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## **Impact Assessment of Civil Case Management Department at Amman First Instance Court**

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## Acronyms List

USAID	US Agency for International Development
COP	Chief of Party
CM	Case Management
CCMD	Civil Case Management Department
ICT	Information & Communication Technology
ITD	Information Technology Department
I&M	Inspection and Monitoring Directorate
JC	Judicial Council
JJ	Judicial Institute of Jordan
JUST	Judicial Upgrading Strategy
MIZAN	Case Management software application
MOJ	Ministry of Justice
NPOJ	New Palace of Justice
RM	Records Management

## Executive Summary

To fulfil the Ministry of Justice's (MOJ) desire to assess the impact of civil case management department, a closed case survey was designed to collect information pertaining to case adjudication time as well as key milestones in the lifecycle of the case.

Survey findings revealed that the work of the civil case management department had positive impact in terms of case processing efficiency, specifically as related to:

- Time to Notifications: as the efficiency of processing notifications was found to have reduced from an average of 50 days to 35 days following the advent of case management.
- The number of sessions needed to dispose of cases is less in 2004 than in 2001. *The cases registered in 2004 required holding 30 sessions in 3 years, while those in 2001 required an average of 33 sessions over 6 years*, which indicates that the hearings are being provided at a faster rate in the more recent years as the sessions necessary to conclude cases are being held more quickly in 2004 and 2005 than they were in 2001.
- Time to First Trial Hearing: the average time from filing to the first hearing before a trial judge has been *reduced from 135 days to 99 days*

While the original objectives behind the introduction of civil case management principles pertain to case processing efficiency. Since establishment, there were a number of reconciliations recorded at the case management department averaging 100 cases pr year.

While significant achievements have been recorded, there could be additional benefits achieved should the application of civil case management principles be expanded to cover the full lifecycle of the case as opposed to initial intervention as currently adopted. Case management concepts that could be applied include the adoption of time standards for processing cases, maintaining continuous control in case adjudication in terms of scheduling case session and allowing the scheduling of following sessions to be based on the necessary time needed to prepare for the session. Also, furthering the role of case management judges in terms of requiring the attendance of lawyers will significantly enhance the work effectiveness of the civil case management department.

Some of the recommendations that would support the effective adoption of civil case management include a) revising the civil procedures statute, the case management governing law (granting civil case management judges the authority to enter a default judgement against a defendant whose lawyer does not attend) , such revision will impact the attendance of lawyers to successfully complete the consolidation of points of disagreement before sending it to the trial judges.

b) Instituting a case initiation form to provide summary information about the case to advise the court in summary form what the case is about, c) and adopting time standards based on case complexity factors

In addition, and given the initial improvements which resulted from the adoption of case management, rolling out civil case management will support increasing case processing efficiency especially at the large first instance courts.

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## **1. INTRODUCTION**

In 2001, the Ministry of Justice (MOJ) launched the Civil Case Management Department (CCMD) on pilot basis with the objective of introducing a more proactive approach to managing cases on a day-to-day basis. Through the civil case management department, unnecessary delays and additional costs to the litigants and the judicial system are avoided; thus, justice, which is the ultimate goal of having courts and a judicial system, is achieved in a timely manner.

Since establishment, this department focused on eliminating unnecessary delays in case processing with the main objective focusing on:

1. Improving the speed and quality of notifications.
2. Organizing the pleadings to assure compliance with filing requirements, and so minimized the invalid cases that burden the system
3. Preparing the complete case file before going to the trial judge.
4. Determining the points of agreement or disagreement,
5. Decreasing the case lifecycle.

While the initial implementation of civil case management proved to be successful, MOJ has interest in conducting an in-depth impact assessment to quantify the beneficial results from introducing case management as well as identify areas that could be furthered in order to maximize the performance of CCMD. This study comes also in preparation for expanding the adoption of civil case management throughout the major first instance courts in Jordan in order to maximize impact of said rollout.

## **2. STUDY OBJECTIVES**

The main objectives of this study are twofold:

1. To measure the life cycle of a selected sample of disposed cases that was channelled through the CCMD.
2. To review the existing performance of the civil case management department in order to identify enhancement areas.

## **3. STUDY METHODOLOGY AND SURVEY SAMPLE**

### ***Study Methodology***

The assessment study was based on two main components covering both quantitative and qualitative assessment. The first component was based on designing and conducting a closed case survey covering cases that went through the system before and after the present system of civil case management was adopted. Statistics and information related to the performance of the case management system were generated according to the general elements that are used to assess improvement along the various case lifecycle elements as well as specific elements requested by the Minister of Justice.

The second component included the notes and the observations arrived at during the interviews conducted with stakeholder: case management judges, trial judges and attorneys dealing with the department.

### ***Survey Sample***

The first step in making this assessment was to identify cases that went through the system before the present system of case management was adopted so that a baseline could be generated for comparison with cases that have been subject to case management.

The first sample included all of the closed cases in June of 2001 before the advent of CCMD. The sample identified included all cases registered at Amman First instance registrar and follow through on the final disposition of most of them (of 460 filed there were only seven still pending).

The second sample included cases filed after the advent of case management in Jordan. A like number of cases was selected (i.e. 460 cases) from May and June of 2004. Of the 2004 cases selected 40 were still pending. The two months were chosen so that there would be enough cases that have reached disposition.

#### 4. CLOSED CASE SURVEY

##### ***Time to notification***

The time to notification has been *reduced from an average of 50 days to an average of 35* and the median has been reduced from 20 days to 8 days. The time in the 90<sup>th</sup> percentile of cases has been reduced from 113 to 97 days.

The study also indicated a zero number of appeals based on notifications invalidity in the sample of 2004.

##### ***Increase/Decrease in Sessions to Judgment***

The number of sessions needed to dispose of cases is less in 2004 than in 2001 and conducted in a timelier manner as indicated by the study results.

- 2001 cases pending in 2006 have an average of 33 sessions to date
- 2002 cases pending in 2006 have an average of 30 sessions to date
- 2003 cases pending in 2006 have an average of 32 sessions to date
- 2004 cases pending in 2006 have an average of 30 sessions to date

This indicates that the hearings are being provided at a faster rate in the more recent years as the sessions necessary to conclude cases are being held more quickly in 2004 and 2005 than they were in 2001. *The cases registered in 2004 required holding 30 sessions in 3 years, while those in 2001 required an average of 33 sessions over 6 years.*

Comparison of sessions occurring before judgment

	2001	2004
Average	12	10
Median	6	6
90 <sup>th</sup> Percentile	30	22

##### ***Time to first trial hearing***

It was of course possible that the additional time spent in case management would increase the time it takes to get the case into trial. In fact the time to get to the first trial hearing was reduced by the imposition of case management into the procedures.

Based on pending case data the average time from filing to the first hearing before a trial judge has been *reduced from 135 days to 99 days*, the median time from 104 to 85 days.

##### ***Length of time to judgment in the Court of First Instance***

One way to measure the success and efficiency of any court system is by how soon the cases are disposed. The study findings reveal that on average, case adjudication time decreased by 103 days as a result of more effective management of the case.

## Age of the cases in days at the time of First Instance judgment

	2001	2004
Average	292	189*
Median	203	152*
90 <sup>th</sup> Percentile	608	355*

\*Adjusted upward to reflect the fact that there are still 55 cases pending in the sample from 2004)

### ***Additional benefits of reconciliations recorded at the Case Management Department***

While the original objectives behind the introduction of civil case management principles pertain to case processing efficiency. Since establishment, there were a number of reconciliations recorded at the civil case management department.

The number of early reconciliations, which did not exist in the records of 2001, have been steady from the beginning of the program at about **9 reconciliations a month**, a small fraction of the cases filed. The early reports on the reconciliations from the mediation program are much higher. It should be indicated however, that the goal of civil case management is not to mediate to reach reconciliation between litigants; this is an additional effort taken up by the civil case management judges. This is the goal of the mediation program which should not be confused with the case management program.

## **5. COMPLIANCE WITH RECOGNIZED CONCEPTS AND BEST INTERNATIONAL PRACTICES OF CASE MANAGEMENT**

There are well established basic concepts of case management against which civil case management in Jordan can be evaluated. They are as follows:

- A. Judges are responsible for the pace of litigation and should take early control of the case
1. Time standards for critical events will be adopted by the court
  2. The time standards will be monitored for compliance
  3. There will be consequences if the times are not met

As to these accepted case management concepts the Jordan system is in compliance with the requirement of early control in getting the notification completed and the pleadings reviewed. The time limit imposed on the judge to get the case to a trial judge within 30 days of the scheduled hearing is followed in most cases. In this respect the system works quite well. Though there is no consequence for failure to appear at the case management conference, the transfer to the trial judge is required so that delays are not incurred in getting the case to trial.

- B. Judges must maintain continuous control of the time it takes to decide the case.
1. Cases will always have a next date set
  2. There will be a consequence if the next date set is not honoured

There is no control by the judge after the case leaves the authority of the case management Judge. The procedural laws of Jordan provide a clear opportunity to be in control after the case leaves case management but the judges rarely if ever follow the law. The law provides that the case may not be postponed for more than 15 days and that the same reason may not be used more than once for a postponement. This process is, at present' limited by the failure of courts in many instances to record the actual reason so that the reasons may be monitored. Observations in regular court sessions are that often half of all of the cases set for action on any given day are postponed. There

appears to be no consequence when attorneys appear only to announce they don't know why the principal attorney could not be there.

C. Judges should allow no more time between sessions in the case than are necessary to prepare for the session. When setting a new time the judge will inquire as to what needs to be done and estimate the time necessary to prepare. The judge shall set the time according to his judgment as to how much time the preparation will take.

Again, based on observation, the judge makes no inquiry as to why the purpose of the session cannot be accomplished and simply provides a new date for the next session within the legal 15 days, without taking into account when the parties might be available.

D. Attorneys must be reasonably accommodated in setting times for the sessions.

1. Judges should require that a responsible attorney be present at all sessions
2. Judge should consult with the responsible attorney as to his schedule and any conflicts in it
3. Judge should allow a reasonable time to accommodate conflicts in attorney and witness schedules.

Currently the judge makes no effort to inquire about any conflicts in attorney schedule when setting the date for the next hearing. The attorneys on the other hand know there is no consequence for not appearing there. Both factors lead to sessions postponement; it is generally noticed that the attorneys actually control the progress of the case as the sessions are not held according to the set dates by the court.

E. Increase/Decrease in Appeals

Neither the number of cases reaching appeal or the results varied significantly between the two samples

## **6. VIEWPOINT OF THE KEY OPERATORS IN THE SYSTEM**

### ***Case Management Judges***

The case management judges express concern that there is not enough time in the regular work day to do all that is required of them. In the early years of the program they were allowed to spend extra time studying the cases before the initial sessions. With limited time to cover an increased number of cases they don't feel as prepared as they would like to be. With the onset of the mediation program there is a need for even more time to persuade lawyers that they should take appropriate cases to mediation.

They believe there is a significant challenge given that many lawyers choose not to attend and that they have no authority to provide a consequence when the lawyer is not there or sends an unprepared substitute.

### ***Trial Judges***

In light of the above, the consequence was a reduction of the number of cases coming through the case management department that are properly prepared and with complete case management memorandum including the points of agreement and dispute as stated by several trial judges. Some of them noted that there has been a deterioration in the number of cases coming through from the case management judges over the time the program has been in operation.

Case management in Jordan was quite effective in 2004 but has deteriorated in its operation slowly to the present time. It continues to be effective in taking early control of the case and in insuring that the pleadings are complete when transferred to a trial judge but has lost much of its effectiveness in defining the matters in dispute and in organizing the case for trial. It provides useful information when the defendant appeared at the trial management conference.

### ***Lawyers Practicing in the System***

Based on interviews conducted in 2003, 2005 and 2006 the lawyers have mixed feelings about the effectiveness of the case management effort. There seems to be a consensus about the fact that in its early application more of the defendants appeared at the case management session and that they have slowly decreased in numbers.

Some lawyers say they find the sessions worthwhile and others believe the case management judge does not adequately understand the case to assist in identifying the points of agreement and disagreement with necessary skill. Some want the judge to whom the case is sent from case management to pay more attention to the memorandum of points but without being bound by what is said there. Some thought that the case management judge should have more authority with respect to requiring attendance and some opposed such a possibility.

## **7. RECOMMENDATIONS**

Civil Case management as practiced in Amman First Instance Court has been a worthwhile program and, as originally established, is worthy of being rolled out into other sites in Jordan. Based on analysis results, civil case management has improved performance of the Amman first instance court case flow in various aspects pertaining to case processing from initiation to disposition. In addition, it is permissible to say that the existence of the early monitoring program has been an inducement for a more thorough performance by the lawyers filing cases, knowing that their efforts will be monitored and subject to immediate review increases their diligence as they prepare court papers. The study sample indicates that the percentage of attorneys' attendance for the year 2004 was 35%.

### ***Revise the case management statute***

The program, while successfully providing necessary intake screening and improving the notification processes, is not getting the cooperation of the Bar in developing the points of agreement and disagreement. By some estimates fewer than 35% of the lawyers are actively participating in the process.

The rules are broad enough to permit other First Instance judges with the same qualifications as those sitting as case managers to require attendance at sessions and provide information necessary to proceed with the case. There is no reason why the case management judges should not be able to require attendance of a lawyer prepared and with the authority to clarify the pleading and evidences in the case. Rule 59 should be modified to provide in some manner that a lawyer with authority should be required to attend the case management session of sessions.

One of two possibilities should be instituted to insure cooperation by the lawyers with the case management process:

1. The case management judge should be given the authority to fine the counsel of record who does not attend the case management conference.
2. The case management judge should have authority to enter a default judgment against a defendant whose lawyer does not attend.

***Institute a case initiation form*** to provide summary information about the case to advise the court in summary form what the case is about. Such forms are necessary to expedite the litigation process and to support the automated system of case management.

### ***Adopt a civil case management program based on an enhanced Amman First Instance Court model***

The Amman first instance court program is well conceived and with the authority of the case management judge properly defined will be substantially enhanced. The information needed to provide continuing support of case management practices beyond the initial stages is available in the session reports and time measuring capabilities of MIZAN. Recent efforts to clarify case types into significant categories and provide complexity information will make an advanced case management system capable of controlling delay for the people of Jordan.

### ***Select competent judges and administrative staff during civil case management rollout.***

A judge who manages a case should have a certain set of administrative, interpersonal and communication skills in addition to a broad legal knowledge and experience; all of which make up the necessary qualifications for those selected to be case managers.

### ***Support rollout with intensive education, training and awareness building***

Role out the practice to other areas of the country after providing orientation and training for members of the bench, Bar, and court staffs in each locale.

Before rolling out the practice in other parts of the country a program to orient and train the users of the system is important. The trial judges who receive the cases, the lawyers who are required to prepare for the case management sessions and the staff who provide support for each of the stages must understand the importance of their roles. The proposed program to carry out this orientation and training is the subject of a separate document accompanying this assessment.