



IPA 2010 program Europske unije za Hrvatsku / The European Union's IPA 2010 Programme for Croatia



**Poboljšanje sustava ovrhe
u Republici Hrvatskoj**

**Improvement of the Enforcement system
in the Republic of Croatia**



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



THE EUROPEAN UNION's 2010 PROGRAMME
 Twinning Ref. Number HR/10/IB/JH/04
 Consortium: Spanish Ministry of Justice/Hungarian Ministry of Justice and
 law Enforcement/Croatian Ministry of Justice/FIIAPP

MISSION REPORT

Activity 1.1.5

Preparing recommendations for improvement of the enforcement monitoring system (with defined monitoring indicators, evaluation criteria and models of reports regarding monitoring activities).

INDEX

1. EXECUTIVE SUMMARY	5
2. INTRODUCTION	7
3. STATISTICAL DATA	8
4. LEGAL REMEDIES. DEADLINES	10
5. SUPERVISION CONTROL AND DISCIPLINARY PROCEDURES	11
6. EVALUATION OF ENFORCEMENT ACTIVITIES: COMPLAIN-HANDLING MECHANISM FOR CITIZENS.....	15
7. MONITORING INDICATORS.....	17
8. RECOMMENDATIONS FOR IMPROVEMENT OF THE ENFORCEMENT MONITORING SYSTEM.....	18



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

GLOSSARY¹

For the purposes of this report, the following terms should be understood as follows:

Case Management System: Specific software for processing and handling pleadings, decisions and other judicial documents. The Croatian electronic system in process of implementation is called e-SPIS.

Sustav upravljanja sudskim predmetima: poseban softver za obradu i rukovanje podnescima, odlukama i drugim sudskim predmetima. Hrvatski elektronički sustav čija implementacija je u tijeku naziva se e-SPIS.

Claimant: A party seeking enforcement. In civil cases, the claimant is usually a creditor, but the two terms are not synonymous as the claimant may equally well seek the enforcement of an “obligation to do” or “to refrain from doing”.

Tužitelj, podnositelj tužbe: strana koja zahtjeva provođenje ovrhe. U građanskim predmetima, tužitelj je obično vjerovnik, ali ta dva pojma nisu sinonimi budući da tužitelj može isto tako tražiti izvršenje „obveze činjenja” ili „uzdržavanje od činjenja”.

Clearance rate: is the ratio of the number of resolved cases over the number of incoming cases.

Stopa rješavanja: predstavlja omjer riješenih i primljenih predmeta.

Enforcement: the putting into effect of court decisions, and also other judicial or non-judicial enforceable titles in compliance with the law which compels the defendant to do, to refrain from doing or to pay what has been adjudged (source: Recommendation Rec(2003) 17 of the Committee of Ministers to member states on enforcement).

Ovrha: stupanje na snagu sudske odluke, ali i drugih sudskih ili izvansudskih izvršnih rješenja sukladno odredbama zakona koje obvezuje tuženika da čini, da se uzdrži od činjenja ili da plati sukladno onome što je presuđeno (izvor: *Preporuka Rec (2003) Odbora ministara državama članicama 17 o ovrsi*).

Enforcement agent: A person authorised by the state to carry out the enforcement process (source: Recommendation Rec (2003) 17 of the Committee of Ministers to member states on enforcement).

Ovršitelj, ovršni agent: osoba koja je od strane države ovlaštena provesti postupak ovrhe (izvor: *Preporuka Rec (2003) 17 Odbora ministara državama članicama o ovrsi*).

Enforcement timeframe: In theory, the period of action or waiting between the beginning and the completion of the enforcement process. In practice, it is the sum of the periods necessary for the completion of all the actions carried out by the enforcement agent.

Rok za provedbu ovrhe: teoretski, razdoblje djelovanja ili čekanja između početka i završetka ovršnog postupka. U praksi, to je zbroj perioda potrebnih za dovršenje svih radnji koje provode ovrhovoditelji.

¹ This glossary is for the only purpose of this Project and has been drawn up taking into consideration the GLOSSARY attached to the CEPEJ (2009)



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

Enforcement Procedure: Execution proceeding of involuntary collection and securing of a debtor's property ordered by a Court or other public body (notaries public) at the request of a claimant against a defendant.

Ovršni postupak: izvršni postupak prisilne naplate i osiguranja dužnikove imovine po nalogu suda ili drugog javnog tijela (javni bilježnici) na zahtjev podnositelja tužbe protiv tuženika.

Statistics: is the study of the collection, organization, analysis, interpretation and presentation of data.

Statistika: studija o proučavanju, prikupljanju, organiziranju, analizi, tumačenju i predstavljanju podataka.

Supervision of activities: Supervision of activities means the process whereby an authority makes observations to the enforcement agent on his or her working methods (scheduling problems, lack of courtesy, etc.); it is a sort of simplified control that does not involve actual examination of a complaint, but the aim of which is to guarantee fair administration of justice (see Control of activities).

Nadzor nad aktivnostima: nadzor nad aktivnostima označava proces kojim tijelo iznosi opažanje ovrhovoditelju o njegovim ili njenim metodama rada (problemi rasporeda, nedostatak pristojnosti, itd.); to je vrsta pojednostavljene kontrole koja ne uključuje stvarno razmatranje pritužbe, ali ima za cilj da jamči za poštnu provedbu zakona (vidi: Kontrola aktivnosti).



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

1. -EXECUTIVE SUMMARY

DEBRIEFING REPORT EXECUTIVE SUMMARY	
Experts	Ms María Rosario Palacios González Ms María Vanessa Untiedt Lecuona
Mission	Activity 1.1.5. Preparing recommendations for improvement of the enforcement monitoring system (with defined monitoring indicators, evaluation criteria and models of reports regarding monitoring activities).
Dates	23-27 February , 2015
Place	Zagreb
Objectives	<p>In the framework of this project on “Improvement of the Enforcement system in the Republic of Croatia”, the main objective of this mission is to present a written report defining monitoring indicators, evaluation criteria and models of reports regarding monitoring activities.</p> <p>Specific objectives this activity pursues:</p> <ol style="list-style-type: none"> 1. To conduct a workshop with the representatives of the institutions involved in monitoring the enforcement system. 2. To define monitoring indicators 3. To prepare recommendations for improvement of the enforcement monitoring system
Methodology	<p>The Group of experts has performed these steps:</p> <ul style="list-style-type: none"> ● Study “Enforcement Act”, “Act of Courts” and “Act on the State Judicial Council” ● Identify monitoring indicators ● Conduct a workshop with representatives of the institutions involved in monitoring the enforcement system ● Prepare recommendations for improvement of the enforcement monitoring system
Outcomes	The MG has accomplished all of the results required by the TOR:



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

	<ul style="list-style-type: none"> ● To conduct a workshop with representatives of the institutions involved in monitoring the enforcement system. ● To take into consideration the conclusion drawn under activities 1.1.3 and 1.1.4 and interviews of activity 1.1.2 ● Legal analysis taking into account: data protection legislation, Enforcement Act, recommendations from CEPEJ and other relevant international institutions, Act of Courts and Act on the State Judicial Council. ● Draft recommendations for improvement of the enforcement monitoring system that have been delivered to the BC.
Conclusions	<p>Institutions involved in monitoring the enforcement system should improve their enforcement monitoring system.</p> <p>After analyzing:</p> <ul style="list-style-type: none"> ■ Statistical data ■ Legal remedies ■ Deadlines ■ Supervision and control of enforcement proceedings ■ Disciplinary procedures ■ Evaluation of enforcement ■ Complain – handling mechanisms <p>Some recommendations could be drafted in order to achieve the mandatory result 1.1. “Recommendations for establishment of more efficient enforcement monitoring system”</p>
Recommendations	<ul style="list-style-type: none"> ❖ Statistical. Improve the method of data collection. ❖ Legal remedies. Should be reduced. ❖ Deadlines. Non-compliance should be penalized. ❖ Supervision of enforcement proceeding. Should be done by an independent and specialized body. ❖ Evaluation of enforcement. Periodical evaluation. ❖ Citizens’ complaints. Develop a complaint-handling mechanism. ❖ Employees. Regular training.



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

2. – INTRODUCTION

Activity 1.1.5 is one of the six activities that are included in component 1.1 whose aim is to prepare recommendations for improvement the enforcement monitoring system, with defined monitoring indicators, evaluation criteria and models of reports regarding monitoring activities.

Making recommendations is not an easy task. Due to its complexity it has been necessary to conduct a workshop with representatives of the institutions involved in monitoring the enforcement system. Two hours with members from the Ministry of Justice, Chamber of public Notaries, FINA and County Courts was not enough. More questions had to be sent by email and conclusions drawn from the activities 1.1.3 and 1.1.4 were taken into account. Recommendations from CEPEJ were analyzed and applied in this activity.

After drafting some recommendations, these were agreed with representatives from the Beneficiary Country. And a final report with recommendations was written.

In order to have an efficient system of monitoring, the work and activities of the authorities involved in the enforcement need to be evaluated and supervised on a regular basis. In the event that deficiencies are discovered, measures are taken both on organizational and personal level (leading to disciplinary measures if necessary).

An analysis of the Croatian legal framework in the field of enforcement of judicial decisions and contracts as well as an analysis of the technical execution of different types of enforcement procedures is important in the enforcement monitoring study. Results from activity 1.1.2 have been taken into account. This analysis included:

- The management system of the enforcement offices, since a deficient management might have a negative impact on the overall results of the enforcement.
- The monitoring of cases, distribution of duties and responsibilities, workload and workflow analysis, human and material resources, physical conditions and relations with citizens, lawyers and other stakeholders.
- Statistical data, as a very valuable tool to identify the shortcomings in the enforcement system. A corresponding report will be prepared, with recommendations for legislative, structural and functional changes of the enforcement system, and proposals for actual and effective implementation of those changes.

3. - STATISTICAL DATA

Statistical data is considered a useful tool for those involved in the enforcement proceedings.



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

Data collection and setting-up of a national statistic system is a must, but always taking into account, if possible, the European Commission for the Efficiency of Justice ("CEPEJ"), Evaluation Scheme and key data of justice defined by CEPEJ

As part of its transparency policy, European Countries compile statistical data that can be seen by citizens on the internet as real data regarding length of proceedings, clearance rate and number of pending cases.

The court activities should be monitored through a comprehensive and publicly available data collection system and evaluated on a regular basis. The monitoring systems include publishing of an annual activity report and the measurement of the number of incoming cases, decisions delivered, postponed cases and the duration of proceedings.

Statistical data is an important indicator to measure and monitor the efficiency and effectiveness of the enforcement system. It is important that the general public and legal professionals have confidence in the enforcement system. In line with the European standards this means that a monitoring and control system should be transparent and predictable.

The CEPEJ 2009 Guidelines recommend publishing regular annual reports on the activities of the enforcement agents:

"Guideline 65: In view of the importance of being able to foresee the length of enforcement proceedings from the point of view of legal certainty, member states should consider establishing publicly accessible statistical databases enabling the parties to calculate the likely duration of the different enforcement measures possible in domestic legislation (i.e. attachment of salary, attachment of bank assets, and attachment of vehicle). The databases should be compiled in collaboration with enforcement professionals and should be made as broadly available as possible, with the aim of giving persons in other member states access to each country's structure of duration so comparisons can be made.

Guideline 75: In order to undertake quality control of enforcement proceedings, each Member State should establish European quality standards/criteria aiming at assessing annually, through review system and random on-site inspection, the efficiency of the enforcement services. Among these standards, there should be:

- a) [...]
- g) Data collection and setting up of a national statistic system, by taking into account, if possible, the CEPEJ Evaluation Scheme and key data of justice defined by the CEPEJ
- h) [...]
- i) The procedure, on an annual basis:
 - the number of pending cases,
 - the number of incoming cases,
 - the number of executed cases
 - the clearance rate,
 - the time taken to complete the enforcement



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

- *the success rates (recovery of debts, successful evictions, remittance of amounts outstanding, etc.)*
- *the services rendered in the course of the enforcement (attempts at enforcement, time input, decrees, etc.)*
- *the enforcement costs incurred and how they are covered*
- *the number of complaints and remedies in relation to the number of cases settled.*

Guideline 76: The performance data should be based on representative samples and should be published”

In the Republic of Croatia, the Ministry of Justice is the main responsible for collecting statistical data regarding the functioning of the courts and judiciary system. All data are centralized in the Ministry of Justice and the person in charge of collecting these data elaborates a yearly report.

There are data statistics published on the internet since 2010. Statistical data are published on the internet and can be consulted by all citizens in the following Web pages:

• <http://www.mprh.hr/uprava-za-organizaciju-pravosudja-statisticka-istr>,

• <http://sudovi.pravosudje.hr/ogszg/index.php?linkID=9>

The first one contains the official statistical data elaborated by the Ministry of Justice. The second one refers just to the pending enforcement cases.

Internal statistical data collected by the court departments and introduced in the ICMS (e-SPIS) are not public, as citizens have not access to them.

E-Spis is used in order to collect the statistical data. The automation process of collecting data must be complemented manually (in Excel format) for those statistical data related to old proceedings that are not registered in that ICMS (e-Spis).

Statistical data from FINA. Data are pretty recent as since the new Enforcement Act entered into force in 2012, direct execution of legal titles, court settlements or arbitral awards, through attachment of bank accounts are made by FINA. Statistical data are not available on the internet.

Statistical data from NOTARIES. Statistical data are not available on the Internet.

Statistical data from Notary Chamber and FINA are just for internal use.

The gathering of reliable statistical data is at utmost importance in order to have a real and well-founded overview of the activities of the courts, bailiffs and notaries public and to see where changes are necessary in the organization of workload and procedure.

After a workshop conducted with representatives of FINA, Notary Chambers, Ministry of Justice and County Court, we must underline that no direct consequence result from statistical data. If statistical data



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

show a huge pendency of enforcement proceedings, or a not reasonable timeframe, no inspections to the institution are arranged.

Due to the mixed way of collecting statistical data (manually and through e-Spis), It is important to revamp the system and to obtain statistical data directly from the ICMS in order to get some reliable statistical information and to have a more effective monitoring system. Court inspections are considered essential, taking into account statistical data from Courts.

4. - LEGAL REMEDIES. DEADLINES.

Legal remedies are regulated in the Enforcement Act, articles 50 and following. The legal remedies mainly cause delays because the second instance court cannot consider them in a reasonable time. Many times the length and complexity of enforcement cases are related to the misuse of legal remedies and excessive hearings to the parties, that extends the proceedings. Enforcement Act also allows several interruptions of the enforcement process.

The interest of the parties involved is protected through the system of legal remedies. Whether it is the court or a notary public who orders enforcement, the final legal remedy it is always decided by the competent court.

There should be less legal remedies. A large number of legal remedies hinders the effective control of the enforcement proceedings; therefore, a simple and transparent system of legal remedies should be applied to be able to monitor the proceeding efficiently.

Legal remedies are considered sometimes as legal barriers to execution. Zagreb Municipal Court Case Study (Activity 1.1.2) confirmed that some legal provisions on interruptions of enforcement and procedural requirements are considered as unnecessary obstacles to execution.

Procedural deadlines. There is a need to provide on mandatory deadlines applicable only in cases which start after the amendment of the Enforcement Act; otherwise it would establish an unsolvable problem for the Municipal Civil Court of Zagreb.

The enactment of procedural deadlines could secure finishing at least the new cases in a reasonable time and could be combined with temporary measures in order to deal with the backlog.

Interviews from Activity 1.1.2 revealed the need of providing and keeping mandatory deadlines applicable only in cases which start after the amendment of the Enforcement Act.

There are no consequences if deadlines are not met; it would be convenient to introduce deadlines and sanctions for those not respecting the deadlines, but deadlines are not reasonable. Reasonable deadlines should be set.



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

But, what should be the timeframe? CEPEJ acknowledges that it is difficult to determine a foreseeable timeframe for enforcing decisions. The main reason is that in a number of states or entities the enforcement depends not only on the steps taken by the creditor or how fast the court does the different actions, but also on the solvency of the debtor. It not depends sometimes on the timeframe given by the Law. If there is no money or goods, there is not enforcement.

5. - SUPERVISION CONTROL AND DISCIPLINARY PROCEDURES

The work of the authorities involved in the civil enforcement has to be evaluated and supervised on a regular basis. This evaluation should be conducted by an independent body.

In the Republic of Croatia the judicial inspection system is regulated by the Act on Courts (in force since the 28th of February 2013). Title VIII, articles 80 et seq. The supervision of judicial administration is entrusted to inspectors of the Ministry of Justice.

The Ministry of Justice shall draw an annual plan of supervision, as a general rule all inspections' visits shall be announced before hand, but it is also foreseen the unannounced inspections supervisions when the President of the Supreme Court of the Republic of Croatia, the President of the immediately superior court and the President of the National Judicial Court expressly ask for it.

There are two different types of inspections:

- Direct inspectional supervision, by direct examination of documents, data, conditions and operating mode of supervised Court.
- Indirect inspectional supervision, by examination of submitted documents and data.

The supervision activity shall contain the following points:

- Information on the facts found
- Proposal of measures to eliminate identified irregularities and illegal act.
- Proposal of measures to increase the efficiency of the Court and deadlines for undertaking of measures.

As a consequence of the inspectional supervision the President of the inspected court shall remove all identified irregularities in the word of judicial administration within the time limits set out in the Minutes of supervision.

Apart from the supervision of the judicial administration entrusted to the Ministry of Justice, there is also an individual monitoring of judges conducted by the President of the Court that annually should evaluate the work of judges. The President of the Court shall identify if the judge fulfills his judicial duties and evaluates the performance of her/his duties.



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

The President of the Court shall decide the judge to supervise according to the following criteria:

- Number of decisions rendered by a judge in relation with the Framework Standards for the Workload of Judges.
- Results of the work established by the different types of the file cases, both in absolute numbers and percentages.
- Meeting deadlines for rendering and writing decisions.
- Quality of decisions on filed legal remedies (confirmed, annulled or modified both in the absolute number and percentage of the total number of rendered decisions, relative to the number of decisions in file cases in which the legal remedy has been filed and number of decisions repealed due to substantial procedural violations).

If the President of the Court finds that the supervised judge does not carry out correctly his duties he shall initiate disciplinary proceedings against that judge, pursuant to the National Judicial Council Act. Against these decision the judge may file a complaint within three days from the day of receiving the decision and if the complaint is rejected the judge has the right to appeal to president of the immediately higher court.

Judges are also evaluated when in the process of appointment to another court and when running for president of the court or in the process of the professional progress to higher courts. In these cases the body in charge of the evaluation is a Judicial Council composed of various judges that perform its tasks pursuant the methodology issued by the National Judicial Council.

Hence we can say that the Croatian supervision system referred to Courts undertakes according with the following board:

TYPE OF CONTROL	JUDICIAL INSPECTION	DUTIES SUPERVISION	EVALUATION
COMPETENT BODY	INSPECTORS OF MINISTRY OF JUSTICE	THE PRESIDENT OF COURT	JUDICIAL COUNCIL



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

THE DISCIPLINARY PROCEDURE

The disciplinary proceedings against the judges are detailed in the Title VI of the National Judicial Council Act where the offences and the penalties are clearly defined. One of the main functions of the State Judiciary Council is the conduction of disciplinary procedures and determination of existence of disciplinary responsibility on the part of Justices, state attorneys, and their deputies. The disciplinary procedure bodies are the Disciplinary Council and the Investigative Council. The Investigative Council shall implement disciplinary proceedings, examine facts and present arguments before the Disciplinary Council and the Disciplinary Council shall render a decision. The disciplinary proceeding starts with the request to instigate disciplinary proceedings issued by the soliciting competent authority, and after undertaking the procedure regulated in the National Judicial Council Act, the Disciplinary Council draws up the decision that it shall be delivery to the parties and both the judge and the claimant have the right to file an appeal against the decision. The appeal shall be solved by the Constitutional Court of the Republic of Croatia.

When the liable for the minor breach of official duty are judicial officers and employees of courts, the president of the court conducts the proceedings and issues the decision. If the infringement is serious the proceedings against court clerks and employees are conducted by the courts of the judicial officers, competent for officials and employees at the state administrative bodies, expert services of the Croatian Parliament and the Government of the Republic of Croatia.

FINA

The supervision of FINA is regulated in the Act of enforcement over monetary assets (Zakon o Provedbi Ovrhe na Novčanim Sredstvima). The competent authorities to supervise the activity of the different bodies involved in the enforcement over monetary assets are The Ministry of Finance and The Croatian National Bank. The first one deals with the control of the Agency and the business entities and the second one with banks, housing savings companies and credit unions. The supervision authorities may request to the supervised entities all the reports, data and other notifications on any matter significant that they need for the supervision. The process of supervision ends with a conclusion, if they detect any kind of irregularity a deadline is provided to the supervised body in order to eliminate the aforementioned irregularity. In case the irregularity is not eliminated during the supervision or within the given deadline, the supervisory authority shall initiate the minor offence proceeding.



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

SUPERVISORY BODY	MINISTRY OF FINANCE	CROATIAN NACIONAL BANK
SUPERVISED BODY	THE AGENCY AND BUSINESS ENTITIES	BANKS, HOUSING SAVINGS, CREDIT UNIONS

As regards the disciplinary system, the Act of enforcement over monetary assets clearly defines the offences or the infringements and the sanctions. . The offences are listed separately for the different bodies involved in the enforcement of monetary assets: Agency, housing saving companies, credit unions, business entities and banks.

Sanctions are also clearly identified in the act, and they may be imposed not only to the entities but also against the authorised person that has been acting on behalf those entities (Agency, bank, house saving company..), in this cases the fine to be imposed at the individual person is lower than the fine specified to the legal person.

NOTARIES

The supervision over the work of the Public Notaries services is accomplished by the Ministry of Justice and the Croatian Notary Chamber. The bodies that may be supervised are: the Chamber, individual notaries public, acting notaries public, notary public deputy assessors and trainees. The Ministry supervises the work of the Public Notaries services and the Croatian Notary Chamber the work and conduct of notaries public.

When the supervisory body is the Ministry of Justice it may designate the president or the judges from the court for the performance of individual inspections. And when the supervision is competence of Croatian Notary Chamber it shall be performed by the Management Board or the President of the Chamber.

The Management Board of the Chamber shall, at least once every three years, conduct supervision of the offices of notaries public in order to verify their operations. Pursuant the Notaries Public Act, persons authorized to perform supervisory activities shall take necessary measures in order to remove and to sanction detected irregularities. The sanction for minor violations of official duties and inappropriate behaviour is a reprimand but in any case it may be initiated a disciplinary proceedings.



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

In respect of disciplinary system the infringements and sanctions are prescribed in the Notaries Public Act and in Chamber's Statute.

6. - EVALUATION OF ENFORCEMENT ACTIVITIES: COMPLAIN-HANDLING MECHANISM FOR CITIZENS

Through a system for complaints and suggestions the quality of public services can be known, and citizens may be involved in the management of these services. An effective and well developed complaint-handling mechanism for citizen will enable to obtain the necessary information to identify general strengths and weaknesses in the enforcement system. This information would be a useful tool to increase the level of satisfaction of citizens.

We must not confuse the complaint mechanism referred to the functioning of the enforcement system as a public service with the legal remedies system that refers to a legal control concerning to the law implementation.

As regards the citizens' complaints about the Croatian enforcement system aimed to courts, mainly to municipal courts as the competent body in the enforcement proceedings, they may be addressed to the President of the Court or to the Ministry of Justice.

The Act of Courts states that "everyone shall have the privilege to address petitions in respect of the operation of a court or work of a judge, unnecessary delays of procedure which they are a party to or have a legal interest in, or in respect of the professional behavior of a judge or other judicial employee, and shall have the right to receive an answer".

The President of the Court shall deal with the complaints raised by the stakeholders about the courts in its jurisdiction.

The Ministry of Justice entitles the citizens to lodge complaints, if the complaint is referred to the activity of courts the Ministry may ask the courts to report about the reclamation filed even it may obtain direct insight into the work of the court and request reports on the reasons for not acting in a particular case.

The Ministry of Justice on its website provides the citizens with a form to submit their complaints electronically.

<https://pravosudje.gov.hr/pristup-informacijama-6341/najcesca-pitanja-i-odgovori/informirajte-se/predstavke-i-prituzbe/6200>

Regarding the right to trial within a reasonable time, the Croatian regulations provide the possibility to submit applications for protection of the aforementioned right, and obtain economical compensations by the undue delay in the functioning of the courts. The procedure shall be conducted by the immediately



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

superior court. The decision on the application for protection of the right to trial within reasonable time shall be delivered to the president of the court before which the right has been infringed, to the president of the immediately superior court, the Ministry of Justice and the Ministry of Finance.

The screenshot shows the official website of the Ministry of Justice of the Republic of Croatia. The header includes the national coat of arms and the text 'REPUBLIKA HRVATSKA Ministarstvo pravosuđa'. A search bar is present. The main navigation menu includes 'Vijesti', 'O Ministarstvu', 'Dokumenti', 'Pristup informacijama', 'Istaknute teme', 'Kontakti', and 'Zavorski sustav'. The page title is 'Predstavke i pritužbe'. The content area provides information on how to submit complaints and petitions, including a list of accepted types of cases and instructions on what information to provide. Social media sharing options for Facebook, Twitter, and Google+ are also visible.

The screenshot shows a web form titled 'Complaint / Petition'. It contains several input fields: 'Name: *', 'Address: *', 'E-mail: *', 'Phone: *', 'Judicial body: *', 'Number of items: *', and 'Explanation: *'. A 'Send' button is located at the bottom right of the form.

The complaints of citizens regarding FINA's activities shall be addressed to the Ministry of Finance; they can submit their complaints in writing or even through e-mail. When the competent authority receives the complaint opens the formal investigation procedure in order to determine if some kind of irregularity or infringement has been committed. It is common that the claimant delivers several petitions to different supervisory bodies, FINA, Ministry of Finance, courts...

FINA receives a considerable amount of complaints mainly via e-mail, around 60 per day, many unsubstantiated, but all of them are answered in the time elapsing between three and fourteen days. There are also many complaints that are filled in the several offices or branches of FINA using request forms available to the public. In this regards it might be said that submitting to many complaints to different bodies might be also a tactic to delay the procedure and to have the opposite effect about the aim pursued.

The complaints regarding enforcement procedures can be classified into two groups:



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

1. - The claims against the infringements of the rule of procedure about the enforcement over the monetary assets that are solved internally by the competent supervisory body, and
2. - The appeals or legal remedies against the unlawful decisions issued by FINA that must be submitted and solved by the courts, according to the prescriptions of Enforcement Act.

NOTARIES

Citizens may address complaints from the malfunctioning of notaries to the notary public office, to the Notaries Chamber or to the Ministry of Justice. These complaints may lead to the Ministry of Justice to conduct an inspection of the operation of the Chamber, individual notaries public, acting notaries public, notary public deputy assessors and trainees.

7. - MONITORING INDICATORS

In order to carry out an accurate monitoring of the enforcement system it is essential to determine the indicators to measure the performance of bodies and authorities involved in the enforcement and the definition of quality standards.

Management indicators provide the key information about the workflow and the enforcement performance. They will also facilitate the adoption of corrective measures when a malfunction is detected.

The indicators to be monitored would be the following:

- The number of pending cases;
- The number of incoming cases;
- The number of executed cases;
- The clearance rate;
- The time taken to complete the enforcement;
- The time taken between the creditor's claim and the writ of execution;



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

- The time taken between the writ of execution and the concrete actions against the debtor's property.
- The time taken between the attachment of assets and the auction.
- The success rates (recovery of debts, successful evictions, remittance of amounts outstanding, etc.);
- The number of complaints and remedies in relation to the number of cases settled.

8. - RECOMMENDATIONS FOR IMPROVEMENT OF THE ENFORCEMENT MONITORING SYSTEM

- The supervision and control of courts should be entrusted to an independent and specialized body with a staff dedicated exclusively to inspections tasks. This specialized and centralized body, under the Ministry of Justice, may be composed of a group of experts representing all the authorities involved in the enforcement (judges, court advisors, notaries, FINA).
- Virtual inspections should be done through the IMCS, allowing the competent authorities in charge of inspection to access the different enforcement proceedings virtually.
- Statistics data should be collect directly from the IT management system in order to guarantee the gathering of reliable statistical information. Even the old enforcement cases that are collected and sent separately from the new ones.
- Statistical data from the different enforcement entities (Courts, FINA and Notary Chamber) should be sent to the Ministry of the Justice in order to have an overview of all the enforcement procedures. The enforcement activities of all authorities involved in the enforcement should be evaluated periodically to guarantee professionalism.
- Lay out a well-developed complaint-handling mechanism for citizens with the obligation to draft regularly a report containing the evaluation, results, findings and conclusions about citizens' complaints. This would help to identify general strengths and weaknesses in the enforcement system. The system should provide filters to avoid processing complaints manifestly unfunded.



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

- There should be fewer reasons for filing legal remedies because an excessive number of legal remedies hinder the effective control of the enforcement proceedings. Therefore, simple and transparent system of legal remedies with an expeditious resolution should be applied to be able to monitor the proceeding efficiently. It is not that legal remedies should disappear but should be reduced the reasons in terms of efficiency.
- There should be initial and continuous training. Enforcement agents should be required to follow specific training, especially when the applicable legislation is modified.