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Justice Sector Public Expenditure and Institutional
Review

Resourcing the Justice Sector for Efficiency and
Performance

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1 US Dollar = HRK 5.856

1 HRK = 0.177 US\$

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WEIGHTS AND MEASURES

Metric System

ACRONYMS AND ABBREVIATIONS

CEPEJ	European Commission for the Efficiency of Justice
EC	European Commission
ECA	Europe and Central Asia
EU	European Union
IT	Information Technology
IS	Information Systems
MOF	Ministry of Finance
MOJ	Ministry of Justice
SJC	Supreme Judicial Council

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The responsibility for any data and/or opinion expressed in this report remains exclusively that of the authors.

EXECUTIVE SUMMARY

Croatia became the 28th member of the European Union (EU) on July 1, 2013, having undertaken significant justice reforms during its decade-long EU accession process. Many were part of its justice-related EU accession process, including the enactment and implementation of new laws and amendment of others, improved case management and enforcement and computerization of land registers. The rationalization of the court network and of state prosecution offices is continuing. And Croatia's justice reform strategy, which aims to strengthen the independence and impartiality of the justice system and increase its efficiency, has indeed delivered significant results. The reformed State Judicial Council (SJC) and State Prosecutorial Council (SPC) have been functioning independently, appointing judicial officials based on transparent, uniform and objective criteria. The prosecution and courts have been combating high-level corruption. Efficiency is being sought to be improved through measures including reducing case backlogs and the duration of judicial proceedings; strengthening the bankruptcy system, streamlining enforcement; modernizing court administration; strengthening alternative dispute resolution, legal aid, education and professional training; rationalizing the court and prosecutorial network and increased transparency of courts' functioning. Government programs have identified continuation of such reforms as a priority.

Benchmarking Croatia's justice sector indicates that it compares well with other European countries on several aspects of performance including resource indicators important for a functioning justice sector. Despite a severe fiscal squeeze brought on by the ongoing financial crisis, Croatia's justice sector is relatively adequately resourced in the aggregate: as a percentage of GDP, Croatia's sector budget expenditure, at 0.77 percent, is somewhat higher than the EU-10 average of 0.71 percent and the EU average of 0.69 percent. Similarly, per capita spending on justice in Croatia (EUR 80) is higher than the average for the EU-10 (EUR 71).

However, the positive achievements and the deployment of significant resources have been offset by less-than-expected levels of overall performance, with high and growing demand for justice services facing an inadequate supply response. According to the 2012 Report of the Council of Europe's Commission on Promotion of Efficiency in Justice (CEPEJ) the incoming civil case load in Croatia (at 9,272 cases per 100,000 inhabitants) was 152 percent of the EU-10 average, and 165 percent of the EU average. And 12 times the number of criminal cases were filed than in Austria (3.7 times the EU average, 5.4 times the EU-10 average and nearly twice that for Slovenia). The case disposal rate for all courts decreased from 124 percent of incoming cases in 2006 to 94 percent in 2011. First instance courts have relatively lengthy case disposition times: Croatia had an average case disposition time of 462 days for civil litigious cases against the EU-10 average of 231 days. About 350,000 backlogged cases still clog court dockets, and although case backlog volumes are diminishing (backlogs are down by almost 50 percent since 2005), caseloads are high and growing rapidly, while the rate of disposal of backlogs appears to be slowing, a symptom of operational inefficiency. Surveys of businesses and the public reveal low scores for Croatia's justice system on trust and integrity, over time and comparatively. Because of this lower-than-anticipated sector performance, justice performance and reform remain in the spotlight even after Croatia's accession to the EU.

This report tries to lift the veil on the reasons behind justice sector under-performance despite relatively adequate budgetary allocations, comparatively high staffing levels and a dense network of courts and prosecution offices. It first provides a snapshot of Croatia's justice sector and of different aspects of its performance. It then reviews the evolution of and trends in justice sector expenditures. This is followed by an assessment of sector expenditure management policies and practices. The report then examines demand and supply issues in depth, juxtaposing data on caseloads, case disposals and expenditures to identify implications for efficiency improvements. The audience for this report comprises Croatia's policy-makers, academia and civil society, as well as its development partners.

The report uses a supply-demand approach to assess the real challenges to improving sector performance, focusing on resource management and allocation issues on the supply side and on case inflow on the demand side. This perspective enables consideration of both supply and demand issues impacting performance and offers an opportunity to suggest actions and policy responses that could enable policy makers to manage demand more effectively while strengthening access to justice.

At first glance, the most significant challenge confronting Croatia's justice system appears to be its high and growing case inflows. However, even in the face of high volume, caseloads and backlogs have declined in Croatia, while real sector expenditures – which have financed the sector's relatively high number of staff and facilities – have risen. Under different circumstances, it could be suggested that the increasing expenditures were a reason for the backlog decline. However, the relatively high starting levels suggest that resource shortages are not the major efficiency-constraining factor.

A closer examination of Croatia's case patterns indicates that supply rigidities – specifically inflexibilities in resource allocation and use - appear to be more of a binding constraint to efficiency improvements rather than high demand. The number of cases resolved has been declining. This tracks closely the case intake volume for the past few years, limiting the degree to which continuing progress is being made to reduce backlogs. The backlog appears to be increasingly composed of difficult-to-process – and hence more time-intensive - cases.

Different courts demonstrate different capabilities for clearing different case types. Civil and execution cases comprise the bulk of the annual non-criminal case load; they also comprise the greatest absolute number of cases in backlog, with the duration of civil cases being greater than execution cases. However, cases not cleared within a specific time-frame have tended to linger in the system (e.g. fourteen percent of probate cases remain undecided after ten years). Effective resolution of case delays and backlogs also requires resource complements (especially human and financial) consistent with case requirements.

There are significant variations in resource, staffing and case distributions across individual municipal courts. Croatia's two largest municipal courts account for 27 percent of the total resolved caseload for all municipal courts. Court services delivered (in the form of volumes of resolved cases) differ significantly across locations. Generally, larger, high-demand locations tend to consume fewer resources per case, confirming economies of scale in court operations. The highest resolved case volume across municipal courts involves enforcement actions, followed by civil litigation. Costs for criminal, probate, and extra-judiciary cases appear to offer significant direct economies of scale, declining as the number of cases resolved increases. Considering variations in the composition of cases and

processes, together with caseload, allows for a more nuanced analysis of the misalignment of resources and case demands in individual courts, which in turn helps identify courts that appear to be over- or under-resourced relative to their caseload.

Caseload-driven resource realignments would generate efficiency savings in courts with above-average resource consumption. Consistent with the findings regarding the impact of case composition on per-case cost, the number of cases that a judge can reasonably process is significantly affected by differences in case composition, reflecting underlying differences in case complexity. Judges' productivity is also dependent on complementary resources deployed. Analysis at the individual court level provides a window into differences in the performance of judges (and courts) within the municipal court system. The analysis identifies ten courts for which the actual case processing rate per judge most exceeds expected levels and the ten courts for which the number of per-judge resolved cases is lowest compared to the model estimate.

Given the varying complexity of different case types, case composition was found to be an important cost driver for courts: criminal cases are most resource-intensive, with an estimated average per-case resolved cost of HRK 3,372. Civil litigation cases are next most resources intensive to process at HRK 2,167 per resolved case. Probate cases average HRK 2,005, while cases requiring an execution/enforcement order average HRK 455 and each land registration case consumes HRK 218. Costs for criminal, probate, and extra-judiciary cases appear to offer significant direct economies of scale, declining as the number of cases resolved increases.

In order to identify actions to generate cost-efficient performance improvements, it would be desirable to undertake a study of court-level expenditures in processing different categories of cases. Such a study would identify appropriate norms (such as weighted caseloads), which – in conjunction with projected trends in demand for judicial services – could provide a clearer notion of the appropriate levels of resource allocation to courts including judicial staffing. In conjunction with statistical data on the size and composition of particular courts' caseload, the weighted caseload norms could also help allocate staff positions among courts in a more strategic manner, targeted at reducing case backlogs and increasing efficiency in the administration of justice. Finally, weighted caseload norms could also form part of the performance framework for the justice sector.

MOJ plans for streamlining and reorganizing the judicial system are built around four pillars: (i) territorial reorganization (with territorial jurisdictions being remapped), (ii) structural reorganization (focusing on improving the efficiency of justice sector service delivery), (iii) reforming appeals proceedings (e.g. through electronic random allocation of cases in second-instance courts across Croatia) and (iv) harnessing the power of information technology (completing the process of introducing information technology applications and services in all judicial bodies). Thus, for example, under the first pillar, the current network of 208 judicial bodies (including 67 municipal courts, 61 misdemeanor courts and 33 municipal state attorney offices) will be reduced to 116 judicial bodies (including 24 municipal courts, 22 misdemeanor courts and 22 municipal state attorney offices). Details of the planned reorganization of judicial bodies are at Annex 3.

This report's analysis of court-level expenditures, staffing, caseload, and performance data points to four specific areas where resource use efficiency could be improved:

- a) Accelerated consolidation of the court network could significantly improve efficiency and performance;

- b) Realigned resource allocations across the court network could potentially yield significant efficiency gains and improve overall sector performance¹;
- c) Identification of efficiency-enhancing resource mixes could significantly maximize return on scarce resources; and
- d) Improved information management systems and enhanced analytical capacity would facilitate decision-making and resource planning.

Strengthening five aspects of expenditure management could generate performance improvements while also yielding cost savings:

- a) ***Strengthening strategic planning processes and sector financial management*** - the lack of a strategic budget planning and development element and weaknesses in sector public financial management practices impede sector ability to allocate and use resources efficiently. It would be desirable to fill this systems gap by introducing a clear strategic planning process in the sector, and by improving financial management practices. This could be followed by a more operational process in which all sector budget entities prepare a strategic multi-year plan that shows their past performance against set criteria and identifies specific targets for performance improvement for the next three years.
- b) ***Reducing the unpredictability of budget execution and loosening currently excessive controls*** – sector budget execution tends to be unpredictable and subject to excessive controls. Budget control is at the fourth digit of the economic article classification and is exercised across the entire operating unit. The result is an unpredictable level of budgetary resources available from one month to the next, creating difficulties in court operations, short-term delays in payments to suppliers (and possibly, as a result, higher costs) and the need to time purchases around the short-term availability of budget allocations rather than when inputs are needed to provide most effective services. The sector’s economic article control focus defeats the intentions of Croatia’s broader budget reforms. For effective administration, budgeted resources must be predictably available when needed.
- c) ***Further improving the capital spending capacity of the Ministry of Justice*** - it would be desirable to strengthen capital management capacity. This would cover long-term capital planning, developing realistic budgets, assessing the validity of capital spending requests, improving contracting documents pertaining to capital projects, strengthening project procurement and execution, developing and maintaining a facilities and project database, and reporting on facility quality.
- d) ***Completing and deploying three key application systems to realize efficiency gains from information technology*** – the Integrated Case Management System for the courts, the Case Tracking System for the prosecution and the Joint Information System for land administration. A conservative 3-year estimate of incremental IS investment costs for key MOJ IS initiatives totals about EUR21 million. Other actions – most already taken on board by the MOJ – are desirable: (i) progress on

¹ Interlocutors have pointed out that as long as resources continue to be allocated primarily by the number of employees (i.e. on an input basis) and not according to demand or performance (e.g. by the number of cases, or cost per case) meaningful reallocation of resources would be difficult to implement, given the rigid labor legislation (in particular that applicable to civil servants).

standardization of business processes and technical infrastructure would strengthen provision of justice services and sector governance; (ii) strengthening the institutional capacity of the IT Department of the MOJ; (iii) identifying specific MOJ IT-related functions that could be outsourced (even with outsourcing, however, the MOJ would still need to maintain a core skill set on business analysis, system design, project management, contract management and vendor management); (iv) developing a human resource policy considerate of existing market constraints for informatics professionals and with appropriate incentives to attract and retain a high-skilled set of informatics personnel for sector IT needs and (v) launching a consultation process to update the sector IT Strategy to ensure consensus-based system improvement.

- e) ***Addressing concerns about insufficient space*** – the general condition of court facilities inhibits court operations and negatively impacts efficiency: only 20 percent of court premises presently occupied will meet current requirements with minor improvements; 60 percent now require major renovations or reconstruction; and the remaining 20 percent cannot economically be refurbished to meet requirements. Less than 20 percent of existing locations meet the new requirements generated by recent reforms, including adoption of design standards reflecting good international practices. Using the current inventory of 220,000 square meters, operating costs could range from EUR880,000 to EUR1.2 million per year. Thus, a rough estimate of the cost of periodic modernization and major systems replacement and annual operations and maintenance would be about EUR5.6 million. Since Croatia could soon access EU structural and regional funds, greater attention is needed to prepare high-quality facility projects for financing. The MOJ has begun to identify funding sources to complete court consolidation on time – it estimates that more than EUR 100 million will be needed between 2014 and 2020 to construct and rehabilitate court facilities to meet the rationalization implementation deadline. This amount does not include financing for the proposed Zagreb Justice Square. The urgency of locating financing sources is apparent: more than 20 court locations have no funding source identified yet, and the MOJ estimation that 78 locations will need no investment has not been tested against staffing requirements or international design standards. Lastly, implementing the recommendations from the MOJ’s 2010 study on facility management staffing and training could save the Ministry at least 18 percent annually on operation and maintenance costs.

Demand-side policy and process interventions are also needed to complement supply-side actions to improve sector efficiency. Demand-side interventions could take two complementary and mutually reinforcing forms:

- ***Commissioning a ‘demand management analysis’:*** On the policy front, it would be desirable for the MOJ – in consultation with other stakeholders such as the Supreme Judicial Council, the Supreme Prosecutorial Council and the Ministry of Finance - to commission a ‘demand management analysis’ to (a) review the structure and level of judicial fees and other sources of justice sector own revenues and (b) their impact on judicial budgets, business processes and length of court proceedings. The results could facilitate the formulation of a policy to permit adjustment of the levels of court fees and other charges and thereby manage the explosive rise in the inflow of civil cases, using higher fees to restrict or reduce the inflow of high-volume small-value cases clogging judicial dockets. Such an analysis could also reveal a

need to introduce additional (and perhaps time-bound) mediation practices for certain categories of cases (e.g. actions firms bring against small debtors or those that utilities bring against customers in payment default) out of the judicial system and into administrative or quasi-judicial fora. The argument can be strengthened if there is evidence of a correlation between collected court fees and caseloads – and an analysis of the state’s behavior as a ‘generator of demand’ and as a party to the judicial process could be particularly useful in this context.

- **Strengthening access to justice.** In parallel, on the process side, the executive needs to ensure that access to justice, especially for the low-income and other vulnerable groups, is strengthened, including through cost-effective legal aid arrangements for eligible categories of litigants. The MOJ has begun an initiative to reform legal aid: this is a welcome development and needs to be completed as rapidly as possible².

Improving sector efficiency and performance now requires a shift from focusing on legislative and procedural changes to more efficient allocation and deployment of sector resources through approaches that do not increase the burden on the budget.³

A sustained medium-term focus on sector resource allocation and deployment could yield potentially significant long-term benefits for Croatia’s justice system in terms of improved performance and – over time - increased public trust and confidence. It would be helpful for Croatia’s justice reform process if key stakeholders – the MOJ, courts and prosecution – jointly adopt and implement the recommendations in the attached Roadmap.

A Roadmap to Enhance the Efficiency of Croatia’s Justice Sector

Area of Concern	Recommendation	
	Short Term	Medium term
High Levels of Demand Evidenced by High Case Inflows	Commission a ‘demand management analysis’ to review the structure and level of judicial fees and other sources of justice sector own revenues	Implement the policy to manage high levels of case inflows (MOJ)
	Use the findings from the demand management analysis to formulate a policy to adjust the structure and levels of fees and other charges to manage the explosive rise in inflow of civil cases	
	Strengthen access to justice, including through cost-effective legal aid	Evaluate the results from strengthened access to justice
Resource Use	Commission a weighted case-load analysis whose findings can serve as the basis for	Implement measures to (a) reallocate operating resources (personnel,

² Please see the report “Croatia: A Chronicle of Selected Justice Reforms – Achievements, Challenges and the Road Ahead” (World Bank 2014) for a discussion on legal aid issues.

³ Croatia’s experience from the last twenty years appears to indicate that many reforms have barely managed to address the underlying institutional issues actually constraining sector performance and service delivery. Interlocutors have suggested, for example, that it is now time to carefully analyze business processes which currently consume significant time and resources (human and financial), and streamline them.

Area of Concern	Recommendation	
	Short Term	Medium term
Inefficiencies	more nuanced alignment of resources and case demands by individual court (MOJ)	budget) across courts consistent with caseloads and within existing budget envelopes and (b) improve flexibility in deploying judges and judicial staff
	Develop and begin implementation of an action plan to accelerate consolidation of the court network to reap economies of scale	Implement accelerated consolidation of the court network Improve information management systems and enhance analytical capacity to facilitate decision-making and resource planning
Expenditure Management	<p>Adopt and begin implementation of an action plan to strengthen sector strategic planning and financial management</p> <p>Reduce the unpredictability of budget execution and begin to loosen currently excessive controls</p> <p>Develop and initiate implementation of an action plan to further improve the capital spending capacity of the Ministry of Justice⁴</p> <p>Complete and deploy three key application systems (ICMS, CTS and JIS) to realize efficiency gains from IT</p> <p>Identify specific MOJ IT-related functions that could be outsourced and begin pilot outsourcing of functions</p> <p>Develop a human resource policy for informatics professionals, considerate of existing market constraints and with appropriate incentives</p> <p>Address concerns about insufficient space including preparing projects to access funds from the EU and other sources</p>	<p>Evaluate results and impact of implementation of action plan</p> <p>Standardize business processes and technical infrastructure</p> <p>Strengthen the institutional capacity of the IT Department of the MOJ</p> <p>Implement expansion/upgrading of physical facilities</p>
Measure, Track,	Verify basic data and statistics (e.g. caseloads, processing times, backlog	Establish a robust monitoring and evaluation system for the justice

⁴ These cover long-term capital planning, developing realistic budgets, assessing the validity of capital spending requests, improving contracting documents pertaining to capital projects, strengthening project procurement and execution, developing and maintaining a facilities and project database and reporting on facility quality.

Area of Concern	Recommendation	
	Short Term	Medium term
and Report on Justice Sector Performance ⁵	volumes) on justice performance	sector
	Develop a justice ‘dashboard’ to monitor sector performance; publish updates semi-annually or quarterly	Adopt sector performance indicators and publish data annually
	Publish performance data annually by court	Publish performance data annually by chambers/judges
	Prepare proposals to utilize EU Structural Funds to measure, track, and report on sector performance and service delivery	Implement activities and projects financed by EU Structural Funds
Progress Monitoring	Initiate and implement peer-based/expert support and progress reviews for all or some of the above measures	

⁵ This is from the report “Croatia: A Chronicle of Selected Justice Reforms – Achievements, Challenges and the Road Ahead” (World Bank 2014)

1. INTRODUCTION

1.1 **Croatia, the newest member-state of the European Union (EU), undertook significant justice⁶ reforms during the last decade.** Many were part of its justice-related EU accession process, including the enactment and implementation of new laws and amendment of others⁷, improved case management and enforcement and computerization of land registers⁸. The rationalization of the court network is continuing. So is the functional rationalization of state prosecution offices. Over the years, the European Commission (EC) has acknowledged these advances, including through the completion of Croatia's accession negotiations on Chapter 23 (Judiciary and Fundamental Rights). Government programs have identified continuation of such reforms as a priority.

1.2 **The June 2012 EU decision to conclude Croatia's accession negotiations was a positive endorsement of the direction and pace of Croatia's justice reforms.** Croatia's justice reforms have been largely underpinned by its 2005, 2010 and 2012 Judicial Reform Strategies and action plans. These Strategies aimed to: (a) strengthen the independence and impartiality of the justice system and (b) increase judicial efficiency. The reformed State Judicial Council (SJC) and State Prosecutorial Council (SPC) have been functioning independently, appointing judicial officials based on transparent, uniform and objective criteria. Efficiency was sought to be improved through measures including reducing case backlogs and the duration of judicial proceedings; modernizing court administration; strengthening alternative dispute resolution, legal aid, education and professional training; rationalizing the court and prosecutorial network; greater use of information systems; and increased transparency of courts' functioning. In addition, Croatia's Economic Recovery Program (ERP)⁹ contained actions on justice reforms, intended to strengthen the bankruptcy system, rationalize the court network, reduce backlogs, and streamline enforcement.

1.3 **Despite these advances, institutional and performance challenges remain.** Croatia has 42.8 judges per 100,000 inhabitants against the EU-10 average of 27.1. It also has one of the largest court networks in Europe (3.5 court locations per 100,000 inhabitants). Its justice sector budget expenditure, as a percentage of GDP (0.77 percent), is in line with that of the average for EU-10 countries (0.71 percent). As the March 2013 EC Report noted, "The backlog of civil, commercial and enforcement cases continues to be above the EU average." This implied that continuing efforts would be needed to improve the functioning of the justice sector. In addition, Croatia still confronts the challenge of economic recovery from the financial crisis. Furthermore, EU membership now provides Croatia access to EU resources for justice sector modernization, provided project preparation and resource absorption capacity is rapidly strengthened: another challenge that needs to be addressed. In light of these issues, Croatian policy-makers' efforts to improve the efficiency of justice sector resource management are understandable.

⁶ In this report, "justice sector" means the courts, prosecution and MOJ (within MOJ are prisons etc.)

⁷ Croatia has adopted new acts on Seats and Jurisdiction of Courts; Misdemeanor Courts; Public Bailiffs; Execution of Cash Assets and State Attorney Offices. It has amended the Land Registry Act, the Courts Act, and laws on Enforcement, Trainees in Judicial Bodies and the Bar Exam.

⁸ Doing Business 2014 reported that registering a property in Croatia takes 102.5 days against 399 days in 2007, largely due to digitization of land registers in Croatia.

⁹ This is supported by the World Bank's Economic Recovery Development Policy Loan (ERDPL) program.

1.4 How Croatia’s justice sector manages its resources could significantly impact sector efficiency, even as it addresses its sector institutional and structural challenges.

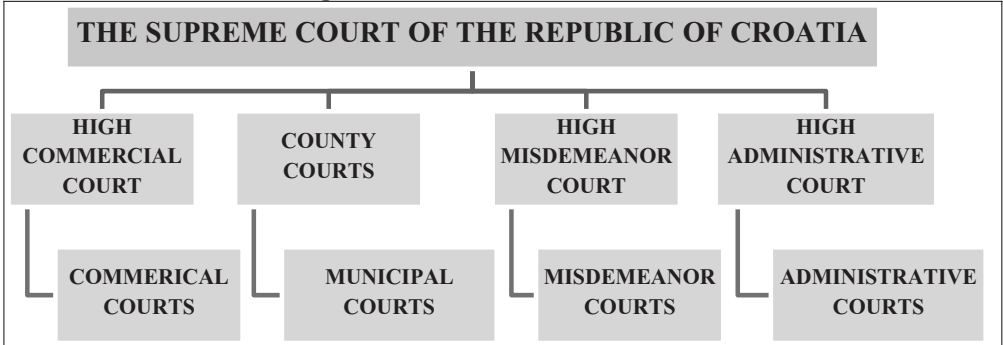
This report examines how Croatia’s justice system manages and uses its resources (financial, human, information and communications technology and physical infrastructure), reviews how courts manage and address their caseloads and suggests actions to strengthen resource management as part of Croatia’s ongoing efforts to improve justice efficiency and performance. The key audience for this report comprises Croatia’s policy-makers in the executive, judicial and legislative branches. Other audiences also include Croatia’s academia and civil society, as well as Croatia’s development partners such as multilateral European institutions (such as the European Union and the Council of Europe) and EU member states with an interest in Croatia’s justice reforms.

CROATIA’S JUSTICE SECTOR

1.5 Croatia is a constitutional parliamentary democracy with three co-equal branches: the executive, the legislature and the judiciary. Croatia’s justice sector encompasses several distinct entities and actors, both state and non-state. The most significant, for the purpose of this report, are summarized below.

1.6 The judiciary consists of courts of general jurisdiction (CGJ), courts of specialized jurisdiction (CSJ) and the Constitutional Court (Figure 1a). The CGJ include 67 municipal courts (of which 34 have criminal jurisdiction) and 15 county courts, while CSJ include 61 misdemeanor courts, the High Misdemeanor Court, 7 commercial courts, the High Commercial Court, the High Administrative Court and 4 Administrative Courts. The Supreme Court is the court of final jurisdiction for both CGJ and CSJ. The Constitutional Court has jurisdiction over issues related to the Constitution, including matters regarding conformity of laws with the Constitution and jurisdictional disputes between the three branches of government.

Figure 1a: Structure of Croatia’s Courts

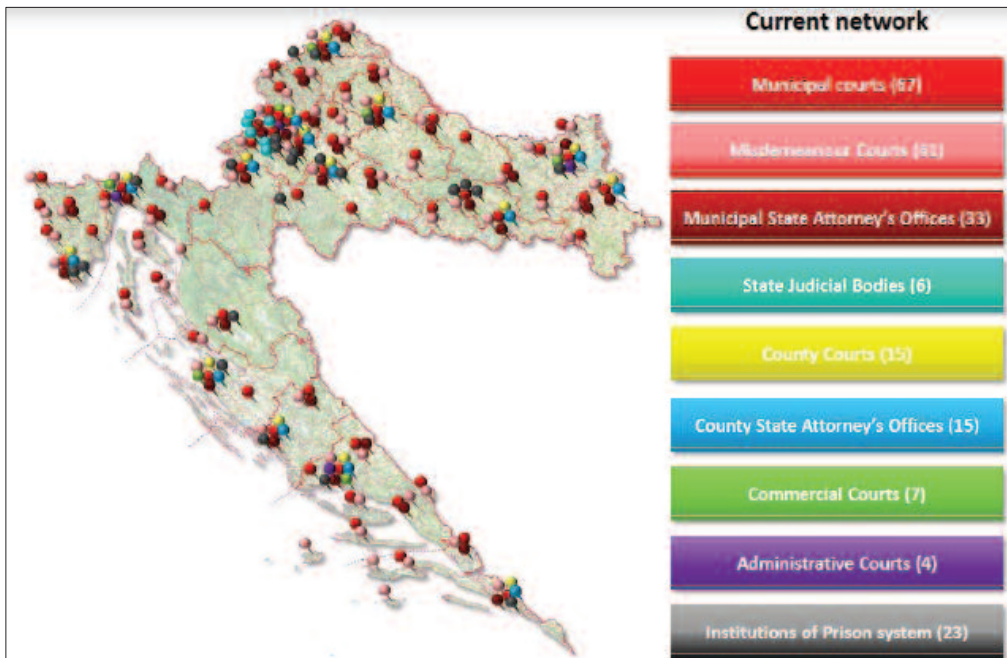


Adapted from the website of the Supreme Court of the Republic of Croatia

1.7 The prosecution is a constitutionally independent institution, responsible for initiating criminal proceedings and representing the Government at trial. It also represents the Government in civil and administrative procedures concerning the protection of property rights. The prosecution comprises the State Attorney’s Office (SAO), USKOK (established in 2001 as an autonomous prosecution service attached to the SAO, to direct police investigations and prosecute high-level corruption and organized crime), and 15 county and 33 municipal prosecution offices.

1.8 **The Ministry of Justice (MOJ)**, part of the executive, plays an important role in the administration of justice. Its responsibilities include: (i) strategic planning and evaluation of the justice sector; (ii) preparation and execution of the judiciary’s budget; (iii) management and administrative control of the courts, the prosecution and prisons; (iv) drafting, adoption and implementation of delegated legislation; and (v) rendering administrative regulations and performing other administrative functions relevant to the judiciary. Overall, therefore, the MOJ is an important stakeholder in the justice sector, being authorized to: (a) draft and propose laws which facilitate reforms of the judiciary and (b) evaluate and monitor the overall performance of the justice sector. The MOJ conducts (through its corps of inspectors) administrative supervision of the courts, the prosecution and the prison service; prepares the justice sector budget and presents it to the Sabor (the national legislature).

Figure 1b Croatia: Current Network of Justice Bodies



Source: Ministry of Justice

1.9 **The Judicial Academy.** The Judicial Academy – a public institution with a legal identity separate from that of the MOJ - is tasked with providing continuous judicial education to judges, state attorneys, attorneys’ advisors and trainees. Headquartered in Zagreb, it has regional centers in Split, Rijeka, Osijek and Varazdin. The Academy was established in 2003 as “The Centre for Professional Training of Judges and Other Judicial Officials” (an independent unit within the Directorate for International Cooperation and Human Rights of the MOJ). In 2004 it was renamed as the “Judicial Academy” within the MOJ. In 2010, its status was changed to a ‘public institution’ with an identity distinct from that of the MOJ.

1.10 **Important non-state actors** in Croatia’s justice sector include (i) professional representative bodies such as bar associations as well as associations of judges, prosecutors, notaries, etc.; (ii) faculties of law of various universities; (iii) non-government

organizations, and (iv) Croatia's development partners – both multilateral (such as the European Commission) and bilateral (such as the Netherlands, the United Kingdom, etc.). These actors play significant roles on issues perceived as important to them, and are often able to influence policy formulation and implementation.

RESOURCE MANAGEMENT CHALLENGES

1.11 **Croatia's justice sector faces two key resource management challenges:** (i) sub-optimal management of resources (financial, human, information technology and physical); and (ii) inadequate capital investment planning and programming. In turn, these perpetuate systemic inefficiencies (evidenced, for example, by significant case backlogs, lengthy and expensive judicial proceedings) and impact (a) corruption perceptions which affect judicial and prosecutorial credibility and the business climate; and (b) justice system performance.

1.12 **The good news is that backlog volumes are diminishing; the bad news is that the rate of disposal is slowing down, a symptom of operational inefficiency.** Total case backlogs are down by 45 percent since 2005 and by more than 50 percent in municipal courts, but about 0.35 million unresolved court cases still remain, and their disposal rate is slowing down. The case disposal rate for all courts decreased from 124 percent of incoming cases in 2006 to 94 percent in 2011. First instance courts have lengthy case disposition times compared to other judiciaries in the region: Croatia had an average case disposition time of 462 days for civil litigious cases against the EU-10 average of 231 days. Such delays in case dispositions have been reflected in judgments against Croatia issued by the European Court for Human Rights for violations of the European Convention on Human Rights regarding the length of judicial proceedings.

1.13 **Croatia's court network, despite the ongoing consolidation, remains dense, with overstaffing coexisting with sub-optimal personnel deployment.** Croatia has 3.08 geographic locations for first-instance courts per 100,000 inhabitants, against an average of 1.47 for EU-10 countries. Within Europe, Croatia also has the highest number of judges (43) and non-judge staff (157) per 100,000 inhabitants. This compares with the EU average of 19 judges and 66 non-judge staff per 100,000 inhabitants and an EU-10 average of 27 judges and 84 non-judge staff per 100,000 inhabitants. Yet large cities, facing the largest and fastest-growing caseloads, appear to be under-resourced due to rigidities in personnel policies. For example, in the Zagreb Municipal Court (which accounts for about 20 percent of all municipal court case volume) the 2012 average annual caseload per judge was 482 cases – higher than that in many courts in Croatia (where per-judge annual caseloads can be as low as 40-50 cases) – resulting in unbalanced caseloads and disposal delays, contributing to low levels of public trust and satisfaction.¹⁰

1.14 **Although the justice system consumes a somewhat high level of financial resources, insufficient capital investment in information technology (IT) and physical facilities have affected sector performance.** Justice sector expenditures in Croatia as a percentage of GDP are somewhat higher (at 0.77 percent) than the EU-10 average of 0.71 percent and the EU average of 0.69 percent. Similarly, per capita spending on justice in

¹⁰ These numbers, however, do not tell the whole story. Because of the difference in case composition, the Zagreb Municipal Court's annual average caseload of 482 does reflect an under-allocation of resources. To estimate the significance of the under-allocation, 2012 municipal expenditure data will need to be examined. This was requested but has not been received as of September 2013.

Croatia (EUR 80) is higher than the average for the EU-10 (EUR 71)¹¹. Though the ICMS was developed over several years, it is still being used in parallel with paper-based manual case processing. Issues also persist in ICMS design and functionality, which the MOJ and courts are addressing. The CTS used by the prosecution (State Attorney Offices or SAOs) has been upgraded and its rollout to all SAO offices has commenced in 2012. In both cases, real-time statistical information on caseloads and case status is not yet available. In addition, most courthouses are small and have outdated equipment. The Zagreb Municipal Court (Croatia's largest) has 4 civil judges on average sharing a single office.

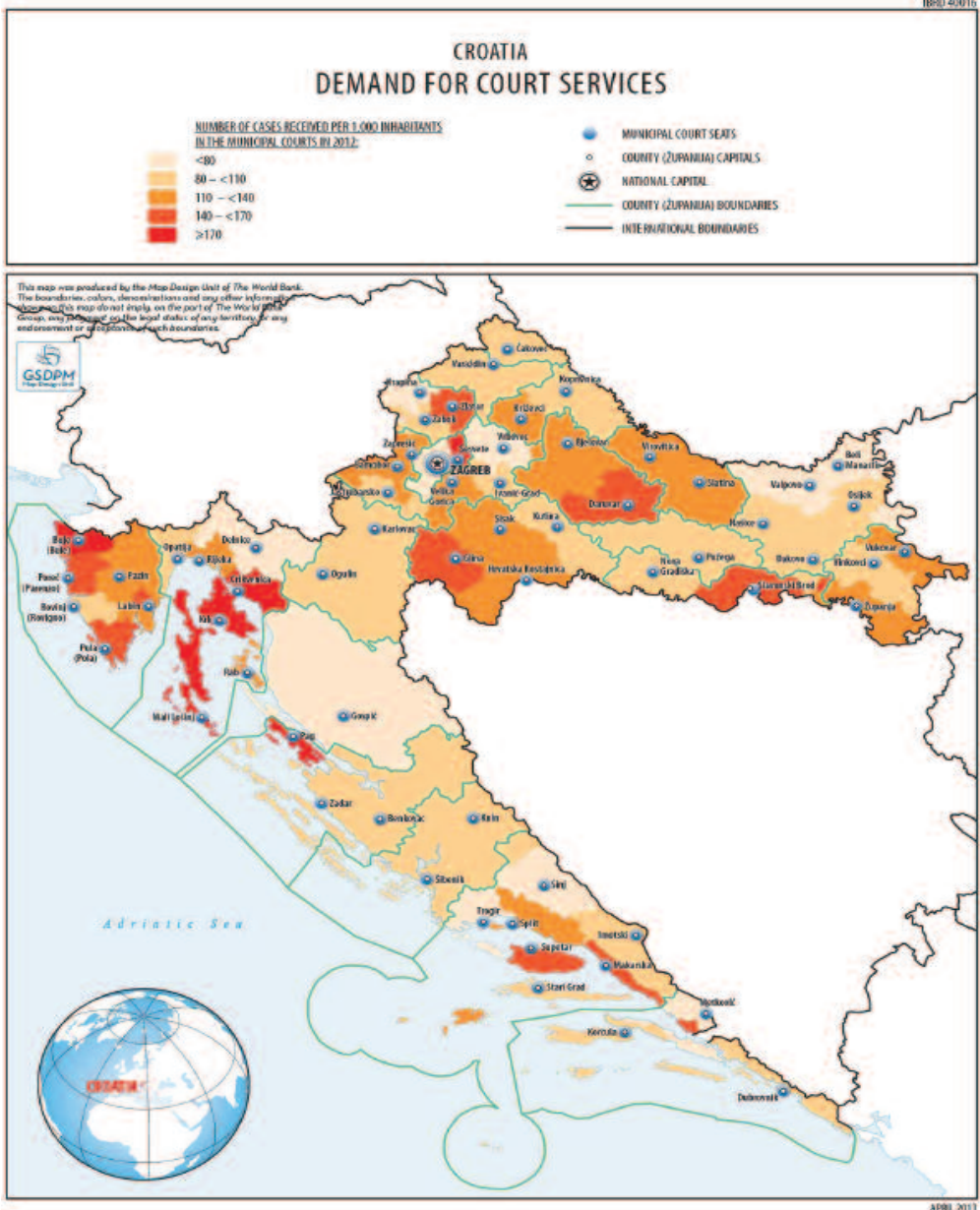
1.15 Focused attention on, and analysis of, supply and demand factors could positively impact sector performance. On the demand side, the sector case- and workload is comparatively heavy: incoming cases per 100,000 inhabitants are one of the highest in Europe and more than 2.5 times higher than the average incoming caseload for EU and EU-10 countries. Croatia had a total incoming caseload of 17,965 cases per 100,000 inhabitants in 2010 against the EU-10 average of 6,801 cases and the EU average of 6,532 cases. There is also insufficient information and analysis on the impact of court fee structure and levels on the 'demand side', i.e. on case filing volumes. And behind such figures, as pointed out by knowledgeable interlocutors, lie a whole series of questions including the definition of a 'case'.

1.16 MOJ plans for streamlining and reorganizing the judicial system are built around four pillars: (i) territorial reorganization (with territorial jurisdictions being remapped), (ii) structural reorganization (focusing on improving the efficiency of justice sector service delivery), (iii) harnessing the power of information technology (completing the process of introducing information technology applications and services in all judicial bodies) and (iv) reforming appeals proceedings (e.g. through electronic random allocation of cases in second-instance courts across Croatia). Thus, for example, under the first two pillars, the current network of 208 judicial bodies (including 67 municipal courts, 61 misdemeanor courts and 33 municipal state attorney offices) is planned to be reduced to 116 judicial bodies (including 24 municipal courts, 22 misdemeanor courts and 22 municipal state attorney offices). An overview of the planned reorganization of judicial bodies is at Annex 3. Chapters 2 and 3 examine different aspects of these reforms. The challenges and likely cost of completing the minimally required information technology applications is assessed in Chapter 2. The envisaged reforms to the appeals process are explained in Chapter 4.

1.17 'Hot-spot maps' can provide a visually striking juxtaposition of court locations against the demand for judicial services, and portray how demand varies significantly across municipal courts. As shown in the map below (Figure 1c) the number of incoming cases per 1,000 inhabitants varies significantly among municipal courts. The municipal courts with the highest demand (number of incoming cases per 1,000 inhabitants) are Sesvete, Buje, Crikvenica, Krk, Mali Losinj and Pag.

¹¹ Data are from the 2012 Report of the Council of Europe's Commission for the Promotion of Efficiency in Justice (hereafter referred to as CEPEJ).

Figure 1c. Croatia: Demand for Justice Services



Source: Based on information from MOJ and Supreme Court

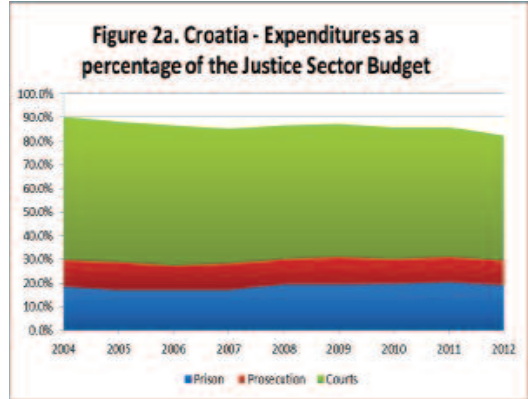
1.18 **Using information such as that depicted in ‘hot spot’ maps, the ongoing court consolidation process could throw up more questions for policy makers to consider** as they seek to preserve access while reducing costs and deploying resources more efficiently. For example, given Croatia’s ongoing fiscal constraints, could more aggressive consolidation reduce operational costs? Are there cost-effective options to provide access to justice for low-demand areas (e.g. through mobile courts) while freeing up human resources for high-demand areas?

1.19 Against the above backdrop, the next chapter reviews the evolution of, and trends in, Croatia’s justice expenditures.

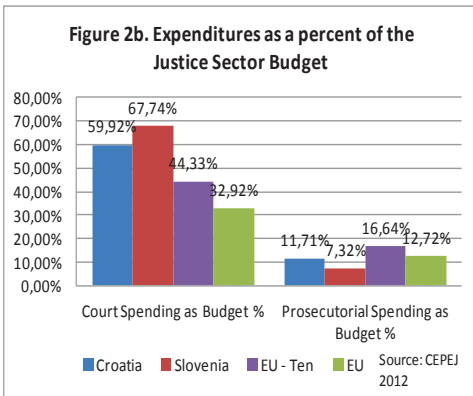
2. JUSTICE SECTOR EXPENDITURES: AN OVERVIEW

THE COMPARATIVE PICTURE

2.1 **Croatia's justice sector spending, as a percent of GDP, is comparable to EU and EU-10 averages.** Sector spending as percent of total government expenditures (at 1.88 percent) is lower than for the EU-10 (2.25 percent) and in line with the EU average (1.86 percent). However, court spending in Croatia is a higher portion of its total budget than the average for the EU. Croatia's courts form a dominant though declining share of sector spending (Figure 2a). In 2004, court spending was 60.3 percent of justice sector spending, declining to 55.8 percent in 2010 and 53 percent by end-2012. Prosecution and prisons' expenditures are relatively low and have held relatively constant between 2004 and 2010, and are projected to continue as such through 2013. Prosecution spending stayed at about 11 percent of justice sector spending over this period. Prison spending dipped slightly under 17 percent in 2006, but increased to 19.5 percent in 2008 and remained relatively constant.



2.2 **Court expenditures as part of the justice sector budget are nearly double the EU average (Figure 2b).** The obvious issues of differences in the definition of the justice sector notwithstanding, Croatia spends about 60 percent of sector resources on courts, compared to an average of 33 percent in the EU, and 44 percent in the EU-10 (Slovenia, an appropriate comparator, spent eight percentage points more of sector's resources on courts, at 68 percent). The percentage of Croatia's justice sector resources devoted to prosecutorial functions were on par with the EU (11.7 percent to 12.7 percent), less than the EU-10 average and above Slovenia.



TEMPORAL TRENDS

2.3 **In real terms, sector spending reached its peak in 2008 and has since declined to 2005-2006 levels largely as a result of the financial crisis.** The largest initial gains were seen in prison spending, which in 2012 remained 15 percent above 2004 levels. Real total court expenditures peaked in 2006 and by 2012 had declined to 95 percent of 2004

levels.¹² Spending for courts as a portion of GDP has declined since 2006, while it has remained relatively stable for the prosecution. GDP has yet to rebound to 2008 levels. For the sector as a whole, since 2004, real spending grew 18 percent through the end of 2008, declined and held relatively steady through 2011 and then declined significantly in 2012 to 109 percent of 2004 levels. Real prosecution spending grew consistently through 2009, increasing by 13.4 percent, before abruptly declining in 2010, rebounding in 2011 and then declining in 2012 to 97 percent of 2004 levels.

SPENDING STRUCTURE

2.4 Croatia’s court spending on wages and salaries remains high, with real salaries showing modest growth.

Salaries declined as a portion of total sector spending since 2004, from 77.5 percent to 71.7 percent in 2012. For 2008 and 2009, real personnel services were 10 percent above 2004 levels before receding to 3 percent above 2004 by 2012. Data for 2013 show further reductions to 6 percent less than 2004 spending due to continuing budgetary constraints. As Table 2.a depicts, Croatia

Comparator	Salary as percent of Budget	Salary Budget Allocation (EUR)	1st Instance Judges (EUR)	Prosecutors (EUR)
Austria	31.47	369,730,000	47,713	50,653
Croatia	41.17	145,186,639	30,396	30,396
Slovenia	47.97	126,167,405	28,968	34,858
EU-10 Average	27.7	185,837,188	22,027	19,580
EU Average	23.36	623,029,080	49,004	36,146

and Slovenia, which share a relatively common justice sector history and structure, have significantly higher budget allocations for court and prosecution wages and salaries than Austria, the EU-10 average or the EU average.

2.5 Croatia’s court and prosecution wage bill forms a substantially higher component of total justice sector spending compared to the EU, EU-10, and Austria, but less than for Slovenia. Court and prosecutor personnel services costs are 41.17 percent of the total budget in Croatia, while they are 23.36 percent of the total in the EU, 27.7 percent of the total in the EU-10 and 31.47 percent in Austria. However, salaries for both judges and prosecutors are significantly below Austria and the EU, approximately on par with Slovenia and somewhat higher than the EU-10. Croatian judge salaries are 36 percent lower than in Austria and 38 percent below the EU, but they are 38 percent above the EU-10. Prosecutor salaries are 40 percent below Austria and 16 percent below the EU average, but 55 percent above the EU-10 average: Croatia’s courts and prosecution are relatively over-staffed with more, and lower-paid, officials than the EU and Austria.

2.6 The greatest real spending gains have occurred in general, non-personal services, operating categories (materials, services and utilities). Compared to 2004, spending was about 60 percent higher in 2008 through 2011 and 37 percent greater in 2012. Within this category and during 2004-2011, intellectual and personal services saw dramatic and consistent increases, as personnel on contracts were used to augment permanent staff. Capital spending accelerated significantly through 2007, but substantially retreated to less than half of 2004 real spending in the wake of the financial crisis.

¹² If the Administrative Courts are included in the 2012 court total, the decline is to 96 percent of 2004 spending.

DEMAND FOR AND ACCESS TO COURT SERVICES

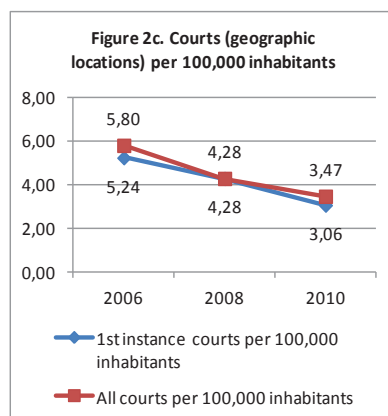
2.7 **Incoming civil cases per unit of population are high in Croatia** compared to the EU and EU-10. Croatia has traditionally had high numbers of incoming civil cases in its courts: according to the 2012 CEPEJ Report, the incoming civil case load in Croatia (at 9,272 cases per 100,000 inhabitants) was 152 percent of the EU-10 average, and 165 percent of the EU average.

2.8 **For criminal proceedings, Croatia varies significantly from its comparators.** Incoming criminal cases tend to be multiple times greater (per unit of population) than for Austria, the EU average or for the EU-10. In Croatia, 12 times the number of cases were filed than in Austria (3.7 times the EU average, 5.4 times the EU-10 average and nearly twice that for Slovenia). Criminal cases resolved show a similarly high relative output. Croatia resolved more criminal cases than it took in.

2.9 **With relative caseloads so high, questions arise about Croatia's criteria for admitting cases.** Given that Croatian courts assume much of the responsibility of investigation that is elsewhere the role of prosecutors, much of the corresponding caseload in these other countries are disposed of before reaching court action. Croatia's courts may be disproportionately weighted down by summary actions or procedures that would not rise to the level of the court docket in EU or other countries. This suggests a possible need for further review of the roles of courts and prosecutions, and also makes international comparisons of courts' criminal workload more difficult.

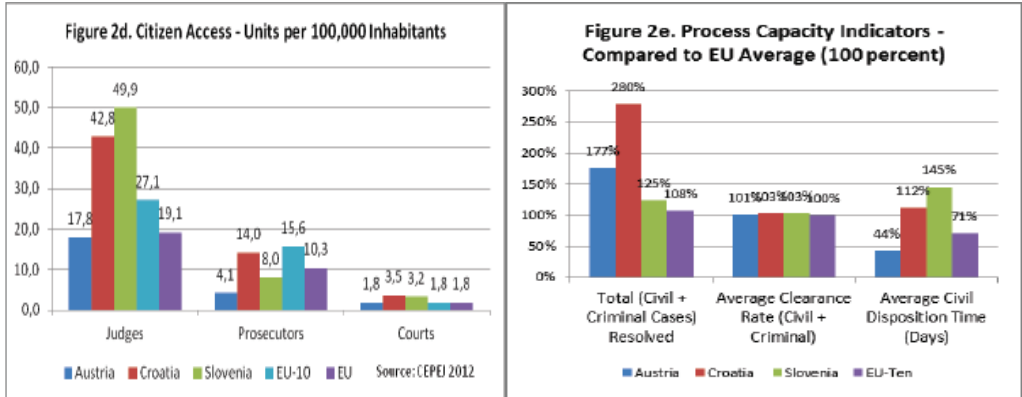
2.10 **The number of geographic locations of courts has decreased significantly since 2006.**

Croatia used to have one of the largest court networks in Europe but the number of geographic location of courts per 100,000 inhabitants decreased significantly from 5.8 courts per 100,000 inhabitants in 2006 to 3.5 courts per 100,000 inhabitants in 2012 (Figure 2c).



ISSUES OF SCALE

2.11 **Economies of scale affect case disposals.** As with case volumes, access appears high; Croatia has more than twice as many judges per 100,000 inhabitants than does the EU (42.8 compared to 19.1) and about 1.5 times more than the EU-10 (27) and 1.5 times as many first-instance court locations as the EU and EU-10 (Figure 2d). Only in the number of prosecutors per 100,000 inhabitants, is Croatia marginally lower than the EU-10 average (14.0 vs. 15.6); but, even here, it exceeds the EU average of 10.3 prosecutors per 100,000 inhabitants by 40 percent. This suggests the possibility of scale diseconomies associated with smaller court locations and likely more variance in cases loads between courts.



2.12 Scale issues are also apparent when comparing overall process and capacity.

For total combined civil and criminal case volume, Croatia exceeds its comparators (Figure 2e). It exceeds the EU average by 180 percent, is 103 percentage points above Austria, more than 150 points above Slovenia and exceeds the EU-10 by 172 percentage points. Even with such relatively higher caseloads, Croatia’s clearance rate is slightly higher than that of Austria, the EU-10 average and the EU average. Experts point out that such data throw light on the significant challenge that confronts Croatia’s judges: they appear to be resolving more cases than, for example, their Austrian peers, but they seem to be working at a slower pace because of, among other things, more cumbersome business processes.

Recommendation: Accelerated consolidation of the court network could significantly improve efficiency and performance. Significant economies of scale are possible in court operations, implying that smaller courts tend to be less efficient and thus incur higher per-case cost. Aggressive consolidation of small courts could therefore improve the efficiency of resource use in the judiciary. Specifically, it appears that courts with caseloads below 17,000 cases (with an average case distribution) incur significantly higher per-case operating expenses and that consolidating these courts would provide more value for money. Consolidation based on cost factors must, however, be informed by possible implications for other judicial goals.

2.13 However, high case clearance rates come only after delay. The number of days required, on average, to dispose of contested (i.e. ‘litigious’) civil cases in Croatia (at 462 days, per CEPEJ 2012) is 63 percent higher than for the EU (at 284) and nearly three times as long as the next high-volume comparator (Austria). The implication is that either this massive case volume is composed of cases that require little investment of court and prosecution resources, or the resource requirement of Croatia’s courts is relatively excessive. Either finding suggests the need to reconsider the scale and drivers of these caseloads.

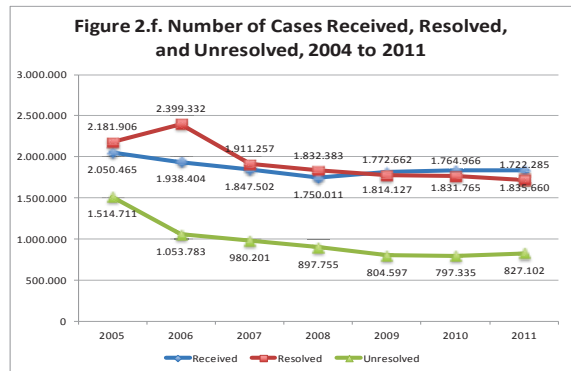
Recommendation: In order to address the problem of high case inflows, it would be desirable for the MOJ, in coordination with key stakeholders such as the SJC, the SPC and the MOF, to commission a demand management analysis to (a) identify the

drivers behind the high volume of case filings, (b) review analogous situations in relevant EU member states¹³ and how they were addressed. The findings will enable adjustment of policies and procedures to control case inflows without, however, impeding access to justice. In some cases, the solution could be to eliminate the need for filing particular categories of cases by providing requisite administrative remedies instead. In other situations, consolidating cases through joinder of cases or class-action suits, or adjusting the level and structure of filing fees, could reduce the burden on an overloaded system.

SUPPLY AND DEMAND DETERMINANTS OF JUSTICE SERVICES SPENDING

Key Case Load Patterns

2.14 Effective sector expenditure management requires a complex alignment among various systems, from financial management to human resources management to information technologies to case management and geographic placement. As the data for 2004-2011 indicate, even in the face of high volume, caseloads and backlogs declined in Croatia (Figure 2f), while real sector expenditures rose. Under different circumstances, it



could be suggested that the increasing expenditures were a reason for the backlog decline. However, the relatively high starting levels suggest that resource shortages were not the major efficiency-constraining factor. Inflexibility in resource allocation and use is perhaps a more likely explanation.

2.15 **Data on Croatia’s case patterns suggest that the primary factor in Croatia’s case disposal progress has been a reduction in case intake rather than greater efficiency in case resolution.** The number of cases resolved – at least for Municipal Courts - has been declining. They track quite closely the case intake volume for the past few years, limiting the degree to which continuing progress is being made to reduce backlogs.¹⁴ There are several possible explanations for this, with the most likely revolving around case composition.

2.16 **Potential differences in the difficulty of case resolution may explain the continuing backlog** - to the extent that the reduction in intake is in the ranks of ‘easier to resolve’ cases and the backlog is increasingly composed of more time-intensive and legally difficult cases to process.

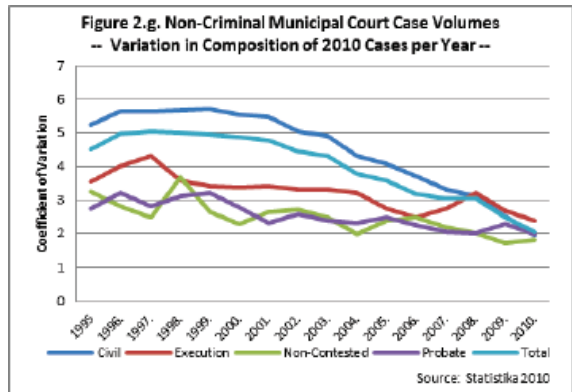
¹³ For example, Bulgaria’s courts used to be clogged with low-value high-volume cases because, among other things, legislation required utilities and telephone companies to file cases for each overdue payment from their customers, however small the amount. Once the issue was identified, policies were changed to institute administrative procedures so that companies were no longer required to file cases in courts. In Croatia’s case, this would likely mean that certain public administration reforms would be needed as part of the solution.

¹⁴ Annual unresolved case levels have been holding rather steady in municipal courts between 2008 and 2012 and appear to have somewhat increased in county courts.

2.17 For backlogs, the largest declines in municipal courts occurred in foreclosures, a 400,000 case backlog decline between 2004 and 2011 (Table 2b). Backlog reductions for criminal and civil cases have been smaller in magnitude and as a portion of their total but are still substantial (at 14,392 and 60,101). If we consider case volume in the context of case duration, there are considerable differences across courts in the age of cases on their dockets. This implies that different courts have significantly differing capacities to deal with case volumes and expeditiously clear cases.

Type of case	2004	2005	2006	2007	2008	2009	2010	2011
	Number of Unresolved Cases							
Criminal	40,312	39,605	38,218	36,153	33,792	32,550	29,324	25,920
Civil	237,749	214,749	200,617	187,429	183,875	175,906	166,699	177,648
Probate/Inheritance	33,091	14,657	10,648	9,470	8,685	7,623	9,203	7,797
Enforcement/Foreclosure	523,882	490,310	138,398	107,765	97,939	106,896	117,182	117,414
Non-Contentious/Alternative Dispute	11,180	11,377	12,899	13,113	13,807	15,955	16,659	17,903
Sub-Total	846,214	770,698	400,780	353,930	338,098	338,930	339,067	346,682
Other/Land	321,565	216,003	151,973	124,520	106,688	82,552	69,131	57,484
TOTAL	1,167,779	986,701	552,753	478,450	444,786	421,482	408,198	404,166

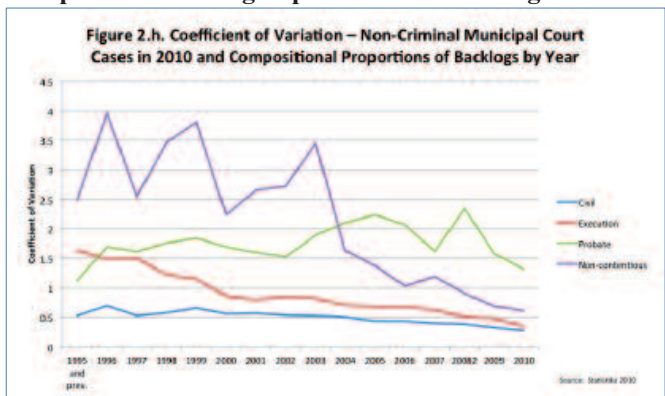
2.18 Case data across courts show high variation over time and significant differences in case clearance rates, implying considerable differences for court efficiency and for scale economies. Figure 2g shows the variation in municipal court volume for non-criminal cases for 2010 by the year in which they were initiated.



The variation in the volume of cases initiated in 2010 is greatest for execution cases and least for non-contested cases, but it is a relatively tight range of variation (between 1.8 and 2.4 across courts). Nevertheless, volume differences for total non-criminal cases across courts average 200 percent. This is a significant variation in case volume. There is even more significant variation in case loads for older cases.

2.19 Different courts appear to possess differing capabilities for clearing different types of cases, making court level analyses essential for maximizing efficiency gains.

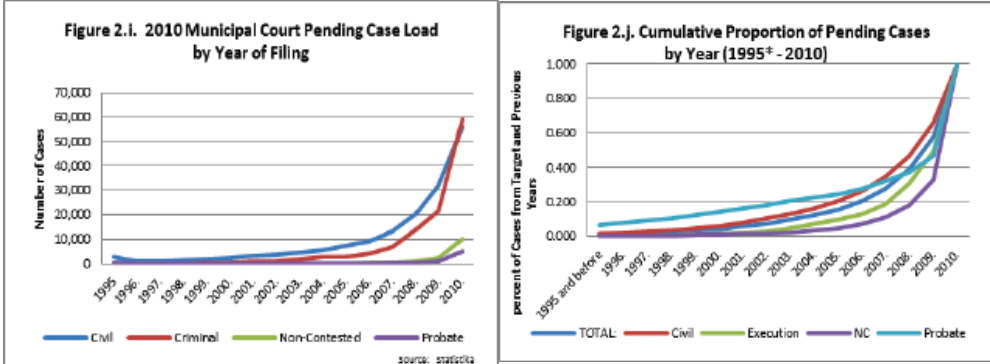
Thus, cost structures and per-case resource requirements differ across courts, and case mix likely substantially impacts budgetary and staffing requirements. Court-level analyses are hence essential to maximize efficiency gains. Reviewing the proportion that each case type comprises of the total 2010 case load within municipal courts, (with the exception of probate cases) variation across courts declines the more recently the case was filed (Figure 2h).



As time elapses, the variation in duration for all non-criminal case types (except

probate) increases between courts. The 2010 total case composition varies substantially, ranging from below 50 percent for civil and execution cases, to 130 percent for probate.

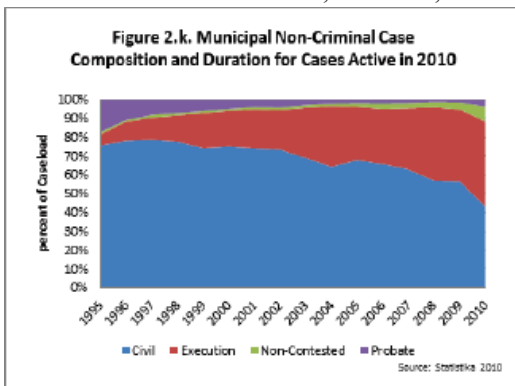
2.20 In absolute terms, civil and execution cases comprise the bulk of the annual non-criminal case load; they also comprise the greatest absolute number of cases in



being greater than execution cases (Figure 2i). Relative duration (cumulative pending cases each year as a percent of total pending cases for 2010) is higher (i.e. the three-year clearance rate is lower) for civil cases (with 53 percent of cases cleared within the first 3 years). As may be expected, duration is lowest for non-contested cases, with 82 percent of such cases cleared within 3 years. Probate cases experienced an initially high clearance rate, with 68 percent of cases cleared within 3 years.

2.21 However, cases not cleared within the above time frame have tended to linger in the system, and fourteen percent of probate cases remain pending after a ten-year period. This is higher than for any other case type; more than double that of other case types (Figure 2.j).

2.22 Municipal court backlogs appear to be increasingly composed of probate and civil proceedings. Municipal court non-criminal case mix is composed of mostly civil and execution actions. Over time, however, execution cases have been cleared more rapidly



than civil and probate cases, and older cases are predominantly civil and probate. By year of initial filing, the total municipal non-criminal case load for 2010 was composed increasingly of civil and probate cases – which remains the pattern through 2012. Execution and uncontested cases were resolved relatively quickly and had a shorter duration. As a result, backlogs increasingly comprise probate and civil proceedings (Figure 2.k).

2.23 **Caseload composition varies considerably across courts.** While average non-criminal case loads across municipal courts show that civil cases form half of the docket and execution cases account for nearly forty of the remaining fifty percent, for some courts, the vast majority are civil cases, while for others they are execution actions. On average, for 2012, 51 percent of court caseloads were civil, 38 percent execution, 3.5 percent probate and 4.3 percent uncontested (Table 2.c). However, between municipal courts, the variation

Table 2c. Municipal Court, Non-Criminal Caseload Composition: Variation Across Courts					
Type	Min	Max	Avg.	St. Dev.	CoV
Civil	0.256	0.905	0.506	0.135	26.8
Execution	0.047	0.712	0.384	0.150	39.0
Probate	0.004	0.231	0.035	0.036	104.4
Non-Contentious	0.009	0.115	0.043	0.024	55.3
Other	0.003	0.222	0.032	0.037	114.3

in the portion that civil and execution cases comprise of the total case load is on average 27 and 39 percent. This means that any individual court is likely to have a civil case

load of approximately 14 percent above or below average (64 percent of total or 37 percent of the total). For execution cases the expected deviation of the average court from the total is 15 percentage points (53 percent to 23 percent).¹⁵

2.24 **The differential case composition between courts (and likely variation across years) will affect system capacity and produce difficulties in allocating and managing resources across courts.** Variations in workload such as those disclosed by the data above will likely create resource scarcity in some locations and times, and resource excess in others. This will continue to impede efficient resource deployment and the efficiency of court operations. Such fluctuations are usually magnified in systems with multiple low-volume service delivery points (i.e. courts with low caseloads). One method of alleviating this challenge is to pool delivery points (i.e. consolidate courts) and take advantage of economies of scale as well as consistency of case volume and composition.

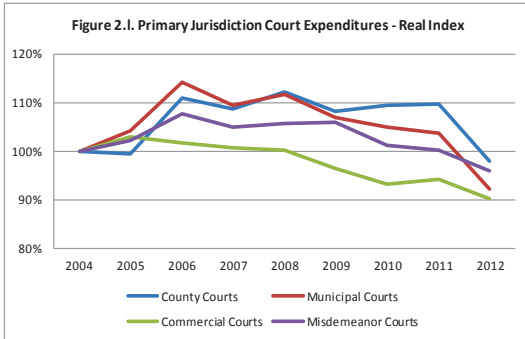
2.25 **Effective resolution also requires resource complements consistent with case requirements.** This includes staffing and supporting operating allocations. Within the existing budget envelope, it is highly likely that reallocations of resource are possible that could substantially improve the operating capacity of the court system. The identification of needed reallocations is a critical factor in this process and requires flexibility in deployment of staffing in a manner consistent with evolving case load needs.

Recommendation: It would be desirable for the MOJ and the SJC to identify and implement administrative measures to (a) reallocate operating resources (personnel, budget) across courts consistent with caseloads and within existing budget envelopes and (b) improve flexibility in the deployment of judges and judicial staff.

¹⁵ The coefficients of variation for probate and uncontested cases are substantially higher. However, because they each are less than 5 percent of the average caseload, the implications of this variation are less important. The 27 percent average variation in civil and 39 percent average variation in execution are more important to resource requirements.

Resource Deployments Within and Across Courts

2.26 **On a unit basis, court resource deployments show a shift in real terms, compared to 2004 spending levels.** Courts of primary jurisdiction (misdemeanor courts, municipal courts, county courts and commercial courts), with the exception of commercial courts, see slight increases in real spending through 2010-11 (Figure 21). Most of this increase occurred by 2008, with declines beginning in 2009. The greatest real increases were for municipal and county courts, the largest court units (with increases of 12 percent) through 2008.



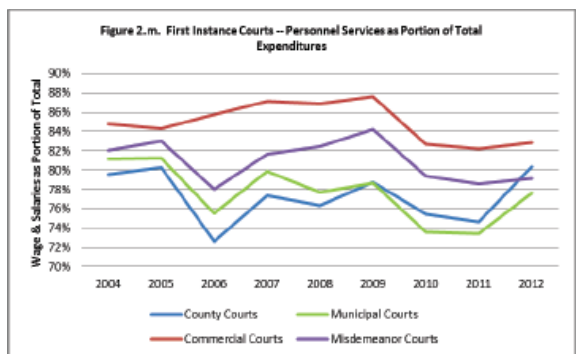
By 2010, real spending in commercial courts was 7 percent below 2004 levels, with misdemeanor spending just at 2004 levels, and municipal courts and county courts 5 percent higher and 9 percent higher. By 2012, real spending for all primary jurisdiction courts was below

2004 levels: minus 2 percent for county courts; minus 7 percent for municipal courts; minus 10 percent for commercial courts and minus 4 percent for misdemeanor courts. Spending projections for 2013 continue a downward trend in real spending, with commercial courts at minus 13 percent, county courts at minus 7 percent, misdemeanor courts at minus 5 percent and municipal courts at minus 3 percent.

2.27 **Across courts, personal services dominate spending.** As such, first instance courts spending is also concentrated in this category (though less so than for higher courts), and municipal and county courts are slightly less dependent on labor inputs. Courts' spending is composed almost entirely of (a) wages and salaries and (b) materials, services and utilities. These two spending categories have comprised nearly 100 percent of the spending of individual court types over the years.

2.28 **Capital outlays, controlled by the MOJ, are not allocated to courts.**

Within first instance courts, commercial court spending is most dominated by personal services. It accounted for 85 percent of court spending in 2004, increasing to 88 percent in 2009 and leveling off to 82 percent for 2010 through 2012. Misdemeanor court personal service spending is also over 80 percent, reaching 84 percent for 2009 and then declining to 79 percent for 2010-2012. Personal service spending is also a high proportion of county and municipal court spending; however it underwent a sharp drop in 2006, but mostly rebounded to previous levels by 2012.



2.29 **The spending pattern over time (2004-2012) for first instance courts has seen limited fluctuations associated with non-personal services operating categories.** With real declines in spending projected for courts in the outer years, savings are expected from

continuing judicial reorganization. However, these savings will have to come significantly from personal services expenditures (which are high overall, but lower on a per-employee basis) through staffing reductions. With persistent backlogs, these levels of reductions may be inconsistent with improved judicial efficiency, and efficiency gains will need to be wrung out through more aggressive court consolidation.

2.30 Courts of higher jurisdiction¹⁶ have seen more significant spending increases since 2004. Administrative Courts saw the largest increase, with 2009 real spending 25 percent greater than 2004. While this 2009 high was followed by gradual decline, court reorganization to establish additional administrative courts in 2011 resulted in a continuing combined increase in planned spending. Real spending peaked for the Supreme Court in 2007 at 11 percent and for the High Misdemeanor Court in 2008 at 15 percent above 2004 levels. Spending for both has declined since, to real levels slightly under 2004 spending.

JUSTICE INFORMATION SYSTEMS

2.31 The majority of information systems expenditures is managed by the MOJ's IT Directorate. Some spending units¹⁷ have their own (modest) resources to cover some operational expenses and local IT expertise. Following the Budget Law and public sector accounting norms, IS expenditures are organized into capital programs (five of which are under the IT Directorate). Each program includes capital investment and recurrent expenditures. For 2004-2010, recurrent expenditures represented 87 percent of the spending under the IT Directorate's control (and a greater share of the total, given the O&M dominated decentralized expenditures). The balance is capital investment.

2.32 Recurrent expenditures of about 90 percent of total information systems expenditures appear to be a high share – especially given the ongoing need to fill substantial gaps in the coverage of the information and communications technology (ICT) platform that underpins the business information systems in the justice sector. Presently, the MOJ has about seven thousand workstations (or “seats” on the system), whereas its employment roll is about thirteen thousand. The justice sector is highly information-intensive. In line with good practice, it would be desirable for the ratio of workstations to staff to be closer to one-to-one (of the needed staff level). In addition to the limited ICT coverage (particularly in the prison system), the inventory of workstations contains a significant percentage of obsolete equipment. These create significant performance and reliability problems. Furthermore, the rise in the required functionalities of the major business information systems within the justice sector (and the interconnectivity among them) amplifies the information systems investment requirements (e.g. application development, servers, network equipment, etc.). This rise is only partially offset by the secular decline in real costs of ICT equipment.

¹⁶ These comprise the High Misdemeanor Court, the High Commercial Court, the High Administrative Court and the Supreme Court.

¹⁷ Prisons, land registration, courts, state attorneys and the Judicial Academy.

Box 2.1. Croatia - Justice Information Systems

Information systems supporting the **adjudication function** include the ICMS or “eSpis”, information kiosks, court proceedings recording systems, legal information systems, case law systems, document management systems, case publication system (Sudska Praksa), court websites and notaries’ systems. Systems supporting the **legal registration function** comprise the Company Register, Bankruptcy Register, Lien Register, Land Register, Criminal and Misdemeanor Register, Personal Register, and the Civil Status Register. The **investigation function** is supported by the CTS, the USKOK information system and the USKOK Intelligence System. **Legal representation, public safety and regulatory functions** are also supported by information systems. The legal profession, the police and security services, as well as regulatory bodies all utilize modern information systems to perform their functions. Many of these interoperate with systems that support adjudication, registration, investigation and other sector functions. **Enforcement functions** are supported by the bailiff system, the prison information system, the probation information system and the juvenile justice information system. Support functions include the legal aid system, forensic and expert witness information systems and training information systems. Resource management functions cover financial management, human resources, physical facilities, document and information management and archives. Finally, governance and oversight functions include court statistics and data warehouse systems.

2.33 Of the recurrent costs managed by the MOJ IT Directorate, HRK 15 million covers the cost of maintenance and support of the ICT infrastructure for the judicial bodies (the courts and SAOs) and HRK 10 million covers network usage. Maintenance and support of the court’s ICMS absorbs HRK 13 million. The SAO CTS is in its early stages and does not yet induce significant recurrent costs, but it will. O&M for the central registries and the MOJ’s internal information systems represent another HRK 12 million. The prison system’s IS related recurrent expenditures are low – reflecting its very low ICT base.

2.34 **Because of its limited in-house IS capacity, MOJ IS expenditures are dominated by contracted services** (e.g., maintenance and support, telecommunications, and system development). In keeping with the Government’s e-Croatia Strategy, a large share of these contracted services is provided by quasi-monopolies, such as the state-owned ICT service agencies and the privatized telecommunications provider (T-HT). The MOJ also faces quasi-monopolies in the incumbent developers of its business application software (various private firms). It is difficult to definitively establish whether the MOJ’s recurrent expenditures for these services are efficient – short of actually putting them to the market test. In any case, the MOJ’s own market power in these transactions is weak, in part as a result of the Government’s mandate to use the state ICT service providers, and in part by the MOJ’s relatively weak internal IS capacity. The latter weakness limits the MOJ’s ability to specify, unbundle, shop and closely supervise the services needed.

2.35 **The MOJ’s insufficient internal IS management capacity is reflected in the gaps between its budget request and allocation.** The gap between IS budget requested and IS budget received has been consistently large. Between 2008 and 2012, the MOJ IT Directorate received between 30 percent and 65 percent of its budget request. In addition to the large gap, the received amount varied substantially from year to year (between HRK 44 and 79 million in nominal terms). In substantial measure, this reflects the difficult fiscal situation of the government. Alternatively, the large gap between request and allocation may reflect equilibrium in the “budgeting game” between the spending unit and the budget office (with the actual allocation being the “right” number). This is hard to prove or disprove definitively. However, preliminary calculations suggest that the initial requests appear to be reasonable. In particular, HRK 100 million roughly translates into EUR 21 million. Apportioned across seven thousand “seats” on the system, this implies EUR 300

per seat per year. Since this amount covers communications, licenses, hardware and software maintenance, support and upgrade, as well as server and network operations, at EUR 300 per seat per year, the costs appear low. Moreover, the actual budget allocation translates to less than EUR 200 per seat per year, or only EUR 100 per employee per year. These are very limited sums to sustain current business information systems (notably licenses, maintenance and upgrade), let alone meet the demand for IS support for business operations, management information and decision-support.

2.36 Looking ahead, a conservative 3-year estimate of incremental IS investment costs comes to about EUR 21 million. A preliminary (yet conservative) forecast of the additional IS spending needs for three years comes to EUR 20.5 million (Table 2.d), based on six MOJ information systems initiatives. According to the MOJ’s schedule, by the end of 2014 all municipal courts should be using the ICMS, and municipal SAO offices should be using the Case Tracking System. The MOJ plans to install new JCMS applications in all misdemeanor courts by the first quarter of 2015.¹⁸

Table 2.d Croatia – Justice Sector Information Systems Spending Needs

Initiative	Cost Basis	Investment Cost (EUR)
<i>ICT Platform Extension</i>	3,500 obsolete “seats” replaced plus 2,000 new seats added per year (at EUR 1,500 per seat all inclusive)	5 million (Y1), + 3 million (Y2), + 2 million (Y3)
<i>ICMS and CTS Functional Extensions</i>	(e-filing, centralized printing, etc.).	1 million ¹⁹
<i>MOJ Document Management</i>	(integrated document management, work-flow, archives and records management)	0.5 million
<i>Inter-agency Connectivity</i>	(among justice sector entities, and to other state and private bodies)	1 million
<i>Prison Information Systems</i>	30 facilities at EUR 250,000 per facility (e.g., comparable to a basic hospital information system)	7.5 million
<i>Back-up / Disaster-Recovery Facility</i>	EUR 1 million in technologies, EUR 0.5 million in premises and premises-related technologies	1.5 million ²⁰
Total Investment Cost		20.5 million over 3 years (or 7 million per year)
<i>Induced Incremental Recurrent Costs</i>	10 percent of hardware investment cost (EUR 11.5 million) per year + 25 percent of business application investment cost (EUR 9 million) per year	3.4 million per year (in Y4, ramping up in Y1-3)

Recommendation: Control of information systems and related resources needs to be held by the senior-most line-of-business manager with clear and accountable responsibility for the operational service delivery or management function. This implies that the MOJ will need to re-examine its information systems management responsibilities, structure and processes. It would be desirable for the MOJ to (i) explicitly designate a business owner and a separate technical project manager for each information systems project; (ii) explicitly assign project roles (e.g. project management, quality assurance, configuration management, monitoring, etc.); (iii) ensure disciplined documentation to assure quality during the “construction” period of an information system

¹⁸ Source: MOJ presentation to the World Bank, January 2014.

¹⁹ Included in the IPA 2012 program.

²⁰ The IPA 2012 program – under implementation - includes some of these elements.

and ensure managing the changes to which all major information systems are subject; (iv) undertake certification and maturity assessments to assure service standards and quality.

PREMISES AND FACILITIES

2.37 Croatia faces significant challenges in providing appropriate physical facilities to its justice system: the facility network is over-extended, with courts and SAOs located in more than 250 sites. These sites comprise approximately 220,000 square meters and house about 1,900 judges, 600 State Attorneys and more than 10,000 staff.

2.38 The general condition of court facilities inhibits court operations and negatively impacts court efficiency: less than 20 percent of existing locations meet the requirements generated by the MOJ-initiated reforms. 60 percent of facilities need major renovations or reconstruction; and the remaining 20 percent cannot economically be made to meet requirements. The most common problem is lack of space for court operations, resulting in overcrowded, inefficient and, in some instances, unsafe working conditions for staff and the public. Some courts and SAOs are unable to hire additional staff because there is no place to house them. Almost no facilities permit the separation of defendants in custody from the general public and court/SAO staff. Many buildings do not meet current fire safety, electrical, plumbing and seismic building codes or for accessibility for disabled and infirm citizens.

2.39 Croatia's expenditures for physical facilities during 2010-2012 have been about half the average of European countries and well below the median expenditures. The 2012 CEPEJ report provides a snapshot of expenditure levels in European countries. In 2010, Croatia reported spending approximately EUR5.83 million on operation and maintenance of court buildings and EUR13.82 million on new investment²¹. This EUR19.65 million represented about 7 percent of the total reported 2008 budget for all courts and prosecutors of EUR266.76 million.²² Croatia's current level of investment in justice facilities as a percent of total budget remains at about 7 percent.

2.40 Croatia could need to spend EUR3.5-4.4 million per year to maintain sector infrastructure. A rule of thumb suggests that the manager of a portfolio of real property would expect to annually budget 2 percent of the total replacement cost of the inventory for modernization and major systems replacement (roofs, heating systems, etc.). Under this assumption, Croatia could expect to spend EUR3.5million to EUR4.4 million per year (at an estimated construction replacement cost of EUR800-1000 per m² in current year costs) to keep its facilities inventory in good repair.

2.41 Croatia's sector capital outlay needs are estimated at between EUR70 million and EUR200 million, depending on the underlying assumptions. A study commissioned by the MOJ developed an estimate of the level of investment under two scenarios. The first scenario assumed that there would essentially be no changes in case load or productivity by judges or staff members. Using the ratios of usable/non-usable buildings from the survey mentioned above, the team estimated the need to build 50,000 to 75,000 m² and to renovate approximately 100,000 m² of existing space at a total estimated cost of EUR150 million to

²¹ CEPEJ 2012

²² CEPEJ, p. 16

EUR200 million. The second scenario projects the required capital investment needed if the Croatian justice system achieves at least 50 percent EU efficiency – on this assumption, the total estimated cost could amount to about EUR70 million as the required space falls to 100,000 m² and 150 locations.²³

2.42 **Annual operating costs could range from EUR0.9 million to EUR1.2 million, using the current inventory of 220,000 m².** An analysis of the Croatian design and construction industry²⁴ estimates that the average construction price of office buildings, (which depends on the complexity, number of underground levels and floors, type of façade, quality of the building systems, and so on) is EUR800-1000/ m². The cost of renovations could range from EUR400-700/m², depending on the complexity and extent of the renovation, while a complex renovation, which might include restoration work on an historic structure, for example, could cost EUR1200/m². The costs of operating and maintaining buildings in Croatia ranges from EUR3.5-4/m² for common areas in the building, and an average of EUR0.5-1.5/m² for costs associated with the tenant spaces, for a total of EUR4-5.5/m².

Recommendation: It would be desirable for the MOJ to publish its calculations of the number of judges, prosecutors and staff that will be at each location after full implementation of the court consolidation process. Without this information it is not possible to assess accurately which locations will continue to be used after consolidation and which cannot, or to calculate accurately how large the new and remaining facilities should be. It would be desirable to accord high priority to calculating and subsequently using the post-rationalization implementation staffing levels at each location and projected changes over a 10-year period to make capital investment decisions.

Recommendation: It would be desirable for the MOJ to adopt performance measures at the courthouse and program levels to monitor the health of the capital program and its contribution to justice sector operations and efficiency. An important element of performance measurement is being able to track costs of operations, maintenance and repairs for each building, something that is not currently being done, although the accounting system used by the MOJ could be used to provide such information. This “building centric” accounting—rather than court-centric—can also assist in budgeting and defending an appropriate level of operating and maintenance funding.

Recommendation: It would be desirable for the MOJ to standardize furniture, building systems and equipment and such building features as windows, for significant economies in procurement and maintenance. The design process on any major project can be the opportunity to examine various alternatives and select some standardized equipment and systems that can be applied in all projects. Each design contract could specify, for example, the performance required of building systems, for example, water usage for toilets; fuel usage for heating and air conditioning systems; thermal insulation required in exterior walls, and so on. In addition, the design contract could require estimating energy and utility consumption, and overall building maintenance costs.

Recommendation: Implementing recommendations available with the MOJ since 2011 on facility management staffing and training could save the Ministry at least 18

²³ JUSAP, p. 6

²⁴ Developed by Croatian architect Danijel Marasovic.

percent on its current annual operations and maintenance (O&M) costs. The MOJ currently spends about 128 staff years on all aspects of the justice facilities program, including full-time MOJ professional staff who have primary responsibilities. It is estimated that the annual total staff costs are HRK11.58 million, and an HRK5 million annually for emergency repairs where systems have broken down. It is estimated that if the organizational and educational changes already suggested to the MOJ are implemented, there could be a saving of about 23 staff-years.

2.43 With the preceding paragraphs having reviewed the evolution of and trends in sector spending, the next chapter reviews sector budget management policies and processes.

3. EXPENDITURE MANAGEMENT

OVERVIEW OF CONTEXT, VOLUME AND RESOURCE VARIATIONS

3.1 **Several supply and demand factors contribute to the cost of Croatia’s justice sector.** On the demand side, the court system has to deal with higher per capita levels of case inflows. On the supply side, the factors include higher court density, a larger number of judges per inhabitant and higher wages - indicators of possible inefficiencies. These supply factors, when combined with expenditure management and financial management practices, impair the ability to move resources to their most efficient use. This chapter focuses on the supply side.

3.2 **Croatia’s justice expenditure structure appears to have been moving towards an increasingly reasonable balance between expenditure items.** However, as might be expected in the face of the financial crisis, capital spending decreased from 6 percent of sector spending to less than 2 percent in 2012. However, non-personal operating spending for materials, services and utilities, an essential complement to the efficient deployment of personal services, saw a 27 percent increase between 2004 and 2006. Since then, spending in this area has averaged approximately 22 percent of the budget till 2012. The reduction in capital spending is potentially problematic, as investments in facilities and maintenance may be neglected. Maintaining and augmenting spending for materials and services will support efficient service provision. A reasonable balance in spending is required. It is presently unclear to what extent such a balance exists in aggregate across the system. Discussions with municipal court officials suggest that at the individual court operating level this balance is probably not being achieved.

3.3 **In an aggregate sense, sufficient resources appear to be available; however, their deployment is producing less than expected levels of efficiency and services to end-users.** For individual categories of courts the high proportion of personal services spending leaves little for support activities.

3.4 **Looking at municipal courts (where the bulk of Croatia’s caseload resides) it seems that consistent with variations in case volumes, expenditures vary widely across such courts.** The highest-spending court incurs 49 times the expenditure of the lowest spending court on personal services (table 3.a). This extreme variation in scale likely means extreme differences in cost structures and court productivity. These variations occur across all spending categories, but are greatest for personal services and building related utilities, repairs and maintenance. The coefficient

Table 3.a. Expenditure Dynamics by Function

Expenditure Category	Max	Min	Ave.	Standard Dev.	CoV
Personal Services	91,049,895	1,854,100	8,112,458	11910079.5	1.47
Services and Travel	11,059,607	131,962	1,396,032	1641631.951	1.18
Mail and Phone	7,467,800	255,000	863,718	1006328.619	1.17
Permanent Repairs and Maintenance	4,676,000	51,700	338,068	597566.2569	1.77
Supplies	1,831,858	72,080	262,530	272536.0676	1.04
Miscellaneous	153,208	850	24,977	32753.7183	1.31

of variation for permanent repairs and maintenance is 1.77 and that for personal services is 1.47, implying that on average permanent repairs and maintenance expenditure vary from one municipal court to another by 177 percent and by 147 percent for personal services.

3.5 **Differing coefficients of variation across expenditure categories suggest that – consciously or otherwise – municipal courts may be using varying production mixes to accomplish their tasks.**

3.6 A more direct reflection of differing production functions across municipal courts is the variation in expenditure categories as a proportion of total court operating spending.

Table 3.b. Municipal Court Expenditure Proportions by Category

Expenditure Category	Max	Min	Ave.	Standard Dev.	CoV
Personal Services	0.818	0.581	0.723	0.050	0.069
Services and Travel	0.340	0.054	0.129	0.047	0.362
Mail and Phone	0.151	0.036	0.086	0.022	0.256
Permanent, Repairs and Maintenance	0.097	0.005	0.032	0.015	0.478
Supplies	0.060	0.010	0.027	0.010	0.371
Miscellaneous	0.013	0.000	0.002	0.003	1.002

This spending composition variation across municipal courts shows significant differences in operating mixes. As stated above, personal services is the dominant spending category, with an average of 72 percent of court resources spent on this category across all municipal courts. However, the municipal court with the highest concentration of its spending in this category spends 82 percent of its operating

budget on personal services. The municipal court spending the smallest proportion is 58 percent. The average variation is 7 percent within this large range. While this may appear closely packed, a 7 percent average deviation in personal services as a portion of the total budget encompasses considerable resources. Services and travel range from 5 to 34 percent of municipal court budgets, and vary by an average of 36 percent between each court.

3.7 **There is also significant variation between municipal courts in relative mail and phone costs and in permanent repairs and maintenance.** The highest proportionate average deviation across courts occurs for miscellaneous spending, but it is a very small portion of all municipal court budgets. While some variation can be appropriate, significant variation in general service costs (such as mail, phone and maintenance) could perhaps point to inefficient or cumbersome procurement practices.

3.8 **Variation can be both appropriate and desirable.** Courts have differing case loads, varying case mixes and operate on vastly different scales, resulting in the need for differences in their service production functions. However, it is not clear whether these differences in spending patterns are driven by rational structuring and allocation to meet differing demands (or if they are random). It is unclear whether this differing mix of scale bears a rational relationship to the scale needed to most efficiently provide judicial services. All this appears to reveal at present is significant variation within the system, with the appropriateness of that variation being the outstanding question.

Recommendation: Given that resource commitments to the judiciary are already comparatively high, together with the expectation of a fiscally constrained environment over the medium term, a focus on system-wide planning and spending efficiency is critical.

Recommendation: It would be desirable to analyze in detail the significant variations observed in expenditures (especially non-personal operating expenditures) between municipal courts, to shed light on whether the variations are appropriate and on the underlying reasons behind the courts’ service production functions. The findings can provide the rationale for introducing changes to resource deployment policies, processes and practices.

FINANCIAL MANAGEMENT REFORMS: DISCONNECTS AT THE BUDGET USER LEVEL

Integration of System Reforms at the Operational Level

3.9 **In the justice sector, much of the potential efficiency and effectiveness-enhancing elements of Croatia's budget reforms are lost due to the disconnect between (a) the strategic budgeting and financial management processes at the national level and (b) budgeting and financial management practices at the spending unit level** (i.e. individual courts and prosecution offices). Program structures and planning process that exist at the level of the MOJ are absent within the geographically scattered spending/operating units. Budget users' administrative units, activities and resources have not yet been mapped to a program/performance framework. Courts continue to budget based on economic articles, rather than on program or activity, and financial controls require strict adherences to stagnant economic article and personnel classifications. The program/activity classification appears as a product of the MOJ, rather than as a mechanism driving budget development and review at the geographically dispersed operating units.

3.10 **Recommendation: It would be desirable to extend budgeting and financial management processes, procedures and techniques down to courts and prosecution offices to realize efficiency gains across the sector.** This will require extensive training, personnel reallocation and integration of financial management systems across the various operating units of the MOJ. With such varied and geographically dispersed entities, from courts to prosecution offices to prisons, this is a substantial undertaking; one requiring a substantial level of experimentation. The present system appears to be one with significant mismatches between capacity and service demand. Aggregate capacity exists within the system but its deployment is not effectively distributed based on needs, and available capacity is hamstrung by inflexible budgeting and financial control structures.

3.11 **Recommendation: To facilitate budgeting and financial management modernization at operating levels, the MOJ could undertake an operating system review, perhaps initially directed toward municipal courts in smaller urban areas.** Such a review could focus on the: (i) adaptability of existing systems to provide inputs for improved planning and activity review for budget decision-making; (ii) review of existing resource usage/deployment in the context of service demands (cases) to assess the cost drivers and more effectively deploy court resources (personnel, operating, contractual, capital) within and between courts to meet case profiles; and (iii) provision of necessary administrative flexibility in resource deployment (while maintaining financial control and accountability) to meet the cyclical and potentially varied work (case) profiles of individual courts.

3.12 **This three-pronged system assessment could focus on integration of system reforms at operating levels for more efficient resource deployment and thereby improve sector service delivery.** Sector issues to be addressed include:

- (i) appropriate extension of activity/program budgeting reforms to operating units;
- (ii) rationalization of operating units budgeting and expenditure management systems to support effective unit level management decision-making and resource programming and to provide resource mapping to unit activity;
- (iii) relaxation of excessive article of expenditure control to allow needed resource allocation/re-allocation flexibility while maintaining accountability;

- (iv) relaxation of rigid position classification system to allow individual units to officially (rather than informally) adapt personnel complements to shifts in service delivery needs;
- (v) establishment (and continuing review) of resource drivers and establishment of a resource allocation profile for each unit based on differential resource costs/requirements associated with each of the drivers (civil cases, criminal cases, non-contested cases, etc.);
- (vi) assessment of relative resource deployment effectiveness, including the most effective composition of personnel and resources (e.g. judges, prosecutors, support staff, contracted services, operating supplies and travel), by profiling courts that appear exceptionally efficient and effective in achieving resources usage/workload output balance;
- (vii) planning for a reallocation resources, staffing and caseloads between courts to rationalize capacity with work load; and
- (viii) establishing an appropriate model of a modernized unit-level financial/expenditure management system, complete with needed staffing adjustments and training requirements and consideration of a cooperative/integrated/supportive system of oversight and technical support between municipal and county courts.

3.13 Croatia's national and sector-level budgeting and expenditure management reforms imply a strong desire to reap the benefits of system modernization. These benefits cannot be realized in the justice sector without corresponding adjustments to processes, procedures and practices at the level of courts and prosecution offices. With the level of resources that Croatia currently allocates to the justice sector, the capability and expectation for excellence should exist. That pursuit of excellence is currently severely constrained by existing structures and systems. The next section reviews practices at the budget user level (i.e. courts and prosecution offices) which impede efficiency.

Budget Planning and Prioritization

3.14 Croatia has made significant strides in budget planning and preparation. Comprehensiveness has improved, but local public utilities and entirely or partly owned government enterprises and agencies are excluded from general government and pose accountability risks. Within the justice sector comprehensiveness is not an issue: resources flow through the budget and the treasury single account. Similarly, government priority-setting has improved with the 2009 introduction of the Strategic Planning framework, its linkage to a medium-term fiscal framework (MTFF) and the development of the executive budget within the context of a multi- (three-) year fiscal framework. A program classification has also been introduced, but it is not yet effectively integrated into budget development.

3.15 In the justice sector these planning, priority-setting and program structure "innovations" have had little impact on budget development at the level of individual courts and prosecution offices. They have been more effective at categorizing and focusing MOJ-level planning, but have not displaced the economic article focus of budget users' preparation. MOJ priorities and its three-year strategy are prepared without input from major budget users. County and Municipal Courts and County and Municipal Prosecutors provide no substantive input into the MOJ formulation of its three-year priorities and strategies. Neither are substantive proposals sought from budget users prior to

MOJ submission of its priorities and strategy to the MOF. The absence of direct ex-ante input from budget users denies the MOJ insight from its direct service delivery agencies and results in priorities and strategies disconnected from operational sophistication and often irrelevant to unit operations. Strategies and priorities would benefit from an informed bottom-up information/development path. Outside of spending units' previous year's budget submission, there is no vehicle for information input from budget users. Previous year's budget submissions could be employed; however, their format and content are not conducive to the needed information exchange and they are, by definition, reflective of past conditions and out-of-date.²⁵ Courts and prosecution offices have no systematic input to MOJ planning prior to their formal budget submissions.²⁶

Budget Formulation

3.16 Sector budget development is based on the 2008 budget law timeline (Table 3.a). This timetable contains the essential elements and appropriate timing. However, for the planning element to be effective and for program /performance budgeting to be operational, the new framework needs to extend down to the operating levels. As currently implemented, the new strategic and performance focus is limited to the higher levels of organizations and does not receive input from (nor does it base operating level budget allocation decisions on) performance, program or strategic information. An operating level program structure and performance measures are non-existent.²⁷ However, budget users' budget submissions do provide information on current and expected workload (number of cases, solved cases and hearings). They also provide a breakdown of spending unit departmental sub-unit requirements as exhibit schedules. However, the budget is approved and controlled at the aggregate budget user level. The analysis focus has not changed from the economic article allocation which has typified budget construction for decades.

3.17 The annual strategy has been intended to be used as a vehicle to upgrade program classification and begin the introduction of program/performance-oriented budgeting. Programs are relatively weakly defined and there is little link between strategy, policy objectives, programs and performance measures. While programs following organization lines are identified, they are not the basis for budget development. A large number of main programs, programs and sub-programs have been developed, but they need to be linked more closely to the operating agency (court and prosecutor's office) levels and be used to a greater extent for budget development. Budgets are still planned, developed, submitted and executed around the economic classification focus.

3.18 The budget timetable is front-loaded with strategic and planning elements, but it is not until July that inputs are provided by MOJ budget users. The timetable does not preclude an earlier solicitation of budget initiatives and requirements from the MOJ to budget users. However, operating level budget development processes have not been adjusted to provide such input. The current MOJ process results in strategic / program /

²⁵ These proposals are required to include the budget year plus two out years, but they are provided as a specific spending plan rather than a vehicle for establishing prioritized needs.

²⁶ This is an improvement over the budget development process prior to the 2008 budget amendments. The previous process required the MOJ to submit its budget request to the MOF prior to receiving budget proposals from its budget users.

²⁷ Development of a framework to link salary to performance has been in the making for more than seven years. Performance measures beyond those for individual personnel evaluations are still lacking.

performance planning in an operating-level vacuum. Further, operating units' only input into the process is through the submission of budget proposals to the MOJ in mid-July. They have no additional formal input into the process, there are no official budget review proceedings and they are informed of the final budget decision after the adoption of the Ministerial budget by parliament and MOJ's distribution of budget users' spending allocations. Further, ministerial level budget review is largely centered on economic article totals and indiscriminant adjustments are made across budget users to bring economic article totals in line with levels negotiated with the MOF.

Table 3.a. Strategic and Budget Planning Process in Croatia (2008 Budget Law)

Timeline	Responsibility	Activity
1 Mid March	MOF	Manual for 3-year strategic planning delivered to budget users responsible for strategy (first level of organizational classification)
2 Mid April	Budget Users	3-year strategies delivered to Ministry of Finance
3 End April	MOF	Unified 3-year draft strategy sent to the Government
4 Mid May	Government	Adopts 3-year strategy
5 Mid May	MOF	Three year economic and fiscal policy guidelines proposal sent to the Government
6 End May	Government	Adopts the proposal.
7 End June	MOF	Manual for making budget proposals delivered to budgetary users
8 Mid July	Budget Users	Reconciled proposals of final budgetary users delivered to line ministries
9 End July	Responsible ministry	Delivers reconciled proposals of responsible ministries to the Ministry of Finance
10 October 15	MOF	Budget proposal is sent to the Government
11 November 15	Government	Budget proposal adopted and sent to the Parliament
12 End year	Parliament	Budget adoption

* MOF – Ministry of Finance

3.19 The specifics of operating-unit budget development further limit the effectiveness of the budget reform initiatives. For courts and prosecutor's offices, budgets are developed for a consolidated unit. Regional budget submissions are a consolidated presentation including the County Court, Municipal Court, County Prosecutor's Office and Municipal Prosecutor's Office. While each of these four entities administers their own budget, there are no further administrative breakdowns. Budgets are developed and justified on a more detailed administrative level, but the review and control is unit wide. The budget is submitted (and controlled by the MOJ) at the 'fourth digit' economic article. This economic article detail is striking in the context of little detail along administrative lines.²⁸

3.20 Justifications for submitted budgets may detail specific uses within administrative breakdowns (particularly for requests for increased funding), but no systematic analysis is performed. Both budget construction and control is based on economic article for the entire administrative unit, so there is no method to assure accountability for the use of resources for the intended purpose, beyond the unit-wide (i.e. court or prosecution office) aggregate economic article allocation. Resources are budgeted for economic article, but there is no specific allocation for divisions within units or activities, let alone programs. An individual budget user, such as a county or municipal

²⁸ While the 2008 budget law provides for control at the 3rd digit of the economic article classification, the MOJ continues to control budget users at the 4th digit. This unnecessarily constrains administrative flexibility.

court can and allocate / re-allocate resources with discretion across activities (such as criminal proceedings, civil proceedings, land registry, etc.) but it cannot alter the allocation across economic article. This type of constraint runs counter to the need for flexibility sufficient to manage fluctuations in work load and/or production requirement which might require a shift across economic articles.

3.21 This economic article constraint is an element of an outdated conceptualization of the budget. The budget for the MOJ itself is developed around economic articles and economic articles are allocated in an envelope to budget users. Economic article totals are controlled by the MOF. The MOJ further subdivides this allocation in distributing it to individual budget users, such as courts and prosecutor's offices. The economic articles form the basis of budget construction and control, rather than the operating units and activities. The foundation aggregate budget is an economic article allocation to the MOJ which is being overlaid by a performance and program initiative. However the technical details of budget construction have not been adapted, at the operating level, to this overlay - a vestige of past economic structures and practices. Its effects are also seen in dysfunctional and constrained budget execution, outlined below.

3.22 The most critical operating resource is staffing – but detailed systematizations determined by the MOJ (negotiated with the MOF) control staffing (and, for example, staff to judges).²⁹ MOJ decides the staff allocation to individual budget users within the totals authorized by the MOF. These determinations are made based on established staffing patterns and workload characteristics. Staffing patterns tend to be locked in place, creating an obstacle to altering this critical resource input to improve service outcomes and institutionalizing inefficiencies.³⁰ This takes place outside the budget development process and divorces staffing issues from the broader considerations of resource requirements. Although budget units can request alterations in systematizations, this tends to be a cumbersome process: courts have indicated that rather than going through the process, they simply use employees who are classified for one set of purposes for other purposes (although labor and civil service regulations constrain the range of adaptation possible).³¹ As such the systematization is both constraining and inaccurate as an indicator of personnel deployment. While position control is an essential element of budget control, it must be flexible enough to address operational inefficiencies.

3.23 A critical issue in personnel complements and systematization has arisen from the reorganization process. No reconfiguration of the systematization for prosecutors has taken place to reflect the additional personnel needs when prosecutors assumed the investigation function from September 1, 2011. This requires a shifting of resources between Courts and Prosecution offices (i.e. an increase in prosecution budgets and staffing, and a reduction in court budgets and staffing). Failure to make such adjustments can result in significant issues of both under- and over-staffing. As it currently stands, the existing systematization have not been fulfilled. It is common for vacancies to go unfilled

²⁹ Salaries and staffing of judges and prosecutors are determined by decrees, and civil servants and employees are determined by respective civil service and labor law.

³⁰ More than one court president has indicated that they have been prohibited from introducing significant efficiency- or effectiveness-enhancing personnel shifts due to such constraints.

³¹ Court presidents have indicated that it is easier to shift judges between courts than it is to shift staff. As a remnant of norm-based staffing, staff mixes are pre-determined. Significant delays exist for implementing formal staffing adjustments and hiring. The typical process for judges is between 1-3 years.

and for employee categories to see recurrent high levels of absenteeism due to permissive sick leave policies and limited ability of court managers to attract and discipline staff.³² This either represents a significant problem for the performance of justice sector functions or is a direct demonstration of the ineffectiveness of current staffing prescriptions. Position controls are necessary in every system; the key is for them to provide the necessary check on expansion without constraining the ability to allocate scarce resources in the best way possible to achieve service delivery objectives. Present systematizations, at the operating level, appear to leave much to be desired.

3.24 Budgets users' resource allocation role is also limited to operating categories. Capital expenditure programming and decision-making is entirely the responsibility of the MOJ, although operating units can make requests. While it is common for capital spending choices to flow through different processes, they should not be divorced from operating determinations. Input of operating agencies should be direct, systematic and frequent, in order to assure that the relationships between capital and operating spending and service costs and quality are fully appreciated.

3.25 A similar disconnect exists for repairs and maintenance expenditures. Minor repair and maintenance is funded through budget users operating budget allocations. However, major repairs and renovations are negotiated with the MOJ on a case-by-case basis. Operating budgets are often insufficient for the performance of basic maintenance. Such deficiencies increase the likelihood that the unmet need for basic maintenance will result in the need for major repair. Separation of the maintenance and repair responsibilities may, in fact, give budget users an incentive to forego spending scarce budget resources on maintenance in the hope that they can convince the MOJ to provide a direct allocation for major repairs. Such an outcome has the characteristic of a moral hazard: the result is a waste of scarce resources as routine preventive maintenance is deferred in an attempt to shift the financial responsibility to the MOJ level. At the same time, courts have reported that the MOJ has been unresponsive to requests for maintenance allocations. In at least one instance, the request was for roof maintenance. The request was denied until roof leaks damaged walls, ceilings, floors and equipment. Spending units use the common facility pooled maintenance resources for temporary roof-patching, eliminating resources for normal upkeep, increasing the long-term costs of roof repair, and placing at risk the satisfaction of continuing capital maintenance needs.

Budget Execution, Control and Reporting

3.26 While a critical function of budget execution is assuring compliance, execution is not mechanistic. Provisions for execution must include properly bounded discretion to adjust the public programmatic complement and expenditures to a dynamic environment. The essential challenge is how to appropriately balance control and discretion to assure effective service delivery outcomes. This can only be accomplished with predictable availability of budget allocations, mechanisms to assure compliance with budget limitations combined with appropriate administrative discretion, mid-year adjustment procedures, treasury management, and financial controls. Evaluation and reporting must be robust enough to assure accountability and financial integrity.

³² Court managers suggest that this is due to broader labor and social legislation that interrupts work processes and over which they exercise little control. A 20-30 percent daily absentee rate for court staff is not unusual.

3.27 **Budget control is at the fourth digit of the economic article classification and is exercised across the entire operating unit.**³³ The budget makes no distinction across the activities or functions of courts or prosecutors and controls only the aggregate total commitment for each economic article. Such control is devoid of a public service focus and is only concerned with assuring that resources are not spent for unapproved items; it does little to assure desired public objectives. Positions are also controlled across the aggregate budget unit in great details as to staff function.

3.28 Because the controls are across the entire units, budget users can allocate / re-allocate personnel and resources across activities as long as the aggregate systematization and economic article limits are maintained. This provides significant discretion to alter the focus of the resource usage, but little discretion in altering the composition of resources resource usage. Altering focus alters outcomes and priorities. Altering resource composition alters production processes. Ideally, spending units should be held accountable for outcomes and priorities and allowed discretion in determining the appropriate production mixes/processes to achieve these outcomes. The control structure of the Croatian budget system does the opposite, to no effective end. Budget users are prohibited from any reallocation across economic articles without the approval of the MOJ, but they can reallocate across activities without limit.

3.29 **The economic article control focus is unusual and challenges the efforts of MOJ budget managers to effectively deal with scarce resources.** Croatia's budget reforms are intended to hold operating entities accountable for service performance. Control based solely on line-items cannot be further from this objective. Controlling inputs is necessary, but controlling without regard to the purpose for which they are being deployed offers no strategic or policy control and takes the focus away from the purpose of the spending unit. Presently, MOJ budget users must request approval for any reallocation across line items. The MOJ focus is, however, on economic article totals. Requests are normally satisfied by an MOJ review of 'article of expenditure performance' across budget users. If unused resources are available, they can be allocated from one budget user to another. The reallocation does not take place within the individual spending unit, it occurs system-wide. A budget unit might propose to shift costs, while maintaining its total budget envelope; however, to do so would require shifting resources from one economic article to the pool and extracting more resources from the pool for a different economic article. The total across the system for each economic article would remain unchanged, even if a budget unit indicates that a reallocation is appropriate. Efficiency disincentives are created, as obstacles exist to allowing budget users to directly reallocate saving across expenditure articles. This reinforces the strength of the economic article focus to the detriment of a focus on spending unit, activity and program.

3.30 **For effective administration, budgeted resources must be predictably available when needed.** Budget execution processes in Croatia do a relatively good job in assuring that budgeted totals will be available by the end of the fiscal year, but are less successful in assuring that resources are available when they are required. This creates administrative inefficiencies, short-term payment arrears and is a function of poor cash management and a lack of attention to detailed (quarterly and monthly) expenditure planning. Monthly warrants control cash expenditure availability and budget units attempt to adjust

³³ This occurs even though the MOJ is controlled only to the third digit of the economic article classification.

commitments accordingly. However, warrant amounts depend on cash availability and fluctuate between months.

3.31 **The result is an unpredictable level of budgetary resources available from one month to the next, creating difficulties in court and prosecution operations, delays in payments to suppliers** (and possibly, as a result, higher payment costs) and the need to time purchases to short-term availability of budget allocations rather than to when inputs are needed to provide most effective services. The total allocation across the year is as budgeted (unless there is a mid-year budget adjustment instituted) and resources do not lapse between months (until the end of the fiscal year). However, the ability to plan, conduct and administer operations is severely compromised.

3.32 **Although often with a lag, budgeted resources are generally available in total by the end of the fiscal year, with the exception of personal services.** The personnel systematization is no less integral to the budget than are non-personal operating articles. However, it is common for the systematization to go unfulfilled. This creates particular difficulties in performing the necessary functions of courts and prosecutors' offices, particularly when the staff shortages relate to positions of judges or prosecutors and professional staff.

3.33 **Recommendation: It is desirable that staffing complements be more predictable and that the needed and approved staff be deployed.** While delays in filling position vacancies are often used by ministries of justice and/or finance to create resource slack, this approach severely impairs services and agency functions.

3.34 **All budget transactions of courts and prosecution offices are processed through the single treasury account.** Expenditure reporting takes place monthly and quarterly (up to the fourth digit line item) from budget units to the MOJ. Additional reporting to the MOJ is by request and can be bi-weekly. Courts are notified by the MOJ of resource availability. Resource usage is monitored to assure that it is in line with monthly allocations. Commitments of expenditures above these allocations are possible, as full commitment accounting is not in place, but disbursements are within the established monthly allocation.³⁴ If within-year adjustments are necessary due to budgetary shortfalls, across the board line-item cuts are imposed by the MOJ. In past years, resource shortfalls have resulted in a mid-year reduction in staff salaries imposed by the MOJ.

3.35 **Audit capacity is still underdeveloped in Croatia: there is no agreed strategy on developing monitoring and evaluations systems to their full potential.** In the MOF, the Budget Planning unit and the Internal Audit Service perform the internal audit function, coordinate the development of performance measures and monitor and evaluate policy. The State Audit Office performs the external audit function in Croatia. However, both are facing significant challenges regarding the depth and volume of audits they can perform and their capacity to perform operational efficiency audits. Performance audits are still relatively underdeveloped. Irrespective of budgetary reforms, performance assessment is not yet a significant element of ex-post evaluations; however, the effective introduction of such audits does not require performance budgeting. While the State Audit Office is formally responsible for conducting external performance audits, its focus tends to be on

³⁴ Over-commitment beyond authorized spending levels is possible; significant legal sanctions do not appear to be active.

external financial audit. Beyond this, the internal audit capacity of the MOJ also requires to be strengthened.³⁵ Monitoring of budget users takes place primarily through the reporting processes and the monthly controls on cash disbursement. Formal internal auditing of MOJ budget users' accounts is not a common practice either by MOJ or MOF. Formal internal management reviews of budget users' operations are also not commonly undertaken by the MOJ.

3.36 The veracity of court and prosecution budget reporting relies on the financial management system and ex-ante budget execution and treasury controls. Little in the way for formal internal (not to mention external ex-post) audit is undertaken. Further, due to the structure of expenditure accounts, such audit would do little to reveal the real programmatic usage of resources. Programs and performance indicators are non-existent at the budget user level and accounts do not map to activities. While financial integrity is the cornerstone of the audit function, actual and effective audits are required to ensure it and, even then, it provides little information on the quality of operations or service delivery.

Budget Supplements

3.37 Court and prosecution office budgets appear to be occasionally supplemented by local government contributions. These occur as cash and in-kind support and have included additional staff hires and office space. Such local government assistance is seen as critical to the functioning of some courts and occurs as a response to insufficient general budget support and/or as a means to avoid excessive constraints on resource or personnel deployment. As a general rule, though, given the imperative for judicial and prosecutorial independence and integrity, it would be desirable for Croatia's court and prosecution operations to be independent of support from local governments and local officials— such budgetary support (not uncommon in some countries) could compromise the independence and integrity of these institutions key to good governance and accountability.

3.38 An additional issue regarding court financing relates to collection of court fees. Court presidents have indicated that incentives for vigorous fee collection are lacking due to the accrual of these fees to the general accounts of the government and not to the courts. Delinquent fees also often go uncollected. These collections are the responsibility of the MOF. However, their small denomination is not likely to stimulate vigorous enforcement effort. Presidents have suggested that this could be altered by allowing individual courts to retain a percentage of fee collections. While this may be rational from the perspective of collection incentives, it runs counter to the ethical perspective that justice should not be delivered on a fee-for-service basis and may produce actual or potential conflicting incentives for case resolution, and give credence to public perceptions about faster disposal of more “profitable” cases. Generally speaking, though collection/enforcement of such court fees should be vigorous, good practice is for court fees to flow into the general receipts to the treasury and not be court-specific.

³⁵ The internal control and audit units in the MOJ are the Department for Supervision of Material and Financial Operations and the Internal Audit Department. Staffing has been slow to come on board and the annual capacities for both supervisory exercises and internal audits are constrained to a small percentage of the more than 300 budget users under MOJ supervision.

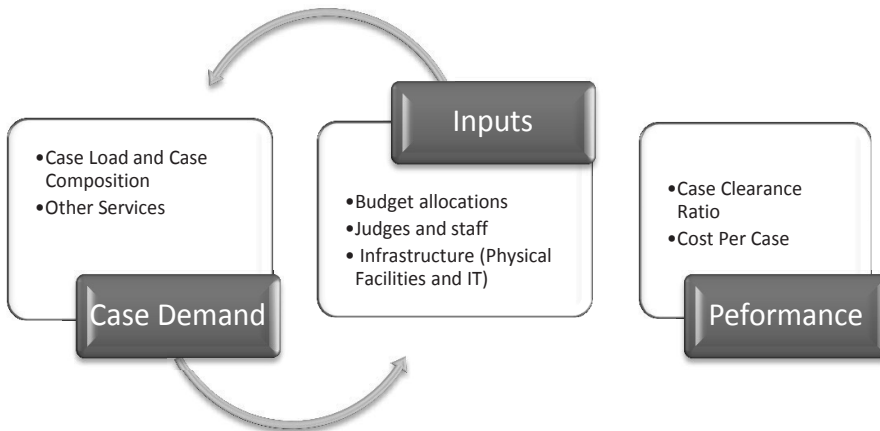
4. SCALE AND COST DRIVERS: AN ASSESSMENT

4.1 **In addition to the relatively high service demand, Croatia’s court network includes a number of supply-side factors that contribute to the relatively high cost of its justice services.** As depicted earlier, these include higher court density, a larger professional staffing complement per citizen and high wage premiums. This chapter assesses the variation in resource, staffing and case distributions across individual municipal courts in Croatia’s court network to determine the drivers of resource allocation and assess how further efficiency improvements could be achieved.

Resource Allocation and Performance

4.2 **Assessing the efficiency of resource deployment within the judiciary requires an analysis of the alignment between inputs and service demand, workload, and output needs.** Service demand is driven by both the number of incoming and pending cases (caseload) and case composition. The latter is important because different case types imply different levels of complexity and hence differences in time and resources needed for case processing. The connection between inputs (financial and real) and outputs (resolved cases) is determined by a production function that describes the efficiency with which inputs are utilized by courts to provide services to citizens (Diagram 4a). The circular arrows in the framework signify a relationship between case demand and resource allocations, and that the two interact to bring about performance.

Diagram 4a: Understanding Resource use and Service Delivery in the Judiciary



4.3 **This assessment focuses on municipal courts and uses 2010 court-level data (the latest available for this report).** Data on budgetary expenditures, staffing and caseloads were collected and merged for all 66 municipal courts in Croatia. Data coverage and limitations are summarized in Box 4.a. Broadly, data on service demand comprise caseloads detailed by case type (such as criminal, civil litigation, conciliation, probate, enforcement, land registry). Data on service output comprise court-level data on the number of resolved cases, again broken down by case type. Data on input comprise court-level budget operating allocations and composition as well as real resources (number judges and civil service employees).

Box 4.a: Croatia - Judicial Data, Analysis Limitations and Extensions

Individual court data, such as those used in this analysis, have substantial value in assessing the relative efficiency and effectiveness of courts across the nation. This is relevant for court scale, organization, staffing, budgeting, workload distribution, and planning. However, fully reaping the benefits of this information requires that data on basic workloads (that is, caseloads and backlog volumes/age), resources, and staffing be available, consistent, and accurate for a series of years. This analysis is the first attempt to merge these data for courts to produce a cross-sectional analysis of court performance. It uses only a single year of data. A useful extension would be to assess conditions over a multi-year period and for additional court categories and prosecution offices. Nevertheless, it provides a useful snapshot of important production function relationships for Croatia's municipal courts. A multi-year assessment would allow usage of the data at its highest resolution, since a single year of 66 observations presents a limitation on the level of analytical detail.

Fiscal Data. The most comprehensive data available were individual budget execution reports for each court. These data were quite detailed, including revenue and year-end execution by detailed (four-digit) economic classification for each spending entity.

Workload Data. To describe and analyze a court's workload effectively, data are required on the stock of pending cases, the size of the backlog, the inflow of new cases (current docket inflow), and the annual number of resolved cases. Data collected are relatively detailed within and across case types and provide granular resolution for this form of analysis. Case data include criminal (short procedures, regular procedures, juvenile and other), civil litigation (labor, repatriation, mediation, other), conciliation (judge, failed), probate, extra judiciary (real-estate, Family Act), enforcement (real-estate, financial claims, movables, security) land registry, and other (legal aide, miscellaneous civil, criminal case requests of other courts).

Staffing. Staffing data were available in a rather aggregate form, separating staffing into only two categories, court officials (i.e. judges) and civil servants (i.e. non-judge court staff). This rather aggregate resolution limits assessment of the effects of staff distributions on performance. This is not a severe constraint for a single-year analysis, but extensions should employ per-court staffing information at a higher level of detail and at a minimum should separate staffing into judges, judicial assistants, civil servants, and non-civil servant employees. Also, staffing data should be for actual staff, rather than authorized positions; unfilled positions are not meaningful to the analysis and reduce the precision of estimates.

Merging Data. For a comprehensive assessment of the determinants of spending, workload and staffing data must be linked to individual spending units. All of the above data were merged to produce a complete record for each municipal court. While data for Zagreb were split between civil and criminal courts, these data were merged into a single Zagreb record.

4.4 This analysis examines (i) the distribution of service demand across the court network, with regard to total caseloads and case composition; (ii) the allocation of budgets and real resources across the court network; (iii) the effect of court size on per-case costs and case clearance rates; (iv) the effect of case type on per-case costs; and (v) the effect of case and input composition across courts on judges' productivity. Through this examination, this section intends to provide actionable recommendations for more efficient resource deployment across courts and across inputs to improve justice sector service performance.

4.5 **Croatia has a relatively dense court network.** While this ensures broad service access across Croatia's territory, it contributes to higher-than-average operating expenses compared to other European systems. Spatially, Croatian courts cover similar geographic territory. This implies that the distance citizens have to travel to the nearest court location is relatively equal across the nation, including in more sparsely populated rural areas. However, the size of the population served by the courts varies greatly between urban and rural areas.

4.6 **Court services delivered (in the form of volumes of resolved cases) differ significantly across locations: for example, Croatia’s two largest municipal courts account for 27 percent of the total resolved caseload for all municipal courts, and the five largest courts account for 38 percent.** Demand for court services is a direct function of the client base served by different court locations. Not surprisingly, demand for court services varies depending on population size and other demand drivers such as the concentration of commercial activity in the service area. The differences are stark. Courts in urban areas, such as Zagreb, Split, Rijeka and Pula, account for the vast majority of cases.³⁶ In 2012, the combined cases resolved in the criminal, civil, and labor divisions of Zagreb municipal court was 94 times larger than that of the smallest municipal court in Rabu (table 1). The Zagreb municipal court itself accounted for 20 percent of all resolved cases in the court system (with a volume of 99,798 cases). Split was second (32,585) with a volume approximately one-third that of Zagreb. There is a rather continuous incremental progression in volume from Rabu (1,064 cases) to Rijeci (18,167 cases). Fifty-eight percent of courts have a resolved case volume of less than 5,000 cases and 82 percent (53 courts) have a resolved case volume of less than 10,000.

Table 4.a: Caseloads and Resource Use across Municipal Courts

Resolved Cases	Max		Min		Average		Standard Deviation		Coefficient of Variation	
	Figure	Court	Figure	Court	w	w/o	w	w/o	w	w/o
Total	99798	Zagreb	1064	Rabu	7518.7	5656.1	12694.6	4202.2	1.69	0.74
Per Judge	1324.7	Zapresicu	321.0	Metkovicu	654.6	660.9	220.2	220.7	0.34	0.33
Per Civil Servant	270.1	Slavonskom Brodu	56.6	Metkovicu	116.8	117.3	37.7	38.1	0.32	0.32
Operating Costs per Case										

*Calculated with Zagreb and Split included and without Zagreb and Split. ("w" = with "w/o" = without.)

4.7 **Generally, larger, high-demand locations tend to consume fewer resources per case, confirming economies of scale in court operations.** In absolute terms, of course, larger courts consume a higher proportion of the total court operating budget. The average resolved caseload across the system is 7,518 (table 4.a). Zagreb and Split raise this average considerably. With these two municipal courts excluded the resolved caseload average drops to 5,656. With such variations in magnitude compared to the average municipal court, it would not be surprising if Zagreb and Split were also outliers in per-case resource use. The existence of scale economies would result in lower per-case costs.

4.8 **Both Split and Zagreb, though, have lower than average cases resolved per judge** (at 429 and 482, respectively) and fewer cases resolved per civil servant (91 and 109). For average operating costs per resolved case, Zagreb is nearly identical to the average, while Split exceeds it by 15 percent. These are not, however, significant variations (are all within one standard deviation). The implication, at least for Zagreb, is that sufficient scale economies exist in the combination of other resources to offset higher personnel costs per case.

4.9 **Substantial variations exist across these dimensions throughout Croatia’s municipal courts, with case composition being the single most important factor in accounting for these differences.** The average difference between courts in case output

³⁶ These four courts account for 32 percent of the total.

per judge is 34 percent and for civil servants it is 32 percent. The average difference in per case operating resources consumed is 31 percent. It is important to understand this variation; a simple comparison of resolved cases and per case resource costs will be inadequate. It is likely that the single most important factor in accounting for these differences is case composition. It is highly likely that the types of cases adjudicated also vary tremendously across courts. Different forms of adjudication (and different types of cases) will require significantly different resource and time commitments. These variations in resource requirements must be considered before a meaningful assessment of differences in resource utilization across courts can be made. It is quite likely that case complexity varies directly with court scale, such that average proceedings in Zagreb and Split are more resource intensive. Accounting for these differences may reveal a significantly different interpretation of resource usage and court performance.

4.10 Nevertheless, the aggregate profile of resource utilization across the municipal court network is interesting. If average operating spending per case is examined (Figure 4a), excluding Zagreb and Split, there is a clear pattern of declining cost per case as case

volume increases. While this does not consider case mix, it does suggest possible efficiency gains from economies of scale and scope. If simple measures of a municipal court’s ability to process its incoming volume are considered, such as case clearance rate and pending case ratio³⁷, on average courts appear to be resolving a slightly greater number of cases than they take in, and they appear to have an average pending caseload equal to approximately 63 percent of the 2012 case inflow (table 4.b). This results in a net reduction in backlog, but the average variation across courts is again substantial.

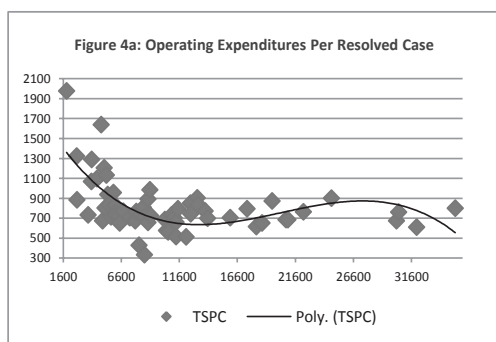


Table 4.b. Case Clearance and Pending Case Performance

	Average		Standard Deviation		Coefficient of Variation		Zagreb/Split	
	w/	w/o	w/	w/o	w/	w/o	Zagreb	Split
Case Clearance Ratio	1.011	1.009	0.278	0.282	27.511	27.958	1.005	1.106
Pending Case Ratio	0.632	0.624	0.319	0.320	50.442	51.350	0.934	0.851

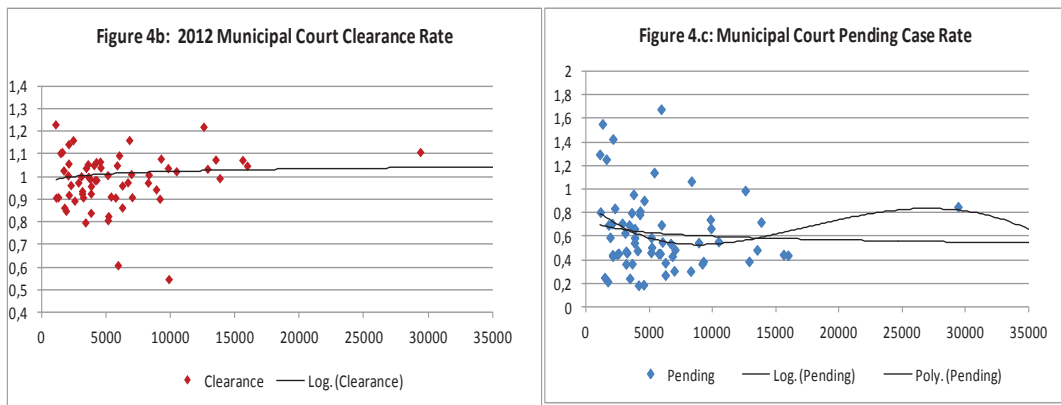
*Calculated with Zagreb and Split included and without Zagreb and Split. "w" = with "w/o" = without.

4.11 On average, clearance rates vary by 28 percent across courts. Any given court is likely to have a clearance rate of 72 to 128 percent and the pending case ratio varies by approximately 50 percent, indicating that for some courts pending cases are substantially greater than the annual number of cases cleared.³⁸ Clearance rates (Figure 4b) vary more significantly within lower volume courts (possibly due to variations in annual case

³⁷ Case clearance ratio is defined as cases resolved during the year divided by incoming case volume for the year. Pending cases ratio is defined as unresolved cases outstanding at the end of the year divided by cases resolved during the year.

³⁸ For example, the Stari Grad court had a pending caseload 2.18 times the number of cases resolved in 2010.

inflows). Pending case ratios (Figure 4c) decline with the size of courts (implying better backlog performance with scale). The clearance ratio for Zagreb is about average while Split performs slightly above. Pending case ratios, however, are substantively above average for both. Case data for 2010, showed ratios for Zagreb and Split above average for case clearance and pending ratios, implying better performance in clearing current incoming cases. The 2012 data suggest that these courts have made significant progress. They perform about as well as others in processing current year cases, but still suffer from higher levels of pending cases. However, meaningful interpretation of these results is not possible without considering case composition.



Impact of case composition on resource consumption and performance³⁹

4.12 **Municipal courts in Croatia face diverse demands from their populations.** As a result, the types of cases adjudicated by different court locations across the system vary widely. Likewise, the average cost of resolving a case varies depending on the case type. Case mix, then, will significantly affect the cost structures of courts. Table 4.c⁴⁰ displays the case composition of resolved cases for 2012 across municipal courts.

Type	Min	Max	Avg	St. Dev.	CoV
Criminal (short/proceedings, juvenile)	0.000	0.296	0.063	0.058	92.4
Litigation (labor, repatriation, mediation)	0.147	0.552	0.270	0.084	30.9
Probate	0.002	0.103	0.032	0.022	67.8
Enforcement (realestate, financial, moveables, security)	0.090	0.570	0.355	0.090	25.4
Miscellaneous (R2, Pom, Kr, Civil Procedure, Non-Contentious)	0.074	0.502	0.266	0.113	42.3
IK-I Registry	0.000	0.001	0.000	0.000	800.0
Extra Judiciary/Conciliation	0.000	0.051	0.014	0.012	82.4

4.13 **The highest resolved case volume across municipal courts involves enforcement actions.** It averages 36 percent of total resolved cases, but is quite variable across locations, with a high of 57 percent of the case volume in Valpovo and a low of 9 percent in

³⁹ The analysis of case composition uses data for all municipal courts for the 2010 calendar year.

⁴⁰ The classification of cases has changed since the 2010 data. The process of determining the most desirable categorization is still under way. If there is a change in categorization, the picture in Table 4.c may change.

Bjelovar.⁴¹ Enforcement includes actions related to real estate, movables, financial claims and security. Civil litigation cases (including labor related cases, repatriation and mediation) are the second largest category of court activity, averaging 27 percent of case activity across municipal courts. Variations in these activities are also high across courts, with differences between courts averaging 25 percent for enforcement actions and 31 percent for litigation. As a portion of total case volume, enforcement activities are highest in Stari Grad (55 percent) and lowest in Slavonski Brod (15 percent). A close third in case volume is an eclectic category including miscellaneous civil cases, legal aid cases and criminal case requests from other courts (26.6 percent). Cases from these categories vary from 7 percent to 50 percent of total municipal court volume. Criminal cases are fourth in case volume, averaging 6 percent and also show substantial variation across court locations, accounting for 30 percent of total volume in Makarska and none of the caseload in several courts. The portion of cases which are criminal varies by an average of 92 percent across municipal courts. Given the resource-intensive needs of criminal cases, this variation is expected to have a significant impact on per-case court costs. The fifth highest case volume is for probate cases (3 percent). Meaningful variation across courts is greatest for criminal cases, civil litigation, enforcement and miscellaneous case categories. These variations reflect substantial differences in case composition.

4.14 If case type is an important cost driver, the analysis suggests there should be significant differences in per-case resources deployed across courts.

4.15 Given the varying complexity of different case types, case composition is an important cost driver for courts and requires correspondingly appropriate adjustments in resources. Econometric models were used to estimate the implicit case weights (for resource costs across cases) based on actual resource deployment across each municipal court in Croatia and volume of each type of case actually resolved annually in each court.⁴² These estimates are presented in the tables below (see also Annex 1). The first model table is a simple estimate of gross per-case cost based on total operating spending variations across municipal courts and its variation with number of cases resolved. The results provide an estimate of per-case cost, by case type, for the average municipal court caseload. Case types were as defined in table 4.c (above), except that the extra judiciary/conciliation case type was combined with the land registry case type.

4.16 The modeling results show criminal cases to be most resource-intensive, with an estimated average per-case resolved cost of HRK 3,372 (Table 4.d). Civil litigation cases are next most resource-intensive to process, at HRK 2,167 per resolved case. Probate cases average HRK 2,005, while cases requiring an execution/enforcement order average HRK 455. Each land registration case consumes HRK 218. The coefficient for combined extra judiciary/conciliation and miscellaneous civil/legal aid of HRK 97 is not statistically

⁴¹ In 2010, land registration averaged 54 percent of resolved cases. It is a minimally resource-intensive task and is quite different from other judicially adjudicated proceedings. With land registry removed from these court processes, more precise estimates of the varying costs of these other proceedings should be possible.

⁴² All models reported omit Zagreb and Split from the estimations. This was done due to the outlying magnitudes represented by these two courts. A more nuanced assessment was possible of common patterns between the remaining operating ranges without the inclusion of these two courts. That said, all models were also estimated with Zagreb and Split. In general, particularly for the dependent variables that were expressed as per case cost or cases resolved per judge, the estimates were quite consistent.

different from zero.⁴³ This does not mean that these cases cost nothing, but that there was too much variation to achieve a consistent estimate with aggregate data for a single year.

Table 4.d Case Type - Estimates of Relative Costs to Resolve Cases by Case Type/Process

Case Type	Per-Case Contribution to Municipal Court Operating Costs, Estimated for Court with Average Caseload (HRK)	Effects of Case Composition on Average Per Case Processing Cost of Municipal Courts (expressed as the effect on per-case cost of a 10-percent increase in a case type as portion of total cases processed)
Criminal (short / proceedings, juvenile)	3,372.79	688.85
Civil Litigation (labor, repatriation, mediation)	2,167.77	130.91
Probate	2,005.78	232.58
Enforcement (real-estate, financial, movables, security)	455.95	41.54*
Land Registry	218.08	-210.47**
Extra Judiciary / Conciliation and Miscellaneous Civil/Legal Aid	96.54*	29.50*

Notes: (1) The cost effects in the above two columns are not directly mathematically comparable due to required differences in model specification necessary to create the estimates; (2) *The variation in the effects of extra judiciary / Miscellaneous Civil cases and enforcement cases was too great to generate a consistent estimate. The effect is effectively estimated at 0. (3) **This is a conditional effect. Land registry cases are the point of deviation and are included in the model intercept. The per-case cost for land registry is significantly negative and is the base of departure for the other case estimates. The effect is equal to the proportionate reduction in other cases created by proportionate change in execution cases. If an increase in execution cases came equally at the expense of criminal, litigation, probate, enforcement and extra judiciary cases, a 10-percent increase would result in a HRK 210.47 decline in per case costs $((689+131+233+42+30)/5)$ (or HRK 224.68 if the statically insignificant coefficients were set to 0). If it were just at the expense of criminal cases, the decline would be HRK 689, or -131 or 233 if the increase in land registration cases were through an equal-share reduction in litigated or probate cases.

4.17 Costs for criminal, probate and extra-judiciary cases appear to offer significant direct economies of scale, declining as the number of cases resolved increases. And municipal courts' average per-case cost declines substantially as the number of total cases resolved increases (Annex 1, models 2 and 3). This supports the finding that both scale and case type are important determinant of resource usage and must be specifically considered.

4.18 To directly test the effects of case mix, a statistical model was constructed using the percent of each case category as a portion of total resolved cases to estimate per-case operating resource expenditures in municipal courts (Annex 1, models 2 and 3).⁴⁴ Using the cost for land registration as a point of departure, each ten-percent increase in criminal cases processed as a portion of total cases resolved increased the average cost per-case by HRK 689.⁴⁵ A 10-percent increase in the portion of total cases that require litigation increased per-case cost by HRK 131. And a 10-percent increase in probate cases, enforcement cases and extra judiciary cases increased a court's per-case cost by HRK 233, 42 and 30 respectively. An increase in the portion of land registration cases as a share of resolved cases would reduce average per-case costs by an amount determined by the degree to which the other five case types/processes are correspondingly reduced. The exact cost

⁴³ The model was also estimated with these categories separated, as in Table 4.c; however, the coefficient for the new categories was also statistically insignificant.

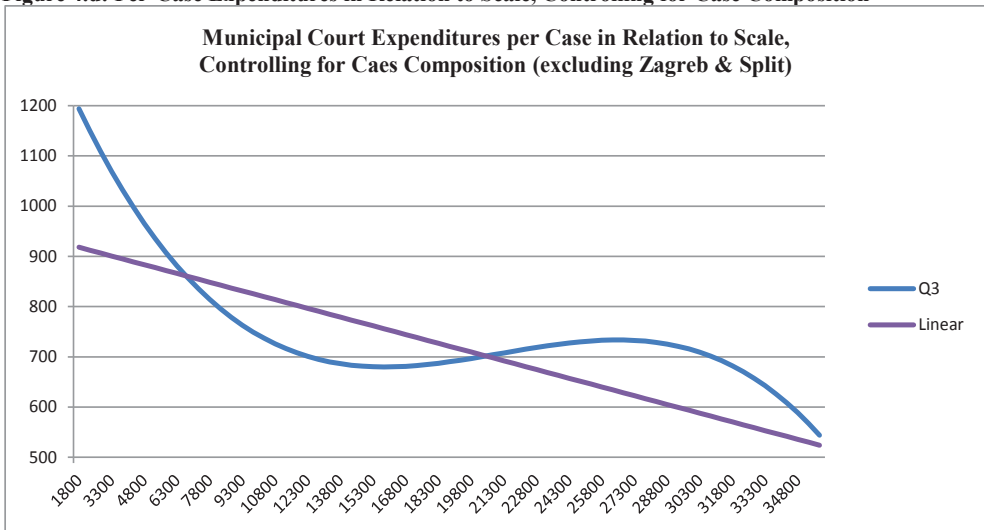
⁴⁴ Case mix refers to each type of case resolved as a portion of total cases resolved.

⁴⁵ This estimate reflects the increased average per cases costs if criminal cases were increased by ten percent while land registry cases were reduced by ten percent while all other case type proportions remained the same. Land registry was used as the point of departure because, in this estimate (controlling for scale effects), it showed the lowest per case cost.

decline would be equal to the change in the other case types. If, for example, a 10-percent increase in execution cases came with a reduction in equal shares of investigative, fault, litigated, and uncontested cases, the average per-case cost decline would be HRK 210 (Table 4.d).

4.19 **The scale economy effects above are robust after controlling for differences in case composition, suggesting that aggressive consolidation of the smallest courts could improve efficiency.** Figure 4.d depicts the relationship between court size and per-case operating cost, controlling for differences in the composition of cases and processes. The graph shows that per-case operating cost decreases with court size, but the relationship is not monotonic. Per-case cost declines steadily until court size reaches about 17,000 cases. The per-case cost then increases slightly until a court size of 28,000 cases is reached, after which it again drops sharply.

Figure 4.d: Per-Case Expenditures in Relation to Scale, Controlling for Case Composition



4.20 **During 2010, 75 percent of courts resolved less than 13,500 cases annually. Increasing court size to about 17,000 cases would reduce average per-case operating cost substantially.** Compared to the 25 percent of courts that resolved less than 6,000 cases, an increase in scale to 16,000-17,000 cases would reduce per-case processing cost by at least HRK 220. And for the smallest courts, the per-case cost reduction could be HRK 500. This could then translate into potentially significant fiscal savings at the aggregate judiciary level.

4.21 **Considering variations in the composition of cases and processes, together with caseload, allows for a more nuanced analysis of the misalignment of resources and case demands in individual courts, which in turn helps identify courts that appear to be over- or under-resourced relative to their caseload.**⁴⁶ This is done by estimating expected costs after considering each court’s actual caseload across case types and adjusting estimated total court costs for the differences in per-case unit costs for the types

⁴⁶ In this context, caseload refers to cases resolved by case type annually.

of cases the court resolves each year. Using the estimated impact of caseload and composition on average per-case costs, the expected per-case cost for each court can be estimated given its actual composition of cases and the scale of its operations. If we compare these predicted values to the actual values for each court,⁴⁷ we can identify the degree to which a particular court’s spending is higher or lower than the expected (average) spending for its scale and case distribution. Table 4.e identifies the ten courts for which actual per-case spending most exceeds expected per-case spending, along with the ten courts for which case spending is lowest as compared to the model estimate.

Table 4.e: Cost Per Case Outliers – Difference between Actual Per-Case/Process Costs and Costs Predicted by Model Estimates (amount above or below expected)

Municipal Courts with Lowest Cost Per Case		Municipal Courts with Highest Cost Per Case	
Municipal Court	Deviation from Expected	Municipal Court	Deviation from Expected
STARI GRAD	-266	METKOVIC	367
NOVA GRADISKA	-228	DARUVAR	330
BENKOVAC	-201	HRVATSKA KOSTAJNICA	244
VELIKA GORICA	-200	GLINA	202
IMOTSKI	-191	CRIKVENICA	177
KORCULA	-181	KNIN	160
SISAK	-127	KOPRIVNICA	159
NASICE	-120	ZABOK	149
SINJ	-115	SIBENIK	148
RAB	-107	SLATINA	146

4.22 A realignment of resources by caseload could generate efficiency savings in courts with above-average resource consumption. The results (table 4.e) can be quite useful in directing further investigation into why particular courts are functioning above or below estimated spending levels. This in turn could identify significant savings, and thereby free up resources which could be reallocated to high-demand courts likely to achieve efficiency gains (i.e. improved clearance rates) and hence lower overall case backlogs. The same principle could apply in the context of targeting reductions in financial and real resources across the system, while minimizing the effect on court performance.

4.23 Consistent with the findings above regarding the impact of case composition on per-case cost, the number of cases that a judge can reasonably process is significantly affected by differences in case composition, reflecting underlying differences in case complexity. Across all municipal courts, the average number of cases processed per judge in 2010 was 1,304. Using land registry cases as the point of departure, the analysis suggests that a one-percent increase in the proportion of criminal cases within a court reduces the number of cases processed per judge by 74 (Annex 1, model 6). A one-percent increase in litigated civil cases results in a 60-case decline, a one-percent increase in the portion of cases that are probate results in a 52-case decline and a one-percent increase in enforcement cases reduces the expected resolved cases load of judges by 30. Case processing capacity of judges for extra judiciary/miscellaneous civil cases does not systematically vary significantly from land registry cases.

⁴⁷ The residuals of the model for each court were calculated. Annex 1 model 2 was used for this estimate.

4.24 Judges' productivity is also dependent on complementary resources deployed.

The production function in court proceedings revolves largely around the efficiency with which the resources of judges are combined with other court resources to process and adjudicate cases. It is often found that adequate support staff and specialized services (e.g. expert witnesses) and training enhance judges' and court staff productivity.⁴⁸ Other important factors may relate to resources devoted to facilities, or the requirement of travel of judicial staff to conduct duties, or the availability of slack resources. Personal services are by far the greatest category of spending in Croatian municipal courts, accounting for more than 70 percent of expenditures across the network. It is important to determine how resources could most effectively be paired with personal services to produce efficient court outcomes. This analysis has estimated the effects of spending using personal services (wages, salaries and benefits) as a point of departure and accounting for total staffing levels. This provides an estimate of the effect of shifts (and augmentations) in resources across spending categories on the productivity of courts and judges.

4.25 For Croatia's municipal courts, however, the relationship between spending on specialized services and training, while positive, does not have a systematic effect across courts, nor does spending on physical facilities and utilities (Annex, model 6).

What does appear to be important is spending on transportation, and the availability of resources for support services, supplies and materials, and staffing. A one-percent increase in the portion of total spending devoted to supporting resources is estimated to increase the average number of cases resolved per judge by 72. On the other hand, a percentage point increase in resources devoted to transportation, reflecting the requirement of travel by judicial staff, reduces productivity by 62 cases per judge. A higher ratio of support (civil service) staff also increases the relative ability of judges to resolve cases. A one-percentage point increase in the ratio of civil servants to judges is associated with a 52-case increase in the number of cases resolved per judge. These findings emphasize the critical need to provide operating budgets and support staff calibrated to maximize courts' efficiency.

4.26 As for per-case spending, analysis at the individual court level provides a window into differences in the performance of judges (and courts) within the municipal court system. Data on court case/process composition allows for estimation of the magnitude of cases that are expected to be resolved on an annual basis within each court. This estimate can then be compared to each court's actual case resolution output. The results represent the expected resolved caseload for judges in each court, given the court's actual case distribution and the scale of its operations (table 4.f). Comparing these estimates to the actual values for each court provides an estimate of the degree to which judges in a particular court are clearing cases more slowly or quickly than expected given the court's scale and case distribution.

4.27 Table 4.f identifies the ten courts for which the actual case processing rate per judge most exceeds expected levels and the ten courts for which the number of per-judge resolved cases is lowest compared to the model estimate.⁴⁹ These results suggest

⁴⁸ This is most likely related to the effect the deployment of contracted specialized legal services has in reducing the workload of judges.

⁴⁹ These results are intended to provide an entry point for further substantive assessments. The deviations from the expected values vary considerably with differences in the specification of the model, resulting in changes in estimates and in the courts which comprise the ten highest and lowest deviations.

the need for further investigation into the specific local reasons why judges in a particular court setting are functioning above or below estimated case resolution rates. The results of these assessments may yield insights into the mix of resources and staff that can most effectively support judicial processes. Such analysis could assist in identifying the relative effectiveness of differences in court or personnel operations in promoting the effective usage of scarce personnel resources in the form of judges themselves. The insight provided by this directed inquiry may provide benchmarks for best practices to be considered for duplication across different settings, with an intended outcome of enhanced judicial efficiency.

Table 4.f: Cases Resolved Per Judge Outliers – Difference between Actual Cases Resolved Per Judge and Resolution Rate Predicted by Model Estimates (amount above or below expected)

Municipal Courts with Highest Cases Resolved Per Judge		Municipal Courts with Lowest Cases Resolved Per Judge	
Municipal Court Name	Deviation from Expected	Municipal Court Name	Deviation from Expected
MALI LOSINJ	1242	HRVATSKA KOSTAJNICA	-592
POREC	795	TROGIR	-460
IMOTSKI	637	JASTREBARSKO	-451
PAG	443	SUPETAR	-419
GOSPIC	396	RAB	-373
KARLOVAC	316	KNIN	-342
BUJE	312	NASICE	-341
BJELOVAR	308	DARUVAR	-306
ZAPRESIC	297	LABIN	-297
SINJ	296	OGULIN	-288

4.28 **Croatia’s resource commitment to its justice sector is substantial, and it is only appropriate and desirable that its sector modernization focus on improved outcomes through greater spending efficiency.** The still-dense court network, a relatively large number of judges, high staffing complements, high wage cost, and high case volumes – all suggest the need for considerably different resource mixes tailored to court locations and case categories.

Recommendation: It would be desirable for the MOJ, in consultation with the SJC, to commission a weighted case-load analysis whose findings can serve as the basis for more nuanced allocation of resources across courts relative to their caseload. This can lead to more appropriate resource deployment which in turn could yield efficiency gains. Considering variations in the composition of cases and processes, together with caseload, can allow for a more nuanced analysis of alignment of resources and case demands by individual court. This in turn will identify courts that are over- or under-resourced relative to their caseload.

Recommendation: It would be desirable to begin to realign resource allocations across the court network – these could potentially achieve significant efficiency gains and improve overall sector performance. Demand pressures in some courts exceed processing capacity, leading to higher pending case/backlog ratios. Linking resource allocation to service demand and ensuring resource adequacy in these courts with substantial demand

pressures could achieve reductions in case backlogs. At the same time, some courts with high per-case operating costs could become areas of focus for efforts to increase efficiency and implement resource savings. In practice, such realignment may require relocation of judges and professional staff to court locations with high demand. Alternatively, it could rely on attrition, with new positions being allocated to priority courts. The latter approach, while perhaps more feasible in a civil service environment, will take more time and have limitations in terms of the strategic allocation of judicial staff.

Recommendation: Identification of efficiency-enhancing resource mixes could significantly maximize the return on scarce resources. Current resource allocation processes do not ensure that resources are allocated among inputs so as to maximize service performance and user satisfaction. This requires flexibility and reconsideration of the most appropriate complement of resources across the varied court locations.

Recommendation: Improved information management systems and enhanced analytical capacity would improve decision making and resource planning. Reliable and timely data on workload and cost structures are critically needed to develop a case weight methodology to improve workload and resource planning between court locations and judges. The resource allocation system needs to move away from financing existing input structures (such as the number of judges and other employees) to allocating resources on the basis of differing caseloads in court locations.

4.29 **The MOJ plans to streamline the appeals process in county courts – this is a welcome initiative.** Currently Croatia has 15 county courts whose territorial jurisdiction covers the municipal courts. The inflow of civil cases in county courts appears to be relatively stable (e.g. 79,837 cases in 2011 and 78,189 in 2012) but the number of pending cases is increasing (59,456 cases in 2012 and 61,255 cases in 2013). At the same time, the number of criminal cases decreased from 12,497 in 2011 to 8,020 in 2013. Given the uneven workload of judges (242 judges were assigned to civil cases and 74 judges to criminal cases), the MOJ believes that assigning more judges to civil cases will speed up their disposal times and pendency. The MOJ therefore plans to move away from territorial jurisdiction of appeals, make random assignment of cases compulsory (through the ICMS) and permit second instance county courts to decide appeals in civil and criminal cases from all municipal courts in Croatia. The MOJ's assessment is that such reforms could reduce the time taken to decide appeals, even out the workload of judges and increasingly harmonize the application of case law across the court system.

5. CONCLUDING OBSERVATIONS

5.1 The key challenge before Croatia's justice sector leadership is to build on the justice reforms undertaken by developing, financing and implementing a judiciary-wide modernization program to sustain the transformation of the justice. Goodwill – indeed public demand - for continued justice reforms clearly exists: the time to act is now.

5.2 **This report suggests that performance gains in the justice sector could be increased by implementing the recommendations in this report.** There is a real opportunity for progress: the true test will be whether, after consideration of the recommendations of this report, the relevant actors (especially the MOJ) will act.

5.3 **This report provides information and analysis to now facilitate a consensus-building dialogue between the three branches of power** on the resources the justice system can expect to receive, the actions the sector needs to take to manage and allocate the resources efficiently, and the results it can be expected to achieve. As the executor of the justice system's budget and the provider of physical and information resources to the justice system, the MOJ has a significant responsibility and accountability for resource use and for achievement of sector performance goals. Efficient management and execution of the sector budget could have important long-term benefits for the system, especially in terms of greater public trust and confidence.

5.4 **It would be helpful for Croatia's justice reform process if the key stakeholders – the MOJ, the courts, and the prosecution – could together take the lead in determining the next steps and timeline for key steps on the continuing justice reform process,** and in determining how progress will be monitored, measured, and transparently reported. The updated strategy of the Ministry of Justice for accelerating key justice reforms provides a solid basis to engage with stakeholders on such a process.

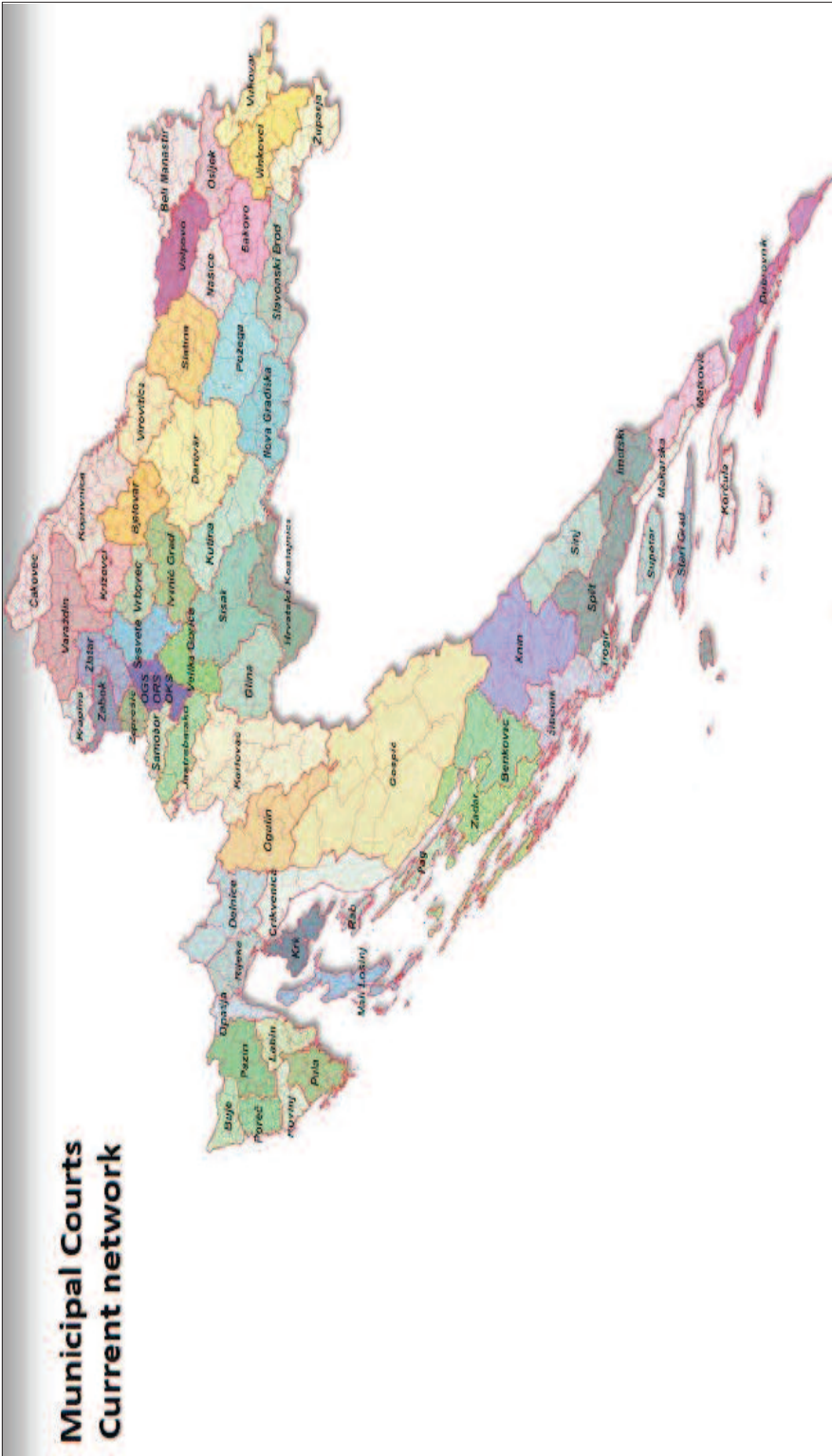
ANNEX 1: MODELS⁵⁰

Model 1: Determinants of Total Operating Spending.		Model 2 & 3: Determinants of Per Case Spending.		
Dependent Variable: Total Municipal Court Operating Spending in 2002 HRK (TSDF).		Dependent Variable: Total Municipal Court Operating Spending Per Resolved case (TSPC)		
Independent Variables	Per Case Cost		Caseload Distribution 2	
	Coefficient	Standard Error	Coefficient	Standard Error
Intercept	1.153818	257858***	764.91	161.42***
Type of Case as Percent of Total Resolved Cases				
Criminal (short / long proceedings, juvenile)			68.89	13.08***
Litigation (labor, repatriation, mediation)			13.09	4.54***
Probate			23.26	8.59***
Enforcement (real-estate, financial, movables, security)			4.15	3.56
Extra Judiciary / Conciliation & Misc. Civil/Legal Aid			2.95	3.23
(Note: Land Registration is in the intercept as the point of departure)				
Number of Resolved Cases by Case Type				
Criminal (short / long proceedings, juvenile)	3372.79	862.22***		
Litigation (labor, repatriation, mediation)	2167.77	313.13***		
Probate	2005.78	696.87***		
Enforcement (real-estate, financial, movables, security)	455.95	241.27*		
Land Registry	218.08	76.45***		
Extra Judiciary / Conciliation & Misc. Civil/Legal Aid	96.54	203.11		
Total Number of Cases Resolved Cases				
Total Cases Resolved by Court			-0.110	0.026***
Total Cases Resolved by Court – Squared			0.00000553	0.00000167***
Total Cases Resolved by Court – Cubed			-8.71E-11	3.09E-11***
N	63		63	
Adj. R ²	0.97		0.73	
P-value: <= .1 **; <= .05 ***; <= .01 ****.				
Model 4 & 5: Determinants of Per Case Spending.		Model 6: Determinants of Judge Effectiveness.		
Dependent Variable: Total Municipal Court Operating Spending Per Resolved case (Operating Spending / Total Resolved Cases-TSPC).		Dependent Variable: Total Municipal Court Operating Spending Per Resolved case (Operating Spending / Total Resolved Cases-TSPC).		

⁵⁰ This section will be updated pending receipt of 2012 data from the Ministry of Justice.

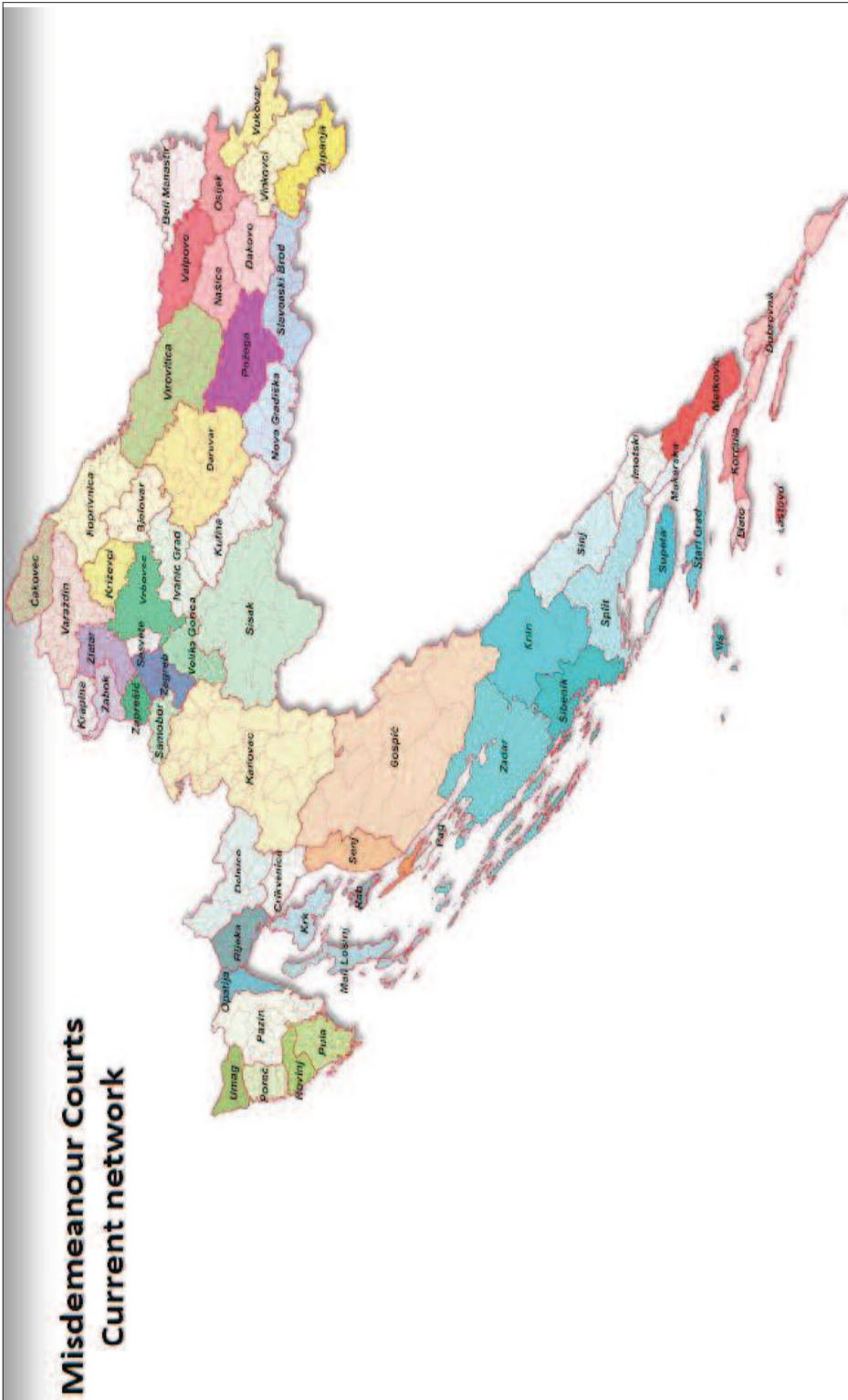
Independent Variables	Case load & Spending Dist.						Case load & Staffing Dist.			Judge Productivity		Dependent Variable: Resolved Cases per Judge (JUDGE_RES)
	Coefficient	Standard Error	Coefficient	Standard Error	Coefficient	Standard Error	Coefficient	Standard Error	Coefficient	Standard Error		
Intercept	573.64	269.31**	-2076.20	669.92***	-1097.78	1651.36						
Type of Case as Percent of Total Resolved Cases												
Criminal (short / long proceedings, juvenile)	68.45	14.52***	77.51	15.23***	-74.22	36.78**						
Litigation (labor, repatriation, mediation)	15.35	5.00***	28.10	4.79***	-59.65	11.89***						
Probate	22.72	8.92***	29.76	9.47***	-52.45	22.41**						
Enforcement (real-estate, financial, movables, security)	5.22	3.98	6.12	4.10	-29.86	10.34***						
Extra Judiciary / Conciliation & Misc. Civil/Legal Aid	2.69	3.36	3.02	3.70	-4.39	8.67						
(Note: Land Registration is in the intercept as the point of departure)												
Categories of Spending as a Percent of Total Court Spending												
Transportation	15.91	12.19			-62.37	33.30*						
Training, and Intellectual and Personal/Contractual Services	2.74	5.42			11.24	13.88						
Maintenance, Facilities, Energy Rents and Utilities	6.15	8.86			-19.59	22.15						
Materials, Supplies, Inventory, Information, Insurance and Financial Services	-6.01	12.96			72.26	33.26**						
(Note: Salaries & Wages is in the intercept as the departure point)												
Civil Servant Staffing as Percent of Total Staff												
Civil servants as a Percent of total staff			25.31	7.47***	52.04	19.84***						
(Note: Judge staffing is in the intercept as the point of departure)												
Scaling Factor -- Total Number of Resolved Cases												
Total Cases Resolved by Court	-0.10648	0.02889***										
Total Cases Resolved by Court – Squared	5.37E-06	1.82E-06***										
Total Cases Resolved by Court – Cubed	-8.41E-11	3.31E-11***										
Scaling Factor – Total Municipal Court Staff												
Total Court Staff			-3.22	2.16	-6.81	5.20						
Total Court Staff – Squared			0.012	0.012	0.035	0.028						
Total Court Staff – Cubed												
N		63		63		63					63	
Adj. R ²		0.73		.067		0.66						
P-value: <=.1 ***, <=.05 ***, <=.01 ****.												

ANNEX 2: UPDATED REFORM STRATEGY – KEY ELEMENTS



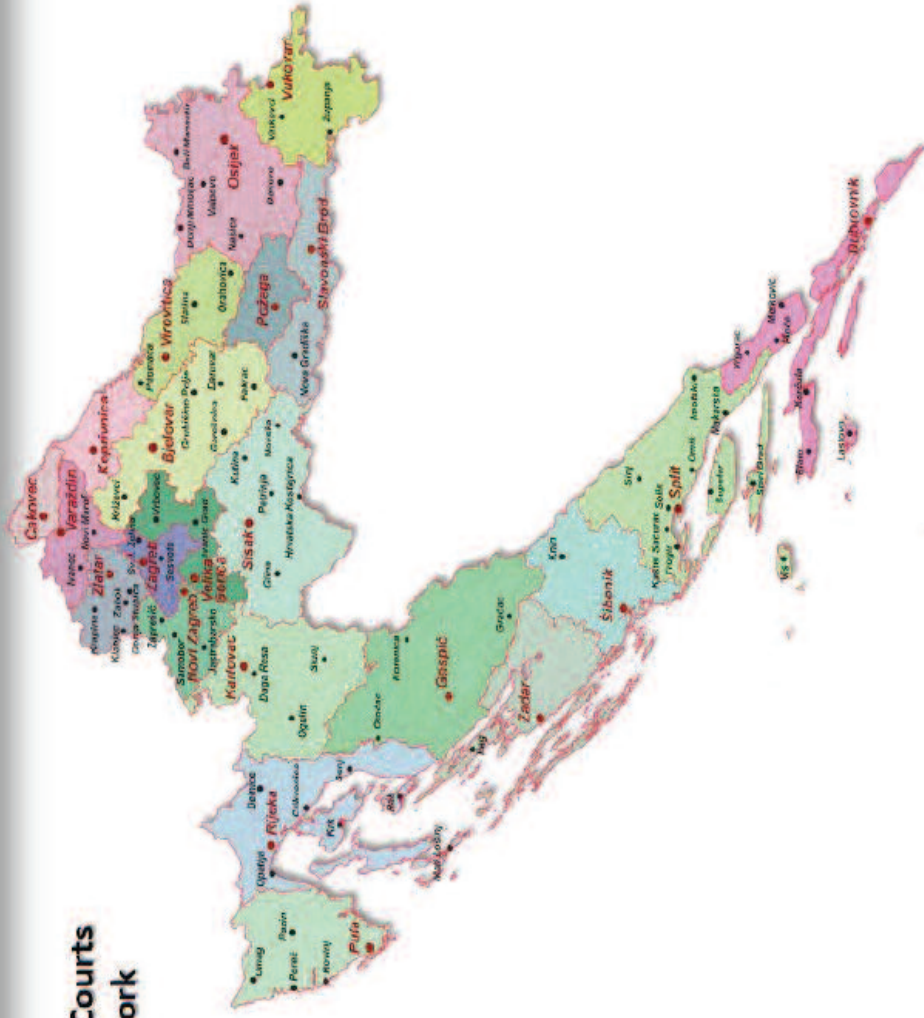
Source: Ministry of Justice (September 2014)

Misdemeanour Courts Current network



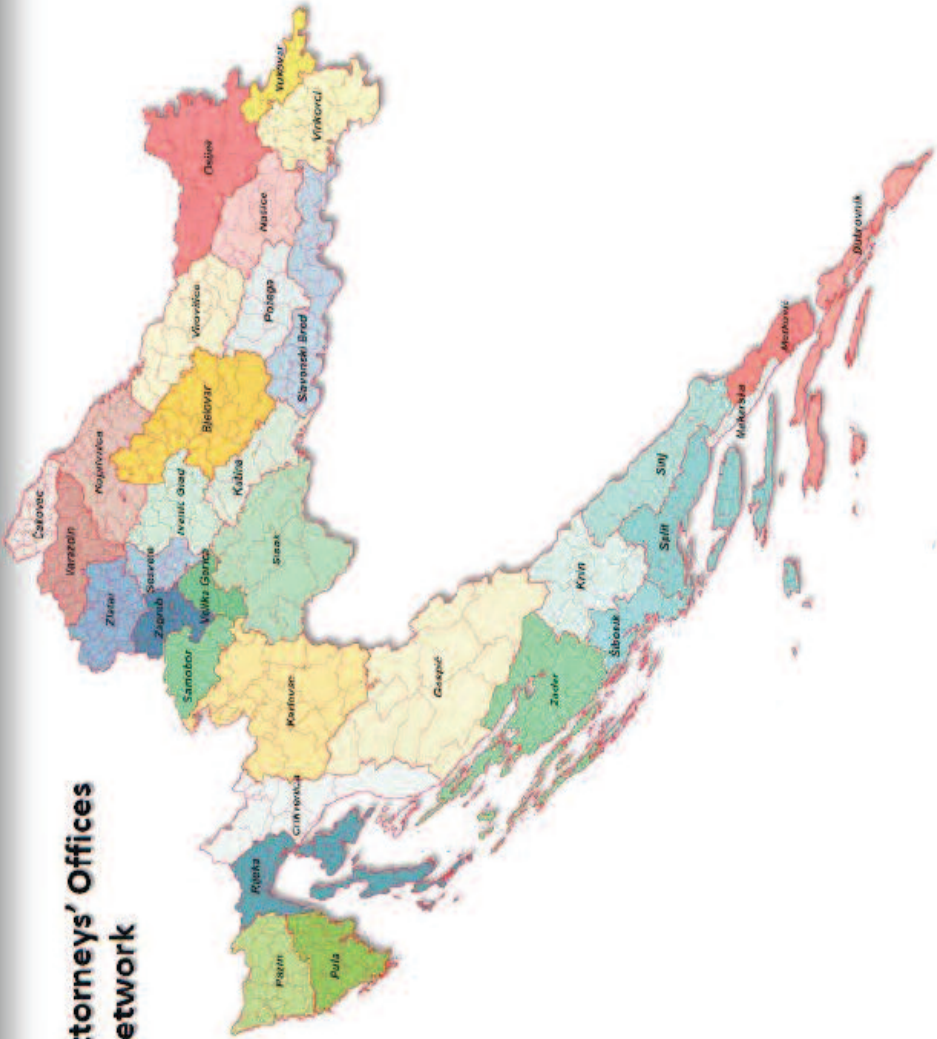
Source: Ministry of Justice (September 2014)

Misdemeanor Courts Future network



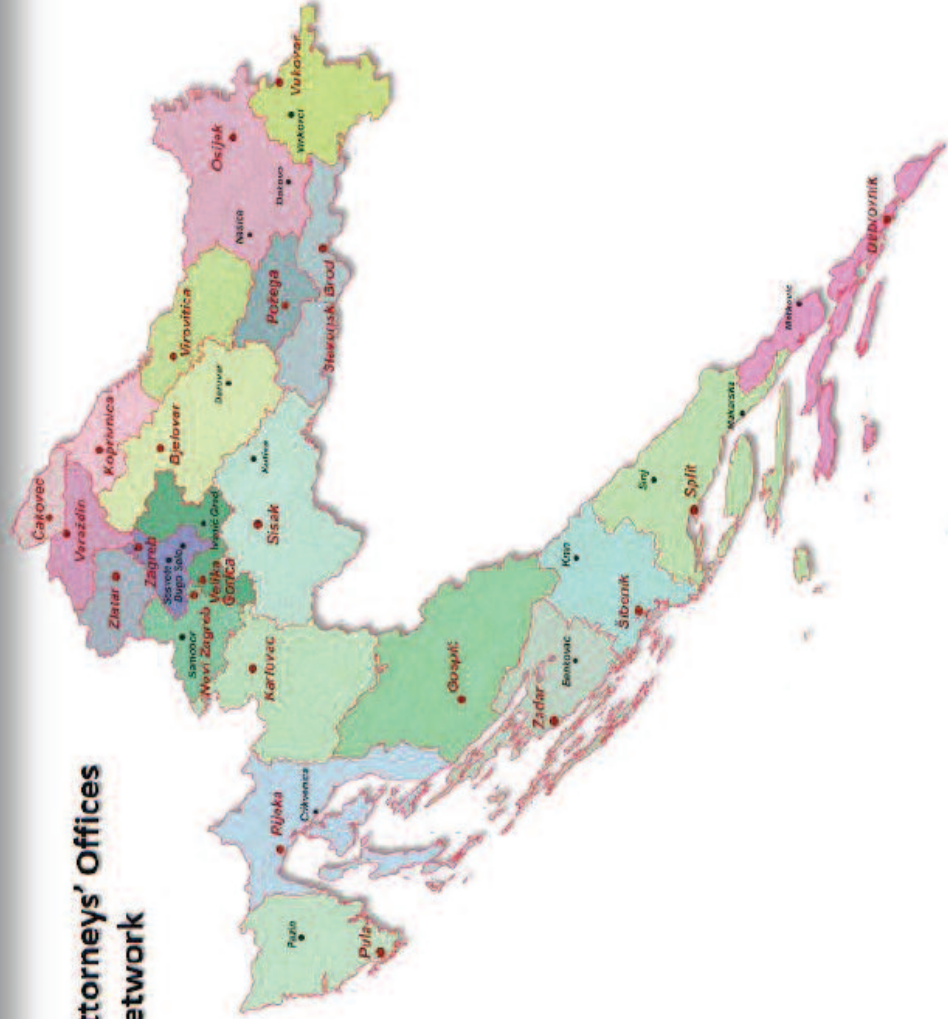
Source: Ministry of Justice (September 2014)

Municipal State Attorneys' Offices Current network



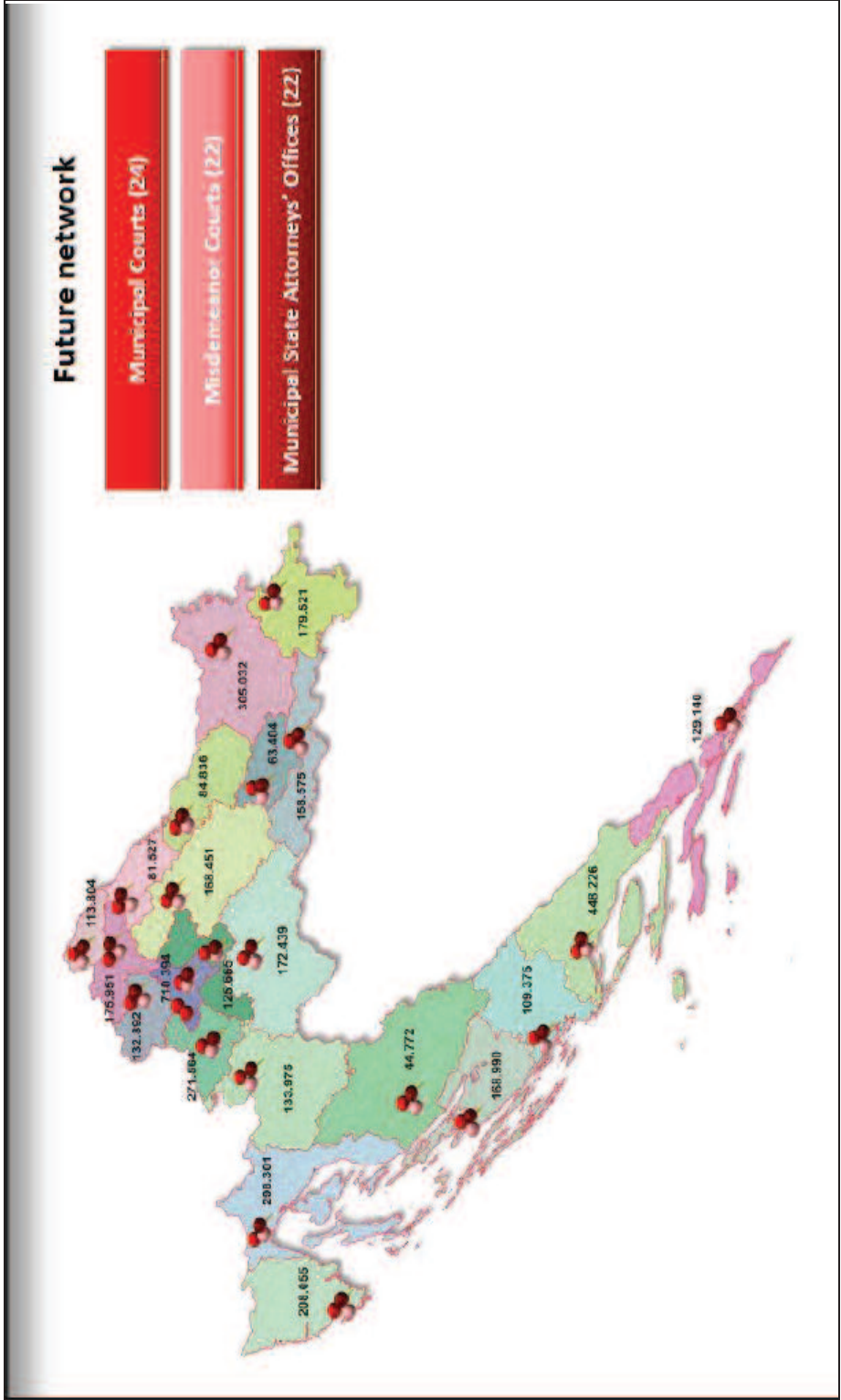
Source: Ministry of Justice (September 2014)

Municipal State Attorneys' Offices Future network



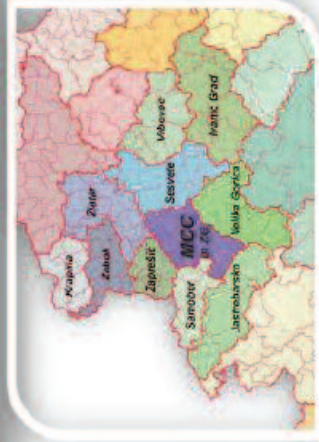
Source: Ministry of Justice (September 2014)

Future Network: Municipal Courts, Misdemeanor Courts and Municipal State Attorneys' Offices



Source: Ministry of Justice (September 2014)

Zagreb area Current situation



MUNICIPAL CIVIL COURT IN ZAGREB

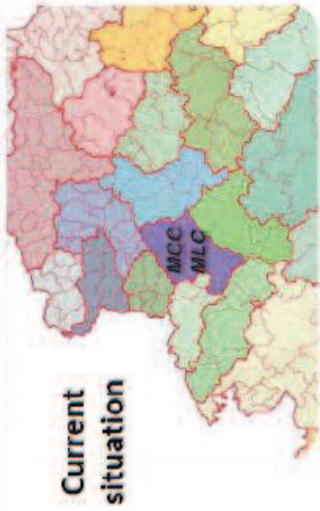
- it covers the area of 720,008 inhabitants
- it holds 21,74% of the total inflow of cases in all Municipal Courts
- the percentage of Judges is 15,95% of the total in all Municipal Courts
- 17,66% of the total court staff in all Municipal Courts
- due to the workload of judges (651 cases per judge), there are significant backlogs in their work (93.270 cases, i.e. 28,68% of the total pending cases in all Municipal Courts)
- it generates the highest total amount paid each year because of the breach of the right to a trial within a reasonable time:
 - 2011. - 5,65% of the total
 - 2012. - 6,27% of the total
 - 2013. - 22,67% of the total

Zagreb area Future situation



- it will be split in two Municipal Courts:
 - 1. Municipal Civil Court in Zagreb**
(Permanent attendances in Sv. I. Zelina, Sesvete and Dugo Selo)
(710.394 inhabitants)
 - 2. Municipal Court in Novi Zagreb**
(Permanent attendances in Zaprešić, Samobor and Jastrebarsko)
(271.564 inhabitants)
- individually they will have a smaller inflow of cases, smaller number of court staff and more unified workload

Source: Ministry of Justice (September 2014)



Current situation



Future situation

MUNICIPAL CRIMINAL COURT IN ZAGREB

- effective since 1st October 2007
- currently covering the area of local competence pursuant to the Municipal Civil Court 's in Zagreb
- it has 41 judges and 122 court staff

MUNICIPAL LABOUR COURT IN ZAGREB

- effective since 1st January 2012 and specialized in labour disputes, this Court was established in accordance with fulfilment of the syndicates demands
- it is currently covering the area of local competence that is equal to the Municipal Civil Court's in Zagreb
- it has 26 Judges and 28 court staff

MUNICIPAL CRIMINAL COURT IN ZAGREB

MUNICIPAL LABOUR COURT IN ZAGREB

- after the reorganization of the network, the local competence area of these two Courts will be pursuant to the Municipal Civil Court's in Zagreb
- increased efficiency
- harmonization of case law
- more balanced utilization of existing resources

Source: Ministry of Justice (September 2014)

Reform of Appeal Proceedings – County Courts

Currently

- 15 County Courts – territorial jurisdiction of the County Courts for the area of Municipal Courts
- almost the same inflow of civil cases (2011 – 79,837; 2012 – 78,169; 2013 – 79,399), however an increase by 3,5% of pending cases was noted (1st January 2012 – 59,456; 1st January 2013 – 61,255; 1st January 2014 – 63,408)
- decrease in the number of criminal cases (2011 – 12,497; 2012 – 9,478; 2013 – 8,020)
- 242 civil judges, 74 criminal judges
- unequal workload of judges

Proposition of the reform

- abandonment of the territorial jurisdiction
- Second instance County Courts responsible for deciding on appeals against the civil decisions and criminal judgments of all Municipal Courts in Croatia
- random algorithmic assignment of cases by ICMS application

Expected impacts

- abbreviating the length of the appeal proceedings
- equal distribution of judges' workload
- harmonization of case law

Source: Ministry of Justice (September 2014)

**ANNEX 3: STAFFING PROFILE: MUNICIPAL AND MISDEMEANOR COURTS AND MUNICIPAL
STATE ATTORNEY OFFICES**

	Judicial Officials	OFFICIALS AND CLERKS			RETIREMENTS DURING					RETIREMENT
		INDEFINITE	DEFINITE	TOTAL	2014	2015	2016	2017	2018	TOTAL
JUDICIAL OFFICIALS	1649				5	5	6	9	11	36
ADVISORS		338	102	490	0	1	1	0	1	3
REGISTRARS		1136	94	1230	8	13	10	15	24	70
CLERKS/TYPISTS		1822	241	2063	3	5	3	7	8	26
LAND REGISTRY/ ADMINISTRATIVE OFFICERS		679	143	822	7	5	7	8	7	34
COURT BAILIFFS		95	3	98	0	0	4	1	1	6
COUNSELLORS AND ASSOCIATES		39	0	39	0	0	2	0	2	4
ACCOUNTANTS		258	5	263	3	3	4	4	3	17
COURT/STATE ATTORNEY ADMINISTRATION		132	0	132	1	2	1	3	0	7
EXECUTION OF SENTENCES		175	3	178	2	1	3	2	6	14
IT WORKERS		42	1	43	0	0	0	0	0	0
TRAINEES		0	63	63	0	0	0	0	0	0
ARCHIVISTS		19	3	22	0	0	0	0	0	0
CLEANERS		310	9	319	4	2	4	6	10	26
CATEGORY III AND IV EMPLOYEES		248	12	260	3	5	5	1	1	15
TOTAL		5343	679	6022	31	37	44	47	63	222

Source: Ministry of Justice Presentation, January 2014

ANNEX 4: IMPACT OF REORGANIZATION

Shortcomings of the current network

Judicial bodies	Number of officials				Total
	up to 10	up to 20	up to 30	up to 40	
Municipal Courts	42	15	5	1	4
Misdemeanor Courts	55	4	0	1	1
Municipal State Attorneys' Offices	19	10	2	1	1
Total	116	29	7	3	6
%	72,05%	18,01%	4,35%	1,86%	3,73%

New network after the reorganization

Judicial bodies	Number of officials				Total
	up to 10	up to 20	up to 30	up to 40	
Municipal Courts	2	4	8	2	8
Misdemeanor Courts	10	7	3	2	2
Municipal State Attorneys' Offices	6	10	2	2	2
Total	18	21	13	4	12
%	26,47%	30,88%	19,12%	5,88%	17,65%

Source: Ministry of Justice, September 2014