SHORT-TERM TECHNICAL ASSISTANCE RELATED TO THE ACCOUNTABLE COURTS COMPONENT RECORDS MANAGEMENT PROGRAM

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Short-Term Technical Assistance Related to the Accountable Courts Component

TECHNICAL ASSISTANCE – RECORDS MANAGEMENT PROGRAM

EXECUTIVE SUMMARY
Final Report
Short Term Technical Assistance to the USAID Rule of Law Program in Albania
Accountable Courts Component

Records Management Program

The objective of this consultancy was to provide technical assistance related to the United States Agency for International Development (USAID) Rule of Law Program in Albania (ROLP). The ROLP has the objective of creating more accountable courts operating in a more transparent, accountable and efficient manner. The ROLP is assisting 10 Pilot Courts and the Ministry of Justice to improve court performance, accountability and transparency. The ROLP is being carried out by DPK Consulting, a division of ARD, Inc., under Contract No. DFD-I-00-04-00173-00 with the USAID.

This consultancy provided short-term technical assistance by designing a records management program for Albania. The records management program is designed for the 10 pilot courts as well as the other Albanian courts to more efficiently manage the increasingly large number of case files and documents.

The consultancy has resulted in the following documents and recommendations that, if fully implemented, will result in a comprehensive records management plan:

- Legal provisions to create a Central Archive of the Judicial System and specifically authorized the Ministry of Justice (MoJ) to adopt records management standards and procedures (Provided in a separate document)
- Records Retention and Disposition Schedule identifying record series and establishing retention periods (Provided in a separate document)
- Records Management Manual which establish policies and procedures for storing and purging documents (Provided in a separate document)
- Options for improving the design of case folders
- Outline of a training plan for training court staff in the implementation and operation of the records management program.

This project was conducted by:

- Reviewing existing laws and reports
- Meetings with the MoJ archives steering committee
- Collecting information from on-site visits, and
- Developing recommendations, legal provisions, retention schedules and manuals, and
- Preparing the final report.

The following areas were addressed:

- Identification of the authority to create and administer a records management program
- Identification of records created and retained by the courts, including case folders and case management records
- Current records management practices in the courts.

An assessment reached the following findings:

- Court management and staff exhibited a high degree of responsibility and expertness in managing records in the current environment

- There is a severe lack of space in the court archives, because of a lack of an effective records management plan that includes controlled, systematic purging of case folders
- Critical records are deteriorating
- The design of the current case folders is not optimal for its use.

The recommendations in the report include:

- The Ministry of Justice adopt the three key documents that are required to implement a Records Management Program:
  - Legal Authorization for implementation of the Program by the Ministry of Justice
  - Records Retention and Disposition Schedule
  - Records Management Manual
- Redesign the case folders
- Develop methods of destroying documents to be used by each court
- Designate or acquire records storage space for the Central Archive of the Judicial System
- Conduct training for the courts in the implementation and operation of the Records Management Program
- Implement the Records Management Program for new and existing records.

1. INTRODUCTION

1.1 OBJECTIVE AND BACKGROUND

This report is the culmination of a contract to provide short term technical assistance related to the United States Agency for International Development (USAID) Rule of Law Program in Albania (ROLP). The Program has the objective of creating more accountable courts operating in a more transparent, accountable and efficient manner. The ROLP is being carried out by DPK Consulting under Contract No. DFD-I-00-04-00173-00 with the USAID.

The objective of this consultancy was to provide short-term technical assistance to the ROLP, to the Pilot Courts with which the Project is working and to the Ministry of Justice (MoJ) by designing a records management program for Albania. The records management program will provide the legal framework and procedures under which the 10 pilot courts as well as the other Albanian courts can more efficiently manage the increasingly large number of case files. The assistance was directed at efficient organization of the files so that unnecessary documents are purged on a regular schedule with the goal of reducing the size of files and enabling more orderly storage of files.

The consultancy has been conducted pursuant to the Work Plan for Records Management Consultancy - USAID Rule of Law Program in Albania, which is attached as Appendix 1 to this report.

The consultancy has resulted in the following documents and recommendations that, if fully implemented, will result in a comprehensive records management plan:

- Legal provisions to create a Central Archive of the Judicial System and specifically authorized the Ministry of Justice to adopt records management standards and procedures (Provided in a separate document)
- Records Retention and Disposition Schedule identifying record series and establishing retention periods (Provided in a separate document)
- Records Management Manual which establish policies and procedures for storing and purging documents (Provided in a separate document)
- Options for improving the design of case folders
- Outline of a training plan for training court staff in the implementation and operation of the records management program (Appendix 2)

1.2 METHODOLOGY

This project was conducted using the following steps:

- Reviewing existing laws and reports
- Meetings with the MoJ archives steering committee
- Collecting information from on-site visits, and
- Developing recommendations, legal provisions, retention schedules and manuals, and
- Preparing the final report.

1.2.1 Collection of Data

Data was collected from a variety of documents, on-site visits to courts, and meetings, including:

- Review of court procedure and archiving laws, records management program practices and documentation in several jurisdictions, and methods of records storage and retrieval.
- Visits to four courts: Supreme Court, Court of Appeals – Tirana, District Court of Durres, and District Court of Elbasan. These courts were selected because they represented a range of

case types and jurisdiction, and three of the courts are Pilot Courts. In each court, the following steps were taken:
    - Opening interviews were conducted with the Chairman and/or designated staff, when the purpose of the study and of the visit was explained, and information was gathered concerning the status of records management.
    - On-site analysis was conducted, focusing on the current practices and need for improvement in records management.
- Meetings with the MoJ working committee for archiving court records to
    - review the general principles of an effective records management program,
    - develop the required legal authority (statute or rule) for the MoJ to develop and implement the records management program, and
    - present findings and conclusions of this consultancy.
- Follow up meetings and discussions with staff from courts concerning findings and recommendations of the study.

1.2.2 Preparation of Key Documents

The key documents in this consultancy include:

- The draft legal authorization for the MoJ to establish and operate a records management program and the Central Archive of the Judiciary
- Records Retention and Disposition Schedule
- Records Management Manual
- Final Report

The key documents were prepared taking into account information gathered from:

- General principles of effective and efficient records management,
- Review of existing documents and reports,
- Visits to the courts, and
- Meetings.

1.3 ORGANIZATION OF REPORT

The Report is organized in the following sections:

- Description and Assessment of the Current Status of Records Management in the Visited Courts,
- Recommendations and Action Plans for Improving Records Management
- Recommendations for Future Consultancies
- Appendices

2. DESCRIPTION AND ASSESSMENT OF THE CURRENT STATUS OF RECORDS MANAGEMENT IN THE VISITED COURTS

2.1 COLLECTION OF INFORMATION CONCERNING CURRENT RECORDS MANAGEMENT PRACTICES AND PROCEDURES

As mentioned above, the state of current records management was determined by a review of Albania procedural requirements, current laws concerning archives in Albania, and visiting four courts to view and assess their current records management program: the Supreme Court, the Court of Appeals – Tirana, the District Court of Durres, and the District Court of Elbasan. The primary focus of the court visits was on the state of the archives in each of the courts. The flow of cases and their documents from inception to final court decision had been documented and analyzed in an earlier consultancy.

2.2 AUTHORITY TO CREATE AND ADMINISTER A RECORDS MANAGEMENT PROGRAM

The legal authority for establishing a records management program has been granted to the Ministry of Justice. Paragraph 4, Article 20, of the Law 9154, dated 6 November 2003, **On Archives,** provides that "State archives of the justice system (court houses and the prosecutions) are created and function near of the Ministry of Justice." This consultancy was established to assist the MoJ and the Judiciary in the ten pilot courts in developing a records management program pursuant to that legal authority.

It is noted that there was a law that included a disposition schedule for court records. However, that law was repealed in 1992, and has not been replaced by any law, regulation or order.

2.3 RECORDS CREATED AND RETAINED BY THE COURTS

The courts create and maintain two main types of records: case folders, and case management records.

2.3.1 Case Folders

There are two types of case folders used by all courts, one for criminal cases, and another for civil cases (Appendix 3 and Appendix 4). The case folders have numerous predefined areas for entering information about the nature of the case, the participants in the case, processing steps that are scheduled and have occurred, and decisions concerning the case. However, there is no predefined area for entering when the case folder was stored in the court's archive.

All case related documents that are filed with the court by litigants and supporting agencies, and created by the judges and staff, are placed in the same case folder. Virtually all of the case folders are located in the district courts, which are the trial courts of first instance in Albania. This is a result of procedural laws that provide that all trial and appellate courts use the same case folder for each case. When a case is heard by an appellate court or the Supreme Court, the entire file is sent to the appellate court. When the case is concluded, the decision of the appellate court is placed in the file, and the file is returned to the original district court. The appellate courts and the Supreme Court retain the original of their decisions in their archives.

The exception to this is case types that are filed directly with the Appellate Courts in the first instance. The case types include:

- Election commission cases, which are reviews of election commission decisions.
- Recognition of sentences of foreign courts
- Other types of filings, most of which are "appeals" from executive branch agencies or societies, registrations, or clarifications, including:
    - Review of orders or decisions from:
        - Ministry of Justice
        - General Prosecutor
        - Commission of the Civil Service
        - Administrators in certain societies
    - Execution order of the appellate court decision
    - Clarification of the sentences of the appellate court

2.3.2 Case Management Records

In addition to using the case folders, courts use registers and indexes to control the flow of the cases, and record items of information about the cases. The registers and indexes that are required are enumerated in an order of the MoJ: **ORDER No. 1830 date April 3, 2001 On**

Approval of Regulation 'On Organization and Functioning of Judicial Administration'. The registers and indexes are listed in the **Records Retention and Disposition Schedule.**

A special mention should be made of the Register of Volume of Civil Decisions, the Register of Volume of Criminal Decision, and the alphabetic indexes to the Volumes. The Volumes are commonly referred to as the "codex". The codex is a compilation of the final court decision for all cases, filed in date sequence. The codex is compiled by year. There is an alphabetic index to the information in the codex. The codex and the indexes to the codex are maintained by the archivist.

The courts also produce other types of case management records for a variety of purposes, such as to inform the attorneys, the public and governmental agencies of scheduled appearances, statistical reports, and other matters concerning court administration.

2.4 RECORDS MANAGEMENT IN THE COURTS

Records management begins with the first filing of a case with the court. The following information is an extract of an earlier final report (May 2008) of a consultancy providing technical assistance to the ROLP in the area of improvement in file management systems and case management systems.

While there were some variations in the order in which procedures were undertaken, who performed the procedures, and where the procedures were taken, the following description of procedures in the Durres District Court are illustrative. This description applies to both civil and criminal cases. (NOTE that ICMIS refers to an automated case management system, deployed but still under development).

- When a case is filed with the court, the Chairman reviews and categorizes the case, and returns the papers to the Registry Office.
- Registry Office enters case into ICMIS.
- ICMIS assigns the case to a judge. ICMIS is also used to determine if this case had been previously filed and dismissed.
- The case papers put in case file folder, and staff writes the case information onto the file folder.
- The case information is written in the Fundamental Register.
- The case information is written in the Name Index Book.
- The case file folder is taken to the assigned Judge (the case folder stays with judge or typist until disposed)
- The session secretary - typist that works with the assigned judge prepares the minutes and enters information into system. If there is a computer in the courtroom, these tasks will be performed in the courtroom. Otherwise, the typist takes manual notes for both the minutes and the recording of actions, and uses the computer in an office. Note that not all session secretaries can type.
- The typist uses MS-Word to prepare summons for the hearings. The automated system's text editor will not support the format used for the summons.
- The typist enters case closing information into the system.
- The case file folder is returned to the Registry Office.
- The final court decision entered into the Decision Registry, the Fundamental Register and the Name Index.
- The case file folder is retained in Registry Office until the deadline for appeals has passed.
- If there is no appeal, the case file folder is transfer to archives in the court.

- If the case is appealed, the Registry Office prepares the file for transfer to the appeals court.
- After the case is returned from the appellate court, the result of the appellate court's decision is written in the Fundamental Register, and the case folder is transferred to the court archive.
- The Registry Office also keeps a registry for Security Matters (pre-trial detention).
- The court Archive includes the final court decision in the codex, and makes the appropriate entry into the name index to the codex.

All case folders, as well as registers, indexes and other management records ultimately are stored in the archives of the courts. Case folders are filed in the archive first by year of final court decision, then by type of case (civil, criminal, administrative), then by the index number assigned to the final court decision in the codex. Registers, indexes and other management records are placed in the archive as space is available, and in accordance with local practice.

The archive in the district court in Elbasan has registers and indexes from the 1950's to the present, and case files from 1967 to the present. The district court in Durres has registers and indexes from 1965 to the present, but also has early codices and indexes from the 1940's. It has 6,000 case folders from 1975 to the present.

The Appellate Court – Tirana maintains its registers and indexes, including the codex of final court decisions, as well as management records. In addition, it has case folders for the case types that are filed with the Appellate Court in the first instance, as detailed above.

The archive of the Supreme Court contains the codex of decisions, as well as registers, indexes and management records.

2.5 ASSESSMENT

There are several points that were identified during the course of the consultancy that are discussed below.

2.5.1 High Degree of Responsibility by Court Management and Staff

The top management and staff in all four courts fully understood the importance of records management, and the processes and procedures to be used in categorizing, storing and retrieving the records. They were highly professional in carrying out their responsibilities. They were also very aware of the shortcomings that result from the current records management authority, practices and facilities. Finally, they were very supportive of the concepts of a records management program.

2.5.2 Lack of Space in the Archives

In all four courts, the archives were crowded and of insufficient size for the current amount of case folders and related case and court management documents on hand. None of the visited courts have disposed of any court records in recent memory. There appear to be two reasons for this. First, there was a law that included a disposition schedule for court records. However, that law was repealed in 1992.

Second, there has been no program establishing the authority and responsibility for records management in the Albania Judiciary since 1992. The legal authority for establishing a records management program has been granted to the Ministry of Justice. Paragraph 4, Article 20, of the Law 9154, dated 6 November 2003, **On Archives,** provides that "State archives of the justice system (court houses and the prosecutions) are created and function near of the Ministry

of Justice." This consultancy was established to assist the MoJ and the Judiciary in developing a records management program.

2.5.3 Physical Deterioration of Critical Records

In addition to the overcrowding in all of the archives, a serious problem was noted with the codex of decisions in all four courts. The paper on which the decisions are typed is disintegrating rapidly, and there is no backup or security of these critical documents. The paper is bound in books, and is so brittle that it can almost come apart at a touch. This also causes great problems when a certified copy must be made, because the book containing the decisions must be held as flat as possible on the flat surface of a copier.

While this situation is unacceptable for any type of court, it is particularly troublesome for the codices in the Supreme Court and Appellate Courts. The decisions of the Supreme Court are unifying decisions that provide advice and guidance to the legal community and the public, and should be preserved.

2.5.4 Design of Case Folders Not Optimal For Purposes

The design of the current case folders is not optimal for their primary purpose of holding all papers. Many cases have a volume of paper that exceeds the capacity of the case folder. In addition, this is complicated by the practice of securing the papers in the case folder by "sewing" the papers in with string along the left side, or "spine", of the case folder. This is time consuming and difficult when more papers must be added to the case folder.

Another problem with the design of the case folder is that the spine of the folder cannot be arranged to present a flat surface for writing case identification and status information. This information could include the codex number of the final court decision, the date and number of the final court decision, the record series number, and the date on which the case folder can be disposed. The current design requires that the cover of the file folder has to be observed to identify a case.

A third problem is that the case folders are the same color, regardless of the type of case. This makes sorting and identifying case types difficult, because the cover of the file folder has to be seen to identify whether it is a civil, criminal, or administrative case.

3. RECOMMENDATIONS AND ACTION PLANS FOR IMPROVING RECORDS MANAGEMENT

The following recommendations are designed to address the points raised in the assessment, and will materially aid the Albania Judiciary in its efforts to improve records management. The objective of these recommendations is to implement a comprehensive Records Management Program.

A comprehensive records management program will benefit the Albania Judiciary. The reasons for initiating and carrying out a records management program include:

- Records are essential to any court. Properly stored records allow judges, the participants in a case, and the public, to confirm the filing and disposition of cases and the reasoning behind court decisions.
- Unless there is a clear strategy for purging and storing court records, all court records are saved.
- There is no more room in the courts, or the government, to store records – leading to disorganized, non-retrievable, deteriorating records.

The objectives of the records management program include:

- Preserving the integrity of the record of court proceedings,
- Enhancing the ability of judges, attorneys and staff to find and research cases, and
- Minimizing the cost of creating, storing and retrieving case files.

The potential effect of applying records management, including the destruction of eligible case folders, is shown in a document titled "Analysis of Application of Records Retention and Disposition Schedule" (Appendix 5). The analysis estimates the number of case folders to be produced in 25 years and 50 years in the District Courts, based on filing data from 2006, and the reduction of the number of case folders by applying the Records Retention and Disposition Schedule.

Note that this estimate makes no allowance for any increase in case filings, nor does it calculate the benefits of applying the schedule to the case and court administrative documents. However, case folders in the District Courts make up the vast majority of material in the court archives.

Destroying case folders in accordance with the Schedule will reduce the number of case folders by an estimated 35% in 25 years, and 57% in 50 years. There will be a significant decrease in the number of file folders in prior years' filings. This will have significant benefits for the courts and the Central Archive, including making effective use of scarce space, and improving the filing and retrieval of case folders.

3.1 MINISTER OF JUSTICE SHOULD ADOPT KEY DOCUMENTS FOR IMPLEMENTING THE RECORDS MANAGEMENT PROGRAM

There are three key documents that are required to implement a Records Management Program:

- Legal Authorization for implementation of the Program by the Ministry of Justice
- Records Retention and Disposition Schedule
- Records Management Manual

3.1.1 Adopt a Legal Authorization for Implementation of Records Management by the Ministry of Justice

As cited earlier, the legal authority for establishing a records management program has been granted to the Ministry of Justice. The legal authority is very broad, and it is appropriate to develop specificity in the powers and duties of the MoJ with regard to records management. To that end, a draft of the legal authority has been prepared for consideration by the Minister of Justice.

The draft was presented to the Working Committee on records management created by the Minister. The Working Committee suggested modifications, which have been incorporated in the attachment.

It was recommended to the Committee that the draft be adopted by the Minister as a rule or an order. The broad grant of legal authority given to the MoJ by Law 9154, dated 6 November 2003, **On Archives,** is sufficient to permit adopting the draft as a rule or order. This could speed the process of adoption, and provide increased flexibility in the future to respond to changes in other laws or technology.

The draft legal authority would accomplish the following essential components of the records management program:

- Establish principles and definitions for the program
- Create a Central Archive of the Judicial System that will direct and administer the records management program
- Provide for transfer of court records to central storage facilities
- Adopt a Records Retention and Disposition Schedule
- Establish methods and procedures for the destruction of records, in accordance with the Schedule
- Provide access to court records in accordance with established procedures.

The draft legal authority contains all of the necessary provisions to establish and operate a successful records management program.

It is important to note that the draft legal authority contains a reference to the records of the prosecutor offices. This reflects the provision of Paragraph 4, Article 20 of the Law 9154, **On Archives**, which provides that "State archives of the justice system (court houses and the **prosecutions**) are created and function near of the Ministry of Justice" (emphasis added). This was added by the MoJ staff to allow the MoJ to include the prosecutor's records in its records management program in the future, on its own action. Complete understanding and agreement was reached that the records of the prosecutor's offices were beyond the scope of this consultancy, and that none of the documents prepared during this consultancy refer to those records.

3.1.2 Adopt a Records Retention and Disposition Schedule

A comprehensive and easily implemented Records Retention and Disposition Schedule is a component of a records management program. Such a Schedule has been developed in consultation with the MoJ, court chancellors, archivists, judges and staff, as well as results of research of other countries' schedules. The schedule is easily understood, and should be relatively straightforward to implement.

It is recommended that this schedule be adopted by the Minister of Justice as soon as possible.

This schedule groups court records into record series. Each record series is described, and a retention period is set for each series. The retention periods take into account the needs of the Albania Judiciary, the parties appearing before the court, and the historical value of the records for research purposes.

This schedule presents retention and disposition schedule is divided into two sections: Case Files, and Case Management Records. Case files contain all papers and documents relating to a case. They may be commonly referred to as the case folders. The section on Case Files is divided into four case types: **civil cases**, **criminal cases**, **administrative cases, and appellate court cases filed in the first instance.**

Note that all retention periods start from the year in which the final court decision is made. Records that do not have a Permanent retention period are eligible for disposition on 1 January of the year after the expiration of the retention period.

The schedule is straightforward, containing explanatory information in the Record Series Title when necessary. It can be adopted and modified by the Minister of Justice with the advice of the Committee on the Expertise (as established pursuant to the legal authority).

It should be noted that the schedule does not include audio recordings. Audio recording is being considered for application in the courts. However, neither the extent of recording has been determined, nor the exact purpose of the recording has been defined. After the extent and use of audio recording has been established, audio recordings should be considered in the retention schedule.

3.1.3 Adopt the Records Management Manual

The Records Management Manual (Manual) is an important component of the Records Management Plan. It can be used as the basis for training the leadership and staff of the courts and of the Judicial Archive. It can also be used as an operational guide for court and Judicial Archive staff to carry out their responsibilities.

The Manual describes methods and principles for storing physical and electronic records, including use of off site storage, if necessary. It describes procedures to be followed to place a case in the court's archive. It establishes procedures, with forms, to transfer case folders from the courts to the Judicial Archive. It also establishes procedures, with forms, to request permission to destroy case folders and case administrative records, and the appropriate method of destroying the records.

3.2 REDESIGN THE CASE FOLDERS

Redesigning the case folders will improve the ability of storing and retrieving important case papers, and implementing the Records Management Program. The physical structure of the case folders should be redesigned, and the data collected on the outside and inside of the case folders should be analyzed to determine if any changes are warranted.

It is recommended that ROLP staff work with a committee of judges, chancellors, court secretaries and court archivists from the 10 Pilot Courts, and MoJ staff, to consider the following options and make the final design choices. Consideration could also be given to purchasing the revised folders through a central contract to achieve economies of scale. There was an insufficient amount of time during this consultancy to convene this committee.

It is particularly important to point out here the procedures that are to be followed in placing a finished case in a court's archive, as established in the Records Management Manual. Those procedures require entry of information on the case folder which will facilitate the implementation of the Records Management Program, and therefore are to be considered in the redesign of the case folder. The procedures are:

a. Retention and disposition dates for case folders are determined after the final court decision has been recorded. It is only then that the relevant facts are known, such as whether paternity was determined, or property rights were established.
b. All retention periods start from the year in which the final court decision is made. Records that do not have a Permanent retention period are eligible for disposition on 1 January of the year after the expiration of the retention period.
c. Before a case folder is placed in a court's archive, the chancellor or her or his designee in each court will review the final court decision of each case and determine the record series to which the case is assigned. Write the following information on the spine edge of the case folder:

i. The codex number of the final court decision. "Codex" is the common name for the Register of Volume of (Civil or Criminal) Decisions which is a bound book of all final court decisions.
ii. The date and the number of the final court decision.
iii. The Record Series number and the year that the case folder is eligible for disposition (from the Records Retention and Disposition Schedule). If the case folder is to be retained permanently, write a large capital "P".

d. The record series number and the year that a case is eligible for disposition is entered into the name index of the codex of final court decision that is kept in each court's archive. The records series number and the year that a case is eligible for disposition is also entered into the appropriate Fundamental Register, and the automated case management system, as the capability to record this information is made available.
e. The registers and indexes of cases are to be archived when all cases entered into them have been finished.
f. Registers and indexes of finished cases are stored in the court which created them. Case files may be stored in the archives of the court, the Central Archive of the Judicial System, or an off-site storage facility as authorized by the Central Archive of the Judicial System. The prescribed procedure to transfer case files for storage from the court to the Central Archive or an authorized off-site storage facility is described below.

3.2.1 Redesign the Physical Structure of the Case Folders

The physical attributes of the case folders should be redesigned as follows:

- Purchase a folder that has a creased edge that permits orderly expansion to the maximum extent possible. Folders are available that will form a squared-off edge to accommodate up to at least two inches.
- Purchase folders in three distinct colors to differentiate between civil, criminal, and administrative cases.
- Purchase a folder that has pre-punched holes that will accommodate the selected metal fasteners (see next bullet).
- Use metal fasteners to hold the papers in the case folder. This will allow court staff to quickly add additional papers to the case folder, and will hold the papers in the folder in a more secure fashion. Fasteners are available in a variety of sizes, and can secure papers at the top or on the side of a folder. Pictures of a variety of fasteners are included in Appendix 6, for illustrative purposes only.
- Purchase a sufficient number of hole punchers for the courts for punching the appropriate sized and spaced holes for utilizing the metal fasteners.

3.2.2 Analyze the Data Collected on the Case Folders, and Incorporate Changes into New Folder Design and Purchase

The data recorded on the case folders should be reviewed by the MoJ and the pilot courts to determine if any changes should be made. At a minimum, the edge of the folder should accommodate the following items of data (Appendix 7):

- Codex number of the Final Court Decision
- Date of the Final Court Decision
- Number of the Final Court Decision
- Record Series Number (from the Records Retention and Disposition Schedule)
- Date eligible for destruction:
    - "P" for permanent retention – do not destroy, or

- The year in which the case folder may be destroyed. Note that all retention periods start from the year in which the final court decision is made. Records that do not have a Permanent retention period are eligible for disposition on 1 January of the year after the expiration of the retention period, as indicated in the Records Retention and Disposition Schedule.

- Number of case folders for this case, in the format of "Folder 1 of 3 Folders".

Any other changes that are developed by the committee of the pilot courts and MoJ staff should be incorporated into the design and purchase of the new file folders.

3.2.3 Use of Existing Supplies of Case Folders

If it is determined that there are a large supply of existing case folders, they can be used until supplies are exhausted. The basic principles of the physical and data redesign outlined above can be incorporated with the existing case folders, as follows:

- Use metal fasteners to secure case papers in the case folder by punching the appropriate sized and spaced holes at the top of the back cover of the folder.
- Manually refold the spine edge of the folder up to the border of the front cover of the folder.
- Use a magic marker to place a stripe of the appropriate color at the top of the spine to indicate whether the folder contains a civil, criminal, or administrative case.
- When a case has had a final court decision rendered, write the information on the spine edge of the folder as enumerated in 3.2.2, above.

Specifics of using the existing supplies of case folders have been described and demonstrated to the ROLP staff.

3.3 DEVELOP METHODS OF DESTRUCTION TO BE USED BY EACH COURT

Because of varying electrical and environmental conditions facing the courts, each court should develop the method for destroying records. Methods can include, but are not limited to, the use of document shredders, burning of records, or use of designated landfills. Each of the ten pilot courts should develop its own proposal for the method of destroying documents, in consultation with, and with the approval of, the Central Archive. For illustrative purposes only, data on some choices of shredders is presented in Appendix 8.

3.4 DESIGNATE OR ACQUIRE RECORDS STORAGE SPACE FOR THE CENTRAL ARCHIVE OF THE JUDICIAL SYSTEM

The legal authorization of the Records Management Program envisions the creation of the Central Archive of the Judicial System. In addition, one of the responsibilities of the Central Archive is to provide appropriate storage space for the records of the Judiciary, as necessary. Therefore, it is appropriate to recommend that the Ministry of Justice acquire or designate the required storage space.

While the implementation of this recommendation will ultimately be necessary, it is not critical to the initial steps of implementation of the Records Management Program in the courts. Before a court requests that some of its records be transferred to the Central Archives, it should request permission for, and carry out, destruction of those file folders authorized for destruction pursuant to the Records Retention and Disposition Schedule.

3.5 CONDUCT TRAINING FOR THE COURTS IN THE IMPLEMENTATION AND OPERATION OF THE RECORDS MANAGEMENT PROGRAM

It is also recommended that the MoJ conduct training programs for the 10 pilot courts after adoption of the Manual and the Schedule, and monitor the implementation of the Program for six months. Thereafter, with any necessary changes, the Program should be expanded to all the courts.

The staff in the courts to be trained should include the chancellor, the court secretary, and the archivist. Judges and other staff may also attend, as conditions permit. The chancellor, the court secretary and the archivist will form the core of advice for further training in their courts, as necessary.

It is important to note that the training should take place only after recommendations 3.1 – Adoption of Key Documents, 3.2 – Redesign of the Case Folder, and 3.3 – Development of Methods of Destruction, have been implemented.

The organization of the training should be determined by the MoJ and the pilot courts. An outline of a suggested training program is included in Appendix 2.

3.6 IMPLEMENT THE RECORDS MANAGEMENT PROGRAM FOR NEW AND EXISTING RECORDS

In order to fully implement the Records Management Program, the MoJ must provide a sufficient number of qualified staff to the Central Archive of the Judicial System to respond to any questions from the courts, and to respond to requests for disposition and/or transfer of case folders on a timely basis. Once the Central Archive has been appropriately staffed, and all of the other recommendations listed above have been met, the Records Management Program can be implemented.

The Records Management Manual has a step by step description of procedures to be followed and forms to be used. Combined with the training program, the courts should be able to begin to apply the procedures of the Program. The MoJ and the courts may wish to consider a phased approach of implementing the Program on a court by court basis among the 10 pilot courts. This will give all parties the opportunity to make adjustments to the Program and its procedures and forms before implementing it on a country-wide basis.

A specific point is made concerning the courts' efforts required to classify and destroy existing records. The most visible and immediate benefit of the Program will be to dispose of the large volume of existing records that will be eligible for destruction. However, there is probably insufficient numbers of court staff, and problems with accessing the archives, to carry out a massive review and destruction of existing records during the course of a regular business day.

It is essential that qualified staff be used for this important task. They must be able to review and interpret the final court decision in the codex to make an assignment of each case to the appropriate record series. Therefore, the recommendation is to provide funding to compensate qualified court staff with overtime payments to classify existing records and prepare the requests for the disposition of records. Alternatively, funding could also be provided for hiring retired employees on a part time basis to perform this task.

4. RECOMMENDATIONS FOR FUTURE CONSULTANCIES

During the field visits and analysis, two areas for future consultancies emerged: the need for an automated system for tracking records in the judicial archives, and the need for scanning the final court decisions of the courts. They are presented below.

4.1 DEVELOP AN AUTOMATED SYSTEM FOR TRACKING RECORDS IN JUDICIAL ARCHIVES

The current Records Management Program contemplates manual forms and procedures to track and document the transfer of case folders and the destruction of those folders. Each court, and the Central Archive, will be required to keep copies of forms that provide a record of these actions.

Ideally, an automated system would provide comprehensive eligibility, tracking, and status information in both the courts and the Central Archives. Designing and implementing such a system is beyond the scope of this consultancy. However, the benefits of such as system are significant.

In the courts, the optimal approach to designing and implementing such a system is to incorporate the functionality into an automated case management system. At a minimum, for the disposition of case folders, the archivist at each court could enter the date that the final court decision was entered into the codex, the record series number, and the date that the case folder is eligible for destruction. This information could then on demand generate the required forms for requesting permission to destroy the records. Once the records are destroyed, the actual destruction date would also be entered.

The functionality could be substantially more robust. The archivist could code the final court decision that would automatically determine the entry of the decision into the codex, the record series name, and the eligible destruction date. As with the simpler approach described above, his information could then on demand generate the required forms for requesting permission to destroy the records. Once the records were destroyed, the actual destruction date would be entered once, and automatically update all cases with that information.

A similar type of application could also be integrated into the automated case management system to track the request and execution of transferring records from the courts to the Central Archive.

This consultancy had no knowledge of the status of automated systems in the MoJ. However, it is clear that an automated system would be of benefit to the Central Archive. The applications in the courts and the MoJ should then be integrated to allow the electronic interchange of requests, permissions, and status.

4.2 DESIGN AND INSTITUTE A PROGRAM OF SCANNING THE FINAL COURT DECISIONS OF THE COURTS

As discussed in the assessment portion of this report, the paper containing the final court decisions in the codices is deteriorating. This is particularly true for the older decisions in the Supreme Court. The paper is very brittle, and is bound in the codices. Every request for a certified copy results in stress on the paper as the bound book is forced open over a flat bed copier.

This condition exists in the appellate courts and the district courts, as well as the Supreme Court. However, it is of greatest concern in the Supreme Court because of the importance of decisions of the Court.

Decisions after 1999 exist in electronic format. The information technology staff has been routinely securing these decisions in a protected format, and backing up the files. Therefore,

the records of concern are those that were prepared manually before that date. In addition, the oldest decisions are in the worst condition.

Serious consideration should be given to a project that would plan, develop and implement scanning of all paper-based decisions into the automated system. It should be done with high quality equipment and software, which has an integrated indexing capability. The program should also include increased electronic storage capacity, better electric power supply conditioning capability, rigorous backup and migration policies, and training for the information technology staff.

It is essential that qualified staff be used for this important task. They must be able to carefully handle and scan the final court decision in the codex, and to make the appropriate entries into the indexing system. Therefore, consideration should be given to provide funding to compensate qualified court staff with overtime payments. Alternatively, funding could also be provided for hiring retired employees on a part time basis to perform this task.

APPENDICES & ADDENDUMS

Appendix 1 - Work Plan for Records Management Consultancy
Appendix 2 - Draft Outline of Training Plan for Records Management Program
Appendix 3 - Copy of Criminal Case Folder
Appendix 4 - Copy of Civil Case Folder
Appendix 5 - Analysis of Application of Records Retention and Disposition Schedule
Appendix 6 - Examples of Case Folder Fasteners
Appendix 7 - Edge of Case Folder Entries
Appendix 8 - Information on Document Shredders
Addendum - Legal Authorization for Implementation of the Records Management Program
Addendum - Records Retention and Disposition Schedule
Addendum - Records Management Program Manual
Addendum - Effect of Applying Records Retention and Disposition Schedule

Appendix 1 - Work Plan for Records Management Consultancy

WORK PLAN FOR RECORDS MANAGEMENT CONSULTANCY
USAID RULE OF LAW PROGRAM IN ALBANIA

The objective of this technical assistance is to provide the legal framework and procedures under which the 10 pilot courts as well as the other Albanian courts can more efficiently manage the increasingly large number of case files. The assistance will be directed at efficient organization of the files so that unnecessary documents are purged on a regular schedule with the goal of reducing the size of files and enabling more orderly storage of files.

Tasks

The consultant, working with Project staff, MOJ staff and advisory committee and staffs of the Pilot courts shall:

1. Provide technical assistance for establishing a record series and developing a records retention and disposition schedule
2. Work with ROLP staff and the advisory committee to identify the applicable laws that govern records retention and archiving
3. Provide draft archiving legislation and regulations based on international standards
4. Advise MOJ Working Committee on finalizing drafts and preparing for Parliament review and passage
5. Conduct a 3-4 day on-site inventory of case folders, records, books and other observable case record-keeping documents
6. Analyze the inventory results and, after discussion with advisory committee, prepare draft records retention and disposition schedule and forms
7. Design file folders, storage methods and retrieval procedures for archived files
8. Draft the outline of a procedures manual for implementing the records retention and disposition schedule
9. Develop a training plan for training court staff on new legislation and procedures for archiving
10. Prepare a Final Report as per the Project's format and requirements.

Deliverables

The deliverables will be the following:

1. Draft regulations and law for implementing the Records and Retention Schedule
2. A records and retention schedule for Albanian courts
3. Written procedures, forms and a draft outline of a Records Retention and Disposition Manual
4. A training plan for training court staff on archiving procedures under the new law and regulations
5. A Final Report as per the Project's format and requirements.

Appendix 2 - Draft Outline of Training Plan for Records Management Program

1. INTRODUCTION AND PURPOSE OF THE TRAINING
    a. Introduce concepts and benefits of records management
    b. Provide training on the implementation of records management

2. NEED AND OBJECTIVES OF A RECORDS MANAGEMENT PROGRAM
    a. Need
        i. Records are essential to any court. Properly stored records allow judges, the participants in a case, and the public, to confirm the filing and disposition of cases and the reasoning behind court decisions.
        ii. Unless there is a clear strategy for purging and storing court records, all court records are saved.
        iii. There is no more room in the courts, or the government, to store records – leading to disorganized, non-retrievable, deteriorating records. There is a need to safeguard and retrieve case files.
    b. Objectives
        i. Preserving the integrity of the record of court proceedings,
        ii. Enhancing the ability of judges, attorneys and staff to find and research cases, and
        iii. Minimizing the cost of creating, storing and retrieving case files

3. COMPONENTS OF THE RECORDS MANAGEMENT PROGRAM
    a. Legal Authorization of the Program
    b. Records Retention and Disposition Schedule
    c. Records Management Manual

4. PRESENTATION AND DISCUSSION OF THE LEGAL AUTHORIZATION OF THE PROGRAM (from legal authorization)

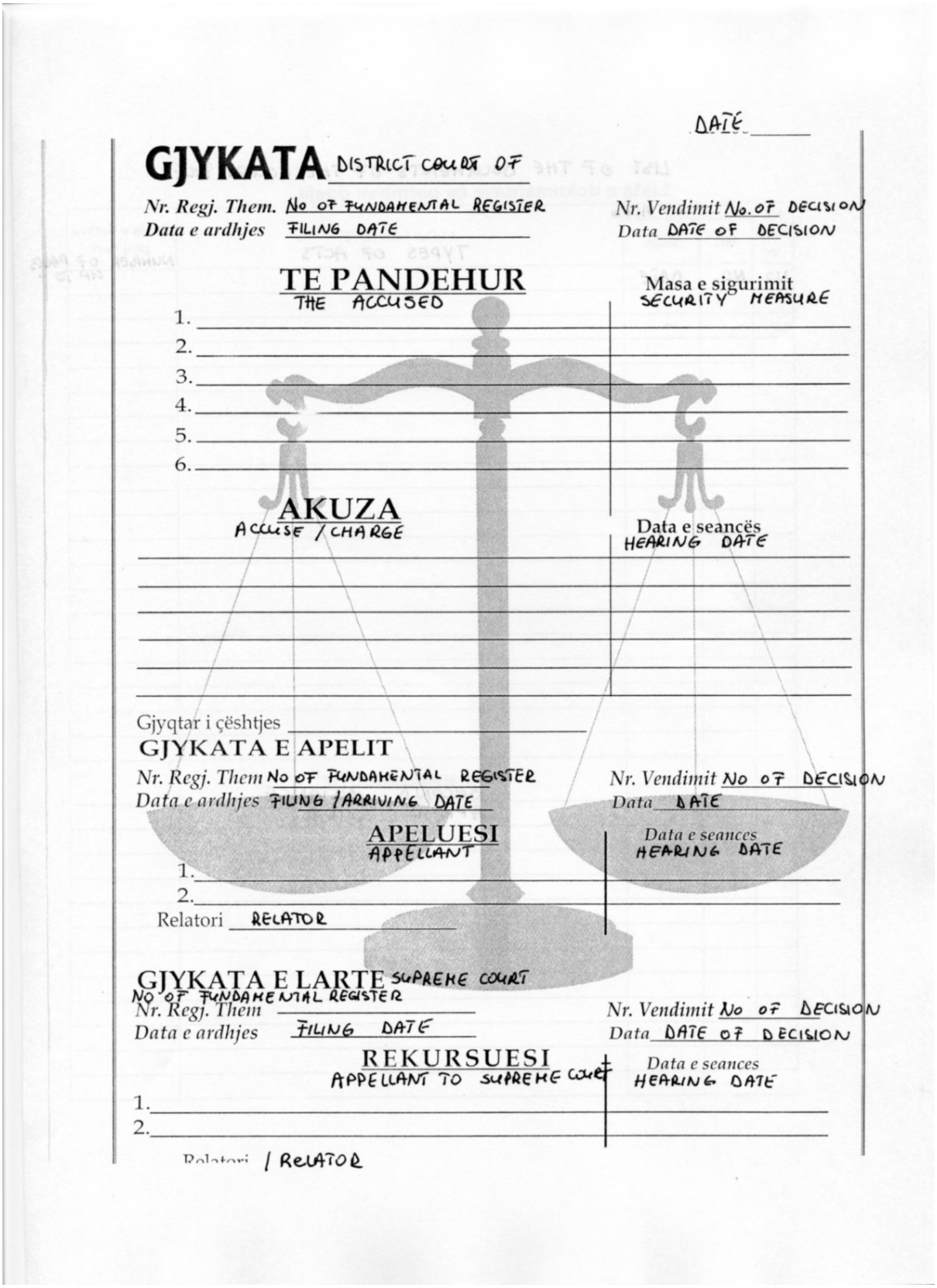
5. PRESENTATION AND DISCUSSION OF THE RECORDS RETENTION AND DISPOSITION SCHEDULE (from Schedule)

6. PRESENTATION AND DISCUSSION OF THE RECORDS MANAGEMENT MANUAL (from Manual)

7. PRESENTATION AND DISCUSSION OF THE REDESIGNED CASE FOLDER
    a. Creased edge permits orderly expansion to the maximum extent possible.
    b. When additional folders are needed for papers, enter on the spine of the folder “Folder 1 of x Folders”.
    c. Folders in three distinct colors to differentiate between civil, criminal, and administrative cases.
    d. Use metal fasteners to hold the papers in the case folder.
    e. Purchase a sufficient number of hole punchers for the courts for punching the appropriate sized and spaced holes for utilizing the metal fasteners.
    f. When the case folder is to be placed in the court archive, enter the following items of data on the spine of the folder:
        i. Codex number of the Final Court Decision
        ii. Date of the Final Court Decision
        iii. Record Series Number (from the Records Retention and Disposition Schedule)

iv. Date eligible for destruction:
    1. “P” for permanent retention – do not destroy, or
    2. The year in which the case folder may be destroyed. Note that all retention periods start from the year in which the final court decision is made. Records that do not have a Permanent retention period are eligible for disposition on 1 January of the year after the expiration of the retention period, as indicated in the Records Retention and Disposition Schedule.

Appendix 3 - Copy of Criminal Case Folder



DATE _____

GJYKATA DISTRICT COURT OF _____

Nr. Regj. Them. No OF FUNDAMENTAL REGISTER
Data e ardhjes FILING DATE

Nr. Vendimit No. OF DECISION
Data DATE OF DECISION

TE PANDEHUR
THE ACCUSED

Masa e sigurimit
SECURITY MEASURE

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

AKUZA
ACCUSE / CHARGE

Data e seancës
HEARING DATE

Gjyqtar i çështjes _____

GJYKATA E APELIT

Nr. Regj. Them No OF FUNDAMENTAL REGISTER
Data e ardhjes FILING /ARRIVING DATE

Nr. Vendimit No OF DECISION
Data DATE

APELUESI
APPELLANT

Data e seances
HEARING DATE

1. _____
2. _____

Relatori RELATOR

GJYKATA E LARTE SUPREME COURT

Nr. Regj. Them NO OF FUNDAMENTAL REGISTER
Data e ardhjes FILING DATE

Nr. Vendimit No OF DECISION
Data DATE OF DECISION

REKURSUESI
APPELLANT TO SUPREME COURT

Data e seances
HEARING DATE

1. _____
2. _____

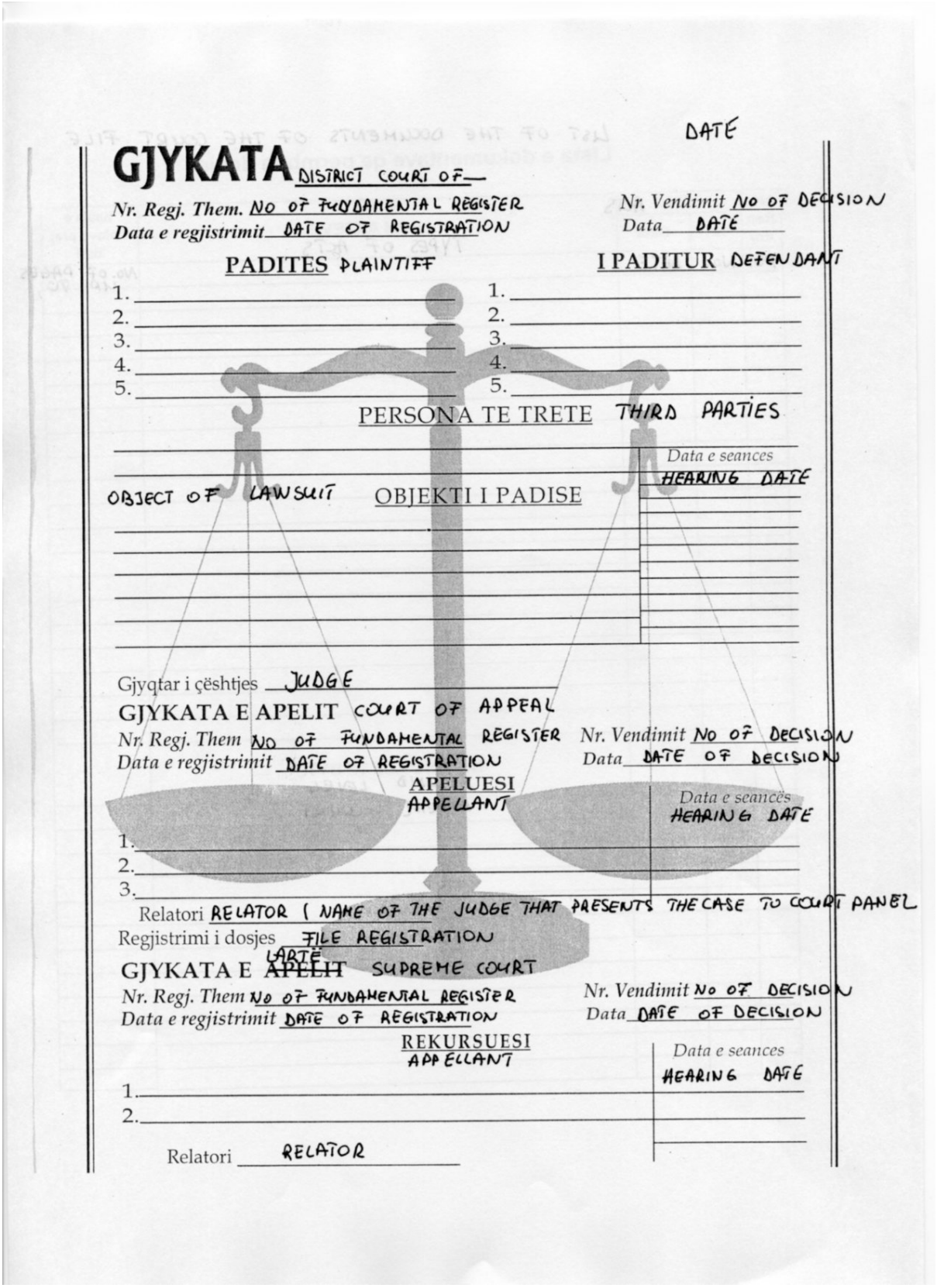
Relatori / RELATOR

LIST OF THE DOCUMENTS OF THE COURT FILE

Lista e dokumentave qe permban dosja

Nr. Rendor	AKTET ACTS Nr.	Data	LLOJI I AKTEVE TYPES OF ACTS	Sasia e fleteve prej deri
NO.	NO.	DATE		NO. OF PAGES UP TO,
			NE SHKALLE TE DYTE SECOND LEVEL APPEAL COURT	

Appendix 4 - Copy of Civil Case Folder



DATE

GJYKATA DISTRICT COURT OF—

Nr. Regj. Them. NO OF FUNDAMENTAL REGISTER
Data e regjistrimit DATE OF REGISTRATION

Nr. Vendimit NO OF DECISION
Data DATE

PADITES PLAINTIFF

1.
2.
3.
4.
5.

I PADITUR DEFENDANT

1.
2.
3.
4.
5.

PERSONA TE TRETE THIRD PARTIES

Data e seances
HEARING DATE

OBJECT OF LAWSUIT OBJEKTI I PADISE

Gjyqtar i çështjes JUDGE

GJYKATA E APELIT COURT OF APPEAL

Nr. Regj. Them NO OF FUNDAMENTAL REGISTER
Data e regjistrimit DATE OF REGISTRATION

Nr. Vendimit NO OF DECISION
Data DATE OF DECISION

APELUESI
APPELLANT

Data e seances
HEARING DATE

1.
2.
3.

Relatori RELATOR (NAME OF THE JUDGE THAT PRESENTS THE CASE TO COURT PANEL

Regjistrimi i dosjes FILE REGISTRATION

GJYKATA E ~~APELIT~~ LARTË SUPREME COURT

Nr. Regj. Them NO OF FUNDAMENTAL REGISTER
Data e regjistrimit DATE OF REGISTRATION

Nr. Vendimit NO OF DECISION
Data DATE OF DECISION

REKURSUESI
APPELLANT

Data e seances
HEARING DATE

1.
2.

Relatori RELATOR

LIST OF THE DOCUMENTS OF THE COURT FILE

Lista e dokumentave qe permban dosja

Nr. Ren dor	AKTET ACTS Nr.	Data	LLOJI I AKTEVE TYPES OF ACTS	Sasia e fleteve prej deri
NO.	NO.	DATE		NO. OF PAGES UP TO
			NE SHKALLE TE DYTE SECOND LEVEL APPEAL COURT	

RETENTION / DISPOSITION SCHEDULE SERIES #	RETENTION PERIOD IN YEARS	2006 ACTUAL FILINGS	PROJECTED # OF FILES IN 25 YEARS W/O DISPOSITION	PROJECTED # OF FILES IN 25 YEARS WITH DISPOSITION	% REDUCTION	PROJECTED # OF FILES IN 50 YEARS W/O DISPOSITION
CRIMINAL						
2-001 Sentence of Life	100	124	3,100	3,100	0.0%	6,200
2-002 Sentence 15-25	25	569	14,225	14,225	0.0%	28,450
2-003 Sentence 5-15	15	814	20,350	12,210	40.0%	40,700
2-004 Sentence 2-5	5	2,825	70,625	14,125	80.0%	141,250
2-005 Sentence up to 2	3	1,715	42,875	5,145	88.0%	85,750
2-006 Sentence fine only	2	364	9,100	728	92.0%	18,200
TOTAL CRIMINAL		6,411	160,275	49,533	69.1%	320,550
ADMINISTRATIVE						
3-001 All Cases	10	2,056	51,400	20,560	60.0%	102,800
TOTAL ADMINISTRATIVE		2,056	51,400	20,560	60.0%	102,800
CIVIL						
1-001 Inheritance	100	9,974	249,350	249,350	0.0%	498,700
1-002 Paternity	100	44	1,100	1,100	0.0%	2,200
1-003 Adoption	100	66	1,650	1,650	0.0%	3,300
1-004 - Real Property	100	2,986	74,650	74,650	0.0%	149,300
1-005 - All others	15	39,915	997,875	598,725	40.0%	1,995,750
TOTAL CIVIL		52,985	1,324,625	925,475	30.1%	2,649,250
TOTAL ALL CASES		61,452	1,536,300	995,568	35.2%	3,072,600
NOTE: RETENTION PERIOD OF 100 YEARS = PERMANENT RETENTION						

Appendix 6 - Examples of Case Folder Fasteners

Two Inch Prongs – Use on Side of Folder

Three Inch Prongs – Use on Top or Side of Folder

Washers for Three Inch Prongs to Prevent Ripping of Paper

ACCO
NO 2
BRASS
WASHERS

CODEX # DATE OF DECISION RECORD SERIES #
DATE ELIGIBLE FOR DESTRUCTION

OF DECISION

FOLDER _____ OF _____

Appendix 8 - Information on Document Shredders

There are three types of paper document shredders: straight-cut/strip-cut, cross-cut and disintegrator. Straight-cut shredders cut paper documents into vertical strips. Cross-cut shredders cut the paper documents in two directions. Disintegrator shredders slice the paper documents into tiny particles that will be fine enough to pass through a screen.

Cross-cut shredders are more expensive and operate more slowly than straight-cut shredders. However, cross-cut shredders offer more security and require less emptying of the wastebasket. It is estimated that a wastebasket of a crosscut shredder holds 20 times more than a wastebasket of a straight-cut shredder.

Cross-cut shredders are recommended over straight-cut shredders for confidential documents. Disintegrator shredders are the most expensive and are usually very large and recommended for high security documents.

The cost of the shredding machines vary, dependent upon the type of shredder, sheet capacity, size of cut, size of documents and other "special" features such as automatic on/ off detectors.

Provided below are United States average price estimates for the various machines. A preliminary review indicates that the costs are about the same in Albania.

Small capacity (10 - 12 pages) straight-cut shredder - $210 - $300

Small capacity (10 - 12 pages) cross-cut shredder - $366 - $514

Medium capacity (18 - 26 pages) straight-cut shredder - $750 - $1000

Medium capacity (18 - 26 pages) cross-cut shredder - $950 - $1300

Large capacity (up to 55 - 65 pages) straight-cut shredder - $3,500 - $4,600

Large capacity (up to 50 pages) cross-cut shredder - $4,300 - $4,500

Industrial capacity (up to 90 pages) straight-cut shredder - $10,400

Industrial capacity (up to 65 pages) cross-cut shredder - $10,400 - $13,300

High End Volume (500 - 600+ pages cross-cut) - $26,000 - $40,000

Addendum – Legal Authorization for Implementation of the Records Management Program

ALBANIA JUDICIARY

CENTRAL ARCHIVE OF THE JUDICIAL SYSTEM

LEGAL AUTHORIZATION FOR IMPLEMENTATION OF THE RECORDS MANAGEMENT PROGRAM

DRAFT

ORDER
No. _____ dated _____

ON THE APPROVAL OF REGULATION "ON ARCHIVES OF JUDICIAL SYSTEM"

In reliance of Article 102, paragraph 4 of the Constitution of the Republic of Albania, of Article 20 of the Law No. 9154, dated November 6, 2003, "On Archives", and of Article 3 of the Law No. 8678, dated 14.5.2000, "On Organization and Functioning of the Ministry of Justice",

I ORDER:

The approval of the Regulation "On Archives of Judicial System".

This order becomes effective immediately.

MINISTER

Enkelejd Alibeaj

REGULATION ON ARCHIVES OF THE JUDICIAL SYSTEM

(Approved with the order of the Minister of Justice, No. _____, dated _____)

CHAPTER 1
GENERAL PROVISIONS

Article 1
Purpose and scope

The scope of this Regulation is to define detailed normative rules on management of court records through the application of management techniques for the creation, use, maintenance, retention, and disposition of records, registers, and other documents of the district and appeals courts as well as for the improvement of efficiency of safeguarding of records and ensuring public access to them.

The Archive of the Judicial System is part of the State Archive of the Justice System.

CHAPTER II
Archiving and Safekeeping of Court Records

Article 2
Basic Principles

2.1. Court records and other documentations that have archival value shall be archived and preserved in time.

2.2 Archiving makes a contribution towards legal certainty as well as to the continuous and efficient management of administrative activities.

Article 3
Definition of Archival Documentation of the Court[1]

The archival documentation of the courts shall mean all registered data obtained or produced in the accomplishment of the public duties of the courts, such as:

a. Judicial files for criminal, civil, and other cases on which the court has given its final decision;
b. Registers, indexes, protocols, and books of the court;
c. The financial-economic documentation of the court;
d. Documentation of correspondence of the court with other institutions and physical and legal entities;
e. Internal orders of the chief judge and chancellor of the court, statistics, lists of trials, and any other documentation under the possession of the court;
f. Other documents and files, except for those currently in use by the court

[1] This definition was given taking into consideration the provisions of the Civil and Criminal Procedures Codes of Albania, regarding the acts of the process and the Order No.1830 dated April 3, 2001, *On approval of Regulation "On Organization and Functioning of Judicial Administration*, Article 23/4 stating that *Documents of the court, made up of judicial civil and penal fascicles, whose decisions have taken a final form, are stored in archive office*.

Article 4
Other Documents

4.1 Administrative acts shall be archived when they are valuable for legal, political, economic, historical, social, or cultural reasons for the history of the progress of the courts or in general.

4.2 Provisions of specific laws that regulate certain categories of administrative acts must be respected.

Article 5
Establishment of the Central Archive of the Judicial System

5.1 The Central Archive of the Judicial System shall be established as a specialized governmental institution, under the subordination and administration of the Ministry of Justice, to collect, manage, administer, preserve and serve documents of each court archive. It shall be protected and secured by the government.[2]

5.2 The Minister of Justice shall appoint the Commission of the Expertise for the Central Archive of the Judicial System.

5.3 The Minister of Justice will adopt an order on records retention and disposition schedule for courts' documents. This order may be modified whenever deemed necessary taking into consideration the proposals of the Commission of Expertise and of the courts.

Article 6
Archiving Responsibilities[3]

6.1 The archivist shall take all the necessary measures for an adequate and secure preservation of the archived records. He/she must meet all the obligations assigned to him/her by the Law "On Archives".

6.2 The same responsibility is required to have the Chief Secretary for the documents preserved in his/her own archive.

Article 7
Information and Records Management

7.1 The Central Archive of the Judicial System shall advise the district and appeals court archive offices to offer their records for safekeeping, management, and transfer of their documents to the Central Archive of the Judicial System.

7.2 The Central Archive of the Judicial System has the right to consult registries or information management centers of the offices required to offer their records for safekeeping and to consult the condition of the documents held there, in respect with the rules approved by the General Directorate of State Archives[4] on the conditions for safekeeping of archival materials.

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[2] Referring on the Law on Archives No. 9154, of date 06/11/2003, Article 20/4, *State archives of the justice system (court houses and the prosecutions) are created and function at the Ministry of Justice.*

[3] This article is formulated in full respect of the Articles 89, 90, 91 of the Law on Archives No. 9154, of date 06/11/2003 and the Article 23 of the Order No.1830 dated April 3, 2001, *On approval of Regulation "On Organization and Functioning of Judicial Administration.*

[4] See Article 15 of the Law on Archives, No.9154, of date 06/11/2003.

Article 8
Obligation to Offer Records for Safekeeping

The district and appeals court archive offices must offer to the Central Archive of the Judicial System all documents that they are no longer themselves responsible for their archiving, in full respect with the terms of this order.

Article 9
Assessment of Archival Value and Acceptance of Court Records

9.1 The Central Archive of the Judicial System, in cooperation with archive offices of the district and appellate courts, shall decide whether documents have archival value[5].

9.2 Documents that are assessed as having archival value must be delivered to the Central Archive of the Judicial System by the bodies required to offer their records for safekeeping. Offices not required offering their records for safekeeping are responsible for their own archiving.

9.3 The Central Archive of the Judicial System may temporarily safeguard documents that are assessed as not being of archival value if such safeguarding is required by any specific law.

Article 10
Destruction of Documents[6]

10.1 Documents that are subject to retention shall be destroyed only in compliance with the applicable procedures and rules.

10.2 The Central Archive shall not destroy documents without the consent of the body that has delivered them.

10.3 The elimination of the documents, which have lost their preservation value, is made by the institution that administers them[7].
10.4 The procedure of the destruction of documents is regulated in a detailed form through the specific Manual approved by the Minister of Justice.

CHAPTER 3
Delivery of Records to the Central Archive of the Judicial System

Article 11
Transfer[8]

11.1. Transfer of records is the act involved in a change of physical custody of records.

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[5] See Article 7/1, Law on Archives No. 9154, of date 06/11/2003, which stipulates that, *the definition of the archival value and the terms of the preservation of the current archival records of the state institutions is made by the commissions of the expertise (valuation, appraisal), which act in these institutions. Their decisions are approved by the commissions of the expertise, which function in the respective institutions of a higher rank, as defined in Article 9 of this law.*
[6] See the Order No.1830, of date April 3, 2001, *On approval of Regulation "On Organization and Functioning of Judicial Administration*, Article 23/6 which states, *In conformity with the law, the archivist takes technical measures for the destruction of the documentation, whose retention time has expired. The court chairman heads the relevant commission of the destruction of documentation.*
[7] See Article7/2, Law on Archives, No.9154, of date 06/11/2003.
[8] See Chapter V, *The Deposit of the Records to the State Archives*, Law on Archives No.9154, of date 06/11/2003

11.2. The documents selected for permanent preservation should be transferred to the Central Archive of the Judicial System.

11.3. The courts may ask the Central Archive of the Judicial System to transfer there even those records and documents that are not preserved permanently, if the courts do not have sufficient and appropriate space for their preservation.

11.4 By transfer, records come under the jurisdiction of the Central Archive of the Judicial System. The following aspects of transfer should be considered by a specific regulation in terms of:

a. Prescription of the general retention period (the number of years after their creation[9], that records should generally be transferred) and the transfer procedure;
b. Statutory exceptions to the general retention period and the procedure for granting temporary exemption (postponement of transfer);
c. Procedure for allowing transfer before the statutory retention period has elapsed.

CHAPTER 4
Access to Court Archive Records

Article 12
Terms of Protection

12.1. The archive records become accessible in accordance with the terms stipulated in the Law No. 9154, dated 6.11.1993, "On Archives" and Law "On Protection of Personal Data".

12.2. Records which contain personal data and violate the intimacy of private life of a person may be made accessible before the legal deadline only if the person concerned has consented to their use.

12.3. If there is an overriding and legitimate public or private interest in preventing the consultation by third parties for certain categories of archive records, the Central Archive may, by an order, restrict or prohibit consultation for a limited period following the expiration of the closure period, subject to the terms of Article 65 of the Law on Archives.

Article 13
Consultation During the Closure Period

13.1. At the request of the Central Archive of Judicial System, the institution transferring the records may release archive records to the public or allow individual persons to consult the records before expiration of the closure periods, if:[10]

a. There are no statutory regulations that prevent this; and
b. No overriding and legitimate public or private interests preclude consultation.

13.2. Such authorizations apply to all applicants without discrimination and subject to the same conditions.

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[9] See Article 43 point 'a', which states, *'The deposit of the records of the state archives in respective archives, as defined by Article 9 of this law, is made according to these legal norms: a) the departmental records are deposited after 10 years from the date of their creation.'*

[10] See Article 92 of Law on Archives No.9154, of date 11.6.2003

13.3. The Central Archive of the Judicial System regulates the details of the authorization procedure and the conditions attached to consultation unless the general provisions of the law on administrative procedure apply.

Article 14
Calculation of the Closure Period

14.1. The terms of protection are extended for the whole file or for a whole practice.

14.2. The closure period normally begins for the judicial files on the date of the final decision.

14.3. The other documents included as additional but without relevant information are not valuable for the calculation of the closure period.

CHAPTER 4
Responsibilities for Violations

Article 15

Anyone who violates the requirement of this regulation shall be responsible according to the Law No. 9154, "On Archives", of date 11.6. 2003.

CHAPTER 5
Final Provisions

Article 16
Implementation

The Ministry of Justice shall send copies of this regulation to all district and appellate courts, and in collaboration with them shall take all measures for its implementation.

Addendum – Records Retention and Disposition Schedule

ALBANIA JUDICIARY

CENTRAL ARCHIVE OF THE JUDICIAL SYSTEM

RECORDS RETENTION AND DISPOSITION SCHEDULE

The Minister of Justice has promulgated this schedule after consultation with the Commission of the Expertise for the Central Archive of the Judicial System for the retention and disposition of court records. This schedule groups court records into record series. Each record series is described, and a retention period is set for each series. The retention periods take into account the needs of the Albania Judiciary, the parties appearing before the court, and the historical value of the records for research purposes.

This schedule presents retention and disposition schedule is divided into two sections: Case Files, and Case Management Records. Case files contain all papers and documents relating to a case. They may be commonly referred to as the case file folders. The section on Case Files is divided into three case types: **civil cases**, **criminal cases**, and **administrative cases.**

Note that all retention periods start from the year in which the final decision is made. Records that do not have a Permanent retention period are eligible for disposition on 1 January of the year after the expiration of the retention period.

CASE FILES

CIVIL CASE FILES

SERIES #	RECORD SERIES TITLE	RETENTION PERIOD
1-001	Inheritance	Permanent
1-002	Paternity	Permanent
1-003	Adoption	Permanent
1-004	Real Property ownership and rights: Ownership and Remedies, Co-ownership, Usufruct, Usage and Habitation Rights, Servitudes, Possession and Remedies for Beneficial Possession and Maintenance.	Permanent
1-005	All other Civil cases	15 years

CRIMINAL CASE FILES[11]

SERIES #	RECORD SERIES TITLE	RETENTION PERIOD
NOTE: Any case in which inheritance, paternity, adoption or real property ownership and rights are affected by the sentence must be retained permanently.		
2-001	Cases in which a life sentence was imposed	Permanent
2-002	Cases in which the maximum sentence is over 15 years and up to 25 years	25 years
2-003	Cases in which the maximum sentence is over 5 years and up to15 years	15 years
2-004	Cases in which the maximum	5 years

[11] See, *CHART OF CRIMINAL ARTICLES FOR EACH SERIES* attached below.

SERIES #	RECORD SERIES TITLE	RETENTION PERIOD
	sentence is over 2 years and up to 5 years	
2-005	Cases in which the maximum sentence is up to 2 years	3 years
2-006	Cases in which the maximum sentence is a fine	2 years

ADMINISTRATIVE CASE FILES

Note: Administrative cases do not currently have prescriptions. Administrative Courts may in the future establish prescriptions, which may create different retention periods requiring additional record series.

SERIES #	RECORD SERIES TITLE	RETENTION PERIOD
NOTE: Any case in which inheritance, paternity, adoption or real property ownership and rights are affected by the sentence must be retained permanently.		
3-001	Administrative Cases	10 years

APPELLATE COURT CASE FILES OF MATTERS FILED IN THE FIRST INSTANCE

SERIES #	RECORD SERIES TITLE	RETENTION PERIOD
4-001	Election Commission Cases	5 years
4-002	Recognition of sentences of foreign courts	Save for the same length of time as cases of the same subject filed in Albania courts
4-003	All other types of filings in the first instance, including:	10 years
	Review of orders or decisions from: • Ministry of Justice • General Prosecutor • Commission of the Civil Service • Administrators in certain societies	
	Execution order of the appellate court decision	
	Clarification of the sentences of the appellate court	

CASE MANAGEMENT RECORDS

Case management records are used to record the filing, interim, and final actions concerning a case, to inform the attorneys, the public and governmental agencies of scheduled appearances and other matters concerning court administration, and to maintain rosters of individuals or legal entities that may be involved in processing cases.

SERIES #	RECORD SERIES TITLE	RETENTION PERIOD
5-001	REGISTERS AND INDEXES, INCLUDING:	Permanent
	Fundamental Civil Register	
	Alphabetical Index of Civil Cases	
	Register of Civil Decision	
	Register of persons, who are removed of, limited or returned their capacity to act	
	Register of Complained Civil Cases	
	Register of Volume of Civil Decisions	
	Register of Trade Companies	
	Register of Physical Persons	
	Register of Non-Governmental Organizations	
	Register of Political Parties	
	Register of State-Owned Enterprises	
	Register of Special Criminal and Civil Cases	
	Register of Material Facts	
	Fundamental Criminal Register	
	Military Criminal Register	
	Alphabetical Index of Criminal Cases	
	Register of Criminal Decision	
	Register of Complained Criminal Cases	
	Register of Probation, Revocation of Decisions, Recognition of Decisions of Foreign Courts	
	Register of Safety Measures	
	Register of Volume of	

SERIES #	RECORD SERIES TITLE	RETENTION PERIOD
	Criminal Decision	
5-002	Case and court administration documents, such as letters to attorneys, agencies	5 years
5-003	Copies of Supreme Court decisions	5 years, or earlier as determined by the court
5-004	Statistical Reports	5 years

CHART OF CRIMINAL ARTICLES FOR EACH SERIES

SERIES #	Series Retention period	Criminal Articles
2-001	Cases in which a life sentence was imposed	73, 74, 75, 78 p.2, 79, 109 p.3, 109/b p.3, 110/a p. 4,5, 114/b p.4,5, 128/b p.4,5, 141, 208, 209, 219,221 p.2, 230, 230/a, 298 p. 4, 334,
2-002	Cases in which the maximum sentence is over 15 years and up to 25 years	76, 77, 78 p.1, 87, 89/a p.2, 100 p.2, 3, 101 p.2,3, 102 p.3, 102/a p.3, 103 p.3, 109 p.1, 2, 110/a p.3, 111, 114/b p.3, 128/b p.2,3, 136 p.2, 140, 143 p.1, 143/a p.2, 152 p.3, 213, 221 p.1, 232, 278/a p.2, 282/a p.1, 283 p.3, 283/a p.2, 284/a p.1, 284/c p.3, 287 p.2,
2-003	Cases in which the maximum sentence is over 5 years and up to 15 years	82, 83, 86, 88, 89/a p.1, 96 p.2, 100 p.1, 101 p.1, 102 p.1, 2, 102/a p.1,2, 103 p.1, 2, 104, 106, 109/b p. 1, 2, 110 p.2, 110/a p. 1,2, 114/a, 114/b p.1,2, 115, 124 p.2, 124/a , 128/a, 128/b p.1, 134 p. 2,3, 135, 136 p.1, 138 p.2, 138/a, 139, 141/a, 143 p.1, 143/a p.1, 146, 151 p.2,3, 152 p.1,2, 153 p.2,3, 154 p.2, 3, 155, 160 p.2, 170/b p.2, 171, 172, 173, 174, 175, 176, 181/a p.2, 183 p. 2, 184 p.2, 185 p.2, 186 p.3, 189 p.3, 190 p.3, 192/b p.2, 195, 201 p.2, 202 p.2, 203 p.2, 210, 211, 212, 214, 215, 216, 217, 218, 220, 222, 226, 228 p.2, 230/b, 230/c, 230, 231, 233,234, 234/a, 234/b, 236 p.2, 250, 259, 260, 265, 270 p.2, 276 p.2, 276 p.2, 278 p.1, 2, 4, 278/a p.1, 281 p.2, 282 p.2, 282/a p.1, 283 p.1, 2, 283/ a p. 1,3, 283/b, 284, 284/a p.2, 284/c p.1,2, 284/ç, 285, 286, 287 p.1, 288 p.1, 288/a p.2, 280 p.1, 294 p.2, 298 p.2, 3, 302 p.2, 313/b p.3, 314, 315, 316, 319/a, 323 p.2, 324 p.2, 333, 333/a p.1,
2-004	Cases in which the maximum sentence is over 2 years and up to 5 years	80, 83/a, 85, 88/a, 88/b, 93, 94 p.2, 96 p.1, 98, 99, 105, 108, 109/a p.1, 113, 114, 118, 124 p.1, 129, 131, 132, 134 p.1,2, 137, 138 p.1, 142, 143 p.1, 144, 145, 147, 150, 151 p.1 , 153 p.1, 154 p.1, 156, 159 p.1, 160 p.1, 161, 162, 164, 164/b, 165, 168, 170/b p.1, 177, 178, 179, 181, 183 p.1, 184 p.1, 185 p.1, 186 p.1,2, 187, 188, 189 p.1,2, 190 p.1,2, 191 p.2, 3, 192/a, 192/b p.1, 193, 194, 202 p.1, 203 p.1, 223, 224,225, 227, 235 p.2, 237, 241, 243, 244, 245, 245/1 p.2 , 246 p.2, 247 p.2, 248, 251, 253, 254, 255, 256, 257, 258, 261 p.2, 263 p.1, 266, 267, 270 p.1, 279, 285/a, 286, 288

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2-005	Cases in which the maximum sentence is up to 2 years	81, 84, 89, 90 p.2, 91, 94 p.1, 95, 97, 107, 110 p.1, 112, 117, 119, 120, 121, 122, 123, 125, 126, 127, 128, 130, 133, 148, 149, 157, 158, 159 p.1, 164/a, 166, 167, 169, 170/a, 179/a, 180, 182, 191 p.1, 192, 196, 197, 198, 199, 200, 201 p.1, 204, 205, 206 p.2, 228 p.1, 229, 235 p.1, 236 p.1, 238, 239, 240, 242, 245/1 p.1, 246 p.1,247 p.1, 249, 252, 257/a, 261, p.1, 262, 264, 268, 269, 271, 272, 273, 274, 275, 276 p.1, 276 p.1, 277, 278 p.3, 280, 281 p.1, 282 p.1, 288/a p.1, 291, 297, 307 p.1, 308 p.1, 310, 311, 313/b p.1, 318, 320, 320/a p.1, 321, 322, 327, 328 p.2, 329, 330, 331, 332,
2-006	Cases in which the maximum sentence is a fine	90 p.1, 92, 163, 170, 181/a p.1, 206 p.1, 207, 263 p.2, 287/a, 328 p.2,

Addendum – Records Management Program Manual

ALBANIA JUDICIARY

CENTRAL ARCHIVE OF THE JUDICIAL SYSTEM

RECORDS MANAGEMENT PROGRAM MANUAL

ALBANIA JUDICIARY

CENTRAL ARCHIVE OF THE JUDICIAL SYSTEM

RECORDS MANAGEMENT PROGRAM MANUAL

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PURPOSE OF THE RECORDS MANAGEMENT PROGRAM MANUAL

This Manual provides judges and staff of the Albania judiciary with the policies, procedures and forms to carry out effective and efficient court records management. The Records Management Program envisions a cooperative effort among the Albania Judiciary and its courts, the Ministry of Justice, the Central Archive of the Judicial System, and the Commission of the Expertise for the Central Archive of the Judicial System. Working together, the court records will be preserved for the appropriate amount of time to help insure that individuals and organizations are able to resolve disputes brought before the court. The court records will also be available for research purposes. Finally, valuable space will be used in the most efficient manner possible.

COMPONENTS OF THE RECORDS MANAGEMENT PROGRAM

There are three documents that govern the Albania Judiciary Records Management Program:

1. Legal authorization for the Records Management Program.
2. Records Retention and Disposition Schedule.
3. This Manual.

Legal Authorization for the Records Management Plan

The legal authorization establishes the purpose and scope of the of efforts to improve records management in the Albania Judiciary, provides principles for archiving and safekeeping of court records and establishes the Central Archive of the Judicial System. The legal authorization also provides for the transfer of records between the courts and the Central Archive, and the destruction of records in accordance with the Records Retention and Disposition Schedule.

Records Retention and Disposition Schedule

The Schedule is promulgated by the Minister of Justice after consultation with the Commission of the Expertise for the Central Archive of the Judicial System for the retention and disposition of court records. This schedule groups court records into record series. Each record series is described, and a retention period is set for each series. The retention periods take into account the needs of the Albania Judiciary, the parties appearing before the court, and the historical value of the records for research purposes.

Records Management Manual

This Manual contains specific guidelines, procedures and forms for implementing the legal authorization for the Records Management Plan and the Records Retention and Disposition Schedule.

RECORDS STORAGE

The Central Archive of the Judicial System has the responsibility for insuring that the records of the Albania Judiciary are stored in a manner that ensures the safety and accessibility of those records. The records of the Judicial System are defined in the Legal authorization for the records management plan, and specified in the Records Retention and Disposition Schedule. Records may exist in physical form or in electronic form. Records include case folders, registers and indexes as established by the Ministry of Justice, and other case and court management records. Records may be stored at a court, at facilities maintained by the Central Archive of the Judicial System, or at off-site storage facilities as authorized by the Central Archive of the Judicial System.

Physical Records

2. All physical records must be maintained in a safe, secure environment. Non-court people may have access to physical records only if accompanied by court staff. Physical records include case folders, registers, indexes, and case and court management records such as statistical reports and correspondence with agencies and attorneys.

3. Physical records are to be stored in clean, dry, vermin free environments with temperature control. Records are to be stored off the floor in a manner designed to be easily accessible.

4. Physical records of active cases.
    a. Registers and indexes are to be kept in offices in each court that are accessible to court staff to allow for timely and efficient entry and retrieval of information.
    b. Case folders are to be kept in offices in accordance with the policy and practice established in each court. For example, the case folders of cases assigned to a judge may be kept in the office of the judge. Alternatively, the case folders may be kept in a central, secure office and delivered to the assigned judge as required.

5. Physical records of finished cases.
    a. Retention and disposition dates for case folders are determined after the final court decision has been recorded. It is only then that the relevant facts are known, such as whether paternity was determined, or property rights were established.
    b. All retention periods start from the year in which the final court decision is made. Records that do not have a Permanent retention period are eligible for disposition on 1 January of the year after the expiration of the retention period.
    c. Before a case folder is placed in a court's archive, the chancellor or her or his designee in each court will review the final court decision of each case and determine the record series to which the case is assigned. Write the following information on the spine edge of the case folder:
        i. The codex number of the final court decision. "Codex" is the common name for the Register of Volume of (Civil or Criminal) Decisions which is a bound book of all final court decisions.
        ii. The date and the number of the final court decision.
        iii. The Record Series number and the year that the case folder is eligible for disposition (from the Records Retention and Disposition Schedule). If the case folder is to be retained permanently, write a large capital "P".
    d. The record series number and the year that a case is eligible for disposition is entered into the name index of the codex of final court decision that is kept in each court's archive. The records series number and the year that a case is eligible for disposition is also entered into the Fundamental Register, and the automated case management system, as the capability to record this information is made available.
    e. The registers and indexes of cases are to be archived when all cases entered into them have been finished.
    f. Registers and indexes of finished cases are stored in the court which created them. Case files may be stored in the archives of the court, the Central Archive of the Judicial System, or an off-site storage facility as authorized by the Central Archive of the Judicial System. The prescribed procedure to transfer case files for storage from the court to the Central Archive or an authorized off-site storage facility is described below.

6. Physical Case Management Records
    a. Case management records, other than registers and indexes (Record Series 5-001 in the Records Retention and Disposition Schedule), are eligible for disposition by shredding after five years.
    b. The chancellor and/or the court secretary in each court will determine the appropriate method of filing and archiving these records. Archiving these records in the order of the date of the record will facilitate disposing of the records.

Electronic Records
Electronic records include both information that has been directly entered into an automated case management system, and scanned images of physical records that are accessible through an automated case management system. The electronic records are subject to the same retention periods as physical records.

Safeguarding, controlling, and preserving automated records is the responsibility of the agency responsible for the development, implementation, documentation, training and support of the automated case management system. The judges and staff of the courts using the automated case management system are responsible for complying with the mandates and instructions of the appropriate agency.

An automated case management system must provide for the following elements:
1. Records are managed uniformly and efficiently
2. Records are accurate and reliable
3. Records are accessible when needed
4. Records, and the system, are protected from unauthorized access
5. Records are retained and destroyed in accordance with the Records Retention and Disposition Schedule
6. Migration strategies standards are implemented
7. Disaster recovery and back-up systems standards are implemented

Off Site Storage of Court Records
In the event that adequate and appropriate space is not available for the storage of court records in either a court or at the Central Archive of the Judicial System, the Central Archive has the authority to pursue obtaining storage facilities from other sources. Such authority is subject to all other pertinent laws and rules.

An off site storage facility will provide the following features:
1. An adequate retrieval system is available to ensure that records needed for court operations can be retrieved within forty-eight (48) hours. Faster turnaround time is possible in emergency situations.

2. The records are stored in a secure location and access is restricted to authorized personnel. The rules regarding confidential materials are maintained and the storage facility insures that these rules are followed.

3. An up-to-date inventory is maintained for all records in storage. The inventory record includes the years being stored and the name of the records series.

4. The records authorized for destruction are destroyed as scheduled using procedures presented below.

5. Court records are stored in clean, dry, vermin free environments with temperature control. Records are stored in record storage boxes, off the floor, on steel shelving, in manner designed to enhance ease of access.

RECORDS TRANSFER REQUEST PROCEDURES (WITH FORM)
Case files of finished cases may be transferred from the courts to the Central Archive of the Judicial System. A court may request permission to transfer finished case files to the Central Archive. Also, the Central Archive may request that courts transfer finished case files to the Central Archive.

Initiation of the Request to Transfer Records

A request to transfer records is initiated by using the **RECORDS TRANSFER REQUEST FORM** (see below). If a court is requesting transfer of records, it will prepare the Form and submit it to the Central Archive for review and approval. **NOTE:** If the reason for the request to transfer cases to the Central Archive is that the court no longer has sufficient room in its archives, the court **MUST** have disposed of all records as permitted by the **RECORDS RETENTION AND DISPOSITION SCHEDULE**.

If the Central Archive is requesting transfer of records, it will prepare the Form and submit it to the court or courts for review and action.

A separate form is prepared for each record series for which transfer is requested, as defined in the **RECORDS RETENTION AND DISPOSITION SCHEDULE**. If a court is requesting transfer, the Form should be signed by the chief judge or the chancellor of the court. If the Central Archive is requesting transfer, the Form should be signed by the director of the Central Archive.

Review and Approval of the Request to Transfer Records
If a court is requesting permission to transfer records, the Central Archive will review the request, and inform the trial court of its decision by completing the appropriate section of the **RECORDS TRANSFER REQUEST FORM** and returning the form to the court.

If the Central Archive has initiated the request, the court named in the request will review the request. If the court has questions or comments about the request, it may contact the Central Archive directly. The court may also use the COMMENTS section of the Form to pose its questions, and return the Form to the Central Archive.

Action by the Court to Transfer the Records to the Central Archive
If the request to transfer has been approved, the court will:

1. Complete a **TRANSFERRED RECORDS INVENTORY FORM.**

2. Ship the records and the **TRANSFERRED RECORDS INVENTORY FORM** to the Central Archive by placing the case files in a designated shipping box prescribed by the Central Archive, and label the box with the following information:
    a. Name of the court
    b. Record series number and title, and date eligible for destruction,
    c. List of the registry numbers of the case files contained in the box,
    d. Date that the records were shipped.

3. For each case that was transferred, enter the date that the case file was transferred in the name index of the codex, the appropriate Fundamental Case Register, and/or in the automated case management system.

4. File the approved **RECORDS TRANSFER REQUEST FORM**.

Upon receipt of the transferred records, the Central Archives will:

1. Conduct an inventory of the transferred records and confirm the accuracy of the **TRANSFERRED RECORDS INVENTORY FORM**. Any discrepancy must be brought to the attention of the court immediately, and resolved as soon as possible.

2. Place the transferred records in the storage units with appropriate labeling showing the name of the trial court, the record series, and the date of the approved **RECORDS TRANSFER REQUEST FORM** and the date of the **TRANSFERRED RECORDS INVENTORY FORM**.

3. Sign the acknowledgement of receipt section of the **TRANSFERRED RECORDS INVENTORY FORM** and return a copy to the court.

4. File the **RECORDS TRANSFER REQUEST FORM** and the **TRANSFERRED RECORDS INVENTORY FORM** to facilitate records retrieval when authorized.

The court, upon receipt of the signed copy of the **TRANSFERRED RECORDS INVENTORY FORM**, will file the copy with the appropriate **RECORDS TRANSFER REQUEST FORM**.

CENTRAL ARCHIVE OF THE JUDICIAL SYSTEM
RECORDS TRANSFER REQUEST FORM

REQUEST TO TRANSFER RECORDS			
REQUEST ORIGINATES FROM	COURT □ CENTRAL ARCHIVE □	DATE OF REQUEST	
NAME OF COURT			
ADDRESS			
CITY			
DATE OF REQUEST			
AUTHORIZED PERSON NAME			
AUTHORIZED PERSON TITLE			
TELEPHONE NUMBER			
SIGNATURE OF AUTHORIZED PERSON			
RECORD SERIES #			
RECORD SERIES TITLE			
NUMBER OF RECORDS			
DATE RANGE OF RECORDS			
VOLUME OF RECORDS			
REASON FOR REQUEST			

ACTION OF THE CENTRAL ARCHIVE OF THE JUDICIAL SYSTEM OR COURT		
APPROVED □	NOT APPROVED □	DATE:
AUTHORIZED PERSON NAME		
AUTHORIZED PERSON TITLE		
TELEPHONE NUMBER		
SIGNATURE OF AUTHORIZED PERSON		
COMMENT		

CENTRAL ARCHIVE OF THE JUDICIAL SYSTEM
TRANSFERRED RECORDS INVENTORY FORM

DATE	
NAME OF COURT	
ADDRESS	
CITY	
DATE OF APPROVED REQUEST	
AUTHORIZED PERSON NAME	
AUTHORIZED PERSON TITLE	
TELEPHONE NUMBER	
SIGNATURE OF AUTHORIZED PERSON	
RECORD SERIES #	
RECORD SERIES TITLE	
NUMBER OF RECORDS	
DATE RANGE OF RECORDS	
NUMBER OF BOXES OF RECORDS	
NUMBER OF PAGES OF INVENTORY	

ACTION OF THE CENTRAL ARCHIVE OF THE JUDICIAL SYSTEM	
DATE RECEIVED	
AUTHORIZED PERSON NAME	
AUTHORIZED PERSON TITLE	
TELEPHONE NUMBER	
SIGNATURE OF AUTHORIZED PERSON	

TRANSFERRED RECORDS INVENTORY FORM (CONTINUED)
PAGE _____ OF _____

REGISTRY #	DATE FILED	REGISTRY #	DATE FILED	REGISTRY #	DATE FILED

RECORDS DISPOSITION REQUEST PROCEDURES (WITH FORM)
Physical records are subject to the retention periods established in the **RECORDS RETENTION AND DISPOSITION SCHEDULE**. Electronic records, if they exist solely in electronic format, are also subject to the retention periods in the Schedule.

Note that all retention periods start from the year in which the final court decision is made. Records that do not have a Permanent retention period are eligible for disposition on 1 January of the year after the expiration of the retention period.

The request to dispose of records is initiated by the court, or by the Central Archive, whoever is in possession of the records. The request must be in agreement with the **RECORDS RETENTION AND DISPOSITION SCHEDULE**. Both the court and the Central Archive must concur with the request to dispose of records. However, either the court or the Central Archive must present compelling reasons for not agreeing with a request for disposition. In the event that concurrence on the request to dispose of records cannot be reached, the Minister of Justice or her or his designee shall make the final decision on the request.

Method of Disposition of Physical Records
Each court, in consultation with the Central Archive, will develop a plan for disposing of physical records. Possible methods of disposition include, but are not limited to, use of a document shredder, burning, or disposal in a designated landfill. The Central Archive will develop a plan for disposing of physical records from its archives.

Method of Disposition of Electronic Records
Electronic records will be deleted from the electronic storage device in accordance with policies and procedures established by the agency responsible for the development, implementation, documentation, training and support of the automated case management system. The judges and staff of the courts, aided by the staff of the agency supporting the automated case management system, are responsible for complying with the mandates and instructions of the appropriate agency for the destruction of the records.

Initiation of the Request to Dispose of Physical or Electronic Records
Case folders of finished cases and case management records may be disposed in accordance with the **RECORDS RETENTION AND DISPOSITION SCHEDULE**. Requests can be initiated by the courts or by the Central Archive of the Judicial System. It is recommended that requests to dispose of records be made annually. This will help insure that sufficient space will be available in the archives of both the courts and the Central Archive. In addition, the amount of work in preparing requests will be reduced to manageable levels if performed on a regular basis.

Special Instructions for Initiation of Requests for Disposition of Physical Records Without Record Series and Eligible Destruction Dates on Spine Edge of Case Folder This requires an inventory and analysis of the final court decisions of all case folders in a chosen year.

- Review the final court decisions for the chosen year to determine the record series and eligible destruction date.
- Enter the record series number and eligible destruction date in the name index to the codex of final court decisions.
- Enter the case type (criminal, civil, administration), the record series, and the eligible disposition date on the spine edge of the case folder.
- Proceed as below.

Requests are made by using the **RECORDS DISPOSITION REQUEST FORM** and the **DISPOSED RECORDS INVENTORY AND CONFIRMATION FORM** shown below. When

completing the **DISPOSED RECORDS INVENTORY AND CONFIRMATION FORM** draw a line through any unused boxes on the form.

A separate form is prepared for each record series and time period for which disposition is requested, as defined in the **RECORDS RETENTION AND DISPOSITION SCHEDULE**. If a court is requesting disposition, the Form should be signed by the chief judge or the chancellor of the court and sent to the Central Archive. If the Central Archive is requesting disposition, the Form should be signed by the director of the Central Archive and sent to the chief judge of the court whose records are being proposed for disposition.

Review and Approval of the Request to Dispose of Records
If a court is requesting permission to dispose of records, the Central Archive will review the request, and inform the trial court of its decision by completing the appropriate section of the **RECORDS DISPOSITION REQUEST FORM** and returning the form to the court.

If the Central Archive has initiated the request, the court named in the request will review the request. If the court has questions or comments about the request, it may contact the Central Archive directly. The court may also use the COMMENTS section of the Form to pose its questions, and return the Form to the Central Archive.

Action by the Court or the Central Archive upon Receiving Permission to Dispose of Records

1. The court or the Central Archive will proceed to dispose of physical records in accordance with its approved plan. Electronic records will be disposed using the procedures developed by the agency supporting the automated case management system. The name, title and signature of the witnesses must be entered at the bottom of **each page** of the **DISPOSED RECORDS INVENTORY AND CONFIRMATION FORM.**

2. Disposition of the records in a court must be witnessed by the Chancellor or the Court Secretary, and one other court employee. Shredding of physical records in the Central Archive must be witnessed by the Director, and one other Central Archive employee.

3. Enter the date that the case folder was shredded in the name index of the codex, the appropriate Fundamental Case Register, and/or in the automated case management system.

4. File the approved **RECORDS DISPOSITION REQUEST FORM** and the **DISPOSED RECORDS INVENTORY AND CONFIRMATION FORM.**

CENTRAL ARCHIVE OF THE JUDICIAL SYSTEM
RECORDS DISPOSITION REQUEST FORM

REQUEST TO DISPOSE OF RECORDS			
REQUEST ORIGINATES FROM	COURT □ CENTRAL ARCHIVE □	DATE OF REQUEST	
NAME OF COURT			
ADDRESS			
CITY			
DATE OF REQUEST			
AUTHORIZED PERSON NAME			
AUTHORIZED PERSON TITLE			
TELEPHONE NUMBER			
SIGNATURE OF AUTHORIZED PERSON			
RECORD SERIES #			
RECORD SERIES TITLE			
NUMBER OF RECORDS			
DATE RANGE OF RECORDS			
FORM OF RECORDS	MANUAL □	ELECTRONIC □	
REASON FOR REQUEST			

ACTION OF THE CENTRAL ARCHIVE OF THE JUDICIAL SYSTEM OR COURT		
APPROVED □	NOT APPROVED □	DATE:
AUTHORIZED PERSON NAME		
AUTHORIZED PERSON TITLE		
TELEPHONE NUMBER		
SIGNATURE OF AUTHORIZED PERSON		
COMMENT		

DISPOSED RECORDS INVENTORY AND CONFIRMATION FORM
PAGE _____ OF _____

REGISTRY #	DATE DECIDED	REGISTRY #	DATE DECIDED	REGISTRY #	DATE DECIDED

The undersigned attest to the destruction of the records listed above:

PRINTED NAME:		PRINTED NAME:	
TITLE:		TITLE:	
SIGNATURE:		SIGNATURE:	
DATE:		DATE:	

Addendum – Effect of Applying Records Retention and Disposition Schedule

The Final Report contains Appendix 5 - Analysis of Application of Records Retention and Disposition Schedule, which displayed the effect of applying the Schedule over 25 years and 50 years.

This addendum displays the number of case folders that would be eligible for destruction every year, compared with the total number of case folders created each year, based on the number of new cases filed in 2006. The addendum is an approximation, because the actual number of case folders eligible for destruction will vary from year to year. Nonetheless, the addendum is illustrative of the benefits of applying the Schedule.

This analysis shows that the equivalent of 98 per cent of new criminal case folders, 100 per cent of new administrative case folders, and 75 per cent of new civil case folders will be eligible for destruction every year.

of Records Eligible for Destruction Every Year

RETENTION / DISPOSITION SCHEDULE SERIES #	RETENTION PERIOD IN YEARS	2006 ACTUAL FILINGS = ADDITIONAL FILES PER YEAR	ELIGIBLE FOR DESTRUCTION EVERY YEAR	% REDUCTION
CRIMINAL				
2-001 Sentence of Life	100	124	0	
2-002 Sentence 15-25	25	569	569	
2-003 Sentence 5-15	15	814	814	
2-004 Sentence 2-5	5	2,825	2,825	
2-005 Sentence up to 2	3	1,715	1,715	
2-006 Sentence fine only	2	364	364	
TOTAL CRIMINAL		6,411	6,287	98.1%
ADMINISTRATIVE				
3-001 All Cases	10	2,056	2,056	
TOTAL ADMINISTRATIVE		2,056	2,056	100.0%
CIVIL				
1-001 Inheritance	100	9,974	0	
1-002 Paternity	100	44	0	
1-003 Adoption	100	66	0	
1-004 - Real Property	100	2,986	0	
1-005 - All others	15	39,915	39,915	
TOTAL CIVIL		52,985	39,915	75.3%
TOTAL ALL CASES		61,452	48,258	78.5%
NOTE: RETENTION PERIOD OF 100 YEARS = PERMANENT RETENTION				