and the Postal Service "Serbia" Working Unit "Užice", as signatories of this Protocol, hereby express their consent about the need to regulate and improve their mutual cooperation.

The signatories of this Protocol hereby express their joint conviction that greater mutual understanding of roles and responsibilities from the scope of the parties' competences shall significantly contribute to faster case processing and a reduction of the number of backlog cases that represent the end goals of this Protocol.

Article 1

Mutual cooperation of the signatories of the Protocol shall be realized in accordance with the positive statutory regulations of the Republic of Serbia that may influence their mutual cooperation; the signatories of the Protocol shall, therefore, consistently comply with all the positive statutory regulations as well as with internal acts, recommendations, measures, instructions and conclusions resulting from a mutual agreement about the interpretation and implementation of positive statutory regulations important for their work and mutual cooperation, or from an achieved oral or written compromise.

The signatories of this Protocol shall take care to resolve, in agreement and without delay, any and all misunderstandings and difficulties that might eventually occur during the implementation of the Protocol, guided by principles of efficiency and economy of court proceedings.

Article 2

The signatories of the Protocol shall create a database that shall serve as the basis for their permanent, full-day, and unhindered cooperation. The database shall contain the first and last names of persons appointed as contacts on behalf of the Basic Court in Užice and the Postal Service Working Unit “Užice”, addresses, telephone numbers, e-mail addresses, as well as other information that shall facilitate the communication between the signatories. The described database shall also contain information about deputies of persons appointed as contacts on behalf of the signatories of the Protocol.

The signatories of the Protocol shall also, upon special request, forward each other all other information they might acquire while performing their duties, should such information be deemed

potentially important for the performance of tasks from the scope of competences of the signatories of the Protocol.

Article 3

The signatories of this Protocol shall inform each other in a timely manner about all the changes relating to the information contained in the established database described in Article 2 of this Protocol. The Court shall be informed through the Court Secretary who shall inform all judges and court staff about changes without delay.

Article 4

While performing deliveries in rural areas, whenever possible, the Postal Service “Serbia”, Working Unit “Užice” shall provide assistance to the Court, to facilitate the timely and proper delivery of court documents.

Article 5

During the transport, the Postal Service “Serbia”, Working Unit “Užice” shall pay greater attention to court documents in order to ensure that documents are delivered or returned to the Court undamaged or unopened.

Article 6

The Postal Service “Serbia”, Working Unit “Užice” shall forward the Basic Court in Užice the needed and valid postal numbers and other postal designations, as well as the electronic search engine. This shall serve to enable the Court to more easily locate the needed postal designations, preventing the Court from incor-

rectly expediting court documents, and provide the Postal Service with a precondition needed for a timely delivery.

Article 7

Through its systems of internal controls and to the greatest extent possible, the Postal Service “Serbia” Working Unit “Užice” shall endeavor to accelerate its work, directly contributing to the faster case processing and increased efficiency.

Article 8

The Basic Court in Užice, as a signatory of this Protocol, shall ensure that all the parcels expedited by the Court are orderly and legible, thus enabling the Postal Service to act upon them in a timely and proper manner.

Article 9

In the case of future problems with delivery, the Basic Court in Užice shall first contact the “Delivery Controllers”, an internal body of the opposing signatory party that controls the work of the Postal delivery service in the field. Their contact information shall always be available and updated. Only after the Delivery Controller fails to take adequate measures from the scope of his/her competences shall the Court address the Head of the Postal Service.

Paragraph 1 of this Article does not exclude the possibility for a judge to directly contact the Head of the Postal Service, should he/she find it necessary in a concrete case.

Article 10

If one of the Protocol's signatory parties should find it impossible to act upon a request of the opposing signatory party, it shall inform the opposing party without delay about the reasons that are preventing it from acting upon a said request.

Article 11

Whenever possible, the signatories of this Protocol shall propose and consider the possibility of certain financial advantages, in view of the fact that the court represents one of the most significant customers of the Postal Service "Serbia", Working Unit "Užice".

Article 12

The signatories of this Protocol hereby express their agreement, readiness, and willingness to continue their mutual cooperation, to work jointly to overcome any problems that they might face in their mutually connected activities, to modernize and, in practical terms, simplify both the expedition and their mutual cooperation.

Article 13

The signatories of this Protocol shall – periodically, depending on the need, yet no less than once per year – hold meetings between the representatives of the signatory parties in order to analyze the cooperation defined in this Protocol and find additional concrete ways to implement it.

Article 14

The implementation of measures foreseen in this Protocol shall not include a time limitation. The Protocol itself may be signed by other Working Units of the Postal Service “Serbia” if they are important to the functioning of the Basic Court in Užice. Should additional Units sign the Protocol, they shall be obligated to comply with all the principles contained within, as well as with the already established good practice.

On behalf of the Basic Court in Užice,

Acting Court President

Branka Janković

On behalf of the Public Company for Postal and Telegraph Traffic “Serbia”, the Working Unit of Postal Traffic “Užice”,

Deputy Director of the Public Company for Postal and Telegraph Traffic “Serbia”, the Working Unit of Postal Traffic “Užice”

Nenad Mijailović

UNOFFICIAL TRANSLATION

**APPENDIX 4: PROTOCOL ON
COOPERATION FOR FAMILY
LAW DISPUTES**

**REPUBLIC OF SERBIA
THE BASIC COURT IN VRŠAC
Number: I-I 50/2011
September 12, 2011
V R Š A C**

On September 12, 2012,

The Basic Court in Vršac, represented by the Acting Court
President Cveta Kajević-Grubišić,

and

The Center for Social Services of the Vršac Municipality,
represented by Director Mr. Miodrag Talpeš,

The Center for Social Services of the Bela Crkva Municipal-
ity, represented by Director Mrs. Vera Smiljanić,

The Center for Social Services of Plandište, represented by
Director Mrs. Đurđevka Tafra,

The Vršac branch of the Bar Association of Vojvodina, repre-
sented by attorney Mr. Lazar Guteša

Are hereby signing the following

PROTOCOL ON COOPERATION WITH THE OBJECTIVE TO ACCELERATE THE PROCEEDINGS IN FAMILY DISPUTES

This Protocol is signed with the objective to facilitate the implementation of activities aimed to accelerate the proceedings in family disputes. In accordance with the provision of Article 204, Paragraph 1, of the Family Law of the Republic of Serbia (“The Official Gazette of the Republic of Serbia” No. 18/2005), these types of cases are deemed urgent if they include a child or a parent with custody. According to Paragraph 2 of the same Law, such cases must be concluded after no more than two hearings. The urgency of these proceedings reflects in the fact that the first hearing is scheduled within a period of 15 days from the day the claim has been received by the court.

During the six years of implementation of the Family Law, this court had achieved very satisfying results. This can be confirmed by the fact that the majority of disputes are concluded within a very short period of time. Guided by the investigative principle in cases involving family relations, and in accordance with Article 205 of the Family Law, the court is allowed to examine the facts even when they are not disputed by the parties; the court may also, on its own, examine the facts that were never introduced by any of the parties. However, in practice, regarding the implementation of provisions of the Law, the need existed for additional activities that would further accelerate the proceedings.

I. DIFFICULTIES CAUSED BY DEFICIENCIES IN INITIAL ACTS

According to Article 210, Paragraph 1, of the Family Law, procedures that determine the existence of a marriage, as well as annulment and divorce proceedings (marriage disputes), are initiated

by a claim. According to the provision of Article 202 of the same Law, provisions of the Law that regulate civil proceedings apply to the court activities related to family relations cases, unless otherwise provided in the Law itself. According to the provision of Article 187, Paragraphs 1 and 2, of the Law on Civil Proceedings, the claim must include a specific request with regard to the main matter as well as subsidiary requests; facts on which the plaintiff is basing his/her request; evidence that serves to determine the facts; the value of the claim; and other necessary information. The plaintiff whose residence/seat is abroad must name a proxy in the claim who will be in charge of receiving documents. Without the appointment of a proxy, the claim will be rejected. According to the provision in Article 100, Paragraphs 2 and 3, of the Law on Civil Proceedings, documents must be comprehensible and must contain all the information necessary for court action. They must include, in particular: the title of the court, name and last name, title of the company, residence/seat addresses of parties, their legal representatives and proxies, if appointed, subject of the claim, content of the statement, and the signature of the submitter. If the statement contains a request, the party must state in the document the facts on which the request has been based and include evidence, if needed.

It had been noted in practice that even when acts/claims are produced by attorneys, and particularly if they are created by parties themselves, they do not contain everything that is necessary for the court to act upon such claims and conclude the evidence proceedings in as little time as possible. Statements of fact in claims are most often very basic and insufficient for the court decision-making, the plaintiff often fails to include evidence along with the claim, and it is often impossible – from the content of the claim – to decide on the basis of which evidence the court will determine the key facts that are necessary for the decision-making process. Consequently, we feel that it would be useful to offer legal aid to parties as they are creating initial acts in fam-

ily disputes. Considering the fact that the Basic Court no longer provides legal aid to parties, and that no such aid is provided by the municipality, it will be necessary, within the Centers for Social Services, to engage - at least twice per week for a period of two hours – graduated lawyers employed by the Social Services. They would provide legal aid to parties during the creation of initial acts in these types of disputes. Additionally, it is possible to engage attorneys through the Vršac branch of the Bar Association of Vojvodina who would be willing to provide such assistance to parties, at the time that suits them and depending on their obligations and availability. Parties should be informed about the existence of this option. Grounds for this type of engagement may be found in the Law on the Bar, as well as in the provision of Article 12, Paragraph 1, of the Family Law according to which the tasks related to family protection, assistance to the family and custody are to be performed by the Center for Social Services; and in the provision of Article 2 of the same Law according to which the family is entitled to special protection of the State. In accordance with Article 278, Paragraph 2, of the Family Law, a child support claim may be filed by the custody institution as well. Accordingly, the Basic Court has taken part in these activities by creating the most common and most often used forms of initial acts, to be used in family disputes that appear most often and in large numbers before this court.

The length of proceedings are negatively influenced by the fact that the plaintiff often does not possess correct information about the address and residence of the respondent, resulting in unsuccessful attempts to deliver claims and subpoenas, in light of the fact that cases involving family relations do not require a response to the claim. This is why it is necessary to include unique personal national ID numbers in claims. Once the ID numbers are present, the court, in cooperation with the Vršac Police headquarters, can very easily obtain information about the address of the respondent from the Police records, as well as through in-field verification of citizens' true residences. To date, this sort of coop-

eration has functioned very well and we hope that the trend will continue in the future.

According to the provision of Article 221 of the Family Law, if a claim is submitted by the party's proxy in a marriage dispute, the power of attorney must be certified and issued solely for the purpose of representation in the said marriage dispute. The power of attorney must contain information about the type of claim as well as grounds for the claim. We have had many cases in practice where claims have been filed by attorneys who did not possess a certified power of attorney.

Divorce proceedings are initiated by a proposal for an amicable divorce. In a marriage dispute that has been initiated by a proposal for an amicable divorce, spouses may not be represented by the same person with the power of attorney. Such proposals are also often forwarded to the court signed by only one of the spouses. According to the provision of Article 40, Paragraph 2, of the Family Law, a divorce agreement must include a written child custody agreement and a written agreement about the division of joint property. With this in mind, in order to assist the disputed parties, we have created a type-form of these written agreements. The creation of the agreement on joint or individual custody of children is prescribed in provisions of Articles 76 and 78 of the Family Law. According to Article 225, Paragraph 2, of the Family Law, the spouses' agreement about the division of joint property is included in the verdict that terminates the marriage on the basis of a divorce agreement.

A support/alimony claim may be filed by any person entitled to support according to the Family Law. The proceedings involving support are considered particularly urgent. The first hearing is scheduled within a period of eight days from the day of the filing of the claim in the court. Difficulties regarding the implementation of this provision arise due to the fact that the Basic Court in Vršac does not have specialized panels for family disputes. Such cases are

tried by all the judges of the Civil Department, along with their other civil and family cases. Considering the extensive workload of judges, it is sometimes difficult to honor such tight deadlines. This is why it is particularly important that initial acts be correct and complete, so that the court can act upon them as soon as possible. For this reason, we have created type-forms for claims that occur most often in disputes involving support.

2. COOPERATION WITH THE SOCIAL SERVICES

According to the provision of Article 270 of the Family Law, before the court makes a decision about the protection of the right of a child or about custody/termination of custody, it must request a finding and an expert opinion from the custody institution, a family counseling service, or another institution specialized to act as a liaison in family-related situations. Most often, the court seeks and obtains the opinion/evaluation of parental fitness from the Social Services. The decision of the Appellate Court in Novi Sad that the Center for Social Services is not a proper court expert is a valid and correct one. The Center's professional opinion represents a preliminary condition for a court decision on the protection of the rights of a child; therefore, according to Article 253 of the Law on Civil Proceedings, a disputing party is not authorized to request the recusal of the Center for Social Services. Dissatisfied parties tend to use this request to an ever greater extent in order to procrastinate their cases. Previous cooperation of the court with the professional services of the Center for Social Services had been assessed as very successful. Despite the difficulties, the Center always did its best to honor the deadlines set by the court, and there were no cases of unjustified procrastination due to the lack of requested opinions. The cooperation was particularly intense in cases that involved proposed temporary measures in family disputes, when opinions about the validity of temporary measures had been forwarded very quickly – within days – as re-

quired by the court. We propose that a meeting be held once every three months between the professional teams of Centers of Social Services and the judges of the Basic Court who act in family matters, with the objective of solving the current problems in order to facilitate speedier proceedings.

3. INSTITUTIONAL COOPERATION IN DISPUTES WITH THE OBJECTIVE TO PROVIDE PROTECTION FROM FAMILY VIOLENCE

The cooperation between the signatories of the Protocol was particularly successful in disputes initiated for the purpose of providing protection from family violence. Judges of the Basic Court, along with representatives of the Center for Social Services, the Basic Public Prosecutors Office, representatives of the Vršac Police headquarters, Special Psychiatric Hospital “Dr. Slavoljub Bakalović” in Vršac, the General Hospital in Vršac, Public Health Facilities in Vršac, Plandište and Bela Crkva were educated by the Autonomous Women’s Center through participation and training at the seminar titled “Family Violence and Institutional Protection” that represented a part of the basic Professional Training Program accredited with the Ministry of Labor and Social Policy within the project of the Provincial Secretariat for Labor, Employment and Gender Equality titled “Toward a Comprehensive System for the Suppression of Violence against Women in Vojvodina”. The following seminars have been organized as part of the training: “Violence in the Family and Institutional Protection”, “Organization of Case Study Conferences on the Protection from Family Violence” and “Coordinated Action of the Local Community to Prevent Violence in the Family and Provide Protection against It”. Positive effects were noticed in practice as a result of the fact that all the institutions were trained to recognize forms of family violence and, consequently, to act in a preventive manner, to notice such behavior on time, and to take appropriate statutory measures to prevent

it. When needed, the Center for Social Services would organize case study conferences. At these conferences, on the same day when they would find out about a case of family violence, representatives of the Court, the Center for Social Services, the Police headquarters, the Basic Public Prosecutors Office, Special Psychiatric Hospital “Dr. Slavoljub Bakalović” in Vršac, General Hospital in Vršac, City Health Facilities in Vršac, Plandište and Bela Crkva would perform an assessment of measures needed to be taken in order to prevent further violence and lessen the consequences. Disputes involving family violence have been tried as particularly urgent, with the assistance of all the above listed institutions. Considering the fact that, in practice, violence appears in a multitude of forms, it is necessary to organize a wider education of citizens on this topic. It is also necessary to legally regulate the system of protection of victims of violence; in various proceedings conducted against the perpetrator, from the criminal to the family matter, victims are made to testify many times about violent behavior they suffered, with negative and serious consequences to their mental health. In this area, we have established good cooperation with the Special Psychiatric Hospital “Dr. Slavoljub Bakalović” in Vršac, the General Hospital in Vršac, as well as with Public Health Facilities in Vršac, Plandište and Bela Crkva.

4. THE ROLE OF THE BASIC PUBLIC PROSECUTOR

The role of the Basic Public Prosecutors Office in Vršac in the processing of persons who perform family violence, as well as persons who evade their obligations related to the support of under-aged children, reflects the attitude of the State: that support happens to be a right and an obligation of family members that has been prescribed in the Family Law and that, in accordance with the law, everyone has the right to protection from family violence.

CONCLUSION

- Proceedings in family disputes can be accelerated by elimination of deficiencies in initial acts that serve to initiate such proceedings. To achieve this goal, it is necessary to provide legal aid to parties during the creation of initial acts through the assistance of the Center for Social Services and the Bar Association.
- In order to eliminate common problems in these types of cases, the Center for Social Services and the Basic Court in Vršac will organize joint meetings once every three months.
- Through further improved institutional cooperation between the signatories of the Protocol, we should strive to conclude family relations cases in as little time as possible and provide special protection to children and victims of family violence.

CENTER FOR SOCIAL SERVICES, VRŠAC

CENTER FOR SOCIAL SERVICES, PLANDIŠTE

CENTER FOR SOCIAL SERVICES, BELA CRKVA

BAR ASSOCIATION OF VOJVODINA, VRŠAC OFFICE

BASIC COURT IN VRŠAC

the 1990s, the number of people in the world who are illiterate has increased from 1.2 billion to 1.5 billion.

There are many reasons for this. One is that the population of the world is growing so fast that the number of people who are illiterate is increasing. Another reason is that the quality of education is so poor that many people who are literate are unable to read and write.

There are many ways to improve literacy. One way is to provide more schools and teachers. Another way is to provide more books and reading materials. A third way is to provide more training for teachers and students.

It is important to improve literacy because it is the key to economic development. People who are literate can read and write, and they can learn new skills and knowledge. They can also communicate with others and participate in society.

There are many organizations that are working to improve literacy. One of the most famous is the United Nations Educational, Scientific and Cultural Organization (UNESCO). There are also many local organizations that are working to improve literacy in their own communities.

It is our responsibility to improve literacy. We must provide more schools and teachers, more books and reading materials, and more training for teachers and students. We must also provide more support for literacy programs.

Let us work together to improve literacy. Let us make sure that every child in the world has the opportunity to learn to read and write. Let us make sure that every child in the world has the opportunity to participate in society.

Let us make sure that every child in the world has the opportunity to improve their lives. Let us make sure that every child in the world has the opportunity to become a literate citizen.

Let us make sure that every child in the world has the opportunity to become a better person. Let us make sure that every child in the world has the opportunity to become a better citizen.

Let us make sure that every child in the world has the opportunity to become a better human being. Let us make sure that every child in the world has the opportunity to become a better person.

Let us make sure that every child in the world has the opportunity to become a better citizen. Let us make sure that every child in the world has the opportunity to become a better human being.

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UNOFFICIAL TRANSLATION

APPENDIX 5: MEMORANDUM OF UNDERSTANDING ON MANDATORY HOSPITALIZATION

On May 9, 2011

- * The Basic Court in Vršac, represented by the Acting Court President Cveta Kajević-Grubišić; and
- * Vršac Police Headquarters, represented by the commanding officer Mr. Živko Jovanović;
- * The Basic Public Prosecutors Office, represented by Prosecutor Mr. Radislav Jovanović;
- * Service for Provision of Urgent Medical Assistance of the Vršac Public Health Facility, represented by Director Mrs. Rodika Petku-Vesić;
- * Specialized Psychiatric Hospital “Dr. Slavoljub Bakalović” in Vršac, represented by Director Mrs. Tatjana Vaskrsenski;
- * Vrsac General Hospital, represented by Director Mr. Sredoje Đurić;
- * Center for Social Services, represented by Director Mr. Miodrag Talpeš;

have signed the following

MEMORANDUM ON MANDATORY HOSPITALIZATION

The objective of this Memorandum is to regulate, in a clear and precise manner, the participation of the Service for Provision of Urgent Medical Assistance [Paramedics], General Hospital, Specialized Psychiatric Hospital “Dr. Slavoljub Bakalovi”, the Police, the Prosecutors Office, the Social Services and the Court in cases when a medical measure must be urgently implemented against the will of the patient, i.e., against the will of the representative of an incapacitated patient. This Memorandum shall serve to establish efficient and operational procedures to be utilized by the above-listed institutions that will allow – in case of need for urgent intervention/hospitalization - fast and coordinated action on the part of each institution regarding the implementation of medical measures that may be taken against the will of the patient only in exceptional cases prescribed by the Law on Non-Litigious Proceedings, the Law on Criminal Proceedings, the Law on Police, and the Law on Health Protection, and only in cases that do not deviate from medical ethics.

Once the Service for Provision of Urgent Medical Assistance is in the field to intervene in the case of a mental patient who, due to psycho-pathological issues, is directly endangering his/her or someone else’s life, safety, health or property, following the Service’s appeal, Police officers shall provide appropriate assistance without delay in order to eliminate imminent danger posed by a mentally disturbed person who, through his/her behavior, is threatening to attack the life or body of another person or take, destroy or seriously damage the property of an institution of a physical entity. Following the appeal of the General Hospital doctor on call, Service for Provision of Urgent Medical Assistance, or a psychiatric institution (Article 33, Paragraphs 1 and 2, of the Rules on the Performance of Police Tasks), Police officers shall assist the medical staff only while

the person/patient is actively resisting, and only until he/she is placed in a proper facility and the imminent danger from the patient has passed. Police officers shall implement force only if a warning or an order is unable to guarantee success.

Exceptionally and only when necessary, in the case of a person who is reasonably expected to directly endanger his/her or someone else's life or health due to mental instability, Police officers may escort such a person to a psychiatric facility with the territorial jurisdiction over the person's place of residence, or over the location where the person had been found, without a previous medical examination, and without anyone's order (Article 33, Paragraph 3, of the Rules on the Performance of Police Tasks). Since the person/patient is directly endangering the lives and health of others, in such cases he/she shall not be allowed to make a free decision about his/her life and health. A medical measure (hospitalization) shall be taken against the person/patient without his/her consent (deviating from Article 31, Paragraphs 1 and 2, of the Law on Health Protection and acting in accordance with Article 31, Paragraph 3, of the same Law). The Special Psychiatric Hospital shall admit a person brought by the Service for Provision of Urgent Medical Assistance or the Vršac Police, examine him/her, verify if he/she is already registered as a mental patient, provide a diagnosis, begin therapy, and, should the need for hospitalization be determined, decide that the person must be kept at the hospital for treatment. The hospital shall forward a report to the court in order to obtain an order for mandatory hospitalization, created and signed by two medical doctors within a period of 48 hours. The court shall then take measures and decide on mandatory hospitalization.

Should they decide that the need for mandatory hospitalization exists, the Police or the doctor on call shall inform the investigative judge on call, the Prosecutor on call, and the Social Services, in a timely manner. If possible, this should be done prior to the hospitalization itself, or following the hospitalization, in ac-

cordance with Article 33, Paragraph 3, of the Rules on the Performance of Police Tasks, so that care may be taken about the needs of the patient and his immediate environment, particularly if the case involves family violence or juvenile victims or perpetrators of acts that caused mandatory hospitalization. In cases of juveniles, parents, foster-parents or adoptive parents shall be immediately informed, or, in their absence, a professional on call in the Social Services' Mobile Team for Urgent Interventions. The Team has been created and is already functioning, consisting of representatives of the Basic Public Prosecutors Office, the Court, the Vršac Police Headquarters, the Service for Provision of Urgent Medical Assistance, and the Social Services.

If the person/patient is unconscious at the moment of intervention of the Service for Provision of Urgent Medical Assistance and the Police, or if he/she cannot provide consent for other reasons, an emergency medical measure may be taken without the provided consent (in cases of juveniles, consent is requested from parents, foster-parents or adoptive parents). If the person subjected to mandatory hospitalization had been injured, he/she shall be examined and assisted at the scene by the Service for Provision of Urgent Medical Assistance. If needed, the person shall be taken to the General Hospital where he/she shall be examined by specialist on call. The specialist shall write a report, including a diagnosis and a qualification of injuries, and a proper record shall be made (court protocol). Following a call from the Police, the investigative judge on call and the prosecutor on call shall take part in the case, upon a Police request or if they should assess that the situation requires their involvement.

The hospitalized person shall be further treated in accordance with the Law on Health Protection and provisions of the Law on Non-Litigious Proceedings.

the 1990s, the number of people in the world who are illiterate has increased from 1.2 billion to 1.5 billion.

There are many reasons for this. One is that the population of the world is growing so fast that the number of people who are illiterate is increasing. Another reason is that the quality of education is so poor that many people who are literate are unable to read and write.

There are many ways to improve literacy. One way is to provide more schools and teachers. Another way is to provide more books and reading materials. A third way is to provide more training for teachers and students.

It is important to improve literacy because it is the key to economic development. People who can read and write are able to find jobs and start businesses. They are also able to participate in the political process.

There are many organizations that are working to improve literacy. One of the most famous is the United Nations Educational, Scientific and Cultural Organization (UNESCO). There are also many private organizations that are working to improve literacy.

It is important to continue to work to improve literacy. There are still many people in the world who are illiterate, and it is our responsibility to help them learn to read and write.

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APPENDIX 6: LAWSUIT TEMPLATE

THE BASIC COURT VRŠAC

PLAINTIFF: First and last name, address of residence, national ID number, represented by proxy _____, attorney from _____.

(If the claim in a divorce dispute is filed by a party's proxy, the power of attorney must be certified and issued for the purpose of representation in the divorce dispute; the power of attorney must also state the type of claim and grounds for the claim).

RESPONDENT: First and last name, address of residence, national ID number

(If the Respondent's address of residence is unknown, a proposal should be made that the court appoint a temporary representative from the rank of attorneys).

CLAIM

Type: Divorce

The disputing parties were married in _____ (year) in _____ (town). The marriage was entered into the Registry of Marriages for the _____ registry area, under the number _____ for the year _____.

EVIDENCE: Excerpt from the Registry of Births for the Vršac registry area, entered under the number _____ for the year _____.

During the marriage the spouses had, together, one under-aged child, _____ (name), born in _____ (town) on _____ (date and year).

EVIDENCE: Excerpt from the Registry of Births for the _____ registry area, entered under the number _____ for the year _____.

Considering the fact that the relationship between the spouses was permanently and seriously damaged since confrontations, arguments and misunderstandings have been present for years, the Plaintiff left the household on _____ (date and year), terminating the joint living arrangement. Once the spouses separated, the child remained to live with the Plaintiff. In accordance with the parents' agreement, the child maintains a personal relationship with the Respondent every other weekend, from Friday at 6:00PM until Sunday on 8:00PM.

EVIDENCE: Hearing of disputed parties.

The Plaintiff lives in a family house owned by her parents. She lives in a joint household with her parents who are pensioners and whose only source of income are their pensions, in the amount of _____ RSD. The Plaintiff is employed at _____ (It is very important to state the correct title and seat of the em-

ployer. This enables the court to obtain a report about the Plaintiff's income immediately). She supports the under-aged Plaintiff from her income. She has no other income, and no other assets of significant value.

EVIDENCE: A report on the income of the Plaintiff, and a report on the Plaintiff's parents' pension amounts.

The monthly expenses of the joint household of the Plaintiff are: _____ RSD for electricity; _____ RSD for heating and other communal services; _____ RSD for the telephone; _____ RSD for groceries; and _____ RSD for personal and residential hygiene. The under-aged female Plaintiff is a fifth grade student at the Elementary School "Vuk Karadžić" in Vršac. The expenses of the under-aged Plaintiff are: _____ RSD per year for books and school supplies; _____ RSD per month for clothing; _____ RSD for recreational sports; _____ RSD for school snacks; _____ RSD per year for school annual trips; and _____ RSD for the summer vacation. The under-aged child receives child support in the amount of _____ RSD.

EVIDENCE: Copies of bills, and the hearing of the Plaintiff in the capacity of Party in Proceedings.

The Respondent lives in a rented apartment, is employed at _____ (company) where, according to the information available to the Plaintiff, he is earning a monthly income of _____ RSD.

EVIDENCE: Report on the income and the hearing of disputed parties.

To date, the Respondent has not been paying child support.

EVIDENCE: The hearing of disputed parties.

During the marriage, the disputing parties acquired joint movable property that has not been divided.

The Plaintiff proposes that, having considered the presented evidence, the Court make the following

RULING

THE MARRIAGE of the disputing parties _____ from _____ and _____ from _____, married by the authorized marriage official for the _____ registry area on _____ (date and year) in Vršac, marriage entered into the Registry of Marriages for the Vršac registry area under the number _____ for the year _____, is hereby **TERMINATED**.

Mother _____ hereby receives full parental custody of the under-aged child of the disputed parties, _____ (name), born in Vršac on _____ (date), national ID number _____.

As the child's father, the Respondent shall maintain a personal relationship with the child every weekend, from Saturday at 10:00AM until Sunday at 8:00PM; for 20 days during the summer vacation period; for 10 days during the winter vacation period; on the second day of the New Year's celebration; on the second day of the Christmas celebration; on the second day of the Easter celebration; on the day of the father's birthday _____ (date); on the day of the father's Saint's Day _____ (date); and on the day following the child's birthday. Once the ruling becomes final, the father shall pick up the child in front of the mother's house and return her to the same venue at a specific time, until

the parents reach a different agreement or until there is a different court Ruling.

As a father, the Respondent _____ (name) shall pay in the name of support of the under-aged child _____ 50% of his monthly income realized at his place of employment _____ (employer) after taxes and social contributions, starting on July 1, 2011 as the day of the filing of the claim, and continue for as long as there are statutory grounds for such action. Child support must be paid no later than by the 5th of the month for the current month, to the current account of the legal representative of the under-aged child, mother _____ (name) at the Commercial Bank AD Belgrade, branch in Vršac, account number _____, under the threat of forced enforcement.

The property that the spouses had acquired during the marriage shall be divided as follows: the Plaintiff shall receive the automobile with registration plates VŠ_____, the furniture from the child's room, and the kitchen furniture, while the Respondent shall receive the living room furniture, and the fridge _____ (type/brand). On the basis of this Ruling, the Plaintiff is allowed to register the vehicle in her name.

Both parties shall be responsible for their own court expenses.

PLAINTIFF

APPENDIX 7: GUIDELINES FOR ANNUAL BACKLOG REDUCTION PLAN

GUIDELINES FOR ANNUAL BACKLOG REDUCTION PLAN

Article 12 (draft), Book of Court Rules

The Court President shall create a backlog reduction program (hereinafter: the Program) at the latest by January 31 for the current year if, during the analysis of the annual work report, it is determined that there exists a larger number of unsolved cases.

The Program can introduce measures for timely performance of court work, such as changes in internal court organization, imposing additional work on judges and court staff, temporary allocation of working hours, and other measures in accordance with law and this Book of Court Rules.

The Court President can, as a part of preparation and implementation of the Program, propose sending judges from other courts and changing the annual schedule.

The Court President shall deliver the proposal of the Program for consideration to the session of all judges.

The Court President shall inform and deliver the Program to the Court President of the immediate higher instance court and to the President of the Supreme Court of Cassation.

The Court President follows and monitors the implementation of the Program on a monthly basis for changes and additions, i.e. cancellation of its further implementation.

(PROPOSED) STRUCTURAL OUTLINE OF A WRIT-TEN BACKLOG REDUCTION PLAN

- I. DESCRIPTION OF CASE BACKLOGS IN THE COURT
(narrative and charts)
- II. CAUSES OF THE CASE BACKLOGS
- III. PRIORITIES AND REDUCTION TARGETS OF THE PROGRAM
- IV. STRATEGIES FOR ACHIEVING REDUCTION GOALS AND CASE PROCESSING EFFICIENCY
 - A. INTERNAL
 - B. EXTERNAL
- V. INTERNAL REVIEW AND APPROVAL OF PLAN
- VI. REPORTING AND MONITORING

Introduction. These Guidelines are intended to assist Court Presidents in developing an annual backlog reduction plan for their courts. The Guidelines are not mandatory. They include elements that are required by Article 12 as well as other elements that are recommended, some of which are being used successfully by five courts in conjunction with the Separation of Powers Program (funded by USAID) and others that have been successful in many other jurisdictions. The two most important successes of the five courts has been the establishment of teams of experts to advise the assigned judge on backlog cases (Step 6 below) and the establishment of regular communications with outside agencies that perform tasks related to the work of the court (Step 10 below).

OTHER ELEMENTS OF THE BACKLOG REDUCTION PLAN below include a number of case processing tech-

niques designed to prevent new cases from becoming backlog cases and are appropriately included in a backlog reduction plan.

Each court is free to draw up its own backlog reduction plan in light of its particular case type backlogs and availability of time, courtrooms, and judicial and staff resources. However, the plan must include those elements required by Article 12. A well-conceived and well-presented case backlog reduction program that is implemented consistently, and monitored and reported on can be a useful tool in procuring approval from authorities for additional judges and staff when, despite the court's best efforts, case backlogs continue to grow.

The proposed steps below are ordered generally in sequence of execution.

Step 1. The court president establishes a court backlog reduction team composed of the court president, deputy court president(s), heads of case departments, judge of case practice department, chief of registry, court secretary, and IT specialist. The court team is responsible for developing and monitoring the annual court backlog reduction plan.

Step 2. The chief of registry and registry staff identify the number of cases of each type that are more than 2 years old (and investigative cases that are more than 6 months old) and more than 5 years old (and investigative cases that are more than 1.5 years old) from the date of filing.

Step 3. The court backlog reduction team circulates the information among judges and court staff and solicits opinions as to case types which should be included in the annual plan for reduction activities. Based upon feedback and other factors it considers important, the team selects one or more case types for backlog reduction activities.

Step 4. The court registry makes lists of each case type to be included in the plan, in chronological order, including case number, case name, date of filing, current status, and next step. The court registry places a colored label on each case file in the backlog program to bring attention to its importance.

Step 5. The court backlog reduction team establishes annual and quarterly reduction goals for each case type in the program after consultation with judges in the relevant case department.

Step 6. An expert team or teams are established by the head of each case department in the program. A team is composed of two judges of the department, a registry clerk, and a process server. The team may also include a retired judge. The team reviews the backlog case files, meets with the assigned judge, discusses the cases, and recommends steps to be taken to move the case toward a resolution. The assigned judge is free to follow the advice or to follow a different course, thus preserving judicial independence. The team never makes a recommendation on how the case should be decided. Meetings of the team with the assigned judge should take place at least every two weeks.

Step 7. The assigned judge files a monthly report with the head of the case department as to the number of backlog cases that have been resolved during the period, the number of backlog cases still unresolved, and the number of new cases that have become part of the backlog during the period.

Step 8. The head of the case department(s) in the program convenes a meeting each month of all judges in the department and distributes the monthly report of each judge. The judges discuss the department's backlog reduction activities and make any needed adjustments for the next month.

Step 9. The court backlog reduction team meets quarterly to discuss the quarterly backlog report provided by the Registry and case department reports, develops any new strategies for re-

ducing case backlogs, and proposes modifications to the annual plan and/or quarterly and annual case backlog reduction goals. The court collegiums meets quarterly to review and discuss the court team proposals and to approve any changes to the annual plan and reduction goals. The court president shall provide a quarterly report to the Court President of the immediate higher court, the President of the Supreme Court of Cassation, and the Ministry of Justice.

Step 10. The court president every six months informs all judges of the backlogs of each judge (case numbers, case type, age). Each judge is then required to submit a written explanation to the case department head as to why each case is still pending and the expected date of resolution. The case department heads then submit a joint report to the court president.

Step 11. The court president and deputy court presidents establish regular communications with outside agencies that have an effect on the work of the court, e.g. police, prosecutors, prisons, local bar associations, postal services, and social welfare. Meetings of the court with representatives of one or more of those agencies should also include the head(s) of the relevant case departments. The court shall endeavor to enter into protocol agreements or MOUs, including useful forms, with outside agencies as a vehicle for regularizing and stabilizing the performance of the outside agencies in their duties to the court. The court may consider creating a team of court representatives and outside agency representatives to meet periodically to address backlog problems and causes.

Step 12. The court collegium reviews and approves the annual backlog reduction plan developed by the court backlog reduction team in consultation with judges of case departments and court staff.

(PROPOSED) OTHER ELEMENTS OF BACKLOG REDUCTION PLAN

All newly filed cases shall be reviewed preliminarily by the judge, head of department, or case review unit supervised by a judge to determine the possibility of rendering procedural decisions prior to dealing with the merits of the case, e.g. lack of competence, *lis pendens*, *res judicata*, statute of limitations, amnesty, non-enforceability, lack of active or passive identity card, existence of possibility of other legal protection, inadmissibility of complaint, etc.

The head of the case department should identify and list all non-complex cases (new and old) that are identical in legal issues and regulations and have the same parties. The assigned judge can prepare one of the cases and monitor the work of judicial associates and trainees on the other cases. The work on such “type-related” cases should be urgent because of the large savings of judicial time and so that none of these cases fall into the backlog.

The Registry shall place the file of a litigation case on the desk of the assigned judge within 30 days of filing, and shall place the file of a criminal proceeding on the desk of the assigned judge within 25 days of filing.

The judge in each old and new case at an early conference and during the proceedings shall propose settlement of the case to the parties, or mediation where indicated, without prejudging the legal subject matter

Backlog cases become priority cases and are to be resolved in chronological order of filing, except that urgent backlog cases as determined by law or by the head of the case department shall receive first priority, e.g. the tolling of statute of limitations in criminal proceedings. The Registry shall not accept a new case from a judge as closed without a written explanation as to why the case was resolved out of turn if the judge has an open backlog case.

Each backlog case in its turn should be scheduled for hearing without delay and in any event within no more than 30 days. The Registry shall monitor the deadlines. Sufficient time shall be afforded for the hearing to allow for the case to be resolved after the hearing. If a date for the hearing is not timely set and could have been, the court president shall issue an order and directive.

Each old and new case should not receive more than two hearings, including the preliminary hearing, and the case should be resolved if possible at the second hearing.

Each judge shall provide an explanation as to why a backlog case was not closed. If the reasons are not strong, the court president shall make remarks in the personal file of the judge. The court president, when necessary, shall issue orders and directions to specific judges to close specific backlog cases.

Procedural discipline of each judge, i.e., strict application of procedural rules, is of significant importance in criminal proceedings and is crucial in civil and labor cases.

The judge should control and manage the individual case effectively and should use the following measures when necessary: forcibly bringing a witness or party or expert to court; imposing sanctions on a party or expert who fails to meet a deadline; concentrating all evidence at one hearing; refusing to accept new evidence in accordance with law, e.g. when the evidence could have been presented but was not presented at the preliminary hearing or in the indictment or at the guilty plea hearing; excluding irrelevant witness testimony; limiting witnesses to a reasonable number if an excessive number has been proposed; etc.

The assigned judge in all cases (old and new) shall prevent postponements except for justifiable cause, and any adjournment and the cause should be placed in the record. A civil case shall not be adjourned indefinitely but to a date fixed for hearing. The assigned judge in all cases shall sanction persons for failure to appear

or file reports. The Registry shall notify the judge if a report is not filed timely, and the judge shall urge the expert to complete the report and return the file to the court. An expert witness who fails to file a report timely without justifiable cause shall be removed from the expert list. The court should sign an MOU with every court expert.

In a criminal proceeding, if the trial judge determines during the trial that some matter or person needs to be investigated further, the trial judge shall order the investigation and shall not return the whole case to the investigative judge under Article 355. (Many criminal cases are delayed because a returned case sits in the investigative department and is forgotten.)

The court should fix a regular schedule of daily work hours for judges and staff (time of arrival and departure, number of hours for judges to work on cases, etc.) and monitor adherence to the schedule.

The court backlog reduction team should explore the possibilities of overtime work of judges and staff on backlog cases, to be paid in cash and/or days off work. The team should also consider an increase in the number of typists for the backlog program, and provide that the enforcement department shall work in two shifts. Judges who wish to work on backlog cases at home at night and/or on weekends should be allowed to remove files from the court building for this purpose, provided that the judge notifies the Registry who shall keep a record and provided that security of the files is maintained by the judge.

If the court lacks sufficient courtroom space to fully implement the backlog reduction program while attending also to new cases, the court should consider working in two shifts and on Saturdays and Sundays and working outside the court building in other available government space.

The court should adopt a collective annual leave policy, i.e. all judges and staff take summer vacation of one month at same time (e.g., July 15-August 15), except that a minimum number of judges and staff shall work during some of this period and take vacation outside the period. (Courts that have adopted this policy have found that more cases are resolved annually than when judges and staff take individual vacations at various times.)

The court should reorganize the staff so that case-related administrative tasks are performed by staff and not by the judge. The court president, where possible, should assign specified staff to assist him or her with the more simple and routine administrative tasks to enable him or her to participate more directly in the backlog reduction program by resolving some cases and advising other judges on resolution of some other cases, thus showing leadership in the program by personally helping to reduce the backlog.

Judges should be relieved of the obligation to receive parties in chambers.

The backlog reduction plan should include criteria for assigning in an equitable manner new cases to a judge or judges or panel that should be assigned to a certain judge or panel in accordance with the annual work schedule, and for reassigning backlog cases uniformly to all judges, by the court president, court secretary or head of registry, so as to prevent a concentration of old and new cases with one or several judges who will not be able to resolve them for a long period of time regardless of work efforts invested in those cases. (former Article 50 and 52, probably renumbered).

Some steps that might be taken to resolve a case(s) include: finding a way to accomplish delivery; proceeding without a certain type of expert or report; proceeding with the available evidence and not gathering additional evidence; using one expert for all cases with a common issue; and using a team to identify common

problems of groups of cases then develop common approaches for their solution.

The court should provide training for service deliverers and should coordinate with postal service employees to insure that all available alternatives for delivery are known and used properly. The court president should appoint a judge or other court representative to oversee this process. A service deliverer who fails to provide legible and necessary information on the service form should be disciplined by the court. The court should consider delivering subpoenas and other documents by e-mail and text message.

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