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# Serbia RULE OF LAW EFFICIENCY REVIEW (ROLER)

## Executive Summary

20 November 2014

# **Serbia Rule of Law Efficiency Review (ROLER)**

## **Executive Summary**

### **Disclaimer**

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# EXECUTIVE SUMMARY

## Introduction

The USAID Mission in Serbia (USAID/Serbia) engaged Social Impact, Inc. (SI) to conduct the Serbian Rule of Law Efficiency Review (ROLER) consisting of two components:

Component 1: A performance evaluation of the Separation of Powers Program (SPP)'s work in case backlog reduction and prevention in partner courts from 2010 to 2013.

Component 2: An assessment of the main case management software systems used by the Serbian judiciary and recommendations for stakeholder action and improved court administration.

The purpose of the review was to inform future programing and provide actionable recommendations for USAID, the Ministry of Justice (MOJ), High Judicial Council (HJC), Delegation of the European Union (EU), the Republic of Serbia (RS), and other relevant stakeholders. While the ROLER analysis is by definition circumscribed in time and scope, SI is confident that the results of the evaluation and assessment provide necessary information for successful implementation of the RS's National Judicial Reform Strategy (NJRS) 2013-2018.

To ensure in-depth coverage of the issues involved, SI engaged separate teams of experts to conduct the two components. At the same, in acknowledgement of common elements involved, SI assembled and deployed the two teams to work in tandem, collaborating and sharing information as needed. This coordinated approach maximized resources and promoted cross-fertilization of substantive analyses in real-time. The review was conducted between September 11 and November 22, 2014, including field-work from September 22 to October 10, 2014. The high-level findings, conclusions, and recommendations of ROLER follow.

## ROLER Component 1: Evaluation of SPP Backlog Reduction Program

In 2008, USAID launched SPP, a six year program, to support improvements in court administration, as well as judicial and legislative independence. During this period, the Serbian judiciary experienced significant reforms, including reorganization of the court network in 2010. After the 2010 reorganization, SPP selected 10 partner courts in which to test a variety of backlog reduction and prevention measures. The second wave of reforms began after the elections in May 2012, when the new government initiated a set of reforms for the judiciary, including preparation of the NJRS, which incorporates the National Backlog Reduction Plan prepared by SPP. The ROLER Evaluation Team concluded that SPP activities were a major factor in elevating and addressing the problem of case backlog and prevention in the RS and that these activities yielded concrete results. Specifically, the ROLER Evaluation Team would like to highlight the following:

- 1) SPP has provided the Serbian judiciary with a framework for ongoing backlog reduction and improved efficiency.
  - SPP initiated major progress in reducing backlog and improving efficiency in RS. With focused work in ten partner courts, SPP was able to test and refine measures that were simple and could be implemented without additional human or financial resources.
  - SPP documented and disseminated best practices and worked with key judicial

institutions to replicate SPP's success with partner courts on a national level through legislative amendments and development of a NBRP.

- 2) SPP's national partners, including the Uniform Backlog Reduction Plan Working Group tasked with supervising implementation of the Plan, have come to rely on SPP, and they may not be able to sustain progress made by SPP without some level of ongoing outside support, particularly due to the delay in launching the new EU IPA project. The ROLER Evaluation Team recommends that USAID consider supporting a Serbian organization to provide such support through the USAID Serbia Civil Society Partners program.
- 3) The ROLER Evaluation Team concluded that it is not possible to provide a meaningful quantitative comparison of progress in backlog reduction and prevention in SPP partner courts versus non-partner courts during the period 2010-2013 because reliable statistics do not exist. The ROLER Evaluation Team analyzed these issues in conjunction with their ROLER Assessment Team counterparts. Specifically, the ROLER Evaluation Team concurs with the ROLER Assessment Team about the necessity to develop a plan for manual verification of data to correct errors resulting from migration of cases in the 2014 court network reorganization.

## **ROLER Component 2: Assessment of Case Management Systems**

The ROLER Assessment Team began the assessment of case management systems (CMS) with the assumption that their assessment would be a comparative analysis of CMS platforms. However, after several structured site visits with Serbian counterparts, the Assessment Team concluded that a full functional comparison of CMS platforms was not possible because platform implementation was varied and limited in scope, although the available information was sufficient to identify a series of steps that could assist the RS in transitioning from electronic document indexing to full-fledged, automated case management. USAID/Serbia approved this change in approach.

As a general finding, the RS does not employ its existing CMS platforms as full-fledged, case management systems. The main CMS platforms, AVP and SAPS, are being utilized as document indexing systems to assist in the processing of paper files. Moreover, AVP and SAPS possess CMS functionality in excess of current court demand, and this functionality should be explored to further automate court business processes. AVP and SAPS have problems with case data integrity as a general rule, which is a function of inconsistent practices in data entry, as well as wholesale changes (this problem was manifest in the ROLER Evaluation). A focus on stability and implementing current law through these platforms should be emphasized in the near term. These considerations are reflected in the following recommendations:

*Recommendations to the MOJ and other stakeholders for ways to optimize the utilization of current case management software applications, in order to meet the relevant goals in the NJRS:*

1. Verify IT infrastructure inventory, and store results in a common database platform with published guidance for its maintenance and upkeep, e.g., BPMIS, with a goal to create a rationale hardware and basic software replacement schedule.
2. Conduct nationwide audit of electronic case data to clean/verify entries made into AVP and SAPS systematically, e.g., correcting the absence of key information like case

initiation date, and to establish standardized data entry protocols.

3. Review electronic file storage methods and optimize as needed, i.e., rational segregation of data should be prioritized to improve search/query efficiency regardless of CMS platform.
4. Establish electronic interoperability with other RS agencies with primary responsibility for core litigation data, e.g., Serbian Postal Service for accurate addresses and Ministry of Interior for national identification numbers.
5. Do not explore the purchase and use of new IT systems until recommendations 1-4 are complete and established as routine practice in the published guidance of MoJ and HJC.

*Recommendations to inform the development of the MOJ's IT Strategy for the judiciary:*

1. Assemble a joint MOJ and HJC Working Group to develop common electronic protocol for exchange of data within and between existing CMS systems, with an organizing rubric of real-time, national statistically-accurate reporting. Implement the protocol and identify challenges with electronic data exchange, documenting "choke points" where infrastructure capacity and/or practices create demonstrable needs for additional hardware and human resources; develop requirements for systemic enhancements to address efficiency and accountability; and create rational funding requests to Ministry of Finance (MoF) for the same.
2. Empower the joint Working Group to implement and monitor performance of all MoF funded measures to address choke points and document MoF responses and consequences thereof. Have the Working Group report to the EU on its progress, using statistics to demonstrate more transparent and efficient allocation of resources, consistent with the recommendations issued under Chapter 23 of the Aquis.
3. Enable the Working Group to keep up to date and participate in the EU dialogue on standards of e-Justice, which specifically identify interoperable systems as critical.

## **Conclusion**

The ROLER Team found an RS judicial system in transition that lacked proven systems and methodologies for integrating the existing information management tools. Certain initiatives have yielded measurable, positive results, but the RS challenge is how to routinize these successes. Absent CMS interoperability in terms of basic statistics, the RS will likely continue to struggle to address EU and other international standards of performance. Manual initiatives to address backlog and other management concerns may continue to improve judicial performance, but the only viable long-term solution is to create a national network of interoperable and mutually supportive CMS platforms. Establishing data exchange, security, and query protocols will require additional investment, but the costs are modest in view of the potential returns. The NJRS contemplates a unified approach to management. The RS, in conjunction with donor partners, needs to implement the same.

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# PERFORMANCE EVALUATION OF THE SEPARATION OF POWERS (SPP) PROGRAM

## Final Evaluation Report

20 November 2014

This report was produced for review by the United States Agency for International Development. It was prepared independently by Marilyn Zelin and Robert Lochary of Social Impact, Inc.

Cover drawing: Illustration by Novica Kocić in a May 19, 2014 Politika article about the “Spring Cleaning” in the Nis Basic Court. Courtesy of SPP.

# **PERFORMANCE EVALUATION OF THE SEPARATION OF POWERS (SPP) PROGRAM**

## **FINAL EVALUATION REPORT**

### **DISCLAIMER**

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This document is available in printed or online versions. Documents are also made available through the Development Experience Clearing House ([www.dec.org](http://www.dec.org)). Additional information can be obtained from

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# ACRONYMS

AVP	Case management system used by the courts
BPMIS	Budget software used by the HCC
CMS	Case Management System
EU	European Union
HCC	High Court Council
JA	Judicial Academy
MOJ	Ministry of Justice
NBRP	National Backlog Reduction Plan
NJRS	National Judicial Reform Strategy
PMP	Performance Monitoring Plan
QA	Quality Assurance
SCC	Supreme Court of Cassation
SI	Social Impact, Inc.
SSI	Semi-Structured Interview
SOW	Scope of Work
SPP	Separation of Powers Program
TPM	Team Planning Meeting
UBRP	Uniform Backlog Reduction Program of the Supreme Court of Cassation
USAID	U.S. Agency for International Development

# EXECUTIVE SUMMARY

## Evaluation Purpose

From September to October 2014, Social Impact (SI) conducted a performance evaluation for USAID/Serbia of the backlog reduction and prevention work performed by the Separation of Powers Program (SPP). The purpose of this evaluation is to measure the results of work with the 10 SPP partner courts from 2010-2013 and provide recommendations to inform future court administration efforts in Serbia. The Social Impact (SI) Team conducted this evaluation in parallel with an assessment of the main case management software systems used by the Serbian judiciary (CMS Assessment Report). Therefore, this evaluation report draws on the findings included in that report.

## Project Background

Recognizing the importance of court efficiency for genuine rule of law in Serbia, in 2008 USAID launched SPP to support improvements in court administration as well as judicial and legislative independence. SPP is a six-year program structured around three tasks. The focus of this evaluation is the backlog reduction and prevention activities included in Task 2 (specifically sub-task 2.2).

During the SPP, the Serbian judiciary experienced significant reforms. The most important reforms for the purposes of this evaluation were implemented pursuant to the National Judicial Reform Strategy (2006-2011)—namely, reorganization of the judges' network in 2009, in which 30% of the judges were dismissed, and reorganization of the court network in 2010. As a result of these changes, SPP had to select new partner courts in 2010, and during the first three years of the program partner courts were led by acting court presidents.

After the elections in May 2012, the Government initiated another set of reforms for the judiciary, including preparation of a new, five-year, 2013-2018 National Judicial Reform Strategy (NJRS) and Action Plan, which the National Assembly passed in July 2013 and includes a National Backlog Reduction Plan (NBRP). The NBRP was prepared with the support of—and incorporates the achievements of—SPP.

USAID amended the contract for SPP in December 2013 to extend SPP to consolidate best practices and transition them to host country partners and other donors, particularly the European Union (EU). The extension covers all three SPP tasks and the focus is to identify and address weaknesses of host country partners. With USAID's assistance, the EU Delegation developed a 9 Million Euro judicial efficiency project that was intended to begin in 2014. That project has been delayed and the Evaluation Team was informed that the project will not begin for another six months.

## Evaluation Design, Methods and Limitations

The Evaluation Team applied a mixed-methods approach using the standard rapid appraisal methods of materials review and semi-structured interviews of key informants. The Team

conducted approximately 30 interviews and also made site visits to six partner courts and seven non-partner courts in nine cities. A mixed-method approach and reliance on semi-structured interviews, in particular, involves methodological limitations. These limitations include recall, response, and selection bias, which are often exacerbated by the technical nature of rule of law programs. Nonetheless, the Evaluation Team took several steps to mitigate such bias. As set forth in the workplan for this evaluation, the Team had planned to compare results and impact of backlog reduction and prevention in partner and non-partner courts based on quantitative data available to the Team. However, given difficulties in obtaining data as described later in this report and the limited time and resources allocated for this evaluation, the Team was only able to compile limited statistics.

## Summary of Findings, Conclusions and Recommendations

*Note: All recommendations are included under evaluation question 3.*

**Evaluation Question 1:** *What were the results and impact of SPP's interventions for case backlog reduction and prevention in partner courts, compared to courts that were not part of the program, from 2010 to 2013?*

**Finding/Conclusion:** The Evaluation Team found that partner and non-partner courts adopted SPP measures for backlog reduction and prevention to varying degrees. The Team concluded that there was marked difference between partner and non-partner courts in terms of the interventions they employed to reduce backlogs and increase efficiency. Both partner and non-partner courts employed obvious measures such as identifying old cases, labeling those case files, prioritizing them, and monitoring them. However, the partner courts also included more creative and pro-active interventions that linked the court to stakeholders in the community.

**Finding/Conclusion:** The Team found that SPP's interventions for case backlog reduction and prevention in partner courts were successful overall, although there were variations in year-to-year results. The Team concluded that the degree of improvement varied from court to court and year to year not only as a result of the extent to which individual courts implemented the measures proposed by SPP, but also to circumstances outside the court's control.

**Finding/Conclusion:** SPP's partner courts, like all basic and higher courts, use AVP software. The system was installed in 2010 when the new court network was established. The Team found that numerous sources, including the SCC, court presidents, the World Bank, and other experts, maintain that there are errors in the AVP data and that the lack of reliable statistics is a major obstacle to measuring progress in achieving efficiency and backlog reduction. This is referred to in the CMS Assessment Report as GIGO (garbage in garbage out<sup>1</sup>). Notwithstanding concerns about data quality, the Evaluation Team did compile limited comparative statistics from data for 2011 and 2013 provided by SPP after the Team's departure from Serbia. The statistics suggest that there was improvement in backlog reduction and backlog prevention (as measured by clearance rates) at both SPP partner and non-partner basic and higher courts as a whole between 2011 and 2013. However, given the concerns about data quality, limitations on analysis due to time and resources available for this evaluation, and differences in the profile and circumstances in

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<sup>1</sup> See discussion of data integrity in SI's CMS Assessment Report.

individual courts, the Team has concluded that these statistics should not be taken as an indication that SPP's interventions did not yield results.

**Evaluation Question 2:** *What were the key factors and lessons learned in generating these results, if any?*

**Finding/Conclusion:** The Team found that five key factors account for the successful results of SPP partner courts: 1) SPP selected partner courts that had challenges and thus would provide good examples of how interventions could work; 2) SPP introduced practical techniques for backlog reduction and prevention, and provided tools for successful implementation; 3) SPP allowed partner courts to select and own the improvement techniques; 4) SPP worked closely with partner courts and provided hands-on assistance; and 5) SPP closely monitored progress and followed up on any apparent obstacles to progress. The Evaluation Team concluded that the methodology SPP followed was key to its success in introducing new backlog reduction and prevention techniques in partner courts. Forgoing a "one size fits all" approach allowed partner courts to select methods they thought would best address efficiency and backlog problems in their courts. In turn, this resulted in partner courts investing in the success of the measures introduced.

**Finding/Conclusion:** The Team found that the working relationship SPP developed with the MOJ and the SCC was an important factor in extending the SPP model of backlog reduction and prevention to all Serbian courts. SPP documented and leveraged the results of its work with the partner courts through publication and dissemination of the Best Practices Guide, assistance to the MOJ and SCC in drafting new Court Rules and procedural codes to reflect those practices, and finally through the NBRP. The Team concluded that using a top-down and bottom-up approach allowed partner courts to test and refine backlog reduction and efficiency interventions, disseminate successful measures to all courts, and achieve a measure of sustainability through rules mandating that all courts devise backlog reduction and efficiency plans, including targets, and report upon them.

**Finding/Conclusion:** SPP employed a variety of techniques to share experiences between partner courts and non-partner courts. The Team found that for partner and non-partner courts, court-to-court cooperation was one of the most common and valued methods for court's to share experience and lessons learned. The Team concludes that court-to-court cooperation is a key to successful sustainability of court efficiency and backlog reduction measures generated in partner courts through the SPP program. A regular exchange of information between partner courts that are proven champions of efficiency and backlog reduction and courts that are struggling to reduce backlogs is an effective and inexpensive method to disseminate SPP's court efficiency and backlog reduction interventions.

**Finding/Conclusion:** The Evaluation Team found that pursuant to the project design, SPP initially followed dual tracks: focused backlog reduction with one set of partner courts, and case management/backlog prevention activities that involved the full scope of court operations with a second set of courts. After approximately two years (the fourth year of the project), all partner courts began to follow both tracks. The Team concluded that SPP correctly identified that backlogs are a symptom of court inefficiency and instructed partner courts to work on backlog reduction and prevention. The Team further concluded that an initial focus on backlog reduction at all courts and then extending activities to include backlog prevention in all courts may have been more productive.

**Finding/Conclusion:** The Team finds that the Serbian courts are struggling to keep pace with the ongoing reforms, both administrative and procedural, in the Serbian judicial system since SPP began. As noted in the CMS Assessment Report, the sheer velocity of changes in the Serbian judiciary is extraordinary. All respondent court presidents stated that recent reforms, including new procedure codes, have resulted in confusion among judges in the basic, higher and appellate courts about how to apply the new laws and codes. The Team found that to address these problems, SPP has provided support for harmonization of jurisprudence and case management training based on the new procedural laws, including developing new training modules and conducting training for trainers. The Team learned that the case management training is not continuing. The Team has concluded that both training and harmonization efforts need to continue.

**Evaluation Question 3.** *Building upon key lessons learned, how can Serbian and international stakeholders expand and scale up these results nationally, in order to meet the implementation objectives outlined in Serbia's National Judicial Reform Strategy?*

Based on the above findings and conclusions, the Evaluation Team offers the following recommendations:

**Recommendation:** To address the problem of unreliable court statistics, a major obstacle to measuring progress in achieving efficiency and backlog reduction in Serbia which undermines Serbia's efforts to comply with one of the principles of the NJRS—Efficiency, and achieve EU accession, the MOJ and Working Group should immediately develop a plan for manual verification of data to correct errors resulting from migration of cases in the 2014 court network reorganization. This should be followed by implementation of the recommendation in the CMS Assessment Report to develop reliable unified statistical reporting system at the national level. Further, the Working Group should immediately resume its duties to monitor and provide guidance on implementation of the UBRP. In that regard, the Working Group, in cooperation with the Judicial Academy (JA), should organize training for the UBRP Working Group and court presidents on how to run statistical reports, analyze data, set benchmarks, identify trends, assess staff performance, adjust staffing plans, and make other management decisions that will improve court efficiency based upon the data analysis. Training should also be organized for the SCC Statistics Department and court statisticians. Both trainings should be based upon the Guide to Statistical Reporting for Court Presidents: Strategies and Tools for Success (Statistics Manual) developed by SPP in 2013.

**Recommendation:** To address the concern about whether the UBRP Working Group has the capacity to adequately monitor and guide implementation of the UBRP after SPP closes, the Evaluation Team recommends that pending initiation of the new EU IPA project, USAID consider engaging a local, rule of law-oriented organization to support continuation of the initiatives started by SPP during its final year. This could be accomplished through the USAID Serbia Civil Society Partners program.

**Recommendation:** To have a positive impact on a large number of backlogged cases, the Evaluation Team recommends that the UBRP Working Group continue to focus on reducing the number of backlogged enforcement cases in the basic courts, which account for over 90% of all backlogged cases. A national program modeled on the Infostan settlement at the Belgrade First Basic Court would be a significant step toward clearing the existing

backlog, which is an obstacle to continued progress on Chapter 23 of the EU Accession process.

**Recommendation:** Rules for changing territorial jurisdiction can be found in the Criminal and Civil Procedure Codes. Both allow the SCC, or in some criminal cases, a higher court, to reassign a case. The Team recommends that the SCC use existing law to reassign cases from courts with large backlogs to those with smaller backlogs. Changes to the law should be considered that would allow for temporary backlog reduction units of judges charged with solving old cases in overburdened courts. The use of plea bargaining, settlement and mediation in all courts should be encouraged. Further, the Team recommends that the UBRP Working Group require courts to include annual staffing plans that are based upon court efficiency and backlog reduction as part of their annual backlog reduction plans.

**Overall Conclusion:** SPP initiated major progress in reducing backlog and improving efficiency in Serbia. Through focused work with ten partner courts, SPP was able to test and refine measures that were simple and could be implemented without additional human or financial resources, By documenting best practices, working with key judicial institutions to amend legislation to include those practices and develop a plan for replicating SPP's success with partner courts on a national level, SPP has provided the Serbian judiciary with a framework for ongoing backlog reduction and improved efficiency. However, as with many projects, SPP's national partners have come to rely on SPP and the Evaluation Team concludes that without some level of ongoing outside support, there could be a setback.

# INTRODUCTION

## ***Evaluation Purpose***

The purpose of this performance evaluation is twofold:

- to conduct a full, evidence-based and independent review of the results of the Separation of Powers Program (SPP)'s work from 2010 to 2013 in reducing and preventing backlog of cases in partner courts, and
- to produce a report that provides a qualitative as well as quantitative evaluation of those activities and recommendations that will inform future court administration initiatives in Serbia.

The Social Impact (SI) Team conducted this evaluation in parallel with an assessment of the main case management software systems used by the Serbian judiciary, and therefore draws on the findings included in the assessment report.

The audience for this evaluation is USAID/Serbia, High Court Council (HCC), Ministry of Justice (MOJ), other donors, local and international judicial reform stakeholders, and USAID's Europe and Eurasia Bureau and Center for Democracy, Rights and Governance.

## ***Evaluation Questions***

The evaluation addresses three questions:

1. What were the results and impact of SPP's interventions for case backlog reduction and prevention in partner courts, compared to courts that were not part of the program, from 2010 to 2013?
2. What were the key factors and lessons learned in generating these results, if any?
3. Building upon key lessons learned, how can Serbian and international stakeholders expand and scale up these results nationally, to meet the implementation objectives outlined in Serbia's National Judicial Reform Strategy?

Although the sample size was not sufficient to conduct a true impact evaluation in response to evaluation question 1, SI employed techniques designed to provide proxies for standard impact information, as described below. At the in-brief on September 24, 2014 the Mission posed an additional question, "What accounted for the variation in results of partner courts?"

## ***Project Background***

Recognizing the importance of court efficiency for genuine rule of law in Serbia, in 2008 USAID launched SPP to support improvements in court administration as well as judicial and legislative independence. SPP is a six-year program structured around three tasks:

*Task 1. Judicial branch financial independence:* Developing the capacity of the Serbian judiciary to allocate, acquire, and manage its resources;

*Task 2. Improved court administration:* Assisting the Serbian judiciary in making its administration of justice more efficient, transparent, and responsive to the needs of its users; and,

*Task 3. Legislative branch financial independence:* Building the financial capacity of Serbia's National Assembly.

Together, these tasks support the Government of Serbia (GoS) in its effort to build the necessary institutional and democratic practices required for integration with the European Union. According to the Country Development Cooperation Strategy, 2013-2017, SPP activities fall under Development Objective 1: "Accountability of Key Democratic Institutions Strengthened and Intermediate Results," IR 1.1: "Parliament and Local Governments are More Responsive to Citizens," and IR 1.2: "Rule of Law and Oversight Improved."

During SPP, the Serbian judiciary experienced significant reforms. The first wave of reforms was implemented pursuant to the National Judicial Reform Strategy (2006-2011). This included establishing the High Court Council 2009, which undertook a major reconstruction of the judges' network, dismissing almost 30% of all judges and a reconstruction of the court network pursuant to the 2008 Law on Court Organization. Under this law, the new Serbian court network reorganized the 138 Municipal Courts into 34 Basic Courts, the 30 District Courts into 26 Higher Courts, and created four Appeals Courts with general jurisdiction. In July 2012, the Constitutional Court of Serbia annulled the HCC decision on dismissal of judges and the approximately 300 non re-elected judges were reinstated. As a result of these changes, SPP had to select new partner courts in 2010, and during the first three years of the program, partner courts were headed by acting court presidents.

After the elections in May 2012, the Government prepared a new set of judicial legislation, including the new court network law, which took effect in January 2014. There are now 25 Higher Courts and 66 Basic Courts. As part of that reform, in July 2013 the National Assembly passed the new, five-year 2013-2018 National Judicial Reform Strategy (NJRS) and Action Plan, which includes a National Backlog Reduction Plan (NBRP). According to the Action Plan, the immediate priorities are harmonization of jurisprudence, reduction of backlog of courts cases and equal distribution of the workload. The NBRP was prepared with the support of—and incorporates the achievements of—SPP.

In another significant development, the European Council formally agreed on 28 June 2013 to continue open accession negotiations with Serbia. The 2013 EU Progress Report noted the following: in 2012, the backlog of courts cases was not reduced significantly (more than three million cases were still pending at the end of 2012); reform of the court network will require a comprehensive analysis—notably in terms of cost, efficiency and access to justice; and the quality of court statistics needs to be improved. The 2014 Report released on 8 October, 2014 again noted the backlog problem (with 2.8 million cases pending at the end of 2013) and pointing out that the situation with cases over two years old was particularly worrying (1.7 million cases, of which 1.2 million are enforcement cases); the current system of collecting court statistics is not efficient and does not allow making a meaningful analysis

of the performances of the Serbian Judicial system; and inconsistency in case law continues to be a concern, especially in the appeal courts.

USAID amended the contract for SPP in December 2013 to extend SPP to consolidate best practices and transition them to host country partners and other donors, particularly the EU. The extension covers all three SPP tasks and the focus is to identify and address weaknesses of host country partners. With USAID's assistance, the EU Delegation developed a 9 Million Euro judicial efficiency project that was intended to begin in 2014. That project has been delayed and the Evaluation Team was informed that the project will not begin for another six months.

### ***Evaluation Methods & Limitations***

The Evaluation Team initially reviewed the following background documents provided by the Mission:

- SPP SOW
- SPP annual and quarterly reports
- SPP annual work-plans
- SPP PMP reports and data
- SPP Mid-term evaluation
- SPP Best Practice Guide
- NJRS and Action Plan
- NBLRS and Action Plan
- Relevant laws

During the course of the Team's field visit, SPP provided other documents requested by the Team, including SPP Monthly Reports for Year 6, materials prepared by SPP experts, and the Guide to Statistical Reporting for Court Presidents: Strategies and Tools for Success (Statistics Manual). The Team was able to view the BPMIS (budget software used by the HCC) database at the SPP office. The Team also conducted a limited review of the SCC Annual Reports for 2011 and 2012 since these reports are in Serbian, and examined AVP (case management system used by the MOJ) data and quarterly reports submitted by the courts at both the SCC statistical office and during site visits to courts. Finally, the Team obtained and reviewed the World Bank Multi-Donor Trust Fund Aide Memoir for the Functional Review of the Serbian judiciary and European Commission 2014 Progress Report for Serbia (2014 Progress Report). See References for a complete list of materials reviewed.

The Evaluation Team conducted semi-structured interviews with direct and indirect beneficiaries, as well as with external observers to obtain information needed to answer the three evaluation questions posed by USAID. The Team also made site visits to six partner courts and seven non-partner courts located throughout Serbia. Finally, the Team attended the Judges' Association Annual Meeting in Vrnjacka Banja from October 5-7, 2014 to conduct semi-structured interviews with more judges and attend presentations made by direct and indirect beneficiaries and external observers.

Semi-structured interview questions that the Team drafted in advance of fieldwork<sup>2</sup> were slightly revised for each interviewee so as to tailor the scope of the interview to the position of the particular interviewee, as well as to reflect information learned during the course of the evaluation thus far. In addition, potential interviewees that the Team identified during the course of the evaluation were incorporated into the data collection schedule to the extent possible.

The Evaluation Team initially prepared a draft survey to be distributed at the Judges Association Annual Meeting, although after further consideration and discussion with SPP, the Team concluded that it would be difficult to obtain accurate data from the survey.

The Evaluation Team endeavored to limit recall, response and selection bias to the extent possible. To limit recall and response bias from partner courts, the Team asked specific questions about the SPP backlog reduction and prevention activities and about examples of experiences with new case management procedures. The Team probed into broad responses to verify respondent familiarity with the material discussed. The same was true with regard to questions about the Uniform Backlog Reduction Program (UBRP). Furthermore, the Team stressed that lessons learned from SPP activities would benefit non-partner courts.

In terms of selection bias, although the Evaluation Team did consult with SPP on which partner and non-partner courts to visit, the Team made the final decisions and included courts that had not been suggested by SPP. Further, the Evaluation Team used multiple sources of data to triangulate on each evaluation issue. By combining information from multiple sources (i.e., documents, interviews, and reports), the effect of biases on the analysis will be mitigated as much as possible. With regard to gender equity, more than half of the interviewees were female, including Court Presidents and judges at the SCC.

As set forth in the workplan for this evaluation, the Team had planned to compare results and impact of backlog reduction and prevention in partner and non-partner courts based on quantitative data available to the Team. The Team had expected that the data provided in the SCC Annual Reports for 2011 and 2012 provided by the Mission would be supplemented by data in a format that would be easy for the Team members to analyze as the time and resources available for the evaluation did not encompass data compilation. With the assistance of SPP, the Team obtained Excel spreadsheets with data for 2011 and 2013 after the Team had already departed from Serbia. The Team used this data to prepare limited comparative statistics, which are discussed under Evaluation Question 1 and included in Annex G.

## **FINDINGS, CONCLUSIONS & RECOMMENDATIONS**

The following section presents the Evaluation Team's findings, conclusions and recommendations.

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<sup>2</sup> See Annex C.

## **EVALUATION QUESTION 1:**

*What were the results and impact of SPP's interventions on case backlog reduction and prevention in partner courts, compared to courts that were not part of the program, from 2010 to 2013?*

**Finding:** The team found that partner and non-partner courts adopted SPP measures for backlog reduction and prevention to varying degrees. A summary of the use of these measures based upon interviews conducted by the Evaluation Team follows

*Backlog Reduction Team:* All six partner courts that the Team visited had a backlog reduction team in place that was formal, active, and contained representatives from the judiciary as well as from the registry office. In five of seven non-partner courts visited, court presidents stated that teams were in place. However, upon further inquiry, it appeared that the Teams were informal in all but two of the non-partner courts, and that the court president used staff meetings (as opposed to formal teams) to promote backlog reduction and efficiency measures.

*Identifying and labeling old cases.* The Team found that the most efficient technique for reducing backlog was to identify and label old cases and then for the court president to monitor progress on these cases. All six partner courts visited by the Evaluation Team used this technique. The presidents of those six courts also required the oldest cases to be given priority.

The court presidents in partner courts acknowledged that judges avoided working on old cases because they are difficult to resolve. As a result, these cases simply aged and the backlog increased. The President of the Nis Basic Court reported that due to labeling, judges know these cases are under scrutiny and that “they must be handled.” Judges in two partner courts who were not court presidents noted that peer pressure served as motivation, since judges would be embarrassed to be seen with case files marked as “old”. The President of the Basic Court in Pancevo, a non-partner court, immediately took measures to reduce backlog after her appointment in September 2013. She has a bulletin board in her office with a separate posting for each judge listing his or her backlog cases and the status of the cases. Several courts have successfully implemented “backlog reduction weeks.” The Nis Basic Court’s “Spring Cleaning” was the first example of this.

*Improving Delivery/ Service of Process:* Five of six court presidents in partner courts where site visits were conducted stated that they had reformed the process of delivering court documents as a result of SPP's program, streamlining service of process and cutting down on delays. In three courts (the Higher and Basic Courts in Subotica and the Basic Court in Uzice), this involved direct cooperation with the post office. In one non-partner court, the president implemented improved service of process through the post office after learning about this from partner courts. The remaining non-partner courts did not implement reforms in their service of process.

*Cooperation with External Partners:* All but one of the six partner courts visited for this evaluation had communicated with external partners, such as prosecutors, defense attorneys, the police, the prisons, or centers for social welfare to coordinate and better facilitate hearings and to cut down on continuances. Three partner courts had contacted each of these partners and reached agreements with each of them that accelerated the court process,

although in one of these partner courts, the agreements lapsed after a new president was appointed. All five partner court presidents who had used these agreements cited them as effective methods for ensuring the presence of accused and of witnesses; only two of the non-partner courts visited used them and did so after learning about them from partner courts. The Team learned that cooperation with external institutions (social work center, psychiatric hospital and police) as well as public outreach programs (brochures and open court hours) that contributed to an increase in efficiency and reduction in backlog at one of the partner courts (Vrsac) was terminated when the court replaced its president. As this happened late in 2013, the Team did not have data to determine if efficiency or backlog reduction was affected.

*Efficient Scheduling:* All partner and non-partner courts visited stated that they monitor the scheduling of backlogged cases. All partner courts visited stated they did so as a result of SPP interventions. All non-partner courts stated that they did so as a result of the requirements imposed by the NBRP.

*E-Justice:* Five of six partner court presidents listed some form of electronic assistance or communications to parties or citizens who use the court. This usually involved email communications with parties and witnesses, as well as web sites where court documents and schedules can be found. All five implemented the measures as a result of the SPP program. One of the six had stopped using its E-justice measures when a new court president was appointed. None of the non-partner courts listed use of E-justice measures as an intervention that they use in their courts.

*Use of New Criminal & Civil Procedure Codes:* All partner courts visited had tried to take advantage of new provisions in the civil and criminal procedure codes, such as use of plea bargaining. However, pursuant to the law, in all courts visited, use of plea bargaining appeared to be largely left to individual judges. Both partner and non-partner courts noted that plea bargaining is only applicable in new cases. This will lead to a reduction in future criminal cases, but has not been an effective tool for current backlogged cases.

**Conclusion:** There was marked difference between partner and non-partner courts in terms of the interventions they employed to reduce backlogs and increase efficiency. Both partner and non-partner courts employed obvious measures such as identifying old cases, labeling those case files, prioritizing them, and monitoring them through meetings that included an agenda item requiring discussion of backlogs. However, the partner courts also included more creative and pro-active interventions that linked the court to stakeholders in the community, such as agreements with the post office, police, prosecutors, advocates, prisons and centers for social care. These measures are largely aimed at ensuring the conditions necessary for hearings and trials to take place rather than be continued, thus pushing cases through to final resolution. Some partner courts have established points of contact with outside stakeholders that help streamline and ensure future communications. As a result of these proactive efficiency interventions in partner courts, there is greater transparency in the work of the courts and strengthening of the partnerships within the community the court serves. The interventions in partner courts have caught the attention of reform-minded presidents of non-partner courts, such as the presidents of the basic courts in Valjevo and Pancevo, and Novi Sad, who have initiated court to court contact with the presidents of partner courts to learn about the SPP interventions and how to apply them in their courts.

The SPP program has thus facilitated communication necessary for the spread of best practices throughout the Serbian court network without the expense of formal training.

**Finding:** SPP's partner courts as a whole exceeded targets for the period 2010-2013. As reflected in the individual court statistics for the period 2010-2013 (see Annex D), the results at the partner courts were not uniform—they varied by court and year. All partner courts improved case processing efficiency from 2010 to 2013 (see Annex E). However on a year to year basis the results are: all courts improved case processing efficiency in 2011; eight improved in 2012; and the two that declined in 2012 improved in 2013, while efficiency at four other courts declined. Eight courts reduced their total backlog from 2010 to 2013, while backlog at the other two courts increased. On a yearly basis, in 2011 backlog increased in two courts and declined in eight; in 2012 backlog increased at four courts; and reductions occurred in all courts in 2013.

During its site visits, the Team learned that each court is subject to specific conditions that affect its overall backlog reduction and prevention results as measured by SPP, including size and location of court, human resources (both judges and staff), types of cases and major inflows, attitude of court presidents and judges regarding reform, and extent of cooperation of external partners.<sup>3</sup> A few illustrative examples follow.

- The Uzice Basic Court began its backlog reduction and prevention program with criminal cases. The Team learned that the average caseload for a criminal judge decreased from about 400 cases in 2010 to 46 in 2014; there are only 22 backlog cases and no case is older than five years. However, although the backlog reduction and prevention program was expanded to include the civil department in 2011, that department is still struggling with its backlog and has eight cases over 10 years old. The Team learned that the department recently received a large number of new cases in which farmers in the Zlatibor region are suing the state for restitution. Although the overall efficiency rate for the Uzice Basic Court increased from an 89% case completion rate in 2010 to a 102% completion rate in 2013, the rate for the criminal department alone is even higher.
- In the Basic Court in Sremska Mitrovica, following a dramatic increase of investigative cases, SPP presented the court president with a projection showing that backlogged cases would continue to grow unless two judges were reassigned to the investigative department. SPP based these projections upon statistics that the program had refined through work with the court registry department. Although initially reluctant to reassign judges, the projections finally convinced the court president to reassign two judges to the investigative department. The backlog was finally reduced, although not before the overall number of backlogged cases increased from 2,601 in 2010 to 5,468 at the end of 2012. However, as a result of this intervention, the backlog declined to 3,040 by the end of 2013.
- Three court presidents in partner courts noted that a lack of physical space for judges to work in and to hold hearings compromised their ability to move cases forward. Site visits confirmed these statements.
- The Higher Court in Subotica received a large number of cases in the 2010 migration, including first instance cases. By the end of 2010, the court had very few

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<sup>3</sup> Although SPP kept data disaggregated by case type (civil and criminal) for 2011, the Team learned that such data was not compiled for 2012 or 2013.

first instance cases as a result of using plea bargaining in criminal cases and assigning 15 judicial trainees to a new preparatory department.

**Conclusion:** The Team concluded that although backlog reduction and efficiency improved in the partner courts as a whole, and exceeded the SPP targets, the degree of improvement varied from court to court and year to year not only as a result of the extent to which individual courts implemented the measures proposed by SPP, but also to circumstances outside the control of the courts, such as large and sudden inflows of certain types of cases. The Team further concluded that if the measures described above had not been implemented, partner courts such as Uzice and Sremska Mitrovica would almost certainly have had larger backlogs.

**Finding:** SPP’s partner courts, like all basic and higher courts, use AVP software. The system was installed in 2010 when the new court network was established. The Team found that numerous sources, including the SCC, court presidents, the World Bank, and other experts, maintain that there are errors in the AVP data and that the lack of reliable statistics is a major obstacle to measuring progress in achieving efficiency and backlog reduction. This is the result of errors in recording the migration of cases in 2010, compounded by errors in data entry—particularly during the period when AVP was new, 2010-2011. The Head of the SCC’s IT department reported that courts do not have unified versions of the AVP software, so data may not be comparable.

Furthermore, the Team learned that the statistics included in the SCC’s Annual Reports are not extracted from AVP as there is no connectivity between individual courts and the SCC’s statistics department. The statistics are based on data in Excel sheets completed by the individual courts, signed by the court presidents and forwarded to the SCC. Interviews with the SCC Statistics Department revealed that quality controls imposed upon AVP data submitted by individual courts are limited. Interviews with court presidents and IT personnel in partner courts revealed that SPP worked closely with its partner courts to verify and correct data. In interviewing court presidents in non-partner courts, the Team found that this verification and correction of data was not done with the non-partner courts, although respondents in non-partner and partner courts agreed that case data in AVP began to improve after 2011 as they became familiar with the new AVP system, the new network, and new reporting requirements. Additional discussion of the AVP system is included in the CMS Assessment Report.

Notwithstanding concerns about data quality, the Evaluation Team compiled limited comparative statistics from data for 2011 and 2013 provided by SPP after the Team’s departure from Serbia (See Annex G). The data provided by SPP includes information on all case types separately, as well as categories of cases, such as the most common types of cases in the basic and higher courts. The Team compiled statistics on the most common types of cases because that category is intended to exclude enforcement cases, which were not within SPP’s mandate. The following statistics compare the data for partner and non-partner courts as of January 1, 2011 and December 31, 2013.

Basic Court	Backlog 1/1/11	Backlog 12/31/13	% Change in Backlog Increase/(Decrease)	Clearance Rate (%) 2011	Clearance Rate (%) 2013
Uzice	322	469	45.7%	91.5%	103.1%
Cacak	1217	1,256	3.2%	98.6%	90.8%

Vranje	3307	2,173	(34.3)%	90.2%	118.5%
Nis	1322	1,484	1.2%	103.0%	96.2%
Vrsac	265	129	(51.3)%	86.8%	117.9%
<b>Basic Court</b>	<b>Backlog 1/1/11</b>	<b>Backlog 12/31/13</b>	<b>% Change in Backlog Increase/(Decrease)</b>	<b>Clearance Rate (%) 2011</b>	<b>Clearance Rate (%) 2013</b>
Sremska Mitrovica	2947	2,264	(23.2)%	95.0%	137.0%
Subotica	2008	621	(69.1)%	106.4%	117.1%

<b>Basic Court</b>	<b>Backlog 1/1/11</b>	<b>Backlog 12/31/13</b>	<b>% Change in Backlog Increase/(Decrease)</b>	<b>Clearance Rate (%) 2011</b>	<b>Clearance Rate (%) 2013</b>
Total SPP Partner Basic Courts	11,388	8,396	(26.3)%	97.78%	111.12%
Total Non-Partner Basic Courts	50,908	37,240	(26.8)%	95.02%	108.32%

Comparing 2011 and 2013, both SPP partner and non-partner basic courts as a whole decreased backlog by approximately 26% and improved clearance rates by approximately 13 percentage points. However, as the table shows, there were significant differences in the results among partner courts.

<b>Higher Court</b>	<b>Backlog 1/1/11</b>	<b>Backlog 12/31/13</b>	<b>% Change in Backlog Increase/(Decrease)</b>	<b>Clearance Rate (%) 2011</b>	<b>Clearance Rate (%) 2013</b>
Belgrade	2,741	673	(75.4)%	105.5%	138.2%
Novi Pazar	47	11	(76.6)%	110.3%	110.8%
Subotica	28	8	(71.4)%	121.1%	91.3%
Total SPP Partner Higher Courts	2,816	692	(75.4)%	106.7%	133.81%
Total Non-Partner Higher Courts	1,099	514	(53.2)%	102.7%	103.04%

Comparing 2011 to 2013, both the SPP partner and non-partner higher courts as a whole decreased backlog significantly and improved clearance rates. The backlog reduction at SPP partner courts was higher than at the non-partner higher courts as a whole (75.4% vs. 53.2%). Similarly, the improvement in the clearance rate for SPP partner higher courts was greater than for non-partner courts (27.11 percentage points vs. 0.34). However, the large improvement at SPP Partner Higher Courts was due, at least in part, to the transfer of cases out of the Belgrade Higher Court.

**Conclusion:** The Team concluded that the statistics presented above suggest that there was improvement in backlog reduction and backlog prevention (as measured by clearance rates) at both SPP partner and non-partner basic and higher courts as a whole between 2011 and 2013. However, these statistics should not be taken as an indication that SPP's interventions did not yield results. First, by 2012, some of the measures introduced by SPP at partner courts were already applicable to all courts: e.g. amendments to the criminal and civil procedure codes; recommendation by MOJ that all courts use the SPP template for backlog reduction planning; and publication of the Best Practices Guide. Second, as previously noted, each court is affected by specific factors that it may not have control over, such as large inflows of cases. Third, the number of cases filed in the Serbian courts has been declining, which should have a positive effect on clearance rates and backlog reduction. Finally, based on the concerns regarding data quality generally and the limits on data analysis discussed earlier, the Team notes that these comparative statistics are a doubtful quantitative measure of the relative progress in backlog reduction and prevention at partner and non-partner courts.

## ***EVALUATION QUESTION 2:***

*What were the key factors and lessons learned in generating these results, if any?*

**Finding:** The Team found that there were five key factors that account for the successful results of SPP partner courts:

- SPP selected partner courts that were facing challenges and thus would provide good examples of how interventions could work in other courts.
- SPP introduced practical techniques for backlog reduction and prevention and provided tools for successful implementation
- SPP allowed partner courts to select and own techniques
- SPP worked closely with partner courts and provided hands-on assistance
- SPP closely monitored progress and followed up on any apparent obstacles to progress.

The Team learned that SPP announced a call for court applicants, received 25 applications, visited the candidate courts and then selected partner courts. The selection was designed so that the partner courts manifested a variety of characteristics to test the success of backlog reduction and prevention techniques in different environments. This was corroborated by site visits to partner courts. The presidents of three partner courts selected in 2010 confirmed that SPP required a formal application process and also examined the population and ethnic make-up in their territory prior to selecting them as partners. The Team found that SPP selected courts with “real” backlog and efficiency problems to demonstrate that the techniques were effective even under difficult conditions.

The Team learned that early in the program, SPP staff reviewed documents related to the previous USAID-supported backlog reduction program implemented by NCSC to determine lessons learned, and concluded that a practical approach was necessary. Four court presidents (in the Higher and Basic Court in Subotica and the Basic Courts in Uzice and Vrsac) interviewed for this evaluation stressed that a key to their success at improving

efficiency and reducing backlogs was that SPP offered a menu of possible solutions to partner courts, asked them to focus their efforts on case types that were most problematic in their courts, and then allowed the individual partner courts to choose which measures the court would test. The Team interviewed representatives from the court registry offices in these four locations, who confirmed the statements of their court presidents. In a fifth court (the Basic Court in Nis), although the court president was not present in 2010, the court manager confirmed that the menu of options offered by SPP and the latitude to pursue them was a key to the court's success, allowing for local solutions for local problems.

The techniques offered by SPP were simple solutions that courts could implement without a significant investment or additional resources. The Team found that these solutions had not previously been considered by partner courts. The President of the Nis Basic Court said that "SPP widened my horizons", although he noted that some of the measures could not be used under the current system. A detailed discussion of these techniques and their use by partner courts appears in the next finding.

All SPP partner court judges and staff reported that SPP spent significant time with them over the course of the project, making at least quarterly site visits of several days to all partner courts. The Team learned that at the outset of the program, the SPP Chief of Party joined the site visits, but after that, site-visits and monitoring were conducted by national staff. Court presidents and registry staff at all partner courts visited noted that SPP staff provided hands-on assistance to them in an attempt to resolve inaccuracies and ensure reliable reporting. In an effort to refine reporting on case backlogs and efficiency, SPP developed tracking and reporting templates that partner courts used to gather relevant case reporting data and submit to SPP on a monthly basis. All court presidents and judges of partner courts interviewed for this evaluation who worked with SPP cited this approach to monitoring as a key to their successes in reducing backlogs and increasing efficiency.

The Team also found that SPP helped the partner courts to set realistic targets. For example, respondents at the Nis Basic Court reported that the original backlog reduction target that it set in 2010 was 50%, but SPP convinced the backlog reduction working group to set a reasonable standard of 20%.

**Conclusion:** The Evaluation Team concluded that the methodology SPP followed was key to its success in introducing new backlog reduction and prevention techniques in partner courts. Forgoing a "one size fits all" approach allowed partner courts to select methods they thought would best address efficiency and backlog problems in their courts. In turn, this resulted in partner courts investing in the success of the measures introduced. Further, SPP taught the courts how to analyze their problems to develop targeted solutions, a skill that they can use to resolve future problems.

**Finding:** The Team found that the working relationship that SPP developed with the MOJ and the SCC was a key factor in extending the SPP model of backlog reduction and prevention to all Serbian courts. Early in the project, SPP participated in the working group that revised the Book of Court Rules as well as the NJRS sub-group tasked with developing an action plan to support the strategy's efficiency pillar. All court presidents interviewed for this evaluation stated that they reference the Book of Court Rules provisions related to backlog reduction and prevention in their everyday work. The MOJ incorporated SPP's ideas into new criminal and civil procedure codes.

In further support of the NJRS, SPP created a draft NBRP in July 2013 that provides clear guidance on implementation of the Plan. SPP also created a Statistics Manual, which explains the importance of gathering and maintaining statistics in the courts, as well as concepts of creating and using case management indicators, and three new reporting modules (old cases, average duration of pending cases, and closed cases) for the AVP system.

In December 2013, the President of the SCC passed the UBRP that was based upon lessons learned from SPP's work with its 10 partner courts and SPP's Draft National Backlog Reduction Plan. The UBRP provides backlog reduction objectives for all the courts of Serbia and incorporates the reporting requirements articulated in the Statistics Manual. It requires the President of the SCC to chair a Working Group that is charged with analyzing quarterly reports from individual courts and proposing measures necessary to improve the process of reducing the number of backlogged cases.

Every non-partner court president respondent noted that the requirement to prepare backload reduction and prevention plans imposed by the SCC, along with specific instructions on how to deal with old cases, was a key motivation for their programs. However, two non-partner court presidents reported that they had initiated backlog reduction activities as far back as 2010 and that they were motivated by a sense of responsibility to properly manage their courts. The President of the Basic Court in Pozega reported that he had successfully adopted measures that were outlined in the SPP Best Practices Guide. He noted that the key to backlog reduction and prevention was proper organization of the court and hard work.

The Working Group was established in December 2013 and held its first meeting in January 2014. It includes representatives from the SCC, the Administrative Court, the Commercial Appellate Court, the Higher Courts and the Basic Courts. There are no representatives of the HCC in the Working Group. Most members were proposed by SPP and selected on the basis of their previous contribution to SPP backlog reduction and prevention activities. The Team learned that two of the original members had already resigned and that the SCC was trying to expand the Working Group and ensure that there was sufficient representation from all of the appellate regions.

The Working Group met again in February to review backload reduction plans and statistics submitted by all courts. However, due to the poor quality of many of the individual plans received by non-partner courts and of the statistics (due in part to problems with migration of cases in the AVP software, a responsibility of the MOJ), SPP cancelled the Working Group's March meeting and organized a retreat for the group in April. The Working Group has not met since then and is focused on having the MOJ resolve the migration problem so the Working Group has accurate statistics.

**Conclusion:** The Team concludes that using a top-down and bottom-up approach allowed partner courts to test and refine backlog reduction and efficiency interventions, disseminate successful measures to all courts, as well as achieve a measure of sustainability through rules mandating that all courts devise backlog reduction and efficiency plans, including targets, and report upon them. However, the Team also concluded that SPP provides all of the technical and analytical support to the Working Group and that the Working Group is reliant on SPP for this fundamental support. Because SPP is a driver of reform efforts at the

top-down level, the Evaluation Team questions whether efforts are sustainable after SPP closes at the end of the year. This is discussed further under evaluation question 3.

**Finding:** The Team found that for partner and non-partner courts, court-to-court cooperation was one of the most common methods for court's to share experience and lessons learned. SPP employed a variety of techniques to share experiences between partner courts and non-partner courts. This included formal measures such as publication of the Best Practices Guide, court-to-court workshops and roundtables, as well as less formal methods such as inter-court meetings. Five of six partner courts visited by the Evaluation Team cited a need for future court to court exchanges that would promote backlog reduction and prevention through judges sharing lessons learned. Three of the five stated that progress in implementing efficiency measures in courts nationwide were likely to falter once the SPP project ended, and that the technique of having judges from partner courts share their experiences with judges from non-partner courts would help maintain momentum for these reforms.

The presidents of five of seven non-partner courts interviewed by the Evaluation Team agreed. They cited court to court roundtables and exchanges between judges from partner courts and those from non-partner courts as necessary in the future if progress is to be made in court efficiency and backlog reduction nationwide. Two court presidents in non-partner courts who knew about SPP and had undertaken efficiency measures contained in the Best Practices Guide stated that they did so because they had contacted their counterparts in nearby partner courts, and those partner court presidents had helped them devise and implement efficiency interventions. Court presidents in partner courts and their team members confirmed during interviews that they had aided presidents in non-partner courts with lessons learned from their SPP partnership. For example, the President of the Nis Basic Court reported that Basic Courts in nearby towns (Leskovac, Pirot and Aleksinac) had requested advice via telephone. However, he noted that the small courts needed different techniques than the larger courts, and that the Nis Basic Court cooperated with the Basic Court in Novi Sad. During the site-visit to the Basic Court in Novi Sad, a non-partner court, the Team learned that a delegation from that court had visited the Cacak Basic Court to consult on enforcement cases. Many court presidents and members of backlog reduction working groups noted that they now reach out to other courts to discuss specific issues.

**Conclusion:** The Team concludes that court-to-court cooperation is a key to successful sustainability of court efficiency and backlog reduction measures generated in partner courts through the SPP program. A regular exchange of information between partner courts that are proven champions of efficiency and backlog reduction and courts that are struggling to reduce backlogs is an effective and inexpensive method to disseminate SPP's court efficiency and backlog reduction interventions. Court to court roundtables are an effective way of introducing non-partner judges to efficiency interventions. These can be followed up by having the efficiency teams from struggling courts visit more proficient courts to observe techniques, then apply them in their courts. Teams from more proficient partner courts can then conduct site visits and offer assistance and guidance as the reforms take hold.

**Finding:** After the reorganization of the court network in 2010, SPP selected new partner courts—five for backlog reduction and five for backlog prevention—and continued with the dual track approach incorporated into the original project design. However, after working with the partner courts for two years, it became clear to SPP and the courts that in fact

measures applied to reduce backlogs also served as efficiency measures that helped prevent backlogs. Therefore, after approximately two years (the fourth year of the project), SPP started to work on both backlog reduction and prevention in all 10 partner courts. All respondent court presidents in partner and non-partner courts listed efficiency measures as the key to reducing backlogs. These included more efficient service of process, court presidents requiring judges to prioritize difficult and old cases, and holding judges' meetings to discuss and resolve issues in difficult cases. A judge at the Belgrade Higher Court, which was in the original backlog prevention group, noted that backlog reduction should have begun earlier in SPP.

**Conclusion:** The Team concluded that SPP correctly identified that backlogs are a symptom of court inefficiency. The Team further concluded that an initial focus on backlog reduction at all courts and then extending activities to include backlog prevention in all courts may have been more productive. Thus, to reduce backlogs and prevent them, courts must become more efficient. Given the state of the Serbian judiciary, with a large number of new judges and courts, common sense solutions to practical efficiency problems were adequate to increase efficiency in partner courts. Given their practical nature, most SPP interventions are applicable in non-partner courts as well.

**Finding:** The Team finds that the Serbian courts are struggling to keep pace with the ongoing reforms in the Serbian judicial system. As noted in the CMS Assessment Report, the sheer velocity of changes in the Serbian judiciary is extraordinary. Many court presidents and judges stated they were negatively impacted by constant changes in law, judges and the court network. All respondent court presidents stated that recent reforms, including new procedure codes and laws, have resulted in confusion among judges in the basic, higher and appellate courts about how to apply the new laws and codes. Two judges from partner high courts, the head of the Criminal Department of the SCC, the head of the Civil Department of the SCC, two appellate court judges in Nis, the president of the Basic Court in Valjevo, and the presidents of SPP partner courts specifically mentioned that jurisprudence in Serbia must be harmonized to reduce uncertainty and thereby reduce the amount of time it takes for lower court judges to make decisions as well as reduce the number of cases returned on appeal. The appellate court judges and MOJ representative interviewed for this evaluation stated that the four appellate courts struggle to consistently decide cases that are factually similar.

The Team found that SPP started to support harmonization efforts in the final year of the project and is facilitating meetings between appellate court judges. SPP has urged that these efforts continue in the future, especially in regards to guidance in the large number of backlogged enforcement cases. During the 2014 Judges' Association Annual Meeting, the SCC acknowledged the importance of addressing the problem and recognized SPP's help as crucial to initiating the process. The lack of harmonization is a significant problem as noted in the 2014 EU Progress Report and must be addressed for Serbia to progress toward EU integration.

The Team also found that the training available to judges has not kept pace with legislative reforms. One department head noted that as the judges were being trained on revisions to the Criminal Procedure Code in 2012, additional revisions had already passed changing provisions they had just received training about. The Team notes that at the request of the JA, SPP updated its case management training curricula in 2012 to reflect changes in the civil

and criminal procedure laws. In conjunction with updating the curricula, SPP organized a training of trainers for eight appellate court judges, two from each appellate district. The Evaluation Team learned that some training for trainees and sitting judges was conducted in 2013, but no case management training has been conducted for sitting judges since that time.

**Conclusion:** The Team has concluded that constant upheavals associated with judicial reform efforts since the 2006 Constitution have kept courts off-balance and focused on basic issues related to new courts, new judges, case migration and application of new laws. This has negatively impacted their ability to fully benefit from backlog prevention and reduction measures introduced by SPP and incorporated in the NBRP. The Team has concluded that additional support for harmonization efforts as well as training is needed. With respect to training, based on the relatively low level of capacity of the JA, the Team has concluded that additional support to the JA is needed<sup>4</sup>. Further support for harmonization and training are discussed under evaluation question 3.

### ***EVALUATION QUESTION 3:***

*Building upon key lessons learned, how can Serbian and international stakeholders expand and scale up these results nationally, in order to meet the implementation objectives outlined in Serbia's National Judicial Reform Strategy?*

**Finding:** As discussed under Evaluation Question 1, the lack of reliable court statistics is a major obstacle to measuring progress in achieving efficiency and backlog reduction in Serbia, which undermines Serbia's efforts to comply with one of the principles of the NJRS—Efficiency and achieve EU accession. The Team learned that the UBRP Working Group tasked with monitoring implementation of the NBRP and proposing measures to improve implementation (the main body for sustaining the work of SPP in backlog reduction and prevention) cancelled its March meeting (the third monthly meeting) due to the poor quality of many of the individual plans received by non-partner courts and of the statistics. The Working Group maintains it cannot continue its work until the MOJ corrects the errors in data resulting from the migration of cases as a result of the 2014 court network reorganization and courts can prepare the required periodic reports correctly. A representative of the Working Group reported that the data provided by non-partner courts after the 2014 reorganization was unusable and that court presidents need training in data collection and reporting. Further, at the Judges Association Annual Meeting, she stated that looking at this data was like being in a fog.

A related issue that is discussed in the CMS Assessment Report is the limited IT capacity in the judicial sector<sup>5</sup>.

**Conclusion:** The Team has concluded that addressing the first problem, correcting data to accurately reflect migration of cases, requires manual verification of data as described in the CMS Assessment Report, while the second problem, poorly prepared backlog reduction plans, requires training for court presidents and staff involved in preparation of annual backlog reduction plans and the periodic reports the courts submit to the SCC. Further, the

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<sup>4</sup> See SPP's Organizational Capacity Assessment of the Judicial Academy, 2014.

<sup>5</sup> See discussion of human resources challenges in the CMS Assessment Report,

Team agrees with the conclusions and recommendations in the CMS Assessment Report regarding development of a reliable unified statistical reporting system at the national level and the need to build the capacity of judicial sector IT personnel.

**Recommendation:** The Evaluation Team recommends that the MOJ and UBRP Working Group immediately develop a plan for manual verification of data. The plan should consider what can be accomplished with internal resources and to what extent external resources are necessary. The Team recommends that the Working Group consider the techniques SPP employed to help partner courts “cleanse” data after the 2010 court network reorganization and replicate useful techniques to the extent practicable. To the extent external resources are necessary, USAID, together with other donors, should consider supporting that effort. If this cannot be accomplished prior to the launch of the EU IPA project, then the data cleansing process should be one of the first activities in that project.

The Team further recommends that the UBRP Working Group develop a plan, in coordination with the JA, for providing training on report preparation to court presidents and staff using the SPP Statistics Manual. Given the limited capacity of the JA as noted in the 2014 Judicial Academy Organizational Capacity Assessment prepared by SPP, this effort will require donor technical and financial support. In that regard, the Working Group could seek assistance from the local organization discussed below if USAID or another donor elects to support such project.

**Finding:** The Evaluation Team found that consistent with the terms of the extension of SPP for an additional year, SPP undertook several activities to consolidate best practices and transition them to host country partners and other donors (e.g. EU) during the past year. With respect to backlog reduction and prevention and harmonization of jurisprudence, this was the subject of a Memorandum of Understanding between SPP and the SCC signed in March 2014.

Notwithstanding SPP’s efforts, the Team found that there is considerable concern about whether the UBRP Working Group can maintain the progress SPP has made to date in implementing the NBRP. One of the key members of the Working Group stated that the Working Group has relied on SPP up to this point to gather and refine data on court efficiency and backlogs, and to prepare reports that contain analyses. This member stated that SPP acts as a secretariat for the Working Group, helping them collect and analyze data and focus on next steps. She expressed concern regarding whether Working Group members, who have full time jobs as judges, would have the time or special skills needed to prepare these reports once SPP closes, and more importantly, to analyze them and draw the correct conclusions based upon the analysis.

The Team found similar concerns among presidents of partner and non-partner courts. Three presidents of SPP partner courts who had worked with SPP since 2010 and had implemented most of the successful interventions that resulted in the Best Practices Guide expressed concern that when SPP closes, the Working Group will need assistance to liaise with courts to gather accurate statistics and make decisions based upon them. The presidents of two non-partner courts, both of whom had actively communicated with partner courts to learn about SPP interventions and implement them in their courts, stated that they had not received assistance from the Working Group and were concerned about how much the Working Group could accomplish without SPP’s assistance. These sentiments were echoed

by representatives of the MOJ during interviews and at the final session of the 2014 Judges' Association Annual Meeting. Further, as discussed earlier, the Team found that the UBRP Working Group has not met since April 2014, and it is continuing to rely on the support of SPP. Although the IPA project was intended to continue to support backlog reduction and prevention efforts, that project is behind schedule. The Team learned that the EU Delegation expects the project to begin within six months; however there is no guarantee.

**Conclusion.** The Team has concluded that the UBRP Working Group will suffer without SPP support, particularly due to the delay in the IPA project. Further, as non-partner court presidents cited the requirement from the SCC President that they focus on efficiency and backlog reduction as the main reason for their efforts at implementing these reforms, the Team has concluded that if the Working Group fails to closely monitor and provide individual guidance to courts in the near term, it is possible that further progress will not be made. The Team recognizes that meeting backlog reduction and prevention targets are not evaluation criteria pursuant to the Rule on Performance Evaluation of Judges adopted on July 22, 2014 and therefore, there are no direct consequences for individual judges or court presidents if backlog reduction and prevention targets are not met. In this regard, members of the UBRP Working Group raised the possibility of initiating disciplinary actions based on the failure to comply with backlog reduction and prevention requirements.

**Recommendation:** Pending initiation of the new EU IPA project, USAID should consider providing a grant through the Serbia Civil Society Partners program to a local rule of law-oriented organization to support continuation of the initiatives started by SPP during its final year. This would include support for the UBRP Working Group and the SCC President to maintain momentum on backlog reduction and prevention, as well as for harmonizing jurisprudence. Some illustrative activities are described below.

- Facilitate cooperation between courts and external partners on initiatives under consideration by the Working Group, including coordinating with the Ministry of the Interior to gain access to property registers using national personal identification numbers would facilitate service of process and concluding a new agreement with the Postal Service of Serbia to improve the delivery of court documents.<sup>6</sup>
- Assist the Working Group to implement the SCC President's order of May 2014 requiring court presidents to resolve cases that have lasted more than 10 years. At the end of 2013, there appeared to be 150,978 cases in this category. Of these, 133,780 were enforcement cases in the basic courts. Given the unreliability of data in AVP, the Working Group will likely need assistance identifying these cases, facilitating communication with all the responsible court presidents, and monitoring progress.
- Facilitate court-to-court activities, which have a multiplier effect as court presidents, judges and staff in partner courts share their experience with colleagues. There should be a regular exchange of information between proven champions of efficiency and backlog reduction measures and courts that are struggling to reduce backlogs.
- Organize training, in cooperation with the JA, for court presidents and relevant staff on preparation of backlog reduction plans and periodic reports using the SPP

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<sup>6</sup> Report of the Working Group for the Implementation of the Uniform Backlog Reduction Program of the Supreme Court of Cassation.

Statistics Manual. Assist the JA in resuming case management training using the training materials on the Criminal and Civil Procedure Laws developed by, and the appellate court judge trainers trained by, SPP.

The Team also suggests that USAID consider whether any of these activities could be assigned to the Judicial Reform and Government Accountability (JRG) program.

The Team further recommends that the Working Group invite representatives of the HCC to join the Working Group. This would give the Working Group additional leverage and might help to secure changes that would support the Working Group such as granting Working Group members a reduction in their caseload quotas in recognition of time devoted to the Working Group; including satisfaction of backlog reduction targets in the criteria for evaluation of judges; and obtaining resources to establish a small secretariat.

**Finding:** According to the Annual Statistics Report of the SCC, at the end of 2013 the courts had 1,772,149 backlogged cases. 1,687,875 of these cases were in the basic courts, of which, 1,615,830 were enforcement cases<sup>7</sup>. The Evaluation Team found that basic court presidents were preoccupied with enforcement cases. Creditors in enforcement cases often have several cases pending against single debtors. Many of these are utility cases. The Belgrade First Basic Court, with SPP support, tackled this problem when Infostan, the largest utility, entered into payment agreements with 80,000 debtors, resulting in the removal of 60,000 backlog cases from the court's records.

**Conclusion:** The Team has concluded that while enforcement cases do not require much work on the part of judges, closing them will allow a clearer picture to emerge of the true extent of the backlog problem and have a positive impact in terms of how outside stakeholders assess the problem of case backlogs in Serbia. The law regarding private bailiffs will likely have a positive impact on resolving new enforcement cases, but does not apply to old backlogged enforcement cases.

**Recommendation:** To have a positive impact on a large number of backlogged cases, the Evaluation Team recommends that the UBPR Working Group continue to focus on reducing the number of backlogged enforcement cases in the basic courts. Implementing a nationwide program modeled on the Belgrade Basic Court's settlement of backlogged utilities cases would significantly reduce the number of backlogged cases. Further, the MOJ should examine the possibility of approaching public utility companies to encourage them to write off small amounts of debt (e.g., up to 500 RSD) and withdraw their request for enforcement in these cases, an initiative proposed by the SCC in May 2014. Amendments of the Law on Enforcement allowing private bailiffs to collect on debts in old cases as well as new cases, and amnesty for debtors that would allow them to make a partial payment of the amount they owe in return for closing the cases against them should also be considered.

**Finding:** Respondents at partner and non-partner courts noted techniques to reduce backlog and improve efficiency that are rarely used, including transferring cases from very busy courts to less busy courts and use of alternative measures such as settlement, plea bargaining and mediation. For example, after the 2010 reorganization of the court network, cases from the Higher Courts in Belgrade and Novi Sad were transferred to the Higher

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<sup>7</sup> Report of the Working Group for the Implementation of the Uniform Backlog Reduction Program of the Supreme Court of Cassation.

Courts in Subotica and Pancevo. Based on that experience, judges at the Higher Court in Pancevo suggested transferring old cases to experienced judges who could devote all their time to those cases. Another possibility would be to engage retired judges, but this would require specific authorization from the HCC.

Within courts, the Team found a lack of uniformity in assignment of staff to relieve judges of administrative procedures, such as assigning judicial assistants to a specific judge or judges or establishing preparatory departments. Judges in all partner courts noted that the use of novelties in procedural codes, such as plea bargaining, settlement and mediation, were welcome, but that prosecutors and advocates were slow to use them. In addition, the Law on Mediation passed in 2014 has not been implemented

**Conclusion:** The Team concludes that certain opportunities to reduce backlog and promote efficiency are not fully utilized. Although judges may not be reassigned to locations with large backlogs, cases from courts with large backlogs may be reassigned to courts without large backlogs. Within courts, court presidents should make staffing decisions that remove duties from judges with backlogs to skilled staff. The Team further concludes that increased usage of plea bargaining, settlement, and mediation as foreseen in the NJRS and Action Plan is needed to increase court efficiency and reduce backlogs. The Bar Association, Prosecutors' Association and Mediators' Association should be engaged in promoting the use of these alternatives.

**Recommendation:** Rules for changing territorial jurisdiction can be found in the Criminal and Civil Procedure Codes. Both allow the SCC, or in some criminal cases, a higher court, to reassign a case. The Team recommends that the SCC use existing law to reassign cases from courts with large backlogs to those with smaller backlogs, as was done recently in Pancevo. Within courts, staffing plans that are based upon court efficiency and backlog reduction should be submitted to the Working Group as a requirement of each court's backlog reduction plan. The MOJ should consider changes to the law that would allow for the creation by the Working Group of temporary backlog reduction units of judges charged with solving old cases in overburdened courts. The use of plea bargaining and settlement and mediation in all courts should be encouraged, especially in overburdened courts, to reduce the number of new cases entering the system. Finally, the Team recommends that donors provide targeted support for implementation of the Mediation Law as foreseen by the NJRS and Action Plan.

## CHALLENGES

The primary challenge in this evaluation was obtaining data that could be used to compare results and impact in partner and non-partner courts. After being informed by several sources, including SPP staff and experts, World Bank experts, representatives of the MoJ and the courts themselves, that such statistics did not exist, the Evaluation Team submitted a formal letter to Supreme Court Justice Snezana Andrejevic, who is a member of the Unified BLR Program Working Group, requesting verified statistics that could be used for purposes of comparing SPP partner courts with non-partner courts. The Evaluation Team understands that the letter was forwarded to a SPP staff member who obtained data that was finally submitted to the Team in Excel format on 14 October, 2014. Although this data is voluminous and would require a significant amount of additional effort for the Team to

extract and fully analyze, the Team did compile limited comparative statistics that are included in this report. Subsequently, after the Team conducted this limited analysis and was finalizing this report, on 7 November 2014, the SPP Deputy Chief of Party forwarded data she received from Justice Andrejevic to the Team. Another challenge was travel to partner and non-partner courts for site visits.

**Overall Conclusion:** SPP initiated major progress in reducing backlog and improving efficiency in Serbian courts. Through focused work with ten partner courts, SPP was able to test and refine measures that were simple and could be implemented without additional human or financial resources.

By documenting best practices, working with key judicial institutions to amend legislation to include those practices and develop a plan for replicating SPP's success with partner courts on a national level, SPP has provided the Serbian judiciary with a framework for ongoing backlog reduction and improved efficiency.

However, as with many projects, SPP's national partners have come to rely on SPP, and the Evaluation Team concludes that without some level of ongoing outside support, there could be a setback.

# REFERENCES

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- *SPP Guide to Statistical Reporting for Court Presidents: Strategies and Tools for Success*, June 2013
- *SPP National Backlog Reduction Plan (2013-2018)*
- Individual Partner Court Statistics (2010-12/31/2013) Backlog Reduction and Prevention
- Statistics for civil and criminal cases at 12/31/2011 and 9/31/2012
- SPP Website (through 10/10/14)
- SPP Training Materials
  - *Trainer's Manual: Dynamic Individual Case Management for the Civil Trial Judges of Serbia* (2012 and 2013 versions and power point presentations)
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- Backlog Reduction Plans for Partner Courts for 2011 and 2012 (Serbian)
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- Monitoring Report Templates for Basic and Higher Courts (English)
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- SPP Assessment Reports
  - Judicial Academy Organizational Capacity Assessment, September 2014
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## SPP Evaluation Reports

- USAID/Serbia Separation of Powers Program Evaluation Final Report, January 13, 2012

- USAID/Serbia Separation of Powers Program Evaluation Final Report, June 2013

#### Supreme Court of Cassation/MOJ Documents

- National Judicial Reform Strategy 2013-2018
- Action Plan for Implementation of National Judicial Reform Strategy 2013-2018
- National Backlog Reduction Plan 2013-2018
- Report of the Working Group for the Implementation of the Uniform Court Backlog Reduction Program of the Supreme Court of Cassation
- 2011 and 2012 Annual Reports of the Supreme Court of Cassation on the Work of the Courts in Serbia and accompanying analysis (Serbian)
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# APPENDICES

## *ANNEX A: Evaluation Statement of Work*

### **PURPOSE**

The goal of the Serbian Rule of Law Efficiency Review (ROLER) award is to review USAID assistance in improving court efficiency through two objectives:

- 1) To measure the results of the Separation of Powers Program (SPP)'s work in case backlog reduction and prevention in partner courts from 2010 to 2013.
- 2) To assess the performance framework and functionalities of the main case management software systems used by the Serbian judiciary, identify opportunities to optimize their efficient use, and provide recommendations for stakeholder action.

The review, which will be realized through two components, will inform future programing and provide actionable recommendations for USAID, the Ministry of Justice (MOJ), High Court Council (HCC), Delegation of the European Union (EUD), and other relevant stakeholders.

The first component will focus on the USAID-funded Separation of Powers Program the intention is to measure the impact of its work to reduce case backlog in selected partner courts (as compared to courts which did not partner with the SPP program). Recognizing sample size limit a full impact assessment, the contractor should measure results with an eye for any information on impact that can be found.

The second component will review the case management IT systems in the Serbian court network, providing the MOJ and other actors with information and recommendations to optimize court efficiency.

The contractor may propose implementing these two components separately or concurrently in order to achieve the required results. The teams implementing the two components should work together and share information where feasible and relevant, in order to add to the value and quality of the respective deliverables.

The Mission anticipates two separate deliverables for this activity: one report for each component. The first deliverable will be a performance evaluation report of SPP. The second deliverable will be an assessment report of case management systems in Serbia and recommendations for future action.

## **COMPONENT 1: PERFORMANCE EVALUATION OF SEPARATION OF POWERS PROGRAM**

The contractor will conduct a performance evaluation of the Separation of Powers Program (SPP)'s Task 2 implemented by the East-West Management Institute, Inc. (EWMI) under contract 169-C-00-08-00102-00. The purpose is to evaluate the results of SPP's work from 2010 to 2013 in reducing and preventing backlog of cases in partner courts. This evaluation is meant to serve a dual purpose: (1) to identify the impact the program has had in improving court efficiency; and (2) to provide recommendations that will inform future court administration initiatives in Serbia. An impact evaluation was preferred however sample size may limit the methodology. Contractor should employ techniques that can provide impact information, as possible.

The audience of this evaluation will be USAID/Serbia, HCC, MOJ, other donors, local and international judicial reform stakeholders, and USAID's Europe and Eurasia Bureau and Center for Democracy, Rights and Governance.

### Background and Relationship to Mission Strategy

Recognizing the importance of court efficiency for genuine rule of law in Serbia, in 2008 USAID launched the Separation of Powers Program (SPP) to support improvements in court administration as well as judicial and legislative independence. The six-year program, implemented by the East-West Management Institute, is structured around three tasks:

*Task 1. Judicial branch financial independence:* Developing the capacity of the Serbian judiciary to allocate, acquire, and manage its resources;

*Task 2. Improved court administration:* Assisting the Serbian judiciary in making its administration of justice more efficient, transparent, and responsive to the needs of its users; and

*Task 3. Legislative branch financial independence:* Building the financial capacity of Serbia's National Assembly.

Together, these tasks support the GoS in its effort to build the necessary institutional and democratic practices required for integration with the European Union. Under the Country Development Cooperation Strategy 2013-2017, SPP activities fall under the Development Objective 1: Accountability of Key Democratic Institutions Strengthened and Intermediate Results (IR) 1.1: Parliament and Local Governments are More Responsive to Citizens, and IR 1.2: Rule of Law and Oversight Improved.

During the Separation of Powers Program, Serbian judiciary went through two major reconstructions, in 2010 and 2014. The evaluation team is expected to assess the impact of SPP's interventions in backlog reduction during the period 2010–2013.

The courts of general jurisdiction:

- Basic courts
- High Courts
- Appellate courts
- Supreme Court of Cassation.

The courts of special jurisdiction:

- Misdemeanor courts
- High Misdemeanor court
- Commercial courts
- High Commercial court
- Administrative court.

#### Program Approach and Results

SPP works with ten partner courts<sup>8</sup> of general jurisdiction to improve court efficiency and effective case management. The performance objectives for Task 2 included the creation of a position, training and implementation of court managers; improvements in case processing efficiency; and increasing transparency and openness. A substantial piece of Task 2 focused on backlog reduction, the focus of this performance evaluation, including the following two Performance Objectives:

- After four years, the average number of cases pending for more than two years has been reduced, and the average number of cases pending for more than four years in select courts has been reduced. (Performance Objective 10)
- After five years, the average case processing time in selected courts has been reduced. (Performance Objective 15)

With the assistance of SPP, the partner courts identified key internal and external problems, which led to increased backlog and reduced case processing efficiency. SPP provided potential measures and techniques to achieve higher clearance rates, which included:

- 1) creation of backlog reduction team;
- 2) new procedures of monitoring and labeling backlog cases;
- 3) improved delivery/service of documents;
- 4) creation of preparatory department and new procedures in court registry;
- 5) cooperation with external partners of the courts;

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<sup>8</sup> The ten basic and higher partner courts are the Basic Courts in Cacak, Nis, Sremska Mitrovica, Subotica, Uzice, Vranje, and Vrsac, and the Higher Courts in Belgrade, Novi Pazar, and Subotica.

- 6) efficient scheduling of court Hearings;
- 7) E-justice measures; and
- 8) new policies regarding court experts.

SPP's approach with partner courts was to focus on one case type, apply selected techniques, analyze the results and then gradually spread successful efforts to other case types. SPP had only an advisory and monitoring role and did not invest any funds in equipment or facilities. By end of 2012, all 10 partner courts were working simultaneously on backlog prevention and reduction on civil and criminal cases. In agreement with USAID, SPP excluded old enforcement cases from the overall number of backlog cases.

In 2013, half of the acting court presidents of partner courts were replaced. SPP continued to monitor their work and to cooperate with some of them. SPP's analysis shows that the courts continued to have above average results and the techniques used are now deeply incorporated in the courts' procedures. The new National Judicial Reform Strategy (2013-2018) calls for the creation of a national backlog reduction plan, and, in the second half of 2013, SPP developed a National Backlog Reduction and Prevention Plan, calling for nationwide improvements, based on results achieved by partner courts. SPP presented the Plan to the MOJ, HCC and SCC. The Supreme Court of Cassation took the lead in the backlog reduction and adopted the National Backlog Reduction Plan on December 25, 2013. The Supreme Court of Cassation formed a Working Group, which will use SPP's model to spread it nationwide and to monitor the implementation.

In 2014, SPP continues to support the backlog reduction by switching from an individual to the national level. SPP funded the development of a tracking report within the Case Management System ("AVP") database that the working group will use in monitoring backlog reduction results.

Supreme Court of Cassation has been collecting individual court reports, and issuing annual overall reports. According to the SCC's report for 2013, there are more than 2.8 million pending cases out of which nearly 1.7 million cases are considered "old". The vast majority of "old" cases are enforcement cases. With the new Law on enforcement adopted in 2011, the private enforcement officers were introduced into the system. The positive effect is yet to be seen.

SPP memorialized this work in the Best Practice Guide, released in mid-2012, providing practical guidance to other Serbian courts. The statistics for each court, as of September 2013, are available for the evaluators. Project activities include the following results:

- The six courts participating in SPP's backlog reduction program reduced their combined backlog from over 23,000 cases in 2010 to less than 12,000

cases as of September 30, 2012, a 49% decrease in backlog (well in excess of SPP's targeted 25%–30% reduction).

- The average clearance rate for the five courts participating in SPP's backlog prevention program exceeded 113%, significantly higher than the clearance rate target of 95%.
- SPP developed a template for backlog reduction planning that was initially used by its 10 partner courts. The MOJ subsequently recommended that all Serbian courts use the SPP template for 2012 backlog reduction planning. SPP also provided tools for analyzing and monitoring performance against backlog reduction goals.
- SPP successfully worked with court managers to reduce the enforcement backlog. At the Belgrade First Basic Court, Infostan, the largest utility, entered into payment agreements with 80,000 debtors with multiple enforcement actions against them, resulting in the removal of 600,000 cases from the system.
- Several of SPP's recommended backlog reduction and prevention techniques were incorporated into the new civil and criminal procedure codes, including the use of preliminary hearings to set case schedules and hearings, and improvements to service of process and delivery of court documents.

#### Evaluation Questions:

The evaluation team will measure SPP's impact in reducing and preventing case backlog in partner courts, reviewing activities implemented from 2010–2013. Evaluators should identify what SPP has achieved, whether expected results have occurred according to the project's design, and whether those results could have occurred without the program assistance.

Evaluators should answer the following questions, listed in order of priority:

1. What were the results and impact of SPP's interventions for case backlog reduction and prevention in partner courts, compared to courts that were not part of the program, from 2010 to 2013?
2. What were the key factors and lessons learned in generating these results, if any?
3. Building upon key lessons learned, how can Serbian and international stakeholders expand and scale up these results nationally, in order to meet the implementation objectives outlined in Serbia's National Judicial Reform Strategy?

#### Data Collection

Evaluators should use a mix of quantitative and qualitative data collection and analysis methods to generate findings. USAID Serbia will provide evaluators with project related documents and will make available data collected by SPP. This includes the following documents:

- SOW for the Separation of Powers Program

- SPP Project quarterly and annual reports, and work plans
- SPP PMP reports and data
- SPP Mid-term Evaluation Report
- AVP reports 2010-2013
- National Judicial Reform Strategy (2013-2018)
- National Backlog Reduction and Prevention Plan/ SPP Best Practice Guide
- Annual Reports from the Supreme Court of Cassation

Evaluators should also review the data provided through these reports, verifying the information through site visits to courts and review of data available through the MOJ's case management system (AVP). Finally, evaluators should also access the High Court Council's budget software, (BPMIS) to help collect court profile data.

The Evaluation Team should develop data collection tools that are consistent with the evaluation questions to ensure high quality analysis. The Evaluation Team is required to share data collection tools with the USAID Evaluation Program Manager for review, feedback and/or discussion with sufficient time for USAID's review before they are applied in the field.

The Evaluation Team will start work on a desk review of all the documents listed above prior to arriving in Serbia. The local evaluation team members should complete the paper review prior to the international team's arrival.

### Evaluation Methodology

The evaluation team will first complete a desk study that will be used to establish an understanding of SPP's activities and environment before arrival in Serbia. Based on this understanding, the evaluation team will prepare a work plan that it will present to the mission at the evaluation in-brief. The methodology will include a mix of tools appropriate to the evaluation's research questions.

Prior to the start of data collection, the evaluation team will develop and present, for USAID/Serbia review and approval, a data analysis plan that details how data received from control and test groups will be analyzed; what procedures will be used to analyze qualitative and quantitative data from key informant and other stakeholder interviews; and how the evaluation will weigh and integrate qualitative data from these sources with quantitative data from indicators and project performing monitoring records to reach conclusions about the effectiveness and efficiency of the activities implemented.

Evaluators should, where feasible, use experimental or quasi-experimental methods. All findings and conclusions/qualitative analysis will be supported by quantitative data, when available, and/or representative examples. The Evaluation Team Leader

will provide a draft of all interview protocols to USAID prior to starting interviews. USAID reserves the right to approve/suggest additional questions. The evaluation will be supported by relevant data and information gathered from meetings with program partners and all the relevant stakeholders. The evaluation team will clearly demonstrate links between the recommendations/conclusions and data available.

Deliverables:

A team planning meeting will be held in Serbia at the outset of the team's field work. This meeting will allow USAID to present the team with the purpose, expectations, and agenda of the assignment. In addition, the team will:

- Clarify team members' roles and responsibilities;
- Establish a team atmosphere, share individual working styles, and agree on procedures for resolving differences of opinion;
- Review and develop final evaluation questions (work out realistic expectations of the team within each of the topic areas);
- Review and finalize the assignment timeline and share with USAID;
- Present data collection methods, instruments, tools, and guidelines (materials should be developed prior to this meeting);
- Review and clarify any logistical and administrative procedures for the assignment;
- Develop a preliminary draft outline of the team's report; and,
- Assign drafting responsibilities for the final report

*Work Plan:* During the team planning meeting the evaluation team will prepare a detailed work plan, which will include the methodologies to be used in the evaluation, timeline, budget and Gantt chart. The work plan will be submitted to the USAID Evaluation Program Manager for approval no later than the sixth day of work.

*Methodology Plan:* A written methodology and data analysis plan (evaluation design, data analysis steps and detail, operational work plan) will be prepared during the team planning meeting and discussed with USAID prior to implementation.

*List of Interviewees and Schedule:* USAID will provide the Evaluation Team with an initial list of interviewees, from which the Evaluation Team can work to create a more comprehensive list. Prior to starting data collection, the Evaluation Team will provide USAID with a list of interviewees and a schedule for conducting the interviews. The Evaluation Team will continue to share updated lists of interviewees and schedules as meetings/interviews take place and informants are added to/deleted from the schedule.

*Data collection tools:* Prior to starting fieldwork, the Evaluation Team will share the data collection tools with the USAID Evaluation Program Manager for review, feedback and/or discussion and approval.

*In-briefing and Mid-term brief with USAID:* The Evaluation Team is expected to schedule and facilitate an in-briefing and mid-term briefing with USAID. At the in-brief, the partner should have the list of interviewees and schedule prepared, along with the Gantt chart that map out the evaluation through the report drafting, feedback and final submission periods. At the mid-term brief, the partner should provide USAID with a comprehensive status update on progress, challenges, and changes in scheduling/timeline.

*Discussion of Preliminary Draft Evaluation Report:* The team will submit a rough draft of the report to the USAID Evaluation Program Manager, who will provide preliminary comments prior to final Mission debriefing. This will facilitate preparation of a more final draft report that will be left with the Mission upon the evaluation team's departure.

*Debriefing with USAID:* The team will present the major findings of the evaluation to USAID/Serbia through a PowerPoint presentation after submission of the draft report and before the team's departure from country. The debriefing will include a discussion of achievements and issues as well as any recommendations the team has for possible modifications to project design approaches, results, or activities. The team will consider USAID/Serbia comments and revise the draft report accordingly, as appropriate.

*Draft Evaluation Report:* A draft report of the findings and recommendations should be submitted to the USAID Evaluation Program Manager prior to the team leader's departure from Serbia. The written report should clearly describe findings, conclusions, and recommendations. Where possible, the draft report should include graphic representation of key program accomplishments and impact. These graphs and other visualizations shall be suitable for use/incorporation in Mission presentations and communications materials. USAID will provide comment on the draft report within two weeks of submission.

*Final Report:* The team will submit a final report that incorporates the team responses to Mission comments and suggestions no later than ten days after USAID/Serbia provides written comments on the team's draft evaluation report (see above). The format will include an executive summary, table of contents, methodology, findings, and actionable recommendations. The report will be submitted in English, electronically. The report will be disseminated within USAID and to stakeholders according to the dissemination plan developed by USAID.

*Success story:* Based on the evaluation findings, the team will prepare a success story on the backlog reduction along with the evaluation report.

*Data Sets:* All data instruments, data sets, presentations, meeting notes and final report for this evaluation will be presented to USAID on CD Rom to the Evaluation Program Manager. All data on the CD will be in an unlocked, editable format.

### Reporting Guidelines

- The evaluation report should represent a thoughtful, well-researched and well-organized effort to objectively evaluate the program.
- Evaluation reports shall address all evaluation questions included in the scope of work.
- Evaluation findings should be presented as analyzed facts, evidence, and data and not based on anecdotes, hearsay or the compilation of people's opinions. Findings should be specific, concise and supported by strong quantitative or qualitative evidence.
- Sources of information need to be properly identified and listed in an annex.
- Recommendations should be supported by a specific set of findings.
- Recommendations should be action-oriented, organized according to whether recommendations are short-term or long-term, practical, and specific, with defined responsibility for the action.
- The evaluation report should include the scope of work as an annex. All modifications to the scope of work, whether in technical requirements, evaluation questions, evaluation team composition, methodology, budget, or timeline need to be agreed upon in writing by USAID.
- Evaluation methodology shall be explained in detail and all tools used in conducting the evaluation such as questionnaires, checklists and discussion guides will be included in an Annex in the final report.
- Evaluation findings will assess outcomes and impact on males and females.
- Limitations to the evaluation shall be disclosed in the report, with particular attention to the limitations associated with the evaluation methodology (selection bias, recall bias, unobservable differences between comparator groups, etc.) and what is being done to mitigate the threats to validity.

### Evaluation report requirements

The format for the evaluation report is as follows:

1. Executive Summary—concisely state the most salient findings and recommendations;
2. Table of Contents;
3. Introduction—purpose, audience, and synopsis of task;

4. Background—brief overview of SPP, USAID project strategy and activities implemented in response to the problem, brief description of SPP project, purpose of the evaluation;
5. Methodology— describes evaluation methods, including threats to validity, constraints and gaps;
6. Findings/Conclusions/Recommendations—for each evaluation question; also include data quality and reporting system that should present verification of spot checks, issues, and outcome;
7. Challenges—provide a list of key technical and/or administrative, if any;
8. References (including bibliographical documentation, meetings, interviews and focus group discussions);
9. Annexes—annexes that document the evaluation methods, schedules, interview lists and tables—should be succinct, pertinent and readable.

The final report will be reviewed using the Checklist for Assessing USAID Evaluation Reports ([http://www.usaid.gov/policy/evalweb/evaluation\\_resources.html](http://www.usaid.gov/policy/evalweb/evaluation_resources.html)).

The final evaluation report will conform to the Criteria to Ensure the Quality of the Evaluation Report found in Appendix I of the USAID Evaluation Policy. The USAID Evaluation Program Manager will determine if the criteria are met. This evaluation will not conclude until the Evaluation Program Manager has confirmed, in writing, that the report has met all of the quality criteria.

The final version of the evaluation report will be submitted to USAID/Serbia electronically. The report format should be restricted to Microsoft products and 12-point type font should be used throughout the body of the report, with page margins 1” top/bottom and left/right. The report should not exceed 30 pages, excluding references and annexes.

## **COMPONENT 2: ASSESSMENT OF CASE MANAGEMENT SOFTWARE IN SERBIAN COURT NETWORK**

At present, there are a variety of case management software applications operating in the Serbian justice sector. The National Judicial Reform Strategy calls for a comparative overview of all information technology (IT) systems working in the area of case management and states that the GoS seeks to unify the management systems “in order to achieve a centralized management and operation of the systems, which would enable their intercommunication.”<sup>9</sup>

The purpose of this assessment is to deliver high-quality, independent analysis to assist the MOJ with that comparative overview by reviewing the currently existing case management software utilized throughout the court network in Serbia, assess their

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<sup>9</sup> National Judicial Reform Strategy 2013-2018, Page 19.

technical capacities to be further developed towards a unified system and to develop recommendations for consideration by the Ministry and other interested parties.

### Background

The Serbian court system currently utilizes two main types of case management software: AVP and SAPS. AVP was first implemented in 2008 for 20 commercial courts with USAID assistance through the Commercial Court Administrative Strengthening Activity (CCASA), implemented by Booz Allen Hamilton. AVP is a product of Mega Serbia, a local software firm. After AVP was piloted in the commercial courts, the MOJ later expanded the rollout of AVP throughout the court system. Today AVP is available and operates in all Basic, Commercial and Higher Courts. A similar system (also developed by Mega Serbia) is being considered for the Misdemeanor Courts.

In 2009, the European Union made a grant to the Serbian Government to deploy a case management system called Standardized Software Application (SAPS) for the Serbian Judiciary (the project was implemented by the business technology firm Atos). The goal was to improve the efficiency and transparency of the Judicial System of Serbia by developing and introducing a centralised information system. The project began in March 2010 and by January 2013 SAPS was developed, users trained and deployed in the Supreme Court of Cassation; Appellate Courts in Belgrade, Novi Sad, Nis and Kragujevac; the Administrative Court; and as a pilot in the Basic and Higher Courts in Sremska Mitrovica.

In addition, some courts may be using their own customized case management systems, which have been developed internally.

### Purpose

The purpose of this assessment is to inform the implementation of the National Judicial Reform Strategy by providing independent high-quality, comprehensive expert analysis that will help Serbian decision makers achieve key benchmarks as negotiations towards EU accession commence.

The National Judicial Reform Strategy, passed in 2013, emphasizes the importance of transparency, accountability and efficiency for effective rule of law. Effective and unified case management system is important to implement that vision for several reasons: first, it improves internal court management and ensures more efficient and cost-effective services to the public; second, it provides the MOJ, High Court Council and others with information necessary for evidence-based decision making, resource allocation, and annual budgeting.

Given the existence and usage of different case management systems, the MOJ – in partnership with the courts, EUD, USAID, and other stakeholders – repeatedly sought

for a comprehensive expert analysis that can provide options for identifying efficiencies and paths forward. Therefore, the Assessment Team will analyze the current case management systems operating throughout the Serbian court network and develop recommendations of ways forward for consideration by the MOJ. The focus for this independent assessment should be on case management systems operating in the courts – primarily AVP and SAPS.

However, the assessment should provide a review of all existing case management systems in the judiciary, including links of the case management with prosecution and prison administration.

The recommendations developed as part of this assessment should be practical and cost effective in nature, reflecting the budgetary and bureaucratic realities facing the MOJ as well as the donor community—yet without sacrificing overall system reliability /availability, data integrity and access control management. Therefore recommendations should be concrete, and where possible, intended to improve what already exists rather creating a new “perfect” but cost prohibitive solution. USAID doesn’t seek recommendations that pick one system versus another, per se, but rather considerations for how the existing applications could be integrated or unified.

This implies the preparation of a specific and detailed Total Cost of Ownership analysis for the nation- wide running (i.e. development/installation/implementation cost, training and maintenance costs, total licensing costs, and any costs related to additional hardware and/or software upgrades or licenses needed, interconnectivity cost, human resources needed for maintaining the application) of the currently available systems.

As with all research, and given the sensitive background of two local IT companies providing two 'competing' systems, independence is paramount for the findings and recommendations to be valuable and trusted. The Assessment Team will adhere to strict standards of independence, ethics, and analytical rigor.

USAID intends to conduct this assessment in partnership with the MOJ and the EU Delegation to Serbia throughout this process. All final assessment findings will be provided to USAID, MOJ, and EU Delegation.

#### Assessment Questions:

The Assessment Team will answer the following questions:

1. What are the relative strengths/weaknesses of AVP and SAPS? [Analysis should include at a minimum consideration of technical functionality, addressing information security (data integrity, system reliability, availability, access control and auditing etc.), TCO (Total Cost of Ownership) over the period of five

- (5) years, experience to date, and human resource requirements for maintaining/supporting each system; other criteria may also be proposed.]
2. Provide five (5) recommendations to MOJ and other stakeholders for ways to optimize the utilization of current case management software applications, in order to meet the relevant goals in the National Judicial Reform Strategy. (Include estimates of costs for these recommendations, including hardware, software, connectivity, and human resource requirements.)
  3. Based on answers to (1) and (2), provide three (3) recommendations to inform the development of the MOJ's IT Strategy for the judiciary.

### Data Collection

As highlighted earlier, the value of this assessment is directly linked to the independence and rigor of the team and methodology. By conducting an independent evaluation, the credibility of its findings and recommendations will be elevated for all stakeholders.

The Assessment Team will first conduct a desk study, reviewing all materials provided by USAID, the MOJ, EU Delegation or other stakeholders prior to arriving in Serbia. The local team members should complete the paper review prior to the international team's arrival.

The Assessment Team should then develop data collection tools that are consistent with the assessment questions to ensure high quality analysis. The Team is required to share data collection tools with the USAID Program Manager for review, feedback and/or discussion with sufficient time for USAID's review before they are applied in the field.

Documents to be provided include:

- National Judicial Reform Strategy (2013-2018)
- ICT Strategy Report/Concept Note for the Judicial Functional Review (being conducted by MDTF WB)
- National Backlog Reduction and Prevention Plan/ SPP Best Practice Guide
- CCASA program Final Report
- SAPS Project documentation
- Annual Reports from the Supreme Court of Cassation

The Assessment Team will be given access with test databases to AVP and SAPS application systems and should travel throughout Serbia's court network for interviews and review of systems.

A team planning meeting will be held in Serbia at the onset of the Assessment's field work. This meeting will allow USAID to present the team with the expectations of the assignment. In addition, the team will:

- Clarify team members' roles and responsibilities;
- Review final assessment questions to confirm shared understanding and expectations
- Review and finalize the assignment timeline and share with USAID;
- Present data collection methods, instruments, tools, and guidelines (materials should be developed prior to this meeting);
- Review and clarify any logistical and administrative procedures for the assignment;
- Develop a preliminary draft outline of the team's report; and,
- Assign drafting responsibilities for the final report

The data collection methodology will be comprised of a mix of tools appropriate to the research questions. These tools may include a combination of the following:

- Conducting a functional analysis to identify courts' needs and operations
- Reviewing each of the case management systems to identify their capabilities
- Key informant interviews and focus groups of users of AVP, SAPS, and other existing systems, to understand needs, identify functionality of each system, user-friendliness, and requirements on application supporting/maintenance staff (including requirements for training)

#### Data Analysis Methods

Prior to the start of data collection, the assessment team will develop and present, for USAID/Serbia review and approval, a research plan that details how stakeholders will be included in the process (including MOJ, USAID, European Union), how information will be collected and analyzed; and how the assessment will weigh and integrate qualitative data from these sources with quantitative data received from analysis of the software to reach conclusions about costs and benefits of the various software solutions.

Analysis should lead the development of five recommendations for consideration by the MOJ on ways forward to improve effective case management in Serbia.

#### Deliverables

**Work Plan:** During the team planning meeting the Assessment Team will prepare a detailed work plan, which will include the methodologies to be used in the evaluation, timeline, budget and Gantt chart. The work plan will be submitted to the USAID Evaluation COR for approval no later than the sixth day of work.

***Methodology and Data Collection Plan:*** A written methodology and data analysis plan (design, data analysis steps and detail, operational work plan) will be prepared during the team planning meeting and discussed with USAID prior to implementation.

***List of Interviewees and Schedule:*** USAID will provide the Assessment Team with an initial list of interviewees, from which the Assessment Team can work to create a more comprehensive list. Prior to starting data collection, the Assessment Team will provide USAID with a list of interviewees and a schedule for conducting the interviews. The Assessment Team will continue to share updated lists of interviewees and schedules as meetings/interviews take place and informants are added to/deleted from the schedule.

***In-briefing and Mid-term brief with USAID:*** The Assessment Team is expected to schedule and facilitate an in-briefing and mid-term briefing with USAID. At the in-brief, the partner should have the list of interviewees and schedule prepared, along with the Gantt chart that maps out the assessment through the report drafting, feedback and final submission periods. At the mid-term brief, the partner should provide USAID with a comprehensive status update on progress, challenges, and changes in scheduling/timeline.

***Discussion of Preliminary Draft Assessment Report:*** The team will submit a rough draft of the report to the USAID Program Manager, who will provide preliminary comments prior to final Mission debriefing. This will facilitate preparation of a more final draft report that will be left with the Mission upon the Assessment Team's departure.

***Debriefing with USAID:*** The Assessment Team will present the major findings to USAID/Serbia through a PowerPoint presentation after submission of the draft report and before the team's departure from country. The debriefing will include a discussion of achievements and issues as well as any recommendations the team has for possible modifications to project design approaches, results, or activities. The team will consider USAID/Serbia comments and revise the draft report accordingly, as appropriate.

***Draft Assessment Report:*** A draft report of the findings and recommendations should be submitted to the USAID Program Manager prior to the team leader's departure from Serbia. The written report should clearly describe findings, conclusions, and recommendations. USAID will provide comment on the draft report within two weeks of submission.

***Final Report:*** The team will submit a final report that incorporates the team responses to Mission comments and suggestions no later than ten days after USAID/Serbia provides written comments on the team's draft assessment report (see above). The format will include an executive summary, table of contents, methodology, findings, and at least two actionable options for consideration by the

MOJ. Where possible, the report should use easy to read tables or graphic representation of key findings. The report will be submitted in English, electronically. The report will be disseminated within USAID and to stakeholders according to the dissemination plan developed by USAID.

***Data Sets:*** All data instruments, data sets, presentations, meeting notes and final report for this assessment will be presented to USAID on CD Rom to the Program Manager. All data on the CD will be in an unlocked, editable format. All data sets will be shared with the MOJ and the EUD.

## ***ANNEX B: Persons and Agencies Contacted***

### **List of Interviewees**

<b>NAME AND TITLE</b>
Brian LeDuc, SPP Chief of Party
Sonja Prostan, SPP Deputy Chief of Party
Milan Nikolic; Dimitije Sujeranovic , SPP Staff members
Snezana Andrejevic, Supreme Court Justice, member of the Unified BLR Program
Dragana Boljevic, Judge, Belgrade Appellate Court
Zorica Bulajic, Judge, Belgrade Appellate Court
Biljana Djukic, Deputy Head of Registry Office, Belgrade Appellate Court
Andjelka Stanojevic, President, Novi Sad Basic Court
Marija Rakic, Judge Subotica Higher Court
Rozalija Tumbas, Court President, Subotica Basic Court
Tamara Trajkovic, Judge, Subotica Basic Court
Goran Nikolic, President, Vrsac Basic Court
Cveta Kajevic Grubisic, Judge, Vrsac Basic Court
Branka Jankovic, Court President, Uzice Basic Court
Goran Spasic, Court President, Nis Basic Court
Sasa Dincic, Court Secretary, Nis Basic Court
Sladjana Djurickovic, Deputy President, Nis Appellate Court
Vidosava Danilovic, Judge, Uzice Basic Court
Ljiljana Karac, President, Valjevo Basic Court
Radoje Milovanovic, Court Secretary, Valjevo Basic Court
Mirjana Puzovic, Chief of Cabinet of the President of the Supreme Court of Cassation, Secretary of the UBRP Working Group
Majda Krsikapa, Secretary General, High Court Council
Tanja Sobot, Court President, Belgrade I Basic Court, Member of the UBRP Working Group
Cedomir Backovic, Assistant Minister, Ministry of Justice
Aleksandar Nikolic, Court Secretary, Uzice Basic Court
Dragan Skontra, IT Administrator, Vrsac Basic Court
Ljubinko Petrovic, President, Pozega Basic Court
Stanka Simonovic, President, Pancevo Basic Court
Natasa Lazovic, President, Cacak Basic Court
Izet Suljovic, President, Novi Pazar Higher Court
Aleksandar Stepanovic, President, Belgrade Higher Court
Dijana Jankovic, Judge, Nis Appellate Court

## ***ANNEX C: Semi-Structured Interview Questions***

(Questions are illustrative and not comprehensive)

### Qs for SPP

- What were the criteria for selecting the backlog reduction (BR) and backlog prevention (BP) pilot partner courts?
- What was the difference in SPP's initial assistance to the BR vs. BP pilot courts?
- How did you assist the pilot courts in expanding into BR or BP, respectively?
- What were the key factors affecting results in the partner courts? Lessons learned?
- In your opinion, what is the quality of the data received from the MoJ?
- What was SPP's role in expanding BR/BP to non-partner courts?
- What further support is needed? Will IPA provide that?

### Qs for MoJ and HCC

- What support has SPP provided to the MoJ in connection with BR and RP efforts?
- What is the MoJ's responsibility in terms of backlog reduction? What other institutions are involved, such as the Supreme Court of Cassation and the HCC?
- How does the MoJ monitor progress on BR and BP? How do you ensure integrity of the data collected?
- In your opinion, what were the major successes/disappointments in the SPP BR and BP program?
- Thinking about the National Backlog Reduction Plan, what assistance has SPP provided in scaling-up the effort?
- In your opinion, are the targets in the BR plan reasonable? What obstacles, if any, do you foresee in realization of the targets?
- What other donors or projects are supporting BR and BP? What assistance is still needed?

### Qs for SPP Partners

- What were SPP's interventions in your court?
- What was the composition of your backlog reduction working group? Were there any outside members, such as representatives of the bar or prosecution office?
- Which SPP interventions had impact/caused you to make changes? Why?
- What specific changes did you make?
- With benefit of hindsight, what were the lessons learned?
- What process does your court use for: collecting data, entering data, verifying data and producing reports? Can you verify this data from the AVP reports and Supreme Court reports for us? In your opinion, what changes are needed?
- What changes did your court make based on successes/failures of other partner courts.
- Has your court worked with other international or Serbian organization on BR/RP?
- In your view, what assistance do non-partner courts need to implement BR/BP? Who should provide that?

### Q's for Non-Partner Courts

- What is your court doing in terms of BR and RP (e.g. backlog reduction team: plan; what specific steps are you implementing)? When did the court start those activities and why? What has been effective and what has not?

- Are you familiar with the SPP Best Practices Guide? Have you used it to develop solutions for your court?
- Have you worked with any internationals/Serbians on BLR & P? Describe.
- What assistance does your court need to implement BR/BP? Who should provide that?
- In your opinion, are the targets in the BR plan reasonable? What obstacles, if any, do you foresee in realization of the targets?
- What process does your court use for: collecting data, entering data, verifying data and producing reports? In your opinion, what changes are needed?

Q's for External Interlocutors (Bar, attorneys, prosecutors, etc)

- Can you describe how implementation of backlog reduction measures has affected your practice at pilot courts?
- Were you asked to participate in the planning process? If so, can you please describe your role. In your opinion, what were the greatest difficulties in implementing the measures, both internal and external?



*ANNEX E: Court Efficiency Table<sup>10</sup>*

<b>Court</b>	<b>Efficiency Rate, 2010</b>	<b>Efficiency Rate, 2013</b>
High Court Belgrade	69.25%	120%
High Court Subotica	89.17%	97.11%
High Court Novi Pazar	100.85%	106.23%
Basic Court in Subotica	96.90%	112.14%
Basic Court in Vrsac	94.85%	112.67%
Basic Court in Sremska	78.18%	125.10%
Basic Court in Cacak	81.74%	107.84%
Basic Court Uzice	89.08%	102.06%
Basic Court Nis	89.12%	97.79%
Basic Court in Vranje	73.40%	114.34%

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<sup>10</sup> Efficiency, also known as the clearance rate, is the number of cases received divided by cases solved. Therefore, an efficiency rate of over 100% indicates that the court is solving more cases than received.

## ***ANNEX F: Comparative Statistics***

**(Based on the most common types of cases in the basic and higher courts)**

The comparison below is based on the following data furnished by SPP on October 14<sup>11</sup>. (Refer to Annex K, "Comparative Statistics Spreadsheet" -- Excel spreadsheet attached with report)

- 2013--Excel sheets for all basic and higher courts individually and as a group.
- 2011- Excel sheets for all basic and higher courts individually.

The team prepared the compilation of data for all basic and higher courts for 2011, then extracted data on the most common types of cases for SPP courts for 2011 and 2013. As no data was provided for 2012, the following analysis compares statistics for 2011 and 2013.

The most common types of cases in all courts of the same level are:

- Basic courts: civil, investigation, criminal, inheritance, labor. Statistics available at Annex F.
- Higher courts: criminal, criminal investigation, criminal juvenile, criminal investigation juvenile, and second instance civil, labor and family. Statistics available at Annex F.3.

### **2013 Basic Courts**

<b>Court</b>	<b>Backlog 1/1/2013</b>	<b>Backlog 12/31/ 2013</b>	<b>% Change in Backlog Increase/ (Decrease)</b>	<b>Total Cases Received</b>	<b>Total Cases Solved</b>	<b>Clearance Rate (%)</b>
<u>Uzice</u>	<u>488</u>	<u>469</u>	<u>-3.8</u>	<u>5,949</u>	<u>6,137</u>	<u>103.1</u>
<u>Cacak</u>	<u>1,380</u>	<u>1,256</u>	<u>-9</u>	<u>8,247</u>	<u>9,084</u>	<u>101.5</u>
<u>Vranje</u>	<u>3,642</u>	<u>2,173</u>	<u>-40.3</u>	<u>11,582</u>	<u>13,723</u>	<u>118.5</u>
<u>Nis</u>	<u>1,737</u>	<u>1,484</u>	<u>-14.6</u>	<u>27,724</u>	<u>26,660</u>	<u>96.2</u>
<u>Vrsac</u>	<u>188</u>	<u>129</u>	<u>-31.4</u>	<u>3,603</u>	<u>4,249</u>	<u>117.9</u>
<u>Sremska Mitrovica</u>	<u>4,740</u>	<u>2,264</u>	<u>-52.2</u>	<u>11,461</u>	<u>15,702</u>	<u>137</u>
<u>Subotica</u>	<u>1,155</u>	<u>621</u>	<u>-34.3</u>	<u>10,670</u>	<u>12,493</u>	<u>117.1</u>
<b>Total SPP Partner Basic Courts</b>	<b>13,330</b>	<b>8,396</b>	<b>-37%</b>	<b>79,236</b>	<b>88,048</b>	<b>111.12%</b>
<b>Total Serbian Basic Courts</b>	<b>62,559</b>	<b>45,636</b>	<b>-27%</b>	<b>398,968</b>	<b>434,367</b>	<b>108.87%</b>

As a whole, in 2013 the SPP partner basic courts outperformed the Serbian basic courts in both backlog reduction and prevention. SPP partner basic courts reduced backlog by 37% vs. 27% for the Serbian basic courts and SPP partner courts achieved a 111.12% clearance rate compared to 108.87% at the Serbian basic courts. Although backlog

<sup>11</sup> The out-brief was on Oct. 10 and the evaluation team departed Serbia on Oct. 11.

decreased in Nis, the clearance was less than 100%, which can lead to future increases in backlog as cases age. The Team learned that the Nis basic court has aggressively pursued backlog reduction, but has had less success introducing backlog prevention techniques such as cooperation with outside agencies.

### 2011-Basic Courts

<u>Court</u>	<u>Backlog 1/1/11</u>	<u>Backlog</u>	<u>% Change in Backlog Increase/(Decrease)</u>	<u>Total Cases Received</u>	<u>Total Cases Solved</u>	<u>Clearance Rate (%)</u>
<u>Uzice</u>	<u>322</u>	<u>457</u>	<u>41.9</u>	<u>7532</u>	<u>6728</u>	<u>91.5</u>
<u>Cacak</u>	<u>1217</u>	<u>1218</u>	<u>--</u>	<u>11464</u>	<u>11299</u>	<u>98.6</u>
<u>Vranje</u>	<u>3307</u>	<u>3123</u>	<u>-5.6</u>	<u>13438</u>	<u>12124</u>	<u>90.2</u>
<u>Nis</u>	<u>1322</u>	<u>986</u>	<u>-10.2</u>	<u>27244</u>	<u>28048</u>	<u>103</u>
<u>Vrsac</u>	<u>265</u>	<u>204</u>	<u>-23</u>	<u>4392</u>	<u>3812</u>	<u>86.8</u>
<u>Sremska Mitrovica</u>	<u>2947</u>	<u>4409</u>	<u>49.61</u>	<u>11840</u>	<u>11249</u>	<u>95</u>
<u>Subotica</u>	<u>2008</u>	<u>1942</u>	<u>-3.2</u>	<u>11206</u>	<u>11919</u>	<u>106.4</u>
<u>Total SPP Partner Basic Courts</u>	<u>11,388</u>	<u>12,339</u>	<u>8.3</u>	<u>87,116</u>	<u>85,179</u>	<u>97.78%</u>
<u>Total Serbian Basic Courts</u>	<u>62,296</u>	<u>63,090</u>	<u>1.3</u>	<u>422,937</u>	<u>404,386</u>	<u>95.61%</u>

In 2011, the backlog increased in both SPP partner basic courts (8.3%) and Serbian basic courts as a whole (1.3%). The increase was higher at the partner courts due to a nearly 50% at the Sremska Mitrovica basic court. Further, although neither SPP partner basic courts or Serbian basic courts as a whole resolved more cases than received, the clearance rate at the SPP partner basic courts was higher (97.78% vs 95.61%). In addition, while Vrsac had the best results for backlog reduction, it had the worst clearance rate of the partner courts.

## 2011 vs. 2013

<u>Basic Court</u>	<u>Backlog 1/1/11</u>	<u>Backlog 12/31/13</u>	<u>% Change in Backlog Increase/(Decrease)</u>	<u>Clearance Rate (%)</u>	
				<u>2011</u>	<u>2013</u>
<u>Uzice</u>	<u>322</u>	<u>469</u>	<u>45.7</u>	<u>91.5</u>	<u>103.1</u>
<u>Cacak</u>	<u>1217</u>	<u>1,256</u>	<u>3.2</u>	<u>98.6</u>	<u>90.8</u>
<u>Vranje</u>	<u>3307</u>	<u>2,173</u>	<u>-34.3</u>	<u>90.2</u>	<u>118.5</u>
<u>Nis</u>	<u>1322</u>	<u>1,484</u>	<u>1.2</u>	<u>103</u>	<u>96.2</u>
<u>Vrsac</u>	<u>265</u>	<u>129</u>	<u>-51.3</u>	<u>86.8</u>	<u>117.9</u>
<u>Sremska Mitrovica</u>	<u>2947</u>	<u>2,264</u>	<u>-23.2</u>	<u>95</u>	<u>137</u>
<u>Subotica</u>	<u>2008</u>	<u>621</u>	<u>-69.1</u>	<u>106.4</u>	<u>117.1</u>
<u>Total SPP Partner Basic Courts</u>	<u>11,388</u>	<u>8,396</u>	<u>-26.3</u>	<u>97.78%</u>	<u>111.12%</u>
<u>Total Serbian Basic Courts</u>	<u>62,296</u>	<u>45,636</u>	<u>-26.7</u>	<u>95.61%</u>	<u>108.87%</u>

Comparing 2011 and 2013, both SPP partner and non-partner basic courts as a whole decreased backlog by approximately 26% and improved clearance rates – resolving more cases than received. The clearance rate for partner basic courts as a whole was slightly higher than for non-partner courts (111.12% vs. 108.87%). However, there were significant differences in the results among partner courts.

## 2013 Higher Courts

Court	Backlog 1/1/13	Backlog 12/31/13	% Change in Backlog Increase/(Decrease)	Total Cases Received	Total Cases Solved	Clearance Rate
Belgrade	2,519	673	-73.3	17,701	24,597	138.20%
Novi Pazar	52	11	-78.8	1,033	1,145	110.80%
Subotica	19	8	-58	1,586	1,448	91.30%
Total SPP Partner Higher Courts	2,590	692	-73.30%	20,320	27,190	133.81%
All Serbian Higher Courts	3,476	1,206	-65.30%	67,822	76,199	112.35%

As a whole, in 2013 the SPP partner higher courts outperformed the Serbian higher courts in both backlog reduction and prevention. SPP partner higher courts reduced backlog by 73.3% vs. 65.3% for the Serbian higher courts and SPP partner courts achieved a 133.81% clearance rate compared to 112.35% at the Serbian higher courts. The Team learned that the dramatic backlog reduction at the Belgrade Higher Court was due to the transfer of abuse of power cases to the basic court as a result of amendments to the criminal procedure code. These cases were transferred back to the Belgrade Higher Court in the 2014 court network reorganization increasing the backlog again. The Team learned the criminal department backlog increased after the 2010 court network reorganization and that the court has not been able to eliminate the backlog up due to judicial vacancies.

**ANNEX G: Evaluation Matrix**

	Documents/Research			Semi-Structured Interviews					Mini-Survey
	Donor	Implementer	Secondary	USG Personnel	Implementer Staff	Direct Participants or Beneficiaries	Indirect Beneficiaries	External	
<b>Backlog Reduction:</b>									
2.2.1 A. Preparation and implementation/monitoring of backlog reduction plans by individual partner courts	<input checked="" type="checkbox"/>	SPP	SC; MoJ	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	PC Presidents, Dept Heads, Members of BR working groups & Court Administrators	SC, MoJ, HCC	Attorneys (local bar assn.); Prosecutors	BR working group members; Attorneys/Prosecutors
2.2.1 B Overall backlog reduction strategy/Disseminate strategies to reduce backlogs and improve case processing times in courts throughout Serbia	<input checked="" type="checkbox"/>	SPP	SC; MoJ	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Non-PC Presidents, Dept Heads, Members of BR working groups & Court Administrators	SC, MoJ, HCC	Attorneys, (local bar assn.); Prosecutors; legal aid CSOs, International organizations	BR working group members; Attorneys/Prosecutors
<b>Backlog Prevention (case management): 2.2.2</b>									
2.2.2.A. Case flow management assistance to individual courts	<input checked="" type="checkbox"/>	SPP,		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	PC Presidents &	SC, MoJ, JCC		

						Court Administrators , HCC			
2.2.2.B. Dissemination of results	<input checked="" type="checkbox"/>	SPP		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	PC and non-PC Court Presidents	SC, MoJ, HCC	International orgs	

**ANNEX H: Findings, Conclusions, Recommendations (FCR)**

<b>FCR Table</b>		
<b>Findings</b>	<b>Conclusions</b>	<b>Recommendations</b>
<p><b>EQ1:</b> What were the results and impact of SPP’s interventions for case backlog reduction and prevention in partner courts, compared to courts that were not part of the program, from 2010 to 2013?</p> <p><b>Note:</b> At the in-brief, the Mission added a related question—what is the reason of variation in results between in partner courts?</p>		
<ul style="list-style-type: none"> <li>• All partner courts utilized a variety of the techniques for backlog reduction and prevention proposed by SPP. Since the 2013 requirement for preparation of backlog reduction plans by all courts, non-partner courts have implemented the basic measures required for backlog reduction (identifying, labeling and monitoring old cases) but adoption of efficiency/backlog prevention measures less common.</li> <li>• Trend was positive in partner courts from 2010-2013 (decrease in aggregate backlog and improvement in average clearance rate), but results in individual courts varied due to</li> </ul>	<ul style="list-style-type: none"> <li>• Impact of SPP assistance evident in the level and sophistication of backlog reduction and prevention initiatives in partner vs. non-partner courts.</li> <li>• Degree of improvement varied from court to court and year to year not only as a result of the extent to which individual courts implemented the measures proposed by SPP, but also to circumstances outside the court’s</li> </ul>	

<p>variety of factors: 1) predominant case type and large inflow of cases; 2) size, location, and case load; 3) cooperation of external partners; 4) attitude of court presidents and judges to reform.</p> <ul style="list-style-type: none"> <li>• Limited statistics based on most common types of cases in basic and higher courts indicate progress in backlog reduction and prevention at partner and non-partner courts.</li> <li>• Trends that can affect backlog reduction/prevention statistics in all courts: (i) declining number of cases; (ii) increasing number of judges.</li> <li>• MoJ institutionalized SPP backlog reduction and prevention methodology and required all Serbian courts to prepare backlog reduction plans for 2013. However, some courts had initiated backlog reduction activities earlier.</li> <li>• Statistics of basic and higher courts</li> </ul>	<p>control.</p> <ul style="list-style-type: none"> <li>• In many cases, statistics are affected by factors that courts cannot control so statistics do not accurately reflect SPP interventions.</li> <li>• Comparative statistics do not indicate that SPP interventions did not have impact. Not possible to make reliable statistical comparisons based on data quality. Accurate statistical data necessary for implementation and monitoring of NBRP.</li> <li>• Beginning in 2013, statistics for all courts reflect results of initial national roll-out of backlog reduction and prevention efforts.</li> </ul>	<ul style="list-style-type: none"> <li>• As discussed under EQ 3, priority must be given to developing accurate statistics and improved reporting.</li> </ul>
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widely considered to be unreliable.		
<b>EQ2: What were the key factors and lessons learned in generating these results, if any?</b>		
<ul style="list-style-type: none"> <li>• UBRP Working Group very reliant on SPP</li> <li>• Five themes evident in SPP approach to partner courts: 1) select partner courts that had problems and would provide good examples of how interventions could work; 2) introduce practical techniques for backlog reduction and prevention and provide tools for successful implementation; 3) allow partner courts to select and own techniques; 4) work closely with partner courts and provide hands-on assistance; and 5) closely monitor progress and follow up on any apparent obstacles to progress.</li> <li>• SPP developed close working relationship with MOJ and SCC, which was a key factor in extending the SPP model of backlog reduction and prevention to all Serbian courts. SPP documented and leveraged its work</li> </ul>	<ul style="list-style-type: none"> <li>• SPP methodology based on five factors was key to its success in introducing new backlog reduction and prevention techniques in partner courts. Foregoing “one size fits all” approach allowed partner courts to select measures best suited to problems in their courts and resulted in partner courts investing in the success of the measures.</li> <li>• SPP effectively used a top-down and bottom-up approach to test and refine backlog reduction and efficiency interventions, disseminate successful measures to all courts, as well as achieve a measure of</li> </ul>	<ul style="list-style-type: none"> <li>• As discussed under EQ 3, Working Group should monitor and guide courts that are not familiar with or properly implementing backlog reduction and prevention techniques in the near term. Continued support to Working Group needed to sustain SPP activities.</li> </ul>

<p>with the partner courts through the Best Practices Guide, assisted the MOJ and SCC in drafting new Court Rules and procedural codes to reflect those practices, and finally the National Backlog Reduction Plan.</p> <ul style="list-style-type: none"> <li>• Court-to-court cooperation was one of the most common methods for court's to share experience and lessons learned. SPP employed a variety of techniques to share experiences between partner courts and non-partner courts ranging from the formal (Presentation of Best Practice Guide) to less formal (roundtables, meetings of courts in the same region).</li> <li>• According to the project design, SPP initially followed dual tracks: focused backlog reduction with one set of partner courts and case management/backlog prevention activities that involved the full scope</li> </ul>	<p>sustainability through rules mandating that all courts devise backlog reduction and efficiency plans, including targets, and report upon them.</p> <ul style="list-style-type: none"> <li>• Court-to-court cooperation is a key to successful sustainability of court efficiency and backlog reduction measures tested in partner courts through the SPP program. A regular exchange of information between partner courts that are proven champions of efficiency and backlog reduction and courts that are struggling to reduce backlogs is an effective and inexpensive method to disseminate best practices.</li> <li>• SPP correctly identified that backlogs are a symptom of court inefficiency and instructed partner courts to work on backlog reduction and prevention. It may have been better to focus on backlog reduction at all courts at the beginning and then extend activities</li> </ul>	<ul style="list-style-type: none"> <li>• As discussed under EQ 3, Working Group and sub-groups should support court-to-court cooperation.</li> </ul>
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<p>of court operations with a second set. In the fourth year of the project, all courts began to follow both tracks.</p> <ul style="list-style-type: none"> <li>• Serbian courts struggling to keep pace with the ongoing reforms in the Serbian judicial system. Lack of harmonization of Serbian jurisprudence is a large problem that can lead to backlog. SPP only started to support harmonization efforts in the last year. At request of JA, SPP revised training modules on case management to reflect changes in procedural law and conducted ToT, but training not continuing.</li> </ul>	<p>to include backlog prevention.</p> <ul style="list-style-type: none"> <li>• Continued focus on harmonization at the appellate level and SCC is necessary. Need to resume training on procedural codes, which will require support to JA. External support may be necessary.</li> </ul>	<ul style="list-style-type: none"> <li>• As discussed under EQ 3, support for court practice harmonization and training should be provided.</li> </ul>
<p><b>EQ3: Building upon key lessons learned, how can Serbian and international stakeholders expand and scale up these results nationally, in order to meet the implementation objectives outlined in Serbia’s National Judicial Reform Strategy?</b></p>		
<ul style="list-style-type: none"> <li>• Data from courts considered unreliable and lack of reliable statistics to measure progress is obstacle to progress on EU accession.</li> <li>• UNBP Working Group is delaying further work pending correction of</li> </ul>	<ul style="list-style-type: none"> <li>• Correction of data in AVP system must be a priority. Development of unified national system of court data needed as discussed in CMS assessment report.</li> <li>• Court presidents and statisticians</li> </ul>	<ul style="list-style-type: none"> <li>• MOJ needs to correct data immediately.</li> <li>• UBRP Working Group needs to develop plan for training Working Group members, court presidents and statisticians based on the</li> </ul>

<p>data for 2014 court network reorganization.</p> <ul style="list-style-type: none"> <li>• Quality of reports submitted by courts is poor.</li> <li>• Considerable concern about capacity of Backlog Reduction Working Group to maintain the progress to date in implementing the UBRP, including from Working Group members. All activity to date has been facilitated by SPP and the Working Group has not met since the SPP organized retreat in April 2014.</li> <li>• Common reason for non-partner court presidents to focus on efficiency and backlog reduction is that it is required.</li> <li>• EU IPA project that was intended to follow-up on SPP initiatives delayed for at least six more months.</li> <li>• Enforcement cases make up over 90% of backlog in basic courts.</li> </ul>	<p>need training on preparation of statistical reports, data analysis, etc.</p> <ul style="list-style-type: none"> <li>• Working Group will suffer without SPP support, particularly due to the delay in the IPA project. If Working Group fails to closely monitor and provide individual guidance to courts in the near term, it is possible that further progress will not be made.</li> <li>• While enforcement cases do not require much work on the part of</li> </ul>	<p>Statistics Manual developed by SPP in 2013.</p> <ul style="list-style-type: none"> <li>• Pending initiation of the new EU IPA project, USAID should consider engaging local rule of law-oriented organization to support continuation of the initiatives started by SPP during its final year. Could be accomplished through a grant under the USAID Serbia Civil Society Partners program.</li> <li>• Working Group should continue to focus on reducing number of backlogged enforcement cases in</li> </ul>
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<p>Minimal enforcement backlog in higher courts. Reduction of backlog is important to progress in EU Accession.</p> <ul style="list-style-type: none"> <li>• SCC issued order for courts to resolve cases more than 10 years old in 6 months. Under criminal and civil procedure codes, SCC can reassign cases to different judges. This technique used to transfer cases from Belgrade and Nis Higher Courts to Subotica and Pancevo.</li> </ul>	<p>judges, closing them will allow a clearer picture to emerge of the true extent of the backlog problem and have a positive impact in terms of how outside stakeholders assess the problem of case backlogs.</p> <ul style="list-style-type: none"> <li>• SCC could use ability to reassign cases to transfer backlog cases. Could also form special teams to handle these cases.</li> </ul>	<p>basic courts. There are several possible interventions that the Working Group should examine, such as a national plan modeled on successful collaboration with Infostan at Belgrade First Basic Court or reassignment of cases by President of SCC.</p>
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## ***ANNEX I: Final Success Story***

### **Separation of Powers Program: Applying Local Lessons Learned Throughout Serbia In Order to Increase Court Efficiency and Reduce Case Backlogs**

As in most Serbian courts, the Basic Court in Uzice suffered from a large number of backlogged cases in 2010, when its current court president was appointed. The new court president had some ideas regarding how to address the backlog problem, but she was unsure how to apply them. In February 2010, she saw a call for applications from USAID's Separation of Powers Program (SPP), asking for partner courts that were willing to work on backlog reduction. She applied, and SPP accepted Uzice's application in May 2010. Thus began a partnership between SPP and the court that would result in the caseload per judge in the criminal department has decreasing from 400 cases per judge in 2010 to 46 cases per judge today, and now the Uzice Basic Court does not have any criminal cases over five years old. The court also increased its efficiency rate from an 89% case completion rate in 2010 to a 102% completion rate by the end of 2013. Because of the SPP program, Uzice now completes more cases than it receives in a year, which will not only gradually lead to a reduction in current backlogs, but will prevent backlogs in the future.

The first hurdle the partnership had to overcome was the reluctance of judges in the Uzice Basic Court to accept any reform measures. Judges in the court were cautious and risk averse, partly as a result of the recent non-election of several hundred judges nationwide. To overcome this reluctance, the court president appointed a reform-minded deputy and formed a backlog reduction team in her court, made up of judges and court staff who were motivated to increase efficiency in the court.

SPP and the team then devised a backlog reduction plan for the court, emphasizing measures that were practical, based upon the law and upon local circumstances. The team decided to focus on backlogged criminal cases, since the court president was a criminal judge and had experience in those cases. Recognizing that case backlogs result from court inefficiency, and that increasing court efficiency depended not just upon the court but also upon other institutions, the president started a dialogue with external partners who have a stake in court efficiency. With prosecutors, she emphasized the negative budgetary impact of their practice of appealing almost every case, and she persuaded them that if they spent less time on frivolous appeals, they could spend more time on serious cases. As a result, prosecutors began only appealing cases where the verdict in the basic court was an acquittal. The court president next contacted the

police department and secured their agreement to streamline the process required for police to bring to court accused who have failed to appear. The president selected a police liaison from among her judicial assistants, improving the process of on-going communication with the police department. Next, SPP and the president began working with the post office to address problems in the way court documents are delivered. As a result, the post office no longer requires numerous written documents from the court to act in most routine matters, speeding up service of process in civil and criminal cases. With SPP's encouragement, the court president changed the working hours of the court to ensure the court is open during times that are convenient for citizens who use the court. To assist judges who are struggling with particularly difficult cases, the Uzice Basic Court formed teams of experienced civil and criminal judges, who make themselves available to peers who need help with legal issues in individual cases.

The court president credits SPP for providing the ideas and encouragement that made the backlog reduction and prevention successes possible in her criminal department. She also acknowledged SPP's assistance in refining the process by which the court monitors and manages their cases, allowing the court to mitigate the problem of unreliable data in the AVP system. This allows her to identify emerging problems and determine whether certain reforms are working. The president believes the reforms implemented through SPP's program in her court are permanent.

This experience in Uzice is representative of SPP's approach in nine other partner courts in Serbia. In all the courts, SPP helped court presidents to form backlog reduction teams, to devise plans for increased efficiency and reduction in backlogged cases, and to implement them. The solutions in each court relied upon common sense, local, and cost-effective solutions to backlog reduction and inefficiency. This bottom-up approach also allowed SPP to greenhouse solutions that were applicable in all courts in Serbia.

The following table illustrates the successes that have been achieved by SPP. Efficiency rates measure the number of disposed cases as a percentage of the number of new cases. Efficiency rates under 100% indicate that a court is in danger of creating a backlog or that existing backlogs will grow. All ten partner courts increased their efficiency rates between 2010 and 2013.

Court	Efficiency Rate 2010	Efficiency Rate 2013
High Court Belgrade	69.25%	120%
High Court Subotica	89.17%	97.11%
High Court Novi Pazar	100.85%	106.23%
Basic Court in Subotica	96.90%	112.14%
Basic Court in Vrsac	94.85%	112.67%

Basic Court in Sremska	78.18%	125.10%
Basic Court in Cacak	81.74%	107.84%
Basic Court Uzice	89.08%	102.06%
Basic Court Nis	89.12%	97.79%
Basic Court in Vranje	73.40%	114.34%

to implement these successes nation-wide, SPP approached the President of the Supreme Court of Cassation (SCC) about devising a national plan to implement them that was based upon the National Judicial Reform Strategy 2013 – 2018. Using its experience in local courts, SPP assisted with a Draft Backlog Reduction Plan and submitted it to the SCC for consideration. This Draft formed the basis of the National Backlog Reduction Plan, issued by the President of the SCC in December 2013. The National Plan incorporated ideas for backlog reduction that were successfully used in SPP’s ten partner courts. They include the formation of backlog reduction teams in each court and the requirement that each court submit individual backlog reduction plans based upon local realities. implementation of the plan, the SCC established a Working Group made up of judges from the SCC and from other courts, including the court president in Uzice.

Pursuant to the requirements of the National Backlog Reduction Plan, court presidents throughout Serbia have formed backlog reduction teams in their courts, prepared backlog reduction plans and are monitoring implementation of the plans and preparing reports on a monthly basis. Court-to-court roundtables have been held for Working Group members and court presidents in partner courts to assist court presidents in non-partner courts with the process of implementing their plans.

This nationwide implementation of practical, effective solutions to the problem of case backlogs and inefficiencies in Serbian courts is a direct result of SPP’s work in partner courts such as Uzice. If courts in Serbia adhere to the National Backlog Reduction Plan inspired by SPP’s work, court efficiency will rise, backlogs will fall, and the citizens of Serbia will receive better service from their judiciary.

## ***ANNEX J: Comparative Statistics Spreadsheet***

Refer to attached Excel file.

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# Assessment of Case Management Systems (CMS)

## Final Report

November 20, 2014

This report was produced at the request of the United States Agency for International Development. It was prepared independently by Scott Carlson, Team Leader, and Ljupcho Antovski and Rozalija Karchicka-Vasilevska, Team Members, of Social Impact, Inc.

# **Assessment of Case Management Systems (CMS)**

Final Report

**Disclaimer**

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

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## ACRONYMS

AVP	Case management system used by the courts
BPMIS	Budget software used by the HCC
CCASA	Commercial Court Administration Strengthening Activity
CMS	Case Management System
EU	European Union
FMIS	Financial Management Information System
HCC	High Court Council
ICT	Information and Communications Technology
IT	Information Technology
JRGA	Judicial Reform and Government Accountability Program
MCCMS	Misdemeanor Court Case Management System
MOF	Ministry of Finance
MOJ	Ministry of Justice
NJRS	National Judicial Reform Strategy
PMP	Performance Monitoring Plan
QA	Quality Assurance
SAPS	Case management system used by the courts
SCC	Supreme Court of Cassation
SI	Social Impact, Inc.
SIPRES	Case management system used by the misdemeanor courts
SSI	Semi-Structured Interview
SOW	Scope of Work
SPP	Separation of Powers Program
SCC	Supreme Court of Cassation
TPM	Team Planning Meeting
USAID	U.S. Agency for International Development
WB	World Bank

## EXECUTIVE SUMMARY

The USAID Mission in Serbia (USAID/Serbia) engaged Social Impact, Inc., to conduct an assessment of the case management systems (CMS) in the Republic of Serbia as part of the Serbian Rule of Law Efficiency Review (ROLER) award. In accordance with the scope of work (SOW), the general objectives of this assessment are:

To deliver a high-quality, independent analysis to assist the MOJ [Ministry of Justice] with a comparative overview by reviewing the currently existing case management software utilized throughout the court network in Serbia, assess their technical capacities to be further developed towards a unified system and to develop recommendations for consideration by the Ministry and other interested parties.

The CMS Assessment Team (CMS Team) approached its assignment with the understanding that its analysis would be based on an examination of CMS functionality, representing international standards that are customized to support legal procedures within the jurisdiction. However, after several structured site visits to Serbian courts, the CMS Team concluded that a full functional comparison of CMS platforms would not yield meaningful data because system implementation was varied and limited in scope, that is, the Republic of Serbia does not currently employ its existing CMS platforms as full-fledged, case management systems.

Based on these preliminary findings, the CMS Team determined that an alternative approach to the assignment would yield more productive and meaningful results consistent with, and supportive of, the original objectives of the SOW. Specifically, the CMS Team concluded that the available information was sufficient to identify a series of steps that could assist the Republic of Serbia in transitioning from electronic document indexing to full-fledged, automated case management. Moreover, the CMS Team found the questions posed in the SOW to be a useful organizational framework for providing analysis and recommendations on how to achieve full-fledged CMS platform functionality. The questions and summary of responses are as follows:

1. What are the relative strengths/weaknesses of AVP and SAPS? Analysis should include, at a minimum, consideration of technical functionality; such consideration would include addressing information security (data integrity, system reliability, availability, access control and auditing, etc.), TCO (Total Cost of Ownership) over the period of five years, experience to date, and human resource requirements for maintaining/supporting each system. Other criteria may also be proposed.
  - Neither AVP nor SAPS is being utilized as a full-fledged CMS in the Republic of Serbia. They are employed as document indexing systems to assist in the processing of paper files.
  - AVP and SAPS possess CMS functionality in excess of current court demand. This functionality could be used to further automate court business processes.

- Comparisons between AVP and SAPS case management functionality are of very limited utility given the fact that neither system is being fully employed. Baseline performance comparisons cannot be made at this time, but they could be developed to enable future comparisons.
  - As a general rule, AVP and SAPS have problems with case data integrity. These problems are a function of inconsistent practices in data entry as well as wholesale changes in the law that would be challenging for any country to manage. A focus on stability and implementing current law through these platforms should be emphasized in the near term.
  - Court data security is inadequate and inconsistent overall, both for reasons of system usage and court practice. The Republic of Serbia's reliance on the movement of paper files as standard practice renders IT security irrelevant in many, if not most, cases.
  - AVP and SAPS need specific operating systems and browsers in order for all features of the systems to work on the client side. Given the lack of a precise IT infrastructure inventory, it is unclear whether either system could be fully utilized in a more robust manner nationally at this time.
  - System reliability is adequate in both AVP and SAPS platforms, and normal back-up capacity appears to be present. However, optimization of data storage could improve system performance.
  - Courts using AVP and SAPS report various experiences—both positive and negative. Some common complaints, such as system response time, are functions of variables that are not connected with the systems themselves—for example, employees using bandwidth for personal purposes.
  - TCO calculations are not possible due to the lack of adequate IT inventory, failure to agree upon functionality goals, and lack of appropriate benchmarking of performance standards.
  - Human resources currently constrain CMS platform use, but such constraint can be remedied with a combination of additional staff, more training, and select outsourcing.
2. Provide five recommendations to the Ministry of Justice (MOJ) and other stakeholders for ways to optimize the utilization of current case management software applications in order to meet the relevant goals in the National Judicial Reform Strategy (NJRS). Include estimates of costs for the resources, including hardware, software, connectivity, and human resources, required to implement these recommendations.

Recommendation 1: Verify IT infrastructure inventory and store results in a common database platform, BPMIS for example, with published guidance for its maintenance and upkeep. Develop a rationale hardware replacement and software upgrade schedule.

Recommendation 2: Conduct a nationwide audit of electronic case data to clean and verify entries made into AVP and SAP, systematically. Correct the absence of key information, such as case initiation dates, and to establish standardized data entry protocols.

Recommendation 3: Review electronic file storage methods and optimize as needed.

Rational data segregation should be prioritized to improve search/query efficiency regardless of CMS platform.

Recommendation 4: Establish electronic interoperability with other Republic of Serbia agencies that have primary responsibility for core litigation data. For example, the Serbian Postal Service can provide accurate addresses, and the Ministry of Interior can provide national identification numbers.

Recommendation 5: Do not explore the purchase and use of new IT systems until recommendations 1-4 are complete and are established as routine practice in the published guidance of MOJ and HJC.

3. Based on answers to (1) and (2), provide three recommendations to inform the development of the MOJ's IT Strategy for the judiciary.

Recommendation 1: Assemble a joint MOJ and HJC Working Group to develop a common electronic protocol for exchange of data within and between existing CMS systems, with an organizing rubric of real-time, national, statistically-accurate reporting. Implement the protocol and identify challenges with electronic data exchange, documenting "choke points" where infrastructure capacity and/or practices create demonstrable needs for additional hardware and human resources. Develop requirements for systemic enhancements to address efficiency and accountability and create rational funding requests to MOF for the same.

Recommendation 2: Empower the joint Working Group to implement and monitor performance of all MOF-funded measures to address choke points and document MOF responses and consequences thereof. Have the Working Group report to the EU on its progress, using statistics to demonstrate more transparent and efficient allocation of resources consistent with the recommendations issued under Chapter 23 of the *Aquis*.

Recommendation 3: Enable the Working Group to keep up to date and participate in the EU dialogue on standards of e-Justice, which specifically identify interoperable systems as critical.

With good data and coordinated management, the implementation of meaningful, national CMS functionality is a valid near-term goal. Assuming that basic software and hardware replacements and upgrades are achieved, the existing CMS platforms present a viable national network of complementary IT functionality that could be interoperable and mutually supportive. Establishing data exchange, security, and query protocols will require additional investment, but the costs are modest in view of the potential returns.

## INTRODUCTION

The goal of the Serbian Rule of Law Efficiency Review (ROLER) award was to review USAID assistance in improving court efficiency through two objectives:

- 1) To measure the results of the Separation of Powers Program (SPP)'s work in case backlog reduction and prevention in partner courts from 2010 to 2013.
- 2) To assess the performance framework and functionalities of the main case management software systems used by the Serbian judiciary, to identify opportunities to optimize their efficient use, and to provide recommendations for stakeholder action.

The review, realized through two components, will inform future programing and provide actionable recommendations for USAID, the Ministry of Justice (MOJ), High Court Council (HJC), Delegation of the European Union (EUD), and other relevant stakeholders.

The first component focused on the USAID-funded Separation of Powers Program in order to measure the impact of its work to reduce case backlog in selected partner courts (as compared to courts that did not partner with the SPP program).

The second component reviewed the case management IT systems in the Serbian court network, providing the MOJ and other actors with information and recommendations to optimize court efficiency.

The Case Management System Assessment Team (CMS Team) approached its assignment, the second component, with the understanding that its analysis would be based on an examination of CMS functionality, representing international standards that are customized to support legal procedures within the jurisdiction. These CMS international functional standards include: 1) Case Initiation and Participant Indexing; 2) Event Register and Related Record Keeping Function; 3) Scheduling Function; 4) Calendaring Function; 5) Document Generation and Processing Function; 6) Hearings Function; 7) Disposition Function; 8) Compliance and Execution Function; 9) Case Closing Function; 10) Accounting and Financial Function; 11) File, Document, and Property Management Functions; 12) Security and Data Integrity Function; 13) Management and Statistical Reports Function; and 14) Integration and Interoperability. Upon arrival in the Republic of Serbia, the CMS Team gained access to the CMS documentation for the major platforms in use, and upon consultation with USAID, finalized a workplan to compare system performance with international standards in these functional categories.

After several structured site visits to Serbian courts, the CMS Assessment Team (CMS Team) concluded that a full functional comparison of CMS platforms would not yield meaningful data because system implementation was varied and limited in scope. Currently, the Republic of Serbia (RS) does not employ its existing CMS platforms as full-fledged case management systems. The CMS Team estimates that approximately 15-25 percent of CMS functionality is employed, regardless of the platform in use. In general, the CMS platforms are utilized as

“document indexing systems” to assist in the management of paper files, which remain the common standard for court business processes.

Based on these preliminary findings, the CMS Team determined that an alternative approach to the assignment would yield more productive and meaningful results consistent with, and supportive of, the original objectives of the scope of work (SOW). Specifically, the CMS Team concluded that the available information was sufficient to identify a series of steps that could assist the RS in transitioning from electronic document indexing to full-fledged automated case management. Given the significant donor investment to date—and the critical role that CMS platforms must play in modernizing Serbian court administration—the CMS Team proceeded to collect and analyze information with the overarching goal of providing concrete recommendations for measures needed for the RS to effectively implement CMS platforms at the national level. The USAID/Serbia Mission concurred with this alternative approach.

## **METHODOLOGY**

### **Assessment Objective**

The assessment has the following general objective:

- To deliver an high-quality independent analysis to assist the MOJ with a comparative overview by reviewing the currently existing case management software utilized throughout the court network in Serbia, to assess their technical capacities to be further developed towards a unified system, and to develop recommendations for consideration by the Ministry and other interested parties.

### **Assessment Questions**

Specifically, the Assessment Team was tasked with answering the following questions:

1. What are the relative strengths/weaknesses of AVP and SAPS? Analysis should include, at a minimum, consideration of technical functionality, addressing information security (data integrity, system reliability, availability, access control and auditing etc.); TCO (Total Cost of Ownership) over the period of five years; experience to date; and human resource requirements for maintaining/supporting each system. Other criteria may also be proposed.
2. Provide five recommendations to the Ministry of Justice (MOJ) and other stakeholders for ways to optimize the utilization of current case management software applications in order to meet the relevant goals in the National Judicial Reform Strategy (NJRS). Include estimates of costs for the resources, including hardware, software, connectivity, and human resources, required to implement these recommendations.

3. Based on answers to Questions (1) and (2), provide three recommendations to inform the development of the MOJ's IT Strategy for the judiciary.

The audience for this assessment will be USAID/Serbia, Serbian courts, HJC, MOJ, other donors, other local and international judicial reform stakeholders, and USAID's Europe and Eurasia Bureau and Center for Democracy, Rights and Governance.

### **Assessment Data Collection and Analysis**

All data collection methods were developed and finalized in coordination with the USAID/Serbia Mission. The CMS Team gathered data and metrics from courts, vendors, ministries, and other sources. Site visits to courts, vendors, and ministries provided the opportunity to expand upon and verify the information accumulated, including the pre-deployment desk study. The combined information was then distilled and analyzed to provide a basis for addressing the questions presented in the SOW. The CMS Team used an assessment matrix (Annex 1) as a key tool for internally managing the substantial amount of data and information that was submitted to, and collected by, the CMS Team.

Consistent with this rubric, the CMS Team developed a questionnaire and distributed it to the key IT vendors identified in the SOW (Annexes 2 and 3). Along with the data gathered from the site visits, the questionnaire responses provided a basis for the team to analyze the potential functionality of CMS platforms, distinct and apart from the extent of effective implementation. The CMS Team had a rigorous meeting schedule and interviewed a broad cross-section of relevant parties in the RS (Annex 4). The total number of interviews was 41. Interviews with such a diverse group of key informants exposed the CMS Team to varied perspectives and allowed triangulation of responses in the assessment question matrix and expansion of the bibliography of relevant documents (Annex 5).

The CMS Team utilized semi-structured interviews (SSIs) based on the questionnaire but tailored to the particular interview. This structured but flexible approach to data collection and analysis permitted the CMS Team to gather a broad perspective in a compressed time frame. Moreover, this systematic approach to data management and analysis made it possible to address the large volume of information, analyze the core issues, and produce an out-brief presentation with key findings, which were preliminarily approved by USAID and became the guide for the final report.

The Social Impact (SI) Assessment Team was composed of Team Leader Scott Carlson and Team Members Ljupcho Antovski and Rozalija Karchicka-Vasilevska.

## **ASSESSING THE LEGAL AND IT BASELINE**

The CMS Team organized the initial stage of the assessment around assembling baseline data to establish an understanding of the current legal and IT environment in the justice sector of the

RS. This line of inquiry required the Team to identify the relevant structural legal changes, their implementation, and the IT systems implicated and involved. To make meaningful findings and recommendations as envisioned in the SOW, the CMS Team considered it essential to establish baseline information through analyzing written and SSI data. As documented, the sheer velocity of recent systemic changes to the Serbian judiciary is extraordinary. If similar wholesale changes were attempted in Western countries, the likelihood of rapid, seamless implementation is doubtful. Not surprisingly, the CMS Team found that most interviewees only had a clear understanding of the situation in their particular jurisdiction. By piecing together these varied perspectives, the CMS Team was able to control for interview bias and assemble an overall baseline assessment to guide more specific findings and recommendations.

## **LEGAL AND ADMINISTRATIVE BASELINE FINDINGS**

In 2008, the RS passed a package of laws providing a new framework for organizing the judiciary, its oversight, and the coverage and distribution of judicial personnel.<sup>1</sup> The new laws provided guarantees for judicial independence and significantly enlarged judicial authority for management of its internal affairs. During the intervening years, the High Council of Justice (HJC) has increasingly taken the lead role in this respect, consistent with practice in other continental European systems.

However, the HJC has yet to assume the full range of management responsibilities.<sup>2</sup> The Ministry of Justice (MOJ) and HJC continue to share management, leading to bifurcated operational responsibilities between the two institutions. The HJC takes the lead in budgeting and managing the judges, and the MOJ takes the lead in managing court administrative personnel, infrastructure (including information technology) and physical plant issues. According to current law, MOJ will transition the bulk of these administrative responsibilities to the HJC by June 2016 (the exception being management of the physical plant), at which time the HJC will assume full responsibility for implementation of the National Judicial Reform Strategy (NJRS).<sup>3</sup>

Currently, the HJC-MOJ management structure is struggling to incorporate and routinize the requirements that have emerged from the extraordinary number of legal reforms introduced between 2010 and 2014. The RS has completely reorganized the distribution of court seats and their respective territorial and substantive jurisdiction. As of January 1, 2014, the Basic Courts of

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<sup>1</sup> Law on High Court Council, Law on the Organization of Courts, and the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices, Official Gazette of the Republic of Serbia, No.116/08 of 27 December 2008.

<sup>2</sup> Separation of Powers Program HCC Organizational Capacity Assessment, August 2014.

<sup>3</sup> National Judicial Reform Strategy for the period 2013 – 2018, adopted pursuant to Article 8, Paragraph 1 of the Law on the National Assembly ("Official Gazette of the RS", Number 9/10), by the National Assembly of the Republic of Serbia, on the session of the Seventh Extraordinary Session in 2013, held on July 1st, 2013. The segment on Establishment of E-Justice, 5.2, provides a basic description of needed actions that are reinforced with this report.

general jurisdiction had doubled in number—from 30+ to 60+ seats—and the role of the investigative judge has been phased out, transferring a number of criminal “cases” to the prosecutors. Simultaneously, the criminal and civil procedure codes were amended, introducing into the court system new business processes such as plea bargaining, and new positions such as continental notaries and private enforcement agents (bailiffs). All of these changes adjusted the caseloads throughout Serbia, as well as affected the roles and business processes associated with court administration.

The MOJ Book of Court Rules and HJC Instructions<sup>4</sup> are the two main sources of regulatory guidance informing court personnel on how to implement changes to the law. Unfortunately, these core regulatory documents have not kept pace with the legal reforms. Consequently, implementation of these legal reforms is not uniform, and the implementation process cannot be characterized as an orderly transition. For instance, the doubling in number of Basic Courts in 2014 caused considerable confusion in migrating paper and electronic data to the new jurisdictions.<sup>5</sup> Nine months into the data migration process, interviewees report that some semblance of stability has emerged, but all agree that significant work remains to be done. Likewise, in some jurisdictions, public notaries and bailiffs have been established while in others judges and court staff continue to perform those roles. The CMS Team site visits documented a great deal of promising work on implementation, but it also revealed a multifaceted, nationwide legal transition that remains a work in progress.

In addition to the obvious challenges of day-to-day management, this dynamic state of transition limits the ability of the HJC and MOJ to engage in effective short- and medium-term planning. At the most fundamental level, budgeting is now a matter of rough estimation. Historically, the Serbian judiciary self-financed a significant percentage of its operations from court fees. In 2013, court fees totaled approximately 11 million USD, of which 40 percent was allocated to the courts, 40 percent to the general budget, and 20 percent to the MOJ. The court share has been sufficient to cover the cost of judicial salaries and transportation costs in general, but the underlying math has changed. HJC experts estimate that the introduction of notaries and bailiffs could reduce the court share of fees by as much as 60 percent in the near term. This reduction may be offset by a transfer of the MOJ share of fees in 2016, but the HJC still estimates that the net overall effect will be a reduction in court revenues from fees by at least one third. In terms of overall impact on the Serbian budget, new taxes on notaries, lawyers, and

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<sup>4</sup> E.g., Rulebook on Criteria, Standards, Procedure, and Bodies for Performance Evaluation of Judges and Court Presidents, *adopted* by the HCC on 22 July 2014.

<sup>5</sup> In 2013, a judicial “Central Commission on the Migration of Cases” developed a plan for allocating cases to the new courts and issued an instruction on how to mark paper files. Donors also provided support for the drafting of a corresponding data migration plan, which was apparently developed but not implemented. The chief CMS provider asserted that they received specific notice of the needed new system installations only days before the January 1, 2014, general migration date.

bailiffs<sup>6</sup> could be used to offset the reduction in court fees, but this type of state budget adjustment will require further negotiation and coordination with the Ministry of Finance (MOF).<sup>7</sup>

## **CMS BASELINE FINDINGS**

The RS began court automation a decade ago. Originally, several discrete initiatives introduced electronic case registration and document indexing systems. Two of these original initiatives were particularly influential. The USAID Commercial Court Administration Strengthening Activity (CCASA) provided a case registration system that was implemented in the commercial courts, and a large number of courts of general jurisdiction employed the Justis electronic registry. The CCASA system evolved into the AVP system, and the Justis system has been replaced with the EU-sponsored SAPS system. As discussed below, both systems were developed and adopted in order to upgrade court automation in Serbia and, ultimately, to embrace the functionality of a national CMS platform(s).

Though CMS functionality has not been achieved, this decade-long automation process produced several notable achievements. First, both AVP and SAPS utilize random case assignment algorithms that are designed to counter corrupt “judge shopping” practices. While industrious criminals may have gamed the system in select instances, the consensus appears to be that this technical tool was effective. Second, the process of AVP system implementation led to the creation of a coordinating body, the AVP Commission, which was later implemented with SAPS. Though ad hoc in nature and performance, the Commission demonstrated to justice sector personnel the process of developing common IT standards and stewarding their implementation. Third, the RS now has a modern data center at the Supreme Court of Cassation (SCC) (also known as Nemanjina 9), and the MOJ has been instrumental in making sure that AVP and SAPS back up files in this facility. Lastly, the SCC, MOJ, and HJC now have an understanding of the benefits and challenges of court automation, and they appear to be prepared to work together for common, shared goals.

## **AVP (AUTOMATIZOVANO VODJENJE PROCESA)**

Building upon the CCASA system, MEGA Computer Engineering (MEGA C.E.) developed a CMS platform that is currently employed throughout the Basic and Higher Courts of Serbia. The AVP system is a custom solution that was designed for the Serbian judicial system and rolled out

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<sup>6</sup> With the introduction of notaries and bailiffs, the tax law was changed to subject these professions to graduated taxes along with the legal profession. The private bar is currently on strike in protest over the new tax structure that eliminated the prior flat fee structure that the bar enjoyed.

<sup>7</sup> Data collected in CMS Team interview with the senior HCC permanent staff at the Judicial Conference, October 5, 2014. The CMS Team understood this information to represent the fees actually collected, as opposed to merely assessed.

nationally in 2010. The CMS Team determined that AVP possesses substantial functional capacity.

The Team visited the following sites where AVP is utilized: Basic Court in Sremska Mitrovica (in transition to SAPS); Novi Sad, with the new Basic Courts in Vrbas, Becej, and Backa Palanka; and the Basic Court in Vrsac (including now the Basic Courts of Bjela Crkva and Plaviste). In addition, the CMS Team made multiple visits to MEGA C.E. offices, where it received a full AVP software demo presentation.

**CMS Functionality:** During the assessment, the CMS Team assessed the following functionalities as features of a CMS:

- 1) Case Initiation and Participant Indexing Function: The system has functions for case initiation, but it does not support participant indexing afterward. The system offers dialogue boxes for case relations in every step of the case initiation process. AVP in the Basic and Higher courts has the possibility to establish relations between two cases in any type of court, while AVP in commercial courts also has the possibility to connect any participant and any type of case event.
- 2) Event Register and Related Record-Keeping Function: AVP supports several functionalities to deal with a group of cases, but only for some key case operations, such as functions in the intake office or reassignment of cases from one judge to another. The system has functions for recording all case events and registers actions in chronological order.
- 3) Scheduling Function: AVP has the function for automated case assignment to a judge with manual override ability. The algorithm for assignment only tracks the judges. AVP has an alert mechanism to deal with deadlines.
- 4) Calendaring Function: The system has support for a calendaring function, but it is rarely used by the courts.
- 5) Document Generation and Processing Function: The system has the capability to generate notices, electronic acknowledgments, and even documents. It also has a function for document tracking.
- 6) Hearings Function: AVP has the function for real-time, user-defined, session minutes to facilitate formatting and entry. It also has some capacity to distribute court orders electronically. This option for electronic distribution is part of the AVP version installed in the commercial courts.
- 7) Disposition Function: AVP has reports for inactive cases and groups of cases. AVP does not maintain and produce disposition, closure, and sentence information that shows original and subsequent charges, dispositions and sentences, and reasons for closure for each charge for each case and defendant.
- 8) Compliance and Execution Function: The system can produce compliance documents like court orders.
- 9) Case Closing Function: Different system configurations exist in commercial courts and courts of general jurisdiction. In general, AVP can identify data necessary for case closure if that is required.

- 10) Accounting and Financial Function: The system can automatically generate payment receipt statement documents. Current functionality is limited to the standards that were endorsed during system planning and development within the USAID project CCASA.
- 11) File, Document, and Property Management Functions: The system allows upload of any type of document and provides functionality for scanning and uploading documents. The system can track file management activities, but it does not have reports for this segment.
- 12) Security and Data Integrity Function: There is no specific international standard applied, but there are strict procedures for database manipulation. In Basic and Higher Courts, every day at 20:00h, the system automatically makes a backup of the database. If the main location fails, it is necessary to restore the last backup. The local administrators check the backup quality every week. For the Misdemeanor Court, at the central location, the vendor implemented a failover cluster for each segment of the SIPRES System (database, application, and web server), which is discussed below. Every user in the system has his/her own database login and password. All information about the users' transactions and actions are logged in the actions and journal database. Quality assurance information is logged and available from the system.
- 13) Management and Statistical Reports Function: AVP has more than 200 specific reports and functionality for producing custom reports. Currently, commercial courts are missing reports in the new formats that the MOJ recommends. For every implementation, the AVP vendor needs approval from the AVP Commission, both for sustainable development and for maintenance of the AVP system.
- 14) Integration and Interoperability: The system only follows the standards endorsed during the system planning and developing within the USAID CCASA project. The system has an interface for exchange of information with other systems, but it does not use service-oriented architecture (SOA) for data exchange. AVP was not designed as a system to integrate under an umbrella system for reporting. However, it has one central location for data replication. From that location, system users with granted access can query data and formulate reports.

**System Architecture Overview:** AVP is a distributed IT system, which means that the application is both installed and running locally on a network within each court. This approach was taken in 2008 when the Internet infrastructure did not provide reliable Internet connection to all courts in Serbia. All Basic, Higher and Commercial Courts have been using AVP since 2010. The system fulfills the required supporting functionalities needed by the courts. IT administrators control AVP security locally at every court. AVP does not implement specific mechanisms for internal data protection. The data is backed-up at a central location at Nemanjina 9. This centralized backup presents the possibility for queries creating aggregated reports. The AVP software uses Cold Fusion and the Microsoft SQL server database, and it uses the ActiveX component on the client side. The current AVP system can only function with specific versions of the Internet Explorer (IE) browser. The MOJ does not have the ownership of the source code, nor does it have the technical capacity and resources to make in-house changes in the software.

## **SAPS (STANDARDIZOVANA APLIKACIJA ZA PRAVOSUDJE SRBIJE)**

The MOJ implemented a pilot EU project to develop a unified software solution to a) facilitate accurate data collection on efficiency for both courts and judges, and b) provide adequate public access to information pertaining to judicial proceedings and statistics. Implementation of this project was delegated to the MOJ and the SCC. The resulting SAPS application is currently implemented in the SCC and Administrative Court in Belgrade, all Appellate Courts (Belgrade, Nis, Novi Sad, and Kragujevac) and, since 2012, in the Higher Court in Sremska Mitrovica, with the Basic Court installations pending.

The Team visited the following sites where SAPS is used: SCC in Belgrade, Basic and Higher Courts in Sremska Mitrovica, Administrative Courts in Belgrade, and the Appellate Court in Belgrade. In addition, the CMS Team made multiple visits to the Atos Offices, where Team members received a full SAPS software demo presentation.

**CMS Functionality:** During the assessment, the CMS Team examined the following functionalities and features of the SAPS system, as in the case of AVP:

- 1) Case Initiation and Participant Indexing Function: SAPS has several functions for initiating cases. A new filing can be registered in the system and either initiate a new case or assign it to an existing file. Transfer from another jurisdiction can also initiate the case, and the relevant data from the incoming case can then be copied into the new case using the functions of the system. Cases from another jurisdiction can also be linked to existing cases. A remanded case will reopen the already existing one. There are also system functions that can handle multiple cases in one operation, such as case registration, judge assignment, relocation, and scheduling a hearing. Information about case participants, prosecutors, attorneys, and others is also stored within the case data.
- 2) Event Register and Related Record Keeping Function: Apart from the system audit function, there are also business logs where all actions performed on cases are recorded in a format readable to business users. The system can handle multiple cases in one operation, such as case registration, judge assignment, archiving, hearing registration, and other relevant functions. The comprehensive reporting system can produce reports using data filters, including the range of dates, type of case, judge, group of judges (council), and participants. Current reporting needs by participating courts are fully covered.
- 3) Scheduling Function: The system has the ability to automatically assign judges to cases based on several criteria, including type of the case, availability of judges, case urgency, and the judges' schedules. The judge or case can also be assigned manually. The SAPS system keeps track of the requested key dates and provides alerts.
- 4) Calendaring Function: Alerts and calendar functions are implemented in the form of reports.
- 5) Document Generation and Processing Function: The system can generate pre-populated documents for typical actions in the system, such as drafting decisions and summons, etc. The SAPS system also generates notices about outdated cases, keeps track of the document flow and the status of documents, and can generate relevant reports.

- 6) Hearings Function: In SAPS, users can enter session minutes. Users can also attach audio recordings of the sessions. Orders can be distributed using task assignment function or by using electronic document flow.
- 7) Disposition Function: SAPS provides notices of disposition in cases. The timing is defined in the Court Rule Book. SAPS also maintains and produces disposition, closure, and sentence information for each case and defendant, original and subsequent charges, dispositions and sentences, and reason for closure for each charge.
- 8) Compliance and Execution Function: The system can produce compliance documents.
- 9) Case Closing Function: There is a type of decision that closes the case. When such a decision is made, the case is closed and archived. Closed and archived cases cannot be edited without a special order for reopening.
- 10) Accounting and Financial Function: The system can automatically calculate fees based on case type, but courts in Serbia do not allow any payment in the court; hence, the system does not provide any receipt.
- 11) File, Document, and Property Management Functions: All content types can be uploaded. Furthermore, the system has "records management" functions that can be used to implement the retention policy.
- 12) Security and Data Integrity Function: Data integrity is enforced on three levels: EMC XCP Documentum supports high availability, disaster recovery, and other hardware-related data integrity best practices. The object model itself and business logic are designed so that no ungoverned changes can be made to interconnecting data (including case lock when case is archived, mandatory fields and dropdowns). Documents, audio, and video files are not stored and accessed directly from the file system. They are governed by a content server with strict access rules. The whole system is designed in "fail over scenario" mode so that every system function is spread in multiple servers that can take over the whole function if some of the servers fail. The system can be configured to audit any user action, from viewing to deleting. An Access Control List (ACL) exists, and available actions are based on roles that the user has in a system. ACLs are defined for every object in the system, including case, document, party and session. The security is not only implemented on metadata but also on the content, which is in the EMC Documentum Content Server control.
- 13) Management and Statistical Reports Function: SAPS has all the required reports available.
- 14) Integration and Interoperability: The system follows the proprietary standards of EMC Documentum. It is using SOA for data exchange. The example is the interface between SAPO and SAPS (prosecutor offices and prison administration) using Mule ESB and REST web services. The system is designed to be an umbrella system (if it were needed) for reporting, since it is centralized and provides comprehensive reporting.

**System Architecture Overview:** SAPS is a centralized application that is installed and run from the SCC for all associated courts. The CMS platform is designed as modular and developed using readily available software tools. The application is a customization of the EMC Documentum system. This enterprise content management system to fully support the process of digitalizing paper-based work within the courts. The SAPS platform has been piloted in several courts. SAPS requires a stable intranet and Internet connection between the courts and the server in the SCC and is more network traffic intensive than AVP.

In order to be able to use the system, the client of the system needs to pay a license for every client computer that is accessing the software. Since EMC Documentem is a proprietary tool, the MOJ does not have ownership of the source code. The SAPS system enables administration, but the MOJ does not have the technical capacity at this moment to administer or change the system. The current version of SAPS, as well as AVP, uses proprietary technology on the client side, (more specifically, ActiveX controls), and SAPS is limited and fully compatible for all functions only with certain Internet Explorer browsers.

## **BPMIS (BUDGET PLANNING AND MANAGEMENT INFORMATION SYSTEM)**

The MOF established and operates a Financial Management Information System (FMIS) to assist in cross-government budget execution. With support from the USAID Separation of Powers Program (SPP), the vendor (SRC) adapted the platform for use in the judiciary. The resulting Budget Planning MIS (BPMIS) is designed to improve efficiency in judicial budget preparation, enhance monitoring and management of the entire budget preparation cycle, enable real-time communication between the courts and HJC, and establish electronic data security.<sup>8</sup>

Currently, the BPMIS services the HJC and 120 courts throughout the RS. The CMS Team visited a number of courts (Misdemeanor Court, Belgrade; Basic Court, Vrsac; Basic Court, Novi Sad; and Appellate Court, Belgrade) where court personnel discussed their experiences with the BPMIS. As a general rule, Court Presidents and Finance Managers cited it as their primary financial management tool. At the HJC, the staff valued its utility both as a financial management tool and as a platform to capture core data necessary to exercise meaningful court management.

**CMS Functionality:** Given its origins, the BPMIS was not designed to address the full range of CMS functionality. However, the USAID-sponsored enhancements to the BPMIS platform have created CMS functionality in several categories (below) assessed by the CMS Team as part of this assignment. At the national level, AVP and SAPS are not used for these functions. While the two systems have the capacity to address these matters, the HJC currently employs the BPMIS to provide this functionality in Serbia.

10) Accounting and Financial Functions: The original BPMIS design supports the collection of judicial budget information that the MOF requires during the budgeting cycle. Specifically,

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<sup>8</sup> The CMS Team had a very favorable impression of the BPMIS software, but concerns remain about its future implementation. According to the USAID SPP Assessment of the HCC, "The Material-Financial Affairs sector [of HCC] currently uses five different software solutions for various purposes, four of which are also used by the Ministry of Finance. The basic conclusions from the IT assessment carried out by SPP in 2010 were that the software systems used by the Serbian Ministry of Finance for budget preparation (the Budget Planning and Management Information System [BPMIS]) and for budget execution (the Financial Management Information System [FMIS]) were good systems that functioned well and would meet the current and future needs of both the HCC and the courts," p. 28.

BPMIS system functionality permits the HJC to define fiscal objectives and programming priorities, providing both top-down division/allocation of budget expenditures by institutional/program classification, as well as court-level (bottom-up) budget proposals. The manner in which this data is assembled in the system follows prescribed business workflows, and the utilization of the BPMIS platform helps reinforce standards of professional budget administration across the entire judiciary. For the HJC to execute their current and impending duties, this type of standardized, common budget workspace and practice is critical. With the latest enhancements (discussed below), BPMIS can readily track expenditures in terms of budgets v. actuals, and HJC management will be able to conduct macro-fiscal projections (utilizing historic and proposed revenues, expenditures, and budget totals by category).

- 11) File, Document, and Property Management and Statistical Reports Functions: Following the initial development of the BPMIS system, the SPP project provided two additional functional components. This enhanced BPMIS platform provides Court Profile and Status of Funds modules. The Court Profile Module is a basic property inventory management and workload tracking system. The Status of Funds Module is an expenditure versus budget management tool. The HJC now employs the Court Profile Module to collect, document, and track basic court information, including physical address; bank accounts; case-loads and backlog (including unresolved, new, and processed); human resources by position categories; and property inventory—vehicles (including number, type, and year of production) and IT (including equipment and licenses). While the reporting capability is nascent, HJC is using BPMIS to provide overall caseload and backlog tracking at the national level. Finally, the Status of Funds Module provides tracking and reporting of court-level expenditures against authorized budgets.
- 12) Security and Data Integrity Functions & Integration and Interoperability: The BPMIS is a modern web-based system that operates with user name and password protection and SSL security. Included systems provide for back-up and disaster recovery. While BPMIS is not integrated electronically to the other CMS platforms, the design of the platform would support integration and interoperability with a limited additional investment of time and resources.

**System Architecture Overview:** BPMIS is a Web-based platform that operates on Microsoft licenses in a closed, secure judicial network supporting business process workflows. Since its launch in 2011, the BPMIS application has been hosted on one main server at the HJC (Nemaninja 9), and all necessary security and disaster recovery tools appear to have been implemented. While Internet Explorer is the browser customarily employed, SRC confirms that the BPMIS platform is not a browser-dependent system and also operates on Google Chrome and other browsers. The CMS Team did not identify any concerns with connectivity and system performance, and the user interface was characterized as user-friendly, permitting quick data entry and data processing with an intuitive design. While the data in the system is now entered manually, BPMIS can import and export data in .net, SQL and Oracle format, and establishing interoperability with other CMS platforms would not be technically difficult. The application is

maintained by the SRC Company (on an annual contract for a defined number of working hours), and rough estimates of annual maintenance costs place the ongoing cost of ownership as less than 50,000 Euro per year.

## **SIPRES**

SIPRES is a centralized automated CMS, which serves the case management needs of all 46 Misdemeanor and Higher Misdemeanor Courts. Developed by MEGA C.E., SIPRES is the first “cloud-based technology” CMS that uses virtualization technology. The highlight of this system is that it uses the Personal ID database from the Ministry of Interior (MOI), and this is evidence of the interoperability of the system. The goal of the system is to help judges and staff to perform their work tasks. Essentially the system takes a “push” approach by monitoring and providing the judges and staff with their task lists based upon the system rules that are defined by the national laws and court rules. The model shows the five basic types of data maintained in courts: 1) participant-related data (offenders, parties, attorneys, and even judges); 2) time-related data (court calendars and reminders); 3) case data (history and records, document acceptance, production, and tracking; and 4) financial data (fees, fines, work, and jail). Each of these data types relate to each other in a many-to-many relationship. Besides the case management, SIPRES has some functionalities set as events and tasks, including document and report generation and financial tracking.

**CMS Functionality:** CMS platforms that are considered “event driven” commonly use tables to allow the user to enter specific “process rules”. These “process rules” are interpreted by the automated system during the normal operation of the system and generate additional information, such as time standards and statutory- and locally-mandated time standards, that is automatically entered into the case file, The Misdemeanor Court CMS (MCCMS) system contains the functions that are at the core of all court case management systems: 1) Case Initiation and Participant Indexing Function; 2) Event Register and Related Record Keeping Function; 3) Scheduling Function; 4) Calendaring Function; 5) Document Generation and Processing Function; 6) Hearings Function; 7) Disposition Function; 8) Compliance and Execution Function; 9) Case Closing Function; 10) Accounting and Financial Function; 11) File, Document, and Property Management Functions; 12) Security and Data Integrity Function; 13) Management and Statistical Reports Function; and 14) Integration and Interoperability.

Accounting and Financial Functions (Central Registry of Unpaid Fines and Costs): A centralized registry of unpaid fines and costs imposed by Misdemeanor Courts is provided pursuant to the Law on Misdemeanors. The register of unpaid fines and costs is an electronic database, overseen by the MOJ, wherein data on misdemeanor sanctions is securely maintained. The registry includes general data sets for the case’s involved parties, as well as: final decisions imposing a misdemeanor sanction; amounts owed and the basis of debt; due date for payment; and date of entry. Misdemeanor Courts provide data entry to the register upon entry of judgment and state the cause for removal of entries from the registry upon payment or other means of satisfaction of the fines and costs. The registry is developed to permit electronic entry, update, and removal of data by courts, and to permit entry upon receipt of paper forms.

Financial tracking functions are organized around a single, all-inclusive data type: the financial. It contains information on financial activities in a case such as payments, financial obligations, and accounting activities including single (fees and judgments) payments and payment by schedules and plans, payment collection methods; payment satisfaction (for example, certificates of satisfaction of judgment); general ledger accounting; and other activities.

13) File, Document, and Property Management & Management and Statistical Reports Functions: SIPRES file management assists in managing and tracking the location of active, inactive, and archived physical case files. SIPRES supports the creation of data via interactive templates, output (paper and electronic formats), indexing, storage, search and retrieval, manipulation, maintenance, protection, and purging of electronic and imaged documents. Documents are related to cases, case events, and persons. Document management in SIPRES uses the SIPRES event/task workflow for document routing to the designated persons, groups, and even printers.

The statistical reports may be generated by the system on a daily, weekly, monthly or user selected schedule (date range). Other reports for court management will also be defined and developed by the project. The SIPRES system enforces "year closing" rules in order to ensure that statistical reports remain consistent (that is, disallow modification of case data "in the past" once the yearly statistical report has been produced and marked as final).

14) Security & Data Integrity Functions and Integration & Interoperability: SIPRES is a Web-based system that operates on cloud technology with an optimized plan for using the hardware resources (visualization) with user name and password protection and security. Data regarding SIPRES database access and restrictions include the individual, court, and court unit data. For example, access to juvenile cases may be restricted to judges and staff that are assigned to those cases. Included systems also provide for back-up and disaster recovery. SIPRES is integrated electronically to other government IT platforms as described below:

- With other governmental units at the national, regional, and local levels (including arrest and custody information from law enforcement, docket information, calendars, court orders to law enforcement, and statistics to national court administration);
- With other organizations (for example, the National Traffic Police, National Bank, and Postal Service); and,
- With other official court system users, such as attorneys, based on security and information privacy rules.

The design of the platform would support integration and interoperability with other institutions because it is based on central national denominators for the misdemeanor cases.

**System Architecture Overview:** SIPRES is Web-based platform that operates on Microsoft licenses in a closed, secure judicial network and supports business process workflows. According

to the Judicial Reform and Government Accountability Program (JRGA), this is the “first virtualized system working on cloud technology in the country.” Since its launch in March 2014, the SIPRES application has been hosted from one central location on a cloud platform in the SCC data center on Nemanjina 9, and all necessary security (firewall, two servers, two domain controllers, virtualization) and disaster recovery tools (production database, VHD files, storage, replications) appear to have been implemented. Depending upon court, department, and government agreements, the project may explore and implement future data exchange standards and formats that electronically share information with the National Traffic Police, National Postal Service, and National Bank. The CMS Team did not identify any concerns with connectivity and system performance, and the user interface was characterized as user-friendly, permitting quick data entry and quick data processing. While the data in the system is now entered only in the Registries for Sanctions and Registry for Unpaid Fines and Costs, it has already demonstrated a high level of efficiency in fines collection (66 percent of fines (3.5M EURO) have been paid). The application is still under development until the full set of functionalities are completed in accordance with plans in 2015. The SIPRES system is a product of the MEGA Company. Rough estimates of annual maintenance costs are estimated to be less than 25,000 USD per year.

## **OTHER RELATED JUSTICE IT SYSTEMS**

The RS has a number of new actors in the justice sector. As these new actors emerged from changes in the legal framework, the established practice has been to create a new stand-alone system to support each new role in the justice sector. Most of these justice sector IT systems are tailor-made for the specific justice sector institution in question. There is no overall management of these parallel lines of effort to guide development and to foster integration and interoperability, such as statutory- and locally-mandated time standards. Knowledgeable IT professionals identified the lack of a coherent justice sector IT management structure, as well as the lack of adequate staff, and financial resources as the core causes for the ad hoc proliferation of systems.

To achieve meaningful system integration and interoperability, the RS will need to systematically identify potential points of interface and develop a plan for establishing connectivity. The CMS Team identified the following institutions, systems, and vendors that should be involved in such future plans to implement national CMS functionality:

- Prosecutors, SAPO System
  - Vendor: Comptrade & Unisystems
- Prisons, SAPA System
  - Vendor: Prozone
- Notaries, AVP FIDES
  - Vendors: MEGA C.E./ORION
- Enforcement Agent System, AVPPI (Automatsko Vodjenje Predmeta Privatnih Izvršitelja)
  - Vendor: MEGA C.E.

Given that these systems were outside the SOW, the CMS Team did not investigate specifics

regarding any of these systems. However, SAPO and SAPA systems were referenced frequently during site visits, and in some cases, they share system resources that indicate they may require priority attention in terms of interoperability/integration planning. The graphic below demonstrates the wide array of disparate, but related, IT initiatives.

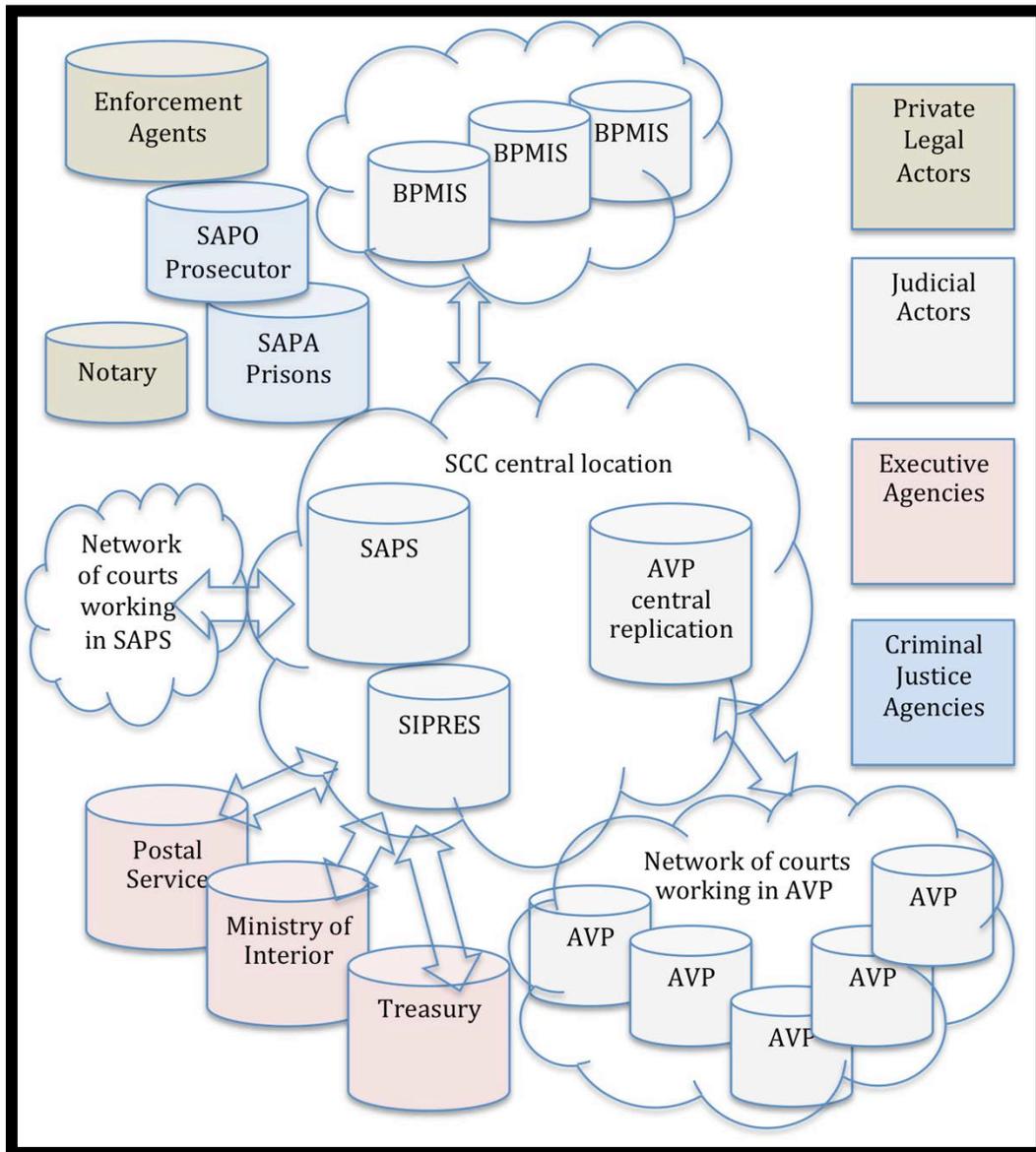


Figure 1: Proliferation of IT Systems in the Justice Sector of the Republic of Serbia

## FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

Given that the principal CMS platforms are not fully utilized, the CMS Team recalibrated its focus to include findings, analyses, and recommendations that could promote full CMS functionality in

the RS. The original SOW is forward-looking and supportive of the CMS Team's proposed recalibration, which USAID/Serbia confirmed at the Mission out-brief. Accordingly, the CMS Team decided to structure the assessment to address practical concerns and issues that must be addressed to increase the functionality of existing CMS platforms, identifying short-term measures designed to foster and enable meaningful comparative cost and functional analyses in the future.

**QUESTION/TASK 1: What are the relative strengths/weaknesses of AVP and SAPS? Analysis should include, at a minimum, consideration of technical functionality, addressing information security (data integrity, system reliability, availability, access control and auditing), TCO (Total Cost of Ownership) over the period of five years, experience to date, and human resource requirements for maintaining/supporting each system; other criteria may also be proposed.**

As a preliminary matter, the CMS Team notes that 2016 transition of responsibilities from MOJ to the HJC will require assertive, concerted management on the part of both agencies. The same level of effort will generally be needed to address the following findings, conclusions, and recommendations. Therefore, the CMS Team recommends that MOJ and HJC should form a Working Group. The Working Group should include personnel knowledgeable about human resources, budgeting, financial management, and IT systems. This group should draft and present plans to the principals for their review, approval, and support, as needed.

## **CMS V. DOCUMENT INDEXING**

**Findings:** The RS continues to rely on paper-based systems for the execution of many, if not most, key court tasks. The two predominant CMS platforms employed in the bulk of larger courts, AVP and SAPS, are being used as document management systems. Modern CMS functionality is present to varying extents in the design of both AVP and SAPS, but the implementation of these features is not significant at this time. However, the practice of electronic document management is established and embraced in general, and the potential for employing full CMS functionality looks promising going forward. Unfortunately, the limited and varied implementation of the two major systems, combined with the lack of an overarching justice IT management structure, has prevented basic connectivity between systems.

**Conclusions:** Limited usage of existing hardware capacity and software features contraindicates additional investment in new systems. Moreover, diversion of scarce government IT management capacity to participate in the design/implementation of a new system is likely to aggravate current conditions and undermine existing potential to effectively employ existing resources. The need to consolidate and utilize existing infrastructure is crucial. If effectively implemented, all existing systems could become interoperable with limited effort and expense. MOJ and HJC management need to focus on using existing resources to this end.

**Recommendations:** The RS should prioritize using existing CMS platforms and focus on improving electronic document management through system integration. MOJ and HJC should

establish common practices for the sharing and authentication of existing electronic files. Reliance on paper processes and files should be minimized and/or eliminated as soon as possible. Continued usage of the manual transfer of original court documents, as a matter of standard practice, should be identified as a threat to the security and integrity of court operations. Core court data should be defined, maintained in electronic format, and exchanged as a matter of routine within secure existing Serbian electronic networks. Once this core data is maintained and exchanged as a matter of common practice, the RS can begin utilization of additional features of the CMS systems already in place.

## **HARDWARE**

### **Hardware Inventory Verification**

**Finding 1:** The CMS Team identified the need for a detailed and accurate national inventory of existing hardware. Within a particular court, the CMS Team found IT administrators who were knowledgeable about the workstations, servers, and connectivity, and some of this information is now captured in the Court Profile Module of BPMIS. Whether the BPMIS data is sufficient for basic management is unclear. When asked about the status of IT hardware, Serbian IT personnel generally replied that their equipment was “old.” Apparently, the last major tender for hardware occurred with the rollout of the AVP platform to courts of general jurisdiction in 2009-2010. This tender procured basic IT hardware (work-stations, servers, scanners, routers, switches, etc.) for several hundred physical locations in Serbia.<sup>9</sup>

**Conclusions:** A precise IT hardware inventory is critical to establishing and maintaining any CMS platform. While the BPMIS has collected some data on the hardware, the varying levels of IT staffing in the courts suggests that the BPMIS’s self-reported information needs to be verified and expanded upon, where possible. The CMS Team concluded that the lack of a reliable central database of the IT hardware limited the ability to conduct meaningful analyses, such as the feasibility of adding CMS functionality within a court’s platform.

**Recommendations:** MOJ and HJC staff should agree upon the level of detail that should be captured in the BPMIS hardware inventory. Guidance should then be issued to the courts on how to gather this information. Inspection teams should verify the accuracy of data collection. Once these steps are complete, the BPMIS data should be protected until changes in the inventory occur.

### **Replacement/Upgrade Scheduling**

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<sup>9</sup> In 2009-2010, SAGA and Informatics were selected to procure the hardware for 2.1 mil EUR; ORION was selected to set up the communications backbone and official webpages for the Serbian judiciary for 860,000 EUR; and MEGA was chosen to supply the AVP system to the Basic and Higher Courts for 200,000 EUR.

**Finding 2:** While the BPMIS is a valuable tool for capturing hardware data, there is no functionality for calculating replacement schedules. Consequently, BPMIS data is being used by IT staff to manually determine what equipment is critical to include in their annual budget request. BPMIS data is not automatically mapped to a replacement schedule. It does not permit dynamic reporting functionality that could flag equipment for replacement in real time and via projection scenarios.

**Conclusions:** The RS has begun to approach hardware inventory in a systematic manner, providing an online platform for data entry. However, the data needs to be captured in a manner that provides for dynamic reporting on aging equipment. This type of reporting would enable court management to monitor equipment for reliability risks and formulate precise forward-looking budget requests with minimal manual effort.

**Recommendations:** The CMS Team considers it critical that MOJ and HJC personnel agree upon a replacement and upgrade schedule for IT hardware. Once complete, this schedule should be used as a blueprint for enhancing BPMIS functionality. Most likely this will involve developing a set of standardized dropdown menus that prompt users to structure their input. Given that much of the data has been entered in text fields, this increased functionality will necessitate additional data entry. Drawing upon this data, the enhanced BPMIS functionality should be designed to provide notifications and projection scenarios as a matter of course.

Utilizing the verified data and additional BPMIS functionality, a tiered replacement/upgrade schedule should be developed: 1) End of Useful Life: Hardware that is physically damaged or no longer compatible with the software employed in the courts; 2) Incapable of Re-Purposing: Hardware that lacks capacity to support the functions for which it is employed and cannot be otherwise usefully employed; 3) Required for Full Operations: Hardware necessary to support existing court staff in use of software currently employed; and 4) Expanded Functionality: Hardware needed to permit existing court staff to take advantage of software and system features that are available but not in use, or otherwise underutilized.

## SOFTWARE

**Finding:** As with hardware, the BPMIS captures some data on software inventory.<sup>10</sup> The CMS Team gathered data indicating that the wide variance in hardware age is reflected in the software, which includes over 10,000 licenses. Estimates are that 47 percent of client (non-server) computers were purchased on, or before, 2006. Of the remaining 53 percent, 23 percent was purchased between 2007 and 2009 and 30 percent on or after 2010. The client computers use different operating systems, mainly Windows, of which 16 percent use Windows 7; 6 percent

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<sup>10</sup> The CMS Team concluded that BPMIS is the realization of the ICT Strategy target of establishing a software database. ICT Strategy Report for the Ministry of Justice and Public Administration of the Republic of Serbia - Final Report, 17 July 2013, p.43.

use Windows Vista; 65 percent use Windows XP and around 13 percent use another operating system. For word processing, 61 percent use Microsoft Office and 39 percent use Open Office. To fully employ the functions in AVP and SAPS, the client computers must have Microsoft software and use specific versions of Internet Explorer (IE) browser. IT personnel are aware of the situation, and discussions with Microsoft have been promising concerning the possibility of obtaining upgrades at reduced or no cost.

**Conclusions:** The AVP and SAPS CMS platforms are heavily dependent on the Microsoft operating system, IE browser, and MS Office. With 65 percent of the client computers running Windows XP, the Serbian judiciary is facing a near-term challenge, given that Microsoft is dropping support for the XP platform. To keep the client computers up to date, a new version of the Windows operating system needs to be obtained as soon as possible. However, depending upon the age of the computer, certain software upgrades may not be practical or feasible. Consequently, hardware and software upgrades will need to be coordinated to fully address the issues involved and ensure the viability of both AVP and SAPS.

**Recommendations:** MOJ and HJC need to perform a software inventory baseline using BPMIS in parallel with the hardware inventory. BPMIS functionality should be increased to permit tracking on software ageing and creating the relevant reporting functionality. However, as soon as the baseline is completed, MOJ and HJC personnel need to devise a short-term plan to ensure the replacement of crucial client computers and operating systems for those personnel responsible for data entry in AVP and SAPS. A medium-term goal should be to develop system requirements for browser interfaces based on adopted standards, emphasizing the reduction and/or elimination of browser dependency. The AVP and SAPS vendors should be made aware of these requirements, and should be encouraged to offer upgrades that are compliant.

## **DATA INTEGRITY AND SECURITY**

### **DATA INTEGRITY**

**Findings:** In the IT industry, the term GIGO (garbage in, garbage out) is used to describe the full panoply of data integrity problems. Unfortunately, GIGO is an apt term to describe the circumstances in many courts of the RS. In fact, the issue of data integrity came to a head in January 2014 when, by operation of law, the number of Basic Courts in Serbia more than doubled.

While a data migration plan had been devised, the MOJ and HJC were unable to implement it as planned. When MEGA C.E. was ordered to expand the number of AVP installations in December 2013, they were forced to make multiple copies of data sets that would later need to be culled in order to conform to the respective jurisdiction. Interviewees knowledgeable about CMS platforms agreed that there has been substantial progress in the nine months since AVP data

migration started. Nevertheless, the CMS Team found that the data in AVP did not demonstrate a satisfactory level of integrity.<sup>11</sup>

Numerous AVP complaints were shared in court site visits. For example, the Novi Sad Basic Court<sup>12</sup> staff explained in detail their concerns about the poor quality of data integrity and security, as well as how this affects their everyday lives. While the court staff had worked to clean their data since 1 January 2014, they still remained concerned about the integrity and adequacy of their electronic data, citing inappropriate deletion of alleged duplicate records, duplication of data, inconsistent scanning of documents, etc. that could disrupt court workflows and compromise the quality of justice.

SAPS complaints differed somewhat, focusing on required fields and performance metrics. The CMS Team found several reasons for the differing responses. First, given that SAPS mainly covers appellate courts, the case volume is significantly less, and the files differ in content. Second, the CMS Team noted that SAPS incorporated a “data cleaning” step during the installation and migration process, increasing the quality of initial data. Finally, the SAPS program tends to force more data input by design. Nevertheless, SAPS, like AVP, has been implemented in a manner that requires re-keying all data at the appellate level, introducing an identical and avoidable opportunity for human error.

The CMS Team notes that data integrity includes the ability to find accurate data and trust its reliability. Generally, data storage on a CMS platform increases reliability and reduces the opportunity for conflicting results. Within the CMS database structure, controlled vocabularies/data dictionaries ensure that data is stored and used in a manner designed to produce reliable, consistent results. To achieve this end, the CMS platform must have a logical database structure, complete and accurate data entry, and a hardware platform that can support this system with adequate disaster recovery capacity.

The CMS Team found that AVP and SAPS appear to have adequate database structures, but inconsistent/inadequate manual data entry and migration compromised both systems. The Team notes that this data entry problem pre-dates the 2014 migration issue, and raises concerns about the overall data integrity since the large-scale computerization of court records in 2010. In particular, AVP users reported that dropdown menus had not been customized uniformly throughout, leading to some ongoing discrepancies in data entry practices. Regarding hardware

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<sup>11</sup> The CMS Team’s colleagues on the SPP Evaluation Team, conducting an evaluation in parallel with this assessment, confirmed this fact with a valiant effort to use system data for analyzing backlog reduction programming. Ultimately, both teams concluded that data integrity is a significant problem that needs to be addressed with urgency.

<sup>12</sup> Basic Court Novi Sad has 494 employees, 83 judges, five IT staff employees, and 51,883 backlog cases (as of 30.06.2014), out of which 48,915 are only in enforcement. Average annual procurement of new workstations is 40-50. The main problem is physical space or insufficient premises (President of the Basic Court Novi Sad, 29/09/2014 interview).

platforms, both enjoyed adequate server and backup capacity, which functioned with appropriate client computers.

**Conclusions:** The CMS Team observes that data integrity can only be achieved when a CMS platform ensures that all data elements and records remain unchanged by any outside influence other than authorized, appropriate human intervention. This approach to data integrity implies that all data is properly stored during normal operations and may be retrieved easily after a system failure or outage. Furthermore, adding carefully designed input rules and/or dropdown menus to the CMS platform could improve data quality and integrity by structuring the data entered into the system. Once entered, data may be checked for its integrity using a combination of features in the system application software, the normal computer hardware and system software, and special-purpose hardware and software. As new technologies are developed to increase the level of data integrity, a CMS platform must be designed to take advantage of or at least allow the use of these improvements.

**Recommendations:** To achieve meaningful data integrity in the Serbian courts, the MOJ and HJC will need to commit to a manual program of data verification and maintenance. The existing data set needs to be confirmed/corrected/completed, and new data entry needs to be governed by appropriate policies, practices, and, eventually, system connectivity (see Interoperability and Integration, below). In preparation for enabling system connectivity, the practice of data entry needs to be catalogued, harmonized, and standardized. Not only does data quality need to be verified, but also the manner in which new data is entered needs to be consistent. To control for this issue, the CMS Team recommends that RS procure functionality in AVP and SAPS to produce monthly data validation reports that check for divergent data entry practices. A monthly validation report should include a flag that will help to quickly identify any potential new issues that have developed. For example, if the field “New Cases Received” is populated 100 percent of the time previously, and this month the report shows a decrease to 70 percent, this is a red flag requiring research to identify the source of the discrepancy prior to using the data. Whenever possible, validity testing should be conducted in the “live” environment to ensure end-to-end integrity of the content.

## **DATA SECURITY**

**Findings:** As noted above, both AVP and SAPS have access to and utilize centralized back-up and disaster recovery capabilities. Consequently, the CMS Team explored data security in terms of other measures associated with ensuring data security during normal operations and after a system migration or outage. Data security in both CMS platforms is accomplished through a combination of features in the application’s software, the normal computer hardware and system software, and special-purpose hardware and software (for example, virtualization on server machines, firewall protection).

At the most basic user security level, password protection practice appears to be uneven, and it is relatively common for an employee to violate fundamental security rules. For example, an employee might utilize his/her first and last name as the “username” with the most common

password in use, "123." To establish system security at this primary level, management must engage actively. Hardware solutions, such as fingerprint scans, are unnecessary with adequate management, and are not financially practical given competing hardware needs.

In terms of system administrator practices, results are mixed. Some courts have exposed themselves to risks by allowing access to system communication ports unnecessarily, not limiting USB use, and not installing and updating software uniformly, for example, anti-virus programs. Both physical and software integrity often share common challenges such as human error and design flaws, and both must be dealt with whenever they arise. In Serbia, the partial implementation of CMS platforms inserts the additional complication of reliance upon complete paper case file management.

The CMS Team found that the specifics of paper file management in Serbia present particular risks. For example, as a general rule, the first instance court is responsible for the bulk of notices to the parties and witnesses. Given the current system's reliance on a single "original" case file, numerous original files are transported between courts on a daily basis via court vehicles to trigger case file processes. A road "accident" could effectively bring any number of cases to a halt. With partial CMS use, the reconstruction of the case file is dependent upon the parties having kept pristine records and the court accepting their copies—neither of which is assured. This manual security vulnerability effectively neutralizes the electronic security protections that AVP and SAPS offer the judiciary.

**Conclusions:** In the CMS Team's assessment, data security refers to the ability of the system to ensure that all data and records remain unchanged from unauthorized access or other human intervention, including any unauthorized addition, modification, or destruction of data. Certain capacity in managing the security functions is expected, such as the need to change passwords routinely and create uniform system administrator protocols, but this capacity does not appear present throughout the court system.

Moreover, the lack of standard security management practices has ancillary effects. For example, CMS system response time was a common complaint, but if communication ports are not regulated—in terms of access and use—a court's system response time may be a function of YouTube watchers, as opposed to the CMS platform itself. To establish meaningful CMS performance benchmarks, the management of basic system security issues needs to be standardized and enforced.

**Recommendations:** The CMS Team recommends short and medium-term measures. As an initial step, MOJ and HJC should agree on user and administrator security protocols, coupled with training and enforcement of the same in the short-term. In the medium-term, the CMS Team advises the MOJ and HJC to devise a plan for eliminating current reliance on "original" paper files, which logically should involve making sure that the CMS platforms are storing all aspects of the file electronically.

## INTEROPERABILITY AND INTEGRATION

### INTEROPERABILITY

**Findings:** The RS does not have national IT system or data exchange standards, nor does it have an existing governmental structure that could effectively assume this role. Justice sector institutions have varying perceptions about their ability to electronically interface with other institutions. Certain core elements of database organization, such as access to unique identification numbers for natural and legal persons, are presumed to be unattainable in some cases—SAPS and AVP—and incorporated as a matter of course in others—SIPRES. A particular IT system’s integration with, and utilization of, existing government information sources appears to be a function of the time, place, and manner of system development. The CMS Team could not identify any legal, technical, or administrative obstacle to incremental upgrades to existing justice IT systems to establish appropriate data exchange of relevant government information.<sup>13</sup>

**Conclusions:** A stove-piped IT information culture is dominant in the RS. Absent a political commitment to change this culture, prospects for CMS implementation are limited. The AVP and SAPS systems do not currently share electronic data as a matter of course. In fact, only the Commercial Courts appear to effectively utilize electronic data exchange between lower and appellate courts within their jurisdiction. As noted in the data integrity discussion, the sheer volume of manual re-entry of existing data guarantees that errors will occur. The introduction of electronic data exchange through SIPRES in the misdemeanor courts demonstrates the potential for change. SIPRES is proof of concept that unique, national, identifying numbers—as well as other official government data—can be used to make justice sector systems interoperable, more robust, and effective on a national scale.

**Recommendations:** Electronic utilization of official Serbian government data needs to be adopted as a matter of standard electronic practice in the major court IT systems. All relevant Serbian government data should be exchanged electronically through established protocols. As noted, unique identification numbers are an important first step, but many other data exchange points should logically follow. For example, the Serbian Postal Service maintains standardized address fields that should be employed uniformly across the justice sector.

A preliminary target for all existing CMS systems should be interfacing with the Minister of Interior for national identification numbers and the Postal Service for accurate address information. CMS systems should be able to query collegial justice sector databases and establish the authenticity, location, and nature of a party to litigation automatically.

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<sup>13</sup> The ICT Strategy discusses initially the need for a “common interface between these systems (Enterprise Service Bus)” and goes on to describe the need for “an overall software ‘umbrella.’ ” ICT Strategy Report for the Ministry of Justice and Public Administration of the Republic of Serbia - Final Report, 17 July 2013, p.32. However, later, the Strategy turns to “interoperability and information exchange architecture.” *Id.* at p. 64.

## INTEGRATION

**Findings:** The demand for improved access to justice, collaboration between jurisdictions, and strengthening of legal systems is trending upwards in the last decade. As the RS has become a pre-accession candidate for EU integration, more scrutiny is evident in this field. Under Chapter 23 of the *Acquis*, the need for reliable, unified judicial statistics at the national level will continue to be a stumbling block for the RS until it is resolved.<sup>14</sup>

Currently, various systems are employed to report data. CMS platforms are being used to some extent to generate raw data, but common practice is to then re-key this data into Excel spreadsheets. As the parallel SPP Evaluation demonstrated poignantly, the HJC and MOJ continue to struggle to report accurate statistics that are reliable for negotiations with the EU. The integration of CMS platforms is a challenge nationally, but at the same time, it has transnational implications for EU accession candidates. In both respects, national e-justice systems are an important step to providing justice in a reliable cost-effective manner.

On the road to EU integration, proactive sharing of justice information with interested parties in the justice and public sectors will contribute to sound policy decisions, cost savings, and increased effectiveness of justice sector agencies. By offering standard tools, techniques, and data structures, information sharing becomes easier, quicker, and less expensive for the justice sector. However, to achieve this goal general policies must establish a road map for system integration. Unfortunately, integration within CMS platforms is generally lacking and that makes interoperability between platforms a significant challenge and full system integration an even longer-term goal. The formulation of policies must grapple with this present reality.

Currently, the RS has two principal policy documents that address these issues—the National Justice Reform Strategy and the Judicial ICT Strategy.<sup>15</sup> The NJRS highlights substantive legal goals, including independence, impartiality, quality of justice, competence, accountability, and efficiency. The Judicial ICT Strategy emphasizes three systemic pillars/goals, covering issues of IT architecture, organization, and governance. Although the two documents provide significant general guidance for combining legal and IT reform objectives, the CMS Team did not find agreement among stakeholders about the validity and utility of the specific targets contained in these documents. The lack of a truly shared vision for the CMS platforms, and in particular, how to establish interoperability with other institutions, is demonstrable.

For example, the Judicial ICT Strategy endorses an architectural vision, emphasizing a

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<sup>14</sup> See Serbia 2014 Progress Report, 8 October 2014, SWD (2014) 302, p. 41.

<sup>15</sup> ICT Strategy Report for the Ministry of Justice and Public Administration of the Republic of Serbia - Final Report, 17 July 2013, p.5.

sustainable and reliable ICT infrastructure, with data-centers and networking hubs, utilizing a Wide Area Network and Enterprise Service Bus (interoperability platform). However, some senior staff view the call for the creation of an Enterprise Service Bus as yet another system to design, implement and maintain. In terms of organizational vision, the Strategy appropriately finds that current ICT management is fragmented. However, the call for a centrally organized ICT management body with clearly defined organizational segments does not fully address the transition of responsibilities between MOJ and HJC, which may require a more informal body that spans institutions for an interim period. That said, the CMS Team found many of the targets to be completely consistent with its findings, and the Strategy does provide a useful checklist of procedures and standards that should be considered, particularly in terms of retaining qualified IT staff and increasing IT security and proficiency through training.

**Conclusions:** The RS is engaged in EU pre-accession negotiations, and the ability to demonstrate the efficacy of recent justice sector reforms is in significant part a function of whether the government can harmonize and standardize the use of its justice sector IT systems. Until appropriate electronic data exchange and recordkeeping becomes established, the capacity to demonstrate the progress of reforms through meaningful statistics will be compromised. As previously noted, the recent strides in interoperability piloted in SIPRES system are promising. This pilot demonstrates that one system can query another without threatening its integrity while simultaneously profiting from the electronic population of data fields and verification of the same, reducing human error and boosting data integrity. AVP and SAPS should be modified to enjoy analogous benefits. Whether it is framed in terms of an Enterprise Service Bus or simply a standard set of data exchange protocols and authorized database queries is not critical. What is crucial is that interoperability is achieved within and between systems in the near term. Larger questions of system integration presuppose that basic capacity for interoperability is in place. As long as courts are manually entering data sets received from other courts, system integration is by definition a longer-term goal. Moreover, absent immediate progress on interoperability, the basic benefits of CMS functionality, for example, reliable statistics, will remain elusive. Consequently, policy guidance needs to target concrete steps toward achieving interoperability as a discrete priority, highlighting it as a precursor to integration.

**Recommendations:** The CMS Team notes that there is no magic formula for achieving successful interoperability/integration in the Serbian justice IT sector. However, the necessity for making demonstrable progress is a matter of international importance that requires concerted action, and the CMS Team recommends that several objectives guide further policy development: 1) Improved electronic communications among courts, citizens, and organizations; 2) Established standards for exchange of data among justice sector actors; 3) Modernized business processes embracing the validity of electronic documents; 4) Established multi-sector working group to steward development of interoperability/integration; and 5) Elaborated budget processes that harness meaningful statistics to allocate scarce resources to achieve interoperability/integration.

## TOTAL COST OF OWNERSHIP

**Findings:** As noted, the RS does not have an adequate inventory of court IT hardware and software. Without this basic information, a proper Total Cost of Ownership (TCO) analysis is impossible. The CMS Team found that significant anticipated expenses are not per se CMS platform dependent. For example, replacement of the client computers operating Windows XP is a basic necessity for the justice sector as a whole. However, even CMS platform maintenance costs are difficult to compare given their variation in respective scopes. That is not to say that meaningful benchmarking of comparable performance measures and costs cannot be achieved prospectively, but the CMS Team found that the prerequisites to this analysis are the replacement of outdated client computers and server data optimization to increase platform performance.<sup>16</sup> Once this basic maintenance is complete, the MOJ and HJC could come up with meaningful cost per case/court analytics, which could provide a basis to begin a TCO approach to IT system investments.

**Conclusions:** To begin a meaningful TCO calculation, baseline IT hardware and software inventory must be adequately documented. All IT hardware and software have a limited useful life, and basic IT management requires an inventory that permits estimation of the minimum IT hardware and software maintenance and upgrades required to support existing operations. Moreover, proper hardware and software maintenance is a pre-requisite to CMS platform performance testing, for all CMS platforms require appropriate client computers and optimized server storage to effectively operate their respective systems at peak performance levels. With proper replacements, maintenance, and upgrades, meaningful comparisons between platforms could be made, and analysis and planning for the maintenance, modification, or replacement of systemic software solutions could be completed in a manner that supports a Total Cost of Ownership approach to IT management.

**Recommendations:** As noted, the CMS Team recommends that the BPMIS Court Profile Module be checked for quality and accuracy in terms of hardware and software inventory. Once verified, Court Profile data should be updated with the arrival of new IT infrastructure and subject to routine audits. Also, as recommended above, a joint working group of HJC and MOJ management and IT specialists should collaborate upon these issues to develop common standards for infrastructure maintenance, upgrades, and testing. In the immediate term, the working group should develop instructions and/or amendments to the Book of Court Rules and/or HJC Instructions that assign roles and responsibilities for documenting IT inventory, maintenance, and replacement schedules, and once completed, the working group should address common functional standards and performance testing.

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<sup>16</sup> Interviewees noted that some of the data storage conventions employed on servers cause systems to perform below par, and simple measures to optimize the data storage could significantly improve performance.

## HUMAN RESOURCE CHALLENGES

**Finding:** The CMS Team found very limited in-house IT human capacity involved in the judicial sector. Interviewees consistently noted that other agencies, e.g., MOF, dwarfed the collective IT capacity of the courts, MOJ, and HJC. Furthermore, what constitutes IT capacity in the judicial sector is not clearly delineated. Court clerks are technically not IT personnel, but they are often the primary users of the CMS platforms. Regardless, the need to increase in-house capacity was apparent and unanimously supported. At the same time, the RS enjoys an extraordinarily talented IT workforce that could support outsourcing of various tasks. This potential IT support is located primarily in the private sector, but it is also emerging in the public sector. For example, new computer science graduates can now be selected to join the ICT Hub where they will receive a one-year fellowship, providing supervision and support for developing new software ideas through a public-private partnership. The MOJ IT Department has plans to engage universities and students to assist with system development, and it may well be that this ICT Hub could provide the appropriate vehicle to realize this project.

**Conclusions:** The need to increase judicial IT capacity is clear. The development of IT capacity will be a function of hiring IT specialists and expanding training on IT systems to non-technical staff. IT literacy is a general need at all levels. However, where a surge in expertise is needed, the private sector is quite capable of providing support to address discrete tasks. Moreover, with a clear strategy for IT infrastructure development, for example, interoperability, there are existing mechanisms for engaging the emerging class of computer scientists to assist MOJ and HJC staff with expanding CMS functionality.

**Recommendations:** The MOJ and HJC Working Group should document in-house IT expertise and designate appropriate competencies for various positions. These competencies should be connected to tasks and responsibilities. Where larger episodic needs are documented, the MOJ and HJC Working Group should have a mechanism for obtaining temporary expertise from the private/public sector. This mechanism should clearly define roles and responsibilities for managing all outsourced work.

## SUMMARY OF KEY FINDINGS/CONCLUSIONS/RECOMMENDATIONS:

### QUESTION 1:

- Finding: Neither AVP nor SAPS is being utilized as a full-fledged CMS in the Republic of Serbia. They are employed as document indexing systems to assist in the processing of paper files.
- Finding & Conclusion: AVP and SAPS possess CMS functionality in excess of current court demand. This functionality could be used to further automate court business processes.
- Finding & Conclusion: Comparisons between AVP and SAPS case management functionality are of very limited utility given the fact that neither system is being fully

employed. Baseline performance comparisons cannot be made at this time, but they could be developed to enable future comparisons.

- **Finding & Recommendation:** As a general rule, AVP and SAPS have problems with case data integrity. These problems are a function of inconsistent practices in data entry as well as wholesale changes in the law that would be challenging for any country to manage. A focus on stability and implementing current law through these platforms should be emphasized in the near term.
- **Finding & Conclusion:** Court data security is inadequate and inconsistent overall, both for reasons of system usage and court practice. The Republic of Serbia's reliance on the movement of paper files as standard practice renders IT security irrelevant in many, if not most, cases.
- **Conclusion:** AVP and SAPS need specific operating systems and browsers in order for all features of the systems to work on the client side. Given the lack of a precise IT infrastructure inventory, it is unclear whether either system could be fully utilized in a more robust manner nationally at this time.
- **Conclusion & Recommendation:** System reliability is adequate in both AVP and SAPS platforms, and normal back-up capacity appears to be present. However, optimization of data storage could improve system performance.
- **Finding:** Courts using AVP and SAPS report various experiences—both positive and negative. Some common complaints, such as system response time, are functions of variables that are not connected with the systems themselves—for example, employees using bandwidth for personal purposes.
- **Finding:** TCO calculations are not possible due to the lack of adequate IT inventory, failure to agree upon functionality goals, and lack of appropriate benchmarking of performance standards.
- **Finding & Conclusion:** Human resources currently constrain CMS platform use, but such constraint can be remedied with a combination of additional staff, more training, and select outsourcing.

**QUESTION/TASK 2: Provide five recommendations to Ministry of Justice (MOJ) and other stakeholders for ways to optimize the utilization of current case management software applications, in order to meet the relevant goals in the National Judicial Reform Strategy (NJRS). Include estimates of costs for these recommendations, such as hardware, software, connectivity, and human resource requirements.**

**Recommendation 1:** Verify IT infrastructure inventory and store results in a common database platform with published guidance for its maintenance and upkeep, e.g., BPMIS, with a goal of creating a rationale hardware and basic software replacement schedule.

**Cost Estimate:** The verification of inventory will be labor intensive, but not particularly complicated. With appropriate mobilization of MOJ and HJC staff, it is conceivable that it could be completed with existing human resources plus necessary travel costs, and the same personnel should be capable of drafting appropriate guidance. The modifications to the BPMIS would be relatively minor, and the CMS Team estimates they could be purchased for no more

than 50,000 EURO.

Recommendation 2: Conduct nationwide audit of electronic case data to clean/verify entries made into AVP and SAPS systematically, e.g., correcting the absence of key information like case initiation date, and to establish standardized data entry protocols.

*Cost Estimate:* The nationwide audit and cleaning of data will be very labor intensive. The duration of the process will determine cost. If spread out over a considerable period of time, existing staff could complete a significant amount of the work as envisaged for Recommendation 1, but the upcoming transfer of duties from MoJ to HJC may call for speed in completion, which require outsourcing. Current MOJ and HJC staff should be capable of drafting appropriate guidance with some limited assistance depending on the schedule.

Recommendation 3: Review electronic file storage methods and optimize as needed, i.e., rational segregation of data should be prioritized to improve search/query efficiency regardless of CMS platform.<sup>17</sup>

*Cost Estimate:* This recommendation requires a short study of server storage practices to be coupled with some database programming to optimize server configuration. The CMS Team estimates this could be obtained for no more than 40,000 EURO.

Recommendation 4: Establish electronic interoperability with other Republic of Serbia agencies with primary responsibility for core litigation data, for example the Serbian Postal Service for accurate addresses and the Ministry of Interior for national identification numbers.

*Cost Estimate:* The protocols for establishing interoperability will require public and private resources. On the public side, the requirements must be defined and placed out for tender. On the private sector side, AVP and SAPS will need to invest business development to respond to these requirements. Thereafter, the CMS Team estimates that the Republic of Serbia should be able to acquire basic interoperability with the CMS systems for an investment of no more than 400,000 EURO.

Recommendation 5: Do not explore the purchase and use of new IT systems until recommendations 1-4 are complete and established as routine practice in the published guidance of MOJ and HJC.

*Cost Estimate:* Not per se applicable, but could conserve resources that would otherwise be

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<sup>17</sup> The Serbian ICT Strategy makes reference to “server consolidation (virtualization)” that is consistent with this recommendation. ICT Strategy Report for the Ministry of Justice and Public Administration of the Republic of Serbia - Final Report, 17 July 2013, p.34-35. However, the CMS Team questions whether the Strategy reflects the degree of consolidation that has already occurred at Neminja 9.

diverted toward lesser priorities.

**QUESTION/TASK 3: Based on answers to Questions (1) and (2), provide three recommendations to inform the development of the MOJ's IT Strategy for the judiciary.**

The Republic of Serbia is at a critical moment of transition in the justice sector with 2016 as the effective deadline for the transition of management duties. Massive legislative reform mandated the transfer of the bulk of court management functions from the MOJ to the HJC. However, details concerning the transfer of responsibilities are complicated and uncertain. The nascent BPMIS system provides the judiciary with some online capacity to enter core court data concerning basic management, inventory, and financial information, but some elements of this information could be extracted directly from the existing IT systems without the need to manually re-enter data. Absent this automated transfer, the possibility for human error is notable and unnecessary. The general investment for secure data exchange systems would not be large. Their absence is problematic and emblematic of the potential for the future.

Moreover, the massive judicial structural changes that are in progress make financial and management secondary effects a matter of critical importance. Interviewees emphasized that investigative judges have been phased-out in favor of prosecutors, notarial and enforcement functions have been privatized, and the responsibility for court infrastructure is moving from the MOJ to the court budgets (absent facilities purchase, management, and inventory). At the same time, the standard collection of court fees and subsequent budgetary allocations remains to be rationalized.

In June 2016, HJC takes over National Judicial Reform Strategy. If the HJC will assume responsibility from MOJ for non-judicial staff, equipment and operating costs in 2016, preparations for this dramatic enlargement of duties need to be accelerated. As discussed elsewhere, the BPMIS system is capable of facilitating and supporting these changes, but it could benefit from expanded functionality. As noted, the MOJ and HJC should form a working group that includes personnel knowledgeable about human resources, budgeting, financial management, and IT systems. This group should have sufficient resources and political support to act upon the following recommendations:

Recommendation 1: Assemble a joint MOJ and HJC Working Group to develop common electronic protocol for exchange of data within and between existing CMS systems, with an organizing rubric of real-time, national statistically-accurate reporting. Implement the protocol and identify challenges with electronic data exchange, documenting "choke points" where infrastructure capacity and/or practices create demonstrable needs for additional hardware and human resources; develop requirements for systemic enhancements to address efficiency and accountability; and create rational funding requests to MOF for the same.

Recommendation 2: Empower the joint Working Group to implement and monitor performance of all MOF-funded measures to address choke points and document MOF responses and consequences thereof. Have the Working Group report to the EU on its progress, using statistics

to demonstrate more transparent and efficient allocation of resources, consistent with the recommendations issued under Chapter 23 of the *Aquis*.<sup>18</sup>

Recommendation 3: Enable the Working Group to keep up to date and participate in the EU dialogue on standards of e-Justice, which specifically identify interoperable systems as critical.<sup>19</sup>

## OVERALL CONCLUSIONS

The Republic of Serbia, USAID, and the EU have worked together for over a decade to improve the judicial sector IT systems. While the CMS Team did not find that these initiatives have fulfilled their full potential, the tangible benefits are substantial and growing in relevance. The battery of legal reforms that have been implemented in the last five years has made it difficult for these CMS systems to keep pace given the constraints in RS administrative and human capacity. Consequently, CMS platform functionality remains very limited, and data integrity and security are embedded problems that continue to degrade, absent concerted action.

At the same time, the CMS Team found an array of dedicated and talented Serbian personnel that could be mobilized to expand CMS platform functionality. The RS experience with AVP and SAPS implementation has educated and acclimatized public and private sector professionals with the challenges and opportunities for CMS platform implementation in the RS. Thus, the capacity for expanding CMS capacity is latent, and the key variable is the question of appropriate management policies and practices. While a working group formed from multiple institutions has inherent challenges, the current bifurcated management of the judiciary and its relative insulation from other justice sector institutions indicates that some multi-institutional coordinating body is essential to organize the policies and practices necessary to clean the existing data and develop interoperability.

With good data and coordinated management, the implementation of meaningful national CMS functionality is a valid near-term goal. Assuming that basic software and hardware replacements/upgrades are achieved, AVP, SAPS, BPMIS, and SIPRES present a viable national network of complementary IT functionality that could be interoperable and mutually supportive. Establishing data exchange, security, and query protocols will require additional investment, but the costs are modest in view of the potential returns. The CMS Team did not find a need to replace the CMS systems at this time. In fact, implementation of any new CMS system would in all likelihood contribute to the decay of electronic data integrity if it preceded the manual steps

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<sup>18</sup> As stated in the most recent EU Progress Report, “The current system of collecting court statistics is not efficient and does not allow making a meaningful analysis of the performances of the Serbian Judicial system.” Annex to COM(2014)700 final of 8.10.2014, p. 42.

<sup>19</sup> The Multiannual EU e-Justice Action Plan specifically comments on interoperability of systems as critical, “Action in this area should be focused in particular on the interconnection of registers which are of interest to citizens, businesses, legal practitioners and the judiciary.” Published in the Official Journal on 21 December 2013 (2013/C 376/06), p. 6.

for cleaning existing data and perfecting data entry protocols.

Perhaps the largest challenge will be persuading the judges themselves to embrace CMS. The CMS Team found relatively few judges who demonstrated an understanding of CMS platform functionality, and the current practice of reliance on a single original paper file for most business processes will circumscribe all reform efforts absent meaningful changes in business practices. Ultimately, the RS still struggles with the validity of electronic recordkeeping in the judicial sector, but the interoperability that the SIPRES platform has piloted is a positive harbinger of change. Once judges witness for themselves the benefits of CMS platform interoperability, moving away from the reliance on paper files can be understood as a guarantee of data integrity and security, not a threat.

# ANNEXES

## ANNEX 1: ASSESSMENT MATRIX

Activities & data sources are illustrative, <u>not</u> comprehensive	Documents/Research			Semi-Structured Interviews					Questionnaire
	Donor	Implementer	Secondary	USG Personnel	Implementer Staff	Direct Participants or Beneficiaries	Indirect Beneficiaries	External	
<b>1. Case Initiation and Participant Indexing</b>									
1.1. Every relevant participant in the justice sector process is reflected in the design of the computer database and system.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoF	Attorneys and CSOs	Implementers, Government Officials, and Users
1.2 Case information captured is sufficient for the purposes of the originating system, as well as coordinating systems.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoF	Attorneys and CSOs	Implementers, Government Officials, and Users
<b>2. Event Register and Related Recordkeeping</b>									
2.1 All legally required steps are captured in the computer database and system.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Attorneys and CSOs	Implementers, Government Officials, and Users
2.2 Cross-check validity of participant information with coordinating systems, as appropriate.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Attorneys and CSOs	Implementers, Government Officials, and Users
<b>3. Scheduling</b>									

3.1 Schedule events that the laws require.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Attorneys, Citizens, and CSOs	Implementers, Government Officials, and Users
3.2 Facilitate case assignments in accordance with expertise and caseload.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC and HCC	Attorneys, Citizens, and CSOs	Implementers and Government Officials
3.3 Track participants, deadlines, actions pending, as well as provide reminders regarding the same.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Attorneys, Citizens, and CSOs	Implementers, Government Officials, and Users
<b>4. Calendaring</b>									
4.1 Create dynamic calendars that permit annotation and distribution to relevant parties.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Attorneys, Citizens, and CSOs	Implementers, Government Officials, and Users
<b>5. Document Generation and Processing</b>									
5.1 The system generates notices and electronic acknowledgements that protect sensitive or confidential information.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Attorneys, Citizens, and CSOs	Implementers, Government Officials, and Users
5.2 The system provides templates that promote uniformity and adequacy of all issued documents.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Attorneys, Citizens, and CSOs	Implementers and Government Officials
<b>6. Hearings</b>									
6.1 Capture information about public interactions that affect legal outcomes.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Attorneys, Citizens, and CSOs	Implementers, Government Officials, and Users

<b>7. Disposition</b>									
7.1 Enter orders that require action to process or complete a case.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Attorneys, Citizens, and CSOs	Implementers, Government Officials, and Users
<b>8. Compliance and Execution</b>									
8.1. Produce compliance documents that execute dispositions and document the same.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoF	Attorneys	Implementers, Government Officials, and Users
8.2 Track compliance documents that have not been delivered and/or executed.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoF	Attorneys	Implementers, Government Officials, and Users
<b>9. Case Closing</b>									
9.1. Record reason for closure or reasons for maintaining a case in a suspended or re-opened status.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Not applicable	Implementers and Government Officials
<b>10. Accounting and Financial</b>									
10.1. Document payment of fees, awards, or judgments, as well as calculate penalties and interest for delinquencies.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoF	Not applicable	Implementers and Government Officials
<b>11. File, Document, and Property Management</b>									
11.1. Document manual file production, storage, and archiving, as well as scheduling destruction.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoF	Not applicable	Implementers and Government Officials
11.2. Capture all relevant information about evidence and seized assets.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoF	Attorneys and CSOs	Implementers, Government Officials, and

									Users
<b>12. Security and Data Integrity</b>									
12.1. Secure user access and audit trails provided as standard procedure with dynamic reporting on the same.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoI.	Not applicable	Implementers and Government Officials
12.2. All data is stored in a secure manner with physically remote backup in case of emergency.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoI	Not applicable	Implementer and Government Officials
<b>13. Management and Statistical Reporting</b>									
13.1. System provides management reports presenting relevant workload statistics, as well as outstanding interim and final court orders.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoI.	Not applicable	Implementers and Government Officials
13.2. System provides calendar, system, and financial information, which facilitate court management.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoI	Not applicable	Implementers and Government Officials
<b>14. Total Cost of Ownership</b>									
14.1. Equipment and licensing expenses are documented, budgeted, and competitively sourced.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoF	Not applicable	Government Officials
14.2. Hardware management system tracks replacements and upgrades.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoF	Not applicable	Government Officials
<b>15. Integration and Interoperability</b>									
15.1. System employs Service Oriented Architecture (SOA) that facilitates the exchange of information in a web-enabled environment.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Not applicable	Government Officials

15.2. Controlled vocabulary of system terms is mapped to other systems.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, and HCC	Not applicable	Government Officials
<b>16. Human Resources</b>									
16.1. IT staff are planned and budgeted to ensure ongoing system operations.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and MoF.	Not applicable	Government Officials
16.2. Ongoing professional training is provided to ensure that evolving system needs are supported.	<input checked="" type="checkbox"/>	MEGA, ATOS, et. al.	Judicial Actors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judges, Court Clerks, and IT Personnel	SC, MoJ, HCC, and JA	Not applicable	Government Officials

## ANNEX 2: QUESTIONNAIRE RESPONSES FROM MEGA C.E.

Answers to the questionnaire submitted to MEGA C.E., the vendor that developed the AVP system:

1	Case Initiation and Participant Indexing Function	/
	a. Does the CMS system (further referred as system) have functions for case initiation (e.g., new filing, transferred from another jurisdiction, reopened or remanded case, counter or cross claims, de novo appeal according to local procedures) that allow participant indexing?	Yes, case initiation is part of AVP. System offers dialog for case relations for every step in case initiation and also in other parts of the system,
	b. Does it have the possibility to support group related and associated cases, as well to support additional and external identifiers (e.g., of other courts such as juvenile or domestic relations; prosecutor; corrections, law enforcement, and domestic relations service providers; other agencies; real estate parcels) and establish relationship with case participants?	AVP in basic and higher courts has possibility to establish relation between two cases in any type of institutions. AVP in commercial courts has possibility to connect participants and any type of case event.
2	Case Event Register and Related Record Keeping Function	/
	a. Is the system capable of maintaining multiple case relationships (e.g., designate lead attorney, transfer group of cases or parties from one judge or hearing date to another in single transaction)?	AVP has functionality for dealing with group of cases for some key case elements like operations located in intake office or reassignment cases from one judge to another.
	b. Can the system produce information on all, part, or summaries of event register(s) (e.g., events in register of actions, some participants, families or groups, charges for specific defendant, summaries of judgment information, case age) for specific case or group of cases and for life of case or specific date range in chronological or reverse chronological order?	System has the function for recording all case events – register of actions in chronological order.
3	Scheduling Function	/
	a. Does the system have the function of automatic judge case assignment (default – automatic assignment, with manual override ability) having in mind the availability of all parties involved? Can it track deadlines and actions pending?	System has the function for automatic judge case assignment with manual override ability – algorithm for assignment tracks only judges. There is the Alert mechanism in AVP for dealing with deadlines.
4	Calendaring Function	/
	a. Does the system produce individual, batch, and summary calendars with interface to	

other types of information (e.g., on related cases or participants)?	
5 Document Generation and Processing Function	/
a. Does the system have the capability to generate notices, electronic acknowledgments, miscellaneous and even generated documents (e.g., summons, pick up orders or warrants, subpoenas, notices triggered by specific event), special notices (e.g., judge or other judicial officer assignment, courtroom change, attorney change, schedule change, notices to non-participants, and other courtesy notices)?	Yes
b. Does the system have the function for document tracking (record and report the status of pertinent information regarding all documents sent or served and track document service and follow-up activities)?	Yes
6 Hearings Function	/
a. Does the system have the function for real time user-defined session minutes formatting and entry?	Yes
b. Does it have the possibility to distribute court orders electronically?	Partially. Options for electronic distribution are part of Commercial courts AVP
7 Disposition Function	/
a. Can the system identify inactive cases and group of cases (e.g., no activity for 6 months) and prompt user regarding appropriate action (e.g., schedule hearing, prepare notice of motion to dismiss, extend dates)?	There are reports for old cases.
b. Does the system maintain and produce disposition, closure, and sentence information that shows, for each case and defendant, original and subsequent charges and dispositions and sentences, and reason for closure for each charge?	AVP. No, this is enabled only for Misdemeanor courts
8 Compliance and Execution Function	/
a. Can the system produce compliance documents (e.g., court orders such as revocation of probation, reduction of sentence, writ of execution and abstract of judgment for unpaid assessments)?	Yes
9 Case Closing Function	/
a. Can the system record the reasons for case closure or identify the conditions preventing case closure?	Different system configurations exist in commercial courts and courts of general jurisdiction. In general AVP can identify data necessary for case closure.
10 Accounting and Financial Function	/

a. Can the system automatically generate payment receipt statement documents and proof of payment confirmation?	Yes
b. Does the system follow any accounting and financial standards?	Only standards developed during system planning and developing within USAID project CCASA.
11 File, Document, and Property Management Functions	/
a. Does the system have functions for an electronic documents and exhibits management system? What type of documents can be uploaded?	Yes, there is upload option for uploading any type of file and option for scanning and uploading scanned documents.
b. Can the system track and generate reports on file management activities (e.g., file transfer, inactive, and purge reports), including lists of active, inactive, archived, and purged files (e.g., to assist in annual file inventory)?	System can track but report doesn't exist.
12 Security and Data Integrity Function	/
a. Could you explain how the system enables data integrity?	Data integrity is secured with strict standards for database data manipulation.
b. If the main location fails, how do you provide system reliability and availability?	In Basic and Higher courts, every day at 20:00 h, system automatically make backup for database. If main location fails it is necessary to restore last backup. Local administrators check backup quality every week. In Misdemeanor court in central location we have implemented failover cluster for each segment of the system (DB, Application, Web server)
c. What is the security implemented to enable access control and auditing of user behavior in the system?	Every user has their own database login. All information about user transactions/actions is located in action database / journal database.
d. Does the system follow any information security and safety standard?	Only standards developed during the system planning and developing within USAID project CCASA.
e. Is there quality assurance information available from the system?	Yes
13 Management and Statistical Reports Function	/
a. Does the system provide all the required statistical reports that support the work of the court(s)? What reports are missing, if any, and why?	AVP has more than 200 specific reports and report mechanisms for producing custom reports. Currently Commercial courts are missing reports in new format for Ministry of Justice. For every implementation we need approval from AVP group – for developing and maintaining AVP system
14 Total Cost of Ownership (LISTED PRICE)	Unknown to MEGA C.E.
a. What is the cost for the system over the	Unknown to MEGA C.E.

period of five (5) years for	
i. hardware (servers and other specific equipment)	Unknown to MEGA C.E.
ii. software, including operating system, other software, system licenses, databases, upgrades, and maintenance	Unknown to MEGA C.E.
iii. vendor support	Maintaining for 100+ courts is about 100.000 Euro with 3,000 hours for developing and free bug tracking and debugging.
iv. connectivity and network	Unknown for MEGA C.E.
v. other operating expenses of the system?	Unknown for MEGA C.E.
15 Integration and Interoperability	/
a. Does the system follow a specific standardized data format?	Only standards developed during system planning and developing within USAID project CCASA.
b. Does the system have an interface to exchange information with other systems? If yes, does it use SOA for the data exchange?	Yes / No
c. Can the system integrate with other (an umbrella) systems that will enable query of data and comprehensive reporting? What is the estimate of the integration effort?	System has one central point for data replications. From that part users can produce reports.
16 Human resource requirements for maintaining/supporting the system	/
a. How many persons are assigned in your organization on maintenance of the system?	About 10 developers, 3 implementations, in 2 departments.
b.	/
c. Do the IT personnel working on the system receive sufficient training in the development technology you use and for how many days in the year?	All IT personnel in company has additional training in technology. Approximately for 20-40 days.
General questions	/
a. Can you name the relative strengths/weaknesses of the system?	
b. What is your experience in general with the system?	
c. Do you have any functions that are missing in the system and you would like to have?	
d. Do you have any suggestions, recommendations, complaints or comments related to the system?	

### ANNEX 3: QUESTIONNAIRE RESPONSES FROM ATOS

Answers to the questionnaire submitted to Atos, the vendor that implemented the SAPS system:

1 Case Initiation and Participant Indexing Function	/
a. Does the CMS system (further referred as system) have functions for case initiation (e.g., new filing, transferred from another jurisdiction, reopened or remanded case, counter or cross claims, de novo appeal according to local procedures) that allow participant indexing?	Yes. New filing can be registered in the system which can then initiate a new case or it will be assigned to an existing one. The case can also be initiated by the case transferred from another jurisdiction and the relevant data from the incoming case can be copied into new case using the functions of the system. Cases from another jurisdiction can be also linked to existing cases. Remanded case will reopen the existing one.
b. Does it have the possibility to support group related and associated cases, as well to support additional and external identifiers (e.g., of other courts such as juvenile or domestic relations; prosecutor; corrections, law enforcement, and domestic relations service providers; other agencies; real estate parcels) and establish relationship with case participants?	Yes. The existing case can be linked with other cases within the same court or with external court. There are system functions that can handle multiple cases in one operation, such as case registration, judge assignment, relocations, scheduling a hearing. Information about case participants, prosecutors, attorneys, etc. is also stored within the case data.
2 Case Event Register and Related Record Keeping Function	Yes. There is not only system audit function but also business log where all actions performed on cases are being recorded in the format readable to business users.
a. Is the system capable of maintaining multiple case relationships (e.g., designate lead attorney, transfer group of cases or parties from one judge or hearing date to another in single transaction)?	Yes. There are system functions that can handle multiple cases in one operation such as case registration, judge assignment, archiving, hearing registration and other relevant functions.
b. Can the system produce information on all, part, or summaries of event register(s) (e.g., events in register of actions, some participants, families or groups, charges for specific defendant, summaries of judgment information, case age) for specific case or group of cases and for life of case or specific date range in chronological or reverse chronological order?	Yes. There is a rich reporting system where such information can be produced using data filters such as: the range of dates, type of case, judge, group of judges (council), participants etc. All current reporting needs are fully covered.
3 Scheduling Function	/
a. Does the system have the function of	Yes. System has the ability to automatically assign

automatic judge case assignment (default – automatic assignment, with manual override ability) having in mind the availability of all parties involved? Can it track deadlines and actions pending?	judges based on several criteria including: type of the case, availability of judges, case urgency, the judge’s schedule, etc. Judge can be also assigned manually or case can be reassigned manually. System keeps track of requested key dates and provides alerts.
4 Calendaring Function	/
a. Does the system produce individual, batch, and summary calendars with interface to other types of information (e.g., on related cases or participants)?	Yes. Alerts and calendar functions are implemented in form of reports.
5 Document Generation and Processing Function	/
a. Does the system have the capability to generate notices, electronic acknowledgments, miscellaneous and even generated documents (e.g., summons, pick up orders or warrants, subpoenas, notices triggered by specific event), special notices (e.g., judge or other judicial officer assignment, courtroom change, attorney change, schedule change, notices to non-participants, other courtesy notices)?	Yes. The system can generate prepopulated documents for typical actions in the system such as making decision, summons, etc. System also generates notices about outdated cases.
b. Does the system have the function for document tracking (record and report the status of pertinent information regarding all documents sent or served and track document service and follow-up activities)?	Yes. The document can be created or attached to the case data. System keeps track on document flow and status of the documents and can generate relevant reports.
6 Hearings Function	/
a. Does the system have the function for real time user-defined session minutes formatting and entry?	Yes. User can enter session minutes. User can also attach audio recording of the session.
b. Does it have the possibility to distribute court orders electronically?	Yes. Orders can be distributed using task assignment function or by using electronic document flow.
7 Disposition Function	/
a. Can the system identify inactive cases and group of cases (e.g., no activity for 6 months) and prompt user regarding appropriate action (e.g., schedule hearing, prepare notice of motion to dismiss, extend dates)?	Yes. There is no term “inactive” case in the court rule book but rather “old” or outdated case. System provides notices of such cases. The period is defined in the court rule book.
b. Does the system maintain and produce disposition, closure, and sentence information that shows, for each case	Yes.

	and defendant, original and subsequent charges and dispositions and sentences, and reason for closure for each charge?	
8	Compliance and Execution Function	/
	a. Can the system produce compliance documents (e.g., court orders such as revocation of probation, reduction of sentence, writ of execution and abstract of judgment for unpaid assessments)?	Yes.
9	Case Closing Function	/
	a. Can the system record the reasons for case closure or identify the conditions preventing case closure?	Yes. There is type of decision that closes the case. When such decision is made the case can be closed and archived. Closed and archived cases cannot be edited without special order for re-open.
10	Accounting and Financial Function	/
	a. Can the system automatically generate payment receipt statement documents and when proof of payment confirmation?	System can automatically calculate fees based on case type, but courts in Serbia do not allow any payment in the court and hence does not provide any receipt.
	b. Does the system follow any accounting and financial standards?	System can automatically calculate fees based on case type. Serbian courts do not provide payment service.
11	File, Document, and Property Management Functions	/
	a. Does the system have functions for electronic documents and exhibits management system? What type of documents can be uploaded?	Yes. All content types can be uploaded. System is based on Enterprise Content Management System – EMC XCP Documentum defined in the right top corner of Gartner quadrant.
	b. Can the system track and generate reports on file management activities (e.g., file transfer, inactive, and purge reports), including lists of active, inactive, archived, and purged files (e.g., to assist in annual file inventory)?	Yes. System has records management functions that can also be used for retention policy implementation.
12	Security and Data Integrity Function	/
	a. Could you explain how the system enables data integrity?	Data integrity is enforced on 3 levels: <ul style="list-style-type: none"> <li>• EMC XCP Documentum supports High availability, Disaster Recovery and other hardware related data integrity best practices</li> <li>• Object model itself and business logic are designed so that no ungoverned changes can be made to interconnecting data (case lock when case is archived, mandatory fields, dropdowns, etc.)</li> </ul>

	<ul style="list-style-type: none"> <li>Documents, audio and video files, etc. are not stored and accessed directly from file system. They are governed by Content Server strict access rules.</li> </ul>
b. If the main location fails, how do you provide system reliability and availability?	The whole system is designed in fail over mode so that every system function is spread in multiple servers that can take over the whole function if some of the servers fail.
c. What is the security implemented to enable access control and auditing of user behavior in the system?	System can be configured to audit any user action from viewing to deleting. Access control is based on "Access Control Lists" (ACLs) and available actions are based on roles that user has in a system. ACLs are defined for every object in system: case, document, party, session, etc. For example, session minutes are only visible to users that attended it. ACLs define which user can perform any of the object related operations: read metadata, view content, update metadata and content or delete object. The security is not only implemented on metadata but also on the content that is under EMC Documentum Content Server control rather than operating system which improve security.
d. Does the system follow any information security and safety standard?	Yes. More details are provided in the attached document "EMC Documentum security". Also, Atos is certified for ISO 27001 information security standard.
e. Is there quality assurance information available from the system?	System keeps track of user action in two ways. The first one is a business log which is adjusted to court users. There is a tab in a case where all actions relevant from a court user's perspective can be viewed and it is unchangeable. The second is EMC audit trail which is more technical and we use it for performance tuning. It is also unchangeable.
13 Management and Statistical Reports Function	/
a. Does the system provide all the required statistical reports that support the work of the court(s)? What reports are missing, if any, and why?	Yes. No reports are missing.
14 Total Cost of Ownership (LISTED PRICE)	/
a. What is the cost for the system over the period of five (5) years for	We believe that this topic needs to be discussed in much more detail and that it is not just a figure in the table. The price is influenced by number of factor and giving the price without considering them could be misleading. Nevertheless, we provided some guidance in effort estimation and the overall approach for

	your reference and as a basis for further discussion in the attached document We suggest to have a workshop on that subject and also to include EMC.
i. hardware (servers and other specific equipment)	
ii. software, including operating system, other software, system licenses, databases, upgrades and maintenance	
iii. vendor support	
iv. connectivity and network	/
v. other operating expenses of the system?	
15 Integration and Interoperability	/
a. Does the system follow a specific standardized data format?	Yes. EMC Documentum.
b. Does the system have interface to exchange information with other systems? If yes, does it use SOA for the data exchange?	Yes. It is using SOA. The example is interface with SAPO and SAPS (prosecutor offices and prison administration) using Mule ESB and REST web services.
c. Can the system integrate with other (an umbrella) systems that will enable query of data and comprehensive reporting? What is the estimate of the integration effort?	Yes. Should keep in mind that system is already an umbrella. It is a centralized system that provides comprehensive reporting.
16 Human resource requirements for maintaining/supporting the system	/
a. How many persons are assigned in your organization on maintenance of the system?	There are 3 Atos developers that are assigned to maintain the system. With maintenance we also assume sustainable development. The last contract contained 3,000 hours of sustainable development. It envisioned significant changes in court operations, which caused system changes accordingly.
b.	/
c. Do the IT personnel working on the system receive sufficient training in the development technology you use and for how many days in the year?	Yes. Court administrators can manage most of configuration functions of the system on their own.
General questions	/
a. Can you name the relative strengths/weaknesses of the system?	Improvements that were made by SAPS implementation are described in the attached document "Overview of improvements built into the SAPS system".
b. What is your experience in general with the system?	We suppose that this is the question for courts.
c. Do you have any functions that are	We suppose that this is the question for courts.

	missing in the system and you would like to have?	
d.	Do you have any suggestions, recommendations, complaints or comments related to the system?	We suppose that this is the question for courts.

## ANNEX 4: MEETINGS HELD

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## **ANNEX 6: STATEMENT OF WORK**

### **PURPOSE**

The goal of the Serbian Rule of Law Efficiency Review (ROLER) award is to review USAID assistance in improving court efficiency through two objectives:

- 1) To measure the results of the Separation of Powers Program (SPP)'s work in case backlog reduction and prevention in partner courts from 2010 to 2013.
- 2) To assess the performance framework and functionalities of the main case management software systems used by the Serbian judiciary, identify opportunities to optimize their efficient use, and provide recommendations for stakeholder action.

The review, which will be realized through two components, will inform future programming and provide actionable recommendations for USAID, the Ministry of Justice (MOJ), High Court Council (HCC), Delegation of the European Union (EUD), and other relevant stakeholders.

The first component will focus on the USAID-funded Separation of Powers Program the intention is to measure the impact of its work to reduce case backlog in selected partner courts (as compared to courts which did not partner with the SPP program). Recognizing sample size limit a full impact assessment, the contractor should measure results with an eye for any information on impact that can be found.

The second component will review the case management IT systems in the Serbian court network, providing the MOJ and other actors with information and recommendations to optimize court efficiency.

The contractor may propose implementing these two components separately or concurrently in order to achieve the required results. The teams implementing the two components should work together and share information where feasible and relevant, in order to add to the value and quality of the respective deliverables.

The Mission anticipates two separate deliverables for this activity: one report for each component. The first deliverable will be a performance evaluation report of SPP. The second deliverable will be an assessment report of case management systems in Serbia and recommendations for future action.

### **COMPONENT 1: PERFORMANCE EVALUATION OF SEPARATION OF POWERS PROGRAM**

The contractor will conduct a performance evaluation of the Separation of Powers Program (SPP)'s Task 2 implemented by the East-West Management Institute, Inc. (EWMI) under contract 169-C-00-08-00102-00. The purpose is to evaluate the results

of SPP's work from 2010 to 2013 in reducing and preventing backlog of cases in partner courts. This evaluation is meant to serve a dual purpose: (1) to identify the impact the program has had in improving court efficiency; and (2) to provide recommendations that will inform future court administration initiatives in Serbia. An impact evaluation was preferred however sample size may limit the methodology. Contractor should employ techniques that can provide impact information, as possible.

The audience of this evaluation will be USAID/Serbia, HCC, MOJ, other donors, local and international judicial reform stakeholders, and USAID's Europe and Eurasia Bureau and Center for Democracy, Rights and Governance.

### Background and Relationship to Mission Strategy

Recognizing the importance of court efficiency for genuine rule of law in Serbia, in 2008 USAID launched the Separation of Powers Program (SPP) to support improvements in court administration as well as judicial and legislative independence. The six-year program, implemented by the East-West Management Institute, is structured around three tasks:

*Task 1. Judicial branch financial independence:* Developing the capacity of the Serbian judiciary to allocate, acquire, and manage its resources;

*Task 2. Improved court administration:* Assisting the Serbian judiciary in making its administration of justice more efficient, transparent, and responsive to the needs of its users; and

*Task 3. Legislative branch financial independence:* Building the financial capacity of Serbia's National Assembly.

Together, these tasks support the GoS in its effort to build the necessary institutional and democratic practices required for integration with the European Union. Under the Country Development Cooperation Strategy 2013-2017, SPP activities fall under the Development Objective 1: Accountability of Key Democratic Institutions Strengthened and Intermediate Results (IR) 1.1: Parliament and Local Governments are More Responsive to Citizens, and IR 1.2: Rule of Law and Oversight Improved.

During the Separation of Powers Program, Serbian judiciary went through two major reconstructions, in 2010 and 2014. The evaluation team is expected to assess the impact of SPP's interventions in backlog reduction during the period 2010-2013.

The courts of general jurisdiction:

- Basic courts
- High Courts
- Appellate courts
- Supreme Court of Cassation.

The courts of special jurisdiction:

- Misdemeanor courts
- High Misdemeanor court
- Commercial courts
- High Commercial court
- Administrative court.

### Program Approach and Results

SPP works with ten partner courts<sup>20</sup> of general jurisdiction to improve court efficiency and effective case management. The performance objectives for Task 2 included the creation of a position, training and implementation of court managers; improvements in case processing efficiency; and increasing transparency and openness. A substantial piece of Task 2 focused on backlog reduction, the focus of this performance evaluation, including the following two Performance Objectives:

- After four years, the average number of cases pending for more than two years has been reduced, and the average number of cases pending for more than four years in select courts has been reduced. (Performance Objective 10)
- After five years, the average case processing time in selected courts has been reduced. (Performance Objective 15)

With the assistance of SPP, the partner courts identified key internal and external problems, which led to increased backlog and reduced case processing efficiency. SPP provided potential measures and techniques to achieve higher clearance rates, which included:

- 1) creation of backlog reduction team;
- 2) new procedures of monitoring and labeling backlog cases;
- 3) improved delivery/service of documents;
- 4) creation of preparatory department and new procedures in court registry;
- 5) cooperation with external partners of the courts;
- 6) efficient scheduling of court Hearings;
- 7) E-justice measures; and
- 8) new policies regarding court experts.

SPP's approach with partner courts was to focus on one case type, apply selected techniques, analyze the results and then gradually spread successful efforts to other case types. SPP had only an advisory and monitoring role and did not invest any funds in equipment or facilities. By end of 2012, all 10 partner courts were working simultaneously on backlog prevention and reduction on civil and criminal cases. In

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<sup>20</sup> The ten basic and higher partner courts are the Basic Courts in Cacak, Nis, Sremska Mitrovica, Subotica, Uzice, Vranje, and Vrsac, and the Higher Courts in Belgrade, Novi Pazar, and Subotica.

agreement with USAID, SPP excluded old enforcement cases from the overall number of backlog cases.

In 2013, half of the acting court presidents of partner courts were replaced. SPP continued to monitor their work and to cooperate with some of them. SPP's analysis shows that the courts continued to have above average results and the techniques used are now deeply incorporated in the courts' procedures. The new National Judicial Reform Strategy (2013-2018) calls for the creation of a national backlog reduction plan, and, in the second half of 2013, SPP developed a National Backlog Reduction and Prevention Plan, calling for nationwide improvements, based on results achieved by partner courts. SPP presented the Plan to the MOJ, HCC and SCC. The Supreme Court of Cassation took the lead in the backlog reduction and adopted the National Backlog Reduction Plan on December 25, 2013. The Supreme Court of Cassation formed a Working Group, which will use SPP's model to spread it nationwide and to monitor the implementation.

In 2014, SPP continues to support the backlog reduction by switching from an individual to the national level. SPP funded the development of a tracking report within the Case Management System ("AVP") database that the working group will use in monitoring backlog reduction results.

Supreme Court of Cassation has been collecting individual court reports, and issuing annual overall reports. According to the SCC's report for 2013, there are more than 2.8 million pending cases out of which nearly 1.7 million cases are considered "old". The vast majority of "old" cases are enforcement cases. With the new Law on enforcement adopted in 2011, the private enforcement officers were introduced into the system. The positive effect is yet to be seen.

SPP memorialized this work in the Best Practice Guide, released in mid-2012, providing practical guidance to other Serbian courts. The statistics for each court, as of September 2013, are available for the evaluators. Project activities include the following results:

- The six courts participating in SPP's backlog reduction program reduced their combined backlog from over 23,000 cases in 2010 to less than 12,000 cases as of September 30, 2012, a 49% decrease in backlog (well in excess of SPP's targeted 25%-30% reduction).
- The average clearance rate for the five courts participating in SPP's backlog prevention program exceeded 113%, significantly higher than the clearance rate target of 95%.
- SPP developed a template for backlog reduction planning that was initially used by its 10 partner courts. The MOJ subsequently recommended that all Serbian courts use the SPP template for 2012 backlog reduction planning. SPP also provided tools for analyzing and monitoring performance against backlog reduction goals.

- SPP successfully worked with court managers to reduce the enforcement backlog. At the Belgrade First Basic Court, Infostan, the largest utility, entered into payment agreements with 80,000 debtors with multiple enforcement actions against them, resulting in the removal of 600,000 cases from the system.
- Several of SPP's recommended backlog reduction and prevention techniques were incorporated into the new civil and criminal procedure codes, including the use of preliminary hearings to set case schedules and hearings, and improvements to service of process and delivery of court documents.

### Evaluation Questions:

The evaluation team will measure SPP's impact in reducing and preventing case backlog in partner courts, reviewing activities implemented from 2010-2013. Evaluators should identify what SPP has achieved, whether expected results have occurred according to the project's design, and whether those results could have occurred without the program assistance.

Evaluators should answer the following questions, listed in order of priority:

1. What were the results and impact of SPP's interventions for case backlog reduction and prevention in partner courts, compared to courts that were not part of the program, from 2010 to 2013?
2. What were the key factors and lessons learned in generating these results, if any?
3. Building upon key lessons learned, how can Serbian and international stakeholders expand and scale up these results nationally, in order to meet the implementation objectives outlined in Serbia's National Judicial Reform Strategy?

### Data Collection

Evaluators should use a mix of quantitative and qualitative data collection and analysis methods to generate findings. USAID Serbia will provide evaluators with project related documents and will make available data collected by SPP. This includes the following documents:

- SOW for the Separation of Powers Program
- SPP Project quarterly and annual reports, and work plans
- SPP PMP reports and data
- SPP Mid-term Evaluation Report
- AVP reports 2010-2013
- National Judicial Reform Strategy (2013-2018)
- National Backlog Reduction and Prevention Plan/ SPP Best Practice Guide
- Annual Reports from the Supreme Court of Cassation

Evaluators should also review the data provided through these reports, verifying the information through site visits to courts and review of data available through the MOJ's case management system (AVP). Finally, evaluators should also access the High Court Council's budget software, (BPMIS) to help collect court profile data.

The Evaluation Team should develop data collection tools that are consistent with the evaluation questions to ensure high quality analysis. The Evaluation Team is required to share data collection tools with the USAID Evaluation Program Manager for review, feedback and/or discussion with sufficient time for USAID's review before they are applied in the field.

The Evaluation Team will start work on a desk review of all the documents listed above prior to arriving in Serbia. The local evaluation team members should complete the paper review prior to the international team's arrival.

### Evaluation Methodology

The evaluation team will first complete a desk study that will be used to establish an understanding of SPP's activities and environment before arrival in Serbia. Based on this understanding, the evaluation team will prepare a work plan that it will present to the mission at the evaluation in-brief. The methodology will include a mix of tools appropriate to the evaluation's research questions.

Prior to the start of data collection, the evaluation team will develop and present, for USAID/Serbia review and approval, a data analysis plan that details how data received from control and test groups will be analyzed; what procedures will be used to analyze qualitative and quantitative data from key informant and other stakeholder interviews; and how the evaluation will weigh and integrate qualitative data from these sources with quantitative data from indicators and project performing monitoring records to reach conclusions about the effectiveness and efficiency of the activities implemented.

Evaluators should, where feasible, use experimental or quasi-experimental methods. All findings and conclusions/qualitative analysis will be supported by quantitative data, when available, and/or representative examples. The Evaluation Team Leader will provide a draft of all interview protocols to USAID prior to starting interviews. USAID reserves the right to approve/suggest additional questions. The evaluation will be supported by relevant data and information gathered from meetings with program partners and all the relevant stakeholders. The evaluation team will clearly demonstrate links between the recommendations/conclusions and data available.

### Deliverables:

A team planning meeting will be held in Serbia at the outset of the team's field work. This meeting will allow USAID to present the team with the purpose, expectations, and agenda of the assignment. In addition, the team will:

- Clarify team members' roles and responsibilities;
- Establish a team atmosphere, share individual working styles, and agree on procedures for resolving differences of opinion;

- Review and develop final evaluation questions (work out realistic expectations of the team within each of the topic areas);
- Review and finalize the assignment timeline and share with USAID;
- Present data collection methods, instruments, tools, and guidelines (materials should be developed prior to this meeting);
- Review and clarify any logistical and administrative procedures for the assignment;
- Develop a preliminary draft outline of the team's report; and,
- Assign drafting responsibilities for the final report

*Work Plan:* During the team planning meeting the evaluation team will prepare a detailed work plan, which will include the methodologies to be used in the evaluation, timeline, budget and Gantt chart. The work plan will be submitted to the USAID Evaluation Program Manager for approval no later than the sixth day of work.

*Methodology Plan:* A written methodology and data analysis plan (evaluation design, data analysis steps and detail, operational work plan) will be prepared during the team planning meeting and discussed with USAID prior to implementation.

*List of Interviewees and Schedule:* USAID will provide the Evaluation Team with an initial list of interviewees, from which the Evaluation Team can work to create a more comprehensive list. Prior to starting data collection, the Evaluation Team will provide USAID with a list of interviewees and a schedule for conducting the interviews. The Evaluation Team will continue to share updated lists of interviewees and schedules as meetings/interviews take place and informants are added to/deleted from the schedule.

*Data collection tools:* Prior to starting fieldwork, the Evaluation Team will share the data collection tools with the USAID Evaluation Program Manager for review, feedback and/or discussion and approval.

*In-briefing and Mid-term brief with USAID:* The Evaluation Team is expected to schedule and facilitate an in-briefing and mid-term briefing with USAID. At the in-brief, the partner should have the list of interviewees and schedule prepared, along with the Gantt chart that map out the evaluation through the report drafting, feedback and final submission periods. At the mid-term brief, the partner should provide USAID with a comprehensive status update on progress, challenges, and changes in scheduling/timeline.

*Discussion of Preliminary Draft Evaluation Report:* The team will submit a rough draft of the report to the USAID Evaluation Program Manager, who will provide preliminary comments prior to final Mission debriefing. This will facilitate preparation of a more final draft report that will be left with the Mission upon the evaluation team's departure.

*Debriefing with USAID:* The team will present the major findings of the evaluation to USAID/Serbia through a PowerPoint presentation after submission of the draft report and before the team's departure from country. The debriefing will include a discussion of achievements and issues as well as any recommendations the team has for possible modifications to project design approaches, results, or activities. The team will consider USAID/Serbia comments and revise the draft report accordingly, as appropriate.

*Draft Evaluation Report:* A draft report of the findings and recommendations should be submitted to the USAID Evaluation Program Manager prior to the team leader's departure from Serbia. The written report should clearly describe findings, conclusions, and recommendations. Where possible, the draft report should include graphic representation of key program accomplishments and impact. These graphs and other visualizations shall be suitable for use/incorporation in Mission presentations and communications materials. USAID will provide comment on the draft report within two weeks of submission.

*Final Report:* The team will submit a final report that incorporates the team responses to Mission comments and suggestions no later than ten days after USAID/Serbia provides written comments on the team's draft evaluation report (see above). The format will include an executive summary, table of contents, methodology, findings, and actionable recommendations. The report will be submitted in English, electronically. The report will be disseminated within USAID and to stakeholders according to the dissemination plan developed by USAID.

*Success story:* Based on the evaluation findings, the team will prepare a success story on the backlog reduction along with the evaluation report.

*Data Sets:* All data instruments, data sets, presentations, meeting notes and final report for this evaluation will be presented to USAID on CD Rom to the Evaluation Program Manager. All data on the CD will be in an unlocked, editable format.

### Reporting Guidelines

- The evaluation report should represent a thoughtful, well-researched and well-organized effort to objectively evaluate the program.
- Evaluation reports shall address all evaluation questions included in the scope of work.
- Evaluation findings should be presented as analyzed facts, evidence, and data and not based on anecdotes, hearsay or the compilation of people's opinions. Findings should be specific, concise and supported by strong quantitative or qualitative evidence.
- Sources of information need to be properly identified and listed in an annex.
- Recommendations should be supported by a specific set of findings.

- Recommendations should be action-oriented, organized according to whether recommendations are short-term or long-term, practical, and specific, with defined responsibility for the action.
- The evaluation report should include the scope of work as an annex. All modifications to the scope of work, whether in technical requirements, evaluation questions, evaluation team composition, methodology, budget, or timeline need to be agreed upon in writing by USAID.
- Evaluation methodology shall be explained in detail and all tools used in conducting the evaluation such as questionnaires, checklists and discussion guides will be included in an Annex in the final report.
- Evaluation findings will assess outcomes and impact on males and females.
- Limitations to the evaluation shall be disclosed in the report, with particular attention to the limitations associated with the evaluation methodology (selection bias, recall bias, unobservable differences between comparator groups, etc.) and what is being done to mitigate the threats to validity.

### Evaluation report requirements

The format for the evaluation report is as follows:

1. Executive Summary—concisely state the most salient findings and recommendations;
2. Table of Contents;
3. Introduction—purpose, audience, and synopsis of task;
4. Background—brief overview of SPP, USAID project strategy and activities implemented in response to the problem, brief description of SPP project, purpose of the evaluation;
5. Methodology— describes evaluation methods, including threats to validity, constraints and gaps;
6. Findings/Conclusions/Recommendations—for each evaluation question; also include data quality and reporting system that should present verification of spot checks, issues, and outcome;
7. Challenges—provide a list of key technical and/or administrative, if any;
8. References (including bibliographical documentation, meetings, interviews and focus group discussions);
9. Annexes—annexes that document the evaluation methods, schedules, interview lists and tables—should be succinct, pertinent and readable.

The final report will be reviewed using the Checklist for Assessing USAID Evaluation Reports ([http://www.usaid.gov/policy/evalweb/evaluation\\_resources.html](http://www.usaid.gov/policy/evalweb/evaluation_resources.html)).

The final evaluation report will conform to the Criteria to Ensure the Quality of the Evaluation Report found in Appendix I of the USAID Evaluation Policy. The USAID Evaluation Program Manager will determine if the criteria are met. This evaluation will not conclude until the Evaluation Program Manager has confirmed, in writing, that the report has met all of the quality criteria.

The final version of the evaluation report will be submitted to USAID/Serbia electronically. The report format should be restricted to Microsoft products and 12-point type font should be used throughout the body of the report, with page margins 1" top/bottom and left/right. The report should not exceed 30 pages, excluding references and annexes.

## **COMPONENT 2: ASSESSMENT OF CASE MANAGEMENT SOFTWARE IN SERBIAN COURT NETWORK**

At present, there are a variety of case management software applications operating in the Serbian justice sector. The National Judicial Reform Strategy calls for a comparative overview of all information technology (IT) systems working in the area of case management and states that the GoS seeks to unify the management systems "in order to achieve a centralized management and operation of the systems, which would enable their intercommunication."<sup>21</sup>

The purpose of this assessment is to deliver high-quality, independent analysis to assist the MOJ with that comparative overview by reviewing the currently existing case management software utilized throughout the court network in Serbia, assess their technical capacities to be further developed towards a unified system and to develop recommendations for consideration by the Ministry and other interested parties.

### Background

The Serbian court system currently utilizes two main types of case management software: AVP and SAPS. AVP was first implemented in 2008 for 20 commercial courts with USAID assistance through the Commercial Court Administrative Strengthening Activity (CCASA), implemented by Booz Allen Hamilton. AVP is a product of Mega Serbia, a local software firm. After AVP was piloted in the commercial courts, the MOJ later expanded the rollout of AVP throughout the court system. Today AVP is available and operates in all Basic, Commercial and Higher Courts. A similar system (also developed by Mega Serbia) is being considered for the Misdemeanor Courts.

In 2009, the European Union made a grant to the Serbian Government to deploy a case management system called Standardized Software Application (SAPS) for the Serbian Judiciary (the project was implemented by the business technology firm Atos). The goal was to improve the efficiency and transparency of the Judicial System of Serbia by developing and introducing a centralised information system. The project began in March 2010 and by January 2013 SAPS was developed, users trained and deployed in the Supreme Court of Cassation; Appellate Courts in

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<sup>21</sup> National Judicial Reform Strategy 2013-2018, Page 19.

Belgrade, Novi Sad, Nis and Kragujevac; the Administrative Court; and as a pilot in the Basic and Higher Courts in Sremska Mitrovica.

In addition, some courts may be using their own customized case management systems, which have been developed internally.

### Purpose

The purpose of this assessment is to inform the implementation of the National Judicial Reform Strategy by providing independent high-quality, comprehensive expert analysis that will help Serbian decision makers achieve key benchmarks as negotiations towards EU accession commence.

The National Judicial Reform Strategy, passed in 2013, emphasizes the importance of transparency, accountability and efficiency for effective rule of law. Effective and unified case management system is important to implement that vision for several reasons: first, it improves internal court management and ensures more efficient and cost-effective services to the public; second, it provides the MOJ, High Court Council and others with information necessary for evidence-based decision making, resource allocation, and annual budgeting.

Given the existence and usage of different case management systems, the MOJ - in partnership with the courts, EUD, USAID, and other stakeholders – repeatedly sought for a comprehensive expert analysis that can provide options for identifying efficiencies and paths forward. Therefore, the Assessment Team will analyze the current case management systems operating throughout the Serbian court network and develop recommendations of ways forward for consideration by the MOJ. The focus for this independent assessment should be on case management systems operating in the courts – primarily AVP and SAPS.

However, the assessment should provide a review of all existing case management systems in the judiciary, including links of the case management with prosecution and prison administration.

The recommendations developed as part of this assessment should be practical and cost effective in nature, reflecting the budgetary and bureaucratic realities facing the MOJ as well as the donor community—yet without sacrificing overall system reliability /availability, data integrity and access control management. Therefore recommendations should be concrete, and where possible, intended to improve what already exists rather creating a new “perfect” but cost prohibitive solution. USAID doesn’t seek recommendations that pick one system versus another, per se, but rather considerations for how the existing applications could be integrated or unified.

This implies the preparation of a specific and detailed Total Cost of Ownership analysis for the nation- wide running (i.e. development/installation/implementation cost, training and maintenance costs, total licensing costs, and any costs related to

additional hardware and/or software upgrades or licenses needed, interconnectivity cost, human resources needed for maintaining the application) of the currently available systems.

As with all research, and given the sensitive background of two local IT companies providing two 'competing' systems, independence is paramount for the findings and recommendations to be valuable and trusted. The Assessment Team will adhere to strict standards of independence, ethics, and analytical rigor.

USAID intends to conduct this assessment in partnership with the MOJ and the EU Delegation to Serbia throughout this process. All final assessment findings will be provided to USAID, MOJ, and EU Delegation.

### Assessment Questions:

The Assessment Team will answer the following questions:

1. What are the relative strengths/weaknesses of AVP and SAPS? [Analysis should include at a minimum consideration of technical functionality, addressing information security (data integrity, system reliability, availability, access control and auditing etc.), TCO (Total Cost of Ownership) over the period of five (5) years, experience to date, and human resource requirements for maintaining/supporting each system; other criteria may also be proposed.]
2. Provide five (5) recommendations to MOJ and other stakeholders for ways to optimize the utilization of current case management software applications, in order to meet the relevant goals in the National Judicial Reform Strategy. (Include estimates of costs for these recommendations, including hardware, software, connectivity, and human resource requirements.)
3. Based on answers to (1) and (2), provide three (3) recommendations to inform the development of the MOJ's IT Strategy for the judiciary.

### Data Collection

As highlighted earlier, the value of this assessment is directly linked to the independence and rigor of the team and methodology. By conducting an independent evaluation, the credibility of its findings and recommendations will be elevated for all stakeholders.

The Assessment Team will first conduct a desk study, reviewing all materials provided by USAID, the MOJ, EU Delegation or other stakeholders prior to arriving in Serbia. The local team members should complete the paper review prior to the international team's arrival.

The Assessment Team should then develop data collection tools that are consistent with the assessment questions to ensure high quality analysis. The Team is required to share data collection tools with the USAID Program Manager for review,

feedback and/or discussion with sufficient time for USAID's review before they are applied in the field.

Documents to be provided include:

- National Judicial Reform Strategy (2013-2018)
- ICT Strategy Report/Concept Note for the Judicial Functional Review (being conducted by MDTF WB)
- National Backlog Reduction and Prevention Plan/ SPP Best Practice Guide
- CCASA program Final Report
- SAPS Project documentation
- Annual Reports from the Supreme Court of Cassation

The Assessment Team will be given access with test databases to AVP and SAPS application systems and should travel throughout Serbia's court network for interviews and review of systems.

A team planning meeting will be held in Serbia at the onset of the Assessment's field work. This meeting will allow USAID to present the team with the expectations of the assignment. In addition, the team will:

- Clarify team members' roles and responsibilities;
- Review final assessment questions to confirm shared understanding and expectations
- Review and finalize the assignment timeline and share with USAID;
- Present data collection methods, instruments, tools, and guidelines (materials should be developed prior to this meeting);
- Review and clarify any logistical and administrative procedures for the assignment;
- Develop a preliminary draft outline of the team's report; and,
- Assign drafting responsibilities for the final report

The data collection methodology will be comprised of a mix of tools appropriate to the research questions. These tools may include a combination of the following:

- Conducting a functional analysis to identify courts' needs and operations
- Reviewing each of the case management systems to identify their capabilities
- Key informant interviews and focus groups of users of AVP, SAPS, and other existing systems, to understand needs, identify functionality of each system, user-friendliness, and requirements on application supporting/maintenance staff (including requirements for training)

### Data Analysis Methods

Prior to the start of data collection, the assessment team will develop and present, for USAID/Serbia review and approval, a research plan that details how stakeholders will

be included in the process (including MOJ, USAID, European Union), how information will be collected and analyzed; and how the assessment will weigh and integrate qualitative data from these sources with quantitative data received from analysis of the software to reach conclusions about costs and benefits of the various software solutions.

Analysis should lead the development of five recommendations for consideration by the MOJ on ways forward to improve effective case management in Serbia.

### Deliverables

**Work Plan:** During the team planning meeting the Assessment Team will prepare a detailed work plan, which will include the methodologies to be used in the evaluation, timeline, budget and Gantt chart. The work plan will be submitted to the USAID Evaluation COR for approval no later than the sixth day of work.

**Methodology and Data Collection Plan:** A written methodology and data analysis plan (design, data analysis steps and detail, operational work plan) will be prepared during the team planning meeting and discussed with USAID prior to implementation.

**List of Interviewees and Schedule:** USAID will provide the Assessment Team with an initial list of interviewees, from which the Assessment Team can work to create a more comprehensive list. Prior to starting data collection, the Assessment Team will provide USAID with a list of interviewees and a schedule for conducting the interviews. The Assessment Team will continue to share updated lists of interviewees and schedules as meetings/interviews take place and informants are added to/deleted from the schedule.

**In-briefing and Mid-term brief with USAID:** The Assessment Team is expected to schedule and facilitate an in-briefing and mid-term briefing with USAID. At the in-brief, the partner should have the list of interviewees and schedule prepared, along with the Gantt chart that maps out the assessment through the report drafting, feedback and final submission periods. At the mid-term brief, the partner should provide USAID with a comprehensive status update on progress, challenges, and changes in scheduling/timeline.

**Discussion of Preliminary Draft Assessment Report:** The team will submit a rough draft of the report to the USAID Program Manager, who will provide preliminary comments prior to final Mission debriefing. This will facilitate preparation of a more final draft report that will be left with the Mission upon the Assessment Team's departure.

**Debriefing with USAID:** The Assessment Team will present the major findings to USAID/Serbia through a PowerPoint presentation after submission of the draft report and before the team's departure from country. The debriefing will include a discussion of achievements and issues as well as any recommendations the team has for possible modifications to project design approaches, results, or activities.

The team will consider USAID/Serbia comments and revise the draft report accordingly, as appropriate.

***Draft Assessment Report:*** A draft report of the findings and recommendations should be submitted to the USAID Program Manager prior to the team leader's departure from Serbia. The written report should clearly describe findings, conclusions, and recommendations. USAID will provide comment on the draft report within two weeks of submission.

***Final Report:*** The team will submit a final report that incorporates the team responses to Mission comments and suggestions no later than ten days after USAID/Serbia provides written comments on the team's draft assessment report (see above). The format will include an executive summary, table of contents, methodology, findings, and at least two actionable options for consideration by the MOJ. Where possible, the report should use easy to read tables or graphic representation of key findings. The report will be submitted in English, electronically. The report will be disseminated within USAID and to stakeholders according to the dissemination plan developed by USAID.

***Data Sets:*** All data instruments, data sets, presentations, meeting notes and final report for this assessment will be presented to USAID on CD Rom to the Program Manager. All data on the CD will be in an unlocked, editable format. All data sets will be shared with the MOJ and the EUD.

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