



THE VALUE, EVOLUTION AND IMPACT OF DISPUTE RESOLUTION ACTIVITIES UNDER THE EBRD'S LEGAL TRANSITION PROGRAMME



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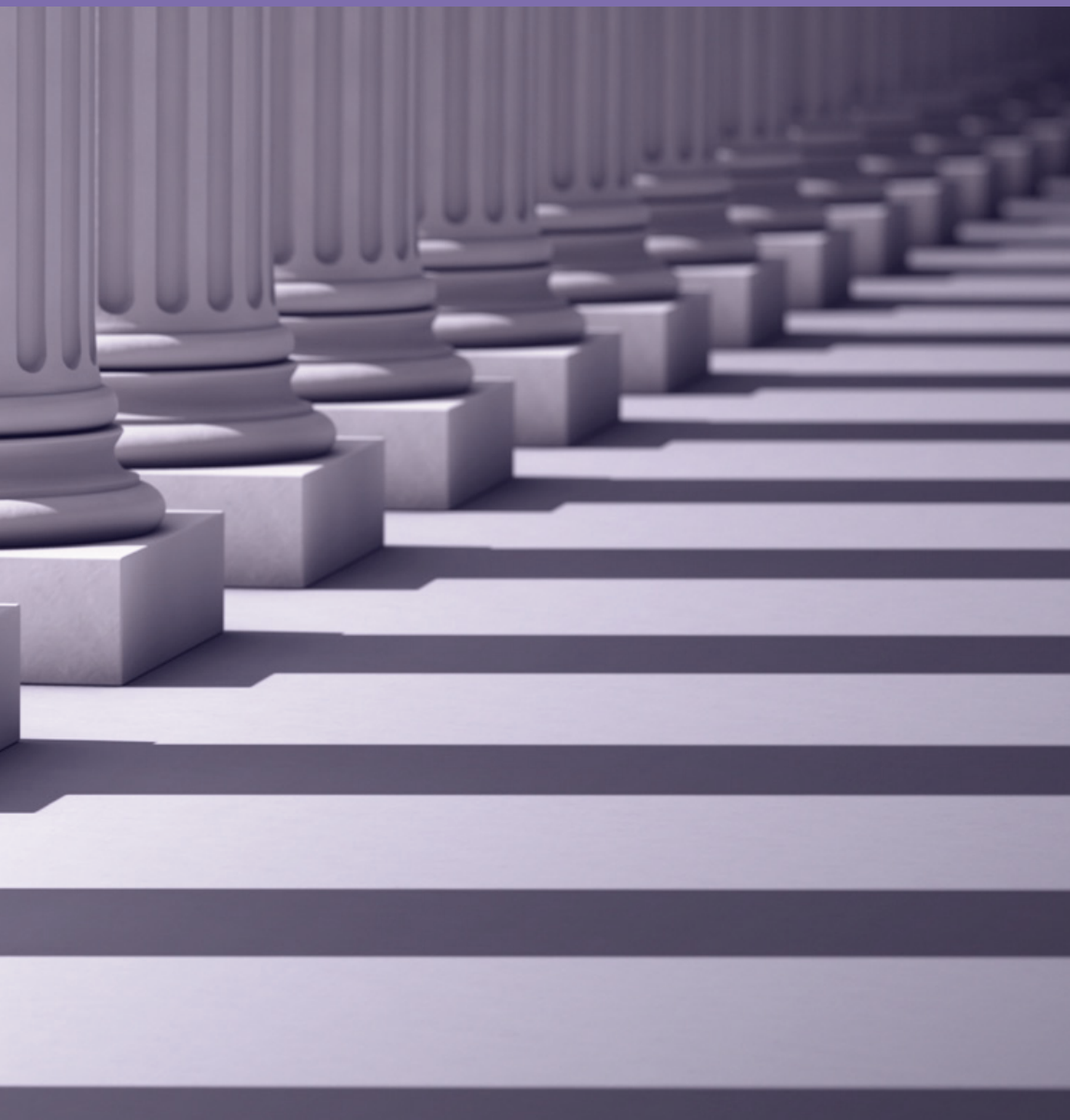
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Over two decades the work by the EBRD's Legal Transition Programme (LTP) in the area of dispute resolution has evolved from strengthening post-Soviet commercial courts to effecting broader reforms in the areas of enforcement, mediation and competition. Building on and learning from its key achievements – such as increasing judicial capacity and creating mediation frameworks – the EBRD is now shifting towards investment-linked policy dialogue and technical cooperation. Nevertheless, the LTP remains committed to applying a holistic approach to contract enforcement and is aware of the continued need for support in this area.



TWENTY YEARS OF TECHNICAL COOPERATION IN DISPUTE RESOLUTION

It is hard to believe that 20 years have passed since the edition of the *Law in Transition* journal focusing on courts and judges was published. That 2005 edition announced that the LTP was adopting a new approach, working to build the capacity of commercial courts. The main article highlighted the principal challenges faced by judicial systems in the regions where the EBRD operates, indicating that a lack of technical skills, scarce financial resources, interference by the executive and integrity concerns were all common in a lot of post-Soviet countries. Some years earlier, the Lex Mundi project,¹ which examined the procedures used by litigants and courts to evict tenants for non-payment and to collect bounced cheques, had emphasised the importance of courts in the economic development process.

Judicial systems had been identified as the weak link in ensuring that creditors' rights could be enforced, so making these systems more efficient seemed an obvious priority in promoting better investment climates. Arguably, there was little point in upgrading the legislative framework for business if the new laws were not properly enforced by judiciaries.

The LTP then embarked on its first judicial capacity-building initiative in the Kyrgyz Republic, aiming to enhance the skills of some 300 judges in the field of commercial law. Through a combination of interactive courses, institutional support, exposure visits and the creation of a law library for judges, the Programme had a significant impact on courts handling commercial disputes in that central Asian country.

Recognising the need for technical expertise in the training of judges, the EBRD joined forces with the International Development Law Organization (IDLO), which had acquired a strong reputation in the field after training judges from many African countries and being tasked with the reorganisation of the Afghan judicial system following the fall of the Taliban in 2001. Since 2005 the EBRD and the IDLO have developed numerous projects together on dispute resolution matters in various economies where the Bank operates. In the intervening 20 years, their activities have broadened to cover other topics, in addition to judicial capacity, and dispute resolution projects have become the LTP's standard offering to governments in the EBRD regions.

Now, however, the EBRD has decided – in light of the ongoing scarcity of donor funding and with a view to maximising its impact as a multilateral development bank – to focus its efforts on policy dialogue and technical cooperation that are directly linked to investment activities. As a result, dispute resolution assistance will be phased out.

¹ See Djankov et al. (2002).

Figure 4. Achievements by the LTP in dispute resolution, 2005-24

This is in no way a judgement on the value of such assistance, which plays an important role in the development process and should be continued by other organisations that offer it. The EBRD has simply decided to shift its focus to other areas of technical cooperation where it thinks it can make a bigger difference.

So, what has the Bank accomplished during two decades of dispute resolution activities? And what lessons have been learned?

EVOLVING WORKSTREAMS IN DISPUTE RESOLUTION

In recognition of the vital role that courts play in safeguarding investment and enabling debt recovery, dispute resolution work under the LTP began with training judges in commercial law. With business transactions becoming more complex, judges (who, 20 years ago, had little understanding of the market economy in EBRD regions) needed to stay up to date to ensure they made fair decisions and were less susceptible to external pressures.

Back in 2005 the LTP focused on areas such as banking, finance, competition, intellectual property and insolvency. Gradually, it then expanded its focus to include commercial-court reform, including assessments of the quality of judgments. It also identified gaps in the capacities of competition authorities that were limiting their effective enforcement of competition laws, delivering targeted training projects in response to help strengthen the authorities' capabilities.

To ease pressure on courts and equip businesses with alternative tools, the Bank began supporting commercial mediation reform in 2010. This involved helping countries adopt legal frameworks, as well as training mediators, judges, lawyers and businesses. The Bank's longest-running mediation reform initiative is in Moldova.

The LTP also turned its attention to the enforcement of court decisions, recognising that, without effective enforcement and trained officers, justice would remain incomplete.

By 2020-21 the LTP's work had extended further to online courts for small claims – essential for small businesses and an ideal entry point for digital justice solutions. Here, it conducted readiness assessments and designed a pilot online court in Ukraine.

By 2024 the LTP's dispute resolution work focused on four key areas, seeking to build investor confidence and strengthen justice systems:

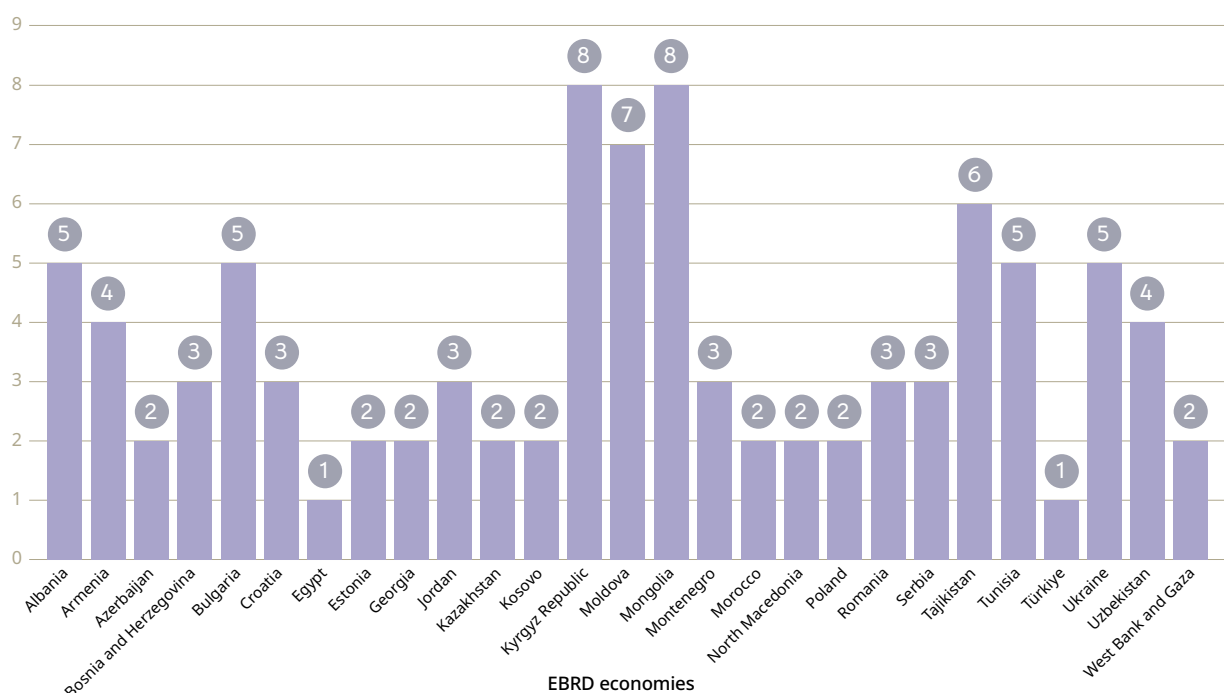
- judicial capacity building and training for competition authorities
- enforcement reform and training
- mediation development
- online small claims courts.

Judicial capacity building, training for competition authorities and assessments

Strengthening the capacity of commercial judges and competition authorities, alongside conducting targeted assessments of commercial and enforcement frameworks, has been central to the support provided under the LTP for economies in transition. Predictable application of commercial law and effective competition frameworks are vital for private-sector growth and investor confidence.

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around
95
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27
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invests

Figure 5. Number of judicial capacity-building initiatives per EBRD economy, 2005-24



In the area of dispute resolution reform, the LTP has, since 2005, delivered around 95 judicial capacity-building projects in 27 economies where the EBRD operates, helping judges navigate complex commercial law and improve contract enforcement through enhanced legal reasoning and commercial awareness. As a result, more than 1,570 judges from 15 jurisdictions have improved their knowledge of and skills in commercial law.

Recognising the importance of competition authorities in shaping sound markets, the LTP began supporting them nearly a decade ago. In partnership with the EBRD's Office of the Chief Economist, it launched technical assistance projects in Jordan, Moldova, Montenegro and Serbia – with the list later expanding to include Mongolia, Tunisia and Ukraine.² In 2023 and 2024 alone more than 600 competition-law practitioners were reached through training initiatives, promoting international standards and improving enforcement practices.

To inform and strengthen reform efforts, the LTP has conducted legal and practical assessments across the EBRD regions. These included Judicial Decisions Assessments between 2010 and 2012 across the Commonwealth of Independent States (CIS), Georgia, Mongolia and south-eastern Europe, which evaluated the quality and consistency of commercial rulings, and examined key aspects such as predictability, enforcement, cost and judicial impartiality.

To build on the findings of these assessments, in 2013 the LTP developed a comparative analysis of enforcement systems in the CIS countries, Georgia and Mongolia, examining the effectiveness of bailiff and enforcement agent operations. To identify avenues for enhanced operational efficiency, this critical evaluation scrutinised the regulatory

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landscape, asset recovery capabilities, procedural costs and timelines, and challenges in enforcing claims against various asset types.

In line with the EBRD's 2021 commitment to digital transformation,³ the LTP launched the Regional Framework Project on Digital Transformation of Courts – Development of Online Courts for Small Claims. Between 2022 and 2023 it assessed the readiness to introduce or expand online courts for commercial disputes – particularly small claims, which are crucial for small and medium-sized enterprises (SMEs) – in 17 economies where the EBRD operates.⁴ Based on the findings of the assessment, the LTP team developed a guide⁵ and a bespoke list of measures⁶ for policymakers to enable them to build an online court.

Enforcement: the missing link in access to justice

The enforcement of court decisions is fundamental to the right, enshrined in Article 6 of the European Convention on Human Rights, to a fair trial. A judgment that cannot be enforced – or is enforceable only with great difficulty – has little practical value.

Importantly, effective enforcement systems offer a deterrent effect: parties are more likely to comply voluntarily with court decisions when they know enforcement mechanisms are

² See Ciari and Colman (2015).

³ See <https://www.ebrd.com/home/what-we-do/focus-areas/digitalisation.html> (last accessed 30 April 2025).

⁴ See <https://ecourts.ebrd.com/> (last accessed 30 April 2025).

⁵ See EBRD (2023a).

⁶ See <https://ecourts.ebrd.com/survey-form> (last accessed 30 April 2025).

strong and reliable. Yet, despite its critical role, enforcement (particularly for commercial judgments) continues to be overlooked by policymakers and development institutions.

To address this, the LTP undertook a comprehensive assessment of enforcement laws and practices across the economies in which the EBRD operates. This revealed common gaps, including inadequate procedures for locating and seizing debtors' assets, inefficient asset-sale processes and weak incentives for voluntary compliance. Procedural shortcomings – such as limited interest accrual, overly generous appeal rights or weak powers of enforcement officers – were widespread. Many enforcement agencies also faced structural challenges, including undertrained staff, perverse incentives, and risks of abuse or corruption.⁷

In response, the LTP launched a series of targeted reforms. It conducted legal and institutional gap analyses in countries such as Ukraine, Tajikistan and Mongolia. It supported legislative changes aimed at improving efficiency and accountability, with an added focus on digitalisation, in various economies, including Azerbaijan and Mongolia. It also developed training programmes, e-learning modules and guidance materials to build capacity among enforcement officers in countries such as the Kyrgyz Republic and Mongolia.

To date, the LTP has delivered 12 training and reform projects across six jurisdictions: Azerbaijan, the Kyrgyz Republic, Moldova, Mongolia, Tajikistan and Ukraine. It has trained more than 300 enforcement officers, developed e-learning modules on around 10 topics, conducted six gap analyses and contributed to four draft enforcement laws. The insight gained from its practical experience with enforcement systems in these jurisdictions has been incorporated into the Enforcement Best Practice Principles that are currently being finalised by the International Institute for the Unification of Private Law (UNIDROIT).⁸

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Figure 6. Enforcement reform and capacity-building projects



⁷ See <https://www.ebrd.com/home/what-we-do/policy-and-business-advice/legal-reform/dispute-resolution.html#Assessments> (last accessed 30 April 2025).

⁸ See <https://www.unidroit.org/work-in-progress/enforcement-best-practices> (last accessed 13 May 2025).

Promoting mediation to strengthen access to justice and enhance the investment climate

Since 2013, to ease pressure on overburdened courts and enhance the investment climate, the LTP has promoted commercial mediation as a cost-effective and efficient alternative to litigation, especially for SMEs. The Programme began its work in this area in Moldova and Mongolia, before expanding to other countries. In 2016 the EBRD co-organised a regional forum in Minsk, bringing together more than 50 senior officials, judges and experts from 11 countries to encourage knowledge exchange and wider uptake of mediation in eastern Europe and central Asia. In Moldova, the EBRD also expanded its mediation project to include efforts to improve the legal framework for arbitration, thus improving access to various dispute resolution mechanisms for Moldovan businesses.

In response to the Covid-19 pandemic, the LTP shifted its focus to online mediation, ensuring continued access to dispute resolution during periods of restricted movement, particularly through projects in the Kyrgyz Republic and Montenegro.

In 2022 the EBRD deepened its engagement in the Kyrgyz Republic to support the country's accession to the UN Convention on International Settlement Agreements Resulting from Mediation (the "Singapore Convention"). As part of the mediation project, it provided legal analysis, exposure to international best practice and assistance in drafting necessary legislation. The Singapore Convention, which facilitates the cross-border enforcement of mediated agreements, is expected to be ratified by the Kyrgyz parliament in 2025. This will be followed by awareness-raising and training for stakeholders to ensure effective implementation of the Convention.

While uptake across the EBRD regions was initially limited, mediation has shown strong potential for broader adoption, supported by sustained engagement by the Bank. As a result of its support from 2013 to 2024, 18 technical cooperation projects have been implemented in eight countries: Jordan, the Kyrgyz Republic,

Moldova, Mongolia, Montenegro, Serbia, Tajikistan and Uzbekistan. These initiatives supported legal and institutional reforms aligned with international standards, including improvements to mediation laws, the creation of regulatory bodies and centres, and capacity building for institutions, mediators and judges. Projects also promoted public awareness, particularly among SMEs, and supported the digitalisation of mediation services, including the use of online mediation platforms.

In all, seven assessments and legal analyses were conducted, 15 policy documents and recommendations were developed, and 25 draft laws and regulations on mediation were prepared, most of which were adopted. About 1,300 mediators, including judges, improved their knowledge and skills in the field of mediation through 58 training sessions, while more than 3,800 stakeholders (mediators, judges, lawyers, entrepreneurs, civil servants and academics) improved their mediation knowledge through 36 outreach events. Fifteen mediation practices, including mediation centres and regulatory bodies, were introduced/improved and digital products were developed, including updated websites for individual centres and regulatory bodies.

Online courts for small claims

As part of its support for the modernisation of justice systems, the EBRD has prioritised the development of online courts for small claims to improve access to justice for SMEs. This workstream aims to deliver faster, more affordable and user-friendly dispute resolution through digital technology.

Building on the assessment of online courts discussed earlier, a pilot project in Ukraine led to the design of a national concept and roadmap for an online small claims court. The model is integrated into the existing Unified Judicial Information and Telecommunication System and covers commercial disputes up to UAH 210,200 (approximately €5,150). It features simplified procedures, promotes online negotiation and mediation, and focuses on accessibility for self-represented users. The importance of this initiative has grown

following Russia's full-scale invasion of Ukraine in 2022 and the subsequent strain on the country's judicial infrastructure.

MEASURING IMPACT

Assessing and quantifying impact in the field of legal reform are inherently challenging – and often not feasible. Unlike in other sectors, it is not possible to conduct randomised control trials on the application of the law. Impact measurement is also time-consuming and resource-intensive.

As a result, much of the EBRD's work is guided by an assumed theory of change, based on evidence, experience and expert judgement. Nevertheless, where possible, efforts are made to track actual outcomes on the ground and understand how the Bank's interventions influence legal practice and the broader market environment in each country.

Below are selected examples that illustrate tangible impacts of the EBRD's work.

Promoting mediation in Moldova

Since 2013 the LTP's Commercial Mediation and Arbitration project has been a key driver of Moldova's efforts to diversify and strengthen its alternative dispute resolution (ADR) market. When the project began, Moldova's 2007 Law on Mediation was largely ineffective and mediation was rarely used, leaving courts overburdened and businesses with limited options for resolving disputes. This had a negative effect on Moldova's business environment.

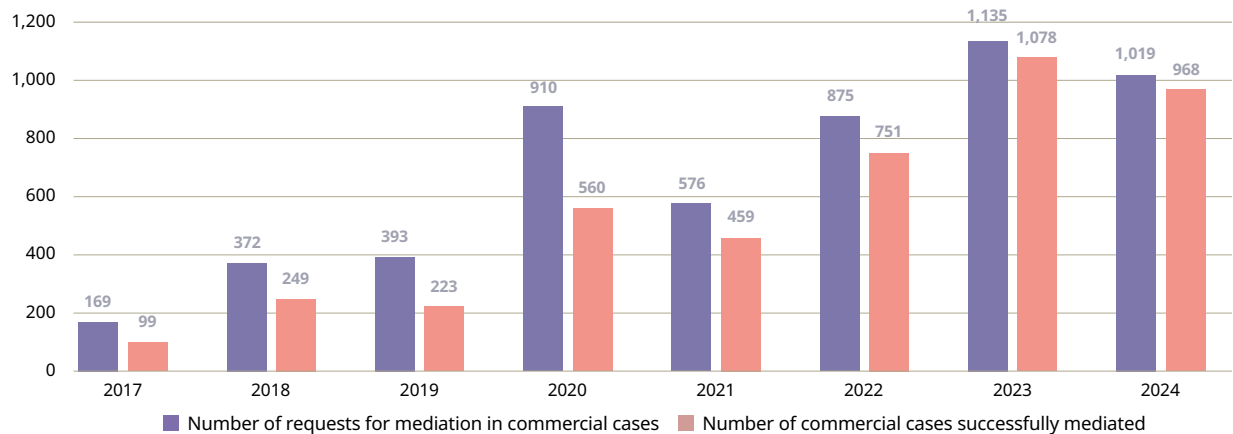
Between 2017 and 2024 the project helped transform access to justice and improve the commercial climate in the country, contributing to a tenfold increase in the number of mediation cases that were resolved each year – from 99 to 968.

Key achievements included the creation of an electronic register of mediators and automation of mediation case management, which improved efficiency and integration with other government e-systems. The project also supported the Chamber of Commerce Mediation Centre in securing its first

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international accreditation and helped establish two regional mediation centres to improve access for businesses in northern and southern Moldova.

Now in its final phase, the project is working with the Ministry of Justice to refine and implement a comprehensive legislative and institutional reform package. These reforms aim to further boost demand for mediation, raise service quality and align Moldova's ADR framework with European and international best practices.

Figure 7. Mediation in commercial disputes in Moldova, 2017-24

Judicial capacity building in the West Bank

From 2020 to 2023 the Strengthening the Capacity of Palestinian Judges in Commercial Law project, funded entirely by the EBRD's Multi-Donor Trust Fund for the West Bank and Gaza, supported the High Judicial Council and the Palestinian Judicial Institute (PJI) in building a sustainable training programme for judges in the field of commercial law – a historically underrepresented area of judicial education.

The project developed four comprehensive handbooks on the core topics of bankruptcy, banking transactions, commercial acts and negotiable instruments. These were converted into six interactive e-learning modules, launched in April 2023, and 35 judges subsequently completed the training. A group of 11 judge-trainers was also established, and a further 50 judges improved their skills through 12 in-person training sessions held in mid-2022.

An exposure visit to Egypt's economic courts in early 2023 allowed six judges to explore best practices and formulate recommendations for enhancing the Palestinian commercial court system. A follow-up survey confirmed strong results: most participants had applied their new knowledge in court and more than 30 per cent had continued to use the training materials in practice.

The project delivered meaningful improvements in judicial capacity and prompted requests from the PJI for continued support – particularly in developing legal frameworks and ADR mechanisms.⁹

Assessment of online courts and pilot project in Ukraine

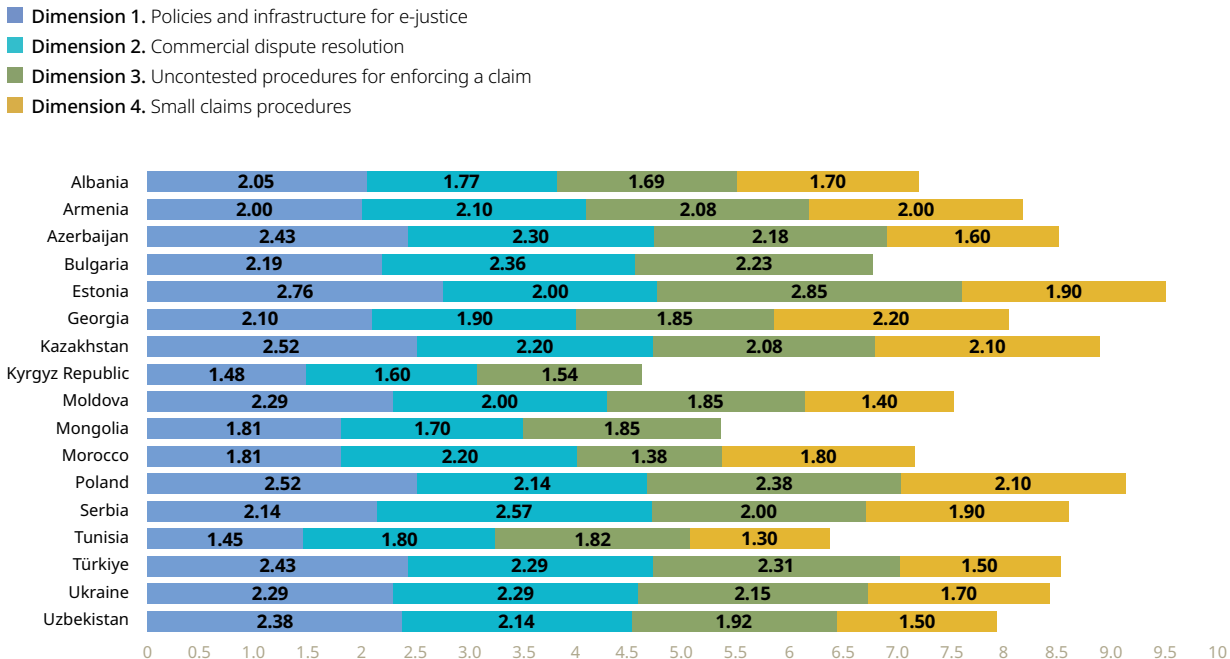
The EBRD's Cross-Regional Court Performance Assessment has already accelerated reform by providing policymakers with clear, data-driven insight into the digital readiness of their justice systems. Targeted advocacy and global engagement have secured recognition from institutions such as the World Bank and the World Justice Project, inspiring further research and drawing attention to digital justice reforms at international level.

By identifying specific gaps in legal frameworks, procedures and digital capacity, the Assessment has enabled more focused, evidence-based interventions. Its emphasis on small claims and uncontested procedures – areas critical for SMEs – has reinforced efforts to make commercial justice faster, more accessible and more affordable.

The dedicated website on the assessment of readiness for online courts¹⁰ has extended the Assessment's reach through an interactive tool that supports governments in translating findings into concrete, jurisdiction-specific reform strategies. This tool enables governments to develop tailored action plans

⁹ See EBRD (2023b).

¹⁰ See <https://ecourts.ebrd.com> (last accessed 30 April 2025).

Figure 8. Readiness of selected EBRD countries of operation for electronic courts

Source: EBRD (2023).

for introducing online courts within their jurisdictions.¹¹ Meanwhile, the pilot project in Ukraine has played an important role in promoting a people-centric approach to justice, illustrating how tailored online small claims courts can enhance access to justice for smaller businesses and individuals, who are traditionally underserved by conventional justice systems.

CONTRACT ENFORCEMENT ACTIVITIES WILL GO ON

Contract enforcement lies at the heart of effective dispute resolution. An applied discipline, it requires constant adaptation, innovation and alignment with evolving legal and economic realities.

Although dispute resolution is being phased out as a standalone focus area, the LTP remains committed to applying a holistic, cross-sectoral approach to enforcement. It will continue to pursue opportunities to enhance enforcement across other key areas of its work, including corporate governance, financial law, sustainable finance regulation, natural and mineral resources, and infrastructure.

One example of this forward-looking approach is the Programme's current work in Ukraine, where it is supporting the lifting of moratoriums on state-owned enterprises. This reform is vital to unlocking private investment and stimulating the recovery and modernisation of critical economic sectors.

¹¹ See <https://ecourts.ebrd.com/survey-form> (last accessed 30 April 2025).

To deliver long-lasting and systemic change, enforcement efforts must be part of a broader, cross-sectoral strategy incorporating legal, institutional and economic reforms. Only through this holistic approach can the LTP ensure that contract enforcement serves as a true enabler of market development, investor confidence and the rule of law.

“Contract enforcement lies at the heart of effective dispute resolution.”



References

L. Ciari and A. Colman (2015), “Building stronger competition frameworks”, *Law in Transition*, EBRD. Available at: https://www.ebrd.com/content/dam/ebird_xp/assets/pdfs/legal-reform/law-in-transition-journal/2015/english/law-in-transition-2015-building-stronger.pdf (last accessed 15 July 2025).

S. Djankov, R. La Porta, F. Lopez-de-Silanes and A. Shleifer (2002), “Courts: The Lex Mundi Project”, Institute of Economic Research, Harvard University Working Paper No. 1951; International Center for Finance, Yale University Working Paper No. 02-18. Available at: <http://dx.doi.org/10.2139/ssrn.304453> (last accessed 15 July 2025).

EBRD (2023a), *Are You Ready for Online Courts? Guide on Readiness for the Introduction of Online Courts*, London. Available at: <https://ecourts.ebrd.com/uploads/guide-file.pdf> (last accessed 15 July 2025).

EBRD (2023b), *Multi-Donor Trust Fund for the West Bank and Gaza – Annual Narrative and Financial Report 2023*, London, pp. 21-22, unpublished.

