



Improvement of the Enforcement System in the Republic of Croatia
 Contract Number: 2010-01-23-010101
 Twinning Number: HR/10/IB/JH/04



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Consortium: Spanish Ministry of Justice/Hungarian Ministry of Justice /Croatian Ministry of Justice/FIIAPP

ROUND TABLES REPORT

“Improvement of the Enforcement system in the Republic of Croatia”

**Organizing 4 regional round tables for at least 20 participants per round table
 (Representatives from stakeholders)**

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1. INTRODUCTION

The purpose of the activity was to conduct four regional round tables where representatives from stakeholders have the chance to discuss possible ways to improve the enforcement monitoring system.

The main topics discussed were inputs and conclusions drawn from the analysis and comparative overview of the enforcement systems, prepared under activities 1.1.1, 1.1.2 and 1.1.3.

The main objective of round tables was to verify previous information and to gather possible new inputs by means of opinions and suggestions of the relevant stakeholders. Their suggestions will be taken into consideration during the drafting of recommendations to define indicators, evaluation criteria and models of reports regarding monitoring activities in the framework of activity 1.1.5.

2. EXPERTS (STE)

Experts were divided into two teams:

TEAM 1: Ms María Rosario Palacios González and Mr Peter Tánacs

TEAM 2: Ms Vanessa Untiedt Lecuona and Mr Viktor Rák

The technical assistance took place:

- At the Ministry of Justice in Zagreb (four experts)
- At the premises of Ministry of Justice, room 010A, Ulica grada Vukovara 49, 10000 Zagreb
- At the premises of City Hall of the County Court in Zadar, Borelli 9, 23 000 Zadar
- At the premises of Regional Centre of Judicial Academy at County Court Varaždin, Braće Radića 2, 42000 Varaždin
- At the premises of Regional Centre of Judicial Academy Split at County Court Split, Gundulićeva 29, 21000 Split.

3. ROUND TABLES METHODOLOGY

In order to facilitate the dialogue, the experts decided to implement the activity according to the “*Round Table Workshops*” methodology which is a method for public participation or for groups of people who have an interest in a particular service or strategy. The Round-table



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Workshop method enables participants to make a full contribution to discussions on issues of shared concern and to generate ideas for action. This method works well when there is a relatively clear topic to be discussed.

Participants were invited 3-4 weeks in advance and conclusions of activities 1.1.1, 1.1.2 and 1.1.3 were sent out in order to assure participants were familiar with the topic of the round table.

The experts prepared in advance a questionnaire (see Annex 1) taking into account the conclusions of activities 1.1.1, 1.1.2 and 1.1.3 and focusing on monitoring of enforcement. This questionnaire was delivered to the participants before starting the round tables. At the end of the questionnaire there were open-ended questions to get and discuss the issues surrounding the topics.

The experts agreed on the same methodology to be followed for each round table and on using the same structure and questionnaire.

A brief introduction was given by setting the context and aims of the event. After the introduction, the attendees were split into smaller groups of 4 – 6 stakeholders.

Once the groups reached a common opinion, they appointed a speaker and a plenary meeting was carried out in order to share and debate responses and outcomes.

A summary of the proposals was produced and circulated for experts comment.

4. ROUND TABLES

4.1. Round table in Zagreb

Experts: Ms Vanessa Untiedt Lecuona and Mr Viktor Rák

Stakeholders

Stakeholders from several professions and bodies were invited as participants a month in advance. The invited participants were bailiffs, judges, court advisors, public notaries, lawyers, representatives of the Ministry of Finance, representatives of the Ministry of Justice and representatives of FINA.

Questionnaire and methodology

According to the meeting which took place on Monday morning, the experts carried out the round tables applying the same documentation and methodology. Therefore a normalized



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questionnaire elaborated by the experts was used and the same workshops and plenary system were applied.

The process was monitored by two experts and people who could not speak English were helped by an interpreter.

In order to get active participation of the stakeholders a workshop methodology was implemented. The 25 attendees were split up in five smaller groups of 4 or 5 participants and they were invited to get a common position in relation to questions and proposals (questionnaire).

The last part of the round table was to present and debate the different group conclusions in a plenary session of one hour and a half.

Progress of the meeting

The round table was implemented with a total of 25 attendees in the Ministry of Justice in Zagreb. The round table was attended by the following participants: 14 Judges, 2 Court Advisors, 2 Senior Court Advisors, 1 Public Notary, 2 representatives of the Ministry of Finance, 2 representatives of FINA, 2 Senior Administrative Advisor of the Ministry of Justice.

Before starting the experts introduced themselves and talked about the activities related to monitoring that were done before.

The participants were divided into five groups.

The round table took two hours and it was successful. The groups elaborated conclusions and showed an active participation presenting interesting inputs for the project.

The experts collected the conclusions delivered by the groups in written that were translated into English.

Summary of Conclusions:

Monitoring system

- The system of the e-file (e-SPIS) is not fully reliable although a lot of information can be obtained through e-SPIS. With better IT system there would be better statistical data as there are some problems entering the data.
- Statistical data is mostly reliable, but it depends on what institution is gathering the data. FINA has the most effective way of collecting statistical data.
- With current statistics it is not possible now to say exactly the length of the enforcement proceedings.



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- Statistical data is considered a useful tool for those involved in the enforcement proceedings.
- There are different kind of disciplinary measures for each profession involved in the enforcement procedure (judges, court staff, bailiffs, public notaries, FINA), all set in the respective law regulating their status.
- There are a lot of disciplinary sanctions against judges. Sanctions are really defined and set in different laws, but not enforced. There isn't reliable statistical data about the exact number of disciplinary procedures and sanctions.
- FINA works under the supervision of the Ministry of Finance and infringements are clearly defined.
- In general, the complain-handling mechanism for citizens works in practice. Citizens can access the e-file and get information about the status of the case, either by the judge in charge of the particular case, or by the President of the Court.
- In case of FINA, complaints are solved on a daily basis and promptly under the supervision of the Ministry of Justice.
- Legal remedies are not considered as an effective tool of monitoring the enforcement procedure, mostly because of the uneven court practice of higher courts.
- Institutions and staff involved in the enforcement need to be evaluated and supervised on a regular basis but there are no real consequences, although it might be.
- Enforcement system is really slow due to the big amount of legal remedies regulated by law.
- There are no sanctions if deadlines are not met. Deadlines are not reasonable.

Suggestions

Participants were requested to write some suggestions to improve the Croatian enforcement monitoring system. These are their suggestions:

- ✚ Improvement of the IT system.
- ✚ A central body with a single database for all the statistics would be very useful.
- ✚ Inter-institutional connection between all the institutions involved in enforcement in order to have e-documents.
- ✚ A safe connection between institutions shall be assured.
- ✚ A centralized system of data about real estates (uniform, central real estate register) is needed.
- ✚ Statistics from all sources, all courts should be published in a uniform way through which it can be seen how many cases every single court has, (received, pending...).
- ✚ There should be a single body/institution monitoring the enforcement system.
- ✚ A uniform, centralized bulletin board should be used for all courts and all cases.



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- ✚ The improvement of IT equipment and the training for users of IT applications is desirable.

4.2. Round table in Zadar

Experts: Ms María Rosario Palacios González and Mr Péter Tanács
Translator: Jasminka Bajlo.

Stakeholders

Stakeholders from several professions and bodies were invited as participants a month in advance. The invited participants were bailiffs, judges, court advisors, public notaries, lawyers, representatives of the Ministry of Finance and representatives of FINA.

Questionnaire and methodology

According to the meeting which took place on Monday morning, the experts carried out the round tables applying the same documentation and methodology. Therefore a normalized questionnaire elaborated by the experts was used and the same workshops and plenary system were applied.

The process was monitored by two experts and people who could not speak English were helped by an interpreter.

In order to get active participation of the stakeholders a workshop methodology was implemented. The 12 attendees were split up in two smaller groups of 6 participants and they were invited to get a common position in relation to questions and proposals (questionnaire).

The last part of the round table was to present and debate the different group conclusions in a plenary session of one hour and a half.

Progress of the meeting

The round table was implemented with a total of 12 attendees in the premises of the County Court of Zadar. The round table was attended by the following participants: 2 Judges, 4 Court Advisors, 2 Senior Court Advisors, 2 Public Notaries, 1 representative of the Ministry of Finance, 1 representative of FINA.

Before starting the experts introduced themselves and explained what the project is about and a brief explanation was given about the activities related to monitoring that were done before.



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The participants were divided into two groups.

The round table took three hours and it was successful. The groups elaborated conclusions and showed an active participation presenting interesting inputs for the project.

The experts collected the conclusions delivered by the groups in written that were translated into English.

Summary of Conclusions:

Monitoring system

- The system of the e-file (e-SPIS) is a very useful tool to collect statistical data but not fully reliable.
- Through e-files is possible to have an insight on the longstanding procedures on the Ministry of Justice web pages.
- Sometimes the data entered are not correct and do not correspond to reality, especially in the case of the executions on monetary claims sent to FINA, because in statistics it appears as solved cases but the Agency do not inform to the Courts if the payment order is or not satisfied. In the statistical data it appears as solved case but you never know if the payment has been received by the creditor.
- FINA only informs the courts about the state of enforcement on request, both of the groups agreed that communication between FINA and courts should be better.
- The legislation about disciplinary proceedings is satisfactory but even though clearly defined it is not efficient in reality.
- Sometimes the citizens' complaints aim prolonging the procedure unduly.
- The system of legal remedies is not an effective part of monitoring system.
- The law gives too many opportunities to the parties for filing legal remedies. There are a lot of reasons for the legal remedies and the participants think that the reasons for legal remedies should be reduced.
- The attendees think that the work of bodies concerned in enforcement should be evaluated and monitored, supervising procedures are regulated in the Republic of Croatia but such procedures do not easily have real consequences.
- There are deadlines, but they are mainly instructive. There are no sanctions if you do not keep the deadlines, it is impossible to keep deadlines if you have a huge amount of cases.
- E-predmet is a very good tool and very useful to monitoring the enforcement procedures but is not yet available all over the country.

Suggestions



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Participants were requested to write some suggestions to improve the Croatian enforcement monitoring system. These are their suggestions:

- ✚ Introduction of e-files at state level so parties could have an insight into procedures.
- ✚ The system of legal remedies should be simplified and the reasons of legal remedies should be reduced.
- ✚ The communication or connection between FINA and courts should be better.
- ✚ Public institutions should again be authorized to issue payment orders for unpaid invoices (utility, electricity, water, TV waste)

- ✚ E-predmet should be available all around the country.

4.3. Round table in Varaždin

Experts: Ms Vanessa Untiedt Lecuona and Mr Viktor Rák

Stakeholders

Stakeholders from several professions and bodies were invited as participants a month in advance. The invited participants were judges, court advisors, public notaries, lawyers, representatives of the Ministry of Finance, representatives of the Ministry of Justice and representatives of FINA.

Questionnaire and methodology

The same methodology was applied and the same questionnaire was used as at the other venues (see in detail under 4.1.). Based on suggestions received after the round table in Zagreb, a more detailed introduction was given by the STEs, clarifying the questions and explaining the monitoring systems in Spain and Hungary.

Progress of the meeting

The round table was implemented with a total of 19 attendees at the premises of the Regional Centre of Judicial Academy at the County Court in Varaždin. The round table was attended by the following participants: 7 Judges, 1 Court Advisor, 1 Court Registry Office Manager, 3 Public Notaries, 2 representatives of the Ministry of Finance, 2 representatives of FINA, 3 Lawyers.

Before starting the experts introduced themselves and talked about the activities related to monitoring that were done before.

The participants were divided into five groups. They were deliberating during one hour and assisted by the experts when there were some interpretations of the doubts about the questionnaire.



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The round table took two and a half hours and it was successful. The groups elaborated conclusions and showed an active participation presenting interesting inputs for the project. The last part of the round table was paid to present and debate the different groups' conclusions.

The experts collected the conclusions delivered by the groups in written that were translated into English.

Summary of Conclusions:

Monitoring system

- There is a reliable statistical data system in Commercial Court. They send statistical data to the Ministry of Justice by email.
- From e-SPIS you can have an idea about the length of the proceeding which is efficient and reliable. The courts are responsible for the accuracy of data entry in the e-SPIS.
- In general, it is difficult to know the length of the proceedings or the number of solved file cases because there are some problems with statistical data sometimes. If a number is assigned to a specific file and the enforcement object changes, there is a new number given to the enforcement case. So there are two enforcement files with different numbers but referred to the same case.
- Statistical data are not completely reliable. Once the decision is rendered the case is considered closed and solved although the same proceedings may be continued for years without any debt being collected.
- Public notaries have reliable statistics. Public notaries keep all of the registers regarding the enforcement in e-form, pursuant to which statistical data is submitted to the Croatian Notaries Chamber quarterly, also in e-form. Annual data is forwarded to the Ministry of Justice.
- Disciplinary measures against judges should be clearer because sanctions are not clear enough.
- The system of disciplinary proceedings is not transparent enough because even if disciplinary proceedings are started, 1st instance courts and public notaries don't get any feedback about the sanctions.
- The disciplinary measures regarding public notaries are dealt with the Croatian Notaries Chamber and the county courts, while the overall supervision of the work is conducted by the Ministry of Justice and the Chamber.



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- Public notaries have special proceedings for the citizens to complain against the shortcomings of the enforcement; they can complain to the Chamber or to the municipal court.
- Complaints are useful and efficient tools for the improvement of enforcement but sometimes citizens do not know how the proceedings are going on.
- The complaint of the client against the actions of the judge/court advisor can have counterproductive effects on the case.
- Legal remedies make the enforcement proceedings too long.
- The possibility of filing legal remedies is excessively abused. The second instance courts are not able to resolve the appeals in the short term thus the proceedings are long-lasting.
- Public notaries receive no feedback about legal remedies or about the later stages of the proceedings.
- All participants agreed that a regular evaluation of the institutions and staff involved in the enforcement procedure is essential.
- Judges and court advisors have to report about their cases. The Tax Administration is evaluated yearly.
- In the framework of the evaluation, the president of the court has the obligation to initiate disciplinary procedure if he/she encounters shortcomings which form base for disciplinary measures. However sanctions are rare in practice.
- There are mechanisms to keep deadlines but they need to be improved.
- There are objective and subjective reasons for failing to meet deadlines. The objective reasons are the large number of enforcement cases and lack of specialization. Staff should be sanctioned for not meeting deadlines only if it happens for subjective reasons.

Suggestions

Participants were requested to write some suggestions to improve the Croatian enforcement monitoring system. These are their suggestions:

- ✚ Statistical data is a very useful tool but the collection of it should be improved.
- ✚ Statistics should be collected and forwarded solely electronically.
- ✚ Complete specialization of court advisors, court staff and bailiffs would be necessary, with final control of the judge in the appellate proceedings.
- ✚ Disciplinary sanctions should be published in an anonymous way for the professionals of the respective institutions.
- ✚ The number of legal remedies should be reduced.



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- ✚ There should be only one legal remedy in the proceedings and optionally a counter-enforcement, in certain cases.
- ✚ Deadlines are not effective because there are no sanctions, consequences. It would be useful to establish sanctions when deadlines are not met.
- ✚ More staff is needed at courts to be able to meet deadlines.
- ✚ Electronic communication among the institutions involved in enforcement and also with the parties could help meeting deadlines and make the procedure faster and more effective.
- ✚ The e-company system applied by the Croatian commercial courts could be a good example for improving the enforcement system. Also, the e-application/e-registration in the Court Register can be a good model for improving the enforcement system where the notary public submits the application and scanned attachments with e-signature, and immediately gets the number under which the file case is processed in the court.
- ✚ Public notaries (Croatian Notaries Chamber) are in favour of the Hungarian model of enforcement and forwarded a proposal about this to the Ministry of Justice. By adopting their proposal, the transparency would be improved, costs would be reduced and all parties involved in the proceedings would have access to all stages of the procedure.

4.4. Round table in Split

Experts: Ms María Rosario Palacios González and Mr Péter Tanács
Translator: Tatjana Radmilo.

Stakeholders

Stakeholders from several professions and bodies were invited as participants a month in advance. The invited participants were bailiffs, judges, court advisors, public notaries, lawyers, representatives of the Ministry of Finance and representatives of FINA.

Questionnaire and methodology

According to the meeting which took place on Monday morning, the experts carried out the round tables applying the same documentation and methodology. Therefore it a normalized questionnaire elaborated by the experts was used and the same workshops and plenary system were applied.

The process was monitored by two experts and people who could not speak English were helped by an interpreter.



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In order to get active participation of the stakeholders a workshop methodology was implemented. The 19 attendees were split up in four smaller groups from 3 to 7 participants and they were invited to get a common position in relation to questions and proposals (questionnaire).

The last part of the round table was to present and debate the different group conclusions in a plenary session of one hour and a half.

Progress of the meeting

The round table was implemented with a total of 19 attendees at the premises of Regional Centre of Judicial Academy Split at County Court. The round table was attended by the following participants: 4 Judges, 7 Court Advisors, 1 Senior Court Advisors, 1 Public Notary, 2 representatives of the Ministry of Finance, 2 representatives of FINA, 1 lawyer, 1 bailiff.

Before starting the experts introduced themselves and talked about the activities related to monitoring that were done before.

The participants were divided into four groups.

The round table took two and a half hours and it was successful. The groups elaborated conclusions and showed an active participation presenting interesting inputs for the project.

The experts collected the conclusions delivered by the groups in written that were translated into English.

Summary of Conclusions:

Monitoring system

- The statistical data based on e-SPIS are not a relevant indicator as to duration of proceedings or pendency.
- The statistical data based on e-SPIS which has recently been established only contain current cases but with a few exceptions the older unsolved cases are not entered into e-spis.(older than 2007)
- Statistics about enforcement over monetary assets is not reliable since enforcement cases are marked as solved at the moment the decision on enforcement is adopted but in fact that's when the enforcement begins.
- Concerning disciplinary proceedings the infringements and sanctions are clearly defined but the attendees think that disciplinary proceedings and sanctions do not help to improve the enforcement system.
- In practice disciplinary proceedings lose their efficiency due to the long duration.
- In the tax administration there are not disciplinary proceedings and tax administration lacks internal control.



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- In the enforcement system there are too many legal remedies and there is too much space for the parties, which leads to delaying the proceedings.
- The work of institutions and their employees that are included in the enforcement system should be regularly evaluated and monitored which is being done by statistical data, evaluation of managers in the authority body, control of higher judge, etc.
- There is an efficient system of regular evaluation in Municipal Courts for judges and court advisors based only on statistical data. Every year judges are evaluated by the president of Court. In this evaluation the cases are not reviewed.
- The prescribed deadlines in the enforcement system have an instructive nature; no sanctions are regulated when deadlines are not met.
- Parties in the enforcement proceedings can ask for a financial compensation if undue delays occur - which is a very effective way to complain.

Suggestions

Participants were requested to write some suggestions to improve the Croatian enforcement monitoring system. These are their suggestions:

- ✚ Set up a computerised system to connect FINA with all stakeholders involved in the enforcement system.
- ✚ The application forms need to be standardised and court practice made more uniform.
- ✚ The evaluation and control of institutions and authorities involved in enforcement should be entrusted to external audit firms.
- ✚ Reasons for legal remedies should be reduced.
- ✚ The control of the work of the enforcement actors should be improved.
- ✚ There should be more deadlines.

5. FINAL CONCLUSIONS

- Current statistical data are not completely reliable. It would be useful to have just one body compiling the data. The current IT system could be a good base for further improvement.
- The legal framework of disciplinary proceedings seems to be good and clear, but there are some troubles with the practical implementation. The outcomes of disciplinary proceedings should be more transparent.
- The complain-handling mechanism for citizens is working quite well and it is considered a useful tool for the enforcement. There are some different ways for citizens to complain: phone, email or even going to court.
- Too many legal remedies make the enforcement proceedings slow and lengthy. The reasons for legal remedies should be reduced.
- All institutions and bodies involved in enforcement system are regularly evaluated and monitored.
- Procedural deadlines are merely instructed. Deadlines with consequences would contribute to a faster procedure.



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6. ANNEXES

6.1. QUESTIONNAIRE



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ROUND TABLE

Activity 1.1.4

Strengthening institutional and administrative capacities of stakeholder institutions in regard to the enforcement monitoring system

MONITORING SYSTEM

1. Do you think that in the Republic of Croatia is there a reliable statistical system? Is it possible to know through the published statistical data the length of the proceeding or the pendency? Do you think statistical data is a useful tool to stakeholders?
2. Are disciplinary proceedings and sanctions to relevant actors in enforcement proceedings (judges, court advisers, court staff, bailiffs, notaries public, FINA) effective? Are the infringements and sanctions clearly defined? What suggestion do you have to improve the system?
3. Is there any mechanism for citizens to complain about the actions of relevant actors in enforcement proceedings (judges, court advisers, court staff, bailiffs, notaries public, FINA)? If so, is this system effective? Does it have any effect in improving the enforcement system?
4. Is the system of legal remedies an effective tool to supervise the enforcement system? If not, how could the system of legal remedies be more efficient?



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5. Do you think institutions and staff involved in the enforcement need to be evaluated and supervised on a regular basis? In the practice do these proceedings have any real consequences?
6. Do you think that the Croatian enforcement system has satisfactory procedural deadline keeping mechanisms?

Write here some suggestions to improve the Croatian enforcement monitoring system



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6.2. WORKSHOPS REPONSES

ZAGREB

MONITORING SYSTEM

1. Do you think that in the Republic of Croatia is there a reliable statistical system? Is it possible to know through the published statistical data the length of the proceeding or the pendency? Do you think statistical data is a useful tool to stakeholders?

G1.

- Mostly.
- FINA is the most effective in the process of recording data.
- Published statistical data – mostly reliable –it is possible to monitor the situation in the enforcement in the Republic of Croatia.

G2.

- NO, it depends. Statistical system depends on the authority maintaining the statistical data. We think that the system of the e-file (e-spis) is not fully reliable. By analysing the data it is possible to get an idea of the statistical data, but it is questionable how reliable are the system data. Data is considered a useful tool for those involved in the enforcement proceedings as the following information can be viewed: capacity, type, length of the proceeding, etc.

G3.

- Court enforcement – Statistical monitoring is organized through e-spis – all actions from the beginning to the completion of the proceedings, the length of the proceedings, number of the unsolved cases can be seen, but there are also reported files that are still opened so there are more pendent files than the number of unreported files indicates.

G4.

- System should be unique ... (*illegible*)... the enforcement proceedings ... (*illegible*)... measurable and available for all under the same conditions.

G5.

- Statistical system is relatively reliable.



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- Monitoring of the e-file - it is possible to access data such as the length of proceedings, number of pendent cases, order - by the judge in charge of the case, etc.
- The average length of the proceedings can be seen from the *Management Report (Upravljačko izvješće)*.
- It is a useful tool for a judge and for all those involved in the proceedings.
- The Ministry also has an access.

2. Are disciplinary proceedings and sanctions in the Republic of Croatia's judicial system effective? Are the infringements and sanctions clearly defined? What suggestion do you have to improve the system?

G1.

- Disciplinary proceedings should be regulated in a different way.
- Sanctions should be related to earnings (wages) and to the professional promotion.
- Evaluation on a calendar year basis might be considered.

G2.

- Judges – ‘DSV’ (TN: State Judicial Council)- the implementing provisions for disciplinary proceedings are laid down precisely.
- FINA – under the supervision of the Ministry of Finance – infringements are clearly defined.
- Control mechanisms – HOK, HJK (TN: Croatian Chamber of Trades and Crafts, Croatian Notaries Chamber) - disciplinary proceedings are implemented according to specific regulations.
- Infringements and sanctions are clearly defined within the institutions, but they are not so frequent.
- The system should be set on clear and unambiguous criteria, equal for all. The principle of fairness must be borne in mind.

G3.

- Judges - Disciplinary proceedings– ‘DSV’ (TN: State Judicial Council)
- Employees of the court (court bailiffs, administrative staff, and employees of the Tax Administration) - Civil Service Tribunal - disciplinary acts and sanctions are clearly stipulated by law.
- Parties - the fine according to law enforcement, Article 16 and a prison sentence.

G4.

- Disciplinary - against whom – against judges ... (*illegible*)... parties involved

G5.



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- Yes, they are effective.
- Infringements and sanctions are clearly defined in the Courts Act and the State Judicial Council Act.
- System is effective so we have no suggestions for improvements.

3. How does the system of complain-handling mechanism for citizen works in practice? Is it useful to improve the enforcement system?

G1.

- (Proceedings) - ... goes to litigation – makes the proceedings longer – it's not useful for the improvement of the enforcement system.

G2.

- Courts - problems
 - great number of legal remedies
 - Great number of civil suits - from the enforcement to the litigation
 - Result
 - the system is slowed down
- FINA - Possibility of filing complaints (*reclamation*) - solved on a daily basis
 - Under the supervision of the Ministry of Justice - complaints (reclamations) are dealt promptly

G3.

- Court– appeal against a writ of execution
- Notary Public - complaint against a writ of execution
- Administrative enforcement – Tax administration – appeal - decided by a second instance authority of the Ministry of Finance – Administrative proceedings (Administrative Court)
- Non-judicial enforcement
 - Motion for postponement
 - Decision to declare inadmissible the seizure

G4.

- Complicated and long-lasting

G5.

- IN general, system of complain-handling mechanism for citizens works in practice. Citizens can access the e-file and get information about the status of the case, whether by the judge in charge of the particular case, or by the President of the Court.



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4. Is the system of legal remedies an effective part of enforcement monitoring system? If not, how could the system of legal remedies be a more efficient part of the enforcement?

G1.

–No, it's not effective.

G2.

– Legal remedies are not useful for monitoring of the enforcement system - problem is the uneven court practice of higher courts – but we think that the uniform, harmonized court practice should contribute to more efficient processing of pending cases.

G3.

–No, an appeal is not always filed.

G4.

- *Illegible*

G5.

- In our opinion, this system of legal remedies is more than effective.
- a number of possibilities for legal remedies in all stages of the proceedings - in some cases cause stagnation in processing cases.

5. Do you think authorities involved in the enforcement need to be evaluated and supervised on regular basis? In the practice could these proceedings have any real consequences?

G1.

–Yes. They need to be evaluated and supervised on regular basis.
- No, there are no real consequences, but it might be.

G2.

–Yes, we think that the authorities involved in the enforcement need to be evaluated and supervised, because that way the weaknesses of the system can be noticed and the measures undertaken in order to improve the system.

G3.

– Yes, in the statistical data of the e-spis (e-file).

G4.



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- **Illegible**

G5.

- Authorities involved in all types of cases including the enforcement cases have been evaluated and supervised on regular basis so far. In case inefficient operation, controls may cause more effective acting, or in extreme cases may lead to sanctions.

6. Do you think that the Croatian enforcement system has satisfactory procedural deadline keeping mechanisms?

G1.

-When we are talking about the procedural deadlines at the court - they are instructive.

G2.

- Some mechanisms can be found in current legal regulations ("Framework Criteria for the Work of Judges"), but these mechanisms are not satisfactory because the motivation of judges must be directed to meet the workload requirements. In practice, authorities fail to start disciplinary proceedings in cases of non-compliance with procedural deadlines.

G3.

- Deadlines are short - hard to meet; they are not preclusive.
- 'GZP' (TN: *Civil cases for the protection of the right to trial within a reasonable time*).

G4.

- No. It is debatable whether the deadlines can be met.

G5.

- Yes, we have satisfactory mechanisms.

Write here some suggestions to improve the Croatian enforcement monitoring system

G1. –

G2.

-IT connection (inter-institutional) between the bodies implementing the enforcement
- It is necessary to identify problems in practice and based on that to implement appropriate solutions in legislation.
- It is necessary to improve the e-file



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- Training for users of IT applications
- Improvement of IT equipment
- Introduction of electronic documents in the enforcement system or at least to begin with the introduction of electronic communication through secure electronic channels

G3.

- Land Registry Reform
- Real Estate Register - searched by OIB (personal identification number) – Slovenia already has one
- Publishing of statistics from e-files and other statistical sources.

G4.

- Complete and unified system
- Electronic document and signature
- Property records

G5.

- Lack of staff to monitor the enforcement, lack of IT equipment, lack of space in most of the courts
- It is necessary to consolidate the data.

VARAŽDIN

MONITORING SYSTEM

1. Do you think that in the Republic of Croatia is there a reliable statistical system? Is it possible to know through the published statistical data the length of the proceeding or the pendency? Do you think statistical data is a useful tool to stakeholders?

G1.

- Statistical data are not completely reliable. Once the decision is rendered (writ of execution) file cases for the enforcement over the monetary assets (FINA) and wages are considered closed and solved although the same proceedings may be continued for years without any debt collection.
- Generally it is not possible to know the length of the proceeding or the number of solved file cases.
- Yes, statistical data is a useful tool but it should be improved.

G2.



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– COURT: Yes, we have E-spis (E-file), it is very reliable and it gives completely accurate statistical data. The courts are responsible for the accuracy of data entry in the E-spis (E-file). Commercial Court in Varaždin can always provide information on the length of the proceedings. Statistical data represent a useful tool for participants.

- PUBLIC NOTARIES: All of the registers regarding the enforcement public notaries keep in the e-form, pursuant to which statistical data is submitted to the Croatian Notaries Chamber quarterly, also in e-form. Annual data are forwarded to the Ministry of Justice. Analysis of statistical data, particularly of submitted remedies, is important to analyse the entire system, because public notaries resolve about 700 000 enforcement cases annually. Data from Croatian Notaries Chamber are reliable and comprehensive

G3.

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2. Are disciplinary proceedings and sanctions in the Republic of Croatia's judicial system effective? Are the infringements and sanctions clearly defined? What suggestion do you have to improve the system?

G1.

– There are legal frameworks. We are not aware of the fact whether disciplinary procedures were implemented.

- Infringements and sanctions are not defined clearly enough. 'DSV' (TN: State Judicial Council) implements disciplinary proceedings, but we don't know whether they are related to the enforcement.

G2.

– COURT: Law on the State Judicial Council and the Law on Civil Servants have clearly defined sanctions for violation of official duty. We think that poor performance or durability of the proceedings is not related to the poor performance of judges or court officials; but complete specialization of officials, advisors, and bailiffs, and their service is required; with final control of the judge i.e., in the appellate proceedings, of a higher court.

PUBLIC NOTARIES: The listed matter is regulated by the Notary Public Act (rules on disciplinary responsibility) and the Statute of the Chamber. Disciplinary proceedings are conducted by the Chamber bodies and disciplinary councils in four County Courts, and one in the Supreme Court. Members of the council are two judges and one notary. The overall supervision of the work is conducted by the Ministry of Justice



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and the Chamber; and for entrusted affairs - courts. We believe that the improvement in the work of notaries would occur if all members of the Croatian Notaries Chamber would have a feedback on topics and results of proceedings (feedback can be anonymous; the reason for disciplinary responsibility is important, not for who the proceeding was conducted)

G3.

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3. How does the system of complaint-handling mechanism for citizens work in practice? Is it useful to improve the enforcement system?

G1.

- In case of court proceedings, citizens may appeal to the President of the Court for failure to act in their cases, or may initiate proceedings for violation of their right to trial within a reasonable time.
- Partially, yes. The problem is not that judges don't work, but in the fact that they are overburdened and not specialized..

G2.

- COURT: There are complaints to the President of the court, higher court or the Ministry of Justice. This system is not effective and doesn't contribute to the improvement of the enforcement system. Courts are obliged to resolve the cases in the order of their reception in the court. The only thing efficient is seeking of protection of right to trial within a reasonable time, by the Act on Courts.
- PUBLIC NOTARIES: Complaints are not a problem, because citizens can contact Chamber and/or the Ministry of Justice, directly and without paying any fee. The problem is that within the implementation of enforcement at the FINA, citizens don't know what kind of the enforcement is carried out, since for that they must obtain the file from the FINA's database which is chargeable; and the implementation of the enforcement begins before the enforcement debtor finds out that the proposal for the implementation at FINA has even been submitted. Even when he receives printed data he sees a number of file, but not the notary who issued the writ. Through the system E-citizen (E-gradanin) it should be enabled to all of the debtors, without charge and via the Internet, to have access to the implementation of the enforcement for themselves. E-citizen is a free system that already exists, and citizens 'enter' it through the code they receive at FINA

G3.



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4. Is the system of legal remedies an effective part of enforcement monitoring system? If not, how could the system of legal remedies be a more efficient part of the enforcement?

G1.

– Yes it's an effective tool, but the possibility of filing legal remedies is excessively abused. The second instance courts are not able to resolve the appeals in the short term - long lasting proceedings. Possibility of reducing the number of legal remedies should be considered.

G2.

– COURT: There are too many legal remedies in all phases of the project in our Enforcement Act and in the whole enforcement system. For example, the appeal once the deadline expires, an appeal based on particular reasons, an appeal based on the reasons for which the parties are referred to the separate litigation process, the motion for postponement of the enforcement. These are the main reasons for having long-lasting proceedings. Only one legal remedy is required in the proceedings and optionally a counter-enforcement, in certain cases.

- NOTARIES PUBLIC: A complaint and appeal against the writ of execution based on trustworthy documents (authentic instruments) rendered by notaries public ensures a judicial protection. A disadvantage is that notaries public do not receive any information on the Court's decision on subsequently filed legal remedy. On the other hand, enforcement debtors and enforcement creditors have no information when and to which court the case file is forwarded in order to be processed for the legal remedies. It is even possible to have a situation of abolition of clause of legal validity and enforceability on the writ of execution, and the notary public, who rendered the decision, have no knowledge about it.

G3.

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5. Do you think authorities involved in the enforcement need to be evaluated and supervised on regular basis? In the practice could these proceedings have any real consequences?

G1.

– Yes, it should be evaluated and supervised, along with setting the criteria, both objective and subjective.



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G2.

- COURT & NOTARIES PUBLIC: Yes, they should be evaluated and supervised. There are also legal consequences for unlawful activities.

G3.

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6. Do you think that the Croatian enforcement system has satisfactory procedural deadline keeping mechanisms?

G1.

- There are mechanisms but they need to be improved. A distinction should be made between objective and subjective reasons for failing to meet deadlines. The objective reasons are the large number of enforcement cases and lack of specialization. But the real reasons to be sanctioned are subjective reasons.

G2.

- COURT & NOTARIES PUBLIC: Deadlines are stipulated by the law, but generally they are not met. The sanctions are minimal.

G3.

–

Write here some suggestions to improve the Croatian enforcement monitoring system

G1.

- **NO SUGGESTION.**

G2.

- Improvement of the process and especially of monitoring of the course of individual stages of the proceedings should be possible through wider application of IT for all participants. Notaries public and courts have been connected already through e-bulletin board regulated by the Enforcement Act.
- Good role model for improving the enforcement system is the e-application/e-registration in the Court Register where the notary public submits the application and scanned attachments with e-signature, and immediately gets the number under which the file case is processed in the court.



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- In general, we refer in particular to the Hungarian model of enforcement. The Croatian Notaries Chamber has already sent that proposal to the Ministry of Justice. That way the transparency would be improved, costs would be reduced and all parties involved in the proceedings would have access to all stages of the procedure.
- Notaries public are already connected with FINA, because FINA certifies their signatures.

G3.

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ZADAR

MONITORING SYSTEM

1. Do you think that in the Republic of Croatia is there a reliable statistical system? Is it possible to know through the published statistical data the length of the proceeding or the pendency? Do you think statistical data is a useful tool to stakeholders?

G1.

- NO, because the manner in which statistics is run is not directly connected with the real solution of the cases.

G2.

- The statistical system in the Republic of Croatia is considered reliable and possible through e-files with this court and thus have an insight on the pending lobnglasting procedures on the Ministry of Justice web pages.

2. Are disciplinary proceedings and sanctions in the Republic of Croatia's judicial system effective? Are the infringements and sanctions clearly defined? What suggestion do you have to improve the system?

G1.

-They are not efficient even though clearly defined.

G2.

- There is no insight in the disciplinary procedures against judges and clerks that are in the enforcement procedure. We know that there is a great number of complaints against public notaries. We consider sanctions to be clearly defined.



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3. How does the system of complain-handling mechanism for citizen works in practice? Is it useful to improve the enforcement system?

G1.

– The system is not good. There are too many legal remedies. The difference between complaints that influence the court decisions and those that aim at prolongs the procedure is lost.

G2.

– We consider that both sides have too many legal remedies at disposal which tends to (illegible) the enforcement procedure. The present system is not useful and the number of reasons to complain should be reduced.

4. Is the system of legal remedies an effective part of enforcement monitoring system? If not, how could the system of legal remedies be a more efficient part of the enforcement?

G1.

– No, it is limited.

G2.

–We consider that both sides have too many legal remedies at disposal which tends to (*illegible*) the enforcement procedure. The present system is not useful and the number of reasons to complain should be reduced.

5. Do you think authorities involved in the enforcement need to be evaluated and supervised on regular basis? In the practice could these proceedings have any real consequences?

G1.

–Yes, but such procedures do not have real consequences.

G2.

– Yes, we consider that the work of the bodies concerned in enforcement should be evaluated and monitored. There are no consequences.



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6. Do you think that the Croatian enforcement system has satisfactory procedural deadline keeping mechanisms?

G1.

– No, all deadlines are mainly instructive.

G2.

– There are mechanisms in the Croatian enforcement system to respect procedure deadlines.

Write here some suggestions to improve the Croatian enforcement monitoring system

G1.

– NO SUGGESTIONS

G2.

– Introduction of e-files at the state level for the whole territory of the Republic of Croatia so parties could have an insight into the procedures.
- Public institutions should be authorities to issue payment orders for invoices (electricity, water, TV, waste)

SPLIT

MONITORING SYSTEM

1. Do you think that in the Republic of Croatia is there a reliable statistical system? Is it possible to know through the published statistical data the length of the proceeding or the pendency? Do you think statistical data is a useful tool to stakeholders?

G1.

– No, statistical system is not comprehensive. Older unsolved cases are not entered into e-spis (older than 2007) with exceptions. Statistically, enforcement over monetary assets is considered as solved at the moment the decision is adopted, although only then the enforcement begins. No, from all above mentioned reasons.



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G2.

– We think that statistically system is not reliable since enforcement cases are marked as solved at the moment the decision on enforcement is adopted, while the execution of enforcement procedure is not taken into consideration from the point of view of the statistics. By statistical data it is not possible to find out about the duration of proceedings. Statistical data do not represent a useful tool for stakeholders

G3.

– Depends on the area of enforcement. Statistical data are definitely a useful tool for stakeholders.

2. Are disciplinary proceedings and sanctions in the Republic of Croatia's judicial system effective? Are the infringements and sanctions clearly defined? What suggestion do you have to improve the system?

G1.

–We know that there are disciplinary proceedings run against certain court employees, but considering the fact that they are long-term, we think they are not efficient. Infringements and sanctions are clearly defined. We do not see improvement of enforcement system in punishing its actors, but in their motivation, training and improvement.

G2.

– Disciplinary proceedings and sanctions are efficient, infringements and sanctions are clearly defined. We do not have a proposal for improvement of the system.

G3.

– Depends on the area of enforcement execution. Court and Notary Public have efficient sanctions. Tax Administration does not.

3. How does the system of complain-handling mechanism for citizen works in practice? Is it useful to improve the enforcement system?

G1.

– For court employees – there is, we think it is efficient
- For FINA – there is not one - as far as we know



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G2.

- Mechanisms intended for citizens are petitions, right to a trial in a reasonable period of time, request for exception. We think that the mentioned mechanisms can contribute to improvement of the enforcement system.

G3.

- Better internal control is proposed in some areas of state administration.

4. Is the system of legal remedies an effective part of enforcement monitoring system? If not, how could the system of legal remedies be a more efficient part of the enforcement?

G1.

- In enforcement there are too many legal remedies, parties in the proceedings that won legal court ruling, have to be sent to litigation again in the enforcement proceedings because the enforcement is declared unallowed.

G2.

- Legal remedies system represents efficient means for supervision of enforcement system.

G3.

- Yes – reduction of number of legal remedies.

5. Do you think authorities involved in the enforcement need to be evaluated and supervised on regular basis? In the practice could these proceedings have any real consequences?

G1.

- Regular evaluation and monitoring are necessary, such as the ones existing in Municipal Courts and is efficient (evaluation of work of judges and court advisors and control of pendency by County Court).

G2.



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–We think that the work of institutions and their employees that are included in the enforcement system should be regularly evaluated and monitored which is being done by statistical data, evaluation of managers in the authority body, control of higher judge, etc.

G3.

– Yes.

6. Do you think that the Croatian enforcement system has satisfactory procedural deadline keeping mechanisms?

G1.

– By request granted by right to a trial in a reasonable period of time, court can determine the time period for adoption of decision, but not for the execution of enforcement proceedings.

G2.

–We think that there are satisfactory mechanisms for respecting time periods of the proceedings, however, we also think that there should be more such time periods in Croatian enforcement system so that bailiffs activity in the proceedings should be increased.

G3.

– No – complexity of institutions, proceedings in the enforcement system.

Write here some suggestions to improve the Croatian enforcement monitoring system

G1.

- More frequent internal controls, meetings
- Substitute for judges and advisors absent because of holiday leave
- External system of professional training, monitoring of court practice

G2.

– NO SUGGESTIONS

G3.

– Better informatization and connectedness.