Rule of Law Institutional Strengthening Program (ROLISP)

Study on Recent Practices of Funding the Judicial System of the Republic of Moldova

Taking into Account International Practices of Funding the Judicial System

Rule of Law Institutional Strengthening Program (ROLISP)

USAID Contract No. AID-117-C-12-00002

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January 31, 2013

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The development and publication of this Study was made possible by the generous support of the American people through the United States Agency for International Development (USAID) within the Rule of Law Institutional Strengthening Program (ROLISP). The contents of the Study are the responsibility of the author and do not necessarily reflect the views of ROLISP, USAID or the United States

Acronyms and Abbreviations

PBB	Performance-based budgeting
GBB	Goals-based budgeting
MTBF	Medium Term Budget Framework
CEPEJ	European Commission for the Efficiency of Justice
RR	Request for Resource
SCJ	Supreme Court of Justice
SCM	Superior Council of Magistracy
DCA	Department of Consular Affairs
DJA	Department of Judicial Administration
CPI	Consumer Price Index
MoF	Ministry of Finance
MoJ	Ministry of Justice
MJCL	Ministry of Justice and Civil Liberties
ENP	European Neighborhood Policy
GDP	Gross Domestic Product
ICMS	Integrated Case Management System
CJS	Criminal Justice System
AWU	Authorized Work Unit
EU	European Union

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1. Preliminaries

The United States Agency for International Development (USAID) Rule of Law Institutional Strengthening Program (ROLISP) aims at strengthening the institutional capacity, transparency, and responsibility of key justice sector entities to guarantee the independence and to increase the efficiency and professionalism in the judiciary. ROLISP assists the Government of the Republic of Moldova to implement the 2011-2016 Justice Sector Reform Strategy.

This study has been developed with the support from ROLISP in response to a request from the Ministry of Justice of the Republic of Moldova in accordance with the program's commitment to providing necessary support to the counterparts to implement a number of initiatives in the justice sector, some of which are: increasing the efficiency of the courts management and administration, and improving the budgeting process.

The study is part of the first action *"Conducting a study on financing practices of the judiciary system in recent years, taking into account international funding practices of the judiciary system"* under the Specific Intervention Area 1.1.4 *"Creating an adequate, consistent and sustainable mechanism for financing the judiciary system by increasing its funding and by unifying the budgeting process of the judiciary system"* in the Action Plan for the Implementation of the Justice Sector Reform Strategy for the Years 2011-2016.

The study would not be possible but for the contribution of such counterpart entities as the Ministry of Justice, the Ministry of Finance and the Department of Judicial Administration. In particular we would like to express our greatest acknowledgment to Ms. Sabina Cerbu, Vice Minister of Justice, and her team, as well as to Ms. Ludmila Dimitrisin, chief of directorate of the Ministry of Finance.

2. Summary

The objectives of the study include the analysis of the judiciary in recent years, the analysis of the current budgeting framework for the judiciary, the review of the existing legal framework on the courts budgeting and the budgeting process, the analysis of the reports developed so far on funding the judiciary, and the analysis of the best European and international practices of funding judicial systems.

The study focuses on the best practices of developing and implementing court budgets some countries have adopted in recent years. It examines their methods and experience, and provides some guidelines on how to adopt them in the budgeting processes and the judicial reform programs in Moldova.

The study has also been determined by recent developments in projecting and implementing the public sector's budgets. Many more advanced countries have implemented these changes in their court administration systems, and these changes already help them to establish a performance-oriented social culture.

The need for this study was determined by the need for new, better court budgeting methods required by the Justice Sector Reform Strategy in Moldova. Judicial reforms require considerable financial support and national budgets are always the key funding source for the judiciary. Well-prepared and well-presented budgets increase chances that decision-makers and formal funders will understand and accept the need for additional funds for judicial reforms. The study also proves that well-grounded and well-implemented budgets may considerably contribute to increasing the judiciary's performance.

The purpose of this study is to highlight the advantages of new, improved courts budgeting methods. It shows that modern budgeting concepts and practices should be efficiently integrated with judicial performance and with the objectives and indicators of a strategic plan. The main premise is that an efficiently integrated approach can help to improve the tax and budget administration, and the accountability and transparency so that the objectives of the central government authorities should strengthen and support the judicial reform, including its efficiency, and the independence of the judiciary.

The study examines various budgeting and management approaches used in the public sector, particularly, the performance-oriented budgeting and management techniques, and the way they can be adapted for the judiciary. The emphasis is made on planning and managing budgets for judicial systems, particularly for courts.

We do not intend to cover all possibilities or the most recent methods or the evolution of the performance-based budgeting concept. Nor do we intend to establish rules on how the performance concepts and indicators should be applied in Moldovan courts. Rather, our purpose is to show how some of the most recent budgeting practices of the public sector can contribute to improving the performance of courts.

3. Current Courts Budgeting Context in Moldova

One of the strategic objectives of the foreign and domestic policies of Moldova is the European integration and establishing a system of security, stability and prosperity, governed by democratic values and observance of human rights and fundamental freedoms. Consequently, the efforts of the country were and are focused on the careful implementation of the commitments to EU (Partnership and Cooperation Agreement between the European Communities and their Member States and the Republic of Moldova, signed November 28, 1994, effective since July 1, 1998; EU-Moldova Action Plan as part of the European Neighborhood Policy, signed February 22, 2005 in Brussels) and to other European and international structures externally and to modernizing the country policies, economy and social structure, strengthening the political will to support reforms and identifying areas of intervention (Declaration on the political partnership to achieve the objectives of the European integration, unanimously passed by the Parliament of the Republic of Moldova on March 24, 2005)[1].

Moldovan government has constantly pursued the judicial reform. Over the past years it adopted numerous strategic documents in this area: Judicial system strengthening strategy (Parliament Decision No. 174-XVI of July 19, 2007), Enforcement system development strategy (Government Decision No. 1393 of December 12, 2007), Penitentiary system reform concept (Government Decision No. 1624 of December 31, 2003), Funding concept for the judiciary (Parliament Decision No. 39 of March 18, 2010). According to Moldova 2020 National Development Strategy, by 2020, the Republic of Moldova should have a justice system at the service of its citizens.

The objectives of the Government of Moldova related to the justice sector[2] are:

1. Establishing an efficient, professional and independent judicial system compliant with European practices;
2. Reforming the judiciary and the prosecution system to ensure the independence, impartiality, functionality and transparency of the judicial system;
3. Increasing the integrity and professionalism of the judiciary;
4. Ensuring a sustainable and efficient funding system for the judicial system.

To achieve these objectives, several actions have been proposed:

1. Creating a proper, consequent and sustainable funding mechanism for the judiciary by increasing the allocated funds, improving the regulatory framework on developing and managing courts budgets, identifying objective criteria for establishing the operating and capital courts budgets, efficiently implementing the judicial information system, developing performance indicators, using the statistical reporting systems, establishing incentives and penalties related to performance, strengthening the court's and the Ministry of Justice's financial management, internal audit and public procurement capacities. By this set of actions the government intends to implement the Funding concept for the judiciary, approved by Parliament Decision No. 39 of March 18, 2010).
2. Establishing a budget for the judiciary based on objective and transparent criteria underpinned by the assessment of the organizational, administrative, technical-material and information

[1] Strategy for Justice Sector Reform (2011-2016).
[2] Government's 2011-2014 Action Plan, approved by its Decision No. 179 of March 23, 2011

needs, and of the performance. The result of this action is the courts' budget development methodology.

The SCJ and the SCM used to submit their budget requests separately directly to the Parliament (SCJ - on its own needs and the SCM - on the needs of all other courts) since 2009. These requests are very poorly formulated and justified. As a result, the Parliament usually approves the budget requests of the SCJ and the SCM not on the basis of their requests but on the basis of the budget requests submitted by the DJA and the MoF as part of the budget line of the MoJ. For example: in 2009, the SCM requested MDL 150 million budget allocations for 2010, but it received only MDL 105 million by a Parliament Decision, mostly based on the reasons presented by the MF. Similarly, in 2011, the SCM requested MDL 160 million (EUR 10 million) but the MoF recommended to allocate only MDL 114 million (approximately EUR 6.8 million)[3]. In neither case, the representatives of the SCM could give convincing arguments explaining why its budget request was approximately 50% larger than the allocation received the previous year (perhaps, this was due to the insufficient budget planning by courts, which results in excessive funding needs estimates).

This happens because the court administration that should support the planning meets opposition. Court presidents and the SCM are generally quite reluctant to accept the idea of the MoJ based on the best European practices to implement administrators in all courts to support an efficient court management and budgeting. It is expected that the court administrators' powers will be extended to allow them to deal with public procurements and management activities, including audit, salary payment, and financial planning.

A well-functioning judiciary is an essential condition for promoting and enforcing the law, and supporting and improving the governance level in the public and non-government sector. Better laws are never enough; that is why it is necessary to have actions and institutional-organizational commitments to eliminate flaws from the budget planning and spending in the judiciary.

In many countries a key element of the judicial reform is the reorganization and modernization of the judicial system and the structure of courts. In all these cases, judicial needs and activities are funded mainly from the state (central) budget or through a combination of central (or federal) and local budgets.

Therefore, the actual implementation of the management systems and judicial reforms entail a direct confrontation of requirements and financial limitations. Learning the rules and procedures for a more efficient work with the budget constraints imposed by the government as a result of a certain economic situation in the country is often a frustrating challenge but it is necessary for those managing the judicial reforms.

Many of these challenges have three main causes. First, there are often inevitable and lasting tensions between the executive and the judiciary that derive from the fundamental principle of the judicial independence. These tensions are never as obvious or regular as in discussions on the resources allocated to the judiciary. These discussions include controversial problems of the salaries in the justice sector (especially those of judges), the need for time-consuming judicial processes (perceived as inefficiency), and the requirement to improve working conditions, particularly in courthouses. Third, there is a considerable sensibility within the judicial system on

[3] Assessment of Rule of Law and Administration of Justice for Sector-Wide Programming Moldova, September 2011, European Union, EUROPEAID 127054/C/SER/MULTI

the judicial performance and managerial responsibility. How should these problems be assessed? Who should have the authority and capacity to monitor, compare and comment actions or the efficiency of judges and the legal process? Are there any incentives for a better judicial performance and is it possible to use them to encourage the judicial performance? Each of these problems has direct implications for the financing of the judicial system.

In this context, it is necessary to justify and negotiate budget requests in an extremely politicized environment with many other needs that are justified and necessary for the society and compete for the public funds.

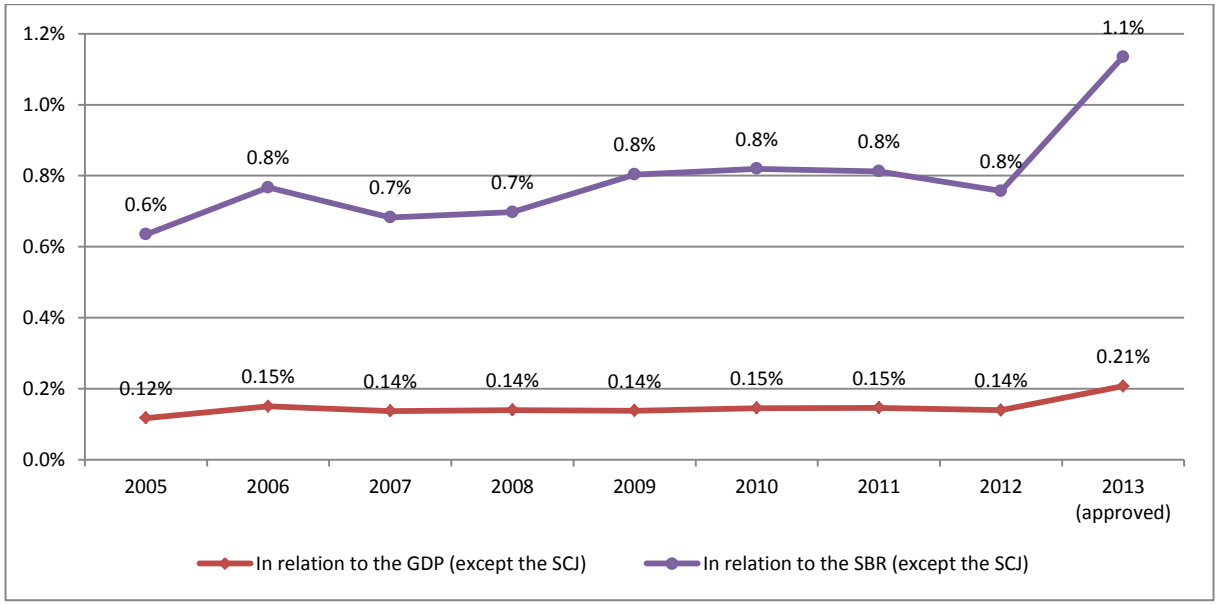
Unless the judicial budget requests are justified and expressed efficiently, the funding needs of this sector will not be recognized and it is unlikely to obtain the necessary funds, even if everybody acknowledges that the judicial reform is real, effective and needs funds.

Court presidents in Moldova are still very much involved in the financial micro-management and public procurements almost in all courts, which results in both an inefficient management and inefficient use of these professionals for dispensing justice.

In absolute terms expressed in GDP per capita, Moldovan courts receive the smallest amount in Europe, EUR 2.1 per person. Even in the countries with similar social-economic conditions courts are treated better: EUR 3.1 in the Ukraine, EUR 3.3 in Armenia and Albania, EUR 3.4 in Georgia, EUR 3.5 in Azerbaijan. This is contrast not only with the West Europe countries but also with other countries in the region (EUR 16.8 in Bulgaria, EUR 17.7 in Romania, EUR 18 in Lithuania, EUR 20.9 in Latvia, EUR 21.9 in Malta, EUR 25.5 in Estonia), which are ranked below the CEPEJ average of EUR 37.23.

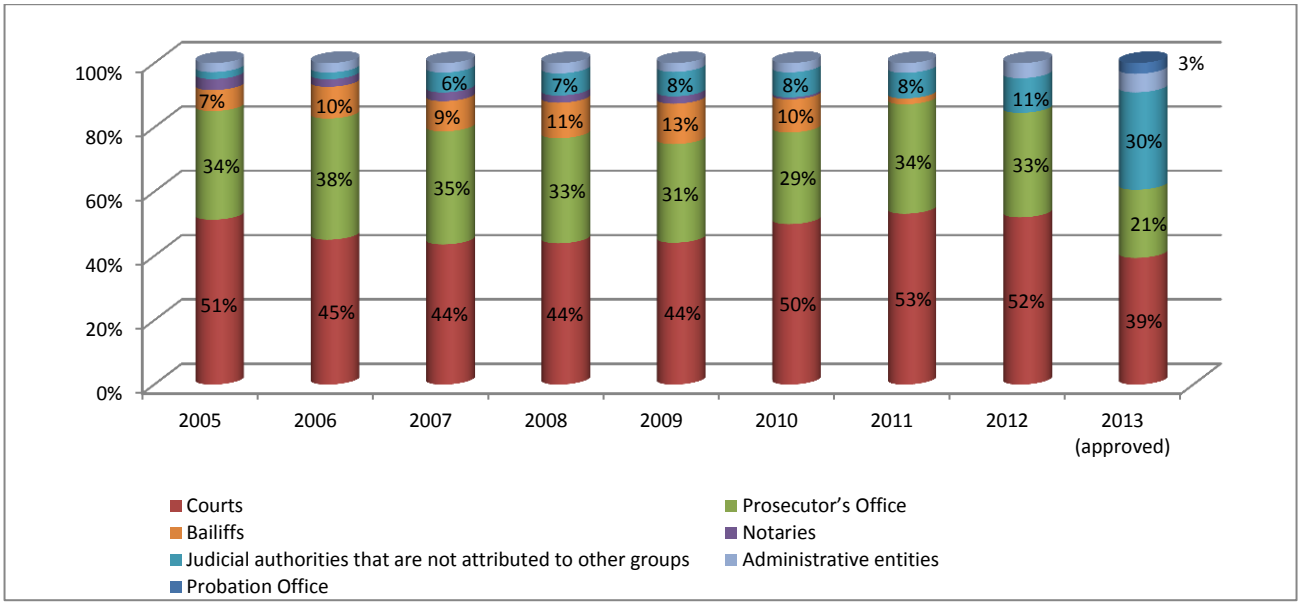
Over the period of 2005 through 2012, the ratio of the funding for the judicial system to the GDP (current prices) of the country was constant of approximately 0.14%. For 2013, this ratio is estimated to increase to 0.21%.

Figure Error! Use the Home tab to apply 0 to the text that you want to appear here.**.1. The ration of the funding for courts (basic component) to the GDP (current prices) and the State Budget Revenue (SBR)**



The ratio of the funding for the justice sector to the SBR (fiscal revenue) was also stable at approximately 0.7%. An exception was in 2013, when the funding for the sector can reach the value of 1.1% of the SBR (fiscal revenue). The explanation of the sudden increase in the funding for the sector in 2013 is that in this year a new position was implemented in courts, namely the judicial assistant, which determined the increase in the funding for the staff expenditures, and that some salaries and some capital expenditures were increased as provided for in the judicial reform.

Figure Error! Use the Home tab to apply 0 to the text that you want to appear here.**2. Funding structure for the judicial system**



The analysis of the budget structure of the judicial system shows:

1. In the period of 2005 through 2011 (possibly 2012, too), some 44% or 53% of the total funds allocated for the judicial system were used for courts.
2. Although in 2013, additional allocations were provided for courts (due to a new position of judicial assistant), the share of the allocations for courts in the funding structure for the judicial system could decrease to 39%.

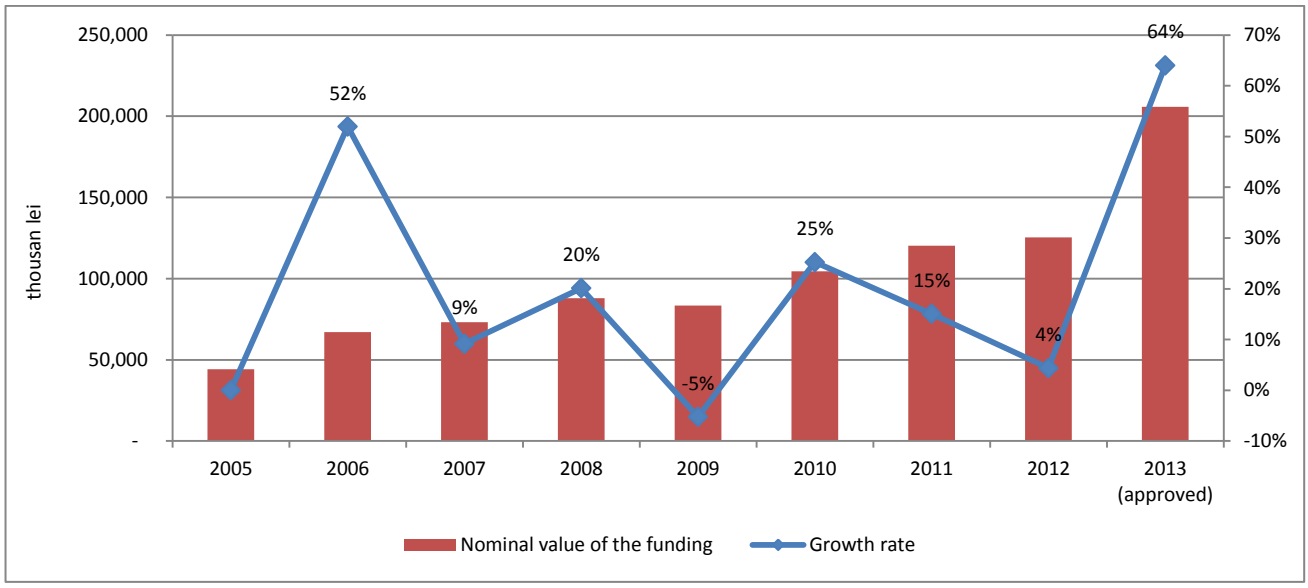
4. Budgeting and Funding for the Judicial System in the Republic of Moldova

4.1. The Statistics on the Courts Budgeting in Moldova

The Moldovan courts budget is analyzed in terms of its nominal value and real value (taking into account the inflation ratio).

In **nominal value**, courts' budgets slightly increased (except for 2009) from MDL 44 million in 2005 to approximately MDL 206 million in 2013, with the aggregated increase of 366%. This increase in the nominal value of the budget allocations took place in the past 8 years.

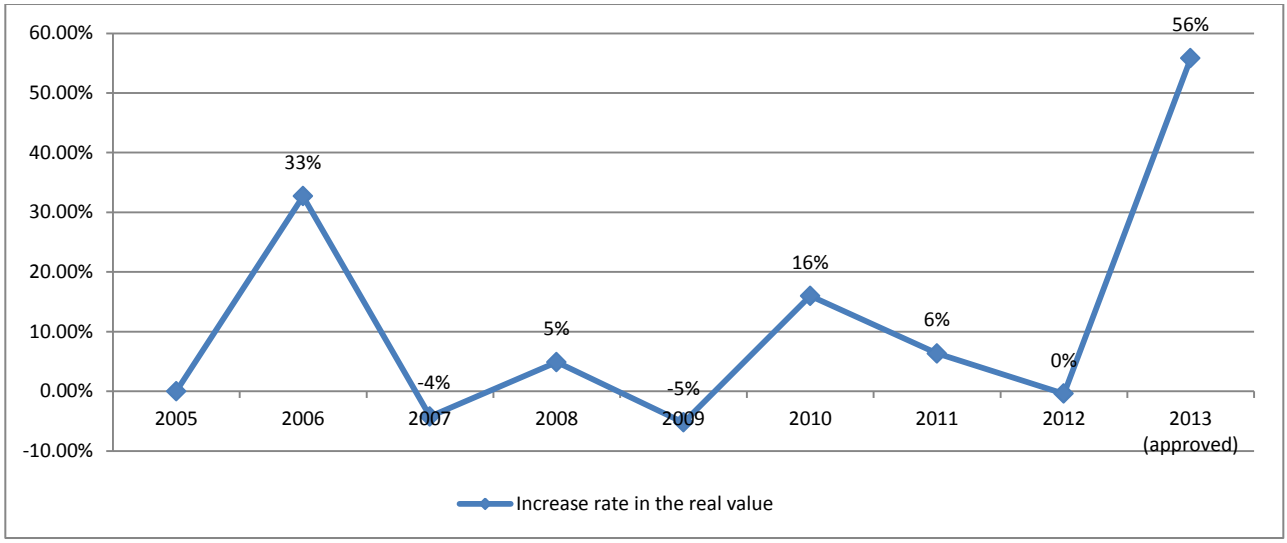
Figure 4.1. Courts funding in the nominal value and the increase in the funding



It is worth mentioning that the increase in the funding for courts in 2013 will account for approximately 64% in comparison with 2012. This increase will be the largest in the period of 2005 through 2013. The explanation of this increase has been presented in the previous chapter.

The analysis of the courts funding in the **real value (taking into account the CPI)** shows negative differences caused by the CPI.

4.2. Courts funding in the real value and the increase in the funding

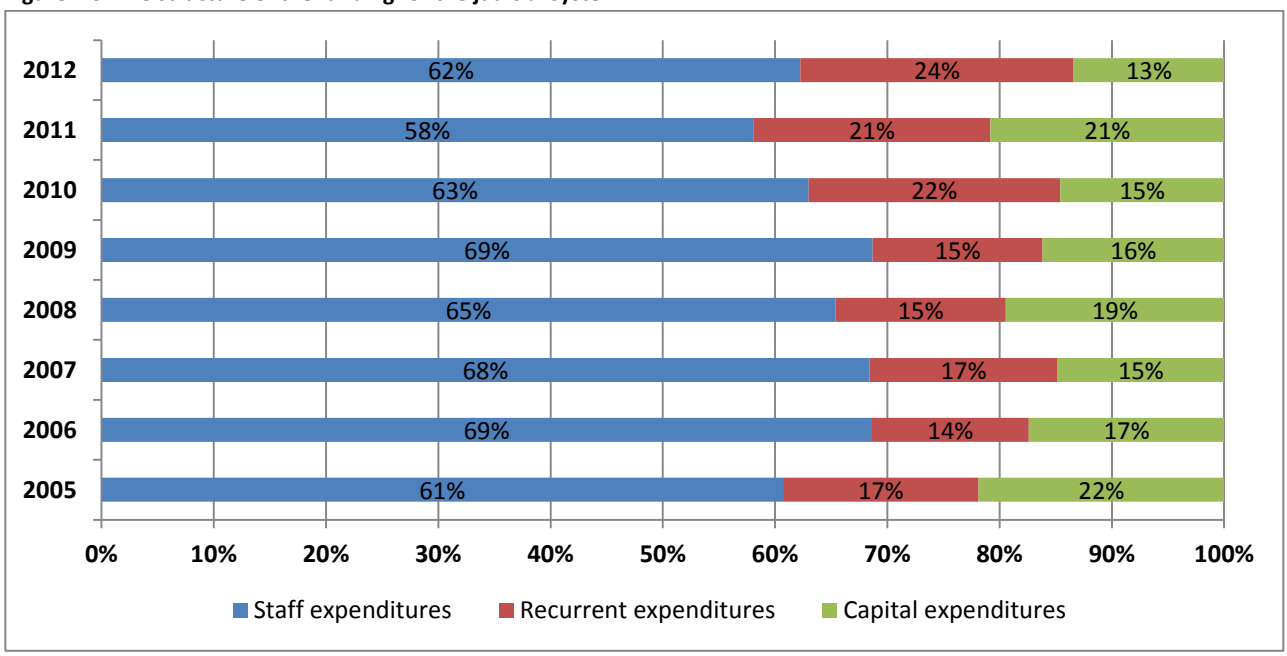


The analysis of the funding in the real value (Figure 3.2) reveals the following aspects:

1. If in the nominal value in 2007 the increase rate accounted for 9% in comparison with the previous year, in the real value, courts funding decreased by 4%. In 2007 the inflation rate was 12.3%, causing a decrease in the funding for courts.
2. In 2009, the inflation rate was 0%; accordingly, the real value of the inflation rate remained the same as its nominal value.
3. In 2012, the courts funding increased by 4%. In reality this increase was reduced to zero because the inflation rate was 4.6%.

The analysis of the courts funding in terms of its **budget structure** shows that over 60% of the funds for courts are used for staff expenditures (Figure 3.3).

Figure 4.3. The structure of the funding for the judicial system



The situation of Moldova courts should also be assessed by means of a comparative analysis with other European countries and the countries in the region. One of the most relevant sources in this respect is the 2010 edition of the Efficiency and Quality of Justice report published by the European Commission for the Efficiency of Justice (CEPEJ)[4]. CEPEJ notes a correlation between the inefficiency of some "judicial systems" (which, according to CEPEJ standards, include courts, the public ministry, and the legal assistance) and the lack of funds, even if other elements of the organization, such as the efficient organization of the system, relevance of procedures, human and financial resource management, etc., can be considered as properly budgeted.

In the period of 2006 through 2008, the Republic of Moldova increased the budget for the "judicial system" (courts, the public ministry and the legal assistance) by 57% like some other countries such as Hungary (198%), Slovakia (141%), Estonia (72%) and Poland (61%).

However, the courts budgeting in Moldova still lags behind not only the West Europe countries but also its Central and East Europe counterparts both in the absolute terms and in the relative terms.

The most important is that the Republic of Moldova, with its 0.18% of the GDP allocated for courts, is below the average of 0.24% of the national revenue allocated to courts, required by the CEPEJ. This is notable, because other countries in the region, for example Slovenia (0.42% of GDP), Poland (0.4%) Bulgaria (0.38%), Romania (0.28%), Hungary (0.27%), allocate a larger percentage of their GDP to courts. The countries that allocate or spend fewer funds to their courts than Moldova are the Ukraine (0.17%), Armenia (0.13%), Albania (0.12%), and Azerbaijan (0.10%).

4.2. Budget Constraints and Challenges

The main challenge for the judicial and tax system in the Republic of Moldova is to determine a budget for courts that would be spent efficiently and planned and implemented in accordance with the needs.

Identified limitations and constraints:

- Budget allocated to the justice sector in a limited manner:
  - Courts' budgets should be in line with concrete courts' needs and should correspond to the quality and quantity of the services provided by courts to citizens:
    - Budgets should not be excessive.
    - Budgets should not be insufficient.
  - Budgets should be spent properly:
    - Efficient and effective budget execution.
    - Justified spending of the budget.
    - Budgets should be allocated objectively.
- Legal framework applied unequally.
- Performance of activities is not measured.
- Automation of courts' processes and the budget planning and spending
- Lack of proper tools that would decrease costs and make savings to the budget

In Moldova the ratio of judges to 100,000 citizens is 12.92, which is surprisingly low in comparison with other countries in the Central and East Europe. The only countries in the region with this ratio even smaller are Azerbaijan (5.7), Georgia (6.4), Armenia (6.8) and Albania (12.3). In many other

[4] See the CEPEJ report.

countries in the region this ratio is considerably higher. For example, in the Ukraine it is 15.5, in Estonia it is 17.7, in Romania it is 19.2, in Latvia it is 20.8, in Bosnia and Herzegovina it is 22.3, in Lithuania it is 22.5, and in Russia it is 24.2. The current situation is hard to explain considering the work load (case load) of a judge in Moldova. A judge usually delivers more than 100 judgments in trial court per year. This insufficient representation among judges explains in part why the budget allocation for courts in Moldova is much below the average of 39.9% in the total budget for the justice sector, required by CEPEJ. Other countries in the region have more judges and, consequently, a relatively higher proportion of the budget for the judicial system is allocated to courts. This is particularly the case of Slovenia (64.8%), Bulgaria (59%), Lithuania (57.4%), Czech Republic (54%), Poland (49.6%), Romania (49.5%), and Slovakia (49.3%).

The use of the information technology in courts is another essential criterion for establishing the efficiency of the management in a modern judicial system. CEPEJ presents three main areas of e-justice, namely:

a. Existence of software and hardware centers in courts and registries;
b. Existence of case registration software and management systems;
c. Electronic communication and data exchange systems that link courts between themselves and with other entities and the society.

These three areas are divided in sub-areas. Each system is rated according to the existence of various practical tools facilitating the work. Courts automation is still poorly developed in Moldova.

5. Current Court Budgeting Approach in Moldova

5.1. Internal Assessment of the Courts Budgeting (MoJ, SCM, Courts, DJA)

Currently, the judicial system is **financed on historical basis**. Most courts are financed at the level of the current year with a slight adjustment to the inflation rate. The exception is the capital expenditures that are planned in addition to staff and operating expenditures. This model was used for many entities until the advent of the information technology, which enabled the government and the public to consider funding requests from other viewpoints.

The greatest disadvantage of the model used by courts in Moldova is that it does not react properly to courts case load (the number of cases). Over the years, courts funding became inappropriate because the funding of some courts has increased considerably while their case load has not.

As an example, we will take two courts (without mentioning their names) with the same number of judges and the same operating budget. Court X spent MDL 27 to process a case, while court Y spent MDL 120 per case. This does not mean that a court should receive more, while the other less. Rather it means that funding these courts is far from fair.

The historic funding does not involve the justification of spending by courts. Courts can obtain a similar or bigger budget with or without justifying their needs, the appropriateness of funding or priorities. The courts' budgeting is not competitive so funds are allocated on the basis of historic ceilings. Improvements will be made when the counterpart entities from the judicial system will establish a bottom-up budgeting and the beneficiaries of the funding will commit themselves to the goals they are financed for.

The Moldovan legislation on the salaries of the courts' staff is based on the staff categories and

experience gained in previous years and not on the performance. Staff expenditures in the budget structure are not linked to the performance and capacity to solve cases or to keep the case clearance rate at a high level but rather on the staff number and staff categories. Because of that, staff expenditures influence the cost of a case and do not offer a clear picture on the performance compared to the cost. Consequently, historic financing is a much easier way and is more difficult to assess, which is convenient for courts with a small case load as opposed to courts that are very busy.

Thus, the historic budgeting finally leads to inequity in resource allocation: courts with the same number of cases have different budget or human and logistical resource allocations.

Continuing this funding model causes lack of motivation and staff turnover and deepens discrepancies in the judicial system. The MoJ, SCM, courts, and the DJA consider that the courts budgeting process should be changed and modernized to ensure a balanced and fair funds management.

Formalizing the budgeting process for the whole judicial system by developing a proper, customized methodology and regulations on budget spending at the ministry and courts level and an internal calendar is necessary and essential for the transparency of the budgeting, the compliance with the rules and better performance.

5.2. External Assessment of the Courts Budgeting (MoF, Government, Parliament)

For most countries, determining the annual budget allocation for the judicial system may be controversial and frustrating. The requirements posed by one government structure (for example, the need of the executive for "reserve" and "accountability" in the financial management) are constantly perceived as a violations of the principles of another government structure (for example, the "fairness" and "independence" of the judicial system). In most cases, the problem is not a mere insufficiency of resources (though this is always a source for annoyance) but rather a mutual perception neither structure understands properly or the mission or objectives the other structure does not want to consider.

The result of such tensions is often a mutual, long-lasting, and unjustified suspicion between the managers and the "guards" of the public financial system and the representatives of the judicial system. Cooperation in establishing functional budget rules and principles is a joint objective of these institutions.

The nature of court administrations is often part of this problem. The judicial system is traditionally conservationist, rigid in approaching and in its processes, and sometimes reluctant to accepting change or correcting the situation when its performance is questioned. Some members of the judiciary prefer to exercise individual, decisive actions in budget matters, while others show too little interest in operating matters or too little consideration to financial norms and conventions.

In some jurisdictions, there also may be the refuse to delegate the duty of administering the court and budget (non-judicial) matters to professional managers. This reluctance often limits the development of proper competences and the development of the judicial system as the whole.

The question who should establish performance objectives for the judicial system - the executive or the judiciary, or both - ultimately comes down to one single topic, **the essence of the system**, the judicial independence.

Some players of the judicial system can feel strongly reluctant to the idea that the justice sector is just

one of many public sectors competing for limited financial resources of the government and has no special rights to the budget funds or to be prioritized over other needs for public spending. As shown in the current budget calendar, the involvement of courts in the budget development phase is not a very strong one, which determines a passive attitude toward the development of the judicial system and courts' activities. The lack of a concrete period for preparing and discussing the budget does not stimulate the judicial system to be responsible for the output of budget allocations necessary for a good justice delivery process.

Table 1. Budget calendar

Actions	Responsible authority	Deadline	Benefiting authority
1. Draft budget development			
1.1. Sending circulars on the development and submitting of budget proposals /draft budgets	Ministry of Finance	May 20[5]	Ministry of Justice
1.2. Submitting budget proposals	Ministry of Justice	July 1[6]	Ministry of Finance
1.3. Developing and consulting the draft law on the state budget with the MoJ	Ministry of Finance	September 1[7]	Ministry of Justice
1.4. Submitting the draft law on the state budget to the government	Ministry of Finance	September 15[8]	Government
2. Examining and passing the draft budget			
2.1. Examining and approving the draft law on the state budget by the government and submitting it to the Parliament for adoption	Government	October 1[9]	Parliament
2.2. Adopting the state budget law	Parliament	December 5[10]	X
3. Executing the budget			
3.1. Submitting funding plans	Ministry of Justice	December 15[11]	Ministry of Finance
3.2. Submitting funding plans	Courts	Undetermined	Ministry of Justice
3.3. Approving the monthly distribution of revenue and spending of the state budget according to the budget classification	Ministry of Finance	45 days after the publication of the annual budget law[12]	Ministry of Justice, Courts
3.4. Closing all accounts opened during the current budget year	Ministry of Finance	December 31[13]	X
4. Reporting on the execution of the state budget			

[5] According to the methodological set on developing , approving , and changing the budget (officially not approved).
[6] See reference 1.
[7] See reference 1.
[8] See reference 1.
[9] Based on Law No. 847 on the Budget System and Budgeting Process.
[10] See reference 2.
[11] See reference 2.
[12] See reference 2.
[13] See reference 2.

4.1. Finishing the report on the state budget execution	Ministry of Finance	May 1[14]	Government
4.2. Approving and submitting the report on the state budget execution	Government	June 1[15]	Parliament
4.3. Report on the ex-post control by the Court of Accounts for each public entity	Court of Accounts	June 1	Parliament
4.4. Approving the report on the state budget execution	Parliament	July 15[16]	X

5.2.1. Applicable Legal Framework on the Public Sector Budgeting

In 2002, Moldova initiated an important reform in the strategic planning system by introducing the MTEF (currently MTBF). The reform was based on the recent experience of other countries in modernizing the budget planning system.

The purpose of the MTBF is to facilitate the implementation of government policies by presenting a predictable strategic framework for budget planning.

The specific objectives of the MTBF are:

- Strengthening the macro economical balance and the financial discipline by planning a realistic budget;
- Increasing the efficacy of public spending by ensuring a better link between policies, strategic priorities, and public spending within and between sectors;
- Ensuring a predictable level of the resources allocated to central government authorities in planning and implementing multiannual spending programs;
- Increasing transparency and accountability in decision-taking on policy priorities and sector spending strategies.

The MTBF covers a period of three years starting with the year following the current one. Planning and developing a MTBF starts in December (13 months before the period for which the MTBF is developed) and continues until the draft state budget is submitted to the Parliament. There are three stages and four main elements.

- Stage I. Developing the MTBF concept in December-January. This concept establishes the initial macroeconomic, tax, and spending priorities framework in accordance with which the MTBF is developed. It also reflects the updated policy priorities contained in the Priorities Document.

The output of this stage is the *MTBF Concept Paper*, which is discussed by the interagency committee for strategic planning at the end of January and is approved by the Prime Minister.

- Stage II. Developing the MTBF projections. The analysis of the spending priorities and caps during February-April. This strategic stage involves a detailed development of the medium term macroeconomic and tax framework, the analysis of major issues of the budget policy and the development of the spending caps for sectorial and central government authority's budgets.

The output of this stage is the MTBF Projection Paper, which is discussed by the interagency

[14] See reference 2.
[15] See reference 2.
[16] See reference 2.

committee for strategic planning and is approved by the Prime minister by the end of April.

- Stage III. Finishing the MTBF in July-September, at the same time with the draft state budget. This stage involves a final update of the macro fiscal framework and adjustment of the expenditures reflected in the budget and those projected in accordance with the negotiations with the central government authorities.

The output of this stage is the draft budget and the projections for the following two years, which are submitted to the government for approval at the end of August. As a result, the updated projections of the MTBF are part of the support budget documentation for the draft state budget.

The main elements of the MTBF development are:

- Element 1: Medium term macro financial framework that offers a general budget projection and resource framework for funding public spending programs. In its turn, the macro financial framework is formed of four elements:
  - Medium term macroeconomic framework offering projections of the economy development in the following three years;
  - Public revenue projection for the following three years that results from the macroeconomic projection, objectives of the tax policy and tax administration;
  - Projection of the budget deficit and sources to cover it;
  - Medium term global financial framework formed of aggregated indicators of revenue, public spending, deficit, and sources to cover it.

The macro financial framework is developed in three stages: (i) during stage I, while developing the general macro financial projection; (ii) during stage II, while developing the initial detailed macro financial framework with total spending caps for budget development; and (iii) during stage III, while developing the final macro financial framework accompanying the submitted budget.

- Element 2: Budget strategy and the review of the public spending that offers the analysis of policies, strategy and performance underpinning the development of budget options of the government.

The analysis is carried out in two stages: (i) during stage I, while identifying and discussing the main challenges and priorities in the MTBF Concept Paper that must be analyzed when developing the next MTBF; and (ii) during stage II, while developing technical notes on the analysis of major policy, strategy, and budget performance issues. They are appended to the MTBF Projection Paper.

- Element 3: Spending caps and MTBF projections that are established within the general limits within which sector spending strategies are developed. The spending caps have an important role in the budget planning because they allow planning basic activities on the basis of a realistic assessment of the possible amount of the available resources. The technical work of developing total resources caps and spending projections is carried out by the Ministry of Finance. Determining spending caps involves two main elements:
  - Public spending projections divided by (i) national public budget components and (ii) main economic categories;
  - Spending projections at the sector level that, in the case of the state budget, are divided later by central government authorities.

The spending caps represent projections developed by the Ministry of Finance three times a year: (i)

during stage I, while submitting the preliminary sector spending caps for the following three years in accordance with which proposed sector spending strategies are developed; (ii) during stage II, while updating the sector spending caps and developing caps for central government authorities, taking into account the updated macro financial framework, reviewed budget priorities, and the assessment of the proposed sector spending strategies (the caps reviewed at this stage are used to prepare detailed budget proposals for the following year); and (iii) during stage III, while finishing the budget allocations by sectors and central government authorities for the next year and the projections for the two years after that.

- Element 4: Sector spending strategies analyze the implications of the policies and priorities of the National Development Strategy for allocating resources to major spending programs. The analysis covers all expenditures of the national public budget within a sector. Developing sector spending strategies implies the following tasks:
  - Assessing the current situation and major challenges for the respective sector;
  - Preparing a summary of all policy objectives of the sector with the main policies and program initiatives required to achieve these objectives;
  - Assessing first priority actions to improve the efficiency of the public spending at the sector level that will spare resources for new initiatives;
  - Assessing the implications for current and capital public spending in each of the program areas;
  - Establishing indicators on the program performance and policy results.

Sector strategies are developed at the following stages: (i) stage II, when the sector working groups for the MTBF develop first drafts of the sector strategies; and (ii) stage III, when the sector working groups adjust their strategies to correlate the strategies to the reviewed spending caps. The Ministry of Finance could make some adjustments later based on the finished draft budget.

Developing the MTBF is a participative process requiring the contribution of various participants and a proper coordination mechanism. The basic roles and responsibilities during the development of the MTBF are described further.

State Chancellery

The General Department for Policy and External Assistance Coordination, and Central Public Administration Reform of the State Chancellery is in charge of monitoring the implementation of an extension of the action plan of the National Development Strategy. Particularly, this duty includes the following activities:

- Identifying new major initiatives that will be proposed to be included in the action plan of the National Development Strategy;
- Developing the document on the priorities of the National Development Strategy that will be taken into account when allocating resources in the next MTBF (December/January);
- Developing guidelines to update and extend the action plan of the National Development Strategy (Note: these can be issued as common guidelines including updating and extending sector MTBF spending strategies);
- Developing a progress report on the implementation of the National Development Strategy;

Developing an updated and extended draft action plan of the National Development Strategy accompanying the MTBF Projection Paper;

Reviewing the detailed proposals to the action plan of the National Development Strategy and finishing this action plan.

Ministry of Finance

The Ministry of Finance is responsible for developing and submitting the MTBF. Its basic functions related to this duty are:

- Coordinating the development of the MTBF and the budget;
- Developing guidelines for the MTBF development (Note: these can be issued as common guidelines also including updating and extending the action plan of the National Development Strategy);
- Developing the MTBF Concept Paper (December-January) and the MTBF Projection Paper (April), and finishing the MTBF when the state budget is developed (August);
- Determining tax policy and tax administration policy objectives;
- Developing the medium term projection of the global financial framework (revenue, spending, deficit, funding sources);
- Analyzing major budget management issues, such as: public debt management, inter-budget relations, efficacy of the public spending;
- Examining the correctness and reality of the spending proposals submitted by public authorities and determining spending caps by sectors and central government authorities.

The basic responsibility for conducting and coordinating the MTBF process belongs to the General Budgetary Synthesis Directorate. Other sub-divisions from the Ministry of Finance are: Fiscal Policy and Tax Legislation Directorate, Public Debt General Directorate, branch (sector) finance directorates.

Ministry of Economy

The Ministry of Economy has the following duties:

- Developing, coordinating and developing the macroeconomic projection for the MTBF period (December – for the Concept Paper, February – for the MTBF Projection Paper and June – for the draft budget and finishing the MTBF);
- Determining the medium term salary policy and assessing financial implications for the budget on the whole and by sectors;
- Establishing policies and priorities for medium term public investments.

Specialized Central Government Authorities and Other Public Authorities

The specialized central government authorities contribute to developing the MTBF by presenting the timely information and analysis on the sector spending strategies and programs. The public authorities have the following duties:

- Analyzing the existing public spending and identifying ways to make them more efficient;
- Prioritizing policies with the sector in accordance with the national strategic priorities and assessing their financial impact in the medium term;
- Making proposals for allocations and/or redistribution of resources between programs within the same sector;
- Developing medium term sector spending strategies in accordance with the sector development priorities and within the limit of the spending caps.

The budget planning and management unit of the central government authority and the Policy Analysis, Monitoring and Assessment Unit are responsible for developing sector spending strategies.

Developing sector spending strategies within the MTBF has a few main purposes:

- Establishing a link between policy priorities and public spending for the sector;
- Prioritizing spending proposals within the limits of the available resources;
- Identifying actions to improve the efficacy of the existing budget allocations and redirecting the spared resources to first-priority programs.

The sector spending strategies address the link between the capital expenditures and the current ones and between the state budget, the budgets of the administrative-territorial units, the state social insurance budget and the compulsory health insurance funds.

Every year, the spending strategies are reviewed, updated, and extended by one year to keep the three-year outlook in the budget planning.

The sector spending strategies are used to review the spending caps at the sector and entity level. Then the public authorities use them as a support in developing and justifying detailed budget proposals.

The basic responsibility for developing sector spending strategies belongs to special public authorities. To facilitate the development and coordination of the strategies with other relevant entities in the sector, a working group is created.

The sector spending strategies should meet the following general requirements:

Be comprehensive. The sector spending strategies should reflect the whole sector instead of being limited to just a part of the branch managed by the line public authority and cover all public funding sources: (i) the state budget with all its components, (ii) the budgets of the administrative-territorial units; (iii) the state social insurance budget; and (iv) the compulsory health insurance funds.

Comply with the policy priorities established in the strategic planning documents at the national level and other government program.

Be realistic. The sector spending strategies should take into account the available resource framework and be developed within the limits of the established spending cap. The feasibility of the proposals should be analyzed in light of the time required to implement them.

Include first priority actions. For that it is necessary to take into account the following:

- The analysis of the use of the existing resources and the identified actions to increase the efficiency;
- The prioritization of actions according to their impact on the economic growth and poverty reduction, and the cost-benefit analysis;
- The assessment of the possibility to redirect resources from less urgent programs to those with a higher priority level.

The process of developing sector spending strategies includes the following basic stages:

- Sending a circular on the specific requirements for developing the MTBF;
- Developing or updating the sector spending strategies;
- Examining the sector spending strategies;
- Adjusting the spending strategies to final spending caps.

Stage I. Sending a circular on the specific requirements for developing the MTBF

In January each year, the MoF sends the central government authorities a circular establishing the specific requirements for developing the MTBF for the corresponding period and offers preliminary resource caps.

Stage II. Developing the sector spending strategies

The basic responsibility during this stage belongs to the central government authorities and sector working groups. This stage has the following major activities:

Submitting the sector strategic framework. Updating the basic information on the size and role of the corresponding sector in the economy and defining the government's role in the sector as a direct public service provider in charge of public infrastructure and regulating. In addition, describing medium term objectives in detail in accordance with the purposes of the national development strategies and key strategies that will allow achieving the purposes of the branch and objectives that are already defined.

Identifying spending programs. They should cover a strategic level of operating activities as part of the sector. A program is a major/chief activity or set of activities an organization carries out to fulfill sector policy objectives. If the program is too large and difficult to manage, it can be divided in sub-programs.

When determining programs in the MTBF context, the following will be considered:

- The number of programs in a sector must be sufficiently small and reflect the major directions of the sector activity. Depending on the size of the sector, one to eight programs are considered enough.
- Programs should present strategic activity (development) directions of the branch and be consistent with the sector spending planning and management procedures.
- Programs of the sector spending strategies should be consistent with the programs provided for in the budget classification. On the request of the public authorities, the MoF can revise and/or amend the classification of programs.
- It is recommended that programs and sub-programs should be determined in cooperation with the line public authorities and include not only programs of financing from the state budget but also programs funded by local governments and from the social insurance and health insurance budgets.

Carrying out a strategic analysis for each individual program. This analysis briefly describes the program, the existing situation and the implementation constraints, and identifies medium term priorities that will be used to determine the amount of resources for the corresponding sector. For the sake of brevity and to show the logical connection between the analysis elements, particularly between the arguments in favor of the objectives and first priority medium term actions, the analysis will be presented in the form of a matrix.

An indispensable condition for an efficient implementation of the programs is ensuring the relevance of the performance indicators. To ensure the correlation with the national strategic documents, these indicators should be formulated on the basis of the performance indicators from these documents.

Developing proposals on the resource allocation or re-distribution within the sector for the following three years, taking into account the current trends in using resources and the previous

phase analysis results. Table 6 shows the format in which the resource allocation proposals are presented. This table also reflects the redistribution of expenditures by the components of the public budget.

During this stage, it is necessary to take into account the following:

- Preliminary resource caps that are used as the spending limits within which public authorities can submit their proposals to the MTBF.
- Changes in the spending structure proposed as part of the analysis: savings, additional costs or proposals on the allocation redistribution.

According to the Activity Plan for developing the MTBF, public authorities submit the preliminary versions of the sector spending strategies by the end of February of each year.

Stage III. Examining sector spending strategies

This stage includes examining draft sector spending strategies to ensure the following objectives:

- Government's administrative office examines and approves the submitted proposals to check the connection with the policy priorities of the National Development Strategy and other national strategic documents.
- The sector funds directorates of the MoF examine the submitted proposals in terms of (i) their efficiency and efficacy; (ii) current spending structure and the improvement potential for using resources; (iii) veracity of the additional costs in relation to the allowed cap. The directorates will also consider the comments from the government's administrative office related to the connection to the national priorities.

After the examination of the sector spending strategies, these strategies are used as the basis for defining the spending caps for each sector. After conferring with the Coordinating group for the MTBF development to discuss these spending caps, the MoF informs public authorities about these final sector spending caps that will be used to adjust the sector spending strategies.

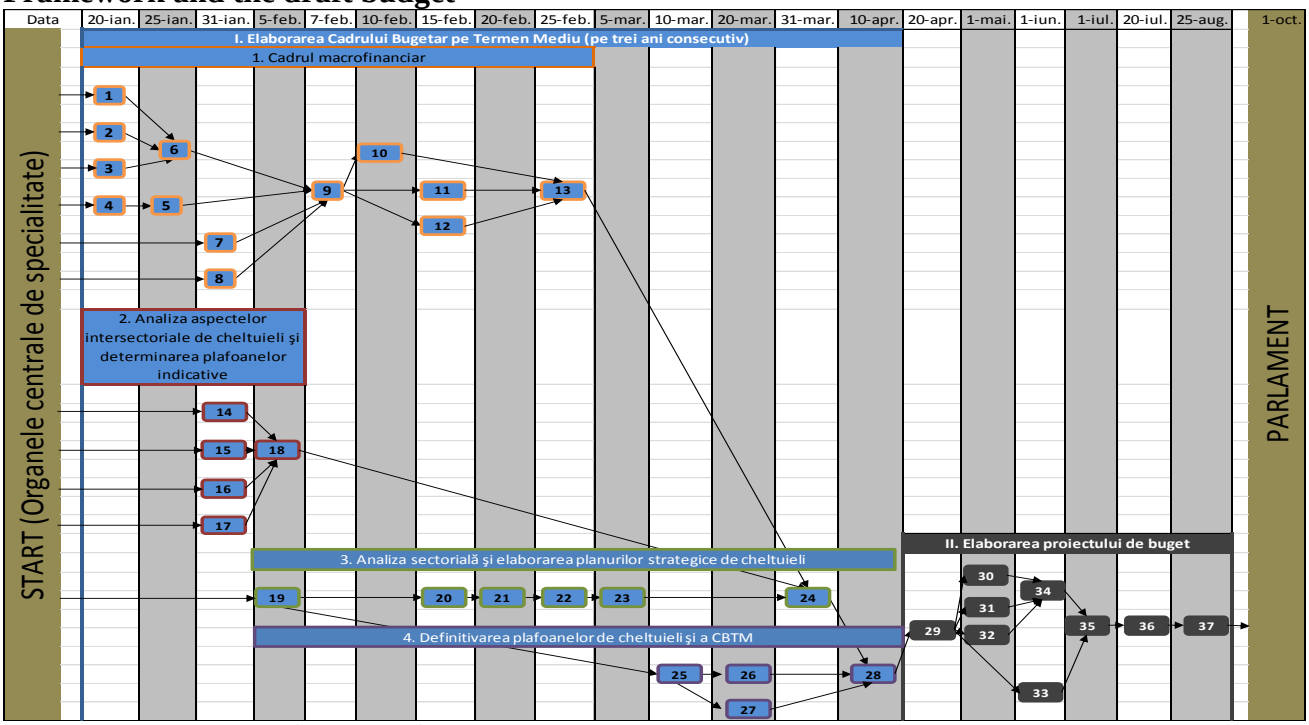
Stage IV. Adjusting the spending strategies to final spending caps

The final stage involves adjusting the sector spending strategies to ensure a correlation with the revised spending caps. This is done by specialized central government authorities in collaboration with the sector working groups. The revised sector spending strategies are submitted to the MoF to be appended to the MTBF Paper.

After the government approves the MTBF, the sector spending caps are used as the basis to develop detailed budget proposals.

The Action Plan is presented in the Annex.

Schematic representation of the Action Plan for developing the Medium Term Budget Framework and the draft budget



Source: Developed on the basis of GD No. 82 of January 24, 2006
Note: The nodes represent actions and the arrows represent the sequence of actions

5.2.2. Budgeting System for the Justice Sector

The budgeting system for the justice sector in the Republic of Moldova has a number of administrative and institutional issues that should be addressed as soon as possible.

To streamline the funding for the justice sector and to make the budgeting process efficient and balanced, it is necessary to formalize some tools and actions and to adopt them as the working rule at all levels of the budget development and implementation.

Thus, it is necessary to develop and institutionalize the following elements of establishing the budget model used and improving the budgeting for the justice sector in Moldova:

- Budget development methodology, stages, framework letter, caps, budgeting process;
- Budget for the SCM, method used to justify the requested budget, negotiations, and the approved budget;
- Allocated and executed budget of the courts, working calendar.

In addition, there are major issues such as:

- Systematic failure to comply with the budget calendar, discrepancy between the MTBF and the budget law, which minimizes the role of the MTBF in budget planning;
- Insufficiently founded, non-formalized budget planning, without work guidelines, without mandatory ownership and accountability;
- Insufficiently monitored budget programming and execution, without penalties for nonperformance, with a long period (3 months), without restrictions for other budget openings,

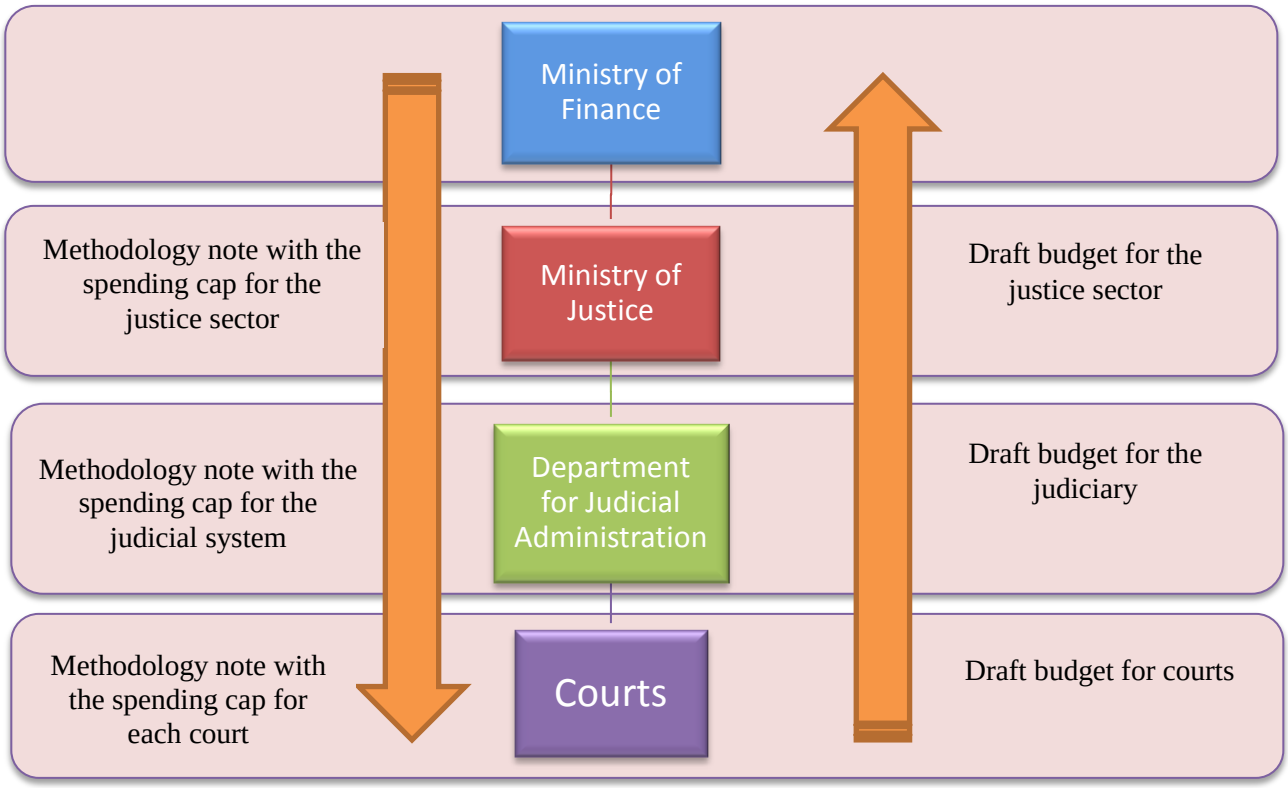
without incentives for efficient budget spending;
- Irregular monitoring of the budget execution, without risk mitigation plans and, consequently, unused for correction and adjusting;
- Reluctance to adopting relevant performance indicators (which reveals poor accountability).

The budget performance is neither measured nor used as a baseline or to establish future goals for courts. The day/person cost, the level of resource allocation, the level of budget execution, and the resources of court's own revenue in relation to the budget allocated from the state budget do not represent court performance indicators in Moldova.

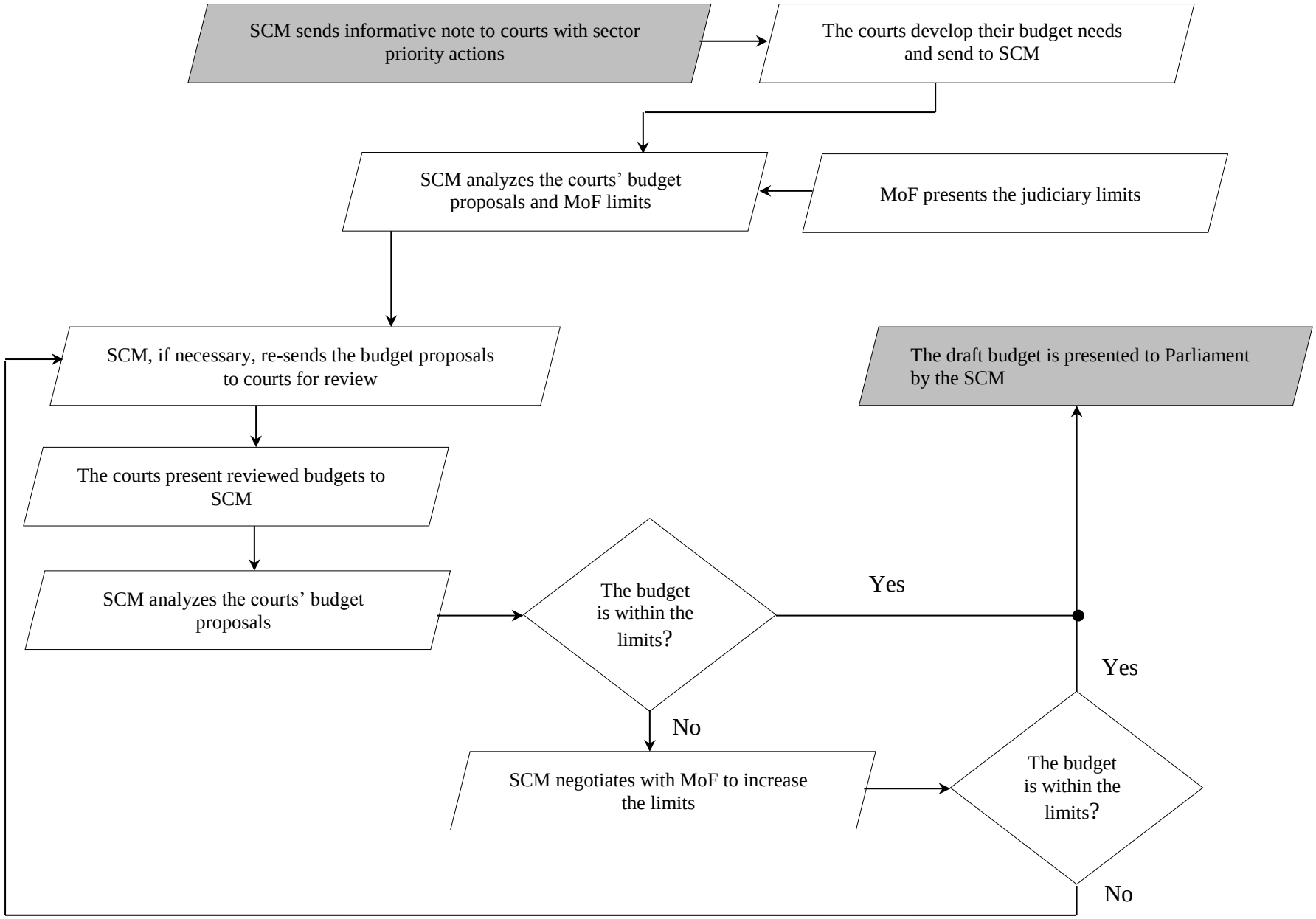
5.2.3. Entities Involved in the Court Budgeting Process

The courts involved in the justice sector and courts budgeting and their role in the budgeting are shown in the graph below.

The performance audit at public entities is carried out by the Court of Accounts. However, such audits in court should be carried by an audit unit at the ministerial level or at the level of the president of the SCM.



The figure above shows the judiciary budgeting process while the study was under developing. Meanwhile, there have been some changes. The Ministry of Justice and DAJ were excluded from the drafting of the draft budget being replaced by SCM. Although at the moment the exact budgeting process is complicated to present, since it will be determined depending of implementation of the recommendations of this study, however, in discussions with the CSM, it can be presented as follows:


SCM sends informative note to courts with sector priority actions
The courts develop their budget needs and send to SCM
SCM analyzes the courts' budget proposals and MoF limits
MoF presents the judiciary limits
SCM, if necessary, re-sends the budget proposals to courts for review
The draft budget is presented to Parliament by the SCM
The courts present reviewed budgets to SCM
SCM analyzes the courts' budget proposals
The budget is within the limits?
Yes
Yes
No
SCM negotiates with MoF to increase the limits
The budget is within the limits?
No

6. Courts Budgeting Models

The public management and the government budgeting systems have passed through considerable developments in recent 40 years. Although not all "innovations" related to the budget and budgeting process were more or less successful or sustainable, all of them contributed to a gradual improvement of the public financial management quality. Starting with the input-budgeting approach, these innovations included the "program-based budget," "zero-based budget," and certain attempts, particularly in the USA, of the "outcomes-based budget." More recently, many countries initiated budget reforms specially designed to support or strengthen the performance management. These later initiatives included, in particular, performance obtained as a result of budgeting some actions or programs, respectively, measuring output indicators or outcome indicators (output- and impact-oriented budgeting).

The greatest progress in the budget management was determined by the wish or need to obtain more efficient allocations of budget resources and to make public spending with better efficiency. Improving the application of these methods determined more pragmatic approaches to improving the efficiency and increasing accountability and transparency of the government spending.

Performance budgeting methods are better understood as a subset of the performance management. In essence, the purpose of **the performance-based methods** is to allow managers from the public sector to create stronger connections between the available resources, the necessary activities and the expected results. The expected results in the public sector are obviously based on defining strategic directions, objectives, reporting methods adequate to objectives and efficient actions for achieving results, and all these represent the foundation of a performance-based budget.

Depending on its specificity, each country selected budgeting methods suitable for them as part of its public reforms. Similarly the Republic of Moldova opted for implementing performance-based programs.

6.1. Zero-based Budgeting Model

The zero-based budget (ZBB) proposes carrying out an annual assessment of the purpose of each program and its priorities, analyzing all spending possibilities. For each program a budget is prepared at the "base level" that reflects minimum requirements for achieving its objectives. The "improvements" package is offered for program areas in which additional services can be offered. In this case, department managers/authorizing officers can take decisions, such as: not to renew an existing program, opting in favor of funding an assistance package for another program or even funding the basic level of a completely new service.

Similarly to the program-based budget, the USA entities use the ZBB elements as a "decision-making package" representing the level of marginal spending for various levels of effort and costs. Each decision-making unit/department ("the lowest level" in an organization in which decisions on budget can be taken) prepares at least three decisional packages:

- A basic package that covers only essential needs;
- A current service package that ensures services at the current level;
- An improved package that allows decision-making units to extend services in order to satisfy needs that have not been covered so far.

Decision-making units can prepare more than one improvement packages, each one representing a different level of improvement effort. Packages from all decision-making units are, then classified in accordance with the need perceived for each package. In comparison with the PPBS, which uses more objective financing criteria, the ZBB is based on subjective judgments of the board members in the process of packages classification.

Traditionally, budgeting is done on the basis of the objectives established in the previous year. Certain items are added and others are excluded from the previous year's budget, thus getting the figures for the current budget. Thus, to do budgeting in the traditional way, it should depend on the previous year's objectives and incrementalism or decrementalism principles in order to decide on the items to be added or eliminated from the figures of the previous year's budget so that all figures of the current budget should meet the needs of the respective year.

In the ZBB, the budget of the previous year is not taken into account and the proposals for the current budget are made on the basis of the expected benefits and costs as a result of an independent assessment. Thus, the ZBB refers to formulating a budget without reference to the previous or implemented plans but rather to justifying the allocation of the proposed resources.

This procedure is carried out not once. Whenever it is necessary to prepare a budget, the budgeting process should start from zero and the proposed resource allocation should be justified through a cost-benefit analysis. The ZBB is ideal for planning and decision making.

In such cases, budgets can be prepared on the basis of some past targets with some additions or exclusions. Each budget proposal is assessed in terms of its cost and benefit, particularly for investment projects or extended purchase programs at the sector (national) level. All proposed activities are identified to establish priorities and make decision.

The main characteristics of the ZBB are:

a. The basis for the budget is zero and not the previous budget objectives.
b. The management of each decision-making unit should justify the funds request.
c. The grouping of all proposed activities should be done in various budgeting options.
d. All budgeting options are properly assessed and adjusted depending on the priorities.
e. After correct assessment attention should be paid to alternative funding options.
f. Financing activities and allocating resources are done after the assessment and selection of the funding options, including the alternative ones.

The differences between the traditional budgeting and the zero-based budgeting are:

a. In the traditional budgeting, the emphasis is put on the previous spending level, while in the ZBB, each budget is prepared every time on the basis of a new economic assessment.
b. The traditional budgeting is guided by the accounting, while the ZBB is guided by projects or decisions.
c. For a traditional project, it is not necessary to justify the existing program again, while for a ZBB, it is necessary to justify the existing projects again on the basis of their benefits and costs.
d. In case of a traditional budget, the justification of the spending for a certain decision is done by the top management, while in case of a ZBB, the spending is justified by the management of the unit/structure and not by the top management.
e. In case of a traditional budgeting, the amount that is added or deleted from the previous budget is taken into account, while in case of a ZBB, current level of spending is assessed and the future

spending proposal is justified from various perspectives.

f. A traditional budget is prepared every year with the qualification requirements at a simple work place, while a ZBB requires a logical approach and many complex stages for founding and justifying a proposal.

6.2. Program-based Budgeting Model

The program-based budget, also known as PPBS, was developed as a result of the attempts to find a way to choose between alternative service provision manners and answers the following questions:

- What do we want to achieve (the purpose)?
- How much will it cost us to achieve this purpose?

This method of founding the budget is a way to organize activities by programs (activities or services with the same purpose), identifying alternatives for achieving the purpose, determining the costs and benefits for each alternative and selecting an alternative that maximizes benefits. Since it is the total costs and the performance level that count and not the cost of each individual item, the budget allocations may be done by programs and not by traditional items for each department. The program-based budget is usually accepted with various performance indicators.

In its full understanding, the PPBS requires huge analysis and office work. The elements of this methodology were borrowed by other forms of budget justification, such as the performance-based budget and the zero-based budget. Thus, local governments still use many features characteristic to the PPBS, such as defining the purpose for each program and reporting the budget information (budget implementation) by programs and not by departments.

6.3. Performance-based Budgeting Model

The performance-based budget has the purpose of:

- Developing a working plan to justify the total required budget;
- Providing a basis to compare the cost and the quality of the service;
- Ensuring a permanent control over the achievement of purposes of the budget-funded programs.

Workload indicators, such as the number of served clients or the number issued summons, helps to justify the budget. Cost and resources indicators, such as the cost per client or the cost per summons issued, helps to assess whether providing a service is efficient and economic. Resource and output indicators, such as: the level of citizens' participation, the client's waiting period or the rate of recidivism (where the police is subordinated to local governments) reflects the extent to which programs achieve their purposes. Ideally, the budget should compare the performance level for the next year with the real performance levels from previous years.

Measuring performance requires detailed instructions on the development and use of the performance indicators.

The following examples show how most public organizations have integrated the program-based budget and the performance-based budget with their current budgets. The example is relevant for the activities that require public services (in this case, utilities).

Program: Maintenance of the network **Department**: Water

Description of responsibilities: The water network maintenance service is in charge of the repair and maintenance of the main water supply pipelines, service networks, valves, fire hydrants and manholes. The main activities include repairing or replacing the main networks and the service networks that are broken or leak, including the connecting, operating and repairing fire hydrants and water valves that are broken or malfunction as well as adjusting the height of the water meters, valves and fire hydrants. This kind of services is supported by a storehouse of spare parts and equipment that are used by the maintenance crew.

Achievements during the period of 2011 through 2012:

- 1510 broken main pipelines repaired
- 25 valves, 5 hydrants and 10 main pipelines installed
- 8875 works carried out in the current year

Goals for the period of 2012 through 2013:

- Ensuring the efficacy of the water supply system, mitigating losses and the related costs;
- Supporting the department by ensuring efficient functioning of the central storehouse and an equipment maintenance program;
- Establishing an efficient relation with the public focusing on the client;
- Identifying issues with the water supply system and the support service for finding solutions to the identified issues.

Table 2. Measuring performance/performance indicators

Indicator	10-11 achieved	11-12 achieved	12-13 proposed
Repair the main breakages within the average time of 4.5 hours or less	4.3	4.4	4.5
Replacement of the service within the average time of 3.5 hours or less	3.3	3.4	3.5
Keeping the time the maintenance crew is busy at 2% or less	0.68%	0.77%	2.0%

6.4. Operating and Functional Budget

Goal-based Budget

The goal-based budget inverted the trend toward an increasingly more complex budgeting process. In the simplest case, each department receives a maximal amount or a goal for budget requests. The goals are based on the revenue projections for the following budget year, which are adjusted by the board members in case of changes. The most complex part of the GBB involves estimating the budget of the current services of each department. On the whole, the current services budget for the following year is estimated on the basis of the budget spent during the current year, plus/minus some adjustments (a single purchase, money for a position that was filled with very advantageous conditions in the current year). Once established, the goal usually represents a percentage of the budget for current services. For example, 95% for lower priorities or 105% for higher priorities in the next year in comparison with the current year. Although the GBB includes elements of the ZBB, it hugely reduces conflicts and subjective judgment because the departments

know beforehand the possible funding level for the next year.

Line-item Based Budget

A line-item based budget offers a list of goods and services that each department should purchase, with an estimated cost for each good or service. Examples include the spending for staff, materials, services and capital spending. The list of specific items that should be purchased derives from a work plan with the items required to implement this plan. The list of specific items allows comparing their costs with the costs of similar items purchased from other vendors. In its turn, this comparison allows establishing the correctness of the request for budget funds. Once the budget is approved, the departments can start purchasing the allowed goods and services.

Budget and Accounting

The accounting system should function in parallel with the programs funding to implement, measure, and report the budget outcomes. Thus, if a certain department develops a new program, all its costs must be identified and reported in the accounting system. The accounting system should have a form that would answer key questions on the financial control and coincide with the format used in the budget. Without a continuous information flow from the accounting system, local governments cannot take necessary corrective actions in due time.

6.5. Capital Investment Budget

A multiannual investment program is a list of investment goals the organization is willing to achieve within 4 or 6 years. The investment goals are arranged in a descending order of their priorities, determined with a predefined consistently applied methodology, and they are assessed in terms of their implementation period and the implementation and operation costs. A properly prepared multiannual investment program is not a mere list of wishes, but rather a programmed series of investments with well identified and available funding sources.

The lack of a special law makes the distinction between the investment objectives and other programs of a public entity create differences in the opinions of specialists from the public administration and financial control authorities. In principle, an investment process is materialized in purchasing or acquiring tangible or intangible assets and in construction, extension, and upgrading tangible assets.

Some arguments in favor of preparing multiannual investment programs are:

- It links the government/ministry's strategy and the annual budgets;
- It helps to establish order of priorities in programming and funding investments;
- It ensures coherence and consistency of the investment process by constantly channeling limited financial resources toward first priority projects;
- It ensures the financial continuity during the periods exceeding a legislative term;
- It ensures coordination of the financial programming and the programming of the investment goals implementation;
- It can generate synergic effects by correlating with the investment programs of other central and

local government authorities or other public or private entities;

- It favors the connection of the public entity to the outside world;
- It attracts the attention to the first priority objectives and financial capacity;
- It ensures the information of the public about the investment needs and objectives, contributing to the development of the public support for the investment programs;
- It identifies the most efficient and most economic means of funding investment goals;
- It consolidates the financial credibility (solvency);
- It formalizes the information flow used to determine the needs and implicitly the list of investment, streamlining and improving the process;
- It makes the civil servants involved in the process accountable;
- It increases the opportunities for obtaining external financing resources (non-reimbursable funding tools, international financial institutions, foreign governments, credits, etc.) or financing from private sources.

The multiannual planning and budgeting of investments is a dynamic process that involves a series of procedural steps that follow one after another in a logical order. The following is a schematic presentation of the procedural steps in the multiannual planning and budgeting of investment.

Figure. 3.1. Multiannual planning and investment budgeting procedure

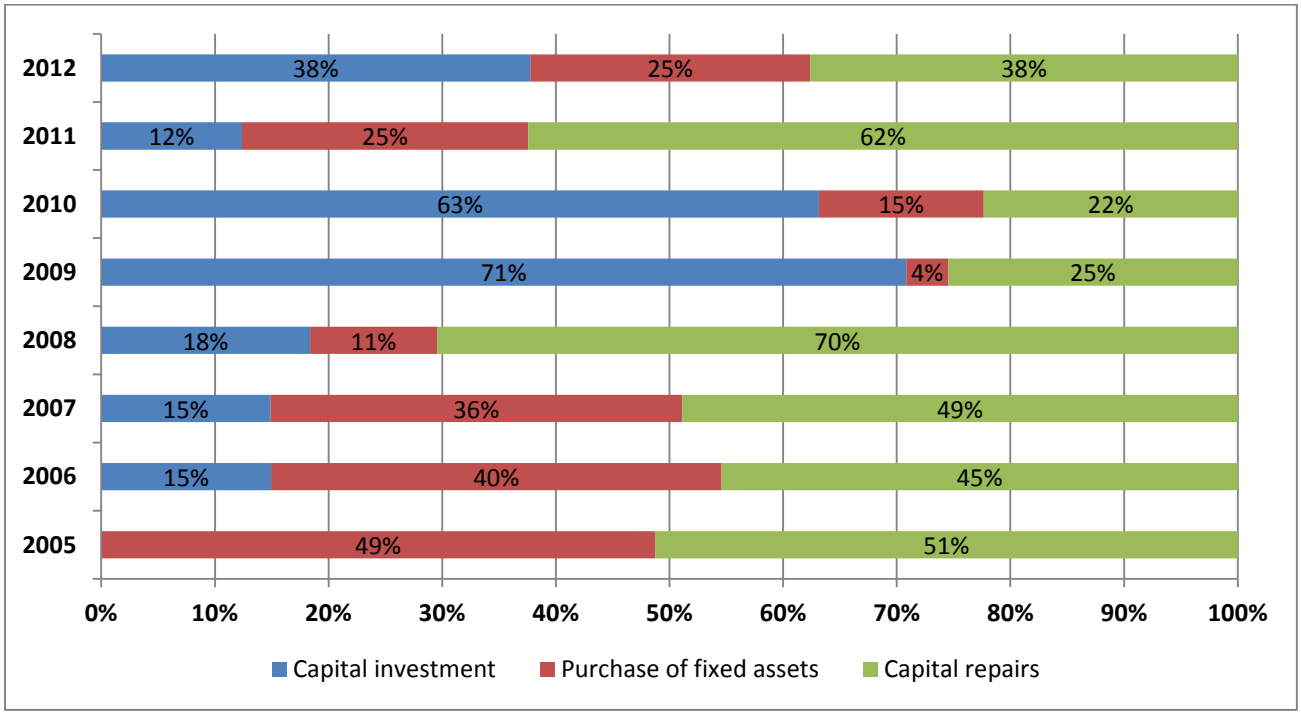
The complexity and implicitly the duration of the process depend on:

- Existing legislative framework
- Size of the entity
- Organizational structure
- Information and computer systems
- Organization culture
- Staff capacity
- Quality of the management
- Financial situation

Assessing the complexity of the planning process is necessary to establish a realistic implementation schedule. An organization with a strongly vertical structure, such as the MoJ, will have to take into account designing an information system as flexible and efficient as possible for the multiannual investment planning and to allocate sufficient time for the process lest it should compromise its quality.

The following is a retrospective analysis of the evolution of the capital budgets of Moldovan courts. Figure 6.2 shows a gradual transition from purchasing exclusively fixed assets and capital repairs in 2005 to capital investments and balancing budget allocations between these categories in 2012, which reflects interest for improving working conditions and modernizing courthouses.

Figure 6.2. Dynamics of the capital spending structure



6.6. Budget for Purchasing Goods and Services

The initiated debates on the value for money versus the organizational efficiency is intended to clarify strategic and efficient budget management aspects in the judiciary.

The practical aspect in settling this subject can result in supporting centralized purchases versus decentralized purchases made by each public legal entity from the judiciary, courts, and courts of appeal).

The main purchases in the judicial system come down to products and services required for an efficient and effective functioning of courts. Here we can list a number of goods and services necessary for a good process of dispensing justice as a public service:

Goods:

- stationery and writing materials: writing or photocopying paper, files, and other cardboard items: postal orders, clasps, clips, pens, pencils;
- office supplies: toners for printers and photocopiers, cartridges, staplers, punches;

- cleaning products;
- newspapers and books, official publications and periodicals;
- fuels and other products for car fleet, tires;
- computer equipment and peripherals;
- transport means.

Services:

- postal and courier services;
- telephone services;
- professional training;
- consultancy and translation services.

One characteristic of the listed goods and services is that they are necessary for all courts in the country. This raises the first questions: Is it possible to make public procurement suitable for all courts in the country with the same technical specifications and the same prices? Is it better to purchase in a centralized or decentralized manner?

The answer to these questions requires carrying out a preliminary analysis of the legal framework on public procurements in Moldova, procedural aspects for such procurements, identifying the necessary operating capacity and the advantages and disadvantages of such procurements. The result of the analyses for each of the mentioned elements is briefly presented below.

The legal framework on public procurements in Moldova **allows choosing the procurement procedures** and leaves this choice to the contracting authority. It allows both centralized purchasing (recommended even for the products that are specific for some sectors, such as public health, drugs, social assistance, basic food products) and purchasing carried out by each public legal entity individually, under the principle of decentralization and the management on the basis of performance indicators.

The regulations on public procurements provide for the situations in which more public organizations may decide to have a joint purchase procedure to get a better value for money (buying goods in bulk to obtain a better price for the same quality). In this respect, regulations **allow establishing procedures** for public procurements. In case of decentralized procurements, the procedure is well-understood and does not pose problems.

The operating capacity necessary to carry out public procurements is materialized in:

a. qualified human resource for each public entity: public procurement specialists, lawyers, economists, technicians, etc.;
b. internal norms and procedures allowing public procurements: description of the staff's duties, internal functioning regulations, work forms, etc.;
c. availability of physical and logistical capacity necessary for public procurement procedures: communication and information technology equipment, rooms for open meetings on public procurements, logistical capacities ensuring the storage and security of the data obtained from the bids.

The critical element for a proper flow of public procurement procedures is the availability of human resources qualified in public procurements and related areas (lawyers, economists, technicians). Their involvement in preparing the contract awarding documentation can ensure the success of the

procedure and obtaining contracts advantageous for the contracting authority.

Public entities with a limited number of staff and qualified specialists have difficulty with public procurement procedures because of their duties and requirements they must comply with. Grouping a few public entities and sharing their human resource for public procurements can be a good solution.

Large public entities are in a better position in organizational terms: the availability of human resources and qualified specialists can ensure the success of the public procurement. Thus, a solution for the problem of the organizational capacity of small public entities could be either sharing resources with other entities of the same size in the sector or/and allying with a public entity that can carry out public procurement procedures properly.

The Moldovan court administration system has a structure with the administrative duties—the Judicial Administration Department (DJA)—, which can take some of the budget execution duties of courts. Thus the DJA can play the role of a contracting authority tasked by courts to optimize and streamline the budget execution, particularly to purchase the goods necessary for all courts. The Guide on Public Procurement in the Judiciary, developed by the USAID in 2011, described the corresponding mechanisms provided for such contracting authorities in the legal framework on public procurement. The DJA can carry out operations to streamline the budget planning and execution if its organizational structure is completed with a corresponding specialized division.

Table 3 shows **the advantages and disadvantages** of the centralized procurements as opposed to decentralized ones. This information is not exhaustive and they can be completed by the managers or specialists of the public entities, depending on their procurement experience.

Table 3. Advantages and disadvantages of the public procurement models

Procuremen	Centralize	Decentralized
Advantages	– Existence and availability of human, material and logistic resources for procurement procedures – Purchase can be made in large quantities, resulting in a lower price of goods and services (up to 20% or 40% less) – Better contract guarantees due to the size of the bidders (large companies, with strong tradition, reputation, and portfolio) – Negotiation of privileges in the contract – Increased approachability and multiple offers of good quality – Standardization and uniformity of the purchased goods and services – Once contract for the whole system	– Shorter and simpler procedures – Flexible programming and scheduling of procedures

Disadvantages	– Longer procedures; – Risk of missing the contract goals if the procedure gets stuck (contestations, delays, lack of bids) – More complex procedure and more voluminous documentation – More complex and longer preliminaries for the procedure: centralizing quantities, procedural arrangements	– More expensive contracts; – Higher costs at the level of the whole system – Lack of uniformity of materials and equipment in the system – Lower availability of resources necessary in the operating plan.

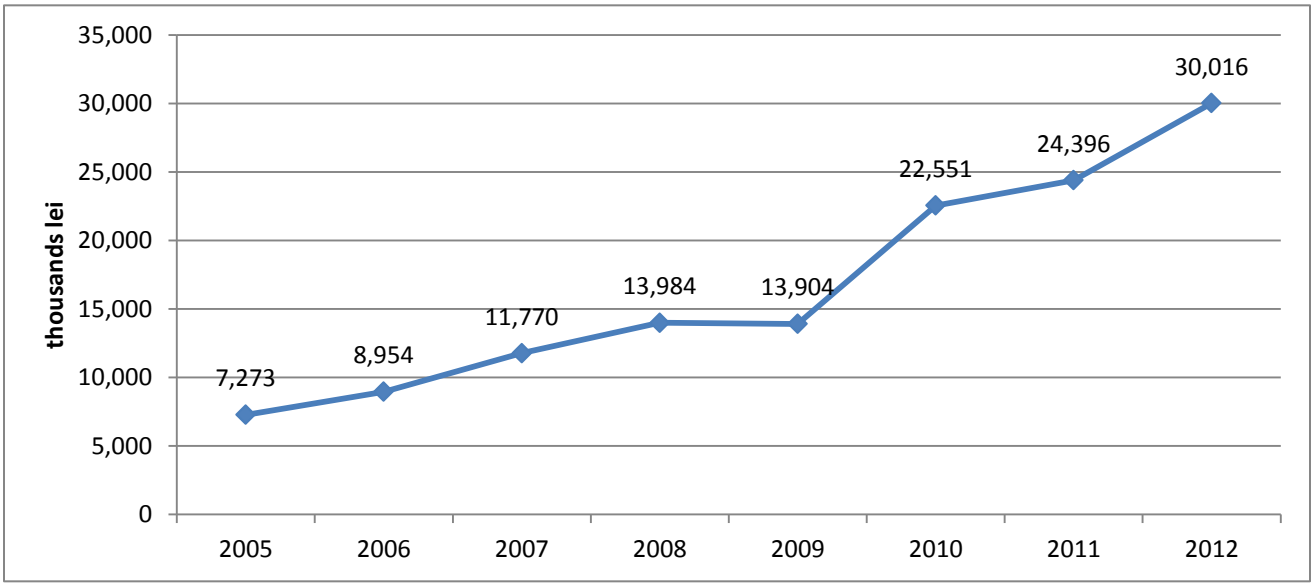
The information presented so far will facilitate taking decisions on purchasing goods and services in the judiciary. The decision to initiate a purchase procedure should be based on a careful analysis of benefits and risks for the contracting authority. It should be taken with due attention to all relevant data and figures and should have the necessary justification to avoid changes during the purchase procedure.

In case of a decision to award a public procurement contract in a centralized manner, we recommend the following procedural sequence:

- Carry out minimum market research on the goods and services to be purchased:
  - price;
  - providers;
  - delivery terms;
- Centralize quantities and information necessary to deliver goods and services:
  - Group by categories of goods/services;
  - Determine technical characteristics;
  - Create batches;
  - Establish delivery quantities and terms (location, franco, delivery schedule);
  - Estimate the total cost and the cost by categories of goods/services;
  - Develop scenarios of possible offers
  - Define the budget required for the contract;
- Establish the organizational structure and their membership:
  - Define the contracting association in case of multiple entities for a centralized procedure;
  - Commission for the contract awarding documentation;
  - Appeals commission
- Public procurement procedure in line with the legal regulations in force:
  - Prepare the contract awarding documentation;
  - Submitting bids;
  - Assessing bids;
  - Awarding the contract.

Major benefits of the implementation of centralized procedures are the economic efficiency of the awarded contract. The savings obtained through centralized purchase procedure as opposed to the decentralized one are between 20% and 40% of the estimated total cost of the contracts for decentralized purchase.

Figure 6.3. The structure of recurring spending



6.7. Advantages and Disadvantages of the Five Systems of Justifying the Current Budget

Advantages	Disadvantages
Line-item budget	
• Good understanding of the system: the board members might be reluctant to change it for fear they would receive less information. • Increased control over the departments: the more detailed the costs, the tighter the control by the board over the departments.	• Possibility to see only the information about the resources used to provide public services but not about the outcomes obtained with these resources • The more detailed the line-items, the less flexibility for the management • Potentially very tiresome or difficult to understand information because of its level of detail, taking into account their terminology and the classification codes used • A usually extensive approach (of increasing spending): the previous year's spending used as the basis to justify the current year's spending with adjustments for the inflation, increased demand or a better level of services provided. The extensive approach neither contributes to decreasing costs for the same level of service nor examines the extent in which the provided services correspond to the current needs

Program-based budget	
• Increased quality and costs of the provided services in comparison with the cost of the purchased services (line-item budget) • Use of the output indicators. • Possibility for the management to be flexible in achieving the target service level (for example, not limited by the structure of the line-item budget) as long as the allocated budget limits are complied with	• Greater complexity • Greater emphasis on the analysis and bureaucratic office work. • Risk of intensifying conflicts because a service can be extended only on the account of other one. For example to increase the number of police patrols by 5% for a better safety for citizens, it might be necessary to decrease the opportunities for children to play football by 30%.
Performance-based budget	
• Improved efficiency of programs • Better assessment of the outcome of the program • More information for the board members and citizens on the quality of services	• Increased complexity, need for more information • Emphasis on the efficiency and efficacy but not on answering fundamental questions, such as whether a program is necessary, or how to allocate limited resources between concurrent programs better
Zero-based budget	
• Possibility for the board members to determine whether a program is necessary or to choose between various levels of service • Proposals are determined priorities • Financing discretionary activities, depending on the goals and targets of the board • Possibility to identify uncovered needs	• Increased complexity, need for more information • Risk of generating a conflict between competing programs • Reluctance of the department chief to provide information on the estimated costs for the minimal level of services because this could cause a reduction in their services are necessary
Goal-based budget	
• Less information required fewer possibilities of a conflict. • Proposals are determined priorities • Financing discretionary activities, depending on the goals and targets of the board • Identification of the satisfied needs	• Somehow subjective justification of the budget for current services

7. European and International Court Budgeting Models

This chapter describes budget models of a few countries whose judicial systems are similar or different from that of Moldova to get a picture on the approaches to courts budgeting in the countries that:

i) are very well developed economically and have old, reputable, and relatively stable judicial systems with experience of performance management and with well-defined and functional public, budget and administrative systems, and, accordingly, the countries that have real financial statistics necessary to courts (United Kingdom, France, New Zeeland); and
ii) have a recent Communist past with a state-owned centralized planning system but have advanced greatly in the judicial reform process and sustainable economic growth (Slovakia, Romania).

Even though these countries meet a number of criteria, this does not necessarily mean they have the best international practices of the court administration or the public financial management. However, the selected countries, individually or collectively, offer valuable perspectives on the development of the performance-oriented budget management. The selected countries are relevant for the comparison as part of our study for recommending a budget model for the Republic of Moldova.

It is generally accepted that the improved budget practices implemented in these countries over the recent years have supported the modernization of the judicial procedures, mostly helping to focus on the quality and the managerial capacity in the judicial system. An obvious characteristic of the innovations in the budget management was the contribution of courts to promoting and developing qualified, committed, and professional managers in the judicial system.

7.1. United Kingdom

Budget Administration Framework

The UK Government has been pursuing a performance-based budget and public spending management for over ten years. This approach was developed jointly by the National Audit Office, Audit Commission, Cabinet Office, Office for National Statistics, and Her Majesty's Treasury. Its objectives include ensuring that the Parliament, the government, and the public have "performance measuring and reporting systems of international level."

Context of the Performance Management

The performance-based budget approach in the United Kingdom is part of an integrated national framework on performance management (also known as the performance information system) that has the purpose to improve both the budget planning and implementation capacities of budget departments.

Figure Error! Use the Home tab to apply 0 to the text that you want to appear here. **Performance information system in the public sector**

This performance management framework is supported by a detailed "business plan" approached at various government levels. Thus, individual business plans in the sector of public entities (for example, departments, directorates and operating units, and courts) are implemented in the top-down direction, from high level strategies to individual responsibilities of the staff. As for the judicial system, business planning extends to individual courts (judges) and bailiffs. Performance standards and indicators are measured and monitored at each level of the system.

The performance-oriented budget concept in allocating budget resources is supported and covered by necessary budget resources and by terminology, such as inputs, outputs and outcomes.

FABRIC Performance Information System

The UK Government has invested considerable effort and resources to help public entities in developing significant performance criteria and implementation and monitoring actions.

This task involved developing a more efficient structure for basic information about performance, and the departmental capacity to adjust objectives and actions to ensure a proper application of the spending policies and achievement of the entity's goals.

FABRIC: Criteria for the performance information system	
Focused	*The performance information system should focus on the entity's purpose and objectives.*
Appropriate	*The collected information should be appropriate and useful for stakeholders.*
Balanced	*The performance indicators should ensure a balanced general vision on what the entity is doing, covering the most important activity areas.*
Robust	*The performance information system should be flexible in terms of organizational changes or individual leaves.*
Integrated	*The performance information system should be integral part of the entity, managerial process, and business planning.*
Efficient	*The resources used to collect performance information should be correlated with the benefits obtained from the information.*

Budgeting Justice

For a long time, the management and administration of the judicial system was the responsibility of the Lord Chancellor's Department. The Lord Chancellor is also the state secretary for the Lord Chancellor's Department and the Lord Speaker (in force, the Supreme Court of Justice, the United Kingdom), and his administrative assistant is the Secretary of the Parliament.

The major spending programs of the Lord Chancellor's Department related to courts administration functions ("Request for resource, category 1") are expressed in six major "goals" (Table 4). Each of these goals is supported by a statement of the goals the Department expects to achieve with the requested financing and a very general description of how this will be achieved.

These budget goals are essentially declarations of the desired results for which a certain amount of resources is allocated (for example, the share of the budget per department). The budget cost estimated for each goal is determined in the bottom-up direction of the input and output costs.

The detailed reporting of the actual spending of the Department is predominantly at the courts level. Resources can be shifted between various goals and new or revised goals every year or can be introduced during the budget implementation.

However, the statements of goals are on the whole sufficiently complete in terms of the results (for example, services) and can vary from year to year.

Relevant Performance Goals and PSA Actions, Targets and Indicators, Performance Reporting

Major spending programs (objectives) cited in Table 4 are strict in terms of accomplishment and aligned to the concrete responsibilities and strategies established by the DCA and approved by the government. The PSA objectives and performance actions agreed with the government a much more concrete in terms of the department's actions and the way in which it will accomplish them. Table 5 shows these major goals and actions for May 2004, which refer to court administration functions of the DCA.

Table 4. The structure of the budget of the Department for Constitutional Affairs of the United Kingdom

Allocations: request for resource (RR)	Responsible agency
Justice, Rights and Democracy (including Her Majesty's Court and Tribunals Service)	Department for Constitutional Affairs (DCA), including Her Majesty's Courts Service and the Legal Services Commission.

Table 5. Request for resource 1: justice sector

Major programs (goals-based financing)	Performance declaration
I. Ensuring efficient system of justice	"DCA collaborates with other central and local government partners to reduce the crime and anti-social behavior and to enable the population to exercise their right and fulfill their responsibilities. We work to decrease the number of inefficient processes and to guarantee the defendants' rights and also protect the society so the jury, victims and witnesses would be treated with respect and care."
II. Ensuring an effective system of the civil and administrative law	"DCA works to ensure a correct and efficient system of the civil and administrative law to help to curb the anti-social behavior, to combat abuse in asylums and to create a sustainable society. We work to provide the population with the access to choosing an appropriate and efficient way of settling disputes, including alternatives to settlement in courts. We work to ensure the minimal cost, avoid delays and that judgments are executed so as to make the customer service a norm."
III. Reducing social exclusion, protecting vulnerable social layers and children, including maintaining the connection between children and a non-resident partner after the dissolution of the family, if necessary	"DCA works to improve access to justice, particularly for vulnerable social layers so as to enable them to defend their rights in courts. We enhance the efficacy of the civil and criminal court system for cases of domestic violence, to improve the decision-making for persons with mental disabilities and to ensure that children's wellbeing is viewed important."

IV. Ensuring justice in partnership with the independent judicial system	"DCA works on improving the public trust in the judiciary by cooperating with judges to ensure that courts are efficient and understand the problems of the community. We work to ensure that the judiciary serves each irrespective of his/her gender, race, religion or sexual orientation."

Table 6. Public Service Agreement: targets and indicators

Targets	Relevant objectives	Indicators
1. Improving the court services by increasing the number of the actions brought to court to 1.15 million by June 2005 (1.125 million by August 2007); by improving the Criminal Judicial System in all its areas; by considerably improving the worst performance area; and by decreasing the rate of inefficient legal suits.	I	– Total number of crimes for which the defendant is brought before the court – Number of defendant brought before the court in 42 areas of the Criminal Judicial System, the February 2001 baseline – Improvement of the average performance in the worst performance areas of the Criminal Judicial System, improvement of the average performance at the national level for the period January 2001 through June 2005 – Decrease of the inefficient legal proceedings from 24% to 17% in the Crown Court and from 31% to 23% in Magistral courts by 2006
2. Reducing the rate of litigations settled in courts	II	– Number of non-family claims in civil courts: target – 11.8%. – Case clearance rate: target – 1.9% – Number of hearings: target – 9.3%
3. Increasing the value for money for the Criminal Judicial System by 3% annually, increasing the efficiency of justice by at least 2% annually.	N/A	– Annual savings

Table 7. Performance reporting as opposed to objectives without PSA indicators

Objective	Performance reporting (by DCA)
IV. Ensuring justice in partnership with an independent judicial system	1. We will continue improving and modernizing the appointment process, particularly by implementing the competence-based selection for all appointments in the judiciary. 2. We will continue developing a new relation with the judicial system by creating an independent Appointment Commission in the judicial system.

7.2. France

Budget Management Framework

Ten years ago France implemented major public finance reforms and is an example of applying performance oriented concepts. The measures taken were aimed at modifying significantly the traditional budget system (a budget oriented towards expenditure needs with the development of a new "program-based budgeting"). The main purpose was to introduce modern budgeting concepts, which would lead to a higher transparency in public finance and provide the public entities with a bigger autonomy, as well as responsibility for their spending activities. The organic Budget Law was passed in 2001 and achieved expected results only in 2010, even though it was expected for the implementation to be fully efficient since 2006.

The program-based budgeting introduced by the French Government uses new program budget concepts based on importance levels.

Table 8. Budget levels of the French Government

Level (importance)	**Title**	**Description**
Primary	*Missions*	Approach to major policies of the public sector (e.g. justice)
Secondary	*Programs*	Definition of major functional activities
Tertiary	*Actions*	Operational sub-programs

In the new structure, credits cannot be reallocated among programs. Nevertheless, the initial distribution of program credits into sub-programs (actions) and types of (input) expenses (titers) is "totally indicative/tentative". This allows for credits to be adjusted, within the limits, by the court managers in order to meet the perceived needs for a more effective implementation of the budget. These amendments in the process of budget allocation are supported by a main change on a "budget commitment". This will let managers operate on a multi-annual program budget with the flexibility to negotiate the carrying forward some funds (of up to 3% of credits) at the end of each fiscal year.

The new budget structure includes some performance management concepts. Each program covers a series of objectives that would provide an objective statement for performance measurement. Local public entities / expenditure departments are expected to play a much more important role in the management of government policies, but in the context of a centrally defined strategy.

In exchange for higher financial management autonomy, the program managers are expected to responsible in terms of a set of objectives and outcome indicators. So far the Government established three general criteria or categories under which they assess the performance. These categories reflect three different points of view in an assessment process.

Table 9. Criteria for the assessment of the budgetary process of the French Government

Positio	Purp
Citizen	Social and economic effectiveness
User	Service quality
Taxpayer	Efficiency

Justice Sector - Budgets

Tables 8-12 reflect the application of these new performance budgeting of the justice sector and judicial administration, particularly in France It should be reminded that the new system was introduced in the courts only in 2005 and the roll out and fine-tuning - as a result of experimenting and ongoing development of objectives and indicators - is unavoidable and continuous.

However, the delimitation of accountability for performance among ministers and managers in the public sector is still a gray area. The Parliament keeps holding ministers accountable first, though their capacity to influence directly the performance of their departments/institutions they coordinate is significantly lower than the one of the public service managers.

Table 10. Justice sector in France, Program structure (2006)

Programs
1. Justice administration (civil and criminal) **2. Administration of penitentiaries** **3. Judicial protection of young people** **4. Access to justice (legal support)** **5. Management of justice sector policies and institutions**

Performance Measurement

The performance indicators that are established for each of the objectives of these justice sector programs reflect a high interest towards efficiency.

A series of performance indicators used to manage the budget is smaller than the total data that are usually collected by the entities in the judicial sector and by service providers. In other words, the application of performance concepts in the justice sector budget does not necessarily need a comprehensive analysis of, let's say, judicial statistics, although there can also exist other judicial or public reasons to improve and extend the collection of judicial data.

The efficient budget management needs collection and reporting of information on the key indicators that reflect best the effectiveness and impact of budget resources over time.

The performance indicators proposed for court management (table 11) can still leave room for interpretation. The French authorities seem to highlight significantly the trends (forecast) of the number of cases or number of cases to type of cost by resources (judges, civil servants, etc.) as an

efficiency indicator. This can be misleading in case if the law becomes more and more complex or the frequency of legal amendments, so that this can have a significant impact on the duration of cases. This kind of indicators must be interpreted carefully in order not to misinterpret the relation between efficiency objectives and judicial celerity as being unsound because of the impact these changes in a juridical (legal) environment or in the courtroom have on the budget allocations.

Table 11. Program 1 – Justice Administration (Civil and Criminal)

Major objectives	Performance indicators
Making decisions on civil cases within a reasonable time frame	- Average duration of the procedures by types of jurisdiction - Average duration of examining civil cases by types of jurisdiction - Average duration of backlog by types of jurisdiction - Average duration of pronouncing decisions that are enforceable - Number of cases examined by a judge - Number of cases processed by a civil servant
Improvement of enforcing decisions on criminal cases	- Enforcement rate - Average duration of enforcement
Management of the increase in the cost of criminal cases	Average cost per case

Table 12. Program 5. Management of justice sector policies and institutions

Major objectives	Performance indicators
Timely approval of secondary legislation to adjust the legal framework to the requirements of	- Rate of publishing secondary legislation
Ensuring maximal decrease of employment procedure	- Average duration of staff recruitment
Ensuring staff management efficiency	- Average management cost per employee
Optimization of capital development project management	- Cost per square meter of a built or renovated court - Noncompliance with the established schedule of the works performed during the year (absolute value and %) - Noncompliance of the planned cost with cost of the works performed during the year (absolute value and %)
Optimization of logistics for centralized services	- Logistics expenses of the employees of central administration

Optimization of managing big projects in the area of IT development	- Rate of compliance with the duration of operational actions performed during the year (%, projects over EUR 1 million) - Rate of compliance with the contractual cost for projects over EUR 3 million.

7.3. New Zealand

Budget Management Framework

The Government of New Zealand developed performance budget concepts in the area of public sector finance management which were introduced in late 1980s These concepts involved a big budget innovation: "outcome-based budgeting". The approach was introduced in 1989 and is still continues. In the last four years the approach has been improved, emphasis being put on managerial results and it is officially called "Outcome-focused Management in the Public Service"[17].

The Government describes the outcome-focused management in the public sector as a "result of public institutions based on planning, management and reporting". Its purpose is to improve the performance of the public sector and needs a strategic outcome-focused approach of the public institutions, they being liable to perform timely planning, management, and reporting, focusing on delivering outcomes." This mixture of performance budgeting and management concept which is also mentioned in the specialized literature as the "new public management" is not unique for New Zealand, but has been applied where to a larger scale than in the public sectors of other countries. Though the approach undergoes continuous changing, the main elements are now firmly embedded in the current operations of all public institutions and agencies.

Performance Management Context

Performance management in New Zealand has certainly been highly influenced by the UK concepts and experience, but still differs from it in several material respects. Firstly, the New Zealand approach is based on a performance contracts relation between the Government (Ministers) and public sector organizations (executive directors), where ministries and/or departments are explicitly contacted to deliver the outcomes in their annual budget. These results are efficiently a set of agreed goods and services for which performance is specified, both in terms of quality and quantity.

In order to obtain annual credits (budgets), the contracted outputs are to a large extent grouped under "classes", depending on the types of outcome and/or their extended objective. Some of these output classes resemble "programs", but many don't.

The expected/estimated cost of outputs is determined by the periodical review of "production prices" agreed between the departments and the Treasury and consists less of a main input cost. Assurance on delivery of agreed outputs was a fundamental mechanism for the improvement of responsibility and performance in several departments.

[17] (MFO) initiatives www.ssc.govt.nz

Budget of the Judiciary

Tables 13-16 reflect the implementation of the budgetary concepts and methods mentioned above with respect to the justice sector in New Zealand and, particularly, in the area of judiciary. The system is based on Westminster model (or traditional British) and one of its fundamental principles is to separate the judiciary from control and influence of the executive branch. The purpose of this separation is to create a balance between the competence of legislative and executive powers and to ensure the impartiality, correctness and responsibility are maintained in justice administration,

Without harm to the clear separation principles between the executive and judiciary branches, both management institutions and entities subordinated to the ministry shall cooperate closely in practice on several aspects of judicial administration. For instance, the budget of the courts is managed by the Ministry of Justice, but with higher attention to the requests and needs of the judiciary. The salaries and indemnities are determined by a separate institutional authority, even if it is appointed by the Government and the payment is guaranteed by a "permanent legislative authority". This ensures that these expenses are not subjected to annual change or conditioned by the achievement of some results or, subsequent to, let's say, changes in budget priorities.

The judiciary of the New Zealand is headed by the Chief Justice, who is also president of the Supreme Court. The judiciary and the Government (via the Ministry of Justice) collaborate on most aspects related to the management of court system.

Table 13. . Budget structure, New Zealand, justice sector, fiscal year 2005/06

Sub-sectors by major destinations	- Managing agency
1. **Justice sector and administration policy**	- Ministry of Justice
2. **Court management**	- Ministry of Justice
3. **Negotiation treaty**	- Ministry of Justice
4. **Penitentiaries**	- Penitentiary Department
5. **Legal consultancy to the Government**	- Crown Law Office
6. **Children, youth and family services**	- Department for children, youth and family services
7. **Justice reform**	- Legal Committee

The managerial incentives are a key element in the public management regime of the New Zealand. They include both tangible and intangible rewards for the managers whose areas of responsibility are considered to be working efficiently. In this respect, decentralized development based on performance contracts is a key factor and offered a much larger flexibility in the recruitment and employment of executives, staff and other managers for better individual and organizational performance. These combined elements of the new public management structure raised the motivation, capacity and performance of the courts - a sector which is traditionally known for its resistance to upgrade and changes.

Table 14. Justice sector results framework. New Zealand

Sector results	Definitions	Interim results
1. Safer communities	Communities where crime is lower and where welfare is increased by participation	- Youth offending is lower - Lower violence - Lower domestic violence - Lower organized crime
2. A more equitable, trustworthy and efficient justice system	A system where the interaction between people is supported by law and the justice services are more equitable, trustworthy and accessible	- Improvement of access to court services, services for children, youth and families.

Table 15. Results of the courts from New Zealand and the performance indicators

Output (spending programs)	Target result	Performance indicators
High Court Services Ensuring the services of Supreme Court, Court of Appeal and High Court	Safer communities Equitable judicial system	- Number of considered appeals (civil and criminal): annual target - Number of organized meetings: annual target - Number of managed cases: annual target - For criminal appeals, civil cases, civil appeals: o Rate of managed cases which were rated with "met expectations" or higher by the judges of the High Court: 75% o Rate of courtroom support which was rated with "met expectations" or higher by the judges of the High Court: 90%

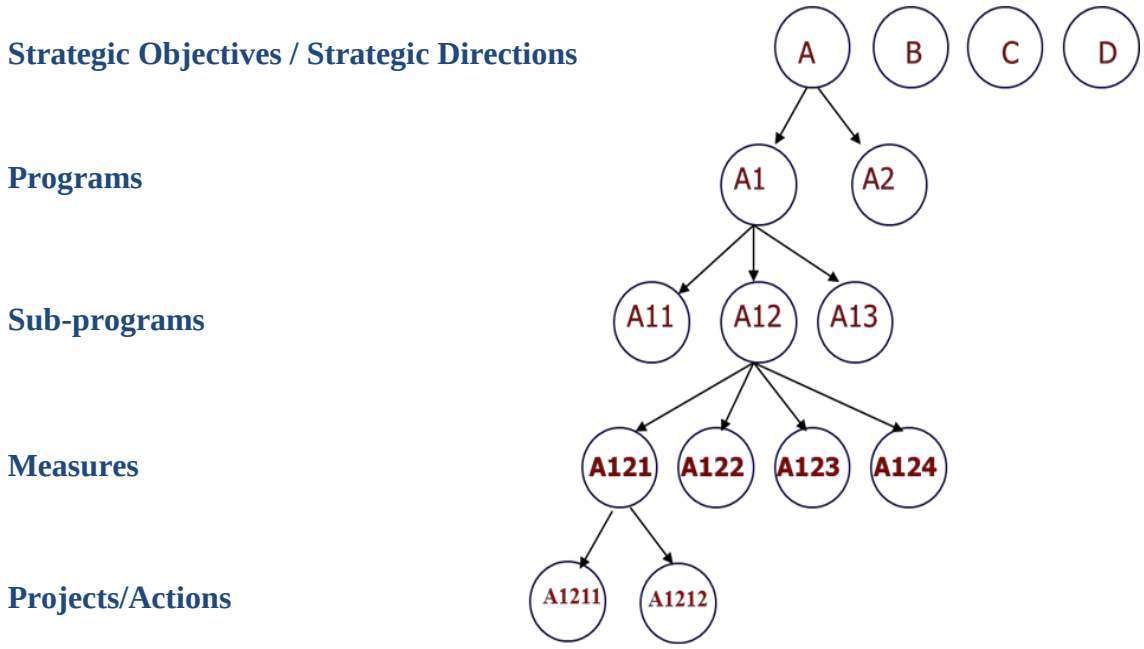
District court services Ensuring services of the district courts, including courts for youth and family matters	Safer communities Equitable judicial system	- Number of examined cases (civil, criminal, youth): target indicator - Number of cases with an exaggerated examination terms because of the Ministry: target 0
Services of specialized courts and other authorities	Equitable judicial system	- Number of examined cases/appeals - Rate of cases on the waiting list up to 6 months - Rate of cases on the waiting list up to 12 months

7.4. Slovak Republic

The Slovak Republic is a useful example of a country in transition, which underwent quite recently and quickly the introduction and pilot testing of performance-focused concepts and new methods related to the annual budgeting of courts. A specific feature of this process is that the Ministry of Justice had a management focused on obtaining results under the reform and had the capacity to implement this new approach with a leading role in the budgeting reform.

Initially the judicial sector of Slovakia proved to be one of the slowest and most difficult in terms of reform implementation. The reform process was characterized by serious anomalies of the law, inconsistencies in the drafting and interpretation of the legislation by a system of poor quality and corrupt courts. The low management capacity of the courts led to the request for international assistance in order to implement reforms. At the same time, the Ministry of Finance presented reforms in the area of financial management and budget for the introduction of new budgeting techniques that embed a comprehensive program-based budgeting. The Ministry of Justice was one of the several ministries selected in 2003 for the piloting of methods and concepts of program based budgeting. This initiative combined well with actions aimed at the improvement of management and efficiency of the judiciary. A clear result of introducing these budgeting concepts and methods was a better financial management and teams of more skilled and motivated professionals within the ministry and the courts.

The Ministry of Justice introduced the program based budgeting for the funding of the entire system, thus setting general objectives, operational objectives at the level of outcome, sub-programs and projects.



Within the program budget sub-programs were established for the funding of the courts, depending on the types of cases tried, supplementing the case management and case cost estimation program.

Table 16. Ministry of Justice of the Slovak Republic: program 06X – Funding of the judiciary

Sub-program structure and components

Sub-programs (06X)	Projects/Elements (including expense centers) (06X00)	Categories of budget measures (06X0000)	Main expenditure lines
01. Remuneration of judicial staff and judicial support staff	01. Judges of regional courts and court support services (CSS) 02. Judges of district courts and CSS 03. Judges of specialized courts and CSS 04. Courts and CSS in	Management of criminal cases Management of civil cases Management of administrative cases Management of commercial cases	Salaries Per diem Social contributions

02. Operation of the Courts	01. Operational activity of the regional courts 02. Operational activity of the district courts 03. Operational activity of the specialized courts 04. Operational activity of other courts and tribunals 05. Development of court infrastructure	Management of criminal cases Management of civil cases Management of administrative cases Management of commercial cases Commercial registration Procurement of land plots Construction/renovation of courts, IT systems, equipment, motor vehicles	Salaries/allocations, Materials, Rent, Utilities, Capital expenses
03. Administration and Collection of Judicial Revenues	01. Judicial treasury	Collection expenses Capital needs	Salaries/allocations Capital expenses
04. Judicial Education & Training	01. Judicial Academy 02. Training Institute of the Ministry of Justice 03. Other training institutions	Training of judges/support staff Training of court managers Training of prosecutors	Salaries/allocations Capital expenses Training allocations
05. Judicial Reform Projects	01. Court management project 02. Optimization of court structure 03. Probation and mediation services 04. Commercial register 05. Publishing the court decisions on the Internet 06. Judicial Academy	Specific for each particular project	All lines as needed

Table 17. Ministry of Justice of the Slovak Republic: program 06X – Funding of the judiciary

Sub-program goals and objectives

Sub-programs (06X)	Goals	Objectives
01. Remuneration of the Judiciary and Judicial Support Staff	01.1 To provide administrative and managerial services that support the independence of the judiciary, its efficient operation, and its capacity for high-quality judicial decisions	01.01 To ensure payment of all salaries, allowances and other remuneration to members of the judiciary accurately, in full and on time. 01.02 To ensure payment of all salaries, allowances and other remuneration to judicial support staff accurately, in full and on time. 01.03 To ensure information and other requests made to MoJ staff by members of the judiciary and judicial support staff are dealt with promptly and efficiently. 01.04 To ensure that the reputation of the judiciary and the quality of judicial decision making are constantly improving.
02. Operation of the Courts	02.1 To support a fair and efficient judicial process through efficient management and administration of the courts. 02.2 To support continuous improvement of the judicial system by ensuring courts have modern and efficient facilities, equipment and information technologies.	03.01 To ensure that the courts meet, or exceed, their annual specified targets for disposing of civil, criminal, administrative and commercial cases, including appeals. 03.02 To ensure that these courts and proceedings meet, or exceed, their individually prescribed targets for operational performance in terms of number of days sitting, applications processed, caseloads completed, etc. 03.03 To ensure that the relevant regional courts process all company registration applications within the specified legal time frame 03.04 To establish and maintain an affordable and effective program for replacing and upgrading capital equipment and facilities in the court. 03.05 To ensure that individual capital improvement projects are completed on time and within budget
03. Administration and Collection of Judicial Revenues (fines/penalties)	03.1 To ensure full, fair and efficient collection of all fines, penalties and other payments imposed by the courts	03.01 Meet specific quantitative targets for collection of overdue fines and penalties 03.02 Achieve annual efficiency gains collection costs
04. Judicial Education & Training	04.1 To ensure that the human resources capacity of the sector is adequate for supporting the effective operation and future development of the judicial system	04.01 To provide well-targeted funding to trainees and selected judicial training institutions. 04.02 To increase the quality and capacity of judicial training institutions by funding the development of new and improved training programs and facilities

05. Judicial Reform Projects	05.1 To undertake specific, well-planned and time-bound reform projects aimed at improving the fairness and efficiency of the judicial system of the Slovak Republic	05.01. To ensure that each project is completed on time and within budget 05.02. To ensure that the results from each project contribute directly to the government's objectives for judicial reform in the Slovak Republic.

Table 18. Ministry of Justice of the Slovak Republic: program 06X – Funding of the judiciary

Sub-Program Output Measures and Performance Indicators

Sub-programs (06X)	Objectives	Output	Performance indicators
01.	01.01	Number of members of judiciary for whom salaries, etc., are administered .	Number of formal complaints received from Judiciary regarding MoJ's performance of these administrative functions
	01.02	Number of judicial support staff for whom salaries, etc., administered	Number of formal complaints received from judicial support staff regarding MoJ's performance of these administrative functions
	01.03	N/A (not applicable)	Covered by above measures
	01.04	N/A	Judiciary Performance Evaluation: Points System Number & percent of decisions overturned on appeal Number of official complaints against judges
02.	02.01	Number of originating cases received (by type) Number of appeal cases received (by type)	Number and percentage of originating cases settled (by type) Number and percentage of appeal cases settled (by type)
	02.02	Number of days sitting Number of cases and/or submissions heard Number of cases and/or submissions	Number and percentage of cases or submissions (by type) settled or disposed of within a required time frame
	02.03	Number of company applications processed	Percent of applications processed within 5 days (target = 100%)
	02.04	3–5-year Capital Development Program established Total value of capital works contracts issued Total value of procurement contracts issued Total value of capital works completed Total value of procurement contracts fulfilled	Adherence to capital program; time and cost achievements Brief assessments of: 1. Functionality of new and renovated capital facilities and equipment 2. Successful operation of IT systems 3. Assessed monetary value of efficiency gains (e.g., heating)
03.	03.01	Number of overdue fines and/or penalties collected	Amount collected as percentage of total amount outstanding
	03.02	N/A	Costs of collection: total amounts collected (target = constantly improving ratio)

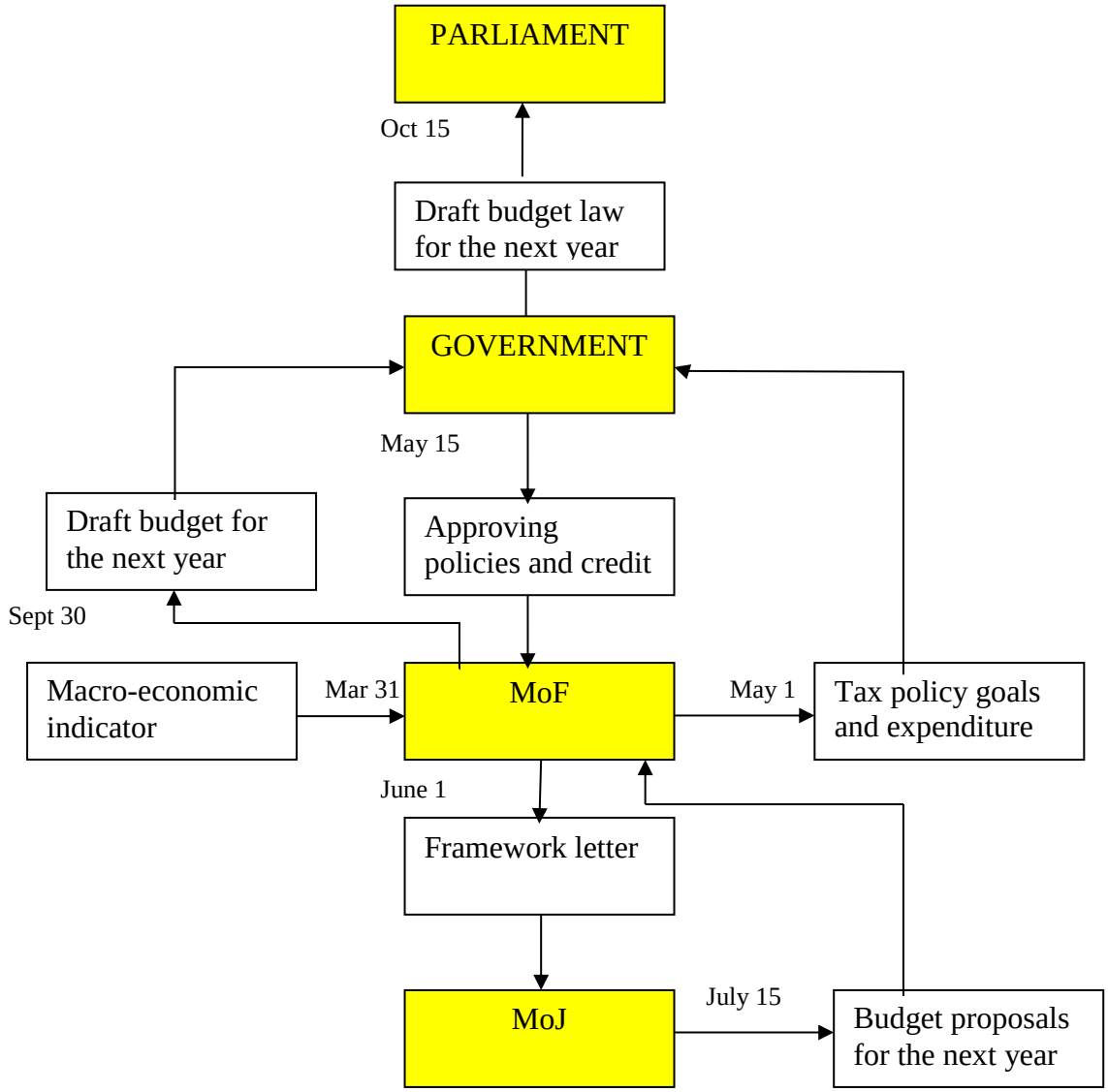
04	04.01	Output of trainees by type	As percentage of budget-funded targets (target =100% disbursed)
	04.02	Value of new and renovated facilities completed	Achievement against budget-funded targets (target = 100%)
	04.03	Number of financial and performance audits completed	As percentage of budget-funded institutions (each institution audited at least every 3 years) Annual survey by MoJ of skills requirements and shortages in judicial system
05	05.01	Progress or completion report for each project	Project completion time and costs against plans and budget (target = on time, within budget)
	05.02	Completion Report submitted for each project	Specific project evaluation: impacts/achievement/contribution (compared against statements and expectations at project commencement)

7.5. Romania

The court budgeting procedure in Romania is based on traditional budgeting. The Ministry of Justice implemented the program based budgeting as a part of the recommendations of the Ministry of Finance, together and at the same time with each annual budgetary process, the program based budget being an annex to the budget of the ministry. In the capacity of court budget administrator, the ministry prepared funding programs particularly for the accomplishment of operational objectives related to the justice act, which covered all of the courts of all levels (e.g. hearing witnesses in criminal trials, providing the courts with IT - equipment and software needed for the activity of the courts).

In practice, budget development/substantiation is done upwards meeting the budget limits described in the framework letter; there is used analysis and centralization by courts under the same court of appeal - tribunal - court and there are used electronic data collection and processing tools – minimum Excel templates.

The budget calendar of Romania is similar to the EU one:



Stages:

1. Estimation of the overall resource framework;
2. Determining the baseline for each sector;
3. Determining the amount of resources for new policy initiatives;
4. Identification of expenditure priorities;
5. Setting sector expenditure limits;
6. Disaggregation of sector expenditure limits by types of budgets and establishment of inter-budgetary relations;
7. Distribution of expenditure limits from the state budget by central public authorities and transfer limits;
8. Approval of limits by the Government.

At the same time with the implementation of justice reforms and validity of historical data provided

by the quasi total use of IT in all courts and all administrative and judicial processes, it was deemed necessary and suitable to move to performance-based budgeting, respectively case based budgeting:

- Under budgeting per case, the Ministry of Justice started to determine the cost/case for the previous year to Title II Goods and Services (23 budget articles and lines) and to plan by caseload distribution for the new year;
- There haven't been taken into account correction indicators based on court performance (efficiency indicator);
- The first procedure of allocating budget per case was performed under a pilot project in 2009, this procedure is still being developed and is done in parallel with the classic procedure per case.

We give an example of the procedure followed and piloted in the biggest jurisdictional court of Romania. In the cost per case model they took into account exclusively recurrent costs, while the capital expenses are a part of the multi-annual investment plan.

I. Legal basis for budgeting per case procedures:

- Law on Accounting no. 500/2002, regarding Public Finance;
- Order of the MPF no. 946/2005 approving the Internal Control Code, which covers the management/internal control standards for public entities and for the development of managerial control systems;
- GD no. 83 of 3 February 2005 on the organization and functioning of the Ministry of Justice - updated, Article 4 item X, 2 and 3;

II. General specifications

Taking into account:

- The budget for 2009 allocated to the Ministry of Justice and Citizens Freedoms, which accounts for 82.62% of the value of budget credit openings made in 2008 on this expenditure line;
- Budget execution as of 30 September 2008 by secondary and tertiary budget spenders from the justice system on this category of expenses;
- Proposals of secondary budget spenders on the allocation of amounts distributed by paragraphs on Title II Goods and Services.

There is set:

- The unitary distribution of budget provisions per each paragraph of title II Goods and Services, for courts of appeal, based on the criteria below:
  1. Number of first level courts under each court of appeal;
  2. Number of positions filled as of 31 December 2008;
  3. Number of new cases on the list during 2008;
  4. Premises managed and existing heating solutions;
  5. Number of vehicles;
  6. The execution as of 30 September 2008, because the execution is not completed as of 31 December 2008.
- Establishment of a unique way of registering various expenses related to Title II Goods and Services;
- Distribution of budget provisions for the office of the MJCF based on budget execution as of 30

September 2008, taking into account the specific activity, which is different from the one of the courts of law.

There shall be taken into account provisions of Article 21(4) of the Law no. 500/2002 on Public Finance, according to which: "The main budget spenders shall distribute budget credits according to paragraph (1) after retaining 10% of the allocations approved for them, in order to ensure a prudent budget execution, except for the staff related expenses and expenses resulting from international commitments, which shall be distributed in full. The distribution of the retained 10% shall be done in the second semester, after the Government examines the budget execution for the first semester".

Paragraph **20.01.01 Office Supplies** will include expenses consisting of:

- Other kinds of paste (correction paste + adhesive tape);
- Goods and packages of paper and cardboard (sacks, pouches, folders) - cardboard files + cardboard folders;
- Packages of corrugated cardboard (boxes);
- Carbon paper, tracing, gummed or adhesive (post-it) paper;
- Other stationery (bookshelves);
- Labels;
- Other paper items, paper or cardboard paste (paper cubes);
- School and commercial stationery (copybooks, note pads, diaries, address books, registers, etc.);
- Other rubber items (erasers);
- School and office supplies made of plastic (pens, pencils, mouse-pad, plastic folders, plastic files);
- Various plastic items (support for correspondence, ruler, pencil holder, files for documents, name holder, etc.);
- Other cutting items (paper knives, sharpeners, etc.);
- Small metallic office items (clasp, corners, paper clips, staples, etc.);
- Writing items (pens, pencils, point markers, markers, pen refill, etc.);
- Paper punchers, staplers;
- Other stationery;
- Paper or cardboard items for correspondence (envelopes).

Paragraph **20.01.02 Cleaning Substances** will include:

- Paints and lacquers;
- Toilet and perfumery soap, household soap, industrial soap and soap containing products;
- Cleaning products (for dish, floor, walls washing, for industrial or household use);
- Household air fresheners;
- Household plastic items (dustbin);
- Polishing products, creams for furniture, parquet, etc.
- Cleaning products (cleaning paste and powder, other similar products);
- Other expenses for materials needed to ensure cleanliness in line with the norms in force.

Paragraph **20.01.03 Heating, Lighting, and Fuel** will include:

- Expenses for the procurement of solid and liquid fuels used for maintenance;
- Expenses for the heating of the premises connected to heating and hot water systems;
- Cost of natural gas used for heating and other purposes;
- Cost of power for the lighting of buildings, yards, surroundings, as well as used in labs, engines, aggregates, etc.;

- Cost of fuel and lubricants consumed by power generators.
- Paragraph 20.01.04 Water, Sewerage and Sanitation will include:
- Cost of water used for administrative-maintenance needs;
- Charges and expenses for sewerage, cleaning and evacuating the sand out of fountains, wells, and piping;
- Works on treating, distribution and evacuation of water (cleaning, repairs, sewerage, etc.);
- Sanitation expenses related to the transport, storage or disposal of various residues;
- Expenses for water disinfection and softening.

Paragraph **20.01.05 Fuels and lubricants** will include:

- Oil (for internal combustion engines), quantity receipts;
- Special lubricant substances and products for vehicles.

Paragraph **20.01.06 Spare Parts** will include:

- Common locking metal mechanisms for buildings (locks), parts of taps and similar items;
- Parts and accessories for photocopiers;
- Parts and accessories for sound and image receiving, recording and playing devices (audio and video tapes);
- Spare parts for computers (keyboards, spare parts for printers, mouse);
- Cost of procurement and production of spare parts or other materials related to the vehicles;
- Cost of spare parts for current repairs;
- Cost of spare parts for inventory objects;
- Tires for vehicles (tires for racing vehicles and passenger cars).

Paragraph **20.01.07 Transport** will include:

- Fees for parking, crossing bridges and highways with special regime for vehicles on missions, vignette in line with the law, vehicle insurance;
- Transport expenses for business interests for public transports within the residence locality;
- Interurban railway passenger transport services;
- Urban and suburban passenger transport services different from railway transport;
- Interurban road passenger transport services;
- Taxi and car rental services, with driver;
- Bus rental services, with driver;
- Air passenger transport on schedule - on the territory of the country.

Paragraph **20.01.08 Mail, Telecommunications, Radio, TV, and Internet** will include:

- Local public telephone services;
- Interurban public telephone services;
- Mobile telephone services;
- Internet services (WLAN communications);
- Television services;
- Radio and cable television services;
- Electronic legislation services (Official Gazette);
- Subscription payment to telephones, telephone circuits, maintenance and current repairs, transfer of telephone places;
- Telex and telefax, intranet and other transmission fees and expenses;

- Other specific authorized expenses.

Paragraph **20.01.09 Materials and Provision of Functional Services** will include:

- Paper and cardboard for writing and copying (paper for writing and photocopiers);
- Coated paper and cardboard (paraffin paper, wax paper, oil paper, coated paper, colored paper);
- Printed forms (administrative forms);
- Chemicals for photograph use (toner);
- Mail services;
- Cost of post stamps and sending of goods, forms, and post fees, charges for the rent of a mailbox;
- Expenses for the maintenance and service for the telecommunications devices (networks, distributors and equipment);
- Expenses for the maintenance of goods used for administrative-household activities (typing machine, calculators, etc.);
- Value of materials for photo labs;
- Cost of materials and work for the printing of leaflets on the specialized line;
- Expenses for lantern batteries, recharging of cell phone batteries;
- Expenses for filming, procurement of films, audio and video tapes;
- Bank commission for management guarantees and enforcement officers.

Paragraph **20.01.30 Other Goods and Services for Maintenance and Functioning** will include:

- Expenses related to the archive of the services;
- Cost of subscription for the maintenance and functioning of refrigerating equipment;
- Cost of materials for the maintenance of buildings (lime, cement, nails, glass, a.o.);
- Cost of elevator inspection;
- Cost of materials for preventing and extinguishing the fires (extinguisher fluids, sand, etc.);
- Cost of decoration materials;
- Cost of accreditation, functioning and sanitary authorization;
- Cost for provision of various services by third parties: printing, binding, copying;
- Other fees on verification or expert review of some devices, installation, equipment;
- Printing of other products (business cards, etc.);
- Knives, scissors and their blades;
- Various metallic or non-metallic items (firms, addresses, letters and symbols);
- Maintenance and repairs of lifting and manipulation equipment (elevators);
- Other electric lamps and lighting fixtures;
- Maintenance and repairs of radio communications, radio and TV broadcasting equipment (telephone switchboard);
- Works on air condition systems installation;
- Maintenance and repairs of passenger vehicles;
- Other motor vehicle maintenance services (washing and cleaning, assistance, repairs and hauling);
- Contract-based real estate administration services;
- Costs related to the construction, maintenance and repairs of furnaces;
- Fees for gas, electricity meters (guarantee);
- Fees for water meters and the related joints;
- Maintenance and repairs services for office equipment (fax and photocopiers);
- Maintenance and repairs services for computers and other IT equipment (printers);
- Other textile items (sponges);
- Recording media except for cinema film (bands, tapes, disks and other magnetic media);
- CDs, diskettes;

- Rubber mats and carpets;
- Polyethylene sacks, bags, and cases;
- Plates, sheets, foils, bands, braids, films or other plain self-adhesive items made of plastic, even in rolls with a width ≥ 20 cm;
- Procurement of accessories needed for lighting (bulbs, fluorescent tubes, starters, globes, lamp glass, wicks, lanterns, fuses, plugs, sockets, switches, commutators, extensions, etc.);
- Cost of installing gas and electricity meters, heating and air conditioning systems and their connection;
- Technical design services (cadastre services for various buildings belonging to the Ministry of Justice);
- Technical testing and analyses services (e.g. lab tests for facade stones and monuments at the Palace of Justice);
- Maintenance and cleaning services;
- Textile washing services;
- Maintenance and repairs of automatic entrance doors;
- Other expenses.

Paragraph **20.02 Current Repairs** will include:

- Cost of current repairs (whitewash, interior and outer painting, repainting the wood items) performed for buildings, constructions, installations, equipment and furniture;
- Repairs of the masonry, floors, doors, windows, frames, ceilings;
- Repairs of surroundings, substitution of gutter, downspout, window glass;
- Repairs of kitchen installations, equipment, devices and accessories;
- Repairs of water installations, sewerage, heaters, lighting, gas, air conditioning, etc.;
- Repairs of elevators;
- Repairs of coating, tinware works for chimneys and ventilations;
- Current repairs of construction inventory and equipment (engines, motor pumps, water supply plants, etc.);
- Repairs of human medical devices and instruments;
- Expenses for the maintenance and repairs of goods related to inventory (including value of washing and chemical cleaning of some equipment items, performed outside the premises, pinking the mats and moquette, etc.);
- Expenses for furniture repairs;
- Construction projects management services (e.g. consultancy on acceptance, cost of technical expert review which is done with respect to some current repairs).

Paragraph **20.05.01 Uniforms and Outfit** will include:

- Expenses for the procurement of outfit meaning robes for judges and clerks in line with the legal provisions on outfit.

Paragraph **20.05.30 Other Inventory Items** will include:

- Curtains, drapes, blinds;
- Carpets and other floor covers made of woven textiles;
- Carpets and other floor covers made of terry cloth;
- Non-skid chains for snow;
- Vacuum cleaners, mixers, juicers;
- Other electric devices (coffee machines, kettles, toast makers, etc.);

- Various office machines (shredder, etc.);
- Analog and hybrid computers (for office);
- Desk lamps and floor lamps;
- Tape recorder and other sound recording devices that also include a sound playing element (voice recorder);
- Video recording and playing devices;
- Other receiving devices (telephones);
- Alarm clocks, pendulum wall clocks, and other clocks;
- Chairs;
- Metal furniture for offices;
- Wooden furniture for offices;
- Memory stick;
- Other inventory objects.

Paragraph **20.06.01 In-country Business Trips, Secondments, Transfers** will include:

- Accommodation and transport expense returns offered for business trips, etc.;

Paragraph **20.11 Books, Publications** will include:

- Procurement of thematic printed books, encyclopedia, and dictionaries;
- Subscription to publications, magazines, newspapers, etc.;
- Cost of subscription to the Official Gazette, selections of regulatory acts, standards, statistical yearbooks and specialized publications in hard and digital format.

Paragraph **20.12 Consultancy and Expert Review** will include:

- Consultancy and expert review for the development of Procedure Code or other documents specific for the judiciary;
- Other consultancy and expert review services;

Paragraph **20.13 Professional Training** will include:

- Expenses on professional training, development and specialization of staff within specialized institutions or by competent people;
- Other expenses related to professional training.

Paragraph **20.14 Labor Safety** will include:

- Expenses for labor safety foreseen by the legal provisions in force;
- Cost of protective equipment (gowns, coverall, combination, rubber boots, protective glasses, rubber gloves, helmets, etc.);
- Cost of documentation materials on labor safety.

Paragraph **20.28 Free Legal Assistance** will include:

- Indemnities paid to some people out of the unit: honorariums for lawyers on both civil and criminal cases.

Paragraph **20.30.01 Advertising and Publicity** will include:

- Services of selling advertising space or time based on a commission (ads);
- Expenses for advertisement and publicity foreseen by the legal provisions in force.

Paragraph **20.30.03 Non-life Insurance Premiums** will include:

- Insurance of motor vehicles (third party insurance, CASCO for vehicles belonging to the entity);
- Insurance of movable and immovable goods against some risks;

Paragraph **20.30.04 Rental** will include:

- Expenses for the rental of real estate, machinery, equipment;
- Expenses on royalties, lease, and rent;
- Concession fees;
- Rental of land plots and other real estate items (rental of garages, parking);

Paragraph **20.30.30 Other Expenses for Goods and Services** will include:

- Forensic expert review made via authorized entities;
- Fiduciary printed products (judicial stamps);
- Consultancy services on architecture of information systems, configuration of equipment and network;
- Services of developing customized software (various applications);
- Services for the maintenance of information systems (ECRIS maintenance);
- Other services related to databases (updating of legal products ECRIS - LLDS and LEX 2000);
- General consultancy services in the area of management and administration;
- Technical tests and analyses services;
- Translation services;
- Interpretation services;
- Media agencies services (mediafax);
- Media agencies services (audio-video monitoring);
- Services provided by the detainees (A.N.P-B.A.G.R.);
- Expenses for the registration of new motor vehicles;
- Other expenses authorized specially by legal orders in force, which do not fall under the other articles, paragraphs and sub-paragraphs;
- Commissions and fees for obtaining entry visas to relevant countries, for booking transport and hotel rooms, airport charges;
- Charges for obtaining passports and other legal obligations related to delegation with business purposes when going abroad.

NOTE: These criteria shall be also applied by **secondary credit spenders** from the justice sector when distributing the budget to tertiary spenders.

Each secondary credit spender shall draft such an internal procedure for the distribution of budget credits for its own office and for each court falling under its competence, using **compulsorily** the criteria established by the main spender and this procedure will be submitted with the signature of the authorized people from each court of appeal to the Ministry of Justice within 3 days from receiving budget components for 2009.

8. Perspectives of Budgeting the Judiciary, the Courts in the Republic of Moldova

In this section we try to use the lessons and examples of budgeting from developed administrations in order to propose budgeting practices based on key aspects of efficient management of Moldova's court budgets. We will particularly emphasize where and how program and performance-based budgeting concepts can be used to improve the allocation and use of limited financial resources and to add independence and efficiency to court management. The lessons learned from the more developed public administrations are not necessarily a model for Moldova in terms of budgetary process or reform of the judiciary, but are rather good budgeting practices that can be easily adapted to the specific studied system in order to upgrade and improve the management of the judicial system.

The preparation of reforms and change of court budgeting process assumes the achievement of preconditions suitable for a national budget reform. There is needed to undergo a series of stages and actions in order to set this change climate so that appropriate budgeting techniques can be proposed and implemented:

- **Creating a positive attitude**: a better budgeted justice supports the achievement of higher performance justice; introduction of management into the justice sector needs trust and support for the reform process, particularly among magistrates and staff of the courts. Positive attitudes towards these changes are essential, both for them to be initially accepted and for their eventual success; if we stress that introduction of new budgeting methods can actually consolidate judicial independence ("which lets managers to manage and judges to judge"), we will contribute to the creation of a positive environment.
- **Recognition of an evolution process.** The various budgeting systems and methods that were presented have developed during several years and in parallel with other developments and improvements in the public administration management specific for each country; the introduction of budgeting reforms and techniques adjusted to the court system of Moldova should not give the impression of solving problems and succeeding right away, but that it is an evolution process that is progressing continuously.
- **Extending the collaboration between the fiscal and judicial authorities.** Few countries manage to have an efficient collaboration between the fiscal and judicial authorities. The successful implementation of budget reforms and justice reforms must be well communicated and understood, so that the two sectors would also be beneficiaries of the reforms. Communication must take place at highest administrative and political management levels of the two sectors.
- **Emphasizing the performance management.** The public administrations from most of developed countries focus on performance management as an "unconditioned action for the system"; the officials of the judicial sector and the justice cannot afford ignoring or not participating in these developments.

Introduction of performance concepts

There is no unique model or set of procedures for performance-based budgeting. Modern concepts and budgeting techniques can be efficiently introduced based on some principles and features, which are crucial for the improvement of managerial and financial performance in justice sector. General considerations:

- **The current budgetary system and reform plans.** The degree to which the public sector as a whole is ready to move to a performance management approach will affect not only characteristics of the special model applied in justice sector, but also the speed at which various elements and

procedures need to be implemented.

- **The current bureaucratic structure and reform plans.** The assignment of responsibilities within justice sector with respect to court budgeting will draw and design the court budgeting system; its direction towards performance; allocation of resources and distribution of responsibilities for performance; monitoring; result measurement and reporting; and the improvements to the process must be implemented and documented.
- **The current structure of the justice system and the objectives of the judiciary system reform program.** An efficient court budgeting method must be aligned to the institutional framework of justice and with the "judicial map" of the country. The changes proposed for the structure of courts, for instance, will have to be presented under some sub-programs; the plans of major expenses for the facilities of the judiciary may need a special budget per categories. The new or revised constitutional provisions may need a special budget and so on.
- **Levels of expertise in the public, financial and court management sectors.** The current evaluation of managerial expertise in justice, including the courts, can have a significant influence of the performance focused planning methods or can determine the way and stages of budget system implementation.
- **Availability of relevant information about the budget**. Introducing in practice the performance oriented budgeting in the justice area needs the existence of some historical data stored in a database, as well as a proper capacity of reporting and collection of information. Though these capacities can be also improved and strengthened substantially by introducing a performance-based system, we should admit as a main element the need of ongoing and accurate information within the sector, including and particularly within the courts and a political will to report openly and disseminate the existing information, even if it can reflect some judicial performance issues and/or constraints related to individual rights in front of the law.
- **Existence of information and communications technology at state level**. The introduction of performance-based budgeting does not need cutting-edge information and communications systems at court level, but however the collection, compiling and reporting of relevant information on performance budgeting can be helped a lot by the modern technology, starting from elementary spreadsheets for case management systems. Performance-based budgeting is facilitated by the ease and efficiency data and information can be collected and processed with.

Essential elements in a performance-based budget

A performance-based approach requires a series of features needed for the implementation, maintenance and development/improvement of the budgeting process. Required features:

- **A program based structure (budget programming).** An active program based structure (budget programming) is essential for identifying the types of expenses, for efficient allocation and management of resources in the justice sector. The budget programs must cover the functional responsibilities and key objectives of Government policy on the area of justice. The well-defined budget programs are the cornerstone of a successful, performance focused budgeting system.
- **Types of formalized and used expenses (budget classification).** It is generally accepted that the expenditure policy in the area of justice, court administration and management, special judicial structures (e.g. constitutional, special or reconciliation courts) and the law reform must have a clear distinction at this level. The payroll and indemnity expenses of the judiciary can be also assigned to a unique program.
- **Main function of the budget programs**. A performance focused budgeting approach needs the programs to be expressed as major policy objectives that involve a sum of outputs or activities that can be mapped/assigned particularly to the established goals and comprehensively to the overall goals of the sector.

- **A budget divided into levels (categories of credit authorizing authorities).** Each major program should be big enough to cover several sub-programs. Sub-programs can be further broken down into operational units or cost centers. The court management program should include separate sub-programs that would reflect the structure of the judiciary: a Supreme Court, courts of appeal, and first level courts.
- **Purposes and objectives of a well-defined budgetary policy**. A performance oriented budgeting system needs to be expressed efficiently and objective must be assigned to each level of budget management. These objectives must be realistic and measurable, so in this context it should be useful to determine whether the resources are directed efficiently towards the achievement of major policy goals and are used efficiently for this purpose.
- **"Intelligent" performance measurement.** Performance indicators that would let the fiscal and judicial authorities measure and determine clearly the progress achieved in terms of policy goals; this is a specific feature of a performance oriented budgeting system, where he outputs (effectiveness) and outcomes (efficiency and responsibility) are shown in the court budgets.
- **Quality, not quantity**. An efficient budgeting system does not need a wide range of measures. A combination of results per objective and measurements functions best, but at the same time good, accurate and up-to-date compiled information, with the possibility to evaluate and approach performance management implications, is more important than the number or diversity of performance measures.
- **Weaknesses and emphasizing inefficiencies**. Performance based budget measurements can be used to obtain information that could be useful to run the annual budgeting and resource allocation process among various concurrent policy objectives or resources and needs. At the same time, performance assessment can point out the weaknesses or inefficiencies that need to be addressed, corrected or improved by the managers.
- **Performance measures for revenue/savings generating activities.** Performance measures can and should be applied as revenue and savings generating functions in the judiciary, such as collection of fines, trial expenses and reduction of costs. It is important that the incentives generated by it should not affect the quality of the act of justice and, for the same reasons, all collected judicial revenues should be returned to the Treasury.
- **Open and regular information reporting systems**. Data regarding the activity and performance of the courts, related to the budgetary effort of the state must be available, collected, and published regularly. This is essential for justice credibility and also allows successful implementation of a performance-based budgeting system; collection of financial information and results at the level of courts can be used for managerial evaluations and budget planning that is suitable to court's needs.

8.1. Recommendations on and Approaches to Court Budgeting for a Higher Efficiency

In the implementation of a new budgeting methodology for the courts of the Republic of Moldova, we can consider the Slovak or the Romanian model as possible to customize and adapt successfully, as well as a performance-based budgeting model adjusted to the current system, its conditions and implementation possibilities, not being forced to manage a difficult project.

8.1.1. Applicable Models, Zero-Based Budget + Program Based Budget

The performance-based budgeting supposes implementation of a complexity based case classification model - which hasn't been done or approved yet - after a period of understanding and using this classification framework for at least 1 year; in parallel there should be introduced an information system tracking the expenses per case and per court, which allows statistics and aggregation of indicators, in order to be able to determine the unique cost/case at the level of categories of courts, sections, and substance. The system should be entirely functional at the level of each court in the

country and must be integrated with the case management system.

The 0 base budget would be more suitable at this stage, because it is a budget that complies with the practice of the Ministry of Finance and is developed by having each court submitting justifications for each budget line and paragraph every budget year. Each court will be perceived as a cost center.

We would like to remind you that traditionally budgeting is done based on the objectives set in the previous year. Some adding and reduction is done in the last year's budget in order to reach the figures for the current budget. Thus, traditional budgeting must depend on last year's objectives, as well as on the incrementalism or decrementalism principles in order to decide on adding or deduction which is needed to be applied to the last year's budget figures, so that the figures of the current budget would be the appropriate ones.

In case of zero-based budgeting (ZBB), we make the assumption that there was no budget for the last year and it is developed depending on the involved/expected benefits and costs. So ZBB relates to formulation of a budget with no reference to the prior plans. This is not done just once. No matter how many times a budget needs to be prepared, the budgetary process should start from zero and, with respect to cost-benefit analysis, proposed allocation of resources should be justified. An example is show in Table 19.

Table 19. Using program baselines for the development of budget requests of the judiciary

Program	Sub-program Examples of only actions and data (US$ million)	2013 budget	2014 request	2015 forecast	2016 forecast	Comments / Explanations
01	**Remuneration of judiciary and judicial support staff**					
	Baseline (Repeated costs)	10.0	10.5	11.03	11.58	First of all staff expenses Adjusted to the inflation rate for the upcoming years
	Proposal of new expenses					
	1. 10 new courts		0.5	0.53	0.55	Adjustment to increase the number of cases under procedures
	2. Planned review of remuneration		1.0	1.05	1.10	Based on the recommendations of the quality improvement committee and/or employment goals
02	**Court operations**					
	Baseline (Repeated costs)	75.0	78.75	84.60	88.50	Adjusted to the inflation rate and demand for the upcoming years

	Proposals of new expenses 1. Specialized reconciliation court 2. Additional staff for court administration 3. Construction of 4 new courthouses 4. Renewal of court IT systems		1.50 0.75 1.00 2.50	1.80 0.79 1.00 2.00	 0.83 0.5 0.60	Duration: 2 years to solve disagreements Continuous: resources added to the baseline for 2014 Construction: 3 years; ensuring maintenance will be included in the next baseline
03	**Administration and collection of fines and penalties imposed by courts**					
	Baseline	3.20	3.36	3.53	3.70	Adjusted to the inflation rate and demand for the upcoming years
	Proposals of new expenses 1. Unit for the collection of overdue penalties		0.30	0.45	0.47	Continuous: resources added to the baseline for 2014
04	**Judicial Education & Training**					
	Baseline	0.80	0.85	0.93	1.00	Judiciary Academy only: adjusted to the inflation rate and demand for the upcoming years
	Proposals of new expenses		0.00	0.00	0.00	Lack of proposals of new expenses for 2013
05	**Judicial reform projects**					
01	Court management system	0.30	0.50	0.75	0.50	Bilateral projects under implementation, local contribution
02	Probation and/or mediation services		3.50	2.80	3.00	New project : future funding to be included under baseline of sub-program 02 in 2014
03	Court decisions on the internet		0.07			New bilateral project, local contribution
04	Legal reform program		0.40	0.45	0.47	Expected duration: 5 years – looking for donor support
	Total Sub-program 05	0.30	5.10	4.00	3.97	
	Total estimated budget	90.80	109.46	115.99	119.55	

8.1.2. Applicable Models - Performance Based budgeting - Budgeting per Case

The improvements in the IT area in the Republic of Moldova created centralized access to multiple court information. This information is not only a strength of the courts in helping their own activities, but also is a great potential for building a sounder and more equitable method for the allocation of

financial resources. Court budgeting in Moldova is based on a method which was needed before the IT reached a high development level, but it's the time to see where the new information era can be used to help the courts in proving their funding needs.

The changes in the society determined the Government of the Republic of Moldova to align the supply of public services to the demand. The judicial sector is one of the public services that face the challenges of an open economy and economic development of the country.

The judicial sector has the opportunity to improve the quality of provided public services as a result of introducing and implementation of a proper legal framework, optimization of activity and funding by means of appropriate methodology based on the performance of courts and judges.

The public legal reforms are being implemented and the improvement of funding and budgeting will be results of social and economic development of the society. The introduction of new legislation on funding public services will align the public sector to the best practices and methods that ensure adequate allocations for the adequate provision of public services.

Performance-based budgeting (PBB)

Simply, performance-based budgeting is focused on the relationship between the funding levels and the expected results of the funded program. This is not a single funding model, but a variety of different models. They all make a connection between funding and results, but in different ways. In case of Moldovan courts, the various performance-based budgeting models can be applied to different types of activities. In this report we present a proposal which is adequate, applicable and sustainable for a medium term for the courts from Moldova. The public entities responsible for the sound activity of justice in Moldova can choose their own model, depending on their needs.

Where PBB can help to eliminate the inequity in the budgeting of Moldovan courts

PBB correlates the request of fund allocation with the amount of work the court is going to do. By implementing elementary PBB methodologies, the courts will have a more adequate capacity to use the workload for their funding. The main principle is a simple one: using information from the courts in order to inform the budgeting process by correlating the allocation of financial resources with the activity of the court. The efficiency in courts can be identified (e.g. How did Court X manage to run with such a low cost per case? Is this court doing some things the other courts could learn from it?) with the course of time and funding of court needs in the future can be adjusted to the level of the more efficient courts.

The model of funding the judiciary in Moldova could be considered from the perspective of the model initiated and piloted in Romania, where PBB is used only for operating expenses (office supplies, stationery, services, etc.). This is done by determining at national level the average operating cost per case and applying it to each particular court (for instance the expenses for mail services per case at national level is X lei; if the court has 100 cases, then the calculation is 100*X lei). This exercise is done for each line included in the operating expenses. The total budget of a court is ultimately consisting of payroll expenses, capital expenses and operating expenses, determined according to the method above.

In order to progress with PBB, some aspects are proposed to be taken into account for justification.

- **"Buy In":** All SCM, court presidents and line ministries should support the proposed method of funds allocation. The staff must know that the selected model has full support of the management

and, respectively, they are responsible for the quality of information provided by the case management system and used for the allocation of financial resources. The transparency of funds justification and allocation will raise the trust in the sector budget development process.

- **Governance:** it is important for the courts to be involved in budgeting, from determining what kind of resources the court receives for a type of case until setting the limits for certain operating expenses. Fortunately, SCM consists almost fully from various actors in this sector or it may even be possible to create a committee that would revise the annual assumptions calculated based on the proposed model. With no doubt, there shall be determined who is going to analyze court expenses and judicial statistics in order to determine the court funding level. The formalization of the **budgetary process** for the courts determines the professional level of the staff involved. The establishment of the professional association of court administrators/accountants will generate a participative process in court budgeting. The development of court staff budgeting skills will become an objective of the SCM.
- **Data collection:** courts must ensure that information they collect and input in the ICMS is of high quality, because it will underlie the funding of the courts. The judicial sector must ensure the accuracy of budget and expenditure planning and this needs the existence of an integrated resources management system implemented in all courts and connected with the ICMS. This system must be on the top priority list of the Ministry of Justice and SCM.

Staff vs. operating expenses

The PBB model used in the developed countries is one that relies on judicial statistics for the identification of the optimal number of staff additionally to the payroll expenses.

In many models, the formula determining number of staff is the one used to determine additional funding. For instance, if based on the number of cases tried per year and their type the formula allocates 24 staff, then the funding should be correlated with this number of staff. Some operating expenses are logically connected with the number of cases (such as mail services), but since staff expenses hold a significant share of the total court budget, any method to connect their funding with the activity of the court will need time for justification of budget requests in the Parliament.

Collection of information from the court

The courts are already inputting information in the ICMS. The information in the ICMS builds the skeleton of the performance-based funding model. The courts will probably be more prudent towards introducing the data into the ICMS after it becomes the source of court funding. Besides information from ICMS, the information on the approved budget and its execution level obtained from the Treasury system would be extremely useful for fair allocation of financial resources.

How payroll expenses can be determined (except for judges)

The purpose is to determine what staff (except for judges) is necessary to ensure the proper activity of the court. We exclude the judges from the formula because they are funded differently than the other staff. As for now, the number of staff employed in the judicial system will be the point of departure - but this exercise will help justification of requests for additional staff in the future or will help the Ministry to determine whether the future requests for additional staff are supported by other courts from the country. The team responsible for PBB, which analyzes the requests for staff, shall take into account the following:

The baseline or a constant number of staff a court needs just to be able to open its doors in the

morning? In the countries developed from administrative, economic and budgetary point of view, each court, regardless of its caseload, will get the following:

- 1.0 authorized work unit (AWU) for case management
- 0.75 AWU for selection of jurors and their management
- 0.49 AWU for financial services (procurement, payments, etc.)
- 1.58 AWU for IT support

So, each court gets from the very beginning 3.82 AWU regardless of the number of cases. This is the number of staff needed for the court just to open the doors and turn the lights on.

Additionally to these AWU, the courts from countries developed from administrative, budgetary and economic point of view obtain additional staff depending on several factors, such as:

- Number of indictees (for instance, in the countries developed from the administrative, economic and budgetary point of view, the courts get annually 6.5 hours for each defendant of serious crime that gets in the court).
- Number of petitions from detainees received by the court.
- Number of petitions received per year (for each petition the court gets 8.64 hours).
- Annual number of civil cases filed (the court gets 5.94 hours for each of them).
- Total number of registrations (the court gets 0.157 hours for each registration).
- Total number of financial transactions that went through the treasury system during the year (the court gets 0.1967 hours for each financial transaction).

<u>Other useful ideas:</u>

- In order to increase the IT staff for each court (additionally to the number obtained above), the courts in countries developed from administrative, economic and budgetary point of view apply a 0.75 hours factor both for the number of indictees and number of started civil cases. As well, the courts obtain 593.88 hours for each judge of the court.
- The number of indictees and number of civil cases started is also used for determining the administrative staff (3.24 hours for each).
- The courts will further get a unit of staff for each court under its jurisdiction (in case of district courts).
- The courts from countries developed from administrative, economic and budgetary point of view are encouraged to use audio recording equipment. If court do audio recording, they get a unit of staff for management of equipment and recording.

After the courts determine the number of hours they should get, this is divided to 1,763 (the number of hours a person works during a year taking into account holidays, annual leave, etc.). The result is the additional number of staff the court has the right to get. For instance, based on the aforementioned formula, a court obtains 28,208 hours, which accounts for 16 units of additional staff. Adding it to the established minimum of 3.82 units, the court has the right to 19.82 staff units (AWU).

<u>Other aspects that can be considered.</u>

- For each judge, the courts benefits of 0.967 staff unit (for 10 judges the court will benefit of 9.67 additional staff units).

So, having our example where the court gets 19.82 AWU, having 10 judges the court has the right to

benefit additionally of 9.82 staff units, getting a total of 29.29 AWU. In case if the court actually has only 25 staff units, it can request additional staff. In case if the court has 32 staff, it will be difficult for it to substantiate the need of additional staff, because it has more staff than the similar courts.

The courts have already asked the permission to employ additional staff, but they can ask for the permission to fill in the vacancies. This can help at the gradual adjustment of the number of staff, so that every court is filled with an identical number of staff depending on the number of cases examined every year.

How the aggregated operational budget can be determined

Having the formula for determining the number of staff, the process of identifying the aggregated operational budget can be more robust. The aggregate operating expense categories are the categories distributed fairly and similarly among courts. For instance, the courts of appeal from the country will spend an identical amount for mail services per case. Though it has been previously discussed, the historical funding of some operating expenses can be applied to those categories of expenses that are specific for the court. For instance, some courts pay for heating services while others don't. It would not be logical to allocate funds for heating to every court.

By means of a regression analysis of statistics (a special software needs to be procured for this, because Excel does not provide for the analysis of several variables), the courts can identify the minimum needed funding to ensure that courts can work and "keep doors open and lights on", according to which the minimum amount is determined depending on the number of staff. The proposed model is similar to the formula on determining the number of staff. For instance, in the countries developed from administrative, economic and budgetary point of view, in 2001, the courts obtained operating expenses funding amounting to ($79,836 + (Number of staff X $1,022.24)).

In case of Moldovan courts, there should be taken into account the expenses for several years in a row in order to mitigate the sudden increases or decreases of funding in this sector.

When talking about categories of aggregate operating expenses, there shall be considered the categories which will have an identical value if distributed per courts. In the countries developed from administrative, economic and budgetary point of view these include transport, training, courier, mail, equipment maintenance and repairs, furniture repairs, telephone services, etc.

The budgetary process of establishing cost per case used in Romania for operating expenses can be applied as a model in the Republic of Moldova as well. It has to be adjusted depending on the legal framework and own needs of the judicial sector. The budgeting process can consist of uniform distribution to courts of the budget lines under Operating Costs chapter (Title II Goods and Services in Romania), by establishing a single budget classification for various goods and services and using the following criteria: number of courts in constituency, number of positions filled as of 31 December, number of backlog cases as of 31 December, area of the court, number of cars and budget execution for the year prior to the one for which the budget proposal is drafted.

Funding capital expenses

Funding of capital expenses has a different approach for the courts from countries developed from administrative, economic and budgetary point of view - the funding is also correlated with the number of staff, but there is no minimum value as a starting point. The logic of this approach is that usually the court does not need capital expenses to keep the doors open and the lights on. Anyway, ongoing capital investment is needed, as well as procurement of equipment, furniture, etc. The courts from

Moldova can analyze the capital expenses in order to identify a value of funding that could be further correlated with the number of staff. In the last year, a court from countries developed from administrative, economic and budgetary point of view received USD 1115 per staff unit. Speaking about the example above, the court that has 29.29 staff units could obtain USD 32,658 to finance the procurement of equipment, furniture, etc.

In case of Romania, the capital expenses are not connected with the cost per case budget. As well as in case of staff expenditure, the capital expenses represent ongoing improvement of labor conditions and environment and will affect negatively the cost per case for a court that participates in the modernization process. That is why, in terms of modernization and capital expenses, Romania is guided by programs on modernization of IT equipment, vehicles, furniture, etc.

The capital expenses in Moldova must undergo a specific budgeting and planning process. For this purpose, it is assumed that there will be developed a methodology that will include the following stages: assessment of capital funding needs; evaluation of financial capacity and financing options; prioritizing capital investment; development of a draft multi-annual capital budget and its implementation period.

Historical funding and other exceptions from PBB

As it has been mentioned above, there are some categories of expenses that are specific and necessary for each particular court. There are not a lot of them, but they do not necessarily fall under PBB and are usually funded based on historical values. The categories funded historically in the countries developed from administrative, economic and budgetary point of view are the supplementary utilities, such as renting parking space, one-off expenditures of the magistrate and law enforcement (medical and psychological care, counseling, electronic monitoring, drug test, etc.).

The repairs of damaged courthouses or major renovation projects are left outside the funding formula, because they are not based on court caseload, number of staff or basic cost of court maintenance. These are unique, one-time expenses, which are usually funded outside the rules on establishing funding requests.

8.2. Implementation of the Chosen Court Budgeting Model

8.2.1. Formalizing the Concept

The implementation of a new budgetary model for courts requires that the legislation applicable to budgeting public institutions is adapted. The amendment of the law on court budgets; development of secondary legislation and the issue of a budget development and execution applicable at each level of the court becomes a necessary mandatory condition for the new procedure to be recognized and for it to have enforcement power. Also, at the level of each court a working regulation on the budget, with stages, schedule, responsible persons, formulation and stage results to be achieved must be issued.

The unification of the court budgeting system (a budget for all courts at different levels; one budget request instead of two parallel ones), in order to avoid overlapping and confusion between different actors involved, as well as creation of its own regulation mechanism to allow courts to request budgeting in a truly independent manner is desirable.

The revision of procedure codes, introducing new procedures for the celerity of justice that implicitly determines savings.

The chosen court budgeting concept must be formalized and approved so that it becomes operational. The listed conditions must be applied and in the current case as well, as it proved necessary, these representing a weakness of the current way of work.

A series of organizational aspects are to be implemented together with the approval of the new budgeting model:

- Organizing and establishing the attributions of institutions in the court budgeting process framework will make the subject to the application of a new budgeting model.
- Determining the situation in the DJA as reported to MoJ and the SCM is a critical point. DJA has leverage in court budgeting, but doesn't have enough accountability and neither adequate instruments. In this regard, the DJA situation must be clarified (is it coordinated by the Minister or it passes under SCM).
- The influences of other institutions in organizing court budgeting (Government, Parliament, specialty committees in the Parliament) must be explicitly reflected in the court budgeting workflow diagrams.
- Creating a new quality control policy for court performance, based on clear transparent and measurable performance indicators for judges and courts, and including a court performance evaluation system.
- Increasing the management and strategic thinking efficiency, including dialogue and coordination between courts and other actors of the justice system, executive and legislative.
- Encouraging and developing capacities of the justice system to contribute to the justice system reform, to look for and offer continuous feedback to other involved actors or partners in the justice system reform.
- Increasing efficiency of procedural law by reviewing complaints in the system
- Taking into account the possibility of creating administrative or other types of courts.
- Supporting complete transfer of court administration functions to the courts..
- Improving the budget allocation for courts, as part of the national income (GDP) and general budget, in order to be used mainly for to optimize the number of judges and (to a lower extent) of non-judicial assistants.

8.2.2. Public Debates and Dissemination of the Concept and Methodology

The new budgeting model development process has to be transparent and to collect the opinions of the actors involved in justice. The court budgeting system will be made public to all judges and civil servants in the courts, and their opinion will be requested in the first stage and as a matter of priority.

For this reason, determining a justice funding model, and consequently of courts, should go through public debate, according to the standing legislation.

8.2.3. Approving and Implementing the Court Budgeting Regulation

The implementation proposal of the chosen budget model has to start a new cycle and with a new comprehensive and unitary approach of the project. Given the situation, the new budget model has to be approved by September 30th, so that it could be disseminated to all involved institutions and departments.

8.2.4. Training Civil Servants on the Proposed Budgeting Approach

Civil servants' training is a mandatory element that must be accomplished in order to hope for a

minimum understanding and successful start of the implementation. All civil servants and court presidents should go through a training session with a test verifying the knowledge of the new methodology.

There will be at least two training sessions organized annually for the people responsible for the budget, before launching the budget preparation process (in April) and a second session in July/August at the stage when court budgets are finalized and submitted for approval.

8.2.5. Practical exercise for a budget cycle in the chosen approach

In case the court sector will decide to implement PBB, this should be done very carefully without drastically disturbing the institutions funding year by year. The following approach is proposed to serve this purpose:

- When switching to PBB, the court funding of the current year will be taken as base line and it won't go lower than that level. Any inflation adjustment will only be done for those courts which according to the formula are underfunded, the amount will remain stable until a balance is reached.
- As it was proposed above, data from several years should be used in developing the formula, so that any funding increase or decrease has a major impact on court funding the next year. Only when for several years the difference in funding some specific expenditures has been big, the court funding can be modified.
- To adjust the staff number and the budget allocation associated with it, some routine methods are used (for example to fill a vacancy in a court) in any court, at any level. This way the interruptions due to lack of staff are minimized.
- Other implementation models could provide that the court funding increase should not exceed 5% until a fair balance is achieved. The increase or decrease rate should be identical in order to ensure the uniformity of the funding increase or decrease.
- To create a concept of an average national cost and determine the quantity of each good and service in conformity with the established cost/case and multiplying it by using the criteria established by each court.

8.2.6. Implementation Plan and Budgeting Schedule, Monitoring and Evaluation

If there will be an interest to test the PBB methodology, below is a potential action plan:

1. Identify the model and consult it with SCM and the Ministry in the view of implementation.
2. Create PBB implementation premises.
   a. Create a group either in the SCM, DJA or the Ministry of Finance in order to supervise PBB implementation and evaluation, but also to review the formula in the future.
   b. Review proposals on the formula described in this report and apply statistical data where possible. Identify other data that can be used to measure court performance and that can be a basis for funding in the future. It is important to try to measure the value of courts, or to evaluate only what can be measured.
   c. Work with the court presidents to make the performance-based budgeting understandable to them and to ensure support to the efforts in its implementation in the judicial system.
3. Formalize the PBB process by the ministry/SCM and introducing it in parallel with the existing budget development procedure of the judicial system.
4. Pilot the new methodology within a group of courts (the group members should probably be the courts with identical level of funding and number of cases for easier management of any

modification of the funding).

5. Adjust the new procedure based on the lessons learned during piloting and using the methodology at country level after that.
6. Develop a detailed instruction, including a presentation of the formula, so that the courts will have more trust in the fairness and transparency of the process through which the funding amount is determined for each court.
7. Introduce PBB in all courts as a budget development process parallel to the existing one. Evaluate the methodology efficiency and decide upon its introduction as an alternative to the existing budget development procedure in the court system.

8.2.7. Feedback and Adjustments Regarding the Budgeting Process

Once the staff determination formula is established, similarly to other countries, developed from administrative, budgeting and economic point of view, the courts could have a better understanding about the future funding knowing the number of cases in the current year. In case the courts will notice that the number of certain types of cases grows, they will have the possibility to observe that the value of operational expenses also grows based on the respective modifications. The courts will be able to justify the request of additional financial means having the increasing number of cases and the number of staff lower than the country average. Any opportunity to demystify the court budgeting process will be appreciated by them, the public and the government.

9. Conclusions

The specific of the budgeting process applied in Moldova in courts is determined by the budget and tax policy of the Government and the budgeting model chosen for the public sector.

The modification of the budgeting model at court level for planning and financial resources allocation can be accomplished only if the Ministry of Finance accepts a different model that would respond to court needs, but would also follow all standing regulations and developed procedures, and applied by the ministry. At this point, in order to respond to a new court budgeting model and, at the same time, to plan and execute the budget according to MoF regulations, two budgeting programming implemented in parallel are necessary. The lack of human and technological resources (ICT infrastructure and complex SW applications for the Integrated Management of Human, Financial and Material Resources) makes the application of a new budgeting model difficult in the immediate future. Introducing ICT in all courts will allow switching to a new budgeting model exclusively dedicated to courts and that could be automatically transposed into the format requested by MoF.

Submitting the budget justification in a narrative form (justification of the legality, need and opportunity of the budget requests) will create at the level of each court the necessary culture through which the budget becomes a management tool. Introducing in this regard their own regulation and standardized templates at system level and personalized templates at court level, templates regarding the budget planning and execution, will make each court represented and accountable.

The study presents landmarks, working models for court budgeting, good practices and lessons learned, accordingly, from other judicial systems, for as fair and efficient court funding as possible, having the performance-based budgeting as working basis.

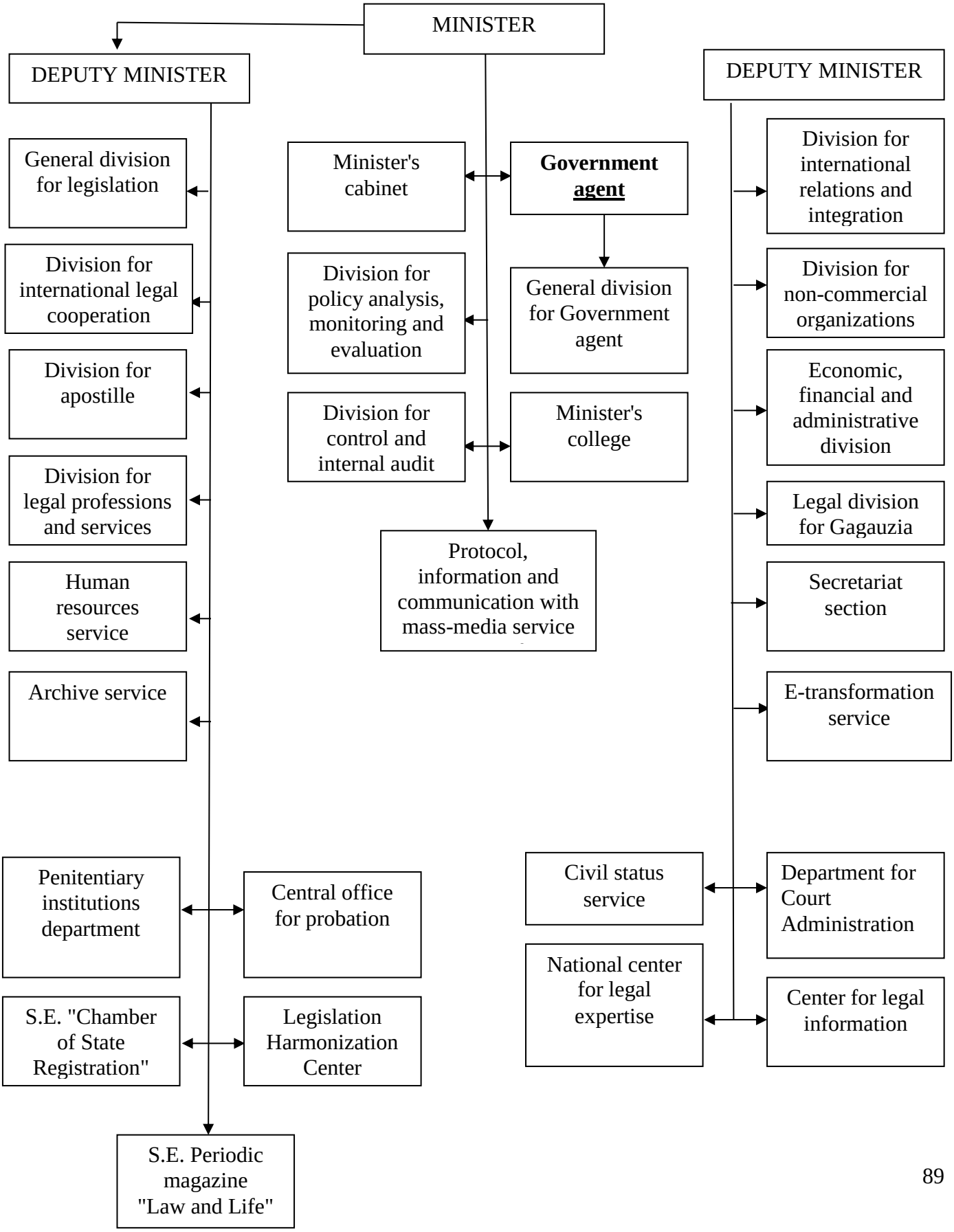
For the implementation in the courts of Moldova we recommend a performance-based budgeting model, that would ultimately be centered on the court work load and estimated cost of a case at national level (detailed description in Chapter 7 of the study). The budgeting model implementation process will be progressively complex and its preconditions are the actions on identification of the optimal court structure from the Human resources perspective (judges and auxiliary staff - the courts framework structure), as well as regulation of the activities for each type of court action reported to the type of file (case).

Annexes

Table 20. . List of courts and their financing (main component), thousand lei

Court	2008	2009	2010	2011	2012
Appeal Court of Bălţi	4472.6	4420.6	5146.7	4975.7	7639.0
Appeal Court of Bender	2321.4	1967.5	2214.1	4380.9	2374.9
Appeal Court of Cahul	2328.9	1970.0	2046.4	2216.8	2475.8
Appeal Court of Chişinău	6808.1	7440.9	7234.1	7857.5	9977.9
Appeal Court of Comrat	2872.9	2759.3	4664.6	2413.8	2716.2
Court of Anenii-Noi	1309.1	1237.4	1335.6	1507.3	1508.7
Court of Bălţi	3433.5	2941.4	3264.2	3288.1	3685.7
Court of Basarabeasca	1801.9	4728.9	1149.8	1960.3	1339.3
Court of Bender	1018.2	1163.3	1694.0	1932.5	2188.0
Court of Botanica mun. Chişinău	3329.4	3679.0	3917.9	4894.7	7058.9
Court of Briceni	1490.2	1197.4	1283.1	2303.5	1648.2
Court of Buiucani mun. Chişinău	3521.8	2945.0	3490.6	4102.6	4152.6
Court of Cahul	1870.7	2991.1	1755.8	1844.7	2900.3
Court of Călăraşi	1260.1	1299.2	1328.6	2950.5	2602.6
Court of Cantemir	891.8	884.7	1007.1	2012.1	2908.8
Court of Căuşeni	1476.3	1943.7	1450.3	1445.6	2384.8
Court of Ceadîr-Lunga	1634.0	4987.9	7869.5	1595.1	1746.3
Court of Centru mun. Chişinău	2910.3	3186.5	3557.4	3990.1	4690.0
Court of Cimişlia	929.0	991.6	1123.0	1240.0	2783.8
Court of Ciocana mun. Chişinău	2788.6	2490.5	3370.7	3167.0	3240.2
Court of Comrat	1702.8	1145.7	1525.4	1657.9	1938.4
Court of Criuleni	1569.1	1318.4	1449.1	1596.1	1619.2
Court of Donduşeni	1303.9	1056.6	1155.9	1856.4	1666.5
Court of Drochia	1374.5	1704.2	1464.5	1835.7	1554.0
Court of Dubăsari	853.0	873.9	990.9	1060.7	1215.4
Economic District Court	1857.7	1878.9	2035.4	2179.8	2232.1
Court of Edineţ	1327.8	1507.0	1529.5	2266.2	1858.1
Court of Făleşti	1417.0	1130.0	1417.9	1688.9	1885.6
Court of Floreşti	1749.4	1763.9	1561.7	2362.6	2122.5
Court of Glodeni	1475.6	1136.5	1328.6	1809.6	1790.5
Court of Grigoriopol	123.0	129.9	154.4	165.7	181.5
Court of Hînceşti	2368.1	1493.9	1845.2	3089.9	2976.5
Court of Ialoveni	1227.2	1180.4	1454.6	1555.0	3498.5
Court of Leova	1187.4	855.3	2147.4	2926.9	1265.6
Court of Nisporeni	1601.6	982.9	1195.5	1852.6	1411.0
Court of Ocniţa	1478.7	941.0	1223.9	1279.3	1366.8
Court of Orhei	1549.6	1506.5	1979.6	2698.8	1951.2
Court of Rezina	1620.3	983.5	1143.0	1310.5	1359.0

Court of Rîbniţa	128.7	115.6	139.2	127.0	170.8
Court of Rîşcani	1777.4	1113.0	1220.6	1589.5	1675.5
Court of Rîşcani mun. Chişinău	4021.6	3726.2	3674.1	3960.1	4709.3
Court of Sîngerei	1554.3	1219.0	1332.3	1405.5	1546.7
Court of Slobozia	99.4	97.1	145.3	144.3	192.1
Court of Şoldăneşti	1037.3	884.7	1025.0	1282.9	1213.6
Court of Soroca	2240.7	1906.3	2092.5	3260.7	4070.4
Court of Ştefan-Vodă	1399.1	918.0	1074.7	1227.9	1457.8
Court of Străşeni	2059.1	2084.5	2307.9	3303.9	2128.0
Court of Taraclia	1109.7	970.3	1200.7	1234.2	1647.1
Court of Teleneşti	1381.4	1919.5	1327.9	1415.0	1833.3
Court of Ungheni	1728.3	1422.9	1688.6	1867.6	1857.2
Court of Vulcăneşti	1262.6	633.4	925.8	3513.7	1078.9
Total	94054.8	93825.	102660.	117603.	125495.


MINISTER
DEPUTY MINISTER
DEPUTY MINISTER
General division for legislation
Division for international legal cooperation
Division for apostille
Division for legal professions and services
Human resources service
Archive service
Minister's cabinet
Government agent
Division for policy analysis, monitoring and evaluation
General division for Government agent
Division for control and internal audit
Minister's college
Protocol, information and communication with mass-media service
Division for international relations and integration
Division for non-commercial organizations
Economic, financial and administrative division
Legal division for Gagauzia
Secretariat section
E-transformation service
Penitentiary institutions department
Central office for probation
S.E. "Chamber of State Registration"
Legislation Harmonization Center
S.E. Periodic magazine "Law and Life"
Civil status service
National center for legal expertise
Department for Court Administration
Center for legal information

Action Plan on developing the Medium-term Budgetary Framework and draft budget

No.	Name of action	Responsible authority	Implementation deadline	Beneficiary authority
1	**2**	**3**	**4**	**4**
I. Development of the Medium-term Expenditure Framework (for three consecutive years) ***1. Macro-financial framework***				
1.	Develop the preliminary prognosis for the stock of external and domestic debt and internal and external resource flows	Ministry of Finance	January 20th	National Bank of Moldova, Ministry of Economy and Trade
2.	Present the preliminary data on main macroeconomic and social indicators for previous year and updated data for the year	National Bureau of Statistics	January 20th	Ministry of Economy and Trade
3.	Estimate income from: a) privatization of objects based on individual privatization plans (in national and foreign currency) b) privatization and sale of other public	Ministry of Economy and Trade	January 20th	National Bank of Moldova, Ministry of Finance
4.	Develop and present approximate vectors of employment policies	Ministry of Economy and Trade	January 20th	Ministry of Health and Social Protection
5.	Develop and present approximate vectors of state social protection and mandatory health insurance policies	Ministry of Health and Social Protection	January 25th	Ministry of Finance, Ministry of Economy and Trade, National House of Social Insurance, National Company of Insurance in Medicine
6.	Set objectives for consumer price indicator and national currency exchange rate for medium term and their coordinate the two	National Bank of Moldova together with the Ministry of Economy and Trade	January 25th	Ministry of Finance
7.	Analyze aspects related to tax and tax administration policies and establish approximate vectors of these areas	Ministry of Finance	January 31st	Ministry of Economy and Trade
8.	Develop and present approximate vectors of public investments and regional development policies	Ministry of Economy and Trade, Regional Development Agency	January 31st	Ministry of Finance
9.	Update macroeconomic estimations for current year, develop preliminary prognosis for medium term and clarify the development priorities to support economic growth and reduce poverty	Ministry of Economy and Trade	February 7th	Ministry of Finance, Ministry of Health and Social Protection, National House of Social Insurance,

				National Company of Insurance in Medicine, National Bank of Moldova
10.	Develop the prognosis for indicators describing the currency and foreign exchange policy and prognosis for the balance of payments	National Bank of Moldova	February 10th	Ministry of Finance, Ministry of Economy and Trade
11.	Develop the prognosis for general indicators of state social insurances and transfers from the state budget	National House of Social Insurance	February 15th	Ministry of Finance, Ministry of Health and Social Protection
12.	Develop the prognosis for general indicators of mandatory health insurance funds and transfers from the state budget	National Company of Insurance in Medicine	February 15th	Ministry of Finance, Ministry of Health and Social Protection
13.	Evaluate the general resource framework, including total public income and expenditures, the budget deficit (surplus) and funding sources	Ministry of Finance	February 25th	Ministry of Economy and Trade
2. Analysis of inter-sector expenditure aspects and establishment of indicative ceilings				
14.	Analyze expenditures for projects funded from external sources and their estimation for the Medium term expenditures framework period	Ministry of Finance, Ministry of Economy and Trade	January 31st	
15.	Analyze expenditures for servicing the state debt and their estimation for the Medium term expenditures framework period	Ministry of Finance	January 31st	
16.	Analyze expenditures for salaries in the public sector and their estimation for the Medium term expenditures framework period	Ministry of Finance, Ministry of Economy and Trade	January 31st	
17.	Analyze tendencies in funding capital investments from the state budget and estimation of expenditures for the Medium term expenditures framework period	Ministry of Finance, Ministry of Economy and Trade, Regional Development Agency	January 31st	
18	Adjust preliminary expenditures ceilings by sectors for the firsts two years of the Medium term expenditures framework period and develop preliminary ceilings for the third year	Ministry of Finance	February 5th	Central specialized bodies
3. Sector analysis and development of strategic expenditure plans				
19.	Analyze implementation of strategic expenditures plans in pilot-sectors, identify problems and future actions	Central specialized bodies	February 5th	Ministry of Finance, Ministry of Economy and Trade
20.	Evaluate policies and their impact on economic growth and poverty reduction and submit proposals for their adjustment our update	Ministry of Economy and Trade	February 15th	Central specialized bodies
21.	Present sector policies for medium term in fields without sector development strategies	Central specialized bodies in coordination with the Ministry of Economy and Trade	February 20th	Ministry of Finance, Ministry of Economy and Trade

22.	Develop and update/review strategic expenditures plans in pilot-sectors, according to the country's development directions of priority	Central specialized bodies in coordination with the Ministry of Economy and Trade	February 25th	Ministry of Finance, Ministry of Economy and Trade
23.	Analyze strategic expenditures plans and other medium term sector policies and their financial implications	Ministry of Finance, Ministry of Economy and Trade in coordination with the Central specialized bodies	March 5th	Central specialized bodies
24.	Adjust strategic expenditures plans and sector policies to the specified resource ceilings	Central specialized bodies	March 31st	Ministry of Finance
4. Finalizing expenditure ceilings and the medium-term expenditure framework				
25.	Adjust expenditures ceilings by sector as a result of analyzing sector expenditure strategies	Ministry of Finance	March 10th	
26.	Distribute expenditures ceilings by national public budget components and by central public authorities funded from the state budget	Ministry of Finance	March 20th	Central specialized bodies
27.	Estimate inter-budgetary reports for the Medium term expenditures framework period	Ministry of Finance	March 20th	
28.	Finalize the Medium term expenditures framework Document	Ministry of Finance in coordination with the Coordination Group for the Medium-term expenditure framework development	April 10th	The Government
II. Development of the draft law				
29.	Draw up the methodological notes on development and submission of budget proposals	Ministry of Finance	April 20th	Central specialized bodies and Local public administration
30.	Present the specified social and economic indicators for previous year and those estimated for current year	National Bureau for Statistics	May 1st	Ministry of Economy and Trade
31.	Present the sectors development prognoses for medium term, according to templates proposed by the Ministry of Economy and Trade	Central specialized bodies	May 1st	Ministry of Economy and Trade
32.	Present territories development prognoses for medium term, according to templates proposed by the Regional Development Agency	Local public administration	May 1st	Regional Development Agency
33.	Develop and present budget proposals	Central specialized bodies and Local public administration	June 1st	Ministry of Finance

34.	Present updated prognosis of main macroeconomic indicators	Ministry of Economy and Trade	June 1st	Ministry of Finance, Ministry of Health and Social Protection, National Bank of Moldova, National House of Social Insurance, National Company of Insurance in Medicine
35.	Examine budget proposals and develop preliminary estimations of the draft budget	Ministry of Finance	July 1st	
36.	Coordinate estimations for the draft state budget and the draft law on the state budget with authorities of the central and local public administration, as well as with social partners	Ministry of Finance	July 20th	
37.	Finalize the draft law on state budget and present it to the Government for examination	Ministry of Finance	August 25th	The Government

List of interviewees

1. Sabina Cerbu – Deputy Minister of Justice.
2. Ausra Raulickyte – Counselor of the Minister of Justice on behalf of the European Mission for Counseling in Public Policies for Moldova.
3. Pavel Burghelea – Head of Division for Policy Analysis, Monitoring and Evaluation, Ministry of Justice.
4. Lilia Ioniţă – Head of General Division for Legislation, Ministry of Justice.
5. Silvia Marchitan, Head of Economic Division, Ministry of Justice.
6. Ludmila Dimitrişin, Head of Division for Justice, Public Order, Defense and State Security Finances, Ministry of Finance.
7. Natalia Carauş, Head of Section for Justice, Public Order, Defense and State Security Finances, Ministry of Finance.
8. Constantin Bragoi – Director of Department of Judicial Administration
9. Tatiana Dzîc – Deputy Head of the Division of Judicial Administration, Department of Judicial Administration

Sources of statistical data

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