JUSTICE SYSTEM REFORM ACTIVITY
IN KOSOVO

WORKSHOP

ELIMINATING BACKLOGS AND IMPROVING CASEFLOW MANAGEMENT IN CIVIL EXECUTION CASES

Presented by the

NATIONAL CENTER FOR STATE COURTS

PRISTINA, KOSOVO

December 6, 2005

INDEX

TAB 1. Seminar Overview
- **Seminar Objectives**
- **Agenda**

TAB 2. Data on Pending Caseloads and Case Processing Times

TAB 3. Materials on Backlog Reduction

TAB 4. Materials on Planning for Improved Management of Newly Filed Civil Execution Cases

SEMINAR OBJECTIVES

At the conclusion of this seminar, participants should:

1. Be familiar with basic concepts and techniques of caseflow management and backlog reduction as applied to civil execution cases.

2. Be able to develop goals, strategies, and action plans for reducing backlogs of old cases and reducing the overall size of the pending caseload.

3. Know how to monitor progress and identify problems in implementing a backlog reduction project.

4. Be able to develop plans for improving the management of civil execution cases filed in the future.

Workshop on Eliminating Backlogs and Improving Caseflow Management in Civil Execution Cases in Kosovo

Pristina, Kosovo

6 December 2005

AGENDA

09:30 – 10:00	**Registration**
10:00 – 10:20	**Welcome; introductions; overview of the workshop**
10:20 – 10:40	**Plenary: The current situation – data on pending caseloads and case processing times in civil execution cases**
10:40 – 11:10	**Plenary: Caseflow management and backlog reduction in civil execution cases: the basics**
11:10 – 11:25	**Team session # 1: Developing case processing time standards for civil execution cases**
11:25 – 11:40	**BREAK**
11:40 – 11:50	**Plenary: Reports back from team session # 1**
11:50 – 12:15	**Plenary: Attacking old case backlogs – what needs to be done?**
12:15 – 12:40	**Team session # 2: Initial planning for backlog reduction**
12:30 – 12:50	**Plenary: Reports back from team session # 2**
12:50 – 1:45	**LUNCH**
1:45 – 2:00	**Plenary: Engaging key stakeholders and developing effective action plans to eliminate backlogs**
2:00 – 2:40	**Team session # 3: Action planning for backlog reduction**

2:4 – 3:00	**Plenary: Reports back – presentation of team plans; discussion**
3:00 – 3:15	**BREAK**
3:15 – 3:40	**Plenary: Improving the management of newly filed cases**
3:30 – 4:00	**Peer group session: Improving systems for handling new cases in the future**
4:30 – 5:00	**Plenary: Reports back from peer group session; discussion**
5:00 – 5:30	**Concluding Session: Evaluations; discussion of NCSC technical assistance capabilities and availability; closing comments by faculty**
5:30	**ADJOURN**

INTRODUCTIONS

Thinking About Improved Management of Civil Execution Cases

Please briefly introduce yourself (name, court, and position) and answer the following question:

<u>Apart from resources,</u> what is the most significant obstacle that your court faces in resolving civil execution cases speedily?

Pending Civil Execution Cases

Court	Pending cases (January 1, 2004)	Cases received (2004)	Total Cases (2004)	Solved cases (2004)	Pending Cases (January 1, 2005)
Pristina	7,898	3,085	10,983	1,385	9,598
Ferizaj	1,728	1,644	3,372	911	2,455
Gllokovc	95	209	304	130	174
Kacanik	653	458	1,111	148	963
Lypian	84	146	230	114	111
Podujeva	383	724	1,107	304	803
Mitrovica	1,672	683	2,355	1,282	1,073
Skenderaj	137	759	896	702	194
Vushtrri	138	500	638	365	247
Leposavic	7	30	37	24	12
Zubin Potok	1	19	20	12	8
Gjilan	1,900	887	2,787	444	2,343
Kamenica	77	255	332	195	136
Viti	321	503	824	139	650
Peja	17,311	5,767	23,078	6,225	16,853
Decan	436	468	904	51	853
Gjakova	4,454	3,170	7,624	201	5,123
Istog	773	418	1,191	196	995
Klina	572	N/A	N/A	N/A	N/A
Prizren	347	1,410	1,757	561	1,196
Dragash	21	64	85	62	23
Malisheva	37	29	66	13	53
Radovec	153	456	609	234	375
Suhareka	93	152	245	89	156
Total	**39,291**	**21,836**	**60,555**	**13,787**	**44,394**

Note: DJA data

Disposition of Civil Execution Cases

Court	Pending cases (January 1, 2004)	Cases received (2004)	Total Cases (2004)	Solved cases (2004)	Cases solved v. cases received (2004)	Cases solved v. total cases (2004)
Pristina	7,898	3,085	10,983	1,385	45%	13%
Ferizaj	1,728	1,644	3,372	911	55%	27%
Gllokovc	95	209	304	130	62%	43%
Kacanik	653	458	1,111	148	32%	13%
Lypian	84	146	230	114	78%	50%
Podujeva	383	724	1,107	304	42%	27%
Mitrovica	1,672	683	2,355	1,282	188%	54%
Skenderaj	137	759	896	702	92%	78%
Vushtrri	138	500	638	365	73%	57%
Leposavic	7	30	37	24	80%	65%
Zubin Potok	1	19	20	12	63%	60%
Gjilan	1,900	887	2,787	444	50%	16%
Kamenica	77	255	332	195	76%	59%
Viti	321	503	824	139	28%	17%
Peja	17,311	5,767	23,078	6,225	108%	27%
Decan	436	468	904	51	11%	6%
Gjakova	4,454	3,170	7,624	201	6%	3%
Istog	773	418	1,191	196	47%	16%
Klina	572	N/A	N/A	N/A	N/A	N/A
Prizren	347	1,410	1,757	561	40%	32%
Dragash	21	64	85	62	97%	73%
Malisheva	37	29	66	13	45%	20%
Radovec	153	456	609	234	51%	38%
Suhareka	93	152	245	89	59%	36%
Total	**39,291**	**21,836**	**60,555**	**13,787**	**63%**	**23%**

Note: DJA data

Caseloads of Execution Clerks

Court	Total Cases (2004)	Solved cases (2004)	Execution clerks (2004)	Number of cases per execution clerk	Number of cases solved per execution clerk
Pristina	10,983	1,385	10	1,098.30	138.50
Ferizaj	3,372	911	5	674.40	182.20
Gllokovc	304	130	1	304.00	130.00
Kacanik	1,111	148	1	1,111.00	148.00
Lypian	230	114	1	230.00	114.00
Podujeva	1,107	304	1	1,107.00	304.00
Mitrovica	2,355	1,282	5	471.00	256.40
Skenderaj	896	702	2	448.00	351.00
Vushtrri	638	365	1	638.00	365.00
Leposavic	37	24	1	37.00	24.00
Zubin Potok	20	12	1	20.00	12.00
Gjilan	2,787	444	5	557.40	88.80
Kamenica	332	195	1	332.00	195.00
Viti	824	139	1	824.00	139.00
Peja	23,078	6,225	6	3,846.33	1,037.50
Decan	904	51	2	452.00	25.50
Gjakova	7,624	201	5	1,524.80	40.20
Istog	1,191	196	2	595.50	98.00
Klina	N/A	N/A	2	N/A	N/A
Prizren	1,757	561	6	292.83	93.50
Dragash	85	62	1	85.00	62.00
Malisheva	66	13	2	33.00	6.50
Radovec	609	234	1	609.00	234.00
Suhareka	245	89	1	245.00	89.00
Total	**60,555**	**13,787**	**64**	**955.11**	**215.42**

Note: DJA data

PURPOSES OF COURTS

1. **To do individual justice in individual cases**

2. **To appear to do justice—*i.e.,* demonstrate the workings of a fair and responsible judiciary**

3. **To provide an impartial forum for the resolution of legal disputes**

4. **To protect against the arbitrary use of governmental power**

5. **To establish a formal record of legal status**

6. **To enable effective enforcement of rights and obligations**

CASEFLOW MANAGEMENT

What is it?

<u>Caseflow management</u> is the coordination of court processes and resources to ensure that cases move from filing to resolution in a timely manner.

- **It involves the entire set of actions that a court takes to monitor and supervise the progress of cases, from initiation to conclusion.**

- **It has both micro and macro aspects**
  - **Organization and management of daily dockets**
  - **Management of individual cases**
  - **Management of the court's overall pending caseload**
  - **Visioning and strategic planning**
  - **Budgeting and resource utilization**
  - **Court and justice system leadership**

The core purpose of caseflow management is to enable justice to be done promptly and fairly in all cases.

WHY IS CASEFLOW MANAGEMENT IMPORTANT?

Widespread concerns about court delays:

"The excessive length of judicial proceedings is a central concern of the Council of Europe."

European Commission for the Efficiency of Justice, *Framework Programme* (June 2004)

Effective caseflow management enables courts to achieve their core purposes.

Focusing on caseflow management leads to improvements throughout court operations.

- **Must re-examine traditional practices**
- **Need to acquire and use reliable information**
- **Highlights education and training needs**
- **Leads to improved use of information technology**
- **Excellent caseflow management is a pre-requisite for high performance throughout the court**
- **Will lead to lower workloads for judges and staff**

GOALS OF CASEFLOW MANAGEMENT

1. **Fair treatment of all litigants**
   - **Similar cases treated similarly**
   - **Fair processes**

2. **Timely disposition of cases**
   - **Time frames can vary, depending on case complexity and other circumstances**

3. **Adequate time and opportunity for**
   - **Case preparation**
   - **Negotiation concerning resolution**
   - **Consideration of difficult issues**

4. **Predictability/certainty in case scheduling**

5. **High quality litigation process**

6. **Effective use of limited resources**

7. **Public confidence in the court**

COMMON ELEMENTS OF SUCCESSFUL PROGRAMS TO ELIMINATE BACKLOGS AND REDUCE DELAYS

1. **LEADERSHIP**
2. **GOALS**
3. **INFORMATION**
4. **COMMUNICATIONS**
5. **CASEFLOW MANAGEMENT PROCEDURES**
6. **JUDICIAL COMMITMENT**
7. **STAFF INVOLVEMENT**
8. **EDUCATION AND TRAINING**
9. **MECHANISMS FOR ACCOUNTABILITY**
10. **BACKLOG REDUCTION and CONTROL OF PENDING CASELOAD**

LEADERSHIP

"The ability to translate ideas into reality and sustain them over time."

- Warren Bennis

LEADERSHIP IN ORGANIZATIONS REQUIRES:

- **A reputation for personal integrity**
- **Personal competency**
- **A vision for the future**
- **A commitment to the organization**
- **A willingness to persist**

SUCCESSFUL LEADERSHIP IN BACKLOG AND DELAY REDUCTION REQUIRES:

- **Understanding what needs to be done**
- **Making the decision to do it.**
- **Making a public commitment to eliminating the backlog and reducing delays**
- **Communicating the need for action**
- **Marshalling the resources needed for success**
- **Monitoring progress and fixing problems**
- **Persisting in moving toward the goals**
- **Rewarding those who make success possible**

MANAGING CIVIL EXECUTION CASES

Suggested Goals

- **Eliminate old case backlogs**
- **Achieve case processing time standards**
  - **Need standards for all major case types**
  - **May want both interim (short-term) and long-term standards**
- **Dispositions per year consistently exceed new filings**
- **Pending caseloads at manageable level**
- **Appropriate (and flexible) utilization of limited court resources**

WHY ARE CASE PROCESSING TIME STANDARDS VALUABLE?

1. **Provide a statement of purpose and intent**
   - **Set forth what the court will seek to accomplish**

2. **Acknowledge the public interest in the work of courts**
   - **prompt and fair resolution of cases**
   - **Effective enforcement of judgments and other legal obligations**

3. **Establish expectations**
   - **Lawyers, parties, and court staff will know how long cases are expected to take**

4. **Provide a framework for scheduling case events in individual cases**

5. **Provide a way of measuring overall effectiveness in caseflow management**

6. **Stimulate self-examination and continuing assessment of case management practices**

COMMON OBSTACLES TO ACHIEVING TIME STANDARDS

1. **Existing practices may make it impossible to achieve the standards. For example:**
   - **No procedures for dealing with complex cases separately from other cases**
   - **First in-first out approach to resolving cases – priority always given to oldest case**
   - **All cases follow same procedures, with same events and similar timing**
   - **No way to identify cases that can be resolved easily and quickly with early court intervention**
2. **Judges and staff may not be familiar with techniques for effective case management.**
3. **Lawyers and parties may resist efforts to resolve cases expeditiously.**
4. **Existing caseload may be so large that judges and staff are discouraged from attempting to achieve ambitious time standards.**
5. **Court may lack timely and reliable information about caseloads and individual cases.**
6. **Court may nor have enough judge and/or staff resources**

Team Session # 1

Examining Possible Civil Execution Case Processing Time Standards for Kosovo

Assume that the following case processing time standards have been suggested for civil execution cases in Kosovo courts:

<u>Newly filed cases:</u> All non-complex cases resolved within four months after filing
All cases resolved within one year after filing

<u>Backlog elimination:</u> No cases pending for more than 2 years since filing

Consider the following questions:

1. **Is it feasible to achieve these standards within a five year period?**

2. **If not, what revisions would your group suggest?**
   - **What is the timeframe within which <u>most</u> cases should be finished?**
   - **What is the maximum period (the timeframe within which all cases should be completed)?**

3. **What will be the most difficult obstacles to achieving appropriate case processing time standards?**

4. **What are the most important things that each of the following can do to help achieve appropriate time standards:**

   - **Court presidents**
   - **Judges handling civil execution cases**
   - **Assistant judges**
   - **Execution clerks**
   - **Other registry staff**

Report Form – Team Session # 1 Court: _____

Examining Possible Civil Execution Case Processing Time Standards for Kosovo

How (if at all) should the hypothetical case processing time standards be revised?

What will be the most difficult obstacles in implementing case processing time standards?

1.

2.

3.

4.

What are the most important things that each of the following can do to help achieve the time standards?

- **Court Presidents**
- **Judges handling civil execution cases**
- **Assistant judges**
- **Execution clerks**
- **Other Registry staff**

DEFINITIONS

Backlog: **The number of cases pending for more than an acceptable period of time**

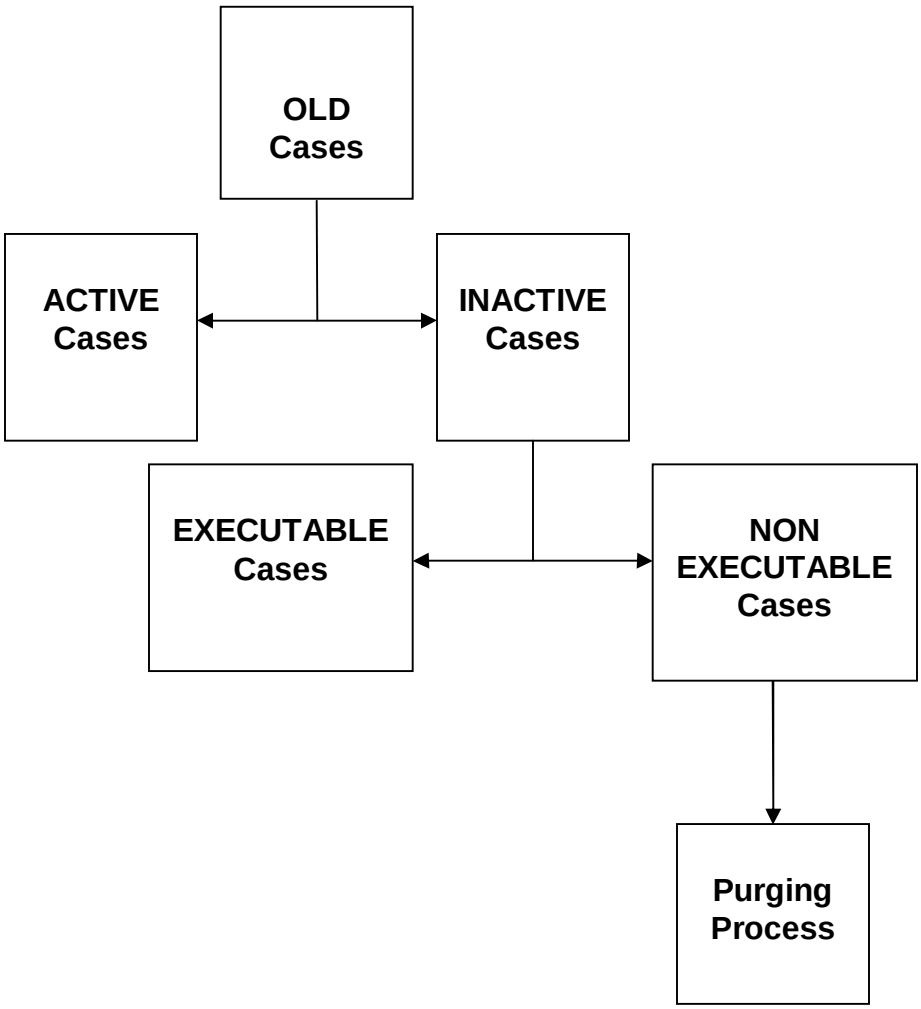
or

the number of cases pending for more than the case processing time standard applicable to that category of cases

*** * ***

Delay: **Any elapsed time other than reasonably necessary required for pleadings, discovery, and court events.**

BACKLOG IDENTIFICATION AND CLASSIFICATION



SUGGESTED DEFINITIONS

A CASE IS	IF
Old	**the case was filed 24 months or more prior to the date of inquiry.**
Inactive	**the last action on the case was taken 12 months or more prior to the date of inquiry.**
Non-executable	**one of the following affirmations is true:** • **The debtor is unknown or deceased.** • **The debtor's location is unknown or is outside the jurisdiction of Kosovo courts.** • **The debtor has no assets or is insolvent.**

CLASSIFICATION OF CIVIL EXECUTION CASES: SAMPLE CATEGORIES

1. **Age (years/months since filing)**

2. **Routine or complex case**
   A case will be classified as routine if all the following criteria apply:
   - **There is information on the debtor and his assets.**
   - **The creditor is seeking execution against monetary assets (bank account, salary) or the creditor is seeking execution against non-monetary assets but can be satisfied without having to go to auction.**
   - **There are no external factors which may impede the execution.**

3. **Type of debt for collection**
   - **Utility bill**
   - **Alimony**
   - **Unpaid loan**
   - **Court judgment against debtor**

   Etc

4. **Type of asset(s) sought for execution**
   - **Bank account**
   - **Salary**
   - **Land/house**
   - **Equipment**

   Etc

5. **Name of debtor**

6. **Name of creditor**

OLD CASE PURGING PROCESS SUGGESTED STEPS

1. **Advertise the purging process in the news media:**
   - **the objectives of the process**
   - **the locations of the notice boards**
   - **the timeline of the process**
2. **Notify the parties in eligible cases:**
   - **If the address is known, deliver summons.**
   - **In all cases, post the names of the parties on a notice board at the court.**
3. **Require the parties to report to the court within a deadline of 30 days.**
4. **<u>If the parties do not report to the court within the deadline</u>, the court may elect to either place the case on an inactive backlog list or simply dismiss the case.**
5. **<u>If the parties report to the court within the deadline</u>, they will be given the option to:**

   a. **Withdraw the case.**

   b. **Transfer the case to mediation.**

   c. **Keep the case in the court. If the case is kept in the court, the creditor should be informed that in the absence of additional information or activity within 90 days the court may elect to either place the case on an inactive backlog list or simply dismiss the case.**

OLD CASE PURGING PROCESS
DISPOSITION OF CASES

1. **Withdrawal by the creditor.**
2. **Dismissal by the court.**
3. **Setting aside on an inactive backlog list.**
4. **Transfer to mediation.**

Grounds for dismissing or setting aside the case

1. **The case is eligible for the purging process.**
2. **The court has made a good faith effort to obtain information on the debtor and his assets but no information was obtained. The debtor is therefore presumed unknown or insolvent.**
3. **The creditor is notified of the lack of information or activity and that failure to provide the court with additional information within 90 days will lead to dismissal or setting aside as inactive. *And***
4. **The creditor fails to report to the court or fails to provide additional information.**

Mediation for old case purging process

1. **The case is eligible for the purging process.**
2. **The court has set a "mediation day". A team of retired judges, judges in training and/or judges from neighboring courts have been put together.**
3. **The parties have elected to bring their case to mediation.**
4. **The objectives of the mediation process should be (a) catalyze agreement between the parties on a settlement; and (b) dispose of the case unless evidence of activity is presented.**

PRIORITIZING EXECUTION CASES USING A COMPUTERIZED CASE DATABASE

Objectives:

1. **Improve the understanding of the nature and type of caseload.**
2. **Facilitate resource allocation.**
3. **Allow for prioritization of case resolution.**
4. **Ensure that time targets are met.**
5. **Highlight patterns in case resolution (or non-resolution).**

Contents:

1. **Date of initial filing**
2. **Actions by the parties/court and their dates**
3. **Date of last action**
4. **Debtor and creditor names**
5. **Debtor and creditor addresses**
6. **Asset information**
7. **Type of debt to be collected**
8. **Type of asset against which execution is sought**

The database should enable the implementation of prioritization criteria. For example it should facilitate identification of:

- **Cases pending longer than the backlog threshold time standard.**
- **Type of debt to be collected (for example, alimony).**
- **Quality of information available - i.e. names, addresses, asset information**

PLANNING FOR BACKLOG REDUCTION: FIRST STEPS

1. Define "backlog" for your court.

- **Does the court have civil execution case processing time standards? (If so, any cases older than the maximum period allowed under the relevant standard are part of the backlog)**
- **If the court does not have standards, what do court leaders regard as an <u>acceptable</u> time for resolving cases of particular types? (older cases = backlog)**

2. Define "active", "inactive" and "non-executable" cases for your court.

3. Set priorities for case categories. Which components of the backlog should be eliminated first?

4. Take inventory of top priority category, beginning with the oldest cases by the year in which the cases were filed.

- **Review registers**
- **Review case files if necessary**
- **Make lists of unresolved cases, by year filed**

5. Create a simple computerized database, usable for recording the inventory data and tracking future actions

6. Record, in the database, the information needed to take action to resolve the case.

7. Develop a plan for resolving the backlog cases.

8. Identify and organize the resources needed to resolve the cases in the backlog.

9. Develop a plan to prevent recently filed and new filed cases from falling into backlog status.

CONDUCTING AN INVENTORY OF OLD CIVIL EXECUTION CASES

1. Identify person(s) to conduct the inventory and maintain the database

- **Will need to provide training and supervision**

2. Create a simple computerized database organized by year of case filing.

3. Review registers, starting with register with oldest open cases. Identify all unsolved cases.

4. For each unresolved case on each year's list of cases, enter key information into the database:

- **Case number**
- **Date filed**
- **Case title – creditor and debtor names**
- **Amount sought**
- **Specific asset information, including identity of third parties named as holding assets**
- **Last court event**
- **Date of next scheduled court event**
- **Reason for delay (if easily ascertainable)**
- **Complexity of the case**
  - **E.g.: Routine – Complex**
- **Classify: active or inactive**
  - **If inactive, why?**
- **Action needed to resolve the case**
- **Contact information for**
  - **Parties - lawyers - asset holders**

Most information should be in registers. Use physical case files if necessary.

After the inventory has been completed, what should be done?

1. Set goals for eliminating portions of the backlog within specific time periods.

- **Example: All civil execution cases filed in 2003 or before to be resolved by 30 June 2006; all cases over 18 months to be resolved by 31 December 2006**

2. Identify and organize resources needed to eliminate the backlog.

- **Who will be responsible for leading the project?**
- **What resources will be necessary?**
  - **Judges - Judicial assistants - Execution clerks**
  - **Other Registry staff - Messengers**
  - **Courtrooms - Conference rooms**

3. Using the computerized database, sort cases by category, including the following categories:

- **Old cases (e.g., cases over 2 years since filing)**
- **Inactive cases (e.g., no activity for at least one year)**
- **Non-executable cases, including:**
  - **Debtor is unknown or deceased**
  - **Debtor's location is unknown**
  - **Debtor has no assets (insolvent)**
- **Active cases**

4. Take steps to dispose of old, inactive, and non-executable cases:

- **Notify creditor of inactivity and/or lack of information on which to proceed. Advise creditor that failure to provide essential information within 90 days will result in dismissal of the case.**
- **To notify: mail to last known address; post notice in newspapers and on notice board in courthouse**

5. Develop plan and procedures to resolve active cases

Team Session # 2
Initial Planning for Backlog Reduction

Please discuss the following questions and complete the attached form.

1. Who in the court will be responsible for conducting the inventory?

- **Who will lead the project?**
- **Who else will be involved?**

2. What must be done in order to create the computerized database of information about pending cases?

- **Does the court have the necessary computer and software?**
- **Who would enter the data?**
- **Who would maintain the database?**

3. What resources will be needed to conduct the project?

- **Personnel**
- **Facilities and equipment**
- **What source(s) for additional resources needed:**
    - **Reallocate from other duties**
    - **Other sources – what?**

4. What changes, if any, should be made to the definition of old, inactive and non-executable cases?

5. Can active cases be separated from the old, inactive, and non-executable cases?

- **If so, what cases should receive priority?**
- **If not, what alternative approach will enable expeditious elimination of the backlog?**

6. What revisions would have to be made in existing practices and procedures in order to?

- **Expeditiously bring old, inactive, and non-executable cases to disposition?**
- **Efficiently resolve active cases filed within the last two years?**

Planning Form – Team Session # 2 **Court_____**

Initial Planning for Backlog Reduction

1. Who in the court will be responsible for conducting the inventory?

- **Project leader:**
- **Others involved:**

2. What must be done to create the database of information about pending cases?

3. What resources will be needed to conduct the project?

- **Personnel**
- **Facilities and equipment**
- **Sources of the resources:**

4. What changes, if any should be made to the definition of:

- **Old cases**
- **Inactive cases**
- **Non-executable cases**

5. Is it feasible to separate the active cases from the old, inactive, and non-executable cases?

a) If so, what cases should receive priority?

b) If not, what alternative approach will be taken?

6. What revisions will have to be made in existing practices and procedures?

a) For handling old, inactive, and non-executable cases?

b) For efficiently resolving active pending cases?

REDUCING THE BACKLOG OF ACTIVE CIVIL EXECUTION CASES

1. **Using the computerized database, sort cases into categories that will facilitate effective management**
   - **Classify by age. Begin with oldest cases.**
   - **Classify by whether "routine" or "complex"**

2. **Create separate calendars/dockets for routine cases and complex and routine cases.**

3. **Cluster cases same persons or entities**
   - **E.g.: creditors/debtors/asset holders**
   - **Try to resolve them at the same time.**

4. **If needed action is clear: set next action date.**

5. **If needed action is unclear, set case for conference; notify lawyers/parties to provide information about case status and readiness for trial.**

6. **Conduct case conference; set schedule for completion of case if not resolved at the conference.**

7. **If party does not appear for conference or hearing/trial: dismiss or default judgment.**

ESTIMATING BACKLOG REDUCTION RESOURCE NEEDS: AN EXAMPLE

Time Standard: Complete all non-complex civil execution cases in 6 months and all civil execution cases within one year
Number of execution clerks assigned to civil execution cases: 5
Project Goals: Eliminate backlog and meet time standard

ASSUME:

Cases pending 1 Jan 2005:	**2200**
2005 Filings:	**2900**
Cases disposed 2005	**2700 (540 per execution clerk)**
Cases pending 1 Jan 2006	**2400**

Cases pending over 2 years:	**560 (Backlog)**
Cases pending 1 – 2 years:	**340 (Backlog)**
Cases pending 181 – 365 days:	**500 (Potential Backlog)**
Cases pending 121 – 180 days:	**300**
Cases pending 0 – 120 days:	**700**
TOTAL PENDING:	**2400**

Estimated filings in 2006: 2900 (same as in 2005)
Estimated dispositions in 2006 if no change in practices: 2700
Annual disposition rate per execution clerk: 540
Monthly per-clerk disposition rate: 45 per clerk (2700÷5=45)

EXAMPLE *(Continued)*

To eliminate the backlog and resolve all cases pending on 1 Jan 2006 at current (2005) disposition rates:

Clerk-months needed to eliminate backlog of cases pending over one year on 1 Jan 06 (900 cases): 20 months (900÷45=20)

Clerk-months needed to resolve cases pending 180-365 days on 1 Jan 06: (500 cases): 11.1 months (500÷45=11.1)

Clerk-months needed to resolve cases pending less than 180 days (1000 cases) on 1 Jan 06: 22.2 months (1000÷45=22.2)

Total clerk-months needed to eliminate backlog and all other cases pending on 1 Jan 2006: 53.3 months

To complete the year 2006 with a manageable caseload:

Clerk-months needed to resolve 1/2 of anticipated 2006 filings (i.e., 1450 cases): 32.2 months (1450÷45=32.2).

TOTAL clerk-months needed to accomplish backlog elimination and establish current caseload with 6-month supply of cases, if existing practices and procedures are followed: 85.5 clerk months (= 7.2 clerk years)

- **At this rate, pending caseload on 31 Dec 06 would be 1,450.**

NOTE: This example assumes that cases in the backlog are similar to other pending and incoming cases in nature and complexity.

PROBLEM

Assume that your court has a civil execution case backlog. To eliminate the backlog and meet time standards, it would take approximately 7 clerk-years if existing procedures are followed. However, the court has only 5 execution clerks assigned to criminal cases. What can the court do to achieve this goal?

Possible approaches:

- **Obtain (temporary) additional execution clerks and/or other personnel.**
- **Reorganize work assignments and/or court hearing hours to achieve greater productivity.**
  - **Strengthen/clarify responsibilities of execution clerks**
- **Create a special backlog reduction unit (judges and clerks) to address the "over-goal" cases; assign other judges and clerks to work on current caseload.**
- **Design and institute new procedures that will enable more effective management of the caseload.**
  - **What new procedures could help?**
- **Re-design management information reports and data collection and analysis, to produce data necessary to identify problem cases and monitor progress toward goals**
  - **Ensure that cases currently within standard are resolved within the time standard**
  - **Organize system so new cases are addressed promptly**
  - **Monitor new filings, to ensure timely resolution**
- **Engage major creditors, bar, and other essential entities to help plan program and assist with implementation.**
- **What other approaches?**

NOTE: These approaches can and should be combined.

IMPLEMENTING A BACKLOG REDUCTION PROJECT: KEY ISSUES

Leadership

- **Who will be responsible for the project?**

Information

- **What do the court president and court administrator need to know about the progress of the project?**
- **How will they get the essential information?**

Procedures

- **What new procedures will be necessary in order for the project to succeed?**
- **How will these procedures be adopted? Who needs to be involved?**

Resource acquisition and allocation

- **What resources are essential? How can they be obtained?**
- **How should available resources be allocated during the backlog reduction project, in order to:**
    - **Eliminate/reduce the backlog of old cases AND**
    - **Prevent recently filed cases from becoming part of the backlog**

Key stakeholders

- **Who – what entities and individuals – needs to be involved?**
    - **Within the court**
    - **From outside the court**
- **What authorizations will be needed to move ahead?**

Education and training

- **Who needs to learn about the plans?**
- **What do they need to know?**
- **Who will teach them?**

Team Session #3
Planning a Backlog Reduction Project

In this session, members of each court team will have an opportunity to develop the basic outlines of a backlog reduction project for the court, using work products from previous team sessions

Process:

1. Review the goals for backlog reduction that you worked on in Team Session #1 and your answers to the questions considered in Team Session #2. What are likely to be the most feasible approaches to eliminating backlogs in your court? Consider the following questions:

- **Is it feasible to obtain temporary additional staff?**
- **Should time standards (or "interim standards") be adopted to provide guidance to judges, staff, and lawyers?**
- **Should goals be set for the time by which the backlog will be substantially eliminated?**
- **Can cases be classified as suggested?**
- **Can a computerized database be created?**
- **Could work assignments or case assignments be reorganized to achieve greater productivity?**
- **Could court time be re-arranged to enable greater productivity?**
- **Is it desirable to create a special backlog reduction unit to deal with backlog cases?**
- **What types of cases should be given priority?**
- **Is it feasible to re-design management information reports to make them more useful for monitoring the progress of the backlog reduction program and managing caseloads?**
- **Are there particular individuals or groups whose cooperation should be sought?**
- **What other possible approaches might be effective?**

2. Using the planning form, first identify the tasks that must be undertaken. Then consider who should be responsible for each task, who else should be involved, what resources would be necessary, and in what timeframe it should be accomplished.

3. Complete the Report Form, indicating your tentative goals, main tasks, who would be responsible for making sure the tasks are accomplished ("LEADER"), and the first steps that the team will take to implement the

Product: **A preliminary work plan for achieving your backlog reduction project goals.**

Team Session # 3
Court_____

Action Planning Worksheet 1:

GOALS

Tasks	Who is Responsible?	Who Else Should Be Involved?	Resources Necessary	Target Date

Report Form – Team Session #3

Court _____

Outline –Preliminary Backlog Reduction Plan

GOAL(S):

MAIN TASKS	LEADER
1.	
2.	
3.	
4.	
5.	
6.	
7.	

FIRST STEPS

1.

2.

3.

4.

IMPROVING THE FUTURE MANAGEMENT OF NEWLY FILED CASES: FIRST STEPS

1. Expand the backlog database to facilitate the classification of newly filed cases:
   - Non-executable cases
   - Routine or complex cases
2. Use the case database and classification criteria to prioritize case resolution.
3. Adopt performance goals:
   - Time targets
   - Disposition targets
4. Clarify the respective responsibilities of judges and execution clerks:
   - In which cases is the intervention of a judge needed?
   - When in the process should the judge intervene?
5. Establish summary dismissal mechanisms
   - Criteria for eligible cases: non-executable, inactive, etc.
   - Notification process and response delays
6. Establish mediation alternatives
   - Criteria for eligible cases
   - Monthly mediation day to facilitate settlement between the parties
7. Strengthen information mechanisms.

USING CASELOAD MANAGEMENT INFORMATION

POSSIBLE INDICATORS OF CASEFLOW MANAGEMENT EFFECTIVENESS

Clearance rate: Annual dispositions equal to or greater than annual filings.

Pending Caseload:

- **Total size decreasing over time**
- **Few (or no) cases pending longer than applicable time standard**

Time to Disposition:

- **Few (or no) cases taking longer than times called for by applicable time standard**
- **Times for median and 80th percentile cases decreasing over time**

Productivity: Dispositions per execution clerk increasing over time

Case Scheduling Effectiveness: High percentage of scheduled events take place on date scheduled (Few continuances)

Quality of Justice: Difficult to measure but important to ascertain perceptions of quality

* * *

IMPORTANT TO USE MULTIPLE INDICATORS!!!

REDUCING BACKLOGS AND IMPROVING CASEFLOW IN CIVIL EXECUTION CASES

What can court presidents, court administrators, and chief execution clerks do?

Suggested Internal Actions

- **Identify civil execution case backlogs and delays as a problem that must be addressed by the court.**
- **Take the lead in developing plans to eliminate the backlogs and improve caseload management.**
  - **Work collaboratively.**
  - **Take advantage of specialized knowledge of each.**
- **Convene meetings to develop and refine plans for eliminating the backlogs and improving the system.**
- **Promote uniform approaches to execution caseload management.**
  - **Adopt uniform case classification and definitions.**
  - **Adopt case dismissal guidelines.**
  - **Adopt case resolution prioritization guidelines.**
- **Organize the resources needed for implementation**
- **Lead implementation efforts**
  - **Assign responsibilities to judges and staff who can do the job.**
  - **Monitor progress.**
  - **Provide feedback and guidance.**
  - **Recognize/reward success.**
- **Clarify the respective responsibilities of execution clerks and judges in the execution process.**
  - **Clarify which actions require the intervention of the judge.**
  - **Ensure that execution clerks have the authority they need to do their job.**

REDUCING BACKLOGS AND IMPROVING CASEFLOW IN CIVIL EXECUTION CASES

What can court presidents, court administrators, and chief execution clerks do?

Suggested External Actions

- **Identify and engage other key stakeholders to promote collaboration on execution cases, including:**
  - **Major creditors**
  - **Institutional information holders (banks, registers, tax authority, etc.)**
  - **Major employers**

- **Educate other stakeholders about the problems and about ways to address them.**

- **Initiate/assist fact-finding process.**

- **Organize the resources needed for implementation**

- **Develop incentives for case withdrawal.**

- **Develop alternative mechanisms (e.g. mediation) to promote settlement between the parties.**

- **Advocate for necessary legal or regulatory changes where internal policies are not sufficient to address the problems.**

Peer Group Session

Key Caseload Management Functions for Court Presidents, Judges Handling Execution Cases, and Execution Clerks

Using the suggested internal and external actions, as well as other materials presented and developed in team exercises today, please discuss the following questions in the group:

1. What can we, in our positions, do (or stop doing) in order to improve the management of civil execution cases and make a backlog reduction program successful in our own courts?

> **a) What are we NOT doing now that we should start to do?**
> **b) What are we doing now that could be stopped or changed in order to help eliminate backlogs?**

2. What other "stakeholders" should be brought into the planning process in order to develop a viable backlog reduction program?

3. What specific types of help, *other than provision of additional resources,* would it be desirable to have from these stakeholders or from others who work in or have interaction with the court, in order to implement a successful backlog reduction program? List types of help needed and possible sources.

4. What can you (or persons in your position) do to obtain the needed assistance?

Report Form – Peer Group Exercise

Group: _____

Key Caseload Management Functions for Court Presidents, Judges Handling Execution Cases, and Execution Clerks

1. The most important things that we can do to improve caseload management and make a backlog reduction program successful:

2. Who else should we seek to bring into the planning process in order to develop a viable program to eliminate backlogs and improve overall caseload management?

3. What specific types of help are needed and who could provide it?

Type of help	Possible Source

4. What can persons in our position do to obtain the needed assistance?

AXIOMS OF CASEFLOW MANAGEMENT

1. Early and continuous control of case progress helps minimize delays.
2. Differentiated case management works.
3. Dispositions take place when key decision-makers have the necessary information.
4. Every case must always have a date certain, *for a purpose certain,* assigned.
5. Accurate and timely information is essential.
6. What you count *counts.* Information reports influence behavior.

National Center for State Courts
Seminar: *Eliminating Backlogs and Improving Caseflow Management in Civil Execution Cases*

Pristina, Kosovo
December 6, 2005

PARTICIPANT EVALUATION

We are very interested to have your feedback about the seminar in which you have participated. Please complete this short questionnaire as fully and honestly as possible. Most questions ask for a rating of between 1 (low) and 5 (high).

1. Overall, how would you rate this seminar?

1	*2*	*3*	*4*	*5*
POOR				***EXCELLENT***

Comments: _____

_____

2. How useful will the information and ideas be to you in your current job?

1	*2*	*3*	*4*	*5*
OF NO USE				***VERY USEFUL***

Comments: _____

_____

3. Rate the quality and value of the lectures:

1	*2*	*3*	*4*	*5*
POOR				***EXCELLENT***

4. Rate the quality and value of the team sessions:

1	*2*	*3*	*4*	*5*
POOR				***EXCELLENT***

5. What were the most valuable parts of the seminar? _____

_____

6. What were the least valuable parts of the seminar for you? _____

_____

7. Additional Comments: