Contemporary Court Administration – Key Element for Judicial Reform

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USAID FROM THE AMERICAN PEOPLE

Institutul Național al Justiției

MINISTERUL JUSTIȚIEI AL REPUBLICII MOLDOVA

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PARTNERS

The International Conference „Contemporary court administration – key element for judicial reform" is organized by USAID Rule of Law Institutional Strengthening Program (USAID ROLISP) and the National Institute of Justice (NIJ), in partnership with Moldovan Superior Council of Magistracy (SCM) and the Ministry of Justice (MOJ).

CONTEXT

The JSRS adopted by the Parliament of the Republic of Moldova in 2011, lays out the GOM's strategy for judicial reform. Included in the indicators for the specific intervention areas in the JSRS is the creation of court management positions. The action plan for implementing the JSRS specific intervention area 1.1.5 provides for creation of court administrators, revised functions of court presidents and initial and continuous training for court administrators. To achieve the indicators in the JSRS and its Action Plan, the Law no. 514-XIII of 6 July 1995 on judicial organization was amended to create court administrator position in all courts with the title of chief of secretariat and transfer specific court administration functions from the presidents of the courts to the chiefs of secretariats.

Court Administration is a complex task that includes management of court facilities, court budgeting, administration of courts' information technology, and human resource management. Recognizing the complexity of court administration and that the individuals appointed to the new position of chief of secretariat may not be aware of the all of the skills needed to carry out the duties including those transferred from the court presidents, the Action Plan specified that the NIJ, SCM and MOJ are to provide initial and continuous training for the chiefs of secretariats. This Conference is a part of the on-going training for court presidents and chiefs of secretariats mandated by the JSRS.

USAID's cooperation with the NIJ, MOJ and SCM to organize this Conference supports the JSRS and supports their efforts to improve court administration in Moldova with the goal of modern efficient courts that deliver the highest level of justice for Moldovan citizens.

GOAL

The main goal of the conference is to raise awareness of justice sector actors about modern court administration practices, as well as to facilitate an exchange of the best court administration practices among Moldovan courts.

Learning professional court administration and management based on international best practices will contribute to the Moldovan judiciary improving its knowledge and skills in court administration. To increase the judiciary's effectiveness, transparency and fairness, the Conference will address specific issues in court administration confronting court presidents and chiefs of court secretariats in Moldova as well as many regional courts. The materials for this conference cover many of the recent court administration best practices and innovations and are a resource that court presidents and chiefs of secretariats can use on a daily basis.

TOPICS

The topics to be discussed reflect the areas of interest, challenges and problems faced by court administrators and managers, as well as other government officials pursuing ways to improve court and justice systems.
The topics are:

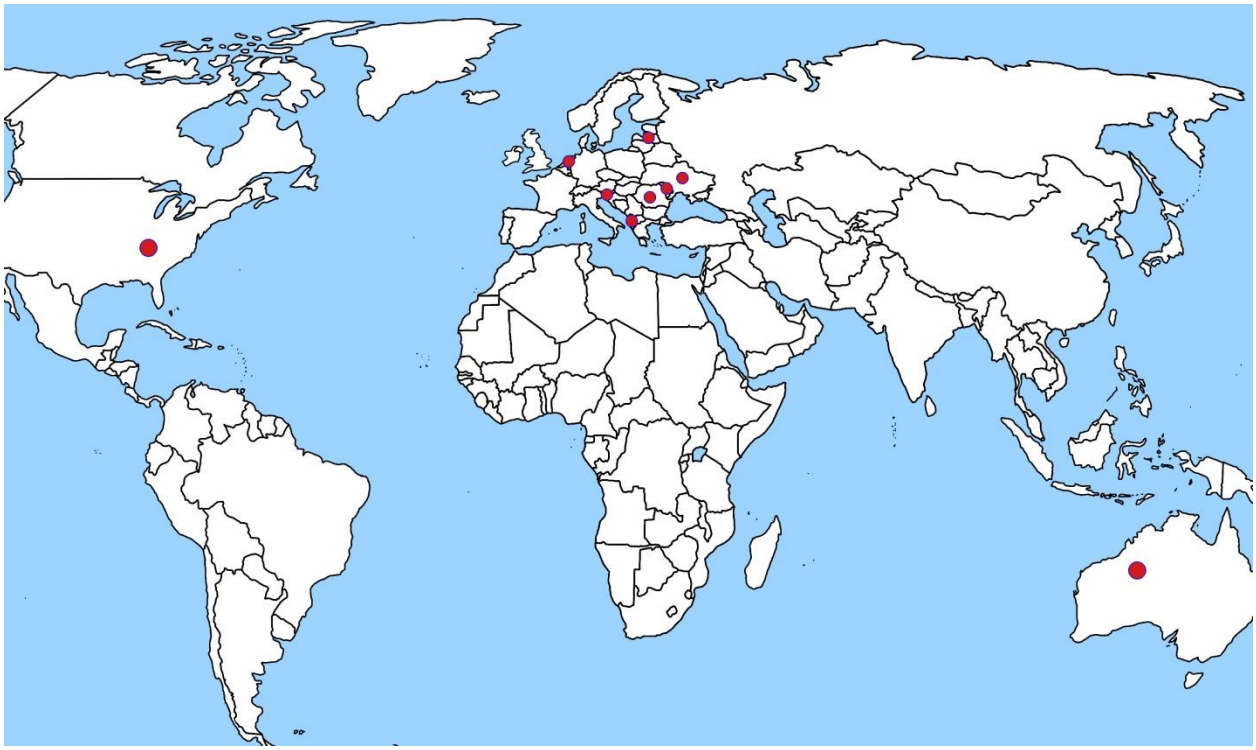
- International experience on excellence and performance measurement in courts of law
- Current developments in court technology
- Quality services for citizens: promoting people-friendly courts
- Improving efficiency in court administration
- Integrity in court administration
- Best practices in court design and security

PARTICIPANTS

The Conference brings together local and international court administration experts who will discuss the latest advances in court administration and the experience of some courts in implementing these advances. About 200 Moldovan court presidents, court administrators, government officials and NIJ, SCM and MOJ representatives as well as representatives from donor organizations and local CSOs are participating in this Conference.

In addition to exploring the latest trends in court administration, the participants will also have the opportunity to network with court administration experts from around the world.

Countries of Origin of the Partipants



- **Albania**
- **Australia**
- **Austria**
- **Latvia**
- **The Netherlands**
- **Republic of Moldova**
- **Romania**
- **Ukraine**
- **United States of America**

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Mr. Stawa has a rich international judicial reforms consultancy experience in former Soviet Union countries and Central and Eastern Europe. He consulted on various issues ranging from drafting, monitoring and evaluating justice reform strategies and actions plans, development of standardized methods, benchmarks and guidelines for monitoring and assessment of court performance to monitoring and evaluation of change management in courts.
Mr. Stawa is a former judge and currently Head of Department for Projects, Strategy and Innovation at the Austrian Ministry of Justice. Since 2010, he also serves as the Vice-President of the Commission for Efficiency of Justice (CEPEJ) of the Council of Europe.
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International experience on excellence and performance measurements in courts of law: CEPEJ methods of evaluating judicial systems and performance indicators used to screen courts

I. INTRODUCTION

The aim of the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe is the improvement of the efficiency and functioning of justice in the member states, and the development of the implementation of the instruments adopted by the Council of Europe to this end.
Therefore CEPEJ is working on standardized methods to analyse and "measure" judicial systems, develops tools and provides a network of judicial professionals,
The following outline introduces the body itself as well as its instruments to provide competence, independence, impartiality, transparency and efficiency to judicial systems in Europe.

A comprehensive list of relevant CEPEJ' documents is available at http://www.coe.int/t/dghl/cooperation/cepej/textes/default_en.asp.

II. AIM AND OBJECTIVES OF CEPEJ

The European Commission for the Efficiency of Justice (CEPEJ) was established on 18 September 2002 with Resolution Res (2002)12[1] of the Committee of Ministers of the Council of Europe.

The creation of the CEPEJ demonstrates the will of the Council of Europe to promote the rule of law and fundamental rights in Europe, on the basis of the European Convention on Human Rights (ECHR), and especially its Articles 5 (Right to liberty and security), 6 (Right to a fair trial), 13 (Right to an effective remedy), 14 (Prohibition of discrimination). Driven by the substantial number of cases at the European Court of Human Rights (ECtHR) dealing with overly long proceedings in front of courts in European states, the Council of Europe has initiated a reflection on efficiency of justice and adopted Recommendations which contain ways to ensure both its fairness and efficiency.
CEPEJ prepares benchmarks, collects and analyses data, defines instruments of measure and means of evaluation, adopts documents (reports, advices, guidelines, action plans, etc.), develops contacts with qualified personalities, non-governmental organisations, research institutes and information centres, organises hearings and promotes networks of legal professionals.
Its tasks are:

- to analyze the results of the judicial systems;
- to identify their difficulties;

1 Council of Europe, Committee of Ministers, Resolution Res(2002)12 of 18 September 2002.

- to define concrete ways to improve the evaluation of their results and functioning;
- to provide assistance at request; and
- to propose to the competent instances of the Council of Europe the fields where it would be desirable to elaborate a new legal instrument.

CEPEJ is composed of experts from all the 47 member states of the Council of Europe and is assisted by a Secretariat.[2] Observers may be admitted to its work. The European Union also participates in its work. Each member state is represented by a national member.

III. EVALUATION OF JUDICIAL SYSTEMS

The aims of the report biannual *Report about the Evaluation of European Judicial Systems* are:

- to provide a public policy tool for policy makers, legal professionals and researchers that will assist them in conducting judicial reforms;
- to give a detailed picture of the situation of the European judicial systems. Comparative tables, figures and the comments help to understand the day-to-day functioning of courts, underline the main trends in judicial systems and identify any problems with a view to improving the quality, fairness and efficiency of the public service of justices;
- to provide a sound tool for enhancing mutual knowledge of judicial systems and strengthening mutual confidence between legal professionals; and
- to define a set of key quantitative and qualitative data to be regularly collected and equally processed in all member states, bringing out shared indicators of the quality and efficiency of court activities in the Council of Europe member states and highlighting organizational reforms, practices and innovations, which enable improvement of the service provided to court users.

It should be noted that the purpose is not to rank the best judicial systems in Europe (which would be scientifically impossible), but to enable comparisons among comparable member states.

IV. PERFORMANCE INDICATORS FOR COURTS

In 2008, CEPEJ developed performance indicators for courts at European level. The CEPEJ Guidelines on Judicial Statistics (GOJUST)[3] invite member states to organize their data collection system so as to be able to provide the relevant information for calculating such indicators.

a. Clearance Rate

This allows a useful comparison even though the parameters of the cases concerned are not identical in all respects. This indicator can be used to see if the courts are keeping up with the number of incoming cases without increasing the backlog of cases.

b. Calculated Disposition Time

By making use of a specific calculation method, it is possible to generate data concerning the estimated time that is needed to bring a case to an end. This method – beyond of other standard methods applied – can provide relevant information on the overall functioning of the courts of a state or entity. Gradually, the report of the CEPEJ will enable a comparative evaluation of the functioning of judicial systems in dealing with case flows coming in and going out of the courts.[4]

Further on CEPEJ uses the following technical indicators to evaluate the performance of courts, especially comparing them on national level:

c. Caseload

Caseload is giving the relation of the amount of pending cases at the end of a period and the amount of incoming cases in the same period. It is so to say showing "how much work is piling up on the desk" in relation to the yearly workload.

2 See CEPEJ, Presentation, http://www.coe.int/t/dghl/cooperation/ cepej/presentation/ contacts_en.asp.

3 See CEPEJ, CEPEJ Guidelines on Judicial Statistics (GOJUST), adopted on 10-11 December 2008, CEPEJ(2008)11.

4 "The EU Justice Scoreboard, A tool to promote effective justice and growth" by the European Commission, COM(2013) 160 final, published from March 2013 on a yearly base, uses the CEPEJ-method to evaluate the quality, independence and efficiency of national justice systems, as they „play a key role in restoring confidence and the return to growth, and are crucial for ensuring the effectiveness of EU law. to achieve more effective justice within the Union."

d. Backlog-Change

Backlog Change is giving the relation of the amount of pending cases at the end of a period and at the beginning of this period, indicating if backlog can be reduced or is increasing.

e. Cost Efficiency

Two ratios above show two important aspects of the situation in courts. Constantly low clearance rate or high calculated disposition time indicate potential issues those need to be addressed. It should be emphasized that the clearance rate and the disposition time are not issues per se, but consequences of issues. Like the number of pending cases, these two measures do not reveal anything about court efficiency. In other words, a highly efficient court may have a low clearance rate because it does not have enough judges given the number of incoming cases. A low clearance rate leads to long disposition times. On the other hand, an inefficient court may have favourable clearance rate and disposition times simply because they are overstaffed. Therefore, those two measures alone may be misleading.

Results can be measured as the number of resolved cases, whereas executed budget may serve as a proxy for the resources.

Therefor Cost Efficiency per Case (type) is to indicate difference in efficiency among courts rather than to show the average cost of processing a case. The cost efficiency of courts is indicated by difference between the actual executed budget and the modelled budget (i.e. average cost per case x number of resolved cases), achieved by mathematical regression.

f. Productivity (cases per judge)

Further on "productivity" as the relation of resolved cases a year per "invested" judge is also used as indicator.

g. Productivity

Similarly to Cost Efficiency indicator, Productivity indicator was constructed to help determining adequate number of judges needed to efficiently handle incoming cases.

The main purpose of the Human Resources Productivity indicator is to indicate difference productivity among courts rather than to show the average time needed for processing a case. The productivity of courts is indicated by difference between the actual number of judges and the modelled number of judges (i.e. average time need to handle the case x number of resolved cases=number of judges needed).

V. SATURN CENTRE FOR JUDICIAL TIME MANAGEMENT

After having worked since its creation on timeframes of proceedings, CEPEJ set up, in 2007, a centre for judicial time management: "SATURN Centre - Study and Analysis of Judicial Time Use Research Network".

The SATURN Centre is instructed to collect information necessary for the knowledge of judicial timeframes in the member States and detailed enough to enable member states to implement policies aiming to prevent violations of the right for a fair trial within a reasonable time protected by Article 6 of the European Convention on Human Rights.

The Centre is aimed to become progressively a genuine European observatory of judicial timeframes, by analyzing the situation of existing timeframes in the member states (timeframes per types of cases, waiting times in the proceedings, etc.), providing them knowledge and analytical tools of judicial timeframes of proceedings. It is also in charge of the promotion and assessment of the Guidelines for judicial time management.

VI. QUALITY OF JUSTICE

The Working Group on quality of justice (CEPEJ-GT-QUAL) is instructed to develop means of analysis and evaluation of the work done inside the courts with a view to improving, in the member states, quality of the public service delivered by the justice system, in particular vis-à-vis the expectations of the justice practitioners and the users, according to criteria of performance and efficiency meeting a large consensus.

In order to fulfil its tasks, the CEPEJ-GT-QUAL must in particular, while observing the principle of independence of judges:

- collect necessary information on evaluation systems of the quality of judicial work existing in the member states;
- improve tools, indicators and means for measuring the quality of judicial work; and
- draft concrete solutions for the policy makers and for the courts, allowing to remedy dysfunctions in the judicial activity and balance the obligations of the work of

judges and its workload with the obligation to provide a justice of quality for the users.

VII. ENFORCEMENT

The Working Group on execution (CEPEJ-GT-EXE) was instructed to enable a better implementation of the relevant standards of the Council of Europe regarding execution of court decisions in civil, commercial and administrative matters at national level.

CEPEJ-GT-EXE drafted guidelines aimed to ensure an effective implementation of the existing standards of the Council of Europe including quality standards on execution in order to improve the accessibility of execution systems and the efficiency of execution services (see Guidelines for a better implementation of the existing Council of Europe's Recommendation on Enforcement).[5]

VIII. MEDIATION

The CEPEJ worked to enable a better implementation of the Recommendations of the Committee of Ministers concerning mediation.

In order to fulfil its tasks, CEPEJ has in particular assessed the impact in the states of the existing Recommendations of the Committee of Ministers concerning mediation: Recommendation (98) 1 on family mediation, Recommendation (99) 19 concerning mediation in penal matters, Recommendation (2001)9 on alternatives to litigation between administrative authorities and private parties, Recommendation (2002) 10 on mediation in civil matters.

On this basis, the CEPEJ elaborated guidelines and specific measures[6] aimed to ensure an effective implementation of those Recommendations.

IX. TARGETED CO-OPERATION OF THE CEPEJ

According to Article 2.d of the Statute of the CEPEJ, the role of the CEPEJ is to provide assistance to one or more member states, at their request, including assistance in complying with the standards of the Council of Europe. Several reports were thus prepared at the request of one or more states. Within the framework of the Joint Programme European Union/Council of Europe on "Strengthening democratic reform in the Southern Neighborhood", the CEPEJ has been called by the Kingdom of Morocco and Tunisia to cooperate in judicial reform as well as with the Hashemite Kingdom of Jordan.

5 See CEPEJ, Guidelines for a Better Implementation of the Existing Council of Europe's Recommendations on Enforcement, CEPEJ (2009)11REV2, 17 December 2009.

6 See CEPEJ, Mediation, http://www.coe.int/t/dghl/cooperation/cepej/mediation/default_en.asp.

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Mr. Apperson co-founded and served as president and CEO of the International Association for Court Administration (IACA) and helped establish the International Journal for Court Administration. Mr. Apperson served as a Court Administrator for U.S. Courts for 27 years and as Chief of Court Management for ICTY in 2006. He has recently served as an advisor for the merger of ICTY and ICTR. Mr. Apperson also served as president of the Federal Court Clerks Association and National Conference of Bankruptcy Clerks.
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International Court Perspectives

ADMINISTRATION OF JUSTICE GOALS

- Find the Truth
- Simplify/Productivity/Time management
- Transparency/Decisions
- Accountability/Audits
- Access to Justice/Peru/Public means
- A Dignified, Fair Wage
- Resource Utilization Improvement
- Improved Information management
- Institutional Capacity/Functionality
- Public Trust/Anti-Corruption
- Delay Reduction
- Security
- Control/Responsibility
- Judgment Enforceability/Injunctive Relief
- Adaptability
- Judicial Independence/Dependence/Counterparts

Quote From IHT
Popular dissent has recently galvanized people from the squares of Istanbul and Cairo to the streets of RIO, as emerging middle classes around the globe demand better governance. In a similar spirit of discontent, thousands of mostly young and educated Bulgarians have demonstrated daily over the last 40 days in the capital, Sofia, for a less corrupt and more responsive judiciary.

What is your performance baseline?
1. Assess each Factor
2. Utilize Survey Methodology
3. Study Practices from other Judiciaries

Court Organization
Usually defined by Statute and Constitution
Types:
1. Formal
2. Court Annexed
3. Informal/Customary/Alternative Justice

Governance models
- Judiciary Controlled
- Justice Councils/Commissions-Combined Institutional Representation
- Shared Models with MOJ

Institutional Capacity
- The Structure of Governance
- Central/ Policy/regulation
- Local/Policy/ Regulation

PRINCIPLES

Governance Principles
Governance is the means by which an activity is directed to produce the desired outcomes. Court governance flows from one of four basic structural court system models first identified in 1984.
1. *Constellation*: "The state of the judiciary is a loose association of courts which form a

system only in the most general of terms . . . [with] numerous trial courts of varying jurisdictions . . . which operate with local rules and procedures at least as important as any statewide prescriptions. . . . Formal lines of authority among the courts are primarily a function of legal processes such as appeals" (Henderson et al., 1984: 35).

2. *Confederation*: "A relatively consolidated court structure and a central authority which exercises limited power. Extensive local discretion. . . . There are clearly defined managerial units at the local level administering the basics of judicial activity" (Henderson et al., 1984: 38).

3. *Federation*: "The trial court structure is relatively complex, but local units are bound together at the state level by a strong, central authority" (Henderson et al., 1984: 41).

4. *Union*: "A fully consolidated, highly centralized system of courts with a single, coherent source of authority. No subordinate court or administrative subunit has independent powers or discretion" (Henderson et al., 1984: 46).

Unifying concepts

Principle 1: Effective court governance requires a well-defined governance structure for policy formulation and administration for the entire court system.

Principle 2: Judicial leadership should be selected based on competency, not seniority or rotation.

Principle 3: Judicial leaders should demonstrate a commitment to transparency and accountability through the use of performance measures and evaluation at all levels of the organization.

Principle 4: Judicial leaders should focus attention on policy-level issues while clearly delegating administrative duties to staff.

Principle 5: Judicial leadership, whether state or local, should exercise management control over all resources, including staff and funding that support judicial services within their jurisdiction.

Principle 6: The court system should be organized to minimize redundancies in court structures, procedures, and personnel.

Principle 7: The court system should be managed to provide an efficient balance of workload among courts.

An example of Governance Structure

- F-Slide
- Counsel Committee Membership
- Court Administrator Participation-Advisory
- Administrative Office Structure

Case Principles

Principle 8: Judicial officers should give individual attention to each case that comes before them.

Principle 9: The attention judicial officers give to each case should be appropriate to the needs of that case.

Principle 10: Decisions of the court should demonstrate procedural justice.

Principle 11: Judicial officers, with the assistance of court administration, should exercise control over the legal process.

Budget Principles

Principle 15: The judicial branch should make budget requests based solely upon demonstrated need supported by appropriate business justification, including the use of workload assessment models and application of appropriate performance measures.

Principle 16: The judicial branch should adopt performance standards with corresponding, relevant performance measures.

Principle 17: Judicial branch budget requests should be considered by the legislature as submitted by the judiciary.

Principle 18: The judicial branch should have the authority to allocate resources with a minimum of legislative and executive branch controls, including budgets that have a minimal number of line items.

Principle 19: The judicial branch should administer funds in accordance with sound, accepted financial management practices.

Court Responsibilities

- Provide proceedings that are affordable in terms of money, time, and procedures.
- Process cases in a timely manner while keeping current with its incoming caseload.

- Adhere faithfully to relevant laws and procedural rules.
- Provide a reasonable opportunity for litigants to present all necessary and relevant evidence.
- Allow participation by all litigants, witnesses, jurors, and attorneys without undue hardship or inconvenience, including those with language difficulties, physical or mental impairments, or lack of financial resources.
- Provide facilities that are safe, secure, accessible, and convenient to use.
- Make a complete and accurate record of all actions.
- Provide for inclusive and representative juries.

Collegiality

As Chief Justice Warren E. Burger stated, "There can, of course, be no disagreement among us as to the imperative need for total and absolute independence of judges in deciding cases or in any phase of the decisional function. But it is quite another matter to say that each judge in a complex system shall be the absolute ruler of his manner of conducting judicial business. . . . Can each judge be an absolute monarch and yet have a complex judicial system function efficiently?" (Quoted in Clifford, 1998: 56-57). . . . *there continues to be a dynamic tension between judicial officers and those responsible for the administration of the court over what judicial independence can and should mean as it relates to the effective and efficient administration of justice.*

Government Functionality

Principle 20: Courts should be funded so that cases can be resolved in accordance with recognized time standards by judges and court personnel functioning in accordance with adopted workload standards.

Principle 21: Responsible funding entities should ensure that courts have facilities that are safe, secure, and accessible and which are designed, built, and maintained according to adopted courthouse facilities guidelines

Principle 22: Courts should be funded to provide for technologies comparable to those used in other governmental agencies and private businesses.

Principle 23: Courts should be funded at a level that allows their core dispute resolution functions to be resolved by applying the appropriate dispositional alternative.

Principle 24: Courts should be funded so that fees are secondary to the general fund as a means of producing revenue for the courts and that the level of fees does not deny reasonable access to dispute resolution services provided by the courts.

Court Organizations

- Overview-National, Constitutional/Supreme Court/MOJ
- Specialized

Pros - Specialized Bar and Judges
1. Simplification
2. Improves Public Trust

Cons
1.Expensive
2.The inability to cover national jurisdiction
3. Inefficient use of Judicial Resources

Court Administrative Organizations

1. The need for organization charts
2. General Secretary/Secretary Model
3. Professional Court Administrator Model
4. Manual for Court Administration

Performance measures

1. Courtools
2. Statistics
3. Surveys

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Dr. Albers is currently an international expert in the justice sector/administration of justice area and the former Special Advisor at the Council of Europe Directorate General Human Rights and Legal Affairs (the European Commission for the Efficiency of Justice - CEPEJ) during years 2006-2009 and the former Senior Policy Advisor for the Netherlands Ministry of Justice (years 2002-2006).
While with CEPEJ, Dr. Albers developed, coordinated and conducted international evaluation studies on European judicial systems of the 47 member states of the Council of Europe.
Dr. Albers has a rich international judicial reforms experience that includes work in Serbia, Morocco and Libya, Ukraine, Bahrain, Croatia and Kazakhstan on various issues ranging from justice sector assessment reports to development of time standards and measurement of the duration of court procedures to court quality policies development.
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Towards excellent courts: an introduction of the international framework of court excellence

I. INTRODUCTION

In the private sector it is common that quality improvements and quality assurance is applied with a view of serving the customers to the best they can. However, also in the public sector the notion of a need for using quality policies was introduced in the United States in 1987 with the acceptance of the Malcolm Baldridge National Quality Act. This act was developed for the implementation of a national quality improvement program. Selected companies *and* public institutions could receive an award for their efforts in the field of quality. In Europe a similar initiative was launched four years later with the European Foundation on Quality Management Model (EFQM).
In the judicial branch the term quality is often related to *legal quality* i.e. the quality of the judgments and the existence of a system of appeal. If the quality of the judgments is high and if in a given legal system a system of appeal is available, then 'automatically' there is a high level of quality of judicial service delivery. Is this a true reflection of the situation or should a different viewpoint be taken? What is the European baseline for a high level of judicial quality?
When referring to the last question it is important to take notice of Article 6 of the European Convention on Human Rights which states that: In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
Already in this article a number of quality notions for courts can be found, namely: court proceedings should be *fair and independent*. Moreover court hearings must be held *in public* (of course there are exceptions for certain cases such as juvenile cases). Lastly court proceedings must be carried out within *a reasonable time*. A number of these notions can also be found in the first initiatives of a number of countries who have tried to implement the general quality models in a specific context: the courts.
In this presentation I will limit myself to four early 'adopters' of the quality notion, namely: the United States, Singapore, Finland and the Netherlands before I present the International Framework of Court Excellence.

II. THE EARLY ADOPTERS OF THE QUALITY-NOTION: THE UNITED STATES, SINGAPORE, FINLAND AND THE NETHERLANDS

In the *United States* the discussion about the creation of the *US Trial Court Performance Standards* started already immediately after

the introduction of the Malcolm Baldridge Act. The main reason to initiate this discussion was related to a long duration of the proceedings in and the need for more transparency of the US Trial Courts. After a three year period of development the final version of the US Trial Court Performance Standards (TCPS) was introduced in 1990. The standards were based on 68 different measures and five areas of measurement:
(1) access to justice;
(2) expedition and timeliness;
(3) equality, fairness and integrity;
(4) independence and accountability and
(5) public trust and confidence.

The TCPS model was tested in twelve courts. Unfortunately due to the high level of comprehensiveness of the model only one court (the Los Angeles Municipal Court) was able to implement all the measures. Based on these lessons learned a simplified model was introduced at the beginning of 2000 under the name of *Courtools*.
The US Courtools are composed of 10 measures. Courts are free to select those measures which they prefer. For each of the measures a practical guideline is drafted. This to support the courts with the implementation of the model.

Access and fairness	Reliability and integrity of case files
Clearance rates	Collection of monetary penalties
Time to disposition	Effective use of jurors
Age of active pending caseload	Court Employee satisfaction
Trial date certainty	Cost per case

US Courtools
Almost at the same period that the Trial Court Performance Standards were launched in another part of the world (in Singapore) the *eJustice Scorecard* saw the light. Under the influence of court delays and a high level of backlog of cases the judiciary of Singapore felt the need for a new approach: the *eJustice Scorecard system*. Based on the ideas of the Balanced Scorecard principle developed by the management scientists Norton and Kaplan the eJustice Scorecard is composed of four areas:
(1) community;
(2) internal processes;
(3) learning and growth and
(4) financial.
What makes the model unique is that the Singapore courts introduced the notion of a *client orientation* for improving the quality of judicial service delivery.
In *Europe* ten years later (at the end of the nineties) comprehensive quality systems were developed in Finland and in the Netherlands. In the Netherlands in the period 1998 – 2002 a project quality was introduced, with a view of creating a system to measure the quality of the courts. Almost similar to the US TCPS system 5 areas of measurement were identified:
(1) independence and integrity;
(2) timeliness of the proceedings;
(3) unity of law;
(4) expertise and
(5) treatment of the parties.

For each of the areas specific measurement instruments were developed, such as court surveys (implemented by a quality bureau of the judiciary: PRISMA), observation studies, audits and the use of statistics. With the introduction of a Council for the Judiciary in 2002 the ideas of a quality measurement system were incorporated in a general quality model *RechtspraaQ* which is currently applicable for all the courts in the Netherlands.
In *Finland* there was already a long history of discussion about court quality through dedicated quality development committees, working groups for quality and quality conferences (1999). Every year conferences were held to discuss relevant topics related to the quality of the work of judges and the courts. As the result of this in 2003 a set of *Quality Benchmarks for Adjudication* was published by the court of Appeal of Rovaniemi. Based on six areas of measurement the court of Appeal is assessed on a regular basis. The scoring result of the assessment is used to define specific areas of improvement. This to raise the quality of judicial service delivery.

III. THE INTERNATIONAL FRAMEWORK OF COURT EXCELLENCE (2006/2007)

The initiative for creating an International Framework of Court Excellence came from a former senior judge of the State courts of Singapore. This judge contacted around the world several organizations who had a vast experience with court quality systems and court quality policies. As a result of this the International Consortium for Court Excellence was established, composed of the US Federal Judicial Center, the US National Center for State Courts, the State Courts of Singapore, the Australasian Institute for Judicial Administration (assisted by the Council of Europe's CEPEJ and the World Bank). (Currently there are 23 additional members of the Consortium).

In the period 2008 the first version of the International Framework of Court Excellence (IFCE) was released. The main objective of the framework is to support courts around the world with a tool that can help them to assess and improve the quality of justice and court administration they deliver. As a part of this process the level of court performance will be increased too.

Derived from the good ideas of other court quality systems described earlier, the IFCE contains seven areas of excellence:

1. Court management and leadership;
2. Court policies;
3. Human, material and financial resources;
4. Court proceedings;
5. Client needs and satisfaction;
6. Affordable and accessible court services;
7. Public trust and confidence.

In the presentation these areas of excellence will be presented in more detail, followed by a short explanation of the self-assessment questionnaire/checklist. This checklist can be used by courts in their *journey towards excellence*. There are two versions of the checklist or self-assessment questionnaire available: a simplified version and a more sophisticated version of the survey. Based on the individual needs of a court, courts are free to select a version which they think is the best instrument for the applicable situation.

How the self-assessment can be done will also be outlined in the presentation by explaining the need for creating self-assessment teams in the courts, the process of filling in the self-assessment survey and its scoring mechanism. On the basis of the self-assessment, areas of improvement can be identified, which can be used for the development of an improvement plan for the court.

To assist the courts with the use of court performance measurement indicators and tools a discussion paper was published by the International Consortium for Court Excellence in 2012. Almost similar to the US Courtools 11 measures are listed:

(1) court user satisfaction;
(2) access fees;
(3) case clearance rates;
(4) on-time case processing;
(5) pre-trial custody;
(6) court file integrity;
(7) case backlog;
(8) trial date certainty;
(9) employee engagement;
(10) compliance with court orders and
(11) cost per case.

IV. CLIENT NEEDS AND USER SATISFACTION AND PUBLIC TRUST AND CONFIDENCE

In the last part of the presentation a number of international examples will be provided in the field of measuring the user satisfaction of the courts and public trust and confidence. An example will be shown from the access and fairness survey (Courtools), but also from the courts in Serbia. A short reference will be made to the document that has been prepared by the CEPEJ on court user surveys. In addition to a short overview of the importance of court user surveys, the presentation will be closed with international comparative figures on public trust and confidence. In Europe public trust and confidence in the judiciary is measured by a standard opinion poll (Euro barometer). This poll gives a good overview of the level of trust or distrust in the judiciary of EU Member States. Besides the Eurobarometer there are also other comparative instruments that can provide feedback on the situation of the judiciary. E.g. the survey of the World Economic Forum measures the level of independence of the judiciary of more than 90 countries, whilst in the World Justice Project (Rule of Law index) the level of independence of civil and criminal justice is measured too.

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Court and Courtroom Technology

I. INTRODUCTION

A. The Center for Legal and Court Technology (CLCT) seeks to improve the administration of justice through appropriate technology and is the world center for courtroom and related technology and designs facilities around the world.

B. Technology is important for courts because it can save money, enhance efficiency, improve resolution accuracy, provide transparency for the public, and enable the participation of people with difficulties seeing, hearing, or moving.

C. As caseloads and case complexity increase, technology may be necessary for basic court operation.

II. TECHNOLOGY

A. Court technology includes:

- Electronic filing (e-filing);
- Case management;
- Data management for other types of data (e.g. in the U.S. states– land records and probate matters);
- Court record (a text or electronic transcript of court proceedings);
- Electronic publication of court decisions;
- Judicial and court access to the Internet and legal resources;
- Remote "communications" permitting virtual meetings, remote motion (application) practice, remote interpretation, remote participation by judges and/or counsel, and remote witness testimony;
- Security (not otherwise addressed in this part of the program).

B. Courtroom technology includes:

- Visual display of electronic evidence;
- Technology-based court record;
- Remote appearances, including remote court reporting;
- Assistive technology;
- Judicial access from the bench to case and court data and electronic legal materials.

Note that there is an overlap between "court" and courtroom technology".

III. COURTROOM TECHNOLOGY

A. Visual display of information (evidence) is important as most people better understand and remember information presented visually as well as orally.

1. Document cameras are television cameras that can show the judge or judges documents, physical evidence, and similar matters on electronic

screen. Note that 3D evidence projection is now possible.

2. Notebook computers and/or tablets such as the iPad are preferable for information/evidence presentation).
3. Individual monitors allow judges and counsel to read even large amounts of dense text. Large displays are useful for court visitors, including the media, to understand the evidence.

B. At least in the United States, cell phones, drones, and small body cameras (soon to include Google Glass) are vastly increasing the amount of visual evidence in court.

C. The "court record" is an accurate verbatim record of at least what is said in court. This now customarily involves one or more of the following technologies:

- Digital audio recording;
- Digital audio and video recording;
- "Voicewriting," including voice recognition using a human "voicewriter";
- Stenographic reporting.

Voice writing and stenographic reporting potentially permit "realtime transcription" which provides near immediate searchable electronic text transcript to judge and/or counsel. Remote transcription of digital audio permits rapid delivery of transcribed material when only recording equipment is used.

CLCT uses a "multi-media court record" that combines digital audio and video, draft realtime text transcript, and images of the evidentiary exhibits, all delivered immediately via the Internet.

D. Assistive technology permits those with limited or no vision, limited or no hearing, persons who cannot speak, and those who have mobility problems full participation in trials or hearings whether they are judges, lawyers, witnesses or court staff.

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Current Trends in Court Technology

Before we discuss Information Technology (IT), we need to remind ourselves what the purposes and impacts of introducing court IT can and should be. What areas do we see for improving our courts? Around the world, court users complain that court procedures take too long. This makes **disposition time** the prime area for improvement. The second most important complaint is about **access to justice**. This is not just access to courts, it also involves access to information about solving problems, legal information and information about going to court. Third in line of major court user complaints is lack of integrity, or **corruption**. This can involve corruption in appointments, in judgments, but also in administrative handling of case files.

What is there to know about the current State of Court Technology? The only sources of information about this are the reports by the European Commission for the Effectiveness of Justice (CEPEJ) and Opinion 14, on Information technologies and the courts, by the Consultative Council of European Judges (CCJE) at the Council of Europe. My data are based on the 2012 CEPEJ report. The 2014 CEPEJ report will be published on October 9, 2014.

The CCJE survey (2011) tells us the following about practical court work. Judges write increasingly on computers, about half use models and templates. Some use voice recognition. A majority of courts in Europe use their data to monitor lengths of proceedings and they keep statistics on individual judges. In Moldova, according to CEPEJ 2012, all courts have IT support for judges and staff: office automation, email, internet connections, case registration systems, case and court management systems and a jurisprudence database.

Legal information on line is the most popular form of IT among judges. Traditional legal information includes national legislation, European legislation, national case law, international case law, and law review articles. Innovative legal information includes Legal Information Institutes, court decision e-archives, a legal Wiki, and integration of resources with legal and judicial training. The European Case Law Identifier (ECLI) is an innovation aimed at finding case law across Europe.

On line legal information has changed the market for legal information dramatically. Earlier, Legislators, scholars, educators, legal practitioners, publishers and the judiciary were either consumers or producers of legal information. Now, they can all publish their own products, and deliver them to each other.

The new trend in court IT is in web services. The web services are evolving from simple, one sided information service to

automated transactions. According to the EU Benchmark for e-government services, five stages can be distinguished.

- **Information service**, one-sided information push.
- **Downloadable forms**, filled out by hand and sent back through the post.
- **Form e-filing**, filled out on line and submitted electronically.
- **Transaction**, where the result is transmitted on line.
- **Automation**, where the result is produced without human intervention.

The CCJE survey (2011) tells us the following about electronic access to courts. In half the member countries of the Council of Europe, there is some e-filing. Legislation enabling e-filing is in place in half the member countries. Requirements for e-filing are different in different member states. The actual practice in e-filing is low. The only exception is Austria.

According to CEPEJ, all courts in Moldova have a web site, and it is possible to follow up court cases on line. In some courts, there are electronic files. There are no electronic registers. There is no electronic processing of small claims or undisputed debt recovery, or electronic submission of claims. There is also no videoconferencing with parties, or any other electronic communication facility.

The CCJE survey (2011) provides a reality check about the IT that is actually in use in the courts in Europe. Generally speaking, files are still paper. E-filing practice is mostly still experimental, except in Austria. Electronic files are mostly still experimental, and so are electronic signatures. IT in oral hearings is low.

Web services are mostly still in the experimental phase. Some examples show what they can look like. Money Claim On Line in the United Kingdom is a dedicated web site for small money claims. It has been in existence for more than ten years. It delivers a complete transaction. The claimant files a claim through the web site. The defendant is notified by post. The defendant can decide to defend on line. Only when a hearing is needed is the case referred to a local court. The decision is provided on line. This service can be very fast. New users, independent professionals who run their own small company, have found it to be a useful tool for collecting debts. This model has now also been implemented for other dedicated procedures.

The new digital civil procedure in the Netherlands will be implemented in 2015, after the new civil procedural law comes into force. Court procedures were first simplified to facilitate digital case management. The new procedure will provide a portal for e-filing civil and administrative cases. The information provided is fed into a digital case file automatically. Both parties and the court staff have access to the case file. They communicate with electronic messages. Digital case management is used to move the case forward. The hearing is still face to face in a courtroom. The decision is delivered to the digital case file.

Implementing Court IT and Court Innovation can be difficult to discuss between judges and management. There is an apparent conflict between management wanting to increase efficiency, and judicial work. Judicial work deals with individual cases and mainly involves looking back. Judges are not used to looking forward. I have developed a model for court
case processing that works to help discuss improving courts with IT. [7]

Cases are different, but they also have things in common. The way courts handle cases is determined by two factors: (1) the unpredictability of the outcome, and the degree to which parties cooperate. The cases can be divided into four groups. Undefended money claims have a highly predictable outcome, and there is no need for party cooperation. They can be processed quickly (group 1). Parties mostly cooperate on issues involving long-lasting relationships, such as labor and family cases (group 2). Depending on the local legal culture, parties may settle a case with an uncertain outcome in the course of the procedure (group 3). If not, then a

[7] The model is explained in detail in my article in the online International Journal for Court Administration, vol. 3 no. 2, January 2011.

judicial decision is needed to end the dispute (group 4).

In the Dutch civil justice, the largest group of cases is group 1, that of the undefended money claims. The predictable family and labor cases group (group 2) is a little smaller. The settlement group (group 3) is about a quarter in size, and the judgment group (group 4) is even a little smaller than that. However, most of the judicial work is done in group 4.

If we want to reduce disposition time, we need to think of ways to make case outcomes more predictable by standardizing the way we interpret issues. We can also help parties to settle more of their own problems with legal information and information on problem solving. Providing people with legal information they can understand and act upon also increases their access to justice.

Each group also has its own requirements for IT. Group 1 needs e-filing, and automating parts of case handling. Group 2 needs, in addition to the needs of group 1, web information services to help parties file their cases more effectively. Group 3, on top of the needs in groups 1 and 2, needs tools for settling cases and negotiating. Group 4 handles the most complex cases. Its need is for electronic case files, access to legal information and knowledge systems.

Resources

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www.moneyclaim.gov.uk
www.doryreiling.com

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Currently, Mr. Carver is the Chief of Party of the USAID-funded Albanian Justice Sector Strengthening Project, which, *inter alia*, aims at increasing court transparency, fairness and efficiency and has a strong focus on promoting the audio recording of court hearings and improving case management practices.
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Current Developments in Court Technology. Digital Audio Recording in Albania.

I. INTRODUCTION AND COUNTRY CONTEXT

1. Albania was long isolated under a communist dictatorship, and is still struggling to strengthen its democratic institutions, with aspirations for eventual EU membership. Public trust in the judiciary is extremely low.
2. Building trust in the court system is essential, but difficult when:

- Most believe that judges are corrupt.
- Trials take place not in public courtrooms, but behind closed doors in judges' offices – a terrible practice, lacking in transparency, that undermines confidence in the judiciary.
- The only record of what happened in court is a handwritten or a typed summary, often dictated to the secretary by the very judge who is viewed as biased in favor of the other side. Reviewability is a fundamental element of due process. Without a verbatim record, how can the proceedings be reviewed?

3. This is the background which led to a USAID strategy to promote recording technology for more transparency and fairness.

- A previous ROL project attempted to introduce recording technology in the courtroom, but failed.
- The current project started over, and is succeeding. Today, digital audio recording has become commonplace and will soon cover every courtroom in Albania. It is transforming the way courts operate, and – not coincidentally – slowly beginning to change the bad perception people have of courts. Many courts are now holding 100% of hearings in courtrooms, and recording everything. Albania is quickly becoming the leader not just in the Balkans but in all of Europe on producing verbatim records of trials.

4. This presentation will discuss key principles in the successful implementation of technology projects, specifically digital audio recording, and how these changes are transforming the court system.

II. PRINCIPLES OF SUCCESSFUL IMPLEMENTATION

1. **Plan** your work. Planning is the most important factor that determines project success or failure.
2. Define your **vision**: What are you really trying to accomplish? What are the larger policy considerations? Sometimes it is good to think big, but start small.
3. Know your **stakeholders**. High level policy makers are important, but court secretaries can make or break a project to introduce technology in the courtroom.

4. Know how to analyze **resistance to change**. Resistance can be viewed as feedback, and thus a resource. Most people want to do a good job, and may be worried that new technology will prevent them from succeeding. Ask yourself:

- Why am I seeing this behavior as resistance? and,
- If I view it as feedback, what can I learn from it?

5. Figure out how to achieve **early success**, then build on it.

6. **Measure** your results. "What gets measured, gets done."

III. IMPLEMENTATION OF DIGITAL AUDIO RECORDING IN ALBANIA: A CASE STUDY.

1. **Planning is essential**, and the level of planning required is often underestimated.

- We assessed every court in Albania, looking at IT infrastructure, reliability of electrical power, court personnel, and technology currently employed. Four courts were still producing hand-written summaries.
- The results of the planning were crucial for:

a) Writing the specifications for the procurement of the software/hardware solution.

b) Developing an implementation/installation schedule

c) Preparing court secretaries for future implementation. For example, where secretaries were still used handwriting, we organized typing training for them.

2. It is important to **define your vision**. Based on our analysis of the previous USAID attempt to introduce recording technology, we made a number of decisions which were to prove critical to success.

- User interface had to be in Albanian, and had to be simple to operate by existing court staff.
- Decided to equip every courtroom with recording equipment, and the equipment and software was standardized nationwide.
- We knew we had to take away excuses. We knew from the previous project that if equipment existed in a single courtroom, judges would schedule cases in other courtrooms, to avoid the recording.
- Decided **not** to equip judges' offices. Our long term vision was one where judges would no longer use offices for trials.
- We worked to change the legal framework to support the idea that the audio recording is the official record.

3. **Know your Stakeholders:** We always enjoyed the support of top officials in the capital, Tirana. But there are many stakeholders of court services.

- **Court secretaries** are key. We have invested a great deal of time training them, and making them comfortable with the technology.
- **Judges** are obvious stakeholders, and good judges immediately saw the benefits to having a recording.
- The lives of everyone in the courtroom will change. **Lawyers** and **prosecutors** must be included in the training and orientation.
- The **public** is important. We have continually sought to raise public awareness, and inform parties that they have a right to an audio recording. We have designed forms and procedures to make it easy to obtain.
- **Judicial Inspectors** are also stakeholders, as for the first time they have tools to investigate complaints.

4. Know how to interpret **resistance to change**.

- Courts are inherently reluctant to change.
- Do not dismiss the naysayers, doubters and skeptics. Most judges and court staff take pride in their work. Often, what appears to be resistance is really a fear that the quality of their work will suffer, or that a new workload will overwhelm them.
- Listen to their observations. People "in the trenches" make the best informants on how to succeed.

5. **Build on Early Success**

- Initial success is critical. **Leadership is the key to success**. We selected the first two courts for installation and training

based on the leadership qualities of the chief judges.

- Everybody gives lip service to the benefits of donor projects, but we tried to find leaders who truly believed in change.
- Success breeds success. The remaining courts were much easier, after working through all the technical and human resource issues with partners who embraced change.

6. "What Gets Measured, Gets Done." The literature on performance based government tells us:

- What gets measured gets done; after performance measures are established, people begin to ask the right questions, redefine the problem, diagnose that problem, and think about organizational goals;
- If you don't measure results, you cannot tell success from failure; when government lacks objective information, decisions depend largely on political considerations;
- If you cannot see success, you cannot reward it;
- If you reward success, you are probably rewarding failure;
- If you cannot recognize failure, you cannot correct it; and
- If you can demonstrate results, you can win public support.

i. Our project constantly stresses two goals:
   1. All court hearings should take place in courtrooms.
   2. All court hearings should be recorded.

ii. We have developed management reports that clearly show which courts are performing well.
   1. Examples: can break down by court, by case type, and by judge.

iii. We provide training on how to access and use these reports.

iv. We have intentionally created peer pressure and competition among judges for full implementation.

v. How courts and how individual judges are implementing the technology is now scrutinized, and a reward structure is taking form. Promotions within the judiciary are being (in part) affected by court "scores" on audio recording.

IV. CONCLUSION

1. Digital Audio Recording is now well established, and will continue.
2. Previously skeptical judges now realize that having a recording is in their self interest.
3. Complaints against judges have declined after the technology becomes established.
4. Parties feel protected, knowing they can always request and get a recording.
5. Transparency is now visible, tangible.
6. Albanian officials frequently point to the audio recording initiative as evidence of progress in meeting EU accession standards – a powerful motivator in Albania.

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Developments in Court Technology

Nowadays, the establishment of information technology in various activities has become very common.
It is now 5 complete years since the implementation of the Court Information System started and I am happy to have the opportunity to participate in it, from the beginning of this long and challenging course, which still holds many surprises up its sleeve.
I think that after these 5 years, the results of court automation are more than satisfactory. Indeed, this appraisal is objective, comparing the accomplishments with the time period since the beginning of these endeavors. We are tempted to look up to the countries that have tens of years of experience behind, with a different historic background and financial possibilities, whereas the case of Moldova is of other kind. In connection with this, I acknowledge the exceptional value of the support from USAID programs, which implement court IT means even right now, here!
I think, however, that we are in the beginning of our journey and that the most remarkable innovations are still ahead, when, hopefully, we will get to share our experience with others.
The success of the technological development of activity sectors, including the judicial sector, depends on three major pillars:

- Adaptability/adequacy level of the information system to the management process carried out in courts – the case management manner and the functionality of the information system;
- Users' attitude;
- Support in applying the Court Information System.

By the nature of its activity, the National Institute of Justice gets involved directly and indirectly in all three directions. Training on using the Court Information System is the central interest of our team of trainers formed of me and my colleagues: Mihai GROSU, Court IT Specialist, USAID Rule of Law Institutional Strengthening Program (USAID ROLISP), Andrei OJOGA, judicial assistant, chief administrator of computer network, Chisinau Court of Appeals, and Marina CORGOJA, judicial assistant, Supreme Court of Justice.
To achieve success, we adjust the content of seminars to the beneficiaries' training needs; apply interactive methods, including mock processes, such as the mock use of Femida court hearings audio recording system and of the Integrated Case Management System. Each participant performs certain activities on a computer, such as filing a case, scheduling court hearings, drafting court records or audio recording court hearings.
We all know that the training process means not only transmitting knowledge and developing skills, but also developing

attitudes. We develop a positive attitude toward IT means by:

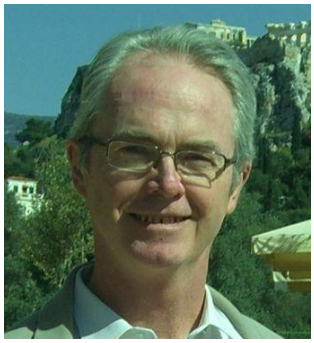
- Disseminating examples of good practice;
- Creating an experience sharing platform;
- Offering recommendations for improvement and technical-applicative solutions;
- Collecting and analyzing feedback.

For the success of our tasks, it is very important to promote an objective and constructive vision of the Court Information System and to create and maintain a mutual trust relationship with court staff, who participate in our seminars. I think that in principle we manage to achieve that. Many of our colleagues from the attendance can confirm or express their opinions on that matter. We always take them into account!

We try to bind theoretical seminars with real-life activity of our beneficiaries. We keep providing them support even after training is over, and ask and take into account their opinions, suggestions, recommendations and reports of IT deficiencies. I would like to transmit to the attendance a blank paper sheet on which the participants can write down their opinions. We will refer all information thus collected to relevant entities, either to the maintenance service provider or to the developers of the Court Information System through ROLISP. We will also keep a copy for us to be able to make improvements at the earliest opportunity.

This wide area of reference helps us to identify several IT development goals:

- Development and moderate improvement of the Court Information System with the participation of system users;
- Establishment, maintenance and development of a platform for communication and sharing of experience and good practices between the users of the Court Information System;
- Support (consultation and training) for users and ensuring of good operation of the Court Information System;
- Gradual integration of the Court Information System with other information systems/resources to improve its swiftness and to facilitate its use;
- Standardization of the court practice of using the Court Information System, including the establishment of clear common rules and controls in line with intelligible standardized methods;
- Gradual simplification of procedures and reduction of duplicated work (for example statistics, minutes, etc.).



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Quality Services for Citizens: Promoting People-Friendly Courts

The International Framework for Court Excellence document describes the 10 values of courts of justice and 7 areas in which all courts need to give their attention in order to become excellent:

Values – in processing cases and its dealings with court users, a court should	**Areas of court excellence**
• ensure equality before the law • be fair in its dealings with all citizens • be impartial • be independent in decision-making • be competent • have integrity • be transparent in what it does • be accessible • be timely in providing services • ensure certainty for those who use court services.	• Leadership and management • Planning and policies • Resources (human, material, financial) • Proceedings, processes and services • User needs and satisfaction • Affordable and accessible services • Public trust and confidence.

Another feature of the Framework document known as the Self-Assessment, is essentially a questionnaire used by courts to evaluate how well they are pursuing excellence. That questionnaire has 45 statements against which the court assesses itself with a numerical score. I have some experience of using the Framework and the Self-Assessment questionnaire in Australia. So I am going to tell you about what Australian courts do that usually results in them rating themselves highly as excellent service providers. I believe most Australian courts are excellent and their experience offers useful guidance for other court systems that aspire to attaining similar success.

A feature of the Framework document that can be a little daunting for some courts is that it the Self-Assessment asks a lot of questions – effectively it asks for 90 responses. It takes a lot of effort to absorb and make sense of it all. And if you look closely at the 45 statements in the questionnaire, some of the statements are repetitive. So in order to make the statements a little easer to appreciate in total, I spent some time going through the 45

statements to condense them; and I was able to reduce them to just 14 essential practices of successful courts. Each of them are focused in some way on making the court either more transparent, more consultative or more innovative. In explaining each, I will also illustrate them by describing what courts in Australia are doing to put them into practice:

(a) An excellent court publishes its organisational vision, its purpose and objectives, and the means it uses to achieve them in accordance with its values.

With few exceptions, courts in Australia will publish some kind of annual report for distribution to the general public, which will contain information about the court's vision or purpose and objectives. The wording always differs a little between different courts, but most will have the following elements:

The objectives for courts are:

- to be open and accessible
- to process matters in an expeditious and timely manner
- to provide due process and equal protection before the law
- to be independent yet publicly accountable for performance.

In addition, to provide court services in an efficient manner.

(b) An excellent court sets explicit standards for itself, measures performance against those standards and publishes the results.

Most courts in Australia will publish detailed information about its case processing by reference to explicit performance standards.

There is consensus within all Australian courts that performance standards are to be set by reference to the time it takes to process a case and the costs of case processing.

(c) An excellent court publishes a strategic plan which is regularly reviewed in tandem with the court's budget process and with the constant participation of all judges and staff.

While all courts in Australia have strategic plans that are pursued annually in tandem with budgetary cycles, seldom do they publish more than a synopsis of them. The key to successful strategic planning is to tie its future directly to the budget cycle and by involving all court personnel.

(d) An excellent court has a strategic plan which contains an innovation strategy it actively pursues and constantly improves.

Most courts in Australia are obliged to innovate because of the financial controls governments have over them. Governments are constantly limiting funds for courts, forcing courts to develop new ways of processing cases despite shrinking budgets. Information technology, in particular, has been a major field of development for courts, chiefly because IT is seen as improving both efficiency and effectiveness. As a result, Australian governments have been relatively generous towards courts that seek to improve themselves by innovation, using technology and lowering the cost of justice.

(e) An excellent court publishes information about services it provides.

All Australian courts have websites which contain very detailed information about

- who the judges are
- what powers the court has
- how to contact the courts
- the services the court offers to litigants and the general public
- statistical information about its performance in processing cases
- policies and processes used by the court to ensure it is properly managed
- copies of annual reports and annual reviews, which also contain budgetary information.
- In the case of courts that provide online access, portals for lodging documents, accessing court records and accessing other services.

The range of material Australian courts publish on their websites is still growing, as courts gradually automate more and more of their processes. The latest field of innovation is in developing online tools for the use of judges, without the need for the judge to process paper files or other documents.

(f) An excellent court publishes data about its key activities and achievements, e.g. caseloads, timeliness in case processing and consistency of services.

In addition to the statistical reports they publish individually and annually, Australian courts also provide data to a national agency which then publishes consolidations of data about all courts. Known as the Report on

Government Services, this publication is readily available each year on the website of the Australian Productivity Commission. The Report consolidates data in terms of common court performance indicators. An advantage is that every year it is possible to readily compare the efficiency and effectiveness of courts in different states and territories in Australia according to common assessment criteria.

(g) An excellent court meets regularly with court users to seek suggestions for improving services.

Most Australian courts have a range of committees that include court users. The most common model is to appoint a consultative committee of specialist lawyers and community representatives who have a practical interest in the work of the court. Such court user committees typically meet four times a year. Courts who have these committees tend to value them as sources of ideas and as a way of consulting with community leaders about reforms the court may be planning.

(h) An excellent court regularly surveys users and implements change in response.

Australian courts will regularly undertake questionnaire surveys of their users to measures levels of satisfaction with court services. These surveys occur less often than annually as courts tend to rely more on other feedback mechanisms, such as court user groups. User surveys have been found to be especially useful at the courthouse level, where users often raise problems specific to a particular building or locality.

(i) An excellent court has a complaints policy and publishes reports on how it resolves complaints in accordance with its values.

All courts in Australia will have a complaints policy concerned with dealing with complaints about judges or other court personnel. Under a typical complaints policy, the public will be entitled to complain in writing to the responsible chief justice. Each complaint will be investigated by a senior judicial officer within a limited time period and complainants will be entitled to receive written advice from the chief judge on the results of the investigation. Although courts often feel threatened by a complaint, in practice they can be useful mechanisms for dealing with internal differences about the quality of services a court provides. Most modern organisations encourage complaints as a way of keeping in touch with their clients' needs.

(j) An excellent court publishes all its judicial and administrative polices.

It is the practice of all Australian courts to publish their administrative policies by court rule or by a written direction issued by the chief judge. All of these policies will also be published on the relevant court's website.

(k) An excellent court identifies and meets the training needs of its personnel.

Australian courts generally invest significant resources into judicial training, as well as training for administrative personnel. Many courts will utilise their internal websites as training tools, taking advantage of the fact that all court employees conduct most of their work using a personal computer.

(l) An excellent court provides information for its personnel in making judicial and administrative decisions.

Australian courts benefit from the fact that every judge will have access to every law and specialised text on the law, as well as access to judicial precedents, to assist them in improving the quality of decisions they make. A particular innovation developed in my home state is the Judicial Information Research System – a database which gives judges an enormous range of information about court decisions, especially in relation to criminal sentencing.

(m) An excellent court provides easy physical access to adequate and safe court buildings

Australian courts make full use of information technology and modern court buildings to enhance access to court services, both in terms of physical access and also informational access, i.e. giving access to information in ways that do not require a court user to visit the court building. In addition to websites, examples include using teleconferencing and video conferencing and establishing video links between the courts and gaols. Courts also enhance physical access by offering circuit courts, which are courts that travel about in order to conduct hearings closer to the localities in which disputes arise.

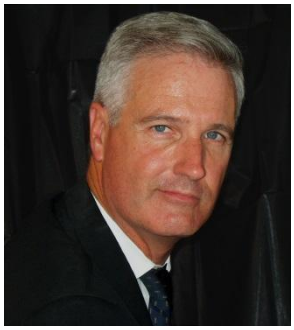
(n) An excellent court regularly monitors its expenditure and submits to regular and independent audits of expenditure and physical resources.

Australian courts do not have a choice about financial management or auditing – it is mandated by strict laws and practices aimed at guaranteeing accountability of government agencies and preventing misappropriation of government funds. It works. Courts are rarely accused of mishandling public resources and use their financial management practices to cope with often significant budget cuts.

This list of practices can be distilled even further into three catchwords that define how excellent courts distinguish themselves from others. Excellent courts are

- transparent – publishing their plans, polices, service outcomes and their use of resources
- consultative – listening to what their users, judges and staff have to say about service improvement
- innovative – using progressively better technology and constantly improving the skills of their personnel to provide services and administer planning, consulting and publishing.

If a court can claim to be transparent, consultative and innovative in providing services, it can claim to be truly excellent.



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Promoting People Friendly Courts

I. THE CHALLENGE

- The courts' mission toward self-represented court users, needs to be that if we in the courts can't find a lawyer for everyone who needs one, we are obligated to infuse our judicial system with user-friendly options. Fulfilling this mission fosters transparency, and bolsters public trust and confidence in the justice system.

- Traditional assumptions have been that most self –represented are the poor who cannot afford an attorney. More recently courts have been see increasing members of the public who are demanding "do–it–yourself" abilities and more available options. They are self–represented because they want to be; not because they have to be.

  - Typical customer service duties for court staff:

    - Receiving and registering complaints;
    - receiving, registering and examining petitions;
    - receiving, registering and examining requests for access to official information;
    - providing access of the public to cases and other judicial documents;
    - issuing copies of audio recordings of hearings and case materials (upon payment);
    - publishing and displaying of information materials for citizens;
    - publishing information of public interest on the website.

II. ASPECTS OF THE CHALLENGE

- Self–represented are frequent participants of problem–solving courts such as drug courts, drunk driving courts, and financial responsibility court.

- Courts have an obligation to provide extra care protecting the vulnerable: the elderly, the disabled, and the very young.
- Moldova (like the United States) contends with communicating in multiple languages including Romanian, Russian, Ukrainian, Maritime Gagauzi, and Bulgar Gagauzi. The Law on the Rights of Persons Belonging to National Minorities and the Status of their Organizations calls for courts to respond in the language of the court litigant or citizen requesting information.

III. APPROACHES

These approaches are not mutually exclusive although courts have to determine how much emphasis they want to place on each.

Court Client Oriented Staff

Client oriented court staff to assist the court customers through their court legal processes. Some courts call these staff court navigators, case level service providers, court concierge, or personal clerks. This approach can be very attractive to many in the community. Having a long chat with a book seller or asking a waitress for her menu recommendations at a restaurant can be very comforting to many people.

This approach works best when a court hires well qualified staff who know court procedures, the law, know the nuances of court computer applications, know how to provide excellent customer service, and (preferably) know several languages. In the USA these staff start to look a lot like paralegals. Using a transparent merit selection process for civil servants enhances the credibility of these staff.

The down side is that this approach is staff intensive and expensive. It can also push staffers to become social service gatekeepers knowledgeable in a wider variety of services, even those well beyond the courthouse door. This would be good for customers, expense for courts to maintain.

Public education

Staff trained to present classes on how to navigate various types of court process. Usually family court, lower level civil, minor criminal, probate. Need to identify staff capable of presenting to large groups, knowledgeable in the area, and aware of court policy and the law.

This is a less personalized approach so it costs less and relies more on the customers taking responsibility for their business.

Self-Help

Using pamphlets, brochures, template forms, the web site, electronic communication. This is even less personalized, less expensive, and relies even more on customers taking responsibility for their own business.

IV. PUBLIC INFORMATION – SELF HELP

- **Signage**: large, consistent, easy to read signs in multiple languages. Arrows and possibly colors to conform to different buildings often helps. Make sure that room numbering and identification is consistent and easy to follow to for better public way finding.

Notice boards or bulletin boards can be effective low tech solutions to provide time sensitive information such as the daily calendar. Placing these in a central location is extremely helpful. Posters can also be very helpful. (Include pictures and graphics, limit the amount of information on the poster: most people will not read a lot of detailed information.)

- **Website**.

Ensure it is understandable and comprehensive. Include basic information such as locations, maps, phone numbers, hours of operations, hours for public access, customer codes of conduct, a glossary of legal terms, and public access floor plans. Courts can possibly consider posting the names & backgrounds of judges & significant court staff (although consideration must be given to security on this point).

Give instructions in simple terms, preferably step–by–step descriptions with graphics. Possibly rephrased in simple terms the legal requirements for filing in clear language & then include a link to the actual statutes. Very helpful to Include the steps the courts will take after documents are submitted (e.g. review court documents for 8 1/2 x 11" white paper, signed, payment of the state tax along with bank withdrawal details, case caption in the upper left corner). Electronic filing has a digital signature how does one register to obtain that ability. Can the computer check for the digital signatures? Include a warning be posted that information on the web site is advisory and does not constitute legal advice.

There is not universal acceptance of web based information sharing; some see web sites

and automated internet services as "user hostile."

- Ensure written material and instructions are understandable, comprehensive and consistent with the website and other location where the information resides.

- Courts can also consider developing a strategy to use **social media** including Facebook, Twitter, YouTube, Tumblr, Instagram, etc. to post promotional and instructive written pieces & videos.

- Maximum **flexibility** to adapt changing circumstances. Make sure there is someone whose job it is to regularly review and update the web site content, forms and brochures, and signage. This is a constant and often forgotten problem because this stuff changes a lot and changes quickly. The courts want to ensure that it is not giving out stale outdated in formation to the public.

- Don't forget to have pre–set presentations to civil groups and classes, as well as tour of the courthouse.

V. THE FUTURE

- Eliminate aspects of document storage that inhibits electronic maintenance such as requirements for raised seals. Eventually electronic documents can be considered the original and the paper document can be destroyed.

- Case file numbers can be fairly simple, but there is a tendency to complicate them. Many case file numbers include a variety of identifiers that can be gleaned from the computer such as case type; party's last name or last initial; location of the filing if the court has multiple locations; year, month, and even the day filed.

- Speed is everything in court administration and case management. Always challenge existing time frames. Why does it take 24 hours for a complaint (once filed) to be posted to the ICMS? Can it be reduced to 12 hours?

- Audio-video broadcast of trials to the public? Advances are being made every day to both cameras & microphones making them less intrusive & of higher quality.

- Audio–video conferencing of court hearings? This can extend the courts service range to local smaller town while not requiring a judge to "ride the circuit." The down side is that many feel that audio-video conferences are dehumanizing; they want the personal touch.

- Forms templates can eventually be replaced by SmartForm applications.

VI. MANAGEMENT

- Develop and institute specific procedures to deal with indigent requests for information and assistance.

- Once a citizen receives permission to review case materials and agrees to conditions for that review, develop procedures concerning how citizens will be allowed to access the materials. Periodically review these procedures in light on technological advancements. Might it actually be easier and more efficient to allow view access to electronic images of documents rather than handing over paper files?

- There is the legal & philosophical dilemma that judges must contend with of how much help to provide to the self–represented without biasing the proceeding to the detriment of the other side. The other side may have hired a lawyer possibly because of that a lawyer's legal expertise and acumen. Can the court destroy that rationale by giving too much help to the self–represented?

- Develop a mechanism to obtain customer feedback so the court can understand what customers want & need. These wants & needs change over time which means don't stop obtaining feedback. Also understand that there are different types of customers so wants and needs change between subgroups. Always strive to make procedures are fool proof so customers can get their business done right the first time.

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Judicial Administration and Access of Trial Participants to Courts

Free access to justice is a fundamental principle of the organization of any democratic judicial system and is confined in a significant number of international documents. The state mechanism for defending the fundamental human rights and freedoms is a critical factor and represents the good functioning of the judicial authority, so that to provide to every person the right to effective satisfaction by competent courts against acts that violate their legitimate rights, freedoms and interests.

On procedural level, free access to justice is specified in the prerogatives implied by the right to action, as a legal aptitude that is recognized by the legal order of any individual or legal entity. The courts are there to achieve the said goals, having the general responsibility of justice making.

The evaluation report prepared by the European Union experts Dovydas Vitkauskas, Stanislav Pavlovski and Eric Svanidze, entitled "Evaluation of the Rule of Law and Administration of Justice for the Extended Sector Programming" and made public in June 2011 concluded:

- a low level of population's trust in justice;
- a quasi-general perception of the high level of corruption in the justice sector;
- insufficient transparency of justice;
- erroneous understanding of the judicial system, of the institution of inviolability of judges and its application to any kind of liability, lack of the obligation to report abusive influence, lack of responsibility for failure to fulfill the reporting obligation;
- the 'closed club' mentality in regard to the access to the profession and hierarchical promotion;
- lack of random assignment of cases, stenographing of all hearings or increased use of e-justice information tools in case management;
- insufficient capacity of the judicial system, at individual and institutional levels, to ensure communication between the courts and the trial participants in view of facilitating public access to courts.

The surveys that underlay the report also showed that the negative perception of justice by the public is not only in the sense of access to justice and obtaining satisfaction but also of perception of the legal system as a closed mechanism in what concerns the services received by the public.
As a reference point, it should be noted that until the proper act of justice takes place, the public comes into various direct and indirect contacts with the secretariat of the court, from filing claims and petitions and to requesting public interest information. Such contacts are considered closed, not based on transparent relations.

The perceptions identified pointed to a stringent need to reform the system. Having such reasoning, the Law no.231 was passed on 25 Nov 2011 to approve the Justice Sector Reform Strategy for 2011-2016 **(JSRS)**. Based on this, the Parliament passed Decision no.6 on 16 Feb 2012 to approve the Action Plan for implementing the Justice Sector Reform Strategy.

The JSRS established the priorities of systematic and sustainable intervention for strengthening the capacities of the self-administration institutions of the judicial system, improving the capacities for strategic planning and real evaluation of needs within courts. For this purpose, as specific areas of intervention, JSRS specified the need to enhance the efficiency of management and improve the practical and regulatory system of court administration.

At the same time, the JSRS specified that the judicial system must fulfill its role of public service not only by making justice, but also by establishing a new type of relation between justice and the trial participant. This relationship – a benchmark of justice reform – also implies the existence of a human relation between those who judge and the person who appears as a party in a trial. Courts are organized in such way as to ensure fast examination of cases. At the same time, the rights of the trial participants should not be neglected; they are entitled to get answers to the questions of their concern.

How trial participants are treated in court forms their perception of justice as a whole. Finally, this perception is the public image of the judiciary. The judicial structure is in the end a public service in the broad sense of this word and the trial participants must feel this status.

The citizen who comes to file a claim wants to benefit from quality services.
By quality services we understand all the possible contacts, direct or indirect, within the limits of the functional competences, that a citizen may enjoy, first of all the court secretariat. It is important to establish a new type of relationship between justice and the trial participant – more respectful, better organized and better-intended.

The court staff are the ones who initially get in touch with the trial participants and hence they must have a high level of professionalism and also show a respectful attitude to the people who come to the court.
We must understand that before the act of justice takes place and after it, the citizens go to court to:

- File claims;
- File petitions;
- File evidence;
- Get information;
- Get access to case files;
- Participate in hearings;
- Receive copies of audio recordings from the case file;
- Receive explanations about the resolutions issued and existing practice.

The facilitation of such services implies the interconnection between the court and the trial participant in regard to:

- Receipt and registration of claims;
- Receipt, registration and examination of petitions;
- Receipt, registration and examination of requests for access to official information;
- Provision of public access to case files and other court documents;
- Issue of copies of audio recordings and copies of case file materials;
- Posting/publishing of informative materials for the citizens;
- Publishing of public interest information to be website.

The enhancement of such services will facilitate the relationship between the court and the trial participants. This, accordingly, will enable an efficient and productive exchange of good practices on subjects related to the initial impact of trial participants with the judicial system until the moment when the claim reaches the judge's desk.

Improving efficiency in court administration: From bureaucratical static to active court management and leadership

Georg STAWA

I. INTRODUCTION[8]

Starting from the late 1980s the increase role of judiciaries in democratic countries social life[9] and the increasing demand, from taxpayers and voters, that the state be operated more efficiently and less at the expense (both emotional and financial) of the people started to affect the traditional way of thinking of the judicial administration, its organisation and its founding values. Until then, European democracies had not given much thought as to how access to justice was organised because it was taken for granted that if judicial independence were guaranteed, then access to justice would also be guaranteed. Bureaucracies, in general, and judicial administrations in particular, were increasingly seen as an old and monstrous machine, with much red tape, and in need of much repair.[10] Furthermore, it was often impossible for people to know who was responsible for what, which made having to go to the state with their issues time-consuming and frustrating.

II. STAGES IN THE DEVELOPMENT OF THE MONITORING AND EVALUATION SYSTEM[11]

Bureaucratic organisations were more interested in the compliance with formal procedures than in the achievement of concrete results. This is because forms of accountability were linked to keeping track of relevant procedural events, through the use of registers and paper forms. These were the typical systems used to certify the respect of the procedure prescribed within the norm. These tools did not consider elements such as efficiency or quality of the service, but allowed only the possibility of inspection and control over the respect of formal procedures. The distance between complex formal procedures and practical needs of the people also put a distance between people and the state, and made it non-transparent.[12] Things were destined to change, however, as the media exposure and public dissatisfaction grew stronger.

Judiciaries, even if somewhat isolated from the outside world, were nevertheless affected by these events. It is not a coincidence that since late 1980s achieving "reasonable time" expectations of parties and the European Convention on Human Rights became a serious concern for many western European countries. In addition, growing caseload of the European Court of Human Rights dealing with cases against member states for unreasonable delays in the courts based on Article 6(1) of the European Convention on Human Rights justified this concern.

An answer to the problem ingrained in the nature of traditional bureaucracies and in the traditional approach to judicial administration seemed to come first from new liberal-economic theories, from the Chicago school of economics and, later, from new public management. In particular, new public management stemmed from ideas about quality organisations, learning organisations and quality indicators from organisation

[8] Based on: Gar Yein Ng, Marco Velicogna and Cristina Dallara, *"Monitoring and Evaluation of Court System: A Comparative Study"*, CEPEJ, summed up by Frans van der Doelen in "Eastern Partnership: Enhancing Judicial Reform in the Eastern Partnership Countries, Working Group on "Efficient Judicial Systems".

[9] C. Guarnieri and P. Pederzoli, *'The Power of Judges'*, Oxford University Press, Oxford 2001.

[10] H. R. v. Gunsteren, 'The Ethical Context of Bureaucracy and Performance analysis', in *Guidance, control, and evaluation in the public sector : the Bielefeld interdisciplinary project*, F.-X. Kaufmann, G. Majone, V. Ostrom and W. Wirth (eds), De Gruyter, Berlin 1986, p. 267.

[11] Based on: Gar Yein Ng, Marco Velicogna and Cristina Dallara, *"Monitoring and Evaluation of Court System: A Comparative Study"*, CEPEJ.

[12] Ibid., p.266.

theories.[13] Theories about quality in organisations have as their impetus the idea that not only should an organisation be able to fulfil its tasks in an efficient and effective manner, but it also should be customer or client-oriented.[14] The organisation should adapt to the needs of the client, in terms of the quality of the service or product. Additionally, it should be available to account for the quality of the service or product.

In order to enable the organisation to innovate, respond to the customer demands and increase quality, monitoring and evaluation became of paramount importance. New public management is however, an ongoing development. The process not only assists public services in adapting to the needs of the customer/client/citizen, but also re-orients the public services to reorganise their technologies towards such an adaptation. This is especially through the use of information technology, different management methods, and by creating a working environment conducive to productivity. The general idea behind this movement is that quality in services and products will lead to satisfaction of the clients/customers/citizens.[15] It has been suggested that such satisfaction could in turn lead to public trust[16] and to legitimacy of government.[17]

Another important element is the growing attention towards accountability. Mechanisms of accountability are pivotal to a good working democracy. These are in order to ensure that no one body, be it a state institution, a private organisation or person, has power to dictate the lives of the communities they serve without justification based on the rule of law.[18] Furthermore, as already mentioned, they are a powerful tool to drive a traditionally insulated organisation like the judiciary to take into account its customer needs. There are two ways to hold an organisation to account for its actions.[19] One is where the citizens are passive, whereby the organisation must take steps to ensure the transparency of decision-making and service provision. The other requires action by citizens in their capacity as clients of public services, where they have the right to demand answers for actions taken and to demand the stopping or redesign of such actions.[20] In both cases, data concerning the activities of the public organisation is required to be collected and made available.

As a consequence, nowadays, the traditional Western constitutional framework is expanding to include requirements of organisational quality and efficiency to meet the demands on justice in Europe (article 6 European Convention on Human Rights). Legislation in various countries has been oriented towards efficiency of justice. Monitoring and evaluation are achieving an ever increasing position as tools that allow the measuring of situations, assess policy implementation outcomes and allocate increasingly shrinking resources.

Monitoring and evaluation systems should facilitate the improvement of the efficiency of justice and the quality of the work delivered by the courts, and therefore to effect a more consistent implementation of policies.

III. COURT MANAGEMENT

Managing a court reminds us, that a court (tribunal) is an organization. The rules that go for organizations also go for courts. Beyond that management basically always is getting

[13] J.-E. Lane, *'New Public Management'*, Routledge, London 2000, A. Hondeghem (eds), *'Ethics and accountability in a context of governance and new public management'*, IOS Press OHMSHA, 1998; P. Senge, *'The fifth discipline: the art and practice of the learning organisation'*, Doubleday currency, New York 1990; S. Murgatroyd and C. Morgan, *'Total quality management and the school'*, Open University Press, Buckingham, Philadelphia 1994; W. A. Lindsay and J. A. Petrick, *'Total Quality and organisation development'*, St. Lucie Press Boca Ration, Florida 1997.

[14] J. B. J. M. ten Berge, 'Contouren van een kwaliteitsbeleid voor de rechtspraak', in *Kwaliteit van rechtspraak op de weegschaal*, P. M. Langbroek, K. Lahuis and J. B. J. M. ten Berge (eds), W.E.J. Tjeenk Willink (G.J. Wiarda Instituut), Deventer 1998, p.29.

[15] EFQM, 2006 'Mission' available at http://www.efqm.org/Default.aspx?tabid=60

[16] G. Bouckaert and S. van de Walle, *Government and trust in government*, at EGPA Conference Finland 2001.

[17] Ibid.

[18] M. J. C. Vile, *'Constitutionalism and the separation of powers'*, Liberty Fund, Indianapolis 1998 p3; P. Selznick, *'The moral commonwealth: Social theory and the promise of community'*, University of California Press, Berkley, California 1992 ch. 9, U. Rosenthal, 'Macht en controle op de macht: de dringende behoefte aan publieke controle', *Nederlands Juristen Blad* 2000, 34 vol., 1703 p., p.1703.

[19] M. A. P. Bovens, *'The quest for responsibility, accountability and citizenship in complex organisations'*, Cambridge University Press, 1998 ch. 3.

[20] For more on the concept of participation see: P. Selznick, *'The moral commonwealth: Social theory and the promise of community'*, University of California Press, Berkley, California 1992 p.314-318

people to do the rights things according to the vision and mission of the court. In judiciary the management is following a simple structure to obey the order, bureaucratic organization to obey the rule or in professional organizations to use professional skills.

In any case management has to acknowledge the fundamental purpose of the judicial power: To hear and to decide (civil, commercial, administrative and criminal) disputes, independently and impartially! Beyond that the aim is to ensure efficiency, speed, quality and customer orientation of judiciary.

Despite of all methods of technical evaluation, monitoring and controlling, human skills and leadership are the core and precondition of judicial management. Transparency is one of the key-issues of success: Say what you do, do what you say and show that you do what you say!

The quality-component may serve as an example of what and how judicial management is understands itself and is executed: Raising the question "who are the customers?", the following key-customer groups may be identified: General public (politicians), institutions and key-customers (lawyers, social security, banks, phone companies, regional government, associations), judicial employees and the media. Judicial systems started to ask "what do they expect?" to create quality-criteria, define measures and indicators to be able to manage and control the issue actively from the inside.

The ideally not from the outside pushed process of successful judicial management is not only following rules and orders but never stopping to ask itself: Why do I do this? For whom do I do this? Why do I do it like this? If I should start new, I would …?

Efficient courts and court administration

Pim ALBERS

I. INTRODUCTION

In several countries courts are confronted with a huge amount of incoming cases, backlog of cases and problems in the area of enforcement of judgments. When there is a lack of sufficient budget available for the courts and if there is a shortage of judges and court staff it is expected that the average duration of the proceedings will increase and the efficiency of the courts will drop. One might think that the easiest solutions to increase the efficiency of the courts are to raise the budget for the judiciary and/or the number of judges. However, this is not always true, since there are international examples available where a country has a high number of judges and a low productivity of the courts. In other words more budget and more judges is not always the best solution to increase the efficiency of the courts.

Before I present a number of measures that can help courts and court administration to improve their efficiency I would like to outline a number of factors that influences the efficiency in a negative manner.

II. FACTORS INFLUENCING THE EFFICIENCY OF COURTS

When looking at factors that influence the efficiency of courts, we should distinguish between external factors and internal factors. With regards the external factors the courts have no or limited influence on the amount of work/cases they receive. The best example of external factors influencing the efficiency of courts is related to the impact of the financial crisis on the functioning of courts. Due to an increase of bankruptcies of companies, a higher unemployment rate, a higher number of contractual disputes between companies, more non-payment of bills and a larger demand for social welfare/security services it is expected that courts are confronted with a larger amount of cases. If also, under the influence of scarcer financial resources for the government, budgets of the judiciary may be reduced, it is expected that the duration of court proceedings will increase as well as the number of backlog cases.

Internal factors though are factors where the courts do have influence, with regards their efficiency. For example if the organization of the work processes in the courts are not properly arranged, if the management of the courts is weak, the working conditions of the courts are poor, when there is a lack of properly trained court staff, etc. it is expected that this will result in inefficiencies.

III. MEASURES TO IMPROVE THE EFFICIENCY

What can courts and the court administration do to improve their performance and efficiency? As you can imagine, courts have limited influence on external factors that might contribute to an increase of their workload. On the other side there are a number of practical measures that can be taken to help the courts to achieve a higher level of performance.

Improve the cooperation between the courts and their partners

Courts are not working in isolation, but are dependent from several external partners. With regards the criminal proceedings it is of vital importance that the police, the office of the public prosecutor cooperate effectively with the courts. Also for civil law procedures, it is necessary for preventing unnecessary delays in the proceedings, that there is a good collaboration between the lawyers, the enforcement agents/bailiffs (if applicable) and the courts. By organizing regular meetings between the office of the public prosecutor and the courts, courts can have a better insight in the number of incoming criminal cases to be expected. This will contribute to a better planning of the court hearings and estimation of the capacity that is required for handling the cases in a swift manner.

Also Bar associations and lawyers can play an active role in preventing delays and backlogs in civil cases. Courts can arrange meetings with lawyers to discuss the management of the court proceedings (e.g. on introduction of time limits, submission of evidence, postponement of hearings, etc.).

As a part of this notion of cooperation special attention must be paid on the subject of enforcement of judgments and the service of documents. In a number of countries the service of documents is left to the postal services. In situations that these services are not operating properly, delays can be caused in the delivery of judicial documents to the parties. To prevent this memoranda of understanding can be closed between the courts and the postal services to guarantee a minimum level of quality services by the post offices. A similar solution can be chosen for the bailiffs.

Reduction of the administrative work of the judges and delegation of work

Another cause for inefficiency concerns the fact that in a number of countries judges are involved in administrative tasks (e.g. the verification of the payment of court fees). By delegating this work to administrative officers judges are able to focus more on the real work: deciding on court cases. Not only in administrative work efficiency gains can be achieved, but also by organizing the work between the judges and the court staff differently, this can help to reduce the duration of the proceedings too. With the introduction of judicial assistants/legal specialist, much of the legal preparatory work can be done by this specific category of court staff.

Introduce backlog reduction teams and monitor the backlog cases which are pending for a long period in the courts

Another way to reduce backlogs and increasing the efficiency is to work on cases that are pending for a long period at the courts. Of courts this requires a proper registration and identification of those cases. In a number of courts in Serbia these cases are labelled and treated by backlog reduction teams. These teams are composed of a judge and a number of court staff. They are responsible for the examination of the old pending cases and the closure of those cases in (due) time.

Manage the role of court experts in court proceedings

One of the causes for the delays in the courts concerns the involvement of court experts. The selection of the right expert might require time and also the timely reporting of the expert can be problematic. By using a register for court experts and to monitoring the timeliness of the work of experts potential delays can be prevented. In situations of delays (caused by the slowness of the work of the expert) judges may have the possibility to sanction these experts. This is for example possible in Serbia.

Manage the court hearings and the court proceedings

Judges can play an active role in the management of court hearings. To avoid lengthy procedures, procedural abuse of the lawyers, an endless list of witnesses and new evidence to be examined it is necessary that for each (complex) trial at the beginning of a trial a preparatory hearing is organized. During this hearing the judge can discuss with the parties how much time is required for the case, the number of hearings necessary, etc. Also, by using this solution the judge have the possibility to see if an early settlement of the case is possible or if the parties can be referred to a mediator.

Stimulate ADR/mediation

ADR, more specifically mediation, is often mentioned as one of the solutions to reduce the workload of the courts. Especially in the field of family law (divorce cases), civil law (contract cases) and administrative law mediation can be successfully applied. For example in the Netherlands judges are stimulated to refer a court case at an early stage of the proceeding to a mediator. Particularly when these mediators are working outside the courts, there will be lesser costs for the courts and parties will be more satisfied with the outcome of the dispute when a mediation agreement is signed.

Other intra-organizational measures (extending the opening hours of the registry of the courts, extending the hours available for court hearings and the introduction of night courts)

Besides the measures that have been discussed previously other intra-organizational measures can be taken to realize a higher level of productivity. For example in Serbia a number of courts have decided to organize the preparatory department of the courts differently. Court staff are made responsible for a selective number of court cases, which are supervised by a judge. In the Middle East region however, different approaches are chosen. In

some of the countries (e.g. Bahrain) judges are not working in the afternoon and there are no court hearings in the afternoon too. By extending the working hours of the judges in the courts, more hearings can be held on one day, which will lead to a higher productivity. Of course in the Northern and Eastern part of Europe the daily working hours are longer. However, also in these countries the productivity can be increased by introducing so-called 'night courts'. Especially in the United State these courts are successfully functioning.

Strong leadership in the courts and the introduction of a court manager

All these measures that have been described in this note can only be successfully applied when there is a willingness in the courts to change. In this respect there is a need for a strong leadership in the courts. Already in the International Framework of Court Excellence this is underlined. Not only at the level of the management of the courts though (court president) strong leadership is important (and should be a relevant criteria for the appointment of court presidents), but at all levels of the organization of the court as well. For fostering a culture of change, innovation and a high level of performance, courts must be encouraged to stimulate proper leadership. In addition to this, the efficiency of the court procedures can also be stimulated when a court manager is appointed. This manager can assist the court president in managing financial, material and human resources. Moreover he or she can fulfill and important role in the development of court policies, court plans and court report, as well as the monitoring of the court performance.

National measures: the reduction of small court locations and the prevention of an unequal distribution of the workload between the courts

Not only at the level of the individual courts measures can be taken to increase the court performance, but also at a national level this is possible. When looking at the European figures (e.g. from the CEPEJ) it is clear that there are a number of countries with a very high number of court locations/court buildings. Often this correlates with a choice to have in every small city or place a courthouse. From the point of view of geographical access to justice this can be seen as a proper choice. On the other hand, the maintenance and operating costs of especially small court buildings can be very expensive. Moreover, small courts are vulnerable when there is only one judge working in these courts. In situations of leave or illness, this can result in a temporary closure of the court. Also, small courts cannot specialize. Therefore, in terms of economies of scale, it is necessary to develop a court location policy at a national level that balances between the need for guaranteeing a sufficient level of access to justice and the (financial) management of court locations.

Besides the need for a proper court location policy it is also necessary to look at the distribution of the workload of the cases between the courts. In a number of countries there exist an unequal distribution, because courts in the larger cities are overburdened with court cases, whilst courts functioning in the rural areas have a much lower workload (in terms of cases to be handled per judge). To solve this problem a new court location policy can be applied. On the other hand there are other solutions available. For example overburdened courts may choose to transfer a selective number of cases to another court with a lower workload (if this is accepted by the law). Another solution is that a number of judges working in courts with a low workload are (temporary) transferred to courts with a high workload. The last mentioned solution is only possible with the consent of the judges concerned and if this also arranged in the relevant laws on courts.

E-justice measures

One of the topics that I will not touch upon as a measure to increase the efficiency of the courts, concerns the introduction of e-justice solutions. This specific topic will be addressed in another part of the conference.

IV. INDICATORS TO MEASURE EFFICIENCY

Already in the International Framework of Court Excellence it is underlined that courts must be stimulated to monitor their court performance on a regular basis. For this purpose there are various solutions possible, ranging from court management information systems till court performance dashboards (available in Moldova). In the last part of my

presentation I will discuss three important court performance indicators, namely: time standards, clearance rates and cost per case.

Time standards

In the CEPEJ Checklist on time standards it is stated that courts are recommended to define time standards in terms of optimal time standards (time standards that has been defined in terms of targets) and foreseeable time standards (predictable time standards). In the US though, there exist a long history of applying model time standards for trial courts. Approved by the Conference of Chief Justices, the Conference of State Court Administrators, the American Bar Association and the National Association for Court Management model time standards are defined for civil cases, criminal cases, juvenile cases and probate cases. Courts are using these time standards to compare this with their current performance. If they do not meet the standards, necessary actions are required. Not only the United States is using this method, but also in other countries this approach is applied. For example in the Netherlands the Dutch courts are using time standards to manage the duration of the proceedings.

Clearance rates

The use of the indicator of clearance rates is necessary to see if a court is capable to manage the incoming caseload. If cases are not disposed on time it is expected that the backlog of cases will increase. In for example Serbia this indicator is applied to monitor the development of the backlog of cases and to benchmark the performance between the courts. In a chart that will be shown during my presentation, it is evident that there are differences in the performance between the courts.

Not only at a court and national level clearance rates are important figures, but at an international level too. For example in the CEPEJ reports on European Judicial Systems the member states are being compared by making use of the clearance rates. Also in the European Union this is the case with the introduction of the EU Justice Scoreboard.

Cost per case

The last performance indicator that I want to discuss concerns the cost per case. The cost per case is especially an interesting indicator to identify efficiency gains in the courts. For example by delegating the work from judges to court staff the cost per case will reduce. Same is true, when the operating and maintenance costs of a court building will drop. This will have an impact on the cost per case. In the last part of the presentation an example is provided how this indicator works.

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COURT PERFORMANCE EVALUATION PROGRAMS IN UKRAINE

Overview

- De Why Courts Should Engage in Court Performance Evaluation and Management (CPE)
- External Evaluation: Citizen Report Cards – Court User Satisfaction Surveys (CRC)
- Internal Evaluation: Court Administration and Management, Timeliness in Decision-Making, Quality of Court Decisions
- Lessons Learned and Major Outcomes

Why Courts Should Engage in CPE

- Presents strengths and weaknesses
- Helps court managers to assess and improve quality of court operations and services
- Educate and communicate within judiciary and public – a bridge for civil society to engage courts in discussion on court performance
- Enables judicial policymakers to set priorities

External Court Performance Evaluation Citizen Report Card - CRC

- Pioneered by the Public Affairs Centre in Bangalore, India as a means to measure citizen satisfaction with municipal services
  - Based on a school report card
- Measurement tool – collect and measure user feedback
- Accountability and transparency tool – always available to public
- Benchmarking tool – not a one-off effort

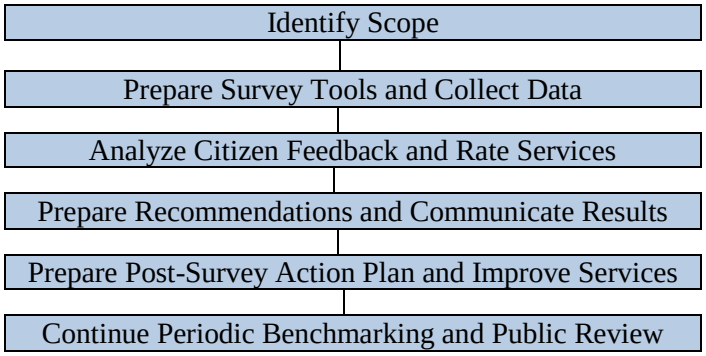
Why Use CRCs in Courts

- Focuses on feedback from actual court users versus data from national surveys
- Involves judges and court staff at all stages
- Provides a mechanism for improving court performance – internal change management tool
- Provides a mechanism for disseminating best practices and increasing public trust
- Tracks progress over time – benchmarking

Sample CRC Scorecard

Quality Measure	Maximum Possible Score	Highest Score	Kharkiv Administrative Court
Physical Access to Court	1.00	0.91	0.68
Level of Comfort in the Courthouse	1.00	0.99	0.86
Access to Court Information	1.00	0.95	0.81
Timeliness in Considering Cases	1.00	0.96	0.83
Quality of Performance by Court Staff	1.00	0.90	0.82
Quality of Performance by Court Staff	1.00	0.97	0.86
Quality of Court Decisions	1.00	0.97	0.87
Media	1.00	0.91	0.82

CRC Design and Implementation



CRC Program in Ukraine

- 4 rounds: 2009, 2010, 2011, 2012
- 34 courts in 13 regions participated in program with 8 civil society organizations (CSO)
- 300 CSO volunteers trained to conduct surveys
- More than 15,000 questionnaires analyzed

Results

- Improved access to court information
- Provided greater access to legal aid
- Strengthened court staff professionalism
- Demonstrated the importance of court managers in forming public opinion
- Raised discussion on quality courts and created demand for the development of national court performance standards

Internal Court Performance Evaluation

4 Modules – Quality Measures

- Court Administration and Management
- Timeliness in Decision-Making
- Quality of Court Decisions
- Court User Satisfaction (CRC)

Lessons Learned

- Ensure leadership and ownership by national judicial leadership, chief judges and court staff
- Provide training and workshops for courts and implementing partners
- Use comparison when appropriate
- Accompany the results with background information about courts
- Continue periodic survey for benchmarking

Major Outcomes

- Strategic Plan for the Judiciary Approved
- National Framework for Court Performance Adopted
- Judicial Administration Certificate Program Developed

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Director of the Department of Judicial Administration
Republic of Moldova

Mr. Bragoi began his professional activity in 2002, at the Prefecture of Chisinau municipality. He subsequently held positions in the State Treasury (Ministry of Finance), and since 2008 is engaged at the Ministry of Justice, initially as Deputy Director of the Department of Judicial Administration, later being promoted to Director, the position he holds today. The areas of interest which guide his activity are: administrative contract, budget procedures, judicial statistics and court administration.
Mr. Bragoi has attended numerous workshops, trainings, national and international conferences in Egypt, Greece, Latvia etc.
He is currently a PhD candidate at the University of European Political and Economic Studies "Constantin Stere", and his research theme is "The administrative contract as an element of the functionality of the judiciary." He is also a trainer at the National Institute of Justice and a lecturer at the European Economic and Political Studies "Constantin Stere."
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Ways to Improve the Efficiency of Court Administration

Steps toward efficient court administration:

I. Framework contracts for goods and services

- One contract signed with one provider for the benefit of all courts
- **Application specifications**

✓ Mail
✓ Guard
✓ Fixed assets
✓ Furniture, computers
✓ Vehicles
✓ Office supplies
✓ Gasoline
✓ Insignia for judges and court clerks
✓ Courtrooms
✓ Internet

- **Benefits**

✓ Price
✓ Homogeneity
✓ Uniformity
✓ Service terms
✓ Timeliness
✓ Reduction of bureaucracy

II. Efficient planning and placement of capital investment

- Accurate information about the real condition of court infrastructure
- Infrastructure development forecast
- Infrastructure needs forecast
- Implementation of most important projects
- Risk aversion and elimination capacity

III. Human resource management

- Accurate information on workload
- Accurate information on human resource availability: for all positions and for vacancies
- Clear workload estimation criteria
- Human resource needs forecasting capacity
- Workload dynamics assessment capacity

The legal capacity of the judiciary's administration authority to manage the staff turnover in relation to workload.

Our Journey Towards Better Integrity in Court Administration

Barry WALSH

One of the 10 values of courts of justice is integrity. Today I want to talk about what integrity means in courts of justice and what courts can do to protect and sustain their integrity.

When judges talk about integrity in court administration, they usually refer to the need for judges and their staff to be honest, to be fair and to faithfully respect objective standards of fair conduct. This issue is of course important to judges, as much as to anyone else, because a perception within the community of a lack of integrity is usually the major reason why many judiciaries in many countries are in disrepute. When a court is in disrepute, it is very difficult to secure the cooperation it needs to ensure court decisions are respected, obeyed and enforced. Disrepute can paralyse courts and prevent them fulfilling their fundamental goals and values.

Consciously or unconsciously, most judiciaries across the world are constantly struggling with the corrosive effects of bribe taking and other types of undue influences on the fair workings of justice. Generally labelled as "corruption", the challenges to judicial integrity are not limited to any particular courts, but are to be found in varying degrees in every court in the world. Yes, every court, including courts in Australia.

When I was a junior court administrator in the 1980s, allegations of corruption and undue influence on the workings of the judiciary was a dominant political issue in my home state of New South Wales (NSW)[21]. The integrity of the NSW court system was under challenge on several fronts. One challenge was massive case processing delays. Another was the cost of justice and the lack of affordable legal representation. And most significantly, there were disturbing allegations of undue influence on judges by politicians and fellow senior judges, usually aimed at helping a friend or relative avoid conviction. There were also allegations of bribing of judges and court staff made from time to time, but not surprisingly, seldom was there evidence to prove it.

Of course, these types of problems had existed throughout history up until then. After all, our state was originally founded by the British in 1788 as a military colony of mostly convicts. But it reached a point 200 years later where a consensus emerged among the democratically elected political leaders and public commentators that something needed to be done about it. Ultimately, things were done, possibly because political leaders began to fear that the issue was serious enough to threaten them at election time. Reforms were gradually introduced.

Before the reforms, the judicial system in NSW was modelled on the English system. Judges were appointed by the Queen's representative on the recommendation of the government and could only be removed by a vote of parliament. There were almost no systems of accountability or processes for dealing with judicial misbehaviour. Court staff and prosecutors had many opportunities to manipulate the scheduling of cases at the behest of those willing to pay bribes. Where bribes were demanded by court staff, police or prosecutors, few methods of scrutiny were available to catch them. And the only remedy available when serious corruption could be proved was prosecution under the criminal law.

Each instalment of the reform process had a cumulative effect in reinforcing public trust and confidence in the judiciary and the civil service. That is, there was not a single law passed or single institution established, but a series of changes, each aimed at bringing about the introduction of these kinds of mechanisms:

- processes for making formal complaints about misbehaviour of judges and other justice officials;
- more effective powers and resources to those who investigate the complaints;

[21] New South Wales is one of six Australian states and has a population of over 7.4 million. It covers a land area greater than Ukraine

- organisational and managerial changes aimed at making corruption more risky for the perpetrators - i.e. aimed at increasing the risk of being caught and punished;
- compulsory reporting by government agencies and institutions;
- more independence and accountability to the prosecutor;
- in respect of all institutions, greater transparency of government activities and greater accountability by public officials.

The key institutions established via these reforms were :

The Judicial Commission – This body was established to be independent of any court and government agency, and is empowered to investigate complaints against judges and to recommend penalties (The Commission is also empowered to serve as a judicial training agency, but not to participate in the appointment of new judges).

Independent Commission Against Corruption – This body was established to investigate corruption by any public official, including court staff who are not judges.

Public Prosecutor – This office was established to prevent government ministers influencing decisions about who should be prosecuted. Previously the prosecutor was under the supervision of the attorney general, effectively a ministerial department head.

Police Integrity Commission – This body was established to investigate corruption by police officers.

Ombudsman – This office was established to investigate complaints of incompetence and misbehaviour (other than corruption) of public officials.

Parliamentary committees were established by the state legislature to supervise each of these agencies and to receive and scrutinise their annual reports (which each agency was required by law to give).

Freedom of Information law – This law reversed long established practices among public agencies of treating the business of government as secret, giving the public the right to know what governments were doing.

Access to court records reforms – While Freedom of Information laws usually did not apply to court case records, most courts adopted similar policies by allowing the public a right of access to court records, including the right to see any court decision and most categories of court documents, and without having to give a reason.

In addition to these new institutional structures, changes were made to the way corruption is defined at law and the responsibilities of public officials for preventing and reporting corruption. New laws changed this by defining "corrupt conduct" to mean deliberate or intentional wrongdoing by a public official (including a judge) or by a public agency (including a court). The new law provided that conduct is corrupt when:

- a public official improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others
- a public official dishonestly exercises official functions, improperly exercises official functions in a partial manner, breaches public trust or misuses information or material acquired during the course of his or her official functions
- a member of the public influences, or tries to influence, a public official to use his or her position in a way that is dishonest, biased or breaches public trust.

The effect of these reforms was to ensure that for any kind of corruption, there would be a system for making complaints, having the complaints investigated and having the outcome of the investigation formally acted upon – by either dismissing the complaint, or by public exposure, or by prosecution. But perhaps more importantly, the reforms brought about a radically different culture among public officials by placing upon them a positive obligation to implement organisational and managerial reforms aimed at preventing corruption. Agencies that employed civil servants, including the courts, are obliged to develop and implement corruption prevention strategies. Mechanisms were introduced to protect those who reported corruption. Perhaps the effective reform among all of these was the adoption of a rule that holds supervisors at all levels accountable for corruption among their staff - unless the supervisor reports the corruption at the first opportunity. This ensured that every honest civil servant would be motivated to denounce others and that those who prefer to pretend not to notice corruption will be held accountable for their silence.

These reforms did not treat judges in the same way. Because of concerns about the risk of false corruption allegations being made about judges, the Judicial Commission was established to investigation complaints against judges independently and in conditions of confidentiality. Each member of the Commission is the chief judge of each of the state courts, so that this group of the most senior judges effectively sit in judgment on the conduct of their subordinate judges. This mechanism works well in protecting the independence of judges while still making them accountable for misbehaviour and incompetence.

These reforms have been in place in NSW for over 25 years now and have helped restore and maintain the high regard citizens have for judges in the state. I think we are lucky in my home state to have these mechanisms, many of which would be difficult to implement in other countries. But the example of NSW reforms offers inspirational ideas and lessons that others might learn from. Here are the lessons that I think are most useful:

Reduce delay. The judiciary did not have a major problem of dishonest judges in NSW. So the Judicial Commission reform worked quite readily. A greater problem was the effect case delays and the cost of justice on the integrity of the judicial system. Court delays create opportunities for the corrupt who will manipulate court scheduling and the allocation of cases to judges in return for bribes. When courts do not suffer backlogs and process cases promptly in a regular fashion, it is harder to manipulate that process. *The lesson: courts need to overcome case delay and backlogs as an anti-corruption measure.*

Increase accessibility. Similarly, the cost of justice facilitated corruption in NSW as it favoured those litigants who had money. The reform process included the establishment of meaningful legal aid schemes, particularly for the benefit of criminal defendants and women in child support cases. *The lesson: the integrity of the justice system will be enhanced by providing services that help litigants overcome the cost of using the courts.*

Manage corruption risk. The reforms stimulated a wave of managerial changes focused on preventing corruption, including complaints mechanisms (for the public and for staff to use), and proactive anti-corruption strategies within each agency. A particularly powerful technique now used widely is to subject an agency to a corruption risk assessment, i.e. a process of identifying and removing opportunities for corruption in court processes and services. *The lesson: courts should treat corruption as a managerial problem, rather than a problem of criminality among its personnel – corruption occurs only where there are opportunities within official processes and policies.*

Increase transparency and accountability. A key feature of just about all of the reforms was to demonstrate the effect of expanding transparency as an anti-corruption measure. The more open an organisation is, the more likely it is that corruption will be detected. Also, when public information is treated as a state secret, such information on court files, it increases the value of that information to those who would pay bribes. Information that is freely available to everyone cannot be sold for a bribe. *The lesson: courts can reduce corruption either by reducing the kinds of information they have in secret or by increasing the number of people who have access to that information.*

Encourage complaints. Corruption in a workplace cannot be neutralised if all the workers keep silent. On the other hand, if honest workers are willing to denounce others, corruption cannot flourish. *The lesson: courts should introduce complaints procedures for court users, grievance procedures for their staff, and incentives to report misconduct, including protection of informants.*

These lessons would probably be applicable in any court system. They are not just theories, but proven successes in my home court system and in others. I believe the most important ingredient of the range of reforms introduced in NSW was the realisation by politicians, judges, and ministries of government that corruption is not a challenge of morality or criminality that can be remedied by imposing tougher penalties, but a managerial challenge that needs to addressed like any other managerial challenge.

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Mr. Bucurel Mircea Aron is a Romanian judge with more than 30 years of experience in magistracy, judging cases in courts of various levels of jurisdiction such as Bucharest Court of Appeal to the High Court of Cassation and Justice (former Supreme Court) in criminal and commercial matters including the position of judge at the Military Section of the Supreme Court.
Earlier in his magistrate career, Mr. Aron has also activated as prosecutor at a district prosecution office and then at the General Prosecution Office.
During 1998-2002 Mr. Aron has occupied the position of member of the Superior Council of Magistracy (SCM) and previously has activated as general secretary of the Council. Since January 2011, Mr. Aron was elected member of the SCM for a 6 year term of office. Currently, Mr. Aron is a member of the Superior Council of Magistracy in Romania.
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Integrity in Court Administration

A) INTRODUCTION

In addressing the subject, I assume that the Moldovan judiciary has many similarities with the Romanian one and that the modernization of court administration is high on the Romanian agenda just as in Moldova.
The reform of the Romanian judicial system has undergone important phases, so in my presentation I will refer to the perspective of the Superior Council of Magistracy of Romania (SCM), which has similar tasks as its Moldovan counterpart.
In November 2011, the SCM passed the **Strategy for Strengthening the Integrity in Justice** and the **Action Plan** for its implementation during 2011-2016.
The Strategy is intended to strengthen the integrity of judges and to increase the public trust in the judiciary.
The Strategy addresses the elimination of corruption, the observance of the judicial deontology and ethics and the improvement of the efficiency in justice administration by means of management tools.
The objectives of the Strategy include increasing integrity in the judicial system, improving access to courts, prosecutors, the SCM, the Judicial Inspectorate and to the information about these entities as well as strengthening individual integrity by improving the deontological system, fostering the culture of integrity among judges, providing specific training and improving the system of disciplinary liability and performance review.
In implementing the Strategy for Strengthening the Integrity, the SCM proposes legislative measures (within the competence established by Article 38 of the Law on the SCM) and administrative measures, amends regulations for enforcing the laws on the judiciary, and develops good practice guides to standardize court administration.
In developing the Strategy, the SCM considered the laws on the organization of the Romanian judiciary (3 laws), the principles, opinions and recommendations of international organizations, the findings of European experts on justice matters, of which those from the Cooperation and Verification Mechanism (CVM), established by the European Union at the same time with the integration of Romania, are particularly important.

B) PREMISES OF THE ORGANIZATION OF COURT ADMINISTRATION

Under Romanian Constitution, the SCM is the guarantor of the independence and operation of the judiciary and, just like in Moldova, it acts as the judiciary's highest administrative body.
According to the Constitution, the judiciary includes courts (the judiciary itself), the

Public Ministry (prosecution offices) and the SCM. The latter coordinates its activities with the National Institute of Magistracy, the National School of Court Clerks and the Judicial Inspectorate, which is functionally autonomous.

The Ministry of Justice has the administrative competence to approve job positions and personnel lists endorsed by the SCM for courts. It also manages the budget for appellate courts, tribunals and trial courts, and since 2012 it is responsible for disciplinary actions.

Courts have their own administrative bodies and duties that require a proper management of their activities.

Based on this organization, the SCM, courts and prosecution offices, and the Ministry of Justice have specific administrative competences requiring cooperation for a smooth course of work, including for ensuring genuine integrity in the judiciary.

Note that, before taking important administrative decisions, the SCM consults courts, prosecution offices and, implicitly, judges and prosecutors.

Based on the recommendations, statements and principles on judges' conduct and the opinions of international organizations, the Strategy for Strengthening the Integrity, defines **the integrity as a fundamental element of ethics, which is indispensable for justice administration**.

Subjectively, integrity is an **intrinsic quality** that implies acting **uncompromisingly, in line with principles and values**. Objectively, **integrity binds to honest, proper, conscientious and responsible performance of duties** and it is reflected in justice by maximum objectivity, equality and respect to the parties' dignity. **Integrity in justice is more than a virtue, it is a requirement.** The SCM has often stressed its **policy of zero tolerance toward integrity issues**.

Strengthening the integrity of the judiciary requires joint efforts from the responsible factors: **the legislative branch** must ensure a proper status for legal professionals, **the executive branch** must allocate human and financial resources required for the best administration of justice, and **the judiciary itself** must develop internal mechanisms for **increasing performance and accountability in justice and court administration performed in good faith and with maximum efficiency.**

C) STRENGTHENING INTEGRITY IN THE JUDICIARY AND ACTIONS FOR PREVENTING AND COMBATING THE LACK OF INTEGRITY. TARGETING ACTIONS AND MEASURES BOTH TO THE SYSTEM OR ITS INSTITUTIONS AND TO INDIVIDUAL JUDGES

I. Increasing transparency in the judiciary, improving citizens' access to courts and prosecution offices, and providing full information about their organization, administration, operation and competences

Justification: A fundamental condition for integrity in the judiciary is its transparency. A judicial system that is accessible, open to the population in general and to court clients in particular, and has clear rules can prevent the lack of integrity and strengthen public trust and confidence.

Means:

1.1. Establishment of information technology for internal and external communication; in managing the courts database, online access for the public to the information on the judiciary and good practice guides

a) ECRIS. Romanian courts are integrated with an information system for tracking and managing court activity, called ECRIS. This system includes all court cases with their trial timeframes, from the moment of filing until the final and irrevocable decisions.

ECRIS **assigns cases to judicial panels at random**, thus ensuring integrity in case assignment.

ECRIS data is accessible for viewing to the SCM, prosecution offices, other courts than those that manage the corresponding cases, and the Judicial Inspectorate. ECRIS generates statistics. Currently, this system is fully functional.

b) Courts Web portal. This information tool derived from ECRIS offers information to the public. It contains a courts map, information on courts' addresses, organizational structure, documents, working hours, cases, court hearings, examination timeframes with brief solutions, the names of judges with managerial duties, judges' statements of

means and interests, vacancies for supporting staff positions.
The administration of ECRIS and the courts Web portal is the task of the Ministry of Justice, which can improve it at the suggestion of the SCM and courts.
c) The High Court of Cassation and Justice has its own Web site (www.sci.ro**),** with an English version, on which it publishes its organizational structure, case law, including decisions issued in cassation in the name of law and preliminary decisions on legal matters, lists of hearings with case numbers and parties' identities and public information (judges' and assistant judges' statements of means and interests).
d) The SCM also has its own Web site (www.csm1909.ro**)**, accessible for the public, which contains information on the current activities, reports on the judicial system, internal legislation and international documents, media relations (press releases, Q&A, etc.), good practice guides, judges' names and statements of means and interests, working committees of the SCM, strategic documents, etc. The Web site also offers live streams and recorded videos of plenary sessions.
e) To increase transparency—which is a premise for integrity—the SCM has launched **ROLI project—Rule of Law Information Institute**—together with the National Bar Association of Romania and the National Union of Notaries from Romania. This initiative takes the form of a foundation that will publish online almost all judgments of Romanian courts, with data anonymisation.
f) Good practice guide
The competences of the SCM include the development of regulations (secondary legislation) to apply the laws on the judiciary. The SCM develops good practice guides on administrative procedures applicable to courts and prosecution offices and relations with court clients, and guides for citizens coming in contact with court (see the annexes).
In 2014, the National Institute of Magistracy undertook an important endeavor to standardize court practice by developing **Practical guides on procedural models in civil and criminal matters that correspond to the new codes.**

1.2. Relations between the judiciary and the mass media. The Guide to the relationship between the judiciary and the mass media.

While courts' transparency implies openness toward people to ensure judges' integrity, a proper relation with media outlets is important to increase public trust and confidence.
The Consultative Council of European Judges observed in Opinion 3/2002 that there is a general trend from media outlets to pay more attention to legal matters, particularly in criminal matters, and that there is risk that journalists may influence judges' behavior.
Therefore, judges have to show circumspection in their relations with the press and be able to maintain their independence and impartiality, refraining from any personal exploitation of any relations with journalists and any unjustified comments on the cases they are dealing with.
Considering this opinion, in 2014, the SCM adopted a **Guide to the relationship between the Romanian judiciary and the mass media**.
This Guide, as a tool of good practices in relations with the press, includes a set of rules on the communication of the judiciary with the press. The Guide describes rules that are equally applicable to the SCM, courts and prosecution offices, as well as general duties of the communication structure and spokesperson, rules for communication structures in the institutions of the judiciary, and specific duties and rules applicable in criminal and civil proceedings (see the annexes).

1.3. Improvement of the public access to courts and information about them and relevant legal institutions

Courts and prosecution offices are accessible for the public if citizens can obtain the information they need to solve administrative issues or disputes right when they enter these institutions.
Citizens' satisfaction is directly proportional to the amount of available published information. The integrity is ensured by reducing citizens' contact with court and prosecutorial staff.
Therefore, in addition to legal information publicly available on the courts' Web portal and the Web sites of the SCM, courts and the Judicial Inspectorate, each Romanian court

has an infokiosk that court clients, lawyers and parties can use to find case related data, guidance on preparing statements of claim, etc.

II. Strengthening individual integrity

Whereas at the system level, integrity is ensured by transparent administration and improved access to courts and prosecution offices, at the individual level, the Strategy for Strengthening the Integrity in Justice for 2011-2016 identifies three types of measures.

1.1. Improvement of the deontological system and the code of conduct

In 2005, the SCM approved the Deontological Code for Judges and Prosecutors, which establishes conduct standards in line with the dignity and honor of the profession. The compliance with the Code is one of the criteria for assessing the professional quality and integrity.

Currently, the SCM is working on a guide for professional ethics and deontology, which will establish rules of conduct for judges in specific situations, both while in office and outside it. These rules will increase public trust and confidence in the judiciary. The guide will provide for a mechanism to help judges to solve ethical dilemmas.

(The establishment of ethics commissions in courts to provide consultancy and recommendations to them.)

1.2. Fostering integrity by specific training

The National Institute of Magistracy has provided for initial and in-service training on professional ethics and deontology, which is financed from special funds.

1.3. Improvement of the system for individual performance review, promotion and disciplinary liability

Currently, the judiciary has regulations on judges' and prosecutors' performance review, which is accompanied by a **guide to judges' performance review**, which describes in detail conduct standards related to integrity.

The results of regular performance reviews are entered in the professional file of each corresponding judge. The review appraisals "**Very Good"** are a necessary requirement for the participation in promotion competitions.

The legislative framework on the disciplinary liability of judges was amended last time in 2012, when the number of disciplinary violations described in the law increased from 16 to 21.

The SCM publishes its practice on disciplinary actions and deontology for judges just as it does with the anticorruption case law.

The Judicial Inspectorate has particular role for ensuring disciplinary liability as an independent institution under the SCM. This institution reviews judges' professional activity and initiates disciplinary actions.

The facts that represent disciplinary violations are described in the law. Many of them are related to integrity. Thus, the violations that negatively impact professional honor and trustworthiness include the violation of provisions referring to interdictions and incompatibilities, undue attitudes, political activity or actions, interference with the work of other judges and professional carelessness or negligence (see the annexes).

Admission and promotion in the judicial system are ensured by transparent means. There are two types of examination for admission to the judiciary. Both necessarily require good reputation:

1. Admission to the National Institute of Magistracy – an institution that offers initial training for judges.

2. Direct admission to the judiciary for professionals who have more than 5 years of work record in the legal area.

Promotion in the court hierarchy and to managerial positions in courts is performed on the basis of an examination where judges' professional qualification and integrity—and managerial skills in case of court leaders—are verified.

The SCM dismisses court leaders that commit disciplinary violations that negatively impact justice integrity.

In 2013, the SCM applied 18 disciplinary sanctions. In 2014 it applied 5 disciplinary sanctions and another 11 are under examination (see the annexes).

The SCM's actions to combat corruption in the judiciary at the legislative level took the form of the amendments of provisions on retirement pensions for judges. According to these amendments the condemned judges lose this right and retain only the retirement pensions applicable to other citizens.

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Integrity in Court Administration in the Republic of Moldova

I. INTRODUCTION

"It is not what we earn, it is what we save that makes us rich; it is not what we read, it is what we remember that makes us learned; it is not what we pretend to be, it is what we do that offers us integrity" (Francis Bacon)

The reform of the justice sector was always in the focus of Moldovan authorities. The past three years saw many strategic documents being adopted in this area, such as the Justice Sector Reform Strategy,[22] the Strategy for the Development of Enforcement System,[23] the Concept Paper on Financing the Judiciary,[24] etc. Furthermore, many new laws fundamentally reformed several key institutions from the justice sector, with the purpose of creating an accessible, efficient, independent, transparent, professional and accountable judicial system that meets European standards, ensures the rule of law and human rights protection, and strengthens public trust and confidence.

In 2011, the Moldovan Parliament approved the ***Strategy for Justice Sector Reform for 2011-2016***.[25] Later, in 2012, the Superior Council of Magistracy (SCM) appointed its members to working groups for the implementation of this Strategy.[26]

The implementation of the Strategy will contribute to ensuring a fair, good quality justice sector with zero tolerance of corruption, which will enable sustainable development and will increase accountability. The existence of ethical and deontological standards is an indispensable condition for preventing corruption.

II. PREMISES FOR APPROACHING THE ORGANIZATION OF COURT ADMINISTRATION

In my presentation, I will focus on the role and perspective of the SCM.

The SCM was established on the basis of Parliament Decision No. 362-XIII of February 3, 1995, "On the Superior Council of Magistracy," in line with Articles 122 and 123 of the Moldovan Constitution, and initially included 11 members: 5 ex officio, 3 judges elected by the General Assembly of Judges and 3 tenured professors appointed by the Legislative.

Currently, this institution has 12 members: 3 members by right (Chief Justice, Minister of Justice, and Prosecutor General), 6 judge members elected by the General Assembly of Judges, and 3 tenured law professors.[27] The SCM has under its subordination the Collegium for Judges Selection and Career, the Collegium for Judges' Performance

[22] Passed by Parliament Decision No. 174-XVI of July 19, 2007
[23] Passed by Government Decision No. 1393 of December 12, 2007
[24] Passed by Parliament Decision No. 39 of March 18, 2010
[25] Approved by Law No. 231 of November 25, 2011
[26] SCM Decision No. 51/4 of January 31, 2012
[27] Law on the Superior Council of Magistracy, Article 3

Review, the Disciplinary Collegium and the Judicial Inspectorate.

According to Article 123 of the Moldovan Constitution, "the Superior Council of Magistracy ensures the appointment, transfer, detachment, promotion and punishment of judges."

By establishing the SCM in the Constitution, we basically laid the foundation for strengthening the judiciary and making it independent from the legislative and executive branches.

The SCM is the only body established for an independent administration of the judiciary. It was formed to ensure the organization, functioning and independence of the judicial system in Moldova.

The SCM is responsible for judges' career, the initial and in-service training for judges and the staff of court secretariats, judges' discipline and ethics, court administration, and other statutory duties. The SCM validates the decisions of the Disciplinary Collegium and examines the decisions of the Collegium for Judges Selection and Career and the Collegium for Judges' Performance Review, and appeals filed against them.

In relation to court administration, the SCM:

- *examines the information from the Ministry of Justice on the organizational, material and financial activity for the benefit of courts;*
- *approves the Regulations on the random case assignment in courts, which ensures transparency, objectivity and impartiality of this process;*
- *examines, confirms and proposes draft court budgets in line with the effective legislation;*
- *presents annual reports on the court organization and functioning in the previous year to the Parliament and the President of Moldova no later than April 1.*

The independence of the judiciary increased after the enactment of Law No. 153 of July 5, 2012, "On Amending and Supplementing Certain Legislative Acts." Thus, it:

- strengthened the self-administration of the judiciary (by adding Articles 23/1, "Court Self-administration," 23/2, "General Assembly of Judges" and 23/3 "Competence of the General Assembly of Judges" to Law No. 514 of July 6, 1995, "On the Organization of the Judiciary";
- amended the wording referring to the status of the SCM in Article 24 of the same law and Article 8 (1) of Law No. 947 of July 19, 1996, "On the Superior Council of Magistracy."

Currently, according to the introduced amendments, court administration rests with the General Assembly of Judges and the SCM. The law also amended the wording of Article 4 letters c) and d) of Law 947 of July 19, 1996, "On the Superior Council of Magistracy," which refers to the SCM's power to pass regulations to strengthen self-regulation by means of the SCM. Several regulations passed by the SCM are:

- Regulations on the organization of the Collegium for Judges' Performance Review;[28]
- Regulations on the criteria, indicators and procedure for reviewing judges' performance;[29]
- Regulations on the criteria for selecting, promoting and transferring judges.[30]

All these changes contributed to the improvement of court activity and to ensuring that the judiciary is fairer, more just and more focused on citizens' needs and qualitative and accessible services.

III. STRENGTHENING INTEGRITY AND COMBATING THE LACK OF IT

1. Individual Integrity

Integrity is one of those qualities that must be demonstrated both in the professional life and in the wider context of the private life because, sometimes, the behavior in the private life can be so scandalous that it may compromise the profession itself.

The core purpose of the SCM is to ensure judges' integrity, to react against any act that may impact or raise suspicions about judge's independence or unbiasedness, to defend the professional reputation of judges and to ensure the observance of the law and judges' ethics and deontological rules.

The SCM is ready to fight against any inappropriate manifestations among judges,

[28] Approved by Decision No. 59/3 of January 22, 2013

[29] Approved by SCM Decision No. 212/8 of March 5, 2013

[30] Approved by SCM Decision No. 211/8 of March 5, 2013

within the limits of its competences and by all legal means it has.

Impartiality, independence and **integrity** are fundamental statutory obligations of the profession.

In its Statement on justice in Moldova and actions to improve it, the Parliament expressed its concern that *justice in Moldova was severely affected by corruption and that some of the causes were the SCM's negligence, leniency or selectiveness in the application of the legislation governing judges' accountability; the lack of reaction from the SCM and prosecution authorities to judges' actions, which were sometimes criminal; the lack of reaction and of resistance by the judiciary to intimidation and political pressure from Government representatives; the lack of transparency in justice administration and SCM's activity, particularly in selecting, appointing, promoting and punishing judges; insufficient initial and in-service training for judges; inappropriate material support for judges; the syndicalization of the judiciary, etc.*[31]

As a result, the Government adopted the Justice Sector Reform Strategy, whose objectives include strengthening the integrity of the judiciary, improving access to justice and information related to the judicial system and strengthening individual integrity by improving deontological rules, fostering the culture of judges' integrity, specific training and improving the system of disciplinary accountability and performance review.

In accordance with the Bangalore Principles, **integrity** is indispensable for judges and judges' behavior must be impeccable for a neutral observer. The attitude and conduct of a judge must maintain public trust in the fairness of the judiciary. **It is not sufficient to dispense justice; citizens must see that it has been dispensed.**

The consolidated form of the Strategy reflects many common points of vision and strategy of the entities called to ensure the independence, efficiency and integrity of justice, leaving open the door to dialogue and cooperation for improving and harmonizing the other opinions.

Furthermore, independence of justice implies high integrity and efficiency standards that involve complementary responsibilities of the SCM, which are related to strengthening the quality of justice administration and public trust and confidence.

In 2013, authorities focused on the reform of the judicial system and intensive fight against corruption both by legal amendments and by strengthening institutional capacities of line agencies.

The Parliament passed a vast package of laws that provide for integrity tests for civil servants, massive seizures of property, liability for illegal enrichment, etc. Over the past years, one third of the judiciary has been replaced with new judges.

In line with the Justice Sector Reform Strategy, on August 5, 2014, the SCM passed the Regulations on whistleblowers. Whistleblowers are citizens who raise the alarm when they notice that something is wrong. They play an essential role in the fight against corruption all over the world and may become dangerous for those with power who violate moral and legal norms. The Regulations are based on relevant national and international provisions and the practice of other countries that use this tool for combating corruption.

2. Transparency

Integrity in justice depends on transparency in courts, access to them, and public awareness about courts' organization, administration, functioning and competences. An accessible judiciary that is open to the population and has rules that are easy to understand can prevent the lack of integrity and gain public trust and confidence. The SCM views transparency as one of its main priorities rather than just as another requirement of the civil society. Over the past years, it made important steps toward achieving transparency in courts, such as mandatory audio recording of court hearings, random case assignment and publication of court judgments on courts' Web sites, all of which contribute to increasing integrity in the judicial system.

Means:

a) Establishment of information technology in courts

[31] Approved by Parliament Decision No. 53-XVIII of October 30, 2009

The establishment of information technology in courts is indispensable for justice in Moldova because the number of court cases keeps growing. Court automation strengthens the independence of the judiciary and increases transparency and quality of court activity. The implementation of the Integrated Case Management System (ICMS) and Femida court hearings audio recording system aims at increasing the efficiency and efficacy of justice administration and combating and preventing corruption.

ICMS was developed as part of the Millennium Challenge Program on the basis of the Action Plan for the implementation of the Moldova Governance Threshold Country Program[32] and on the basis of the Concept Paper of the Court Information System for 2007-2008.[33] The court hearing audio recording system SRS Femida is formed of computers and microphones and a recording software. In 2009, thanks to the financial support from the Moldova Governance Threshold Country Program funded by Millennium Challenge Corporation and managed by USAID, all courtrooms in Moldova were equipped with sets for recording court hearings. Audio recording of court hearings is mandatory under the Civil Procedure Code and the Criminal Procedure Code of Moldova. The recording procedure and the responsibility for recording activities are described in the Regulations on digital audio recording of court hearings.[34]

Parties have the right to receive a copy of audio recordings of court hearings.

Based on Decision No. 110/5, courts use ICMS to perform random assignment of cases, which ensures transparency, objectivity and unbiasedness of this activity.[35]

ICMS allows identifying courts' performance by means of six performance indicators from the Performance Dashboard:

1. case clearance rate
2. on-time case processing
3. age of pending cases
4. rate of postponed court hearings
5. rate of cases solved in one court hearing
6. average number of administrative staff per judge

These performance indicators are aligned to the fundamental values of the Moldovan judicial system and to the commitment to carefully manage resources, to treat citizens with respect and gain their trust, to provide timely and good quality service and to safeguard and increase access to justice for each citizen. These indicators are used to review judges' performance and to monitor, analyze and manage the judicial system on a regular basis.

The users of the Performance Dashboard are employees of courts, the SCM, the Ministry of Justice and the general public.

b) Courts Web portal

On April 30, 2014, the Ministry of Justice, in cooperation with the Supreme Court of Justice, launched the courts Web portal **instanțe.justice.md**, which contains information about all court hearings, judgments and decisions, and other information on all trial and appellate courts of Moldova. This unique Web site is very useful for everyone who comes in contact with courts since it ensures more transparency in every court. Due to new search methods, people can quickly access any type of information about court hearings, decisions and judgments. Moreover, citizens can assess the activity of the judicial system. The Web portal allows generating electronic summons and sending them to lawyers who participate in the corresponding proceedings. The Web portal also contains separate sections dedicated to judgments on corruption and insolvency cases.

From May 1, 2014, to August 20, 2014, the Web portal **instante.justice.md had more than one half of a million of visitors. One in four visitors is new. The portal has more than 6700 visitors daily, which is almost twice more than the visitors of the Web site of the Ministry of Justice**.

c) Web site of the Supreme Court of Justice

The Supreme Court of Justice of Moldova has its own Web site www.csj.md, which contains information on the organizational structure of

[32] Approved by Government Decision No. 32 of January 11, 2007

[33] Approved by Government Decision No. 776 of July 7, 2007

[34] Approved by SCM Decision No. 212/8 of June 18, 2009

[35] SCM Decision No. 110/5 of February 5, 2013, "On the Approval of the Regulations on the random assignment of cases for examination in courts"

the SCJ, the agenda of court hearings, the case law of the SCJ and the ECtHR and information on the unified court practice.

d) Web site of the Superior Council of Magistracy

The Web site of the SCM (www.csm.md) was created in 2009 with the support of the Joint Program of the Council of Europe and European Commission. On this Web site, the SCM publishes its decisions and regulations, including those mentioned previously, statements of means and interests of judges and SCM members, annual reports of the SCM, session agendas and decisions of the Collegiums of the SCM. It is expected that by the end of 2014, the Web site will also offer live streams the SCM's sessions, which are currently not available due to technical reasons.

3. Relations between the judiciary and the mass media

On October 15, 2013, the SCM approved the Regulations on the public information and media relations service for courts.[36] According to these Regulations, subjects of public interest include the events and developments related to court administration, application of the judicial power and court activity or other information that raises public interest. The service offers information ex officio or on demand, within the limits of the law, in an objective, complete and timely manner, with the preliminary consent of the court president or the judge(s) who examine the case the requested information refers to. In the absence of the representative of this service, the information is offered by court president. Judges, civil servants, support staff and other persons from courts may not offer Information on cases under examination or court administration may not be offered on behalf of court by anyone but the public information and media relations service so all such enquiries must be referred to this service.

Currently, the SCM is working on the *medium-term communication strategy*, which will offer major guidance on promoting an appropriate and transparent image of the judiciary on the whole, and the SCM in particular.

[36] Approved by SCM Decision No. 740/31 of October 15, 2013

IV. STRATEGY FOR STRENGTHENING INDIVIDUAL INTEGRITY

1. Code of conduct

Justice holds a special place in the establishment of a rule of law state. Judges' conduct, morality and culture have a major importance in justice administration. Therefore, judges must meet certain specific moral and conduct requirements. Some of them are described in regulatory acts; others are just professional desiderata. On November 29, 2007, the SCM approved the **Code of Ethics for Judges**.[37] The Code establishes conduct standards for judges, which are compliant with the responsibilities, honor and dignity of this profession and are mandatory for all Moldovan judges. A judge must actively participate in the establishment, maintenance and observance of conduct norms. The observance of the norms included in the Code of Ethics is a criterion the SCM uses to review the professional efficacy, quality and integrity of a judge and, according to Article 22 (1) letter k) of Law No. 544-XIII "On the Status of Judge," the violation of the Code of Ethics for Judges represents disciplinary violation.

2. Fostering integrity

Every year, the National Institute of Justice plans initial and in-service training on professional ethics and deontology.

3. Individual review system: selection, promotion and transfer criteria

On July 5, 2012, to improve the judges' performance review system, the Parliament passed Law No. 154 "On Judge Selection, Performance Review and Career," which contains detailed provisions regarding:

- Judge selection and appointment procedure and the structure, competences and organization of the Collegium for Judges Selection and Career, which lays the legal basis for objective and unbiased appointment of judges;
- Proper performance review applied to promote and dismiss judges.

The appointment of judges is also regulated by Law No. 153 of July 5, 2012, "On Amending and Supplementing Certain Legislative Acts," which amended the wording of Article 6, "Conditions for

[37] SCM Decision No. 366/15 of November 29, 2007

Applying to Judge Positions," Article 10 "Selection and Selection Criteria for Aspiring Judges" and other articles referring to judges' performance review and career from Law No. 544-XIII of July 20, 1995, "On the Status of Judge."

From 2013 to October 1, 2014, the Collegium for Judges' Performance Review reviewed 232 judges, of whom 127 in ordinary procedure and 119 in extraordinary procedure, namely at judges' personal requests to be transferred to other courts, promoted to a higher court, appointed before reaching the age limit, reconfirmed as ordinary judges (in case of investigating judges).[38] During these reviews, the SCM attributed the following performance marks to judges: 39 "excellent," 142 "very good," 63 "good," 2 "sufficient," 2 "insufficient" and 2 "failed" (the cases of the investigating judges from Vulcanesti and Edinet, who later were dismissed by the decrees of the Moldovan President).

Thus, the results of the implementation of the new judges' performance review and candidate selection mechanism demonstrate its functionality and an increase of accountability.

Admission and promotion in the judicial system are ensured by transparent means. There are two types of examination for admission to the judiciary. Both necessarily require **good reputation**:

1. Admission competition to the National Institute of Justice – an institution that offers initial training for judges and prosecutors.
2. Competition for professionals who have more than 5 years of work record in the legal areas described in the law.

4. Disciplinary liability

The Disciplinary Collegium under the SCM carries out its activity in line with Law No. 950/1996 "On the Disciplinary Collegium and Disciplinary Liability of Judges" and Law No. 544/1995 "On the Status of Judge." The Disciplinary Collegium is a public mechanism for self-control intended to ensure the operation of the judiciary by checking the facts that compromise or could compromise the authority of the judicial system. The main purpose of the Disciplinary Collegium is to examine disciplinary procedures initiated by SCM members to ensure a thorough, fair and independent consideration of judges' deeds qualified as disciplinary violations and to apply or refuse to apply disciplinary sanctions.[39]

In 2013, the Disciplinary Collegium applied 18 sanctions as follows: 4 admonitions, 5 reprimands, 6 severe reprimands and 3 proposals on dismissal. During the period of January through June 2014, the Disciplinary Collegium registered 33 disciplinary procedures, of which 9 were outstanding since 2013, against 31 judges (in case of some judges two or more procedures were initiated). During this period, the Disciplinary Collegium issued 28 punishment decisions (5 admonitions, 3 reprimands, 1 proposal on dismissal), rejected 16 proposed disciplinary procedures and dropped 3 disciplinary procedures. The Collegium also received 10 appeals, of which it admitted 2 and rejected 8.

To eliminate corruption from the system, authorities amended the provisions on judges' social insurance. Thus, if a judge is dismissed because he/she does not correspond to the job requirements, has committed certain disciplinary deviations, has issued final conviction judgments or failed to comply with job restrictions, then he/she loses the right to one-off retirement benefit and his/her pension is established as described in Article 32 of the Law on the Status of Judge.[40] Such judges have the right to age-related pension established under the **general** conditions of Law No. 156-XIV of October 14, 1998 "On the Pensions Paid from the National Social Insurance Fund."

To ensure an efficient and unified application of the legislation and the regulations on the disciplinary liability of judges, on July 25, 2014, the Moldovan Parliament passed **Law No. 178 "On the Disciplinary Liability of Judges"** under Article 106/1 of the Constitution, by accepting the Government's accountability. This law will become effective as from January 1, 2015.[41]

[38] In line with the schedule approved by SCM Decision of July 9, 2013

[39] The main purpose of the Disciplinary Collegium is derived from Article 7 of Law No. 950/1996.

[40] Law on the Status of Judge, Article 25 (1) letters b), f), g) and i)

[41] Official Gazette of August 15, 2014

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Mr. Thacker has previously assisted developing countries throughout the world formulate facilities components of judicial modernization programs, assisted foreign governments to assess their overall court facilities needs and develop priorities for investments, and monitored the implementation of large-scale court renovation projects. He has experience developing design guides and facilities management and continuation-of-operations manuals for past USAID projects in the Balkans region.
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Courthouse Design: International Lessons

I.OBJECTIVE: PRODUCE COURTHOUSES THAT ARE

A. Functional and Flexible
B. Support Judiciary goals
1. Justice
2. Dignity
3. Accessibility
4. Integrity
5. Secure and Safe
Judges
Staff
Citizens
6. Durable
7. Support Modernization Initiatives
Automation
Improved Practices

II.INTERNATIONAL BEST PRACTICES: SOME EXAMPLES

A. Creating a design guide for court buildings
B. Automating court administration processes and automation in the courtroom
C. Security for all users
D. Accessibility for handicapped and infirm citizens
E. Use of courtrooms for proceedings rather than judges' offices
F. "Inviting" public spaces
G. Accommodations for children and other vulnerable witnesses
H. Flexibility of spaces
I. Sustainability/Maintainability
J. Accommodations for defendants in remand

III.FUNCTIONS WITH SIGNIFICANT DESIGN IMPACTS AND COSTS

A. Automation
B. Security

IV.INTEGRATED COURTHOUSE AUTOMATION

A. Current and Future Needs
B. Design Implications/Costs and Alternatives
1. Courthouse
2. Courtroom

V.COURTHOUSES ELECTRONICALLY CONNECT TO

A. Prisons/Jails
B. Within the Country
C. Anywhere in the World

VI.AUTOMATION IN THE COURTROOM

A. Presentation of Testimony
B. Presentation of Evidence
C. Taking the Record
D. Access to Ancillary Information
E. In-Court Case Administration
F. Public Access
G. Security

VII.THE SMART(ER) COURTHOUSE

A. Equipment

B. Communications

1 .Cabling
2. Equipment connections
3. Outside Access
4. Control Switching

C. Infrastructure

1. Conduit
2. Power
3. Lighting
4. Sound Reinforcement
5. Accommodation
6. Lines of Sight
7. Flexibility
8. "Things-to-things" networks

VIII.INTEGRATED SECURITY

A. Throughout the Design Process
B. With All Building Systems
C. Work Processes
D. Future Courthouse Arrangements

IX.AWARENESS OF RISKS

A. Vandalism
B. Theft
C. Personnel Security
D. Litigants (family/friends) disruption
E. Prisoner movement
F. Judicial Security
G. Terrorism

X.SOLUTIONS: ELECTRONIC SYSTEMS; ARCHITECTURAL; PEOPLE AND PROCEDURES

A. Courthouse Approaches e.g., lighting, landscaping, locks, vehicular control, parking
B. Perimeter
C. Access

1. Public
2. Court Staff
3. Prisoners
4. Others, e.g., witnesses, jurors, undercover agents

D. Internal Circulation Patterns
E. Restricted Access Plans
F. Symbolism
G. Construction techniques and materials
H. Electronic Systems, e.g., Cameras/monitors, Locks

Resources	
USAID ROLISP Website	www.rolisp.org
Legal Technology Project at the College of William and Mary	www.legaltechcenter.net
International Centre for Facilities	www.icf-cebe.com:
Standards, reference documents etc.	
Whole Building Design Guide	www.wbdg.org
The National Center for State Courts	www.ncsconline.org
Americans with Disabilities Act	www.ada.gov
US Federal Courts	www.uscourts.gov

Security and Courthouse Design

Peter KIEFER

I. DANGER TO THE COURTHOUSE - DANGER TO JUSTICE

- Dangers can stem from individual (relatively brief) violent incidents. (If possible to play, I have a video of an incident where a party in a family court case attacks a judge.)

- Dangers can also stem from longer ongoing security situations. The Fulton County, Georgia, USA, incident is an example where a defendant shot a deputy sheriff outside a courtroom, entered the courtroom shot the judge and the court reporter, then escaped from the courthouse; later he shot a Federal agent and took a woman hostage. He was captured the next day.

- Natural disasters such as flood, fire, or storms can pose security threats to continuity of court operations.

- The future holds the potential for cyber threats such as hacking into electronic records, threats from the social network, and mobile video devices.

- Courts must ensure that citizens who come to court feel safe and secure while conducting their business. Courts must also ensure that citizens feel that they were treated fairly and justly in a truly impartial forum. This is the essence of the community's trust and confidence in the judicial system.

- Finally there is the challenge that incident preparation is the art of continually keeping staff interested in preparing for something that may never occur. Staff must feel that such preparations are important even if a serious incident never happens.

II. TYPES OF SECURITY

- Security badges for employees to immediately separate visitors from staff (down side can be a lack of staff understanding of the purpose so the need for ongoing training. Staff can and will forget their badges.

- Perimeter security:

  - Limiting the number of entrances and exits to the courthouse while acknowledging the down side that such limiting can cause long lines and public congestion.
  - Traffic barricades to keep vehicles away from the entrances while acknowledging that barricades limiting can be problematic for the elderly and disabled as well as cause problems in deliveries.
  - Metal detectors at all entrances while acknowledging that these will increase congestion during high volume times of the day.
  - Locating law enforcement stations located near and behind entrances to provide secondary support in case of an incident at the entrance.
  - Walk through x rays machines while acknowledging that these may cause concerns over invasion of privacy.

- Soft security: Intelligence is finding out and knowing who the folks are who come in the courthouse entrance (e.g. gang members, outraged community members, family members, a defendant accused of a heinous crime, etc.)

  We are on the cusp of new opportunities in the area of intelligence. We will be able to know a lot more about the people who use our courts. Big data, data analytics, and security closed circuit television offers the tremendous potential. They also present the potential for community controversy from invasions of privacy or even political spying.

- Soft security: Manage needs to train staff in situational awareness. Staff need to be trained to know what to look for indicators

of potentially dangerous situations developing.

III. COURTHOUSE DESIGN

- Multiple use court facilities: courtrooms, law enforcement offices, prosecution, defense, probation, holding facilities and jail, conference room for mediation and status review, administrative conference rooms, training rooms. Possibly including local commercial outlets (e.g. restaurants, convenience stores)

- Circulation zones separation for passageway security for judges, defendants, prisoners, and the public.

IV. COURTROOM DESIGN

- Design circulation separations between defendants, victims, and their families. Inside the courtroom itself this means physically separating plaintiffs and victims and their families. Also having physical and even barrier separations between the public and prisoners. Outside the courtroom this can mean separate hallways for judges and staff to separate them from the public and separate waiting rooms and conference rooms for defendants, victims, possibly even law enforcement.
- Inside the courtroom protection for the judge's bench. Lead lines bench protection entrance and exit door near or behind the bench.
- Closed circuit television for security (also for interpretation and reporting)
- Soft security means enforcing proper respect for the court: judge announces that proper dress, proper attitude (stand when speaking to the judge) is required. No food, no drink, no smoking, no chewing gum, or tobacco, in the courtroom. No cell phones, no smartphones. No photography in the courtroom.

V. COURTHOUSE DESIGN: PUBLIC INFORMATION AND SIGNAGE

- Large easy to read signs in multiple languages
- Ensure the website is understandable and comprehensive. Include basic information such as courthouse locations, maps, phone numbers, hours of operations, and public access floor plans.
- Ensure written material and instructions are understandable, and comprehensive, and consistent with the website.

- Consider using both arrows and colors to assist in directions and way finding. Also ensure that room numbers are clear, consistent, and understandable so even without directional signs the public should be able to puzzle out where a needed room is located.
- Ensure maximum flexibility to adapt changing circumstances. Content changes quickly and the easier it is update the website, brochures, posters, and forms the easier it will be for the public get its business done.

VI. MANAGEMENT

- Partner with local officials, law enforcement, other agencies, local funding bodies, and security.
- Establish emergency operation protocol. Keep It Simple!! Communication during an emergency is key. Have staff rehearse an incident even if it is just a tabletop exercise.
- Establish emergency security breach protocol. Also Keep It Simple!! Communication and ongoing security is paramount. Rumor control is often a significant issue. Close coordination is needed between law enforcement, courthouse security, and court staff.
- Use ever emergency incident as a learning experience for next time. Conduct a post mortem on what went right and what could be improved.

Ghenadie ENI
President of Cahul Court of Appeals
Republic of Moldova

Mr. Eni began his career in the prosecutorial field, serving as an investigator and later as deputy prosecutor of Cahul district (Republic of Moldova). Mr. Eni is the President of the Cahul Court of Appeals since 2011 when he was appointed. He has 15 years of experience as a judge. Previously he has been working in the prosecutorial field. Mr. Eni has participated in various training activities related to the judiciary.
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Security in Cahul Court of Appeals, Moldova

Cahul Court of Appeals—a Moldovan Court that Needs Security for Justice Administration

Cahul Court of Appeals, situated in the town of Cahul, 170 km away from Chisinau, exercises its jurisdiction over the Courts of Cahul, Cantemir, Leova and Taraclia. Due to objective reasons, Cahul Court of Appeals also examines cases from Gagauzia. Currently the Court has 9 judges and soon it will have 43 staff members. The courthouse covers 304.5 sq. meters, the land adjacent to the building covers 0.0893 hectares and an annex to the building adds another 62 sq. meters. The courthouse has two floors and no basement. There are 17 offices, 1 public area and 3 courtrooms, one of which can be used for hearing juveniles' testimony. From 2005 to 2013, the courthouse underwent major renovations, including for ensuring its security.

The security of the courthouse is ensured at 3 levels:

I. physical security of the building and its visitors
II. security during court hearings
III. judges' and staff's security against interference in their professional activity

In my presentation, I will focus only on the first two levels ensured in Cahul Court of Appeals, because the third one depends on laws and their implementation by the executive branch rather than on court administration.

Access to Cahul Court of Appeals

The physical security in Cahul Court of Appeals is ensured by the state company SERVICII DE PAZA and by the judicial police of the Ministry of Home Affairs. Using a video surveillance system and metal detectors, they ensure:

- control over the access to the courthouse and public order inside it
- security during court hearings
- courthouse assets protection

Screening with Metal Detectors for Banned Objects

A fixed metal detector is located at the guardians' work place at the entrance into Cahul Court of Appeals. The guardians also have a portable metal detector. This equipment minimizes the risk that someone will bring arms or explosives inside the courthouse.

CARD Access Control System (2nd Floor)

CARD access control system limits the strangers' access to the 2nd floor, which hosts offices for judges, judicial assistants and clerks and the secretariat. This ensures physical security for the court staff and fulfills the requirements of Article 13, "Inadmissibility of Interference with Justice Administration" of the Law on the Court Organization.

Automated Gates with Remote Control

This system represents an additional security feature for escorting detainees and for allowing staff access into the courthouse. The

system prevents strangers from entering/exiting the courthouse by manually opening the gate and eliminates the need to divert the guard from their checkpoint to open/close the gate.

Separate Circulation Routes for Defendants and for Victims and their Families

An area for detainees is located on the 1st floor. It includes two cells and a separate entrance. Detainees are brought into the courtroom through a separate entrance and the back hallway.

Separation of Aggressive or Hostile Participants

In line with the Justice Sector Reform Strategy, the metal cages for defendants were replaced by barriers (aluminum constructions with multiple windows that are only partially closed), which, in the confined conditions of the courtroom, ensure security both for case participants and for defendants themselves.

Physical Protection of the Courthouse

One of the basic security elements at Cahul Court of Appeals, which prevents illegal access and detainees' escape, is a 3-meter wall along the backyard perimeter and bars installed on the windows of the ground level.

Video Surveillance and Recording System

Cahul Court of Appeals has 19 video surveillance cameras:

<u>9 night vision cameras installed outside the courthouse</u>:

- 3 cameras inside the courthouse perimeter
- 6 cameras outside the courthouse perimeter

<u>10 cameras installed inside the courthouse</u>:

- 2 cameras in Courtroom 1
- 2 cameras in Courtroom 2
- 1 camera in Courtroom 3 (used for hearing juveniles)
- 3 cameras on the 1st floor
- 2 cameras on the 2nd floor

This system helps the guards from SERVICII DE PAZA and the judicial police to monitor the entire perimeter and the interior of the courthouse directly and permanently from their checkpoint at the entrance.

The surveillance cameras capture pictures irrespective of light conditions and people's movement and flow and offer lots of information about those who come into the courthouse. Thus, a simple check of video recordings helps to find out who, when and how entered the courthouse, what offices he/she entered and how much time stayed in the field of view. All events are recorded and the data thus produced is stored.

Video cameras installed in the courtrooms are connected to SRS Femida, which allows video recording court hearings. This way, in addition to ensuring security, the video surveillance system increases the transparency of court proceedings. Parties may obtain a copy of the video recordings on demand.

To avoid inflicting more trauma on juvenile witnesses and victims of abuses, judges of Cahul Court of Appeals use a special room for hearing juveniles, equipped with an audio-video recording system. The interior of this room is cozy and inspires confidence and the feeling of psychological and physical safety to the interviewed child. The fact that the child is not confronted with the abuser eliminates the risk that the abuser will intimidate the child. The audio-video system for hearing juveniles includes a voice changer for the purpose of the child's security.

Courtroom 2 has video conferencing equipment for hearing witnesses, victims and detainees located in other localities for security reasons.

Technical Security Means, Motion Sensors

The security equipment of Cahul Court of Appeals includes 4 motion sensors:

- 1 on the 1st floor and
- 3 on the 2nd floor

Motion sensors save court's funds because, with them, just one guardian from SERVICII PAZA can supervise all courthouse premises efficiently during night.

Fire Safety System

Cahul Court of Appeals is equipped with 8 smoke detectors and 11 fire extinguishers. Any fire outbreak will automatically set off the fire alarm and emergency evacuation lights. The evacuation plans are posted on each floor.

Security of Case Files (Information)

To keep case files during night and in weekends safely, judges and the staff use 19

strongboxes located in judges' offices and in the secretariat.
Starting with 2009, to ensure the security of the information from court acts, Cahul Court of Appeals uses the Integrated Case Management System and the court hearings audio recording system SRS Femida implemented with the support from USAID. Since 2013, it is also possible to video record hearings. All data thus produced is stored on the court server.

Software and Hardware Security

The server of Cahul Court of Appeals is locked in a rack located under the stairs due to the lack of adequate space for it. The access to this part of the courthouse, however, is restricted. To ensure climate control, the server is connected to a ventilation system and an air conditioner.
All computers in the court have UPS units for protection against power surges and for saving data in case of power failures.
Information security is also ensured by firewalls and effective antivirus software.

Archive Security

Unfortunately, the archive room, located on the 1st floor, is too small for the amount of the examined case files. However, it has very good burglary and fire protection ensured by the video surveillance system.