

REPUBLIC OF CROATIA  
MINISTRY OF JUSTICE,  
LOCAL AND SELF GOVERNMENT

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OPERATIONAL PLAN FOR THE IMPLEMENTATION OF THE  
JUSTICE REFORM

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Zagreb, June 2003.

## I. INTRODUCTION

On the 7<sup>th</sup> of November 2002. The Government of Croatia (further: **the Government**) has created the "**Justice Reform**" document.

All the strategic predictions and conclusions made in the 7.11.2002. document are developed in this Plan, including all details, deadlines, legislative and other necessary measures.

The Justice Reform has only two purposes:

- 1) raising the quality of the judiciary actions to a level appropriate for a democratic and modern European country and
- 2) faster case concluding and reducing unsolved case backlog to a quarterly inflow, which is by the standard of the Republic of Croatia (further: **RH**) considered completely prompt. It would mean that an average case concluding in all level courts would take three months. Quicker average case concluding should not be attempted, because it could jeopardize the quality of court work.

Based on the **2002.** statistics, we can say that the present situation is worrying: On the 31<sup>st</sup> of December of the same year, all courts in RH had **1.383.449** cases pending, which equals to an inflow of **eleven** months. If we exclude the Misdemeanor courts, the situation is even worse: **1.125.105** cases pending, which equals to an inflow of **twelve** months (exactly: **11,89**).

1) Date of achieving the first purpose can not be predicted. It will take years of systematic hard work and financial investments (which can not be estimated at this moment). It is, actually, a process that should never end. When all of the Judges and the judiciary Staff, or rather majorities, reach the satisfying level of expertise, this level shall have to be sustained. Besides, young people that shall be newly employed in the Judiciary shall need constant professional education in order to perform their responsible duties. But if the responsible government bodies shall perform their duties regarding this matter, the quality of judiciary actions will grow slowly and gradually but **constantly**.

2) The second purpose, reducing the backlog to a quarterly inflow, may and must be done **by December 31<sup>st</sup> 2007.**, and this promptness is an imperative for a normal functioning of Croatian judicial system in the future.

## II. RAISING THE QUALITY OF THE JUDICIARY ACTIONS

Useful measures for achieving this purpose:

1) Law schools should be reformed in order to include Judicial Studies in duration of three years. This program would be intended only for the students who have proved to be the best during the first two years of Law school. Students of the Judicial Studies would have more elaborate, in-depth research tasks of the subjects important for the education of the judicial professionals. They would, then, have constant trainings of judicial and state attorney's administrations, land and cadastre registers, creating all kinds of reports, conducting hearings, verdicts and all other judicial and state attorney's decisions and other written compositions. Besides the faculty professors, the trainers should be the best judges, state attorneys and their deputies as well as lawyers.

Students of Judicial Studies would attend IT courses, one foreign language and rhetoric course. Rhetoric course should aim at students' mastering of impeccable conveyance.

In order to achieve these changes, the consent and cooperation of the Ministry of Science and Technology, the Ministry of Education and Sport, the Ministry for the European Integration and the Ministry of Finance as well as the responsible universities' bodies, the Law schools' bodies and the Croatian Bar Association, is necessary.

**The laws and regulations, as well as other necessary amendments, should be made by December 31<sup>st</sup> 2004., in order to make it possible for the Judicial studies to be formed in the school year 2005./2006.**

2) Creating constant professional training of Judges and the judicial Staff that will be obligatory for all, from day one in the service till the last day.

The Training Center for Judges and the judicial Staff (further: **the Center**) has been formed in **1999**. It began to function in **2003.**, because this is the year when the funds have been provided for the first time. A decree about organizational changes within the Ministry of Justice, Local and Self-Government ("Narodne novine", no. 48/03), in power from March 26<sup>th</sup> 2003., that constitutes the Center as an independent service within the Ministry. This is a temporary condition. The Center is an embryo of the future Croatian Judiciary Academy (further: **HPA**) which shall be established in a manner of the best European schools of that kind; the German Judiciary Academy in Trier and the French National School for the Magistrates in Bordeaux. HPA shall be an independent institution, supervised by the Ministry of Justice, Local and Self-Government, and financed from the state budget.

Education at the HPA shall not be limited only to legal subjects. It shall make possible for the judiciary officials to gain all the necessary knowledge, from all the areas that are connected with their work (criminal studies, psychology, forensic medicine, banking and the stock exchange, accounting, communication studies etc.). Purpose of this additional education is not for the employed in the judiciary to become experts in the mentioned fields, but to gain basic knowledge that will allow them to make better interpretations and applications of regulations and to evaluate court experts' opinions with a higher level of criticism.

Trainers at the HPA shall be law schools' professors, the best judges, state attorneys and their deputies, and for the subjects from fields other than law, the respective experts.

**The laws and regulations, as well as other necessary amendments, should be made by September 30th 2004., in order to make it possible for the HPA to commence with work in 2005.**

**3)** To reorganize the performing of judiciary apprentices' Internship. The Internship and taking the Bar Exam are now regulated according to the Law on apprentices in the judiciary and the Bar Exam ("Narodne novine", no. 54/74., 29/78. and 13/90.). The Internship lasts **two** years. It is carried out in a totally unorganized manner, and only the will and the ambition of an apprentice determines the amount of work or learning performed or gained. The overburdened judges have little or no time at all to deal with apprentices. For comparison, a law apprentice has an Internship that lasts **three** years if it is carried out in a lawyer's office (article 48. subparagraph 5. of the Law on lawyer profession – "Narodne novine", no. 9/94.). This Internship is a period of constant working and learning.

It is therefore necessary to

- a)** prolong the judiciary apprentices' Internship to three years,
- b)** determine a smaller number of specific municipal courts and municipal state attorneys' offices in which the Internship can be carried out (it is now possible to carry it out in all, not only municipal, court and state attorneys' offices, but also in **any** judiciary body),
- c)** carry out the Internship in an organized and planned manner, like classes in a school, under a constant supervision of a mentor,
- d)** oblige the apprentices to end the courses necessary for modern state judiciary functioning (IT, foreign languages etc.) during their Internship
- e)** submit the apprentices to frequent evaluation and
- f)** intensify the terms of applying to the Bar Exam as well as the exam itself, among other things to hire the best professionals as the examiners (judges, state attorneys and lawyers).

A preliminary draft of the new Law on judicial apprentices already exists. An expert discussion shall be concluded soon in the Ministry of Justice, Local and Self-Government.

**The draft of Law on judicial apprentices can be forwarded into procedure accordingly to the article 27. par. 3.**

**by the 6<sup>th</sup> Government Agenda by December 2003. The Law could be passed in the first half of the year 2004., so that it can be enacted latest by July 1<sup>st</sup> of the same year.**

**5)** Make the evaluation of the judiciary staff more transparent.

According to the Law on courts ("Narodne novine", no. 3/94., 100/96., 131/97. and 129/00.), judges (except those newly appointed) are evaluated **every three** years (article 54. par. 1.). They are evaluated by the authorized council of judges in secret voting (article 54. par.3.).

An evaluation that takes place every three years, by nature of things can be nothing else but pure formality without any seriousness or weight. The number of decisions, respecting the deadlines, work in the State judicial Council and the Judges Council, as well as the published scientific and expert work, are some of the elements used to evaluate judges that are verifiable facts and are therefore unnecessarily decided about by voting.

**6)** The introduction of IT in the judiciary bodies has been going on for some time now (more on this later, in the part of reducing backlogs). By increasing the accessibility to the Internet, the judiciary staff shall have easier access to the texts of regulations, expert articles and the judicial practice (the Supreme court of RH has already started publishing it to the Internet), and easier way to personal expertise mastering, apart from the education gained at the Centre, or later at the HPA.

**7)** The State Budget for 2003. provides more funds for the expert literature for judiciary bodies than it ever has since Croatia's independence. This policy shall continue, with an intention to increase funds every year as much as necessary and, of course, possible. The goal is to supply all the judicial bodies with expert literature and constantly add new books and magazines to their libraries.

### III. REDUCING BACKLOGS

#### 1) SIMPLIFYICATION OF THE JUDICIAL PROCEEDINGS AND PREVENTION OF MALFEASANCE

##### a) criminal proceedings

The Law on changes and amendments of Law on criminal proceedings ("Narodne novine", no. 110/97., 27/98., 58/99. and 112/99.), in power from May 21<sup>st</sup> 2002., and January 1<sup>st</sup> 2003. ("Narodne novine", no.

**aa)** Authority of a single judge has been broadened to the criminal acts that can be sentenced by five years in prison, and, in compliance with parties, to those that can be sentenced by ten years in prison, unless otherwise required by law.

**ab)** The possibility of chicanery requests for exemption and constant changing of lawyers in order to stall the proceedings has been reduced.

**ac)** It was made possible, at parties request, to sentence the defendant to maximum of one third of the upper limit of the sentence, if it is a crime punishable by a sentence up to ten years in prison. The verdict is in that case reached by an investigating judge, and must be clarified only within the aspects considered in the sentencing.

**The new Law on criminal proceedings is being prepared. One of the novelties in this law shall be the termination of investigation as a part of criminal proceedings done by the court. Draft of the newly proposed criminal proceedings Law shall be forwarded into the procedure according to the article 27. par. 3. by the 6<sup>th</sup> Government Agenda latest by the December 31<sup>st</sup> 2003. Because of the seriousness of the changes that it would introduce, both in State attorney's and the Police's authority wise, the date of enforcement of this new law should be 6 to 12 months after it's announcement.**

##### b) legal proceedings

The proposed Law on changes and amendments to the Law on legal proceedings ("The Official Gazette of the SFRJ", no. 4/77., 36/80., 69/82., 58/84., 112/99.) suggests

special limitation to the court's jurisdiction to announce actual no authorization,  
canceling trials at the first instance proceedings counsel, unless otherwise regulated by law,  
that the trials in cases against RH be those in areas under the jurisdiction of local courts of prosecutor's address, or office,  
limitations for possibilities of exemptions,  
introducing stricter measures for the prevention of misuse of procedural laws,  
improving proceedings for the delivery of court and other written compositions,  
introducing the obligatory providing of facts and evidences by a party that base any demands, latest by the first hearing, and if any later

providing of the facts and evidences be made, the same party must compensate any expenditures to the other party caused by the delay, immediately, regardless of the outcome of the trial, reaching and announcing the verdict right after the conclusion of the main hearing, except in special cases, that a verdict can be reached without conducting a hearing, forbidding display of new facts and evidences in the appeal, unless they refer to serious violation of rules of legal proceedings and that the first instance proceedings in a trial regarding labor must be concluded in six months from the file charges, and the appeal process must be concluded in 30 days from second instance's court receiving of the appeal.

**The final proposition of this law is in the process of second reading in the Croatian parliament. It is expected that the Law will be reached in June 2003., so that it can be enforced by October 1<sup>st</sup> 2003.**

#### **c) enforcement proceedings**

The proposed Law on changes and amendments of the enforcement Law ("Narodne novine", no. 57/96. and 29/99.) suggests

limiting the right to appeal and adjournment to a minimum, and to condition the adjournment with a bail, maximally prevent the misuse of the procedural laws, especially the ones used to procrastinate the process, maximize the efficiency of the process by

- 1) introducing the commissary sale of the confiscated items and
- 2) transfer all procedural actions, in accordance with the constitution,

from courts' jurisdiction to the jurisdiction of the Public Notary and oblige the Government to suggest the changes and amendments of the distraint Law (one year after the enforcement of the Law) that would allow private entrepreneurs to sell and confiscate the property of the distraintees.

**The proposition of this Law is in the process of first reading in the Croatian parliament. It is expected that, after the second reading, it could be enforced by September 30<sup>th</sup> 2003., so that the decrees on Public Notary participation in the enforcement proceedings could be applied from October 15<sup>th</sup> 2004. (or one year after the announcing of the Law).**

#### **d) institute inheritance proceedings**

On the March 11<sup>th</sup> 2003., Croatian parliament has enforced the Law on inheritance ("Narodne novine", no. 48/03.) in which, among others, is stated that after October 3<sup>rd</sup> 2003, the hearings shall be conducted by the Public Notary.

**The suggestion will be made to enforce the Law on changes and amendments on Law on inheritance, in such manner so that the inheritance hearings are conducted by the Public Notary, rather than each Municipal court judge having to determine whether this proceedings will be conducted by the Public Notary or not, as declared in the article 240. This Law on changes and amendments should be enforced urgently.**

### **e) extrajudicial proceedings**

The extrajudicial proceedings Law is being drafted at the Ministry of Justice, Local and Self - Government. This draft predicts transferring all of the extrajudicial proceedings (except those deciding on rights not at parties' disposal) from courts' to Public Notary jurisdiction.

**The draft of the proposition of this Law will be forwarded into the procedure according to the article 27. par. 3 by the 6<sup>th</sup> Government Agenda by July 31<sup>st</sup>. It is expected to be adopted in the parliament by June 30<sup>th</sup> 2004.**

### **f) register proceedings**

The Law on changes and amendments on court register Law ("Narodne novine" no. 1/95., 57/96. and 45/99.) intends to simplify, speed up and reduce the cost of court register input. This Law will not decrease the amount of inputs into the court register, but by canceling some superfluous actions and simplifying other, these courts should be less burdened.

**The draft of the proposition of this Law is in the process according to the article 27. par. 3. by the 6<sup>th</sup> Government Agenda. It is expected that the Government could submit this proposition to the Parliament in September 2003. It could be enacted by December 30<sup>th</sup> 2003.**

### **g) out-of-court proceedings**

**1)** Law on arbitration is in force as of October 18<sup>th</sup> 2001. ("Narodne novine" no. 88/01.) It is one the finest laws of that kind in the world. It has removed the last legal barriers to solving the arbitration cases in Croatia, so it is possible for all the cases to be arbitrated, except those deciding on rights not at parties' disposal, which are not many.

**2)** The Law on appeasement has been drafted at the Ministry. It is important to create possibilities for parties to deal with their case out of court (without the arbitration), with as little procedural formalities as possible, in order for them to make a deal that would have an effect of an enforcement document, or at least to make a joint statement stating what issues are clear, this should speed up and make the case easier (or the arbitration), because such a statement couldn't be beaten in front of the court or the arbitrary committee.

**Everything said regarding the Law on court register can be applied here as well.**

However, it can not be predicted how and when these two laws will influence the court disburdenment. In other words, neither is arbitrary authority imperative, nor can the appeasement process be done without consent of the parties involved. Tendency towards the arbitrary and appeasement solving doesn't only depend on the legal, but also general culture reached by a society. Therefore, a constant and systematic education of Croatian citizens is necessary so they accept the best values of cultural civil society that shall attribute to their readiness to solve cases out of court.



## 2) OTHER MEASURES FOR REDUCING BACKLOGS

### a) Changes and amendments on Law on courts

1) To regulate an obligatory evaluation of the judges based on the verifiable facts (see article 5. in the second chapter) evaluated by the president of a court, and other facts evaluated by the authorized judicial council.

2) To authorize the Minister of Justice (further: **the Minister**) to create a Book of rules of evaluation of judges, after getting an opinion from the general assembly of the Supreme court of the Republic of Croatia (further: **the Supreme court**).

3) To make it possible for prompt judges, or the ones without big backlogs, to be temporarily placed to work in the overburdened courts of any level. The authorized judges of higher level courts should decide on such placements.

4) To authorize the president of the Supreme court to, after getting an opinion of the general assembly of the same court, regulate that certain case types be assigned to courts of other jurisdiction, if the court really authorized to deal with these case types is, due to backlog, unable to deal with them in a reasonable time.

5) To broaden the authorities of judicial advisors to independently manage some types of judicial proceedings, and to do certain procedural actions in other types.

6) To authorize the Minister to introduce an obligatory overtime work and work in shifts in each court with backlogs greater than a six-month inflow. On December 31<sup>st</sup> 2002. the number of these courts was **99** (77 municipal, 10 county and 12 commercial courts).

The misdemeanor courts don't have specific data of that kind, but the backlog of those courts equals the inflow of **7,44** months.

7) To regulate that the backlogs be gradually reduced from the January 1<sup>st</sup> 2004. until the December 31<sup>st</sup> 2007 according to the plan suggested by the president of the Supreme court and enacted by the Minister, so that in all courts the backlog is not greater than a three-month inflow in the year 2007.

8) To regulate that the judges' general work frame standard, that determines the number of judges in each court, should serve for evaluation of judges regarding the number of decisions made.

**The pre-draft on Law changes and amendments of Law on courts was made in the Ministry regarding the changes in article 1) through 8), as well as those suggested in the II. Chapter under 5). The expert discussion on this pre-draft held at the Ministry will be concluded soon, so the draft of the suggested Law could be forwarded into the procedure according to the article 27. par. 3. by the 6<sup>th</sup> Government Agenda by the July 15<sup>th</sup> 2003. If the Croatian Parliament accepts the suggestion to deal with this urgently, obviously needed here, the Law could be enacted in the forth quarter of the year 2003., so that it could be applied by January 1<sup>st</sup> 2004.**

**b) The new judiciary General work frame standards**

Broadened general assembly of the Supreme court has already set down the proposition of the new General standards. Since the General standards are prescribed by the Minister (article 47. Law on courts), the proposition of the Supreme court is a case of expert analysis at the Ministry.

**The new General work frame standards are expected to be enacted in September 2003.**

**c) Filling the vacancies for the judiciary officials**

**321** judges' vacancies are to be filled in all courts (including the misdemeanor courts), and **112** vacancies in state attorneys' offices.

**Half of these vacancies will be filled by the end of the year 2003., and the other half by the June 30<sup>th</sup> 2004.**

So, finally, after a long period, all the judiciary vacancies will be filled, meaning that as of July 1<sup>st</sup> 2004. there will be

**2.173** judges and

**626** state attorneys and their deputies.

**d) Part time hiring of the Land and Cadastre officials**

There have been **443** officials hired part time in March 2003. in the Land and Cadastre offices of the Municipal courts in Croatia for a period of one year, according to the plan of the Ministry. By March 15<sup>th</sup> 2004. they have to solve **292.380** land and cadastre cases.

#### IV. INTRODUCING THE INFORMATION TECHNOLOGY

##### a) Supplying the judiciary bodies with computers

For all judiciary bodies in Croatia there are **10.000** computers necessary. So far **3.300** have been supplied.

By the end of the year 2003. there will be another **1.700** bought (the procurement proceedings have commenced according to the Law on public procurement).

In each year 2004. and 2005. there will be **2.500** computers bought from the Loans from the IBRD in Washington and from E.U. donation (**CARDS** program) already ensured.

The Ministry shall take constant care about renewing of the IT equipment for the judiciary bodies, as necessary due to malfunction or obsolescence.

##### b) Introducing the IT into courts

###### A) Land and Cadastre offices

On September 8<sup>th</sup> 2002. RH and the IBRD have created a Loan agreement for the Land and Cadastre Project (Law on confirmation – “Narodne novine – international contracts”, no. 2/03.). The Loan will be used for organizing land and cadastre situation in real boundaries set in the contract. The finishing of the project is expected by **March 30<sup>th</sup> 2008.**

The goals of the Project:

- 1) to create a land and cadastre database for **5%** of country's territory (725.000 acres),
- 2) to transfer **25%** of the land registry into digital form,
- 3) to raise the general coordination of land registry database in **181** chosen cadastre municipality and
- 4) to supply the necessary IT equipment to all the land and cadastre offices (and all the branch-offices).

###### B) other judiciary operations

On July 7<sup>th</sup> 2001. RH and the IBRD have created a Loan agreement for the Court and Bankruptcy Administration Project (Law on confirmation – “Narodne novine – international contracts” no. 14/01.). Among other things, the Modern Case Management System and the Case Flow Management are going to be financed from this Loan. The finishing of the Project is expected by **January 31<sup>st</sup> 2005.**

On May 8<sup>th</sup> 2003. the Ministry, the World Bank, the European Commission and the USAID have signed a Memorandum on joint work and the financing of all projects regarding case management, statistics and the introduction of IT in Municipal, County and the Commercial courts. Based on this Memorandum for financing of the unique Project, the funds from the E.U. donation in the **CARDS** program will be also used.

On May 30<sup>th</sup> 2003. RH and the World Bank have signed an agreement for a donation for building the institutional capacity for monitoring of courts' efficiency. This donation will also be included into a unique Project set in the Memorandum of May 8<sup>th</sup> 2003., and will be specially designated for improving of the judiciary statistics.

### **C) Conclusion**

For the introducing of the IT into the courts, in the coming years, some funds will be provided from the state budget, but just a small amount, because all the necessary IT equipment will be procured from the Loan and donations funds listed in articles **A)** and **B)**, so that the complete Introduction of IT can be expected before March 30<sup>th</sup> 2008. The IT will greatly contribute to the simplification and speeding up of the court proceedings and total, accurate and prompt statistical monitoring of the courts' workflow and efficiency.

**V. THE RESULTS OF THE IMPLEMENTATION OF THE OPERATIONAL PLAN WHICH MUST BE ACHIEVED REGARDING THE REDUCTION OF THE BACKLOGS**

**A) COURTS (EXCLUDING MISDEMEANOR)**

**NOTE:**

This display has been created under the following assumptions

- 1) that the case inflow under the jurisdiction of the courts will not change significantly and
- 2) that the arbitration process and the appeasement process will not greatly influence the case inflow (there is no information that would, at least with approximate probability, allow us to foresee how the legal subjects will adopt the possibilities of out-of-court proceedings).

**I. THE GOALS TO BE ACHIEVED**

**THE YEAR 2003.**

**A)**

**NOTE:**

The land registry cases are not included in this section.

<b>a)</b> Unsolved December 31 <sup>st</sup> 2002.:	<b>798.788.</b>
<b>b)</b> Expected case inflow:	<b>883.379.</b>
<b>c)</b> Number of cases in process:	<b>1.682.167.</b>
<b>d)</b> Expected number of solved cases: 1.416 judges from the year 2002. will solve:	<b>798.194,</b>
which leaves:	<b>883.973,</b>
125 new judges, each expected to work averagely three months, will solve:	<b>17.625,</b>
which leaves:	<b>866.348</b>
unsolved cases, the Public Notary will take over:	<b>15.750</b>
in the last quarter of the year 2003.	
<b>e)</b> On December 31 <sup>st</sup> 2003. there will be: unsolved cases.	<b>850.598</b>

**B)****NOTE:**

Hereby the land registry cases are included.

For solving these cases the number of land registry officials is much more essential than the number of judges working on the cases, so the increase of the number of judges in the second half of 2003. will not be taken into consideration.

<b>a)</b> Expected inflow:	<b>356.671.</b>
<b>b)</b> Number of cases in process:	<b>682.388.</b>
<b>c)</b> Expected number of solved cases:	
The land registry officials from 2002. will solve:	<b>337.200,</b>
which leaves:	<b>345.188</b>
unsolved cases,	
but the 443 part time officials will solve	
by December 31 <sup>st</sup> 2003.:	<b>225.930,</b>
<b>d)</b> which leaves:	<b>119.258</b>
unsolved cases that day.	

**C)**

So the total case backlog on December 31<sup>st</sup> 2003. would be **969.856**, which is **5%** less than on December 31<sup>st</sup> 2002., but it is not satisfactory because it equals to an inflow of **9,50** months.

**THE YEAR 2004.****A)**

<b>a)</b> Unsolved December 31 <sup>st</sup> 2003.:	<b>850.598.</b>
<b>b)</b> Expected case inflow:	<b>820.779.</b>
<b>c)</b> Number of cases in process:	<b>1.671.377.</b>
<b>d)</b> Expected number of solved cases:	
1.541 judges working all year around	
will solve:	<b>869.124,</b>
which leaves:	<b>802.253,</b>
125 new judges, working latest by July 1 <sup>st</sup>	
(they will be named in the first half of the year,	
but it is not sure when they will commence with work)	
will solve:	<b>32.250,</b>
<b>e)</b> On December 31 <sup>st</sup> 2004. there will be:	<b>770.003,</b>
unsolved cases,	
but the Public Notary will take over:	<b>52.785</b>

enforcement cases after October 15<sup>th</sup> 2004,  
**d)** So, really, there will be: **717.218**  
 unsolved cases.

**B)**

**a)** Expected inflow of the land registry cases: **356.671.**  
**b)** Number of cases in process: **462.639.**  
**c)** The land registry officials will solve: **337.200,**  
**d)** But the 443 part time officials that stay in office  
 until March 31<sup>st</sup> will solve **79.740,**  
 cases  
**e)** So on December 31<sup>st</sup> there will be: **45.669**  
 unsolved cases, which equals to an inflow of **1,5** months.

In order to reduce the backlog during the year 2004. to a one-month inflow, which in land registry cases is considered total promptness, there would have to be **28** officials employed or the overtime work would have to be introduced. Whichever of the two options is done, all the land registry offices in RH will be totally prompt by January 1<sup>st</sup> 2005. even if they do not get the IT equipment. Therefore the land registry will not be mentioned furthermore.

**C)**

If during the year 2004. the land registry case backlog is not reduced to an inflow of one month, the total case backlog on December 31<sup>st</sup> 2004. would be **762.887** cases, which is **32%** less than on December 31<sup>st</sup> 2002., but it is also not satisfactory because it equals to an inflow of **8,10** months.

**THE YEAR 2005.****NOTE:**

If the Croatian parliament enacts the laws on, criminal (article 1)a) in Chapter III) and extra judiciary proceedings (article 1)e) in Chapter III) with the contents and the deadlines suggested, it can be expected that by January 1<sup>st</sup> 2005.:

- 1)** That the conducting of the investigation will come under authority of the state attorneys' office and
- 2)** That the Public Notary will take over some of the out-of court cases management.

Under these assumptions, and if the inflow of the cases regarding doesn't change, it can be predicted that by

- 1) December 31<sup>st</sup> 2004. there will be **2.087** investigations unsolved, so that during the year 2005. there will be **8.519** cases in process, which is the number of the cases that will than disburden the courts, and
- 2) during the year 2005. the public notary will take over approximately **6.000** extrajudicial proceedings (this is just an estimation, because the statistics on court work is managed in such a manner that the correct data couldn't be obtained).

In the further display there are no land registry cases, because the courts, if not by 2004. than certainly by 2005., will be totally prompt, meaning that the decision on enlisting into the land registry will be done in 30 days, and after the introduction of IT, in a couple of days.

a) Unsolved December 31 <sup>st</sup> 2004.:	<b>717.218.</b>
reduced by	<b>2.087</b>
investigations, which leave:	<b>715.131.</b>
b) Expected case inflow:	<b>500,108.</b>
c) Number of cases in process:	<b>1,215.239.</b>
d) Solved:	<b>939.624.</b>
e) On December 31 <sup>st</sup> 2005. there will be:	<b>275.615,</b>
unsolved cases, which equals to an inflow of <b>6,6</b> months.	

#### **THE YEAR 2006.**

a) Unsolved December 31 <sup>st</sup> 2005.:	<b>275.615.</b>
b) Expected case inflow:	<b>500,108.</b>
c) Number of cases in process:	<b>775.723.</b>

This number of cases could be solved in less than a year, so the courts could become totally prompt before the end of the year 2006.

#### **CONCLUSION:**

All the budgets that have been made by now are just approximate, and more important, they are based on the average and the calculation of the total number of cases, which can not be the real situation, because not all the cases in courts are equally difficult nor do they all take up the same amount of time.

When the Public Notary and the State Attorneys' office take over a part of the distraint and extra judiciary proceedings, or investigations, the courts as a whole will be disburdened by approximately **25%** (excluding the land registry cases), but only statistically, and not really – so it can be said that the judges will have a quarter of their work time for other cases. Regarding the time consuming, the real disburdenment will be lesser, because only the Municipal courts (mostly), Commercial and the County courts, will be disburdened, but still they will have the



most difficult cases. How much of a disburdenment it will be, can not be specified without complex calculations, that would need more data than can be obtained from today's court statistics (by the end of the year 2003. the new system for statistical monitoring of the judicial bodies will be prescribed, so that based on the data from 2004., the calculation part of this plan could be done again, with a total, and not just distant accuracy as now).

Furthermore, these predictions are based on the assumption that as of the July 1<sup>st</sup> 2004. all the vacancies for the judges will be filled, which can be guaranteed by nobody. But something else may and must be done: by improving the conditions of the judges' work frame to increase the attractiveness of the profession and to decrease the motivation of the finest judges to seek a career outside the Judiciary.

From this reasons the prediction must remain that all the courts will be prompt by **December 31<sup>st</sup> 2007**. (it should not be expected that more accurate calculations based on the data from the new statistical system will provide for a closer date planning). It is not excluded that the overtime work must be introduced, at least temporarily, in most of the courts in order to achieve these results.

## **B) MISDEMEANOR COURTS**

On December 31<sup>st</sup> 2002. there have been **258.344** misdemeanor cases, which equals to an inflow of **7,44** months. There is no way of the Misdemeanor courts' disburdenment by transferring a part of the cases from their jurisdiction to another body. The only possibility for achieving the necessary promptness in these courts is increasing the number of judges and importing the overtime work.

## **C) STATE ATTORNEY'S OFFICE**

It is expected that in the state attorney's office, except for the attempts to keep all the vacancies filled and the IT equipment and the expert literature be supplied, no specific actions will be necessary. The State Attorney's office (civil-administrative branch excluded) has significantly improved its promptness during the year 2002., which, already was satisfying – on December 31<sup>st</sup> 2001. it has had **24.867** unsolved cases (inflow of **2,17** months) which is **25%** less than the year before.

Everything that has already been said about the reform of the apprentice Internship, the constant expert training of the judges and improving their work frame, is also applicable to the state attorneys and their deputies.

## VI. RESTRUCTURING OF THE COURT NETWORK

There are too many courts in Croatia:

- 1) Municipal           **104,**
- 2) County               **20,**
- 3) Commercial       **12** and
- 4) Misdemeanor     **110** or
- TOTAL:               246.**

Those courts are irrationally placed territory wise, and too unequally burdened.

For example: In the year 2001. th Zagreb Municipal court has had a total of **337.073** cases, which is **21%** of the total number of cases burdening of all **municipal courts**, or **16%** of all cases in **all courts** in Croatia.

Every big court should be divided into smaller courts, all the really too small ones should be added to the big ones. Not only would the efficiency of the court increase, but also big savings would be done from the State Budget, and the monitoring of the court work, under authority of the Ministry.

In May 2003. the Ministry has agreed with the World Bank that a part of the funds intended for the Court and Bankruptcy Administration Project should be used for statistical, traffic and the geographical research, that will be a foundation for the preparation of the suggestion for thr courts' network restructuring.

## VII. THE REORGANIZATION OF THE MINISTRY OF JUSTICE, LOCAL AND SELF - GOVERNMENT

Instead of today's Ministry of Justice, Local and Self-Government, there should be the Ministry of Justice and a separate body responsible for the administration and local self-government.

The Ministry is far too large of an institution with great authority, so it could not function well even if it didn't have any extra assignments, let alone now when it is responsible for the two extensive and difficult reforms – the reform of Judiciary and the reform of the public administration.

The Law on organization and the domain of the Ministry and the state administrative organizations ("Narodne novine", no. 48/99 and 15/00.) could be easily changed regarding this matter ( the draft on the proposition on changes and amendments of this has already been done), the best way would be in an **urgent** proceeding, so that it could be enacted at least by January 1<sup>st</sup> 2004., if not earlier. These changes and ammendments can easily be implemented, **without any expenditures from the state budget.**