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The challenge of making courts more efficient – recent experiences of the Western Balkans states

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The 10th anniversary of the regime change in Serbia and Montenegro was marked in 2010, as well as it being 15 years since the Dayton agreement was signed. These events also marked the beginning of significant efforts by the international community and the newly elected governments to build democratic nation states and viable economies in the region. An important part of this combined effort has been the development of an independent and effective judiciary to uphold the rule of law and good governance.

All countries in the Western Balkans states[2] have undergone significant legal reforms, often in several waves changing key laws more than once, creating a new legal framework of substantive, procedural and institutional laws and rules. Most countries in the region have developed judicial or justice sector reform strategies, often with ambitious but clear goals and objectives.[3] At the same time significant financial investments have been made to support the creation of a strong judicial sector. While government investments in the judiciary are traditionally at the lower end of funding priorities in many countries, the budgets allocated to the court systems, recorded in euros, increased in the mid-2000s in several states in the region (that is, Montenegro by 56 per cent, the Former Yugoslav Republic (FYR) of Macedonia by 40 per cent, Croatia by 37 per cent, and Bosnia and Herzegovina by 13 per cent).[4] While these increases still leave the judiciaries in these states with a much lower budget per inhabitant than judiciaries in western Europe, they are important steps.[5]

The results of several years of substantial international support for judicial reform in the Western Balkans states are neither obvious nor easily measured. The European Commission's (EC) 2010 Enlargement Strategy and Progress Report declares that reforms in several areas, especially judicial reforms, are slowing down in the Western Balkans. For FYR Macedonia the report states that several laws are still blocked, especially judicial reform, and that corruption is widespread and a serious problem. The report mentions that Croatia needs to move faster on reforming its judiciary and fighting corruption, as do Albania, Bosnia and Herzegovina, Montenegro and Serbia.[6]

The combined experiences of these different countries and regions indicate that reforming the judiciary is not an easy or quick process.

A survey published by the Gallup Balkan Monitor in November 2009, the biggest public opinion survey ever conducted in the region, found that 52 per cent of Albanians said they had had to pay a bribe in the past year. According to the 2009 index from Transparency International, Serbia is ranked 83rd with a Corruption Perception Index of 3.5, marking it as a country with a large problem with corruption.[7] Montenegro shares these problems, for all reports from the European Commission and US State Department point to corruption and organised crime as major issues. The European Commission's 2009 Progress Report on Kosovo states that, "overall, there has been limited progress in the fight against corruption, which is a key European partnership priority."[8] For Bosnia and Herzegovina the 2009 report says that the country has made little progress in its fight against corruption; there is no effective investigation, prosecution and conviction of suspects of high-level cases of corruption and judicial follow-up of cases of corruption is slow.[9]

Not surprisingly, citizens in the region do not express high confidence in the judiciaries. In December 2006 and January 2007 a regional median of only 30 per cent for Albania, Bosnia and Herzegovina, Croatia, FYR Macedonia, Montenegro and Serbia expressed confidence in their judicial systems, compared with a regional median of 47 per cent for 25 EU member countries surveyed.[10] Other more recent country level surveys indicate that these trends continue.[11]

The countries in the Western Balkans share these problems with many others – judicial reform is a complex process that takes time. Examples from other eastern European and central Asian (EECA) countries that started these reforms earlier show that this is not an easy process. EU reports for Romania and Bulgaria are very critical of the progress of judicial reform there. A statement issued by the British Ambassador to Ukraine posted in June 2010 suggests that problems with the operation of the courts and the judicial system are one of the biggest issue facing Ukraine. The judicial system is inefficient and lacks transparency and credibility, with many court decisions never being enforced.[12]

Such reports mirror what has been outlined in earlier publications reviewing judicial reform efforts in the EECA region.[13] These studies emphasise that judicial reform is a critical challenge for most transition countries. The majority of these countries have made progress in establishing independence in their judiciaries, but accountability, transparency and efficiency have lagged behind. In many transition countries public trust in the courts remains low and there is a need to focus on strengthening the fairness and honesty of their courts – which requires broad actions on many fronts, especially human resource management, transparent and participatory judicial governance, needs based budgeting, modern performance management, and infrastructure and IT systems to promote efficiency and transparency. Assessments from other regions, especially Latin America, where judicial reforms started earnestly in the mid-1990s, also show mixed results. Some countries such as Chile have made substantial progress, while others lag behind or even slide back in developing reliable, fair and efficient judicial institutions that are trusted by the people.[14]

The combined experiences of these different countries and regions indicate that reforming the judiciary is not an easy or quick process. As much as "judicial reform" sounds like simply changing how a court may operate, within the concept of democratic political systems judicial reform means changing how one branch of government, an important part of a county's power balance system, works. This means that the other branches of government have their own interests in how this "counter-balance" will function. Since courts are a part of the justice system which includes a range of executive branch agencies (that is, regulatory and licensing agencies, police, public defenders, prosecutors and Ministries of Justice) as well as other independent and private organisations (ombudsman offices, private bar associations, individual rights non-governmental organisations), this means that a broad range of external stakeholders need to support any reform efforts. And, when dealing with court reform, a country has to address not just one agency with a couple of subdivisions located across the country, but with a hierarchy of courts that have different process requirements and needs. Additionally, in most countries the actual operations of individual courts in even the most unified court system are still largely determined and influenced by the local legal culture – the

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way lawyers, court staff, judges and other court counterparts are used to operating and expect the court to operate in the future.[15]

When assessing court reform one also has to consider what this actually means and the measures we have available today to objectively gauge progress. The most widely supported goals of judicial reform include equality before the law, fairness, impartiality, independence of decision-making, competence, integrity, transparency, accessibility, timeliness and certainty.[16] Each goal has a range of meanings that will need to be interpreted within the local context. To take the "simple" example of access to justice this can mean geographic access, physical access, understanding and information access, affordability of access and cultural access differences. Even the meaning of the seemingly simple issue of geographic access will differ greatly across and even within countries. Physically getting to a court by public transportation may be easy in a country's capital where it may take a bus ride, compared with many hours on horseback in remote rural areas.

Increasing court efficiency

Considering that assessing most of the goals of judicial reform are highly value driven, dependent on many external factors and highly political, many court reforms, not just in the Balkan states, have focused on increasing the efficiency of court operations. Court efficiency lends itself to measurement and appears to be non-political. Plus, timely disposition of cases addresses a number of international standards, such as those expressed in the UN's Bangalore Principles[17] and those required by the European Union for its member states,[18] and efficient disposition of cases makes a great difference to every individual involved in court proceedings.

While the focus on increasing court efficiency has been criticised for sidestepping more controversial or highly political issues such as judicial integrity and judicial independence and for possibly compromising the quality of judicial decisions for timeliness, it is more than an "easy" solution to serious issues. Efficient court operations achieve more than timely disposition of cases: if structured well, they provide for greater transparency and accountability, important goals that are also essential for judicial independence and integrity and core requirements for more accessible and cost effective courts.[19] As experiences from a range of countries across the globe, including the Western Balkans states, indicate, even a focus on solutions to enhance court efficiency is not as easy as it may appear.

Experiences of donor supported projects to enhance court efficiency in the Balkan states

The following experiences from several Western Balkans states highlight the difficulties and time required to achieve actual reforms even only in the timely processing of court cases. The majority of the Western Balkans states were not only faced with recovering from the aftermath of the disintegration of the Yugoslav state, war and violent ethnic conflict, but had to create new judicial institutions, not "just" reform existing ones. Unsurprisingly, the change conditions across these newly evolving nations were similar, but influenced by the very specific country context and, as the experiences from Serbia and Albania show, recasting and reforming existing structures can be more difficult than creating new ones.

Bosnia and Herzegovina

Court reform experiences in Bosnia and Herzegovina (BiH) have naturally been heavily influenced by the aftermath of the wars and the continuously difficult political situation. Initial legal framework and institutional development concepts were dominated by the Office of the High Representative (OHR). Good international input was provided, however, local input into the development of essential framework legislation for the judicial sector did not necessarily mean that solid assessment of the local conditions and reflective consultations had been conducted. In 2003, for example, the book of court rules for BiH, which lays down the fundamental policies for court processes, the rules that provide the detail to the procedural laws, had been drafted by OHR staff without much local consultation nor full reflection of the fact that not one BiH judiciary would exist but four. It is perhaps not surprising that this effort did not go very far. When the newly created BiH institutions were assuming the responsibility for creating a viable judicial sector from the OHR, a number of donor projects continued to support the development of an effective judiciary. For example, in 2004 a five-year, US$ 14 million

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USAID project started with the ambitious aim of improving the efficiency, transparency and fairness of the justice system. Using a model court approach a number of reform methods were tested: modern records management strategies, creating a common case numbering system, providing durable file folders, delivering training in principles of court management and administration, creating a case backlog reduction plan and so on. The most immediately visible accomplishment was improved court registries and new records management techniques and in some courts disposition rates were now keeping up with filing rates reducing the threat of new backlogs. But structural reforms based on good case flow management practices are still needed.[20] In 2010 no real time or performance measurement standards are yet in place to monitor and measure court performance. Comprehensive case flow studies and mapping exercises have not been conducted and substantial case delays exist in all four BiH jurisdictions.[21]

FYR Macedonia

Somewhat more positive are the results from FYR Macedonia. A US$ 13 million court reform project supported by USAID started in 2003. Further assistance was provided by two World Bank projects[22] and an EU CARDS project – and smaller contributions by other bilateral donors. The objective to reduce backlog and delays in court processing was shared by all projects and, according to a 2009 World Bank review, partially achieved.[23] A new Law on Civil Procedure was passed that shifted the burden of proof in civil cases to the parties rather than the court and eliminated the option of unlimited requests for continuances and recusals. The country's new Law on Courts established a more effective organisation of the court system, created an Administrative Court and allowed for further specialisation within courts. In addition, Constitutional Amendments and changes in other laws allowed administrative agencies to issue misdemeanor sanctions rather than requiring court action. The Administrative Court began hearing administrative cases which freed up time and resources at the civil courts. By June 2007, 22 of the 27 basic courts recorded a reduction in backlogs. The overall backlog in civil cases fell by 9.4 per cent from June 2005 to June 2007.[24] During the same period, pilot projects supported by USAID's Court Modernization Project showed a reduction in the backlog of civil cases more than one year old of 38.3 per cent and of 57.6 per cent for cases more than three years old.[25]

Donor coordination was an issue during implementation of these projects. Duplication occurred where the Ministry of Justice received ICT assistance simultaneously from the World Bank, the European Commission CARDS programs and the first USAID Court Modernization Project (CMP). In the end it was agreed that a follow-on USAID project, the Judicial Reform Implementation Project (JRIP), would develop new case management software, while the World Bank provided the hardware for the rollout and implementation of the system. The World Bank has since been collaborating closely with USAID's JRIP to ensure that the projects' activities are complementary.[26]

Still, the European Commission's review of FYR Macedonia's progress in 2010 mentions continuing problems. While most of the courts continued to reduce their backlog and the Automated Court Case Management Information System is fully implemented in all courts, a delay in transferring over 600,000 enforcement cases from the courts to bailiffs until 2011 impeded reduction of the backlog.[27] Furthermore, the report states: "There was limited progress on judicial reform. There are concerns about the independence and impartiality of the judiciary: no further progress was made in ensuring that existing legal provisions were implemented in practice."[28]

Albania

Albania also received significant support from multiple sources. In 2000 a World Bank project (among others) began to focus on improvements in court and case management systems.[29] The project continued for five years with less than satisfactory results. A review indicated that the goal of rolling out a modern case management system to all courts was overly ambitious, because of limited capacities and the short project time frame. The World Bank supported the development of the software and laid down the groundwork for its introduction but by the end of the project the software was only operational in the Supreme Court. The review also indicated that insufficient donor coordination resulted in duplication of efforts.[30] At least one District Court began implementing

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a different computerised case-tracking system developed with funding from other donors, and the existence of other systems complicated the unification of civil case management. The European Assistance Mission to the Justice System in Albania (EURALIUS), a project funded by the European Commission's CARDS Programme, continued the implementation of the case management system in Albanian courts in 2006.[31] The 2010 EC Review Report for Albania indicates that while the case management system is now in place in most courts, little progress has been made in achieving even only timely case dispositions: "Further efforts are needed to have a fully uniform and harmonised integrated case management system functioning in all courts. The judiciary suffers from problems of transparency and efficiency in operations. Court management is poor due to a lack of human and financial resources, in particular in first-instance district courts. There is no sound and adequate organisation and training of court administrators. The backlog of cases is problematic, court proceedings are slow and the number of trial sessions for cases is high."[32]

Montenegro

A project focusing on court reform in Montenegro, also funded by USAID, began in 2003 at a time when Montenegro was still a part of Serbia. Not unlike other former Yugoslav states, Montenegro had to create its own justice institutions. The fact that it was still a part of Serbia created particular sensitivities, an issue that was interestingly never mentioned or reflected in the final implementation report.[33] There were five major objectives for the judicial reform programme – all very broad and ambitious even if taken alone: establish new institutions; assist in the drafting and implementation of new laws; improve court administration and management practices; improve physical infrastructure, professional resources and equipment of the judiciary; increase public access to the courts; and improve court services and information dissemination.

Positive results were reported. In particular the new Administrative Court implemented 90 per cent of recommendations for case management and administration, which significantly increased the ratio of resolved versus filed cases despite an almost 100-fold increase of the total caseload. In 2005 the Administrative Court resolved 1,279 cases, or 45.85 per cent of the total cases (2,789) and in 2006, after implementation of the majority of the recommendations, the Court had resolved 10,038 cases out of a total of 11,496, or 87.39 per cent. After an initial period of 3 months of implementing a backlog reduction programme, in July 2006 the pilot court of Kotor reduced its civil case backlog by 60 per cent. The pilot court of Cetinje eliminated 36.5 per cent of its backlog. Based on these experiences plans to implement the backlog reduction program in all pilot courts were developed.[34]

The 2010 European Commission Report also casts a slightly optimistic picture but is somewhat contradictive and not as specific as one might want it to be. The report mentions a large backlog of unresolved court cases which the authorities aimed to address with new measures introduced in 2008. The report also states that data available suggest a backlog reduction of over 75 per cent on an annual basis in the beginning of 2010. However, concerns are raised as to the soundness of the approach and the transparency of the methodology used. It is furthermore noted that enforcement of both civil and criminal decisions is weak and requires improvement. The report suggests that lack of infrastructure and equipment impedes efficiency, and that efforts are being made to remedy the situation. For the envisioned reorganisation of the court system outlined in the government strategy on the reform of the judiciary, the report recommends that an objective analysis of reliable court statistics and a precise account of the current workload of the courts be conducted first, suggesting that this important base information may not yet be available for solid planning.[35]

Croatia

For Croatia the 2010 EC Report states:

"Judicial efficiency has improved with the backlog of cases before the courts further reduced by 10 per cent, including good progress on reducing the number of cases older than three years. The legal basis for a new system of administrative justice was introduced. However, the backlog of cases has been reduced unevenly across the various courts and overall remains high. Problems with enforcement of court rulings continue to hamper the efficient working of the judicial system. The handling

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of administrative cases continues to pose particular challenges. The infrastructure and equipment of courts, including case management systems, remains underdeveloped."[36]

This comes after several World Bank, USAID, EU and other donor projects provided support since 2001.[37] The experiences here are not significantly different from many of its neighbouring countries. The different donor projects provided equipment, training, technical assistance, software development, IT hardware and some infrastructure improvements. Donor coordination was difficult and created complications until agreements were reached. In the end, some case processing improvements were achieved but none were systemic.[38] In 2010 a new World Bank project started to further support judicial efforts to reduce case backlogs and improved case disposition in project courts and prosecution offices.[39]

Serbia

The European Commission's 2010 Report on Serbia is very much influenced by the unfortunate judicial reappointment process that occurred in 2009 but it also highlights the still significant case processing issues across all Serbian courts.[40] The fact that the number of court locations was reduced in 2009, that the number of judges, court staff and prosecutors has been reduced and that there were no provisions made to account for the time-consuming reallocation of cases to newly appointed judges and prosecutors are among the many challenges that the courts have to manage. Furthermore, while the courts and MOJ are exploring a backlog strategy, no case management standards are in place or even being developed and the current information base to develop a solid case management strategy is insufficient. Serbia's judiciary has received international donor support since 2003 to develop more efficient case management procedures and structures.

The initial project, supported by USAID, responded to the government's need to create a special War Crimes and Organized Crimes Court and Prosecution Divisions after the Dinjic assassination. Infrastructure and IT along with training were at the centre but this also meant introducing a focus on enhancing the efficiency and effectiveness of the administrative and adjudication processes to successfully handle these difficult cases.[41] The software developed to support these special divisions later provided the basis for automating the commercial courts and also some trial courts in Serbia and has just recently been rolled out to all trial courts across the country. The later USAID supported project to create special commercial divisions further advanced the case management software and created more efficient processes in these special divisions, resulting in turn in greater local capacities to take these experiences to other courts. The earlier discussions about effective and efficient process strategies were the basis for several changes to the procedural laws, the latest of which will come into effect in 2011. Earlier assistance to enhance processing at the general trial court level provided not only by USAID but by CIDA, the UN, the European Union and others that followed was less successful but added to the continuing change process that may emerge more broadly and more visibly in the coming years.

Serbia's desire to accede to the European Union also meant that, in addition to changes to the procedural codes, a multitude of legislative changes essential to court operations were introduced, such as the codes guiding the governance and structure of the judicial sector and other key areas like the provision of legal aid, were discussed and often contested. Important changes are still needed. The reappointment process for judges and prosecutors is likely to trigger further appeals in Serbia for some time and is likely to continue to influence judicial productivity. On the other hand, the good consultative process employed to develop viable options to provide broader access to legal aid and representation highlighted the need to better understand and capture the requirements of special interest groups, especially the quite influential private bar. The prior and most recent experiences in Serbia paint a telling picture of the many different aspects and stakeholder group interests that are important to consider when court reforms are pursued.

The difficulties experienced when developing more efficient court operations do not reflect a particular Western Balkans problem. While they may be exaggerated by the still transitional political environment in the region, quite similar experiences have been documented across

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eastern Europe, Latin America, and even in the US, Canada and Australia.[42] The following sections will further address some of the core issues that contribute to the complexity and slowness of these particular reform processes.

Factors that delay case processing reforms

The above examples indicate that it takes a good three to five years – often longer – until more comprehensive and systemic case processing improvements take hold in courts. Examples from other regions support this observation. Considering that much is known today about the methods to apply to speed up court processes, reduce backlog and limit future delay, it should not take very long to develop and implement process improvements. While it is important to base the selection of appropriate techniques to streamline processes on a good assessment of the underlying causes, such assessment can be conducted in a few months. Good responses can be developed in a consultative way over another few months. Processes can be redesigned, forms and IT systems adjusted, people trained within another few months — perhaps a little longer if many courts are involved and if civil, criminal, administrative and other specialty case processes need to be addressed simultaneously.

Case management is not intrinsically difficult, but it requires a different understanding of the role of the court in managing and controlling processes beyond what is outlined in procedural codes. It requires understanding based on good management principles rather than legalistic thinking, which is often unusual to judges and others in the courts that have not been exposed to such approaches before; but it does not take that long to understand. There are often a range of issues to be tackled to increase efficiency, such as the need to get changes to the underlying legislation passed, the need to develop new skills, capacities and infrastructures to support new processing approaches. The key factors that delay these reforms are related to resistance to change from the various actors and their interests that would be impacted by processing reforms.

It is crucial to understand who has a stake in keeping processes as they are, who would benefit or lose as a result of envisioned changes and what may be the incentives for supporting or undermining reforms for internal and external stakeholders. Developing ways to address these issues is essential. Interestingly, this remains an area that is often weak in development projects. Too many court reform programmes that focus on improving processes do not begin with exploring the incentives of judges and court staff to continue existing court practices; even more rare is an exploration of other stakeholder incentives, especially the private bar, which often has a significant influence on how cases will or will not move through the system. Private lawyers and their associations are regularly consulted and involved in working groups to draft new legislation and have been part of other donor activities, such a special assistance projects to support their own development or the establishment of legal aid schemes. However, there is little indication that the case management reform projects in the Western Balkans systematically engaged this important stakeholder group in the process of determining what processing changes would be appropriate and could be achieved from their perspective.

A couple of these projects, including several of the USAID supported projects in Serbia, consisted of a review of case processing information to determine which processing changes would make a difference in timely disposition and where, but it is unclear if and how such information was used to communicate to the bar and other influential court users, such as the business community, about the benefits of the envisioned changes to court users in terms of reduced cost, time, and the potential negative outcome of not adjusting to the new processes. When such changes are considered in the US and Canada, engaging the private bar and developing their support has long been considered essential.[43]

There are also a range of other difficult issues to tackle, not all of which are under the control of the judiciary or even the government and are therefore difficult to plan for. This includes the need to pass new laws to create a supportive legal framework without which some fundamental case management techniques may not be possible. One can also not underestimate the time required to develop the needed infrastructure, capacities

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and resources to support and sustain new processes, especially if it involves automation.

An analysis of judicial reform programmes in the Asia Pacific region pointed to the many interlinked issues that need to be addressed differently depending on their local context.[44] These issues include, among others, leadership commitment, independence challenges, limited capacity and resources for sustainable change, creating broader system and society support, donor coordination, and a lack of data to inform and measure the reform process. The experiences in the Asia Pacific region as well as elsewhere suggest that the goals of these reform efforts need to be more clearly defined, are often overly ambitious and are not always grounded in a solid understanding of the change environment and what can realistically be achieved within a project cycle.

Experiences across the globe also show that the greatest challenge lies in changing attitudes and expectations of judges, lawyers, staff and other court stakeholders – the local legal culture.[45] A report developed by a civil justice reform working group charged with developing and implementing reform processes for the courts in British Columbia summarises the experiences many courts across the globe have had:

"Among the barriers identified by the Working Group was a resistance to change on the part of those 'inside the justice system' (defined as the judiciary, the legal profession, government and court services staff). This resistance is due to a comfort with the status quo, a resistance which persists in spite of widespread recognition of the problems of the current system."

The report noted some support for change among these insiders, but also mentioned that:

"the fear and uncertainty of changing a long established paradigm dilutes this support to one of encouraging only modest change, such as reforms around the margins or tinkering with procedures. They are not prepared to entertain or support change of a more fundamental nature."[46]

In a similar way, the Australian Law Reform Commission said that:

"significant and effective long term reform of the system of civil litigation may rely as much on changing the culture of legal practice as it does on procedural or structural change to the litigation system. Lawyers, their clients and the courts may need to change the ways in which they perceive their relationships and responsibilities."[47]

Empirical studies on the United States bankruptcy system have pointed out sharp disparities between the formal law on the books and the laws in action, as well as dramatic variations in the implementation of the laws from one locale to another. These differences were observed despite the application of a uniform federal bankruptcy regime and the lack of variation in the economic circumstances of debtors in the different localities. Scholars have attributed these disparities to the effects of the internal and local legal culture. Similar studies in Israel also support the proposition that internal legal culture has a powerful impact on the actual implementation of legislative and processing reform in the courts.[48] These issues also explain why changes in one pilot court may succeed while roll out to other courts remains a difficult task.

While it is generally understood that any organisational change is difficult, recognising the many special interests of lawyers, judges and staff in maintaining the current situation is essential to developing court reform programmes that take these particular interests into account. This requires a solid analysis of the local legal culture and the broader political economy surrounding these projects, sufficient consultation and information processes and an emphasis on change management strategies to assist those who want to move reforms forward. This is not a simple task, it requires time and ongoing commitment to communicate and sometimes adjust expectations, and even then not all resistance can be overcome. At the same time, when little attention is paid to these special interests that stand in the way of successful changes, one can hardly expect significant results.

Notes

[1] The author of this article is Heike Gramckow, PhD, Senior Counsel, Legal Vice Presidency, World Bank, with assistance of Valerie Nussenblatt. The statements in this article reflect the opinion of the author and are not representative of official World Bank policy.

[2] Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic (FYR) of Macedonia, Montenegro and Serbia.

[3] See, for example, Bosnia and Herzegovina Judicial Reform Strategy 1999 and Justice Reform Strategy 2008-2012, online: www.esiweb.org/pdf/bridges/bosnia/OHR_JudicialReform.pdf (last accessed 20 November 2010) and www.mpr.gov.ba/userfiles/file/Projekti/24__SRSP_u_BiH_-_EJ.pdf (last accessed 20 November 2010); Croatia Judicial Reform Strategy 2005,online: www.pravosudje.hr/Download/2005/11/22/Strategy_of_the_reform_of_the_judicial_system_.pdf (last accessed 20 November 2010); FYR Macedonia Judicial Reform Strategy 2005, online: http://siteresources.worldbank.org/INTECA/Resources/Macedoniastrategija.pdf (last accessed 20 November 2010); Montenegro 2007-2012 Strategy for the Judiciary, online: www.coe.int/t/dghl/cooperation/cepej/profiles/MontenegroReformStraegy_en.pdf (last accessed 20 November 2010); Serbia National Judicial Reform Strategy of 2006, online: www.mpravde.gov.rs/en/articles/judiciary/national-judicial-reform-strategy (last accessed 20 November 2010); Albania's judicial reform strategy is still pending at the end of 2010.

[4] See European Commission for the Efficiency of Justice (CEPEJ) (2010), "Efficiency and quality of justice", online: https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=1694098&SecMode=1&DocId=1653000&Usage=2 (last accessed 20 November 2010).

[5] See *Ibid*, p. 35.

[6] See European Commission (2010), Enlargement Strategy and Progress Reports, online: http://ec.europa.eu/enlargement/press_corner/key-documents/reports_nov_2010_en.htm# (last accessed 9 November 2010).

[7] See Transparency International, online: www.transparency.org/policy_research/surveys_indices/cpi/2009 (last accessed 20 November 2010).

[8] See European Commission (2010), Enlargement Strategy and Progress Report for Kosovo, online: http://ec.europa.eu/enlargement/pdf/key_documents/2009/ks_rapport_2009_en.pdf (last accessed 9 November 2010), p. 11.

[9] See Gordana Igric and BIRN Team (2010) "Lack of political will thwarts anticorruption efforts", in "Accession of the Western Balkans to the EU", online: http://ec.europa.eu/enlargement/pdf/publication/20100609_att4639135.pdf (last accessed 20 November 2010).

[10] Gallup (2008), online: http://www.gallup.com/poll/104872/many-balkans-lack-confidence-judicial-systems.aspx (last accessed 20 November 2010).

[11] Ipsos Strategic Puls (2010), Public Opinion Survey, Serbia World Bank.

[12] See Leigh Turner, "Why Ukraine needs judicial reform", British Ambassador to Ukraine website, online: http://blogs.fco.gov.uk/roller/turnerenglish/entry/why_ukraine_needs_judicial_reform (last accessed 23 June 2010).

[13] See, for example, J.H. Anderson and C.W. Gray (2007), "Transforming Judicial Systems in Europe and Central Asia", World Bank; and J.H. Anderson, D S. Bernstein and C.W. Gray (2005), "Judicial systems in transition economies: assessing the past, looking to the future", World Bank.

[14] See DeShazo and Vargas (2006); *Ibid*; and L. Hammergren (2002), "Fifteen years of judicial reform in Latin America: where we are and why we haven't made more progress", UNDP, online: www.undp-pogar.org/publications/judiciary/linn2/ (last accessed 20 November 2010).

[15] For other studies about the influence of the local legal culture on court operations see, for example, B. Ostrom, R. Hanson, C. Ostrom and M. Kleiman (Spring 2005), "Court Cultures and their Consequences", *Court Manager*, 20(1), pp. 14-23.

[16] See the International Framework of Court Excellence, online: www.courtexcellence.com/pdf/IFCE-Framework-v12.pdf (last accessed 20 November 2010).

[17] See Bangalore Principles Preamble 2 and Principle 6.5, online: www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf (last accessed 20 November 2010).

[18] See Article 6(1) of the European Convention on Human Rights.

[19] See, for example, B. Ostrom (2000), "Efficiency, timeliness and quality: a new perspective from nine state criminal trial courts", *Research in Brief*, National Institute of Justice, Washington, DC.

[20] See USAID (June 2008), "Bosnia Justice Sector Development Project Evaluation", online: http://pdf.usaid.gov/pdf_docs/PDACL823.pdf (last accessed 20 November 2010).

[21] See European Commission (2010), Enlargement Strategy and Progress BiH Report, online: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/ba_rapport_2010_en.pdf (last accessed 9 November 2010).

[22] See World Bank (2005), Programmatic Development Policy Loans (PDPL) (P090303) and World Bank (2006). Legal and Judicial Implementation and Institutional Support Project (LJIIS) (P089859).

[23] See World Bank (2009), Former Yugoslavia Republic of Macedonia, Programmatic Development Policy Loans, Implementation Completion and Results Report, Report No: ICR00001117.

[24] *Ibid*.

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[25] See Government of the Republic of Macedonia, Ministry of Justice (2007), Monitoring Report on the Implementation of the Project in the Judiciary 10/2006-10/2007, online: http://www.justice.gov.mk/documents/Monitoring%20report%202007.pdf (last accessed 20 November 2010).

[26] See World Bank (2009), Aide-Memoire, Macedonia: Legal and Judicial Implementation and Institutional Support (LJIIS) Project, Mid-Term Review Visit, September 9-16 and September 21-24.

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[30] In addition to World Bank, USAID and the EU provided and continue to provide significant support to the judiciary in Albania.

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[32] See European Commission (2010), Analytical Report. Albania, p. 94. online: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/al_rapport_2010_en.pdf (last accessed 20 November 2010).

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