

**THE MINISTRY OF JUSTICE, ADMINISTRATION AND LOCAL SELF-GOVERNMENT**

**THE REFORM OF THE SYSTEM OF JUSTICE**

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**Zagreb, November 2002**

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#### **I. ASSESSMENT OF THE PRESENT SITUATION**

Over several decades, partially deliberately and partially as a result of neglect, the Croatian system of justice has fallen into a very serious condition.

This condition is characterised by:

1. Excessive backlogs, so large that the question is sometimes asked whether the system of justice can even any longer offer efficient legal protection to citizens and legal persons.
2. A lack of systematic and permanent professional training for court officials and servants, which is vital primarily because of new laws and other regulations which have been adopted to harmonize the Croatian legal system with the law of the European Union, but also to satisfy the needs of Croatian society.

3. The lack of systematic and permanent training in information technology (all court officials and most servants should be trained to use computers, which does not need special explanation)
4. A lack of working space, in that part of the existing premises are completely unsuitable for their purpose (there are courts which work in partially demolished buildings from the 19<sup>th</sup> century).
5. A shortage of equipment, not just modern items, such as computers for example, but also items without which it is impossible to carry out everyday tasks properly (such as official cars).
6. A shortage of professional literature, which prevents court officials from educating themselves until a permanent system of training is set up, organised and financed by the state.
7. A lack of funds for financing running costs (some courts occasionally cannot even pay postage and telephone bills) and
8. An irrationally organised network of judicial bodies (too many small state attorney's offices and courts some of which do not have sufficient work, and at the same time, a few judicial institutions are overburdened – especially in Zagreb, Split and Rijeka).

## **II. BASIC OBJECTIVES AND MEASURES AND THE MEANS FOR THEIR REALISATION**

With the aim of further advancing and developing the system of justice, the Government of the Republic of Croatia with this reform of the system of justice, will ensure the more successful work of the independent, unbiased and efficient system of justice, which is the guarantee of democratic rule, the development of an efficient market economy, the principle of the rule of law and the legal security of its citizens.

The amendments so far to the Constitution of the Republic of Croatia and the amendments to the Courts Act, the State Judicial Council Act, have solved the issues of the permanency of judges' term of office and its length, the position of the Supreme Court, the manner of appointing presidents, the immunity and responsibility of judges, the preconditions have been realised to attain high standards of independence of the justice and made impossible illegitimate and political interference in the independent and unbiased work of the justice. By the State Attorney's Office Act, the statutory conditions have been created for its more efficient work in the more efficient prosecution of perpetrators of criminal offences and the protection of the property of the Republic of Croatia. The State Attorney's Council has been founded, which carries out the proceedings of appointment and disciplinary proceedings subject to standards of transparency, democracy and political independence in its work. The Government has initiated the enactment of the Office for the Prevention of Corruption and Organised Crime Act, by which the Croatian system of justice has gained an efficient tool in the combat against organised crime and corruption, in a preventive and repressive sense.

An efficient system of justice is of strategic importance for the realisation of the interests and goals of the Republic of Croatia in the process of stabilisation and association with the EU, and the main aim is for it to become efficient and unbiased on the basis of European standards, which should be attained by the proposed strategy and the directions of the reform of the system of justice.

### **A) The basic objectives are:**

- 1. The general promotion of the Constitutional principles of the rule of law and legal certainty;**
- 2. Adjustment to the system of justice and standards of the European Union;**
- 3. The removal of tardiness, ineffectiveness and the reduction of the backlog of work in the courts,**
- 4. With the aim of lightening the load on the courts, out of court forms of dispute resolution should be affirmed, such as mediation, conciliation, arbitration etc. for in this way we include citizens in the settlement of disputes which contributes to the strengthening of stability, democracy and social harmony;**
- 5. A clear separation of the work of adjudication and the work of court administration from the work of court self-administration**
- 6. Raising the level of responsibility of those bearing court officials (judges, state attorneys and their deputies)**
- 7. Constant care that the Constitutionally guaranteed independence of the judicial authorities is maintained on the level it has attained**
- 8. Organisation of a system of legal aid and access to the system of justice for all categories of the public by reducing the complexity, length and costs of court proceedings in accord with European principles.**

### **B) Means and measures to realise these commitments:**

1. Provision of the necessary working conditions, including building and adapting suitable working premises and purchasing the necessary equipment and means for work, especially the introduction of information and communications technology,
2. Rationalisation of the organisation and management of system of judicial institutions,
3. Amendments to procedural legislation
4. Permanent and systematic training for court officials
5. Continuation of the process of staffing of the system of justice;
6. Return the right of judges to an addition to their work experience years for the extra valuation of their experience at work,
7. in accordance with European standards, to equalise the salaries of judges and state attorneys.
8. To set up a salary system for officials and employees in the system of justice which is appropriate to the importance, responsibility and complexity of their work in view of their contribution to the efficiency and lawfulness of the system of justice;
9. Re-examine and rationalise the existing network of courts and State Attorneys' Offices,
10. Providing judges with greater mobility, greater independence and competence for court advisors and the advance of the work and training of apprentices in the system of justice;
11. The establishment of an Inspectors' Office for the System of justice within the Ministry of Justice, who will oversee the work of the court and state attorney's administration and the material and financial business of judicial institutions, but without any authority to influence the independence and neutrality of these institutions and the execution of their function as established in the Constitution.

The application of the means and measures in points 1-11 will be guaranteed by the adoption of new and amendments and supplements to the existing laws and other regulations.

**III. DATA ON THE EFFICIENCY AND STAFFING OF THE COURTS AND CRIMINAL PROCEEDINGS TERMINATED AS A RESULT OF THE EXPIRY OF THE STATUTE OF LIMITATIONS**

a) Efficiency

The data on efficiency from 2001 are presented as follows:

1. for all courts in the Republic of Croatia together and
2. separately for each of the eight courts where the situation is worst.

1) Total Data

<b>Unresolved 31. 12. 2000.</b>	<b>Received 2001.</b>	<b>Pending 2001.</b>	<b>Resolved 2001.</b>	<b>Unresolved 31. 12. 2001.</b>
<b>929,905</b>	<b>1,202,057</b>	<b>2,131,962</b>	<b>1,111,549</b>	<b>1,020,413</b>

This Table shows data for all Municipal, County and Commercial Courts, as well as the Supreme Court, the High Commercial Court and the Administrative Court of the Republic of Croatia.

<b>Unresolved</b>	<b>Received 2001.</b>	<b>Pending</b>	<b>Resolved</b>	<b>Unresolved 31.</b>
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<b>31. 12. 2000.</b>		<b>2001.</b>	<b>2001.</b>	<b>12. 2001.</b>
<b>209,296</b>	<b>416,664</b>	<b>625,960</b>	<b>398,824</b>	<b>227,136</b>

This table shows data for all misdemeanour proceedings, including those before the High Commercial Court of the Republic of Croatia.

**2) Individual Data**

COURT	Unresolved 31.12. 2000	Received 2001.	Pending 2001.	Resolved 2001.	Unresolved 31.12.2001
Municipal Court Rijeka	23,584	26,087	49,671	25,675	23,996
Municipal Court Split	43,820	25,337	69,157	27,972	41,185
Municipal Court Zagreb	159,198	177,915	337,113	125,164	211,949
County Court Zagreb	19,906	25,007	44,913	21,952	22,961
County Court Split	6,112	9,000	15,112	7,179	7,933
Commercial Court Split	4,816	40,261	45,077	37,593	7,484
Commercial Court Rijeka	8,692	36,601	45,293	39,032	6,261
Commercial Court Zagreb	43,028	52,077	95,105	59,984	36,121

**b) The Staffing on the day this overview was written**

<b>Function or job</b>	<b>Systemised</b>	<b>Filled</b>	<b>Lacking</b>
<b>Judges</b>	<b>2,152</b>	<b>1,819</b>	<b>333</b>
<b>servants and employees</b>	<b>5,501</b>	<b>5,038</b>	<b>463</b>

This overview covers the situation in all courts except misdemeanour courts.

Court advisors are included in the 5,501 systemised servants and employees, but there are no data on how many advisor's positions are systemised. There are at present 452 advisors in service, which is not sufficient.

Court	Judges			Others		
	Systemis-ed	Filled	Lacking	Systemise d	Filled	Lacking
Municipal Court Rijeka	47	46	1	134	134	-
Municipal Court Split	60	54	6	188	188	-
Municipal Court Zagreb	210	157	53	639	639	-
County Court Zagreb	91	87	4	192	192	-
County Court Split	30	25	5	72	65	7
Commercial Court						

Split	21	16	5	72	72	-
Commercial Court Rijeka	16	16	-	75	56	19
Commercial Court Zagreb	61	56	5	225	180	45

The eight courts with the greatest number of backlogs are shown here.

**c) Comparison with the situation in Austria**

Finally we present a comparison with the situation in Austria, regarding the number of judges (not including the judges in misdemeanour courts):

STATE	POPULATION	TOTAL NO. OF JUDGES	NO. OF JUDGES PER 100,000 INHABITANTS
REPUBLIC OF CROATIA	4,380,000	1,819	33
REPUBLIC OF AUSTRIA	8,000,000	1,770	23

**d) The Statute of Limitations**

In 2001 the following number of criminal proceedings were terminated because of the expiry of statute of limitations:

- a) in all municipal courts **1,669** and
- b) in all county courts **105** or
- Total: **1,774**

## **IV. REFORM OF CRIMINAL AND CIVIL LEGISLATION**

### **The Criminal Procedure Act and the Criminal Code**

With the aim of increasing the efficiency of the criminal system of justice, those parts of the Criminal Procedure Act have been amended which slowed down the course of criminal proceedings, gave the possibility of abuse of the rights of those taking part in criminal proceedings, and contributed to the inefficiency of the work of all those involved in criminal proceedings. Amendments to the Criminal Code have adjusted the institutions of the substantive criminal law to the basic principles of the Constitution of the Republic of Croatia and international criminal law.

The next amendments to the Criminal Procedure Act will regulate the new system of criminal procedure which will contain the regulation of preliminary criminal procedure without the stage of investigation, the transformation of the investigating judge into a judge of preliminary proceedings, with the transfer of the discovery and investigation of criminal offences to the state attorney's offices, who in the preparatory stage become bodies with a new position and role in accordance with the defined, constitutional position of independent judicial bodies, responsible for criminal prosecution of all criminal offences.

A new role will be prescribed for the police force and the judicial bodies in preliminary proceedings, new more efficient models of conducting criminal proceedings with expanded elements of consensual termination of criminal proceedings, more efficient action for the seizure of any form of pecuniary benefit gained by committing a criminal offence, and international legal aid will be adjusted according to international standards.

Amendments to the Criminal Code must contribute to the more efficient prosecution of economic crime, the suppression of the grey economy and sanctions against crimes committed during transformation of ownership and privatisation, where the existing provisions will be modernised and incriminations adjusted according to the international conventions that have been ratified and the *acquis* in the process of stabilisation and association with the EU.

The Proposal for the Amendments to the Criminal Code (First Reading) will be sent by the Government of the Republic of Croatia for legislative procedure at the end of October 2002.

### **The Act on the Responsibility of Legal Persons for Criminal Offences**

An important new item in the Croatian criminal legal system is the regulation of the responsibility of legal persons for criminal offences, where the responsibility arises from the responsibility of the responsible person, and the need for the introduction of this form of responsibility is the ever increasing frequency of economic, corruptive, and other criminal offences, where the one responsible for the criminal activity and the user of illegally gained pecuniary benefit is a legal person, whilst the individual is increasingly suppressed. Therefore it is necessary to adopt, as part of the reform of criminal legislation, as soon as possible a proposal for a new Responsibility of Legal Persons for Criminal offences Act.

The Proposal for the Act on the Responsibility of Legal Persons for Criminal Offences (Second Reading) will be sent by the Government of the Republic of Croatia for legislative procedure in December 2002.

### **Misdemeanour Law as part of Criminal Legislation in a Broader Sense**

With the enactment of the new Misdemeanours Act, the previous misdemeanour law has been reshaped into a new unified concept of misdemeanour jurisdiction in accord with contemporary achievements in criminal jurisprudence and the standards of the international community.

In the field of financial law, and with the aim of the more efficient processing and sanctioning of financial misdemeanours, the Government of the Republic of Croatia will send the final draft of the



Proposal for Financial Misdemeanours Act and the Financial Courts Act for legislative procedure by the end of 2002, which will prescribe financial misdemeanours, an efficient method of running misdemeanour proceedings before administrative bodies and before separate financial courts in the second instance.

### **The Act on the Protection of Persons with Mental Disorders**

By the amendments to the Protection of Persons with Mental Disorders Act the procedure is regulated for the ordering of the involuntary hospitalisation of mentally incompetent persons who have committed a criminal offence, and a future amendments to the law will prescribe the preconditions and procedure for involuntary hospitalisation and involuntary detention in psychiatric institutions of persons with mental disorders as well as their discharge from psychiatric institutions.

The Proposal for the Protection of Persons with Mental Disorders Act (First Reading) will be sent by the Government of the Republic of Croatia for legislative procedure in December 2002.

### **The Pardon Act**

Amendments are proposed to the Pardon Act in order for the justice authorities or the courts to be excluded from the pardon proceedings, and in this way the courts will be relieved of the burden of additional work, which will contribute to their greater efficiency.

The Proposal for the Pardon Act (First Reading) will be sent by the Government of the Republic of Croatia for legislative procedure in December 2002.

### **The Act on Protection from Domestic Violence**

**Recognising the fact that over the past few years there has been a large increase in domestic violence, and fulfilling its commitments taken on with the ratification of international conventions, it is necessary for Croatian criminal law and family law to be supplemented by the enactment of a separate Protection from Domestic Violence Act, which will more efficiently sanction domestic violence and ensure the more efficient protection of victims of this violence in a physical, spiritual, emotional and financial sense.**

The Proposal for the Protection from Domestic Violence Act (First Reading) will be sent by the Government of the Republic of Croatia for legislative procedure in September 2002.

### **The Civil Procedure Act**

**The basic aims of the proposed amendments to the Civil Procedure Act are the increase of efficiency of procedure, the prevention of abuse of rights in proceedings and an increase in procedural discipline.**

The proposed amendments prescribe a monocratic system of first instance courts, the inquisitory powers of the courts are limited in terms of the gathering of evidence, in order to speed up the proceedings and increase efficiency it is vital to tighten up the issue of procedural discipline, the fines which a court may impose in proceedings are significantly increased, the range of the institution of *perpetuatio fori* is expanded and possible conflicts of jurisdiction are reduced to the least possible degree, it is prescribed that a request to recusal of a judge is not permitted by which the recusal is sought of all judges in general of a particular court, or all judges who could adjudicate a particular case, which has already been decided and where no explanatory reason is given for asking for recusal, and the circle of people who may have the power of attorney for parties is limited: only an attorney may represent a party, if the law does not prescribe otherwise, there are significant amendments to the rules regulating service, the concept of preliminary hearings is amended, new procedural institutions are prescribed: default judgements, it is prescribed that a judgement must be drawn up and dispatched within 30 days of deliverance, it is prescribed that the second instance court shall rule on an appeal at a session of the chamber, examining the first instance judgement within the limitation of the reasons

given in the appeal, reviewing *sua sponte* only some important violations of provisions of civil procedure, expressly mentioned in the Act, and the correct application of substantive law.

The Proposal for Amendments to the Civil Procedure Act (First Reading) will be sent by the Government of the Republic of Croatia for legislative procedure in November 2002.

### **The Inheritance Act**

The valid Inheritance Act is a former federal Yugoslav act of 1955, which in a later phase (from 1971) was the republic law in the Socialist Republic of Croatia, and then in the Republic of Croatia.

Some amendments to this Act have been necessary, which do not relate only to the social and political changes. In legal inheritance, in the second degree of inheritance, the advantage is given to the testator's spouse over the siblings of the testator and their descendants, the circle of mandatory heirs is reduced to the closest relations – descendants, or adopted children and spouses, whilst parents and other predecessors are only mandatory heirs with the additional proviso of a social nature, only if they are permanently incapable of working and do not have the necessary means for living. The various, in fact unnecessary, forms of public wills are reduced to one form of public will, in the harmonisation of the procedural part with the substantive part, certain unnecessary formalities have been removed which lengthen the procedure and some deadlines have been reduced. In order to ease the burden on the courts it has been made possible for notaries public to take on a major part of the work which is presently in the jurisdiction of the courts.

The Proposal for the Inheritance Act (Second Reading) will be sent by the Government of the Republic of Croatia for legislative procedure by the end of 2002.

### **The Civil Obligations Act**

The repealed provisions from Articles 180, 184 a Paragraph 2 and Article 184 b Paragraph 2 of the Civil Obligations Act (*Official Gazette* no. 53/91, 73/91, 111/93, 3/94, 7/96, and 112/99) and Article 2 Paragraph 2 of the Act on Amendments to the Civil Obligations Act (*Official Gazette* no. 7/96) are being substituted.

The gap in the legal regulation is being filled, and at the same time this field is brought into line with the European legal system.

The Proposals for three acts (First Reading) will be sent by the Government of the Republic of Croatia for legislative procedure by the end of November 2002.

### **The Act on the Court Registry and the Regulation on the Manner of Registration in the Court Registry**

By its conclusion of 14 February 2002, class 441-03/00-02/02, reg. No. 5030115-02-2, the Government of the Republic of Croatia passed the Implementation Plan for Action Plan for the Removal of Obstacles to Investment in the Republic of Croatia, which, amongst other things, relates to the registration of companies and other procedures involved in the initiation of business activity. Therefore within the framework of this Implementation Plan for the speeding up of the procedure for the registration of subjects in the court register during the preparations of amendments to the Court Registry Act and the Regulation on the Manner of Registration in the Court Registry the contents of the ruling on registration will be simplified.

The work on the Proposal for Amendments to the Court Registry has been entrusted by the Government of the Republic of Croatia to the Ministry of the Economy, in co-operation with this Ministry. The regulation will be passed by the end of October 2002.

### **The Companies Act and the Bankruptcy Act**

In the execution of the program and activities mentioned in Schedule 3 of the Structural Adjustment Loan Agreement (*Official Gazette*– International Agreements, no. 2/02), that is Points 26 and 37 of the letter on the development policies in relation to the Structural Adjustment Loan to the World Bank on 23 October 2001 by the Ministry of Finance, these laws and regulations will need to be amended in an appropriate manner, or supplemented.

By the amendments to the Companies Act (together with the amendments to other acts, where the preparatory work on drafts is not within the competence of this Ministry –e.g. the Procedure for the Take-over of Companies Act and the Securities' Market Act) the rights of small share holders should be strengthened, the existing regulations which prevent the transfer of shares liberalised, full payment of shares when they are issued ensured, more transparent trading in securities made possible, consistent regulations for issuing brochures set up, the movement of shares of companies on the stock exchanges eased and the practice of corporate management adjusted to the regulations of the European Union.

The work on the Proposal for Amendments to the Companies Act and the Bankruptcy Act has been entrusted by the Government of the Republic of Croatia to the Ministry of the Economy in conjunction with this Ministry.

### **The Enforcement Act**

The need is for modernisation, which primarily means to simplify procedures, to enable creditors on the basis of legally effective court decisions to more efficiently realise their rights, since the Enforcement Act at present still protects the debtors more than is necessary. This would without a doubt affect the creation of a different morality, for both citizens and in business, and, which is also of great importance, strengthen social discipline, and thus the rule of law.

The Proposal for Amendments to the Enforcement Act (First Reading) will be sent by the Government of the Republic of Croatia for legislative procedure in November 2002.

### **The Ex parte Procedure Act**

This is a new law which the Government of the Republic of Croatia will send for legislative procedure by the end of 2002. This law will regulate, among other matters, the procedure and decision making in all ex parte cases, for which this is possible because of the nature of the case, to be transferred to the competence of notaries public.

### **The Land Registry**

The Land Registry does not contain precise nor up to date records of the rights to real estate, nor is it in line with the cadastre registers.

In order to adjust to the modern legal transactions in real estate, traditional manually kept land registers need to be re-formed into electronically run land registers. The transition to electronically run cadastre and registry books will form a unified base of land registry data, where data in the land registry will be in line with the data in the cadastre, and at the same time the property rights of the title holders will be registered.

From the information gained from the municipal courts it may be concluded that the situation regarding the land registry is in general very bad, since in a total of 2068 cadastre municipalities it is necessary to either re-establish the land register, or to renew it in its entirety or part, or even the harmonisation needs to be undertaken by individual corrective procedure or corrective procedure.

It is necessary to alter the position of the land registry officials so they have greater independence and responsibility in dealing with land registry cases.

The project of the land registry and cadastre of the Republic of Croatia, which will be financed by a loan of 26 million EUR from the International Bank for Reconstruction and Development (IBIRD), will advance the harmonisation of data from the cadastre and the land registry, remove backlogs in the land registry system and improve access to land registry and cadastre data.

By the end of October 2002 the Government of the Republic of Croatia will sign an agreement with the World Bank for 26 million EUR for the organisation of the land registry and cadastre. A request has also been made for the Budget of the Republic of Croatia to approve funds to accompany this project.

### **The Act on Amendments and Supplements to the Court Fees Act**

This Act will make it significantly easier for the public to gain access to the courts. The Government has already determined the final draft of the Act, which is prepared for its Second Reading, and it will be adopted by the Croatian Parliament in November 2002.

### **Out of court methods of dispute resolution**

The use of out of court methods of dispute resolution is of increasing significance in various legal systems throughout Europe, and indeed the entire world, which contributes to stable and ordered social relationships. Society as a whole benefits from the fact that the quicker and more efficient dispute resolution means greater security, economic activity and great foreign, but also domestic investment.

The Government of the Republic of Croatia shall by means of amendments to the relevant laws and other regulations promote the out of court dispute resolution, to ease the burden on the courts, by engaging notaries public, attorneys and other institutions to deal with a large number of cases which are now within the jurisdiction of the courts.

In the activities undertaken in this field, the relevant EU regulations have been and will be taken into consideration, especially the Recommendations of the Committee of Ministers of the Council of Europe (98) 1 on mediation in the Family Act, no. R(99)19 on mediation in criminal issues, and draft proposals whose final versions are being written in the field of administrative and civil law.

## **THE TRAINING OF COURT OFFICIALS IN THE SYSTEM OF JUSTICE**

### **1) The Centre For The Professional Training Of Judges And Other Court Officials**

The Government of the Republic of Croatia is in the process of coming up with a definition of a system of professional and continuous training of those employed in the system of justice, by means of a Centre for the Professional Training of Judges and Other Court officials.

The task of the Centre is to promote professional and continuous training for judges and other court officials through various forms of educational work and professional training related to new laws and regulations and current issues, new technologies in the management of court business, and European and other international legal regulations. The program of the Centre will cover various forms of professional training which will take place in a variety of legal and technical fields (criminal, civil, commercial, labour, misdemeanour, European law, skills for the use of computer information technology in law etc.) by means of organised conferences, seminars and workshops where, representatives of the judicial authorities and the academic community in the Republic of Croatia (judges, state attorneys etc.) will take part as the main partners.

The Centre for the Professional Training of Judges and Other Court officials is an independent organisational unit within the Ministry of Justice, Administration and Local Self-government of the Republic of Croatia. This Centre is run by a Council, which consists of representatives of the Law Faculties of the Universities of Zagreb, Osijek, Rijeka and Split, and representatives of the Supreme Court, the Administrative Court, the High Commercial Court, the High Misdemeanour Court, the State Attorney's Office of the Republic of Croatia, the Croatian Bar Association, the Croatian Chamber of Notaries and the Ministry of Justice, Administration and Local Self-government of the Republic of Croatia.

The Ministry of Justice, Administration and local Self-government of the Republic of Croatia is responsible for:

- Providing the appropriate premises for the work of the Centre for the Professional Training of Judges and Other Court Officials;
- Providing the necessary financial means for the work of the Centre.
- Adopting a Programme for the Education of Judges and Other Court Officials
- Passing a Decision on Amendments to the Decree on the Internal Organisation of the Ministry of Justice, Administration and Local Self-government of the Republic of Croatia;
- Establishing the necessary number of employees to work in the Centre for the Professional Training of Judges and Other Court Officials;
- Writing a proposal for amendments to the Decree on the Titles of Jobs and the Coefficient for Complexity of Work in State Administration with the designation of conditions and job descriptions and employees' tasks for each individual job in view of the specific task of the Centre.
- The foundation of a professional journal within the Centre for the Professional Training of Judges and Other Court Officials.

## **2) Financial Support to meet the needs of the training and work of court officials**

It is necessary to supply all court officials (judges, state attorneys, lawyers etc.) with the official gazette of the Republic of Croatia – *Narodne novine*, adequate personal computers with Internet connections, and to enable them to have access to laws and regulations, and the case law of the Republic of Croatia, with the goal that court judgements rendered are based on a unified case law, for whose unity the Supreme Court of the Republic of Croatia is responsible. In order to realise all this, it is necessary for each individual judicial body in the Republic of Croatia (courts, the State Attorneys Office) to be provided with sufficient financial means for the needs of continuous professional training for judges and other court officials, in view of the fact that the existing financial means are insufficient to reach these goals.

## **VI. INTERNATIONAL SUPPORT FOR THE MODERNISATION OF THE SYSTEM OF JUSTICE IN THE REPUBLIC OF CROATIA**

Based on various programs of technical assistance from international organisations and institutions (the European Commission, the European Legal Initiative, the American Bar Association Central and Eastern Europe Law Initiative– ABA CEELI, the United States Agency for International Development (USAID), the process of modernising the system of justice in the Republic of Croatia has begun.

The work is being done with the help of the following programs of technical assistance:

1. A project of technical assistance in relation to bankruptcy cases,
2. A project of reform of the land registry – the registration of real estate and the cadastre project;
3. A project to computerise of the Supreme Court of the Republic of Croatia and the Law Faculties;
4. A project of technical assistance from the European Commission to the Centre for the Professional Training of Judges and Other Court Officials;
5. A project of technical assistance from the European Commission entitled European Union Support to the Judiciary In The Field Of Offering Legal Advice, The Court System And How To Handle Cases.

6. A project of technical help from the United States Agency for International Development (USAID) for the reform of the system of municipal courts in the Republic of Croatia;
7. A project of technical help from the European Commission entitled Support for the Development of a more Modern and More Efficient System of justice in the Republic of Croatia.

## **VII. THE COMPUTERISATION OF THE SYSTEM OF JUSTICE**

The success of the reform of the system of justice to a large extent depends on the application of information and communications technology (ICT) and it is therefore vital to continue the adaptation of the system developed so far based on the international legal ICT standards, and ensure further development by reform. The following projects exist as part of the computerisation of the system of justice:

- R233929 **the computerisation of the land registry**
- R301135 **the computerisation of the system of justice**
- R301143 **the computerisation of the commercial courts – registry**
- R320916 **cadastre and land registry on the islands**

It is important to systematically develop the computerisation of the system of justice begun in 1996 in all judicial bodies in the Republic of Croatia.

By the provision of internet infrastructure in all courts and judicial institutions the complete development and implementation of all programs with the aim of automating procedural and administrative and financial tasks in the system of justice, and accompanying systematic education of all users, the more efficient work of the judiciary, the court, State Attorney's and judiciary administration will be ensured and especially better conditions will be provided for the work of judges and state attorneys.

As support to the economic development of the Republic of Croatia, the Government of the Republic of Croatia will provide all material, organisational and other conditions for the establishment of a secure system for the court registry, the land registry, the criminal records registry and other registries within the system of justice.

One of the special tasks, which arise, is to continue with the computerisation of courts and to begin immediately with the computerisation of state attorney's offices and the prison system.

### **CAPITAL INVESTMENTS**

Without a more substantial financial support which must be provided for the work of the justice authorities by the executive and legislative authorities, the situation clearly will not change to any great extent.

#### **Capital Investment in Buildings**

The implementation of reforms in the system of justice is not possible without capital investments in the rehabilitation, adaptation, and expansion of the existing 236 buildings and for building and purchasing new buildings where it not possible to adapt the existing ones to the real needs of the judicial bodies.

Since a large number of cases are concentrated in the courts in Zagreb and Split, the judges in these cities are overburdened both by the larger number but also the particularly complexity of the legal issues they have to decide on. As part of the overall measures to improve the conditions of work in the courts, special measures are also necessary to improve the efficiency of the work of the courts in these cities. This also assumes a solution to the problem of premises for these courts, for without this it is not possible to appoint the appropriate number of judges.

## 1. Zagreb

**The Supreme Court of the Republic of Croatia** – the existing building at Trg Nikole Šubića Zrinskog 3 in terms of surface area is sufficient to accommodate the Supreme Court of the Republic of Croatia and the State Judicial Council. After the Administrative Court has moved out it is necessary to improve and adapt the courtyard building and fit out the internal courtyard. Furniture needs to be purchased for c. half the total space.

Deadline: December 2004.

**The Administrative Court of the Republic of Croatia** – for the accommodation of the Administrative Court of the Republic of Croatia, a building has been bought on the corner of Dalmatinska and Frankopanska ulica. The building needs improvement and adaptation work and to be completely furnished.

Deadline: December 2003.

**The High Commercial Court** – is located in a leased property in Berislavićeva ulica. In view of the high cost of leasing the building, it would be more favourable to buy. Due to the lack of space, it is necessary to either lease or buy the courtyard building at the same address.

Deadline: July 2003.

**The High Misdemeanour Court** – is housed on several storeys of a building in Dukljaninova ulica. The floor space in the building is inadequate and it is not possible to create a larger number of rooms by adaptation. It is necessary to purchase a new building or in co-operation with the City of Zagreb move the Court into a suitable building in Šenoina ulica, which is currently empty.

Deadline: December 2003

**The State Attorney's Office of the Republic of Croatia** – is located at two sites: in Vinogradska and Gajeva ulica. Apart from the problem of being on two sites, there is a pronounced problem with lack of space. It is necessary to bring the office together on one site by an exchange of space or the purchase of a new building.

Deadline: July 2003.

**USKOK (the Office for the Prevention of Corruption and Organised Crime)** – is located in premises, which are too small in Gajeva ulica. It is necessary to provide adequate accommodation by exchange of property or purchase of a new building.

Deadline: July 2003.

**Criminal Court** – a project program proposes to build premises for the Criminal Court on a plot beside Zagreb County Prison. The building would hold the Criminal Department of the County and Municipal Courts, the Investigation Department of the County Court and the Criminal Departments of the County and Municipal State Attorney's Office. With the building of premises for the Criminal Court, the existing building of the County and Municipal Courts would be sufficient to house the Civil Department.

Deadline: December 2006.

**The County Court** – is housed in the building on Zrinjevac 5. As well as a very acute lack of space, it is vital to immediately complete improvements to the roof, façade and carpentry, and replace all fittings, especially the electric wiring.

Deadline: July 2005.

**The Municipal Court** – is at present housed at three locations despite which there is too little space to house 40-50 judges. It is necessary to move the Municipal State Attorney's Office out of the building in Vukovarska, which would, with minimal investment for adaptation work, provide 27 courtrooms. By building the Criminal Court and the removal of the Criminal Department the existing facilities in the building would be sufficient for the needs of the Civil Department.

One of the possible solutions for the accommodation of the Municipal Court is the construction of a building on a plot immediately next to the existing building. Apart from this, the

existing building is in very bad condition and it is necessary to change all the windows and install new lifts.

Deadline: December 2004 and December 2006.

**The Municipal State Attorney's Office** – is housed in insufficient premises on the seventh floor of the Municipal Court building. New accommodation needs to be provided with sufficient floor space.

Deadline: December 2004.

**The Misdemeanour Court** – is located at three sites with an acute lack of space. It is necessary to build a new building.

Deadline: July 2006.

## 2. Split

**The County Court** – is housed in a building together with the Municipal Court, the County and Municipal State Attorney's Office. The lack of space could be partially solved by adding another floor. The building is otherwise in very bad condition, and it is necessary to change the façade immediately, improve the flat roof and change all the fittings.

According to an agreement between the Government of the Republic of Croatia and the City of Split it has been agreed that the City of Split will finance the construction of the extra floor on the County Court building in exchange for the Ambassador Hotel.

In view of the fact that building the extra floor is very much in question at the present, it is suggested that the City be asked for a building in exchange for building the extra floor, which would be suitable for accommodating the judicial bodies. As far as we know, the building on the corner of Mažuranićevo šetalište and ulica Domovinskog rata is owned by the City, is empty at the moment and suitable in terms of size and location to accommodate the judicial bodies.

Deadline: December 2005.

**The Municipal Court** – by the removal of the Military Disciplinary Court and the Military Disciplinary Prosecutor's Office from the building of the Commercial Court, and with very little capital investment, accommodation could be provided for 5-6 judges of the Municipal Court.

With the redistribution of space inside the City Palace, insofar as the building on the corner of Mažuranićevo and ulica Domovinskog rata is obtained from the City of Split, it is possible to provide minimal conditions for the work of all four judicial bodies.

Deadline: March 2003.

**The Misdemeanours Court** – is housed in a building together with several state services. The lack of space for ten courtrooms could be solved by a redistribution of space between the Office of State Administration and the Misdemeanour Court or the removal of the Misdemeanour Court to a new, more adequate location.

Deadline: March 2003.

## Capital Investment in Equipment

Over the past few years, the Ministry has received from the Budget funds c. 10% of the actual necessary means for the purchase of equipment.

Due to wear it is not economic to use most of the equipment needed for directly carrying out the tasks involved.

In order to create the minimal conditions for work, it is necessary to:

- purchase at least 100 middle and lower class cars – Deadline: January 2003.
- Renew part of the furnishings in c. 70% of the judicial bodies – Deadline: June 2003.
- Purchase fax machines and photocopiers, and, in accordance with the legal provisions, audio-visual equipment for questioning minors and protected witnesses in county courts – Deadline: March 2003.
- Purchase telephone exchanges for fifty judicial bodies and link the complete system of justice together in one network – Deadline: October 2003.



- In order to create secure conditions in judicial bodies, it is necessary to purchase 20 metal detector doors and 130 handheld detectors- Deadline: November 2002.
- For the dignity of the courts and judges, it is necessary to complete the project of the purchase of judges' robes – Deadline: August 2003.

### **Capital Investments in Computerisation**

In order for the extensive work of preparation, organisation and implementation of the computerisation of the system of justice to be carried out successfully, within the Ministry of Justice, Administration and Local Self-government as the competent institution, it is necessary to completely computerise the work of the ministry itself, but also provide a sufficient number of expert staff by the foundation of a sufficient number of departments to monitor the project within the present Information Technology Department.

In order to create the minimal level of ICT work conditions, it is necessary to plan and realise investment in:

- computer and disc facilities of a national central system of justice configuration
- set up court and judiciary computer and communication networks
- set up local justice department and court networks
- obtain local network providers
- purchase information technology equipment for the courtrooms
- purchase information technology equipment for the work of court and judiciary workers
- obtain the right to use program systems on personal computers and computer providers
- develop and implement a system of automation of court proceedings and administrative and financial business in the judiciary and the system of justice
- reengineering of the land registry and cadastre systems for Internet implementation and interoperability.

### **D) THE SCHEDULE FOR CAPITAL INVESTMENTS BY YEARS**

<b>TYPE OF INVESTMENT</b>	<b>YEAR</b>			
	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
<b>BUILDINGS</b>	60,800,000	251,800,000	357,450,000	363,900,000
<b>EQUIPMENT</b>	26,000,000	18,000,000	11,500,000	Not yet planned
<b>COMPUTERISATION</b>	50,000,000	95,000,000	130,000,000	Not yet planned

### **IX. THE PURPOSE OF THE REFORMS AND THE DEADLINES FOR ITS REALISATION**

#### **A) The Purpose**

The purpose of the reforms is:

- 1) the raise the quality of the administration of justice to an acceptable level and
- 2) reduce the number of unresolved cases in the courts to enable proceedings to be concluded in acceptable time limits.

#### **B) Deadlines**

- 1) The time within which the administration of justice will be raised to an acceptable level and maintained at that level cannot be determined. It is a long-term process, and it is predicted, by its nature, that it will never be completed, and results will be seen gradually. The easing of the burden

on the courts (which will leave the judges with more time for individual professional training), supplying the courts with all the necessary professional literature, the work of the Centre for the Professional Training of Judges and other Court Officials (as the beginnings of a future Croatian Judicial Academy, following the example of the French National School for Magistrates, and the German Justice Academy), the reformed law studies and a new organisation of the education of justice apprentices are parts of the process.

- 2) The timeframe within which the number of unresolved cases in the courts could be reduced to reduce the length of court proceedings to an acceptable level, is foreseen on the basis of:
- a) data from the statistical overview for 2001 and
  - b) the framework standards to determine the number of judges in courts, class: 700-01/94-01/35, reg. no: 514-02-01/3-94-4 of 15 November 1994.

Bringing the length of court proceedings down to acceptable levels means reducing the number of unresolved cases to a **three-month intake**. This means that the average length of court proceedings would be about three months. Better results than these cannot be attained, nor would it be reasonable to try to attain them.

In 2001 the three-month intake of cases in all courts, apart from misdemeanour courts, was **300,514**. If on 31 December 2001 so many unresolved cases had remained, the situation would be completely unsatisfactory. But, **1,020,414** remained which is equal to the nine-month intake. In 2001 the courts resolved **1,111,549** cases, which is about 95% of the intake of that year (**1,202,057**). But the backlog on 31 December 1999 needs to be added to the intake, and that is **929,905** cases, so that in 2001 there were **2,131,962** cases pending.

The calculations so far show that transferring all the cases for which it is possible to the jurisdiction of notaries public, would reduce the annual intake of court cases to about **770,000**. Presuming there is no change to the situation of 1 January 2001, and that from that day notaries public had taken over all the cases they could, the process would go as follows:

<b>YEAR</b>	<b>UNRESOLVED CASES ON 1 JANUARY</b>	<b>RECEIVED</b>	<b>PENDING</b>	<b>RESOLVED</b>
2001	929.905	769.316	1.699.221	1.111.549
2002	587.724	769.316	1.357.4040	1.111.549
2003	245.491	769.316	1.014.807	1.014.807

So on 1 January 2004 there should be no unresolved cases in the courts. But this calculation is only statistically precise, and not in reality, because only inheritance cases, enforcement on the basis of reliable documents and ex parte cases would be transferred to the jurisdiction of the notaries public. These cases, although there is a large number of them (over 400,000) are much easier than those which remain in the courts.

Thus on the basis of the framework standards of 15 November 1994, the relationship of the complexity of the cases, from, for example the jurisdiction of the municipal courts is as follows:

One complex court case is valued as

- a) one complex ex parte or
- b) 1.7 ex parte case of moderate complexity or
- c) 2.5 inheritance cases or
- d) 7.5 or 75 enforcement cases, depending on complexity.

On the basis of the very complicated calculations which need to be carried out, but not over a short time, the real situation could be expressed regarding the easing of the burden on the courts, which would be attained by transferring some of the cases to the jurisdiction of the notaries public.

For these reasons it can only be calculated approximately how far the judges in municipal and commercial courts will be freed to be able to carry out other tasks when the notaries public take on all the cases which can be transferred to their competence:

- |                                    |               |
|------------------------------------|---------------|
| 1) about 60,000 inheritance cases  | 90 judges     |
| 2) about 330,000 enforcement cases | 20 judges and |
| 3) about 43,000 ex parte cases     | 120 judges,   |
- or a total of **230** judges.

How far the transfer of many individual tasks in enforcement proceedings (primarily the issuing of rulings on the basis of credible documents) to the jurisdiction of notaries public will ease the burden on the courts, cannot be calculated at the moment even approximately.

The plan to employ about 500 officials should be taken into consideration, on temporary work contracts, which should not be longer than one year, (not counting the time they need to spend on previous professional training by means of courses), to reduce the backlog in resolving land registry cases in all courts to a one-month intake. It is expected that the means to realise this plan (about 24,000,000 kunas) will be provided from the State Budget for 2003.

When the Croatian Parliament has passed the Inheritance Act (November 2002) and the Act on Amendments and Supplements to the Enforcement Act and the Ex parte Proceedings Act (first quarter of 2003), a major task lies ahead – the adoption of a series of pieces of secondary legislation, numerous organisational tasks to get the new system underway and the holding of courses for notaries public and their officials. Therefore 2003 will be mainly a year of preparation, which does not mean that already during the course of the year, improvement will not be felt in regard to reducing the backlog.

**CONCLUSION:** Based on all the conditions listed and described above, it is realistic to predict that by **31 December 2007 the courts will be completely up to date and this will be permanently sustainable.**

If in the meantime the present, completely irrational network of courts is reorganised, and some other measures are taken (e.g. appointing additional judges on temporary contracts, which is not possible without amendments to the Constitution), the courts could be completely up to date even **before 31 December 2007.**

## **X. FRAMEWORK STANDARDS**

The courts as a whole fulfil the demands of the present Framework Standards, which cannot be said for each individual court not each individual judge.

The work of each court and each judge in the Republic of Croatia may be completely and accurately assessed on the basis of the Framework Standards, but this work, because of its complexity and comprehensive nature, cannot be undertaken in a short time frame.

The Ministry of Justice, Administration and Local Self-government has instituted proceedings to adopt new Framework Standards to determine the number of judges in the courts.