

RULE OF LAW PARTNERSHIP IN UZBEKISTAN

REPORT

FOREIGN EXPERIENCE STUDY

OF COURT'S ASSESSMENT

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on Foreign Experience Study of Court's Assessment

EXECUTIVE SUMMARY

The Uzbekistan judicial system faces challenges common to all judiciaries: demands for speedier case processing and disposition, improved quality of processes and outcomes, and greater transparency and access to information. In an effort to meet these challenges, in 2014, the Uzbekistan Supreme Court introduced a performance measurement and management system that will allow it to evaluate the performance of the courts¹ and make improvements to enhance efficiency, access and quality.

SCOPE OF ENGAGEMENT

This report results from collaboration between the Uzbekistan Supreme Court, UNDP, USAID and international rule of law consultant Kate Harrison. The consultancy was conducted from June, 2015 through August, 2015, with a site visit to Uzbekistan in July, 2015.

The consultant was engaged to:

- Develop a list of criteria to evaluate international justice performance measurement methodologies used to assess court performance. The developed list includes effective consideration of the major aspects of court performance (efficiency, citizen access and quality of justice), balance between qualitative and quantitative data, administrative feasibility, and transparency and comprehensibility to the public.
- Assess existing methodologies for civil court performance measurement and citizen surveys used by other judiciaries. The project scope specified that methods used by the World Justice Project and Tilburg University Legal Studies be included. The consultant recommended adding the performance measurement systems of the Netherlands, the World Bank on behalf of the Serbian judiciary, U.S. CourTools, and the European Commission Justice Scoreboard.²
- Preliminarily evaluate Uzbek data sources for consistency, data quality, and possibility of electronic data capture (see Attachment III for form utilized). Develop a list of implementation questions to be considered by court leaders
- Assess and recommend changes to the national legal and policy framework and existing performance management practices by reviewing statutes and UNDP project and planning documents and conducting meetings with stakeholders.³

FINDINGS

An evaluation of the six systems of court performance management is provided in Attachment IV; details of the systems are discussed in the report. A brief summary of each of the international practices reviewed and their applicability to Uzbekistan are provided below.

¹ As well as of individual judges.

² The European Commission for the Efficiency of Justice (CEPEJ)'s Handbook for Conducting Satisfaction Surveys Aimed at Court Users, September, 2010, was also assessed.

³ UNDP, Supreme Court and its Research Centre, the Lawyers' Training Centre, the Higher Economic Court of Uzbekistan. Higher Qualification Commission for the Selection and Recommendation for the Position of Judges, the Ministry of Justice Department on Enforcement and Material Support, and the Chamber of Lawyers.

The Netherlands

The Dutch judiciary uses a reasonably limited number of balanced measures to evaluate performance. Analysis of statistics from the case management system for the backbone of the system, supplemented by paper-based quality reviews, professional and general court user surveys, and on-site peer reviews and formal independent evaluation committees of external experts. Instead of setting an ideal standard for each measure, the Netherlands relies on the actual average achieved by courts as the starting point,⁴ which is continually revised upward as performance improves. The performance measurements are used by the courts to develop annual activity plans to improve performance and the Dutch judiciary's strategic plan provides a roadmap for performance evaluation. These features could be replicated in Uzbekistan including using the pilot project in Zangiata as a starting point.

Two effective but unusual measures in the Netherlands - the minutes of work time required by judges and support staff for each step of each specific case type and the cost per case – require separate and time consuming analysis not recommended for Uzbekistan at this time. In addition, the Netherlands does not consider access to justice as a criterion; other models, described below, are suggested for measuring access to the courts of Uzbekistan.

World Justice Project (WJP)

The WJP's Rule of Law Index assesses how the rule of law is experienced by the general public in 102 countries. Citizen and expert perceptions focus on accessibility, affordability, quality and effectiveness of the courts. The Index relies almost entirely on survey data and does not use independently collected quantitative data. In addition, surveys are not conducted of actual court users, who may have very different perceptions of the courts than the general public.⁵ Thus, the WJP's work does not provide a comprehensive view of court performance as desired in Uzbekistan. Some of the WJP's factors, particularly those related to why someone does or does not seek redress in the courts and consideration of different subpopulations could be added to future general citizen surveys in Uzbekistan.

World Bank Serbian Functional Review/Public Perception Surveys

The World Bank's functional reviewed detailed 14 factors divided into 52 indicators for evaluating performance across a spectrum of efficiency, quality and access, many of which are applicable to Uzbekistan. The performance factors were coordinated with Serbia's five-year strategic plan, Serbian legal requirements and/or European justice standards. Performance was evaluated through a mix of quantitative data, qualitative assessments (including a desk review and key informant interviews and workshops) and perception surveys of general citizens as well as professional and lay court users. Notably, the Framework incorporates a comprehensive list of indices of court efficiency to be evaluated through case management statistics,⁶ while perceptions of administrative efficiency (e.g., in case registration, service of process) were assessed through desk audits and user surveys. Surveys also separately considered unique sub-groups such as small businesses and ethnic groups to assess specific barriers to access, a feature that could be applied in Uzbekistan in the future. Unique among the models,

⁴Initial nation-wide performance standards were based on a pilot project of one court.

⁵ U.S. survey experience finds that court users view the judiciary more favorably than does the general public.

⁶Including the age of pending cases, the number of adjourned hearings per case, the cost per case, the time to enforce judgments and the effectiveness of enforcement.

the Framework compared the court fees to the average regional incomes, an analysis recommended for Uzbekistan.

Statistical data was both aggregated across regions, court sizes and the judiciary as a whole and disaggregated by court and case type. Three years of data allow evaluation of trends.

Completing the performance framework and functional review required a ten-person team from the World Bank and triangulation of data from more than one source, resulting in inconsistencies that had to be reconciled. The performance evaluation process has not yet been replicated by the Supreme Court.

EU Justice Scoreboard

Rather than representing a separate performance management system, the European Commission (EU)'s Justice Scoreboard is a dashboard that compares the performance of civil and commercial courts in the 28 EU member states. The Scoreboard balances quantitative and qualitative data and broadly addresses performance by considering efficiency and quality. It also addresses some of the resources available to the judiciary, stated in terms of per Euro court spending per citizen and available ICT systems. It does not, however, explicitly include an evaluation of access to justice, other than to ADR.

The strength of the Scoreboard lies in the transparent and easily understood comparisons it makes between EU member states. Some of the graphical tools used in the Scoreboard could be adapted to Uzbekistan for comparing courts against each other. The EU Scoreboard relies primarily on self-reporting from each country, which may result in data inaccuracies and inconsistencies.⁷ However, reporting countries are provided with data definitions, a hotline to answer questions, and follow-up review to facilitate a common understanding in completing the reports. These are all useful quality control efforts that should be incorporated into Uzbekistan's data collection efforts.

United States CourTools

Similar to the Netherlands, the U.S. CourTools measures a limited number of key measures of court performance using a number of well-thought out and specific methodologies, including forms, surveys, and calculation techniques. A number of approaches in the CourTools such as defining "time to disposition" as the percentage of cases disposed within discrete time standards and the degree to which cases lag behind standards would be useful in Uzbekistan. CourTools is also one of the few measurement systems to consider the number of hearings per case as a measure of efficiency. Furthermore, CourTools provides a clear methodology for evaluating the cost per disposed case, an approach useful in Uzbekistan. Another unique aspect of the CourTools is measurement of court employee engagement;⁸ court excellence as research shows that employee engagement directly correlates with improved performance.

Tilburg University Legal Studies

Tilburg University has developed criteria and surveys for evaluating justice focused on the quality of outcomes from a user perspective. The methodology does not represent a comprehensive and balanced view of court performance as efficiency of the judiciary, the quality of processes and consideration in access such as costs are not considered and no quantitative data is collected. The methodology also

⁷ The Scoreboard incorporates data from other sources, such as the World Bank, World Economic Forum and WJP.

⁸ Defined as the percent of court employees who indicate that they are productively and positively engaged in the mission and work of the court.

considers all “paths to justice” (for example, interactions with administrative agencies). The methodology’s results are evaluated through various theories of justice such as distributive, restorative, and corrective justice. These concepts provide a useful theoretical backdrop but do not lead to actionable steps to be taken by the judiciary and are generally not comprehensible to the general public.

RECOMMENDATIONS

Recommendations are provided for expanding the scope of the performance measurement system, adding measures to the framework, enhancing measurement techniques, adding data entry fields or reports to the ESUD case management system⁹ to aid performance assessment, amending the proposed court user and attorney perception surveys and implementation strategies.

Implementing a full performance measurement system will take some time; initial experience in implementing the system should be used to refine the system in the future. Thus, the recommendations below are divided into those that should be implemented in the short term (six months to one year) and those that can be implemented in the medium term (two to three years in the future).

Recommendations for Short Term Implementation

The following recommendations are the most critical and should be implemented in the short term (six months to one year).

Additional Criteria

Add the following evaluation criteria (see Attachment VI):

- Volume, average age and distribution of ages of pending cases (see Serbia and U.S. CourTools).
- Average number of cases disposed per judge, summarized at the court, regional and national level (Netherlands, Serbia, U.S. Court Tools).
- Average duration of court proceedings by case type and assessment of how far cases are outside the norm (EU Scoreboard). The current criteria consider only the number of cases delayed beyond the legal deadline.
- Average number of postponements/adjournments (Serbia, U.S. CourTools).
- Cost per disposed case, using the U.S. CourTools approach discussed in the report.
- Number and types of official complaints against all of the judges in a given court (Netherlands, in progress in Serbia).

Evaluation Methods

- Conduct statistical analysis of the courts on a quarterly and yearly basis, utilizing EXCEL sheets already submitted by the courts and eventually using the reporting features in ESUD. This would serve two purposes: 1) earlier identification of potential issues in courts, rather than every 2.5 years as with expert reviews and 2) provision of results to the expert boards to inform their site visits. Expert visits would supplement rather than replace the regular collection of data.
- As courts are added to ESUD, use data already available in the system such as:
 - time between each major activity,

⁹Currently under development by the rule-of-law project.

- time to disposition,
- the average age of the active caseload,
- the average number of hearings per case,¹⁰
- clearance rates, and
- cases delayed beyond mandated disposition times.
- Create a few additional reports in ESUD:¹¹
 - Total time to disposition, including time elapsed before a case is suspended. This data is retained in ESUD but not currently counted.¹²
 - Notification that statutory deadlines for intermediate acts are past due, allowing Supreme Court Criteria III.2 (timely processing of judicial acts) to be evaluated. This would require adding these timelines to ESUD.
 - Using the name of the judge entered for each case, the distribution of case assignments to insure random and reasonably even distribution.
- Add the following data fields in ESUD to allow for more robust performance measurement:
 - The number and percentage of suspended and postponed cases. Information about those events is now entered in ESUD only as text and is not searchable.
 - The time to complete enforcement.¹³ Initially, data will need to be collected from MOJ and entered into ESUD (see Medium Term for further recommendations).
 - Instances in which mediation is pursued and the results.
 - Fee waiver requests and whether granted or denied.
 - Appellate results for each appeal to allow assessment of the proportion of appeals granted.¹⁴
- Consolidate public complaints received and responded to each year by the Supreme Court Complaints Department;¹⁵ analyze them by general type, judge or court and how received.

¹⁰Hearings are entered on case cards maintained by judges for each case and each event is reflected in ESUD.

¹¹Project staff report that this information is available by type of case, date filed, and name of party, judge and court, allowing aggregation at the regional and national level as well as disaggregation at level of case type.

¹² If a case is suspended, the time in case processing is reset to zero. However, ESUD retains the history and the total amount of time can still be calculated using unique case identifiers.

¹³Enforcement demonstrably impacts time to final case disposition and citizen perceptions of the civil courts; international best practices call for including enforcement in performance assessment. Measuring timely enforcement will require that a standard timeframe for enforcement be created.

¹⁴Already planned by the project for inclusion.

¹⁵ Complaints, distinguished from appeals on the merits/facts of a case, relate to department of judges/employees, claims of disparate treatment, accessibility of information, comfort/accessibility of courthouses, etc.

Level of Analysis

- Aggregate data across the judiciary to identify cross-cutting tendencies and consider remedies best implemented at a central level rather than by each court (e.g., adding resources to address national judicial workload, promoting ADR, enhancing legal literacy amongst citizens).
- Disaggregate court data by case type the 17 categories recommended by the UNDP project (see Attachment II) to identify problem areas more precisely in areas such as timeliness, the age of the pending case stock, clearance rates and other measures of efficiency.

Court User Surveys

- Add distinguishing information about respondents to the user surveys (e.g., gender of respondent/attorney, whether a case was filed electronically, type of civil case).
- Make the substantive additions and changes to survey identified in the report to insure that Supreme Court assessment criteria and international best practices are incorporated.¹⁶
- Obtain input from MOJ about areas under its purview (enforcement, buildings, and security) to include the surveys.
- Pilot the survey in a sample of courts in one region.
- Survey two to three courts of different sizes in each region, to allow cross-regional and size comparisons.
- Survey all individuals entering courthouses for two weeks to avoid the low response rates from mail and phone surveys and insure representativeness.

Implementation

The quality and efficiency of the measurement and management system could be enhanced and better integrated it into the daily work of the Supreme Court and civil courts:

- Pilot the expanded system in a single court with the assistance of the rule of law project.
- Form a workgroup of court chairpersons to discuss the pilot, finalize the user perception surveys and make ongoing adjustments to performance criteria and measurement techniques.
- Reduce the cycle for the expert visits to once every four to five years. Evaluation every 2.5 years is overly ambitious and may result in a less thorough evaluation than is necessary.
- Add Supreme Court staff to monitor the completeness and validity of statistical data being collected on an ongoing rather than audit basis.
- Implement data entry policies and procedures and implement data validation in ESUD to insure data is complete, accurate, consistent and timely with the assistance of rule-of-law project staff.
- Provide a written summary to the Supreme Court with highlights of each court's performance.¹⁷
- Require local courts to participate in creating performance improvement plans, as is done in the Netherlands.

Disseminating Results

The rationale for and results of the performance assessment need to be more broadly shared:

- Introduce the criteria system to all judges and court employees through regional workshops, as called for in the assessment criteria promulgated by the Supreme Court.
- Provide a more detailed orientation to court chair persons and court managers.
- Publically introduce the performance measurement system through media events and seminars.

¹⁶Particularly the CEPEJ handbook on citizen surveys and CourTools surveys.

¹⁷The criteria indicate that expert boards are to send only the outcomes of the assessment in total points to the Supreme Court. The result of individual judge evaluations should be provided to the Supreme Court in the form of total points only rather than a written assessment in recognition of judges' judicial autonomy and the existence of the judicial discipline system to deal with serious and immediate individual performance issues. However, institutions are not individuals; the Supreme Court is responsible for insuring that the civil courts operate effectively and efficiently and can do so without violating judicial autonomy.

- Summarize and disseminate effective practices used by individual courts to encourage replication.

Medium Term Recommendations

Further refinements to the performance management system that can be made once an initial round of evaluations of all of the courts is complete (i.e., in year two to three) include:

Additional Criteria (see Attachment VI):

- Clearance rates to measure whether the courts are keeping up with the number of incoming cases. (Serbia, U.S. CourTools, EU Scoreboard).
- Random and reasonably even distribution of case assignments to judges (Netherlands).
- The number of recusals requested (Serbia). Information about recusals known by local courts, as recommended in the Serbian Framework.
- Filing fee costs compared to average incomes by region; transparency of fees; percentage of requested fee waivers granted; clarity and transparency of the fee waiver process (Serbia).¹⁸
- Geographical distance of citizens from civil courthouses and comparisons of number of users accessing each courthouse.
- As the project expands ESUD to all appeals and cassation activities, the timing of cases through the first and second instances.

Evaluation Methods

- Consolidate and analyze complaints about courts from attorneys filed with regional Bar chapters.
- Consolidate and assess already existing data on the **quality** of the courts from the Bar's regional chapters and third party sources of information.¹⁹
- Use data from the Ministry of Justice (MOJ) to calculate the percentage of successfully enforced civil judgments.²⁰ The project is pursuing integration of ESUD and e-enforcement systems, which will make this assessment more straightforward.
- Create a standardized case filing form for litigants to insure that all data needed for performance measurement is collected. Again, the rule-of-law project could provide essential assistance.
- Compare the work of the Presidential Working Group on the Number and Location of Courts to the above assessments of judicial workload. Periodically count and compare the number of users entering each courthouse against the number of judges and staff. These measures will allow the judiciary to evaluate whether the judicial map should be redrawn.
- Create a dashboard and flags to indicate where performance particularly needs remediation, using data from existing software platforms, with assistance from the rule-of-law project staff.

Level of Analysis

- Assess courts by court size to consider how size impacts performance.²¹

¹⁸ Results demonstrated a significant difference in cost burden in rural areas and led to changes in granting fee waivers.

¹⁹ Such as from the WJP, Transparency International (corruption data), the World Economic Forum (independence of the judiciary) and the World Bank (the Doing Business studies.)

²⁰ By comparing the total number (and monetary value) of enforcement cases resulting in a judgment with the total number (and monetary value of) cases successfully enforced.

- Aggregate data at the regional level to identify differences in performance due to demographic characteristics (e.g., more poverty or less literacy may impact access) or types of cases common to a region (larger cities are likely to have more complex civil litigation).
- Evaluate results across time to identify trends. This should be done at the level of case type (for efficiency), court, region, and nationally.

Court User Surveys

- Conduct court user satisfaction surveys in a cycle of two to four years, given the costs and time required for the collection and analysis of data.
- Add questions to the survey about the effectiveness of mediation (waiting to add these questions will allow mediation to be offered more systematically first).
- Add surveys of judges and court employees, other legal professionals, particularly enforcement agents, the general public, and representatives of civil society and experts.

Linkage to Training

- Increase involvement of the Training Centre in development of measurement techniques related to judicial training and in disseminating results.
- Strengthen linkage of performance assessment to training of groups of judges in topics such as case management, prevention of delay or treatment of litigants.

Disseminating and Expanding on Results

Effectively consolidate and build on results:

- Hold quarterly regional general assemblies of all civil court judges to discuss their performance.
- Develop a long range strategic plan, using initial performance results as a starting point, and providing a roadmap for future performance assessment.
- Publish annual activity reports of the judiciary.

²¹There are economies of scale as courts become larger and smaller courts must have a certain number of staff just to function and may not dispose of as many cases per judge. There may also be diseconomies of scale for the very largest courts. Looking at data by court size will help identify those impacts.

I. BACKGROUND

Overview

This report assesses how to enhance the legal and policy framework and existing performance measurement techniques used in Uzbekistan. It does so by 1) providing insights into international best practices in court performance assessment and 2) developing methodological approaches addressing what to measure, how to collect data, and how to best use it to enhance judicial system and court administration.

The United Nations Development Assistance Framework for Uzbekistan focuses on meeting citizen expectations of transparency and strengthening systems of democratic governance. To that end, the joint rule of law project of the Supreme Court of Uzbekistan, the UNDP and USAID project assists this goal by enhancing the strategic and legal framework to improve the judiciary's accessibility and transparency, strengthening the Supreme Court's analytical capacity, equipping judges and judicial staff with tools to ensure judicial integrity and professionalism, and encouraging wide involvement of representatives of civil society and donor organizations.

Actions specific to performance management included in the ROL project's mandate include:

- Increasing responsiveness to citizen feedback regarding judicial processes. This entails creating a mechanism for consolidated reporting on citizen concerns and complaints with the judicial system and conducting surveys of court users.
- Helping the civil courts develop strategic and operational plans that incorporate citizen feedback.
- Improving judicial system performance.

Definition and Benefits of Performance Management

Performance measurement is "the ongoing monitoring and reporting of program accomplishments, particularly progress towards pre-established goals."²² Four essential elements need to be in place before court performance measurement and management can begin. First, as implied in the definition, the judiciary needs to define concrete and measurable goals and identify key performance indicators (KPI's). It needs, in other words, to know what it is trying to accomplish.

Second, the scope needs to be comprehensive. Performance measurement goes beyond evaluating individual judges to consider how the overall judiciary and individual courts perform over time and how individual courts compare. How different users of the judicial system (litigants, attorneys, judges, court employees, broken out by ethnicity, age, and gender) perceive the system need to be examined. All phases of court processes, including parts of the system that are not directly part of the judiciary (such as enforcement of civil judgments) should also be included as citizens do not distinguish between these phases when considering how they were treated by the civil courts.

Looking at court performance assessment in this way may lead to opposition. Resistance may be, as detailed by Dr. Keilitz, "anchored in strong beliefs, assumptions and generalization including: (1) a fear of exposure to criticism from comparative performance measurement that may point out that a particular court does not "stack up" to other courts; (2) the conviction that no two jurisdictions are alike; (3) a

²² Ostrom and Hanson (2010), High Performance Court Framework, p. 58.

concern that performance data can be misused; (4) a worry that performance measurement takes too much time, effort and money; and (5) the belief that performance data, by themselves, do not tell us why things are different, only that they are different.”²³

Thus, performance management requires a shift in perspective from punishing poor performance (by either judges or courts) to encouraging increasingly effective performance (by both judges and courts). To insure that performance measurement is viewed as a helpful tool and not a threat, a commitment must be made that it will not be used to interfere in the independence of the judiciary or of individual judges. This premise is clearly recognized in the Supreme Court criteria.

Finally, the system needs to be transparent and accessible to the public.

Effective court performance measurement and management can provide a number of benefits to the Uzbekistan judiciary. It can provide:

- A straightforward way to assess progress toward strategic goals. Performance measurement is “an antidote to too much information”.²⁴
- A succinct way to communicate progress (a metric is worth a thousand words).
- A method of targeting improvements to make both individual courts and the judicial system overall more efficient, accessible and of higher quality within existing budgets.
- Suggestions about where more in-depth internal analysis is needed. Performance measurement tells us where to look for problems; functional analysis tells us how to fix them. Performance measurement can also inform changes in statute, such the amendments considered by Uzbekistan’s Civil Court Judges’ Collegiums.
- Enhanced dialogue with citizens; increased trust and confidence.
- Support for judicial budgets with other government agencies. Performance measurement thus allows the judiciary to credibly indicate when the problem is tied to resources. However, performance assessment may identify issues that arise from problems other than inadequate or misaligned total resources (e.g., inadequate court leadership).
- Comparison with the experience and standards of other countries, where possible.
- Improvements in Uzbekistan’s international reputation and ability to attract investment.

Supporting a Performance Framework – Precursors for Success

The government of Uzbekistan, the Uzbekistan Supreme Court and UNDP/USAID have taken a number of critical steps supporting the development of a performance measurement system. These include:

- Adopting statutes and orders recognizing the need for improvements in court performance and transparency²⁵ (the President of the Republic of Uzbekistan).

²³See I. Keilitz, “How Do we Stack Up Against Other Courts? The Challenges of Comparative Performance Measurement,” Court Manager, Volume 19, Number 4, 2005.

²⁴ International Framework of Court Excellence, Global Measures of Court Performance, Discussion Draft Version 3, November 9, 2012, Dan Hall and Ingo Keilitz.

²⁵ Including the orders on “Organizational Measures to Further Improve the Work of the Courts” and “Measures to Improve and Increase the Efficiency of the Work of District and City Courts” and the Law of the Republic of Uzbekistan “On Transparency of the Activities of State Authority and Management Bodies”.

- Establishing “Criteria for Assessment of the Work of Courts and Judges of General Jurisdiction” (Supreme Court) and beginning to elaborate methods of assessment (see Attachment I).
- Committing to the Joint Declaration of the Shanghai Cooperation Organization (SCO) member-states²⁶ to, among other items, engage in court performance assessment to increase the efficiency of judicial activities (Supreme Court).
- Creating an organizational structure that supports performance measurement, including the Research Center and the Departments for Coordination of Organizational Activity, Judiciary Statistics, and Reception of Complaints and Citizens (Supreme Court).
- Drafting citizen and lawyer surveys assessing court performance (UNDP/USAID).
- Introducing an electronic data management system (ESUD) in the Zangiota pilot court, with plans to expand to eight additional courts by the end of 2015. In addition to making case processing more efficient; the system can provide needed performance data, enhance transparency and improve public awareness of court operations.
- Categorizing cases into 17 broad case types from those currently in place to ease performance assessment (UNDP/USAID), for review by the Supreme Court(see Attachment II).
- Introducing a Supreme Court website, allowing citizens to (among other things) electronically access the Division of Complaints and Reception of Citizens and ask questions that can form basis for assessing performance (UNDP/USAID). The project has installed kiosks for accessing the website in the Supreme Court.
- Conducting two national household surveys, known as the Multiple Indicator Cluster Surveys (MICS), in 2006 and 2010 providing insight into general citizen perspectives on government services (Government and UNDP/USAID).²⁷
- Promoting development of capacities and skills in results-based management (Government, UNDP/USAID, other donors).

II. SCOPE OF WORK AND METHODOLOGY

Building off these efforts, the methodology for the consultancy entailed:

- Developing an agreed-upon list of criteria for evaluating international justice performance measurement methodologies. These included effective consideration of the major aspects of court performance (efficiency, citizen access and quality of justice), a balance between qualitative and quantitative data, administrative feasibility, and transparency and comprehensibility to the public.
- Assessing existing methodologies for civil court performance measurement and citizen surveys by the Netherlands Judicial Council, the World Justice Project, the World Bank in Serbia, the U.S. Trial Court Performance Standards/CourTools, the European Commission Justice Scoreboard,²⁸ and Tilburg University Legal Studies.
- Evaluating Uzbek data sources for consistency, data quality, and possibility of electronic data capture and developing a list of implementation questions to be considered by court leaders (see from utilized as Attachment III).

²⁶At the IX meeting of Supreme Court Chairpersons, held in 2014 in Astana, Kazakhstan.

²⁷A separate baseline survey of general public awareness of corruption was also conducted.

²⁸ The European Commission for the Efficiency of Justice (CEPEJ)’s Handbook for Conducting Satisfaction Surveys Aimed at Court Users, September, 2010, was also assessed.

- Assessing and recommending changes to the national legal and policy framework and existing performance management practices by reviewing statutes and UNDP project and planning documents and conducting meetings with stakeholders.²⁹ Recommendations include additional performance measures, expanded measurement techniques, additions to the case management system, changes and additions to civil court user surveys and implementation strategies.

III. CRITERIA TO ASSESS EVALUATION METHODOLOGIES

The international systems of court performance measurement and the criteria for assessment of work in the Uzbek courts were evaluated against the same criteria.

Provides a comprehensive view of performance by considering the major aspects of court performance using quantitative data (e.g., case processing statistics and cost data), qualitative assessments (e.g., evaluation of the quality of orders and judgments) and citizen, professional public, judge and employee perceptions. Court performance measurement should consider:

1. **Efficiency.** This term is used to mean efficient and timely use of court and citizen resources.³⁰ Common measures include time to disposition,³¹ extent and duration of backlogs, clearance rates,³² the average age of the active caseload, the number of postponements and suspensions,³³ cost per case, the average time for enforcement of civil judgments, the percentage of judgments successfully enforced, and the percentage of available judge time spent on cases, rather than administrative matters. Efficiency is primarily judged through quantitative data but user perceptions of efficiency are also important.
2. **Access to justice,** divided broadly into geographical access (how much travel time is required from a place of residence to a courthouse)³⁴ and ease of access to and use of the facilities themselves; financial access (cost of court filing fees, legal assistance, enforcement, ADR and availability of fee waivers for the indigent); and informational access (to information about court processes, specific cases and decisions; availability of interpreter and ADR services). A cross-cutting consideration is equal access for the indigent, displaced persons or minority populations. Access can be measured by looking at objective data³⁵ but must be informed by the perceived level of access to the courts attained through surveys.

²⁹ UNDP, Supreme Court and its Research Centre, the Lawyers' Training Centre, the Higher Economic Court of Uzbekistan. Higher Qualification Commission for the Selection and Recommendation for the Position of Judges, the Ministry of Justice Department on Enforcement and Material Support, and the Chamber of Lawyers. A requested site visit to a civil court (either pilot court or Tashkent City Court) which would have provided in-depth assessment of data sources and local uses of performance data was not organized during the mission.

³⁰ An important aspect of efficiency is avoiding wasting citizens' time through ineffective filing procedures, unnecessary postponements or continuances or delays in rendering or enforcing judgments.

³¹ . On-time case processing has been used by most courts for more than 25 years as a measurement of performance. Time to disposition can be defined as the percentage of cases resolved within established timeframes (the definition used in the CourTools). For example, in Uzbekistan, the percentage of civil cases resolved within given time frames, including time before the clock is reset for suspensions, could be assessed.

³² The number of cases disposed compared to those filed in a given time period.

³³ A more sophisticated measure used by CourTools is trial date certainty, which evaluates the percentage of cases that meet the number of trial dates scheduled at the beginning of the court procedure.

³⁴ The impact of physical distance can partly be ameliorated through use of information technology, e.g., electronic case filings as called for in ESUD.

³⁵ For example, How far is the average citizen from a civil courthouse? How many mediators and interpreters are available in a given region? What is the average cost of a filing fee compared to the average income by region?

3. **Quality of justice** focuses on the quality of judgments and orders, of judicial training, of administrative services,³⁶ of alternative dispute resolution (ADR) services, and legal representation. It also concerns respect for the core values of the judiciary (independence, fairness, integrity, impartiality, accountability and transparency) and enhanced public trust and confidence. Evaluations of quality have traditionally defaulted to examining only appeal rates and reversal rates. However, increasingly qualitative assessments and the perspective of court users (e.g., parties, lawyers) and direct stakeholders (e.g., judges, employees) based on surveys and data from complaints and disciplinary actions are being placed at the center of measuring quality

Examines outputs (e.g., number of dispositions) and outcomes (e.g., increased use of courts for conflict resolution), not just inputs (e.g., number of filings). This insures that changes in performance benefit citizens directly and do not simply reflect changes in organizational resources.

Provides information that is sufficiently disaggregated by case type (i.e., by size of claim) and by type of party (plaintiff or attorney, as well as demographics such as gender, ethnicity) so that the data is meaningful. If all cases or survey responses are grouped together, it can be difficult to evaluate and correct performance gaps.

Is administratively feasible, allows for cost-effective data collection and is integrated into the daily work of the judiciary rather than creating a separate burden. Feasibility is improved if:

1. Data is already available so that new data sources do not need to be created.
2. Data is primarily collected through automated processes. The cost of implementing automation changes required to facilitate data collection need to be examined.
3. The number of measures is reasonably limited. Collecting information on too many measures leads to data overload; stakeholders aren't able to easily assess how the system is doing overall.
4. The system starts small, perhaps piloting in a couple of locations first, and builds over time.

Leads to actionable steps. Performance measurement and management is not just an academic exercise; the effort of performance measurement should be rewarded with actual changes in performance and provide the basis for making budgetary requests.

Uses a methodology that is transparent and provides results easily understood by the public.

IV. INTERNATIONAL BEST PRACTICES

Performance measurement and management models to be considered were evaluated based on criteria outlined above. Attachment IV evaluates each system against these criteria. The systems examined are variably successful at including each of the major aspects of performance and at balancing sources of performance information.

³⁶Such as case registration.

Performance Factors

Efficiency Netherlands WJP Serbia EU Scoreboard U.S. CourTools	Access WJP Serbia EU Scoreboard (ADR) U.S. CourTools
Quality Netherlands WJP (Impartiality) Serbia EU Scoreboard U.S. CourTools Tilburg (Outcomes)	

Data Sources³⁷

Quantitative Data Netherlands Serbia U.S. CourTools	Qualitative Assessment Netherlands Serbia EU Scoreboard U.S. CourTools
User Surveys Netherlands WJP Serbia U.S. CourTools Tilburg	

The Netherlands

A 2005 Decree from the Queen called on the Dutch Judicial Council and the courts to enhance its system for measuring judicial performance.³⁸ Since that time, the Dutch judiciary has incorporated statistical and qualitative measurements into its operations to evaluate efficiency and quality, augmented by regularly scheduled surveys of litigants and attorneys. The system is also used effectively to make budget requests of the government.

An initial pilot of the quality evaluation system demonstrated that combining data across all case types resulted in a meaningless average. The final methodology measured performance by case type and increased the number of performance indicators. The system is known as the Wheelhouse (Stuurhut).

Performance Factors

The measurement areas are:

- **Efficiency**
 - Timely case processing (including enforcement and appeals) and labor productivity
 - Cost per case
- **Quality**
 - Impartiality and integrity of judges
 - Expertise of judges
 - Interactions with litigants
 - Unity of law

³⁷ Data for the EU Scoreboard is self-reported by member states.

³⁸ Quality Measuring System for the Judiciary, Components and Normative Framework, Council for the Judiciary, the Hague, December 2004. The Dutch previously used appeals and cassations to measure judicial quality, as in many court systems, but found that appeals/cassation do not incorporate other aspects of court quality.

The Dutch system balances considerations of efficiency and quality. Timely case processing assesses how long it takes to complete a case, including appellate procedures and enforcement. This is a common measurement of performance among courts worldwide. Courts also commonly evaluate the completed workload of courts by looking at the number of cases disposed by each judge. In the Netherlands, the judiciary instead examines the minutes required by judges and support staff for each step of each specific case type. How much time a judge and court staff spend from the moment of filing until final judgment is assessed in minutes of work time, rather than the number of total days from filing to judgment. A more productive court is one in which more cases are resolved in fewer total minutes of work effort.

The Dutch system also specifically evaluates cost per case, a factor often overlooked in performance assessment systems, that more directly connects how much is spent in a court to what is accomplished. A drawback of the Dutch system is that the judiciary specifically decided to exclude consideration of accessibility and transparency in its assessment.

Measurement Techniques

The Netherlands combines quantitative data, qualitative assessments and user experience.

Statistical data collection is performed through the courts' case management system which – as will be true once ESUD is fully implemented. For example, the case management system provides statistics about time to disposition. Time standards are set at the average for all courts and then used to benchmark the performance of each individual court. The following table shows the average percentage of cases disposed in a year and the results for individual courts. Courts that dispose of a lower percent of cases than average are highlighted in red and reviewed to identify why their disposition rates are lower. Average times are provided for three years to allow assessment of trends:

**Table 1: Average Civil Case Processing Times
Netherlands (2009-2011)**

Civil/commerciallitigious cases Percentage resolvedcaseswithin1 year																		
District courts AlkmAlmelAmstArnhAssenBreda DordrGronHaarlLeeuwMaastrMiddRoermRottGravHertUtr ZutphZwo																		Average
2009	69 %	63 %	71 %	65 %	58 %	65 %	56 %	63 %	53 %	58 %	53 %	62 %	45 %	68 %	65 %	64 %	72 %	56%
2010	68 %	65 %	69 %	68 %	64 %	68 %	57 %	68 %	59 %	55 %	52 %	57 %	47 %	64 %	62 %	63 %	77 %	61%
2011	62 %	62 %	66 %	66 %	67 %	67 %	61 %	70 %	57 %	56 %	56 %	61 %	48 %	67 %	63 %	62 %	62 %	57%

A second measure -- the average *work* time in minutes (rather than time elapsed) spent in completing a case -- is derived by conducting time studies, which required experts to follow a statistically significant number of cases through the entire process to derive averages:

**Table 2: Minutes to Final Judgment – Commercial Cases
Netherlands**

	Minutes per case (judge)			Minutes per case (staff)		
	Appeal court	District court	Municipal Court	Appeal court	District court	Municipal Court
I. Civil law cases						
Commercial law cases :						
Decision employment dismissal case with defence			303			205
Decision commercial case with defence	1.745	807	118	1.201	619	411
Decision Article 2 + hearing, plea	1.745	1.726	516	1.201	998	605
Decision commercial case in district court (appeal)		966			489	

Courts that are able to resolve cases within a shorter time period than the average are considered more productive. Courts with high labor productivity are used as a best practice example against which other courts are benchmarked. These times are readjusted periodically through new time studies, so that the average times are continually shortened.

A combination between (labor) productivity and time to disposition can be used to evaluate the resources of individual courts. If a court has low productivity (it takes a lot of minutes to complete a case), but cases are resolved in a timely manner (the total time elapsed is low), it may be that the court is overstaffed. On the other hand, high productivity combined with long durations may mean that a court is understaffed and requires more judges or staff. In an extension of the work done in the Netherlands, Denmark rates courts according to how they perform on timeliness and productivity. For example, a court receiving a high score on both productivity and timeliness is defined in Denmark as a ‘star performer’: a best practice example for other courts to be followed.

**Figure 1: Comparisons of Timeliness and Productivity
Denmark**

		Productivity (cases resolved divided by resource input)	
		Low	High
Timeliness (Ability to Resolve Cases within Established Time Standards)	Good	<i>C: Overstaffed?</i>	<i>A: "Star" performers</i>
	Poor	<i>D: Poor performers</i>	<i>B: Understaffed?</i>

In the Netherlands, a much more complex cost per case approach is applied to determine the bulk of the budget for the judiciary as a whole and for the individual courts.³⁹ By taking the number of judge and staff minutes and materials and supplies required for each case type, a cost per case is calculated. This amount (P for price or cost per case) is multiplied by the number of cases forecasted to be resolved in the next year.

**Figure 2 Calculation of the Court Budget Based on Cost Per Case
Netherlands**

District courts	Cost per case (Euros)	Number of resolved cases	Budget 2014 (P *Q)
Civil law case	790,97	342.754	271.108.131
Admin. law case	2176,32	49.025	106.694.088
Criminal law case	1014,67	175.124	177.693.069

By introducing efficiency savings (for example, e-filing), the cost per case can be reduced over time. Cost-effective courts are allowed to retain some of their savings to use for quality improvements while courts with particular performance gaps may receive additional resources to address these gaps.⁴⁰

³⁹ 95% of the budget request is based on this formula. The remaining 5% is allocated for special projects.

⁴⁰ A cost for each specific case type is calculated and multiplied by a forecast of the number of cases to be resolved by each court. This requires that the cost for each specific case type is known and depends on an accurate forecast of the number of cases to be resolved.

The Netherlands' model expands on that in Uzbekistan by providing for qualitative audits of complaints and case assignments to judges. Complaints are collected and categorized by court for information about performance issues and assignment of cases to judges to insure random and reasonably equal case assignments.

To supplement the regularly-collected statistical and qualitative data, each court conducts a professional and general customer service survey every four years. The results of the surveys are used both internally and a summary is submitted to Parliament. In addition, peer reviews provide for judges from another court to observe hearings and review draft decisions; this may be conducted at the individual judge level or for an entire court, with results provided to the judge or court evaluated. Every four years, a more formal independent evaluation committee composed of external experts and supported by a secretariat visits the courts and issues a report on the quality of the judiciary to the public and the Ministry of Justice.

Based on all of the statistical, qualitative and survey data discussed above, courts are required to develop an improvement plan, which details whom within the court will be responsible for monitoring progress. In addition, all courts in the Netherlands must draft annual court activity plans describing concrete court performance and quality objectives connected with budgetary needs. These plans are reviewed, supervised and approved by the Council for the Judiciary.

At present the system contains only one national standard to allow comparisons between courts. The Council is examining whether to create standards that vary by court size and to allow local courts to set subsidiary standards in its new measuring system (Wheelhouse+).

The system also evaluates professional development of judges, a factor in the Uzbek criteria, by analyzing the number of annual hours of training per judge compared to a norm of 50 hours per year.

Administrative Feasibility

The use of automated statistical information to inform site inspections and surveys provides completeness and reliability and eases data collection. Many of the Netherlands' measures are similar to those identified by the Uzbek Supreme Court but the relatively small number of them allows a straightforward assessment of performance. Nonetheless, the Dutch system remains labor-intensive, employing several specialized staff and requiring specialized software, and is too costly for a system with fewer resources. In particular, the calculation of labor productivity and cost per case for each individual case type is quite complex. In fact, due to the high level of maintenance required, including having to employ specialized staff for quality management, the Council is currently searching for a less complex successor to the Wheelhouse.

Replicable Features

The Uzbekistan Supreme Court should adopt some of the practices from the Netherlands. Using the ongoing statistical analysis and audits of case assignments and complaints described above would provide critical information to inform the on-site inspections that occur every four years. In particular, it is recommended that Uzbekistan begin by aggregating the average number of cases disposed per judge at the court, regional and national level (calculated from available disposition figures) and evaluate these results over time. In addition, measuring timely disposition should include calculating the average duration of court proceedings per case type and an assessment of how far delayed are cases.

As can be seen above, instead of setting an ideal standard (95% of cases resolved in a year), it is recommended that the average achieved by courts (closer to 70%) becomes the standard. The standard can be adjusted as courts improve performance, resulting in a system of continually enhanced outcomes. For many indicators, the results of Netherland’s pilot project were used as a starting point. Uzbekistan could take a similar approach by starting with results from the Zangiota pilot court as an initial benchmark. Site visits should also focus on lifting the performance of the worst-performing courts to the current average, while rewarding high-performing courts.

The use of a time study methodology is too labor intensive for Uzbekistan at this time. Also, until a performance-based budgeting system is introduced in Uzbekistan, using the performance management system to target funds to particular courts is premature. However, assessing cost per disposed case in a more straightforward manner (see discussion of U.S. CourTools below) and comparing costs with timeliness in each court, as in Denmark, would provide invaluable information about courts’ relative performance.

Moreover, the Dutch system is successful because it is rooted in a strategic plan. The strategic plan provides the roadmap for what the judiciary would like to achieve. Performance results inform revisions to the plan. It is recommended that after an initial performance assessment, the Uzbekistan Supreme Court create a strategic plan.

Finally, requiring each court in Uzbekistan to develop its own improvement plan insures that court leaders take greater responsibility for the performance of their court.

World Justice Project Rule of Law Indicators

The World Justice Project’s Rule of Law Index assesses how the rule of law is experienced by the general public in 102 countries.

Performance Factors

Citizen and expert perceptions focus on accessibility, quality and effectiveness of the courts using 44 indicators which are grouped into seven broad categories. Countries are then rated on a scale of 0 to 1 for each category. Results from the 2015 WJP Rule of Law Index for Uzbekistan were:

Table 3: WJP Rule of Law Civil Justice Index and Results for Uzbekistan

	FACTOR	UZBEKISTAN
7.1	Accessibility and affordability (awareness of available remedies, available/ affordable legal support, absence of excessive fees/ hurdles)	0.47
	Impartiality	
7.2	No discrimination (based on social and economic status)	0.58
7.3	No corruption	0.38
7.4	No improper government influence	0.39

Effectiveness

7.5	No unreasonable delay	0.7
7.6	Effective enforcement (including without excessive delay)	0.7
7.7	Impartial and effective ADR	0.7

A fuller definition of each of the factors in civil justice considered by WJP is attached as Appendix I. Many key factors, particularly related to efficiency and to quality outside of considering impartiality, are missing from its assessment.⁴¹

Measurement Techniques

The Index relies almost entirely on survey data. Questions include citizens' likely response to different conflict situations; likely response of the government; trust and confidence in government institutions; perceptions about corruption, undue influence, or disparate treatment, availability of information about legal rights and court processes; fairness and timeliness of dispute resolutions; effective enforcement of judgments; and availability and cost of legal assistance. While the Index team reports that it cross-checks all sub-factors against more than 60 third-party sources, the WJP does not independently collect quantitative data. In addition, surveys are not conducted of court users, who may have very different perceptions of the courts than the general public.⁴² Thus, the WJP's work does not provide a comprehensive view of court performance or adequately balance quantitative and qualitative data sources.

Administrative Feasibility

The data in the Index is not collected in an automated fashion during the normal course of the judiciary's work and requires a specialized staff from outside the judiciary to assess.

Replicable Features

The Index provides a brief assessment of trends in performance over the prior year, a valuable tool. In addition, the Index effectively summarizes performance information in a way that is transparent and easily accessible by citizens and policy makers. Some of the factors, particularly those related to why someone does or does not seek redress in the courts and assessment of variable responses from different subpopulations could be added to future general citizen surveys in Uzbekistan.

World Bank Serbian Functional Review/Public Perception Surveys

The World Bank used a two-step process to develop the 2014 Serbian Justice Sector Functional Review. The Bank began by developing a framework of key performance measurement areas, performance indicators (based in part on European standards) and identified data needs. (see Attachment V).⁴³ Second, the Bank collected data and assessed it against the performance framework. The functional review

⁴¹ Including the extent and duration of backlogs, clearance rates, average age of the active caseload, number of postponements/suspensions, cost per case, average time for enforcement of civil judgments, percentage of judgments successfully enforced, geographic access, and the extent and quality of judicial training.

⁴² U.S. survey experience finds that court users view the judiciary more favorably than does the general public.

⁴³ Detailing these performance measures was made easier by a significant amount of work done prior to the functional analysis, including the creation of a multi-year strategic and action plan for the judiciary.

provided baseline data and analytical inputs for the accession negotiations between Serbia and the European Union.

Performance Factors

Performance standards were split into two parts. The first part measured justice service delivery by considering efficiency, quality and access while the second evaluated how management of court resources impacted these same criteria. Part one detailed 14 factors and specified 52 indicators for evaluating performance. Figure 3 shows the primary factors along the left with some of the detailed indicators and their primary data collection method, recommended frequency of data collection, and source of data/information on the right:

Figure 3: Serbian Judicial System Performance Measures

	Indicator	Primary data collection method	Frequency of data collection	Source of data/ information
Efficiency of judicial service delivery <ul style="list-style-type: none"> - Judicial system productivity - Efficiency of case processing - Cost efficiency - Effective enforcement 	1. EFFICIENCY OF JUDICIAL SERVICE DELIVERY			
	Standard 1.1 Judicial system productivity			
	1.1.1 Total number of incoming cases per case type (including enforcement)	Statistics	Per month, per quarter, annually	MOJPA, courts, HJC, SPC
	1.1.2 Total number of cases disposed (aggregated and disaggregated per case type, court, and level of court)	Statistics	Per month, per quarter, annually	MOJPA, courts, HJC, SPC
	1.1.3 Ratio of number of cases disposed of per judge (aggregated and disaggregated per case type, court, and level of court)	Statistics	e.g. per month, per quarter, annually	MOJPA, courts, HJC, SPC
Quality of judicial services delivered <ul style="list-style-type: none"> - Quality of judgments - General quality of court services - Fairness, impartiality, integrity - Independence, transparency and accountability - Relevant laws and their application - Public trust and confidence 	1.1.4 Clearance rates (aggregated and disaggregated per case type, court, and level of court)	Statistics	e.g. per month, per quarter, annually	MOJPA, courts, HJC, SPC
Access to judicial services <ul style="list-style-type: none"> - Affordability - Effective legal representation - Ease of access and use - Accessibility of alternative dispute resolution mechanisms 				

Measurement Techniques

Performance was evaluated through a mix of quantitative data, qualitative assessments and user perception surveys. Quantitative data included statistical analysis of case data from the case management system, and finance and human resources data from the government-wide finance and budgeting system.⁴⁴ Qualitative review included legal analysis, developing process maps, a desk review, and key informant interviews and workshops. A multi-stakeholder perception survey of general citizens, professional and lay

⁴⁴ The High Judicial Council has introduced a centralized, standalone ‘dashboard’ (BPMIS) to examine allocation of resources, such employees and computers; it also includes case management data. However, data is entered manually into the dashboard instead of downloading it from the government finance system and the judiciary’s case management system. This process is time-consuming, inefficient and leaves room for human error in data entry.

court users was conducted.⁴⁵ A separate survey of citizens and focus group discussions with specific groups such as small business owners, farmers and displaced persons about access to justice were conducted.⁴⁶ Survey results were disaggregated by type of respondent – e.g., plaintiff, defendant, attorney, or judge – and their demographic characteristics.⁴⁷ Performance results were confirmed from more than one source.

Administrative Feasibility

Developing the performance framework and completing the functional review required a ten-person team from the World Bank. The functional analysis which grew out of the performance framework was 421 pages in length. The Framework's comprehensiveness resulted in a complex document that would need to be simplified to make it more accessible and understandable to the public.

Much of the data needed had to be generated and was not available from regularly-used data sources or came from more than one source,⁴⁸ resulting in inconsistencies that had to be reconciled. Once a performance dashboard with downloads from the case management and budget systems is implemented, this system will become easier to use and less prone to error. The assessment also recommended that the judiciary develop a simpler performance framework with fewer sub-measures to allow it to regularly assess performance without donor assistance. Evaluating performance is not yet been incorporated in the work of the Council of the Judiciary or Supreme Court and no specialized staff positions for quality management have been created.

The user surveys implemented by IPSOS on behalf of the World Bank were also highly complex and grew out of years of trial and error.

Replicable Features

The performance framework was rooted in a five-year strategic plan (2014-2019). Performance factors were specifically tied to these strategic goals, Serbian legal requirements and/or European justice standards wherever possible. Stakeholders⁴⁹ were consulted throughout the process of developing the Framework and measuring performance.

Statistical data was both aggregated across the judiciary and disaggregated by court and by case type, allowing for assessment of the system in its entirety as well for individual courts and case types. The Framework assessed three years of data to allow evaluation of trends. For example, the Framework demonstrated that clearance rates for enforcement cases was particularly high in the year 2011, resulting in a drastic reduction of the number of old pending civil enforcement cases. The reasons for that could then be examined and a series of practical next steps to replicate them implemented. Results are depicted graphically to allow easier understanding of the results:

⁴⁵ Justice in Serbia: A Multi-Stakeholder Perspective, World Bank, 2013, following a survey conducted in 2011.

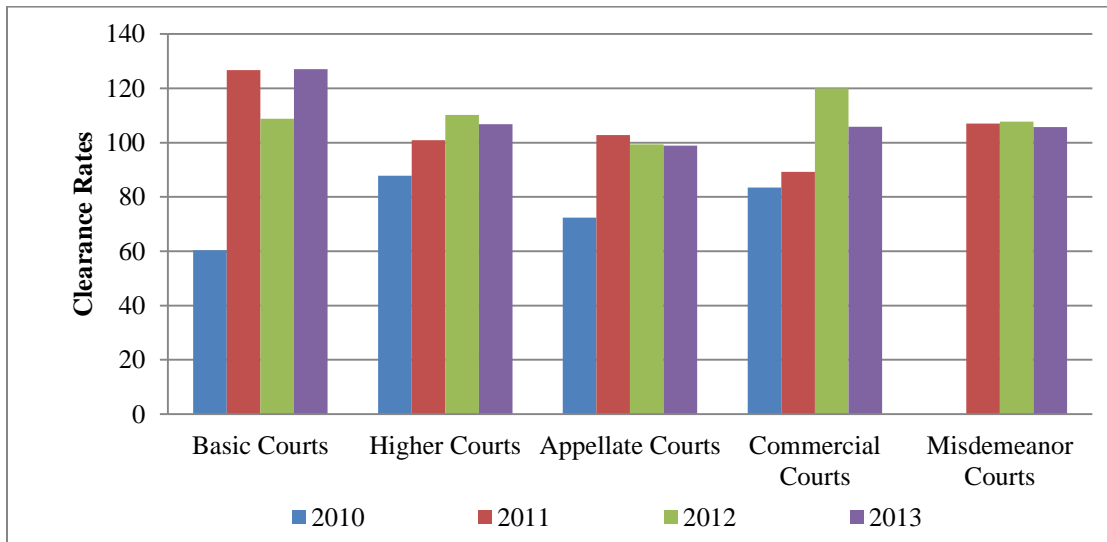
⁴⁶ The Access to Judiciary Survey, IPSOS Strategic Marketing on behalf of the World Bank, January 2014.

⁴⁷ E.g., age, gender, whether represented by an attorney.

⁴⁸ For example the case management and budget systems.

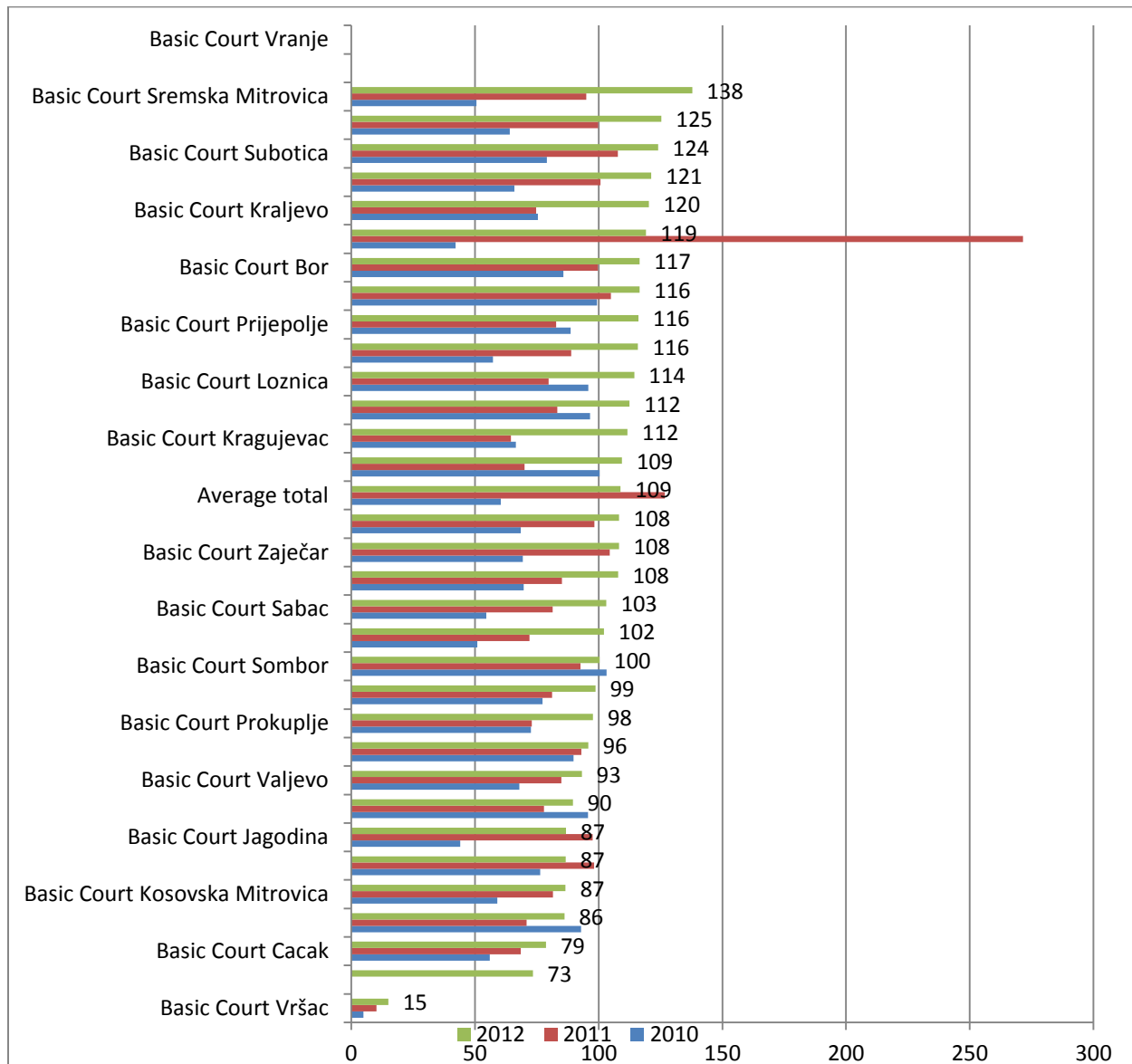
⁴⁹ The High Judicial and State Prosecutorial Councils, the Supreme Court, the Chief Prosecutor, the Ministry of Justice, the Judges' and Bar Associations, and civil society organizations

**Figure 4: Clearance Rates by Court Type
Serbia (2010-2013)**



Comparisons across time are one important way of assessing performance. However, average clearance rates obscure the significant variation among individual courts. Thus, results also need to be disaggregated by court:

**Figure 5: Clearance Rates for Individual Basic Courts
Serbia (2011-2013)**



The Framework incorporated a comprehensive list of indices of court efficiency, including the age of pending cases, the number of adjourned hearings per case,⁵⁰ the cost per case, the time to enforce judgments and the effectiveness of enforcement. These measures allow the judiciary to target improvements and should be added to the Uzbek criteria. Once data is collected, Uzbekistan could consider registering old pending cases as a separate category and having a special backlog reduction team (composed of experienced judges and court staff) examine them with a view of closing those cases in due time. It is recommended that the Uzbekistan Supreme Court start with a simpler survey such as that recommended by the rule-of-law project, supplemented with a few additional questions as described in

⁵⁰ In some case management systems, data about hearings that are adjourned or postponed is entered in text fields; this information was available in searchable fields in the Serbian case management system.

Section V below. In particular, perceptions of administrative efficiency (e.g., in case registration, service of process), which were assessed largely through user surveys in Serbia are recommended for addition to the user surveys currently under development in Uzbekistan. Quality measurement beyond expert reviews -- analysis of complaints and disciplinary sanctions and public perceptions of judicial independence and transparency obtained through surveys -- should also be considered. Unique among the models here, the Framework compared the level of court fees to the average income in each region of the country.

EU Justice Scoreboard

Rather than representing a separate performance management system, the European Commission (EU)'s Justice Scoreboard is a dashboard that compares the performance of civil and commercial courts in the 28 EU member states. The Scoreboard was introduced in 2013 based on an analysis of current data by the Council of Europe Commission for the Evaluation of the Efficiency of Justice (CEPEJ). A summary of the 2013 Scoreboard Assessment is attached as Appendix II.

Performance Factors

Indicators include:

- **Efficiency**
 - Length of proceedings
 - Clearance rates
 - Number of pending cases
- **Quality**
 - Processes for monitoring and evaluating court activities
 - Training of judges
 - Perceptions of judicial independence
- **Access**
 - Availability of alternative dispute resolution (ADR)
- **Inputs**
 - ICT systems
 - Euros per inhabitant

The Scoreboard balances quantitative and qualitative data and broadly addresses performance by considering efficiency and quality. It does not, however, explicitly include an evaluation of access to justice, other than to ADR. It also addresses some of the resources available to the judiciary, stated in terms of court spending (in Euros) per citizen, and available ICT systems. The measures of available court resources begin to mix consideration of inputs and outputs in a manner that may be confusing.⁵¹

⁵¹ In contrast, the Framework in Serbia separated inputs and considered them only in terms of their impact on justice service delivery (efficiency, quality and access).

Measurement Techniques

The EU Scoreboard relies primarily on self-reporting from each country to CEPEJ, which may be result in inaccuracies and lack of uniformity.⁵² However, data definitions were provided to the reporting countries to facilitate a common understanding in completing the reports. CEPEJ also helped member states with questions through a hotline and worked with member states to verify the data once submitted, including holding a meeting to validate figures, explain or amend questions, and explore significant variations between current and earlier questionnaires.

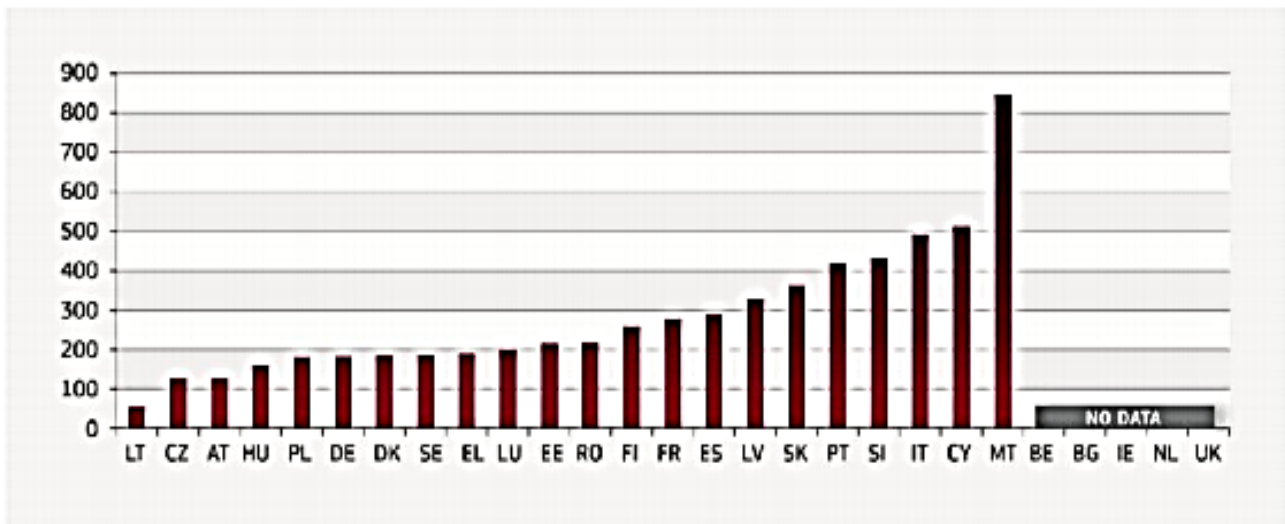
Administrative Feasibility

Specialized staff members are employed by CEPEJ to evaluate the data received from the member states. The labor and automation costs for collecting the data vary by member states and can be quite onerous. CEPEJ has developed protocols to insure data quality and consistency – providing strong data definitions, directly communicating to discuss data discrepancies and stakeholder meetings to discuss data trends—which should be replicated by the Uzbekistan Supreme Court to ensure accuracy and commitment to the process by stakeholders.

Replicable Features

The strength of the Scoreboard lies in the transparent and easily understood comparisons it makes between EU member states. These comparisons can be adapted to evaluate relative performance of the civil courts in Uzbekistan, for example in the area of time to disposition (a list of country codes is provided as Appendix III):

Figure 2: Time needed to resolve litigious civil and commercial cases* (in days) (source: CEPEJ study)



CEPEJ also considers the distribution of the average age of pending cases, not just those outliers that missed legal deadlines. This allows national performance to be continually improved as the practices of courts with the shortest disposition times are examined.

⁵² The Scoreboard incorporates data from other sources, such as the World Bank, World Economic Forum and World Justice Project.

**Table 4: Distribution of Ages of Pending Cases -
CEPEJ/Council of Europe**

	# Pending at End of Reporting Period	Duration Pending (months)							
		<1	1-3	4-6	7-12	13-24	25-36	37-60	>60
Civil cases									
Litigious divorces									
Dismissals									
Administrative cases									
...									
TOTALCASES									

The Scoreboard also provides straightforward depictions of performance against standards. The figure below provides an example of how benchmarks for courts concerning clearance rates are displayed.

Figure 6: Assessment of Clearance Rates

alarming	84%
alert	85%
	95%
neutral	96%
	102%
best practise	103%

United States CourTools

The U.S. Trial Court Performance Standards (TCPS) were introduced at the end of the 1990s. Five key areas of court performance are identified,⁵³ containing more than 60 standards that can be used by U.S. trial courts to measure their performance. The complexity of TCPS prevented most courts from implementing the standards. Therefore, in 1999, TCPS was simplified and reduced to ten measures – the U.S. CourTools -- that can be used in a flexible manner.⁵⁴

⁵³(1) Access to justice, (2) expedition and timeliness, (3) equality, fairness and integrity, (4) independence and accountability and (5) public trust and confidence.

⁵⁴ Of these, collection of monetary penalties and effective use of jurors -- are not relevant to the Uzbek civil courts.

Performance Factors

A full description of the CourtTools and associated measurement techniques can be found at <http://www.courttools.org/Trial-Court-Performance-Measures.aspx>. CourtTools provides a method for courts to monitor court performance by considering:

- **Efficiency**
 - Clearance Rates
 - Time to Disposition
 - Age of Active Pending Caseload
 - Trial Date Certainty
 - Cost Per Case
- **Quality**
 - Reliability and Integrity of Case Files
 - Court Employee Satisfaction
- **Access and Fairness** (evaluated through surveys)

A separate CourtTools methodology is used for appeals courts; the data between first instance and appeals courts is not cross-referenced.⁵⁵

Measurement Techniques

CourtTools provides a format for courts to assess themselves; the National Center for State Courts does not use the information to compare courts against each other.⁵⁶ CourtTools provides courts with a number of well-thought out and specific methodologies for collecting the data, including forms, surveys, and calculation techniques.

Administrative Feasibility

As with CEPEJ, the administrative feasibility of data collection depends on the capacity of the court using the system. However, the limited number of measures and provision by the National Center of specific methodologies for collecting the data reduce the administrative burden on the courts.

The early experience of CourtTools is also useful to consider in developing a reporting system. CourtTool's initial setting of 60 standards was too complex and sufficient information on court performance could be gained by choosing fewer, but more useful, criteria.

Replicable Features

There are a number of notable innovations in the CourtTools that could be adapted to Uzbekistan. Time to disposition is defined as the percentage of cases disposed or otherwise resolved within discrete time standards. Whereas the E.U. Justice Scorecard compares time to disposition of one court (or court system) against another, CourtTools defines timeliness as the proportion of cases in a single court that meet established time standards. This is useful in Uzbekistan where there are required time standards. CourtTools further allows the judiciary to get a full picture of all disposition times, not just those that are delayed beyond the standard.

⁵⁵ Enforcement is a private, not a justice-sector function in the United States and is thus not included.

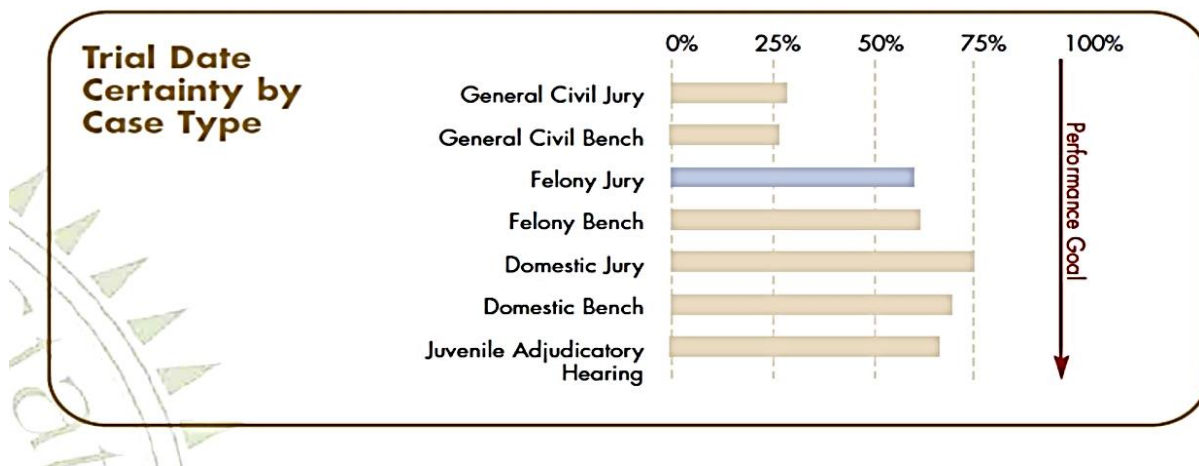
⁵⁶ The National Center does collect state justice statistics for research and comparative purposes.

Table 5: Model Time Standards for State Trial Courts⁵⁷

GENERAL CIVIL CASES	
Model Standard	
75 percent within 180 days	
90 percent within 365 days	
98 percent within 540 days	

Postponements and adjournments are one of the primary reasons for delay, but very few countries collect information about this topic. CourTools uses an alternative indicator to evaluate delay: trial date certainty. This measures the percentage of cases that meet the number of trial dates scheduled at the beginning of the court procedure. For example, if a judge schedules two hearings in a civil case and, in fact, only two hearings were needed, trial date certainty was 100%. If more hearings were scheduled than foreseen, trial date certainty is less.

Figure 7: Assessment of Trial Date Certainty – U.S. CourTools



This measure requires active judicial management of proceedings, including an initial assessment of the number of likely needed hearings. Instead of utilizing this measure, it is recommended that Uzbekistan consider assessing the number of adjournments and postponements directly.

Also unusual is CourTools' use of cost per case as a measure of cost efficiency. Using a simpler approach than in the Netherlands, CourTools calculates the cost per disposed civil case by dividing by the total number of resolved cases in a court by the court budget to compare cost effectiveness of the courts.⁵⁸ If a court handles more than one case type, the proportion of a court's personnel (judges and non-judges) devoted to each case type is used distribute the court's total expenses. Data needed to assess cost per case are total court expenditures, the number of dispositions and the total number of judges and court staff. The US CourTools approach is calculated in four steps:

⁵⁷ Developed by the U.S. National Center for State Courts, (2011) in cooperation with the Conference of State Court Administrators and the Conference of Chief Judges.

⁵⁸ This method is used because the vast majority of court expenditures are personnel-related.

Figure 8: Calculation of Cost per Case - U.S. CourTools

Step 1: count the number of civil judges and staff in each court; calculate what percent of total civil court staff are assigned to each court (for example, if there are 100 civil judges and staff and a given civil court has 5 employees, its share of total staff is 5%).

Step 2: Determine total court expenditures for all of the civil courts. Include salaries and benefits, materials and supplies, services, operational costs (ICT, electricity, etc.) and facility expenses (rental of buildings, maintenance, etc.). This requires that data be collected from the Ministry of Justice about costs for which it is responsible. For example, total costs for the civil courts might be \$5 million.

Step 3: Calculate the percentage of the total expenditures for each of the civil courts by applying the percentage of court personnel by case type to total court expenditures. For the court in step 1, its costs are thus estimated at \$250,000/year.

Step 4: Take the aggregate costs per court and divide this figure by the total number of cases disposed. If a single court disposed of 2,500 cases, its cost per disposed case would thus be \$100. This cost per disposed case is then compared with that of the other

Cost per case is particularly useful when linked to other elements of court performance. For example, courts that might appear efficient (with a low cost-per-case) might have excessive delay in processing cases. If courts with shorter disposition times spend more per disposed case, the judiciary may conclude that the budget in the first court is inadequate. If, instead, better performing courts spend about the same per completed case, other factors should be examined to determine why that court's disposition times are delayed.

Another unique aspect of the CourTools is measurement of court employee engagement, is defined as the percent of court employees who indicate that they are productively and positively engaged in the mission and work of the court. This measure is a proxy for court excellence as research shows that employee engagement directly correlates with improved performance. As discussed in the survey section below, a future survey of court employees is recommended once the court user and attorney surveys have been implemented successfully.

Tilburg University Legal Studies

Tilburg has developed criteria and questionnaires for evaluating justice from a user perspective through surveys. The methodology is premised on the idea that in an effective system, the “decisions of courts come close to what the users of the legal system see and feel as just”.

Performance Factors

The focus of the University's methodology is on the quality of the outcomes of justice. The methodology does not represent a comprehensive and balanced view of court performance. Efficiency of the judiciary, the quality of processes and consideration in access such as costs are not considered; no quantitative data is collected. The methodology also considers "paths to justice" other than the court system (for example, interactions with administrative agencies). The methodology places results in the context of various theories of justice such as distributive justice, restorative justice, and corrective justice. These concepts provide a useful theoretical backdrop but do not lead to actionable steps that can be taken by the judiciary and are not comprehensible to the general public.

V. EVALUATING THE CIVIL COURTS OF UZBEKISTAN

The second part of this assessment considers the criteria developed by the Supreme Court of Uzbekistan for measuring and comparing the court performance of the individual courts. The general approach for court monitoring will be discussed, followed by recommendations of additional criteria, enhancements to the measurement techniques called for by the Supreme Court, adding data entry fields or reports to the case management system to performance assessment, changes to the civil court user and attorney perception surveys and implementation approaches to enhance collection of data and reporting of results.

Scope of Analysis of Performance Data

The Uzbekistan criteria provide a method to evaluate both courts⁵⁹ and individual judges.⁶⁰

The system assumes that results for the several courts to be evaluated in a single cycle will be considered individually rather than combined to assess how the judiciary is performing at a comprehensive level. The system would be strengthened by aggregating data from the courts in a region and of the national judiciary. For example, by aggregating data for each region, differences in performance due to demographic characteristics (e.g., more poverty or less literacy may impact access) or types of cases common to a region (larger cities are likely to have more complex civil litigation) can be identified. By looking at performance for the entire judiciary, the Supreme Court will be able to identify cross-cutting tendencies and consider remedies that may be best implemented at a central level rather than by each court (e.g., requesting additional resources, promoting ADR as a settlement tool or enhancing of legal literacy amongst citizens). Norms for the workload of judges across the country, similar to norms for the number of notaries per regional population, also could be developed.

Data not only needs to be aggregated to assess overall performance but disaggregated by case type to pinpoint problem areas. This allows assessment of such factors as timeliness, the age of the pending case stock, clearance rates and other measures of efficiency. Evaluating each civil court's timeliness as a whole will not provide enough information about what types of cases are delayed and why. By assessing

⁵⁹ This assessment looks at the evaluation of the courts as institutions rather than that of individual judges.

⁶⁰ Quality of judgments; promptness in considering cases and materials; quality in drafting procedural documents; volume of considered cases; respect for ethical rules; disciplinary actions; efficiency in the organization of hearings; professionalism; and pursuit of training to improve his or her professional skills.

performance in the 17 categories recommended by the UNDP project (see Attachment II), the performance system can be used to pinpoint problems and solutions.

Analysis of courts should also be done by court size. There are economies of scale as courts become larger; smaller courts must have a certain number of staff just to function and may not dispose of as many cases per judge. There may also be diseconomies of scale for the very largest courts.

Finally, once more than one round of evaluation has taken place, results should be evaluated across time to identify trends. This would be done at the level of case type (for efficiency), court, region, and nationally.

Criteria

The Supreme Court has developed a balanced list of criteria for assessing the civil courts:

- **Accessibility and transparency**, including:
 - openness of court sessions,
 - adequate publication of information about the work of the court,
 - promotion of legal literacy among and trust and confidence of the public.
- **Quality of judicial processes**, encompassing:
 - promotion of settlement through mediation,
 - readiness and preparation of judges for court sessions,
 - awareness of the rights/responsibilities of parties,
 - ensuring trials are conducted in a consistent manner,
 - professionalism of judges and employees,
 - quality of judicial acts and decisions.
- **Effective implementation** of court work, including:
 - preventing unnecessary delay and litigant costs,
 - timeliness of judicial sessions and issuance of judgments and acts.

Based on international best practices, a number of additional criteria are recommended (see Attachment VI for a summary):

Efficiency

- Volume and age of pending cases. The system should monitor the average age of pending cases to identify cases pending for a long period, reasons for the delay, and plans to resolve them (Serbia and U.S. CourTools).
- Average number of cases disposed per judge, aggregated at the court, regional and national level (calculated from available disposition figures) (Netherlands, Serbia, U.S. Court Tools). This criterion is considered in evaluating individual judges; however, institutional deficiencies may contribute to poor judge performance as reflected in lower than expected dispositions. In addition, measuring timely disposition should include calculating the *average* duration of court proceedings per case type and an assessment of how far delayed cases outside the norm are, as is done by CEPEJ and reflected in the EU Scoreboard. The current criteria consider only the number of cases delayed beyond the legal deadline.

- Clearance rates to measure whether the courts are keeping up with the number of incoming cases. Clearance rates can be used to identify targets of opportunity for decreasing the number of unresolved cases. For example, a court can focus on increasing the clearance rates of a specific case type to solve a large amount of old pending cases (Serbia, U.S. CourTools, EU Scoreboard)
- Average number of postponements/adjournments (Serbia, U.S. CourTools).⁶¹
- Cost per disposed case, using the CourTools approach displayed in Figure 8 above (the Netherlands model is too complex for implementation in Uzbekistan at this time).

Quality

- Random and reasonably even distribution of case assignments to judges (measure of transparency, absence of corruption) (Netherlands)
- Number of recusals requested (a measure of party perception of judicial independence) (Serbia)
- Number and types of officially logged complaints against all of the judges in a given court (Netherlands, in progress in Serbia). This criterion is considered in evaluating individual judges; however, institutional deficiencies may contribute to poor judge performance as reflected in complaints.

Access

- Filing fee costs compared to average incomes by region (Serbia)
- Proportion of requested fee waivers granted; clarity and transparency of the fee waiver process (Serbia).⁶²
- Geographical access to the courts.

Measurement Techniques

Data sources for assessing court performance detailed in the criteria include statistical data, materials concerning judicial practice, and inspections (reviews) by expert boards of judges.

The Supreme Court system for performance evaluation relies heavily on site visits to each court by expert boards on a 2 ½ year cycle. This is an important innovation that can identify issues that are not obvious through statistics such as readiness and preparation of judges for court sessions and provide valuable insights that cannot be gathered any other way. Two courts have been evaluated using the criteria since their introduction in May, 2014.⁶³

However, the system should first conduct regular statistical analysis of the courts on a quarterly and yearly basis, first utilizing the EXCEL sheets already submitted by the courts and eventually taking advantage of the reporting features in ESUD. This would serve two purposes: 1) earlier identification of potential issues in courts; rather than every 2.5 years as with expert reviews, this analysis would be done on a quarterly and annual basis, and 2) results would be available to the expert boards to inform their site

⁶¹ Whether Uzbekistan could consider trial date certainty as laid out in CourTools depends on whether judges establish an expected number of hearings at the initiation of a case.

⁶² In an innovative approach in Serbia to address cost accessibility, average regional incomes were compared to court fees and the number of fee waivers requested and granted in each court/ region assessed. Results demonstrated a significant difference in the cost burden for those in rural areas and led to changes in granting fee waivers.

⁶³ The results of these assessments were not provided during the consultancy.

visits. Expert visits would supplement rather than replace the regular collection of data, particularly because the expert boards are only allowed a maximum of ten days per court to assess the work of each court and all of its judges regardless of court size. This approach would be similar to the Netherlands where case management statistics are analyzed on a quarterly and annual basis and on-site inspections are then used to examine the accuracy of the data and assess the reasons for performance deficits once every four years.

Available Quantitative Data

As part of its review in Uzbekistan, the consultancy examined the existing availability or feasibility of collecting quantitative data and performed an initial review of data quality and consistency in Uzbekistan. Based on this review, measures are only recommended to be added if the data is already collected, is being collected as part of the ESUD pilot, would require only minor adaptations to ESUD or is readily available from other sources.

EXCEL spreadsheets

Data about the number of incoming cases at the individual level of the courts (and at a national level) per case type are collected each month from each court.

No publically-available annual statistical reports summarizing this data are produced by the Supreme Court. However, project staff report that the data sheets include information about cases pending at the beginning of the reporting period and cases opened, merged, closed (with indications of how it was disposed) and transferred during the reporting period. Reports further indicate if a case falls outside of the time standards⁶⁴, whether an expert opinion was commissioned and the number of cases open at the end of the reporting period. There is a separate report concerning undisputed claims.⁶⁵ This information can be used to identify which case types contributes the most to the workload of individual courts and in which departments there is a need for more judges and court staff. The information can also be used to identify if there are courts with a higher than average workload (defined as the number of incoming cases per judge) and if – at a national level – measures should be taken to reallocate the cases between the courts or to reorganize the geographical jurisdictions of the courts.

First instance courts send data in EXCEL to the regional court, which then reenters the information and summarizes it for all of the courts in its region. The Supreme Court then performs the same function by taking the data from the regional courts and reentering and summarizing it across regions. This requires extensive manual labor. As a case management system has not been implemented throughout Uzbekistan, manual registries are maintained. Thus, while statistical data is available for performance measurement, summarizing it and insuring its accuracy is time consuming. This problem should be minimized with the development of a case-management system.

Data available for reporting in ESUD

Implementation of the case management system -- ESUD -- will dramatically alter the types and extent of available performance data as well as its ease of retrieval. Metrics that can be assessed using already

⁶⁴ Set in Article 131 of the Civil Procedure Code.

⁶⁵ Contains information about the number of cases at the beginning of the reporting period, applications filed during period, claims rejected from filing, court orders, claims remaining, unmet deadlines and cancelled court orders.

available data in ESUD include number of dispositions, time to disposition and time between each major activity, the average age of the active caseload, the average number of hearings per case as a proxy for efficient hearing calendaring,⁶⁶ and clearance rates. The system also produces a report showing all cases delayed beyond the mandated disposition time of 93 days. It currently does not but could include time elapsed before a case is suspended and the timing begun anew.⁶⁷ There are currently no flags notifying users that events other than disposition are past due; internal deadlines laid out in statute are not incorporated in the system but could be, allowing Supreme Court Criteria III.2 – timely processing of judicial acts – to be evaluated.

Project staff report these reports can be broken out by type of case, date filed, and name of party, judge and court. This will allow aggregation of data at the regional and national level as well as disaggregation at the case type level. Because the name of the judge is entered for each case, a report could also be written to allow the distribution of case assignments to be evaluated to insure they are randomly and reasonably evenly distributed.

ESUD will be further expanded to allow entry of appellate results (annulled, disregarded, return for new hearing) for each appeal. In addition, while only the first instance courts are currently included in ESUD, the Project plans to expand ESUD to all appeals and cassation activities, allowing for creation of a full record of a case through the first and second instances and assessment of timing of appeals by linking cases through their unique first instance identifier.

Additionally needed ESUD fields

A few areas of the recommended performance criteria will require creating additional fields in ESUD:

- Number and percentage of suspended and postponed cases and party requesting the suspension or postponement. Information about suspensions and postponements are currently entered in ESUD only as text and is not searchable.
- Instances in which mediation is pursued and the results of mediation.
- Fee waiver requests and whether granted or denied.

Ministry of Justice statistics concerning enforcement of judgments

Enforcement of civil judgments by the Ministry of Justice (MOJ) should be included in the performance measurement system as enforcement has a significant impact on final disposition of cases and citizens' perceptions of the civil courts. This will require close coordination with the Ministry.⁶⁸ The Ministry's Judicial Department collects data about the number and monetary value of enforcement actions, time frames for collection, and the number and monetary amount of judgments collected each year. The percentage of successful enforced civil judgments can be calculated by comparing the total number (and monetary value) of enforcement cases resulting in a judgment with the total number (and monetary value of) cases that have been successfully enforced. Measuring timely enforcement will require that a standard timeframe for enforcement be created.

⁶⁶Hearings are entered on case cards maintained by judges for each case and each event is reflected in ESUD.

⁶⁷ If a case is suspended, the time in case processing is reset to zero. However, ESUD retains the history and the total amount of time can still be calculated using unique case identifiers.

⁶⁸ Parties are allowed three years from judgment to file an enforcement action, well after the court's involvement has ceased; this data must be supplied by MOJ. MOJ reports that at present the proportion of successful enforcement cases is "for internal use only".

An information exchange through EXCEL with enforcement bailiffs employed by MOJ providing data to the courts for entry in ESUD should be developed, while the future goal of ESUD and e-enforcement integration is pursued. Given the significant impact of enforcement success and timing on effective access to civil justice, the EXCEL data exchange should be prioritized in the short term.

Filing fee cost compared to average regional income

Data to assess this measure is readily available in national income statistics that provide the average income by region of the country.

Geographical access to courts

In 2013, the President established the Working Group on the Number and Location of Courts to assess whether the number and location of courts limited citizen access to the courts. The results, once available, should be considered with assessments of judicial workload to evaluate whether the judicial map should be redrawn. This assessment should be repeated periodically every ten years. In addition, courts should be asked to count the number of citizens entering the courthouse on a sample, monthly basis and figures compared against the number of judges and staff. These counts would be compared across courts.

Available Qualitative Data

There are other indicators that can be used to evaluate the quality of judicial service delivery, namely that related to recusals and citizen suggestions or complaints.⁶⁹ The civil courts do not submit information about recusals centrally but this information is known locally and could be consolidated and evaluated, as recommended in the Serbian Framework.

Project staff report that the number of complaints received and responded to each year by the Supreme Court Complaints Department is available but there is no report summarizing them by general type, judge or court or how received (verbally, in writing and, once in place, via the hotline or on-line). This data should be regularly summarized in a standardized way and examined for an understanding of performance and inclusion in future court user surveys. A standardized form for filing complaints and guidance to citizens about appropriate reasons for complaints (versus appeals) would assist in categorizing this information.

Court user surveys and the section of the Supreme Court website for complaints and questions currently under development by the rule of law project should categorize citizen feedback in the same general ways to ease comparison and analysis.

The Chamber of Lawyers indicates its regional chapters have analyzed activities that may impede attorneys' work in the courts. This is another source of qualitative assessments. In addition, complaints may be filed by attorneys through their regional chapters about the courts. These sources of information should be summarized and used as data to examine performance.

⁶⁹ Complaints, distinguished from appeals on the merits/facts of a case, relate to deportment of judges or employees, claims of disparate treatment, accessibility/comprehensibility of information received, comfort/accessibility of courthouses, etc. Complaints are received by Supreme Court directly from citizens or other governmental bodies (e.g., MOI) or via the regional courts. Complaints may also be received by the daily duty judge.

Third Party Data Sources

The primary data gathered should be compared with information from external studies of the judiciary by organizations such as the World Justice Project (rule of law indicators), Transparency International (corruption data), the World Economic Forum (independence of the judiciary) and the World Bank (the Doing Business studies.)

User Perception Surveys

The draft court user and attorney surveys prepared by the rule of law project will provide invaluable insight into user perceptions of the courts and areas of possible performance improvement. It represents the first systematic attempt to gather user perceptions.⁷⁰

The proposed surveys of court users and attorneys developed by project consultants were compared to the Supreme Court assessment criteria, the CEPEJ handbook on citizen surveys, CourTools surveys, surveys conducted by IPSOS on behalf of the Serbian judiciary and the consultant's knowledge of best practices in survey design and administration in other countries. A number of additions to the surveys are recommended.

Some additional distinguishing information about respondents is needed to differentiate results by different types of users:

- Representation by attorney or self (moved up as an element for all answers to be cross-referenced against)
- Gender of respondent or attorney⁷¹
- Whether or not case was filed electronically to assess whether this affects view of court performance
- Type of civil case (list provided to allow ease of identification by respondents)
- For attorneys: how long have you been a member of the Chamber of Lawyers (from CEPEJ)
- Frequency of court appearances

Substantive additions and changes to survey are also recommended:

- Add the following questions reflecting the Supreme Court criteria and/or best practices in court user surveys:
 - My court experience gave me more confidence in the justice system (yes/no)
 - The court treated me equally, without regard to ethnic background, gender, economic status, age or disability (yes/no). If no, please comment
 - The process of filling a case was (range from unclear to clear) – this addresses the Supreme Court's criteria interest in the reception process
 - The information provided by the court about scheduling and orders in my case was (range from unclear to clear)

⁷⁰ General public surveys have been conducted by sociologists, focused on anti-corruption, human trafficking, and drug prevention, but have not focused on the specifics of court procedures. As court officers, attorneys already have channels to provide input into court procedures, for example, in meetings and trainings but not in a systemized manner.

⁷¹ The Chamber of Lawyers reports that of 4124 active attorneys, 996 are women.

- As I left the court, I knew what to do next about my case (range from completely unclear to completely clear about the next steps).
- The reasons for postponements or suspensions in my case (range of not clearly explained to clearly explained)
- The judge was well acquainted with the facts of my case (yes/no)
- Mediation was explained and offered to me (yes/no)
- A mediator was made available in a timely manner (yes/no)
- Move the question about whether the party prevailed in the case to the end of the survey as it can unduly influence respondents' answers to other questions

It is also recommended that the project obtain input from MOJ about areas under its purview (enforcement, buildings, and security) for inclusion in the surveys.

Survey Administration

UNDP's local consultants have offered a number of recommendations for survey administration. In addition, it is recommended that the Supreme Court:

- Pilot the survey in a sample of courts in one region to determine if the questions are sufficiently clear, the results can be summarized effectively and differences within the region detected.
- Conduct court user satisfaction surveys in a cycle of two to four years, given the costs and time required for the collection and analysis of data.
- Survey two to three courts of different sizes in each region, to allow cross-regional and size comparisons.
- Survey all individuals entering the courthouse for two weeks, as was done in Macedonia with the Q-10 survey of court users. The response rate from mail and phone surveys tends to be quite low and not particularly representative. The in-person survey, spread over two weeks, was found to capture a reasonable cross-section of court users and enjoyed a high response rate.
- Hire legal interns to administer the surveys.
- Guarantee confidentiality to participants by setting aside a private area for completing the surveys and providing a secure place to leave the surveys.

The Chamber of Lawyers indicates that 75-80% of attorneys in Uzbekistan have access to and use the internet. Thus, it is recommended that the Supreme Court supplement the courthouse survey, which will elicit responses from some attorneys, with an internet-based survey of all members of the Chamber of Lawyers.

Recommendations for Future Surveys

The current surveys should be conducted for one cycle and then reviewed for possible changes in the questions and approach based on the survey experience and information obtained during quantitative analysis and expert site visits.

Once mediation is being offered more systematically, additional questions about its effectiveness can be included. Responses to all of the other questions should be cross-referenced with whether a respondent pursued mediation to assess if use of mediation changed user perception of the courts.

Additional surveys should also be considered in the future. It is recommended that the Supreme Court augment court user and attorney surveys with surveys of:

- Judges and court employees. Employee engagement correlates to individual and organizational performance; this measure is a proxy for an organization's overall success. Similar to the court user surveys, judge and employee surveys can be carried out every two to four years.
- Other legal professionals, particularly enforcement agents, about barriers to successful performance. For example, enforcement agents could be surveyed about the reasons for unsuccessful enforcement (difficulty locating debtor assets, unprofitability of small debts, or unclear judicial documents) and efforts focused on improving the process.
- The general public. An increasing number of cases filed in the Uzbek courts likely points to greater trust and confidence in the justice system. However, more detailed surveys of citizens could uncover the specific barriers to seeking redress in the courts and allow assessment for different subpopulations. These approaches were taken in the IPSOS general citizen survey in Serbia and the WJP surveys.
- Representatives of civil society and experts, as is done by WJP.

IMPLEMENTATION RECOMMENDATIONS

A number of recommendations have been made above regarding additional performance measures, measurement techniques, data fields to be added in ESUD, and survey questions and approaches. In addition, there are a number of implementation steps that would enhance the performance measurement and management system and better integrate it into the daily work of the Supreme Court and civil courts:

Prepare for implementation

- ✓ Perform a pilot of the system in a single court to examine the feasibility of gathering the needed quantitative and qualitative data. The rule of law project should be listed to assist in the pilot assessment.
- ✓ Form a workgroup of court chairpersons to discuss the pilot, finalize the proposed user perception survey and make ongoing adjustments to the performance criteria and measurement techniques.
- ✓ Consider reducing the cycle for evaluating courts to once every four to five years. Evaluation every 2.5 years is overly ambitious and may result in a less thorough evaluation than is necessary.
- ✓ Add Supreme Court staff to monitor the completeness and validity of statistical data being collected on an ongoing rather than audit basis. This could include setting up a help desk, such as CEPEJ provides to answer questions. Publish a data dictionary to insure that all employees collecting data define the elements in the same way. For example, insure that case closure is defined consistently (e.g., as the completion of the first instance proceedings, even if a case is appealed) and that unique case numbers are assigned and used throughout the history of a case.
- ✓ Introduce data entry policies and procedures in support of ESUD. Problems associated with data entry can have a significant impact on data quality. It is recommended that the rule-of-law project staff assist in developing these policies and procedures.
- ✓ Implement data validation in ESUD to insure data is complete, accurate, consistent and timely. These features can be incorporated directly into the application software to improve data quality. Validation routines ensure that data is entered in an acceptable format and conforms to a

limited set of data entry values.⁷² Field-level help and user prompts that can be accessed directly from a specific data entry field also aid in accurate, reliable and consistent data entry. These data quality protections should be implemented by the rule-of-law project staff during roll-out of ESUD.

- ✓ Create a standardized case filing form for litigants to insure that all data needed for performance measurement as well as orderly case processing is collected. This is another area in which the rule-of-law project could provide essential assistance.

Effectively consolidate and build on results

- ✓ Provide a written summary to the Supreme Court with the highlights of each court's performance discussed in text. As proposed, the expert board is to send only the outcomes of the assessment in total points to Supreme Court. This prevents the Supreme Court from spotting trends and considering how institutional performance could be improved.⁷³
- ✓ Create a dashboard and flags to indicate where performance particularly needs remediation. The chart from the Netherlands highlighting courts falling below national averages and that of the EU Scoreboard depicting courts whose clearance rates signal growing caseloads are two effective ways of capturing performance data. As was found in Serbia, dashboards are more reliable and much easier to implement and use if data is downloaded from existing software platforms rather than requiring separate data entry. Thus, the rule-of-law project staff working on ESUD implementation should assist in this effort.
- ✓ Create performance improvement plans for less well-performing courts. This would considerably improve efficiency and improve Uzbekistan's performance. Such a system can be introduced in the short term at relatively low cost. Require the courts to themselves participate in the creation of the improvement plans and identify parties responsible for implementing improvements, as is done in the Netherlands.
- ✓ Disseminate individual and institutional good practices to encourage improvement among the less-productive courts.
- ✓ Hold a general assembly of all civil court judges in a region quarterly to discuss their performance; this is done by the economic courts and could serve as a model.
- ✓ Develop a long range strategic plan, using initial performance results as a starting point, and providing a roadmap for future performance assessment.

Publicize the system and its results

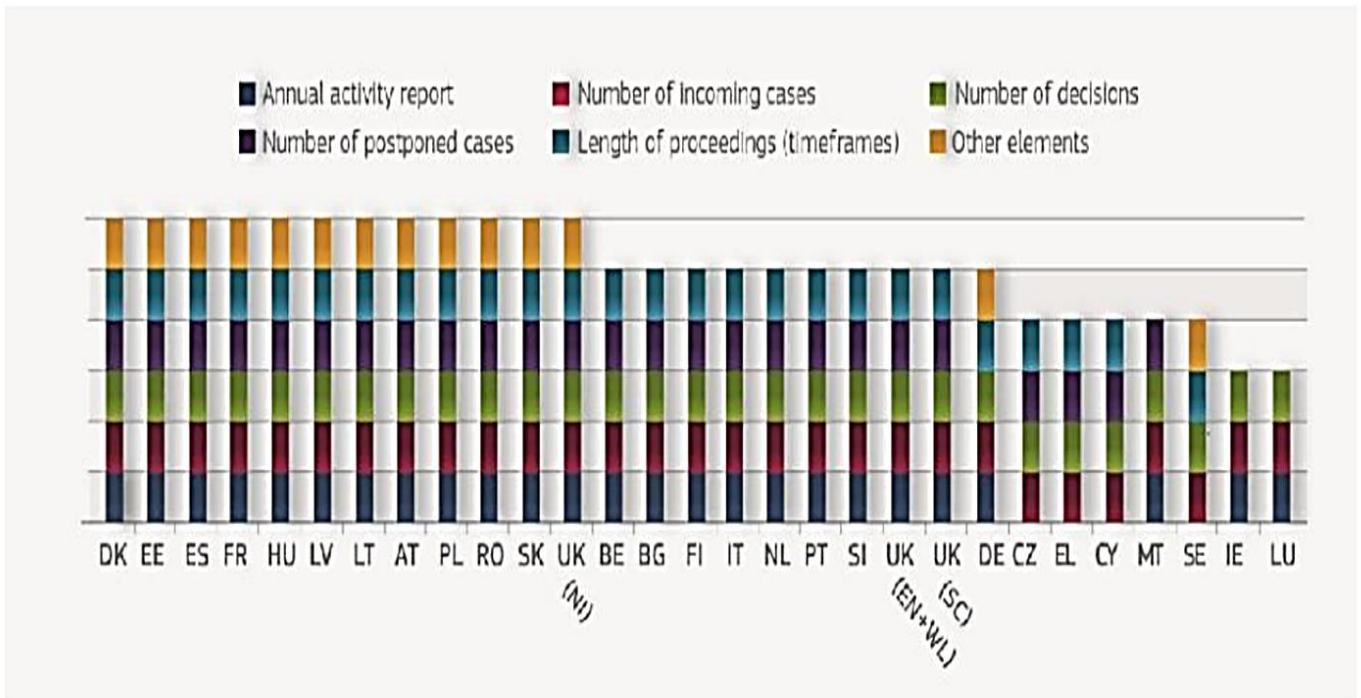
- ✓ As called for in the assessment criteria promulgated by the Supreme Court, introduce the criteria system to all judges and court employees through regional workshops.
- ✓ Provide a more specific introduction to court performance measurement to court chair persons and court managers.

⁷² Gender may be entered as F or M, but not 8. A phone number may be entered as 555-5555 but not 5-5555. If a user attempts to enter invalid data, the system generates an error message and the user is prompted to make a valid data entry.

⁷³ The result of individual judge evaluations should continue to be provided to the Supreme Court in the form of total points only rather than a written assessment. This recognizes their judicial autonomy and the fact that the judicial discipline system is in place to deal with serious and immediate individual performance issues. Institutions are not individuals; the Supreme Court is responsible for insuring that the civil courts operate effectively and efficiently and can do so without violating judicial autonomy.

- ✓ Publically introduce the performance measurement system through media events and seminars.
- ✓ As is the case in 20 European countries and the U.S., publish annual activity reports of the judiciary. Twelve countries provide comprehensive information about the number of incoming cases, resolved cases, postponed cases, the length of court procedures and other elements, which could be adapted to show each civil court in Uzbekistan and provided to the public and media. A list of country codes for the following figure are provided as Appendix III.

Figure 11: Availability of monitoring of courts' activities²² (source: CEPEJ study)



Link performance management more clearly to training

- ✓ Increase involvement of the Training Centre in development of measurement techniques related to judicial training and in disseminating results.
- ✓ Strengthen linkage of performance assessment to training of groups of judges. The Supreme Court's criteria indicate that individual judges may be sent for remedial training. The Training Centre indicates that judges themselves can request specific training. However, as with the performance management system, training needs to be elevated to consider that many performance issues occur at a court rather than individual level. An entire group of judges may need training in topics such as case management, prevention of delay or treatment of litigants.

The Indicators of the World Justice Project's Rule of Law Index
Factor 7: Civil Justice

7.1: People can access and afford civil justice

Measures the accessibility and affordability of civil courts, including whether people are aware of available remedies, can access and afford legal advice and representation, and can access the court system without incurring unreasonable fees, encountering unreasonable procedural hurdles, or experiencing physical or linguistic barriers.

7.2: Civil justice is free of discrimination

Measures whether the civil justice system discriminates in practice based on socio-economic status, gender, ethnicity, religion, national origin, sexual orientation, or gender identity.

7.3: Civil justice is free of corruption

Measures whether the civil justice system is free of bribery and improper influence by private interests.

7.4: Civil justice is free of improper government influence

Measures whether the civil justice system is free of improper government or political influence.

7.5: Civil justice is not subject to unreasonable delay

Measures whether civil justice proceedings are conducted and judgments are produced in a timely manner without unreasonable delay.

7.6: Civil justice is effectively enforced

Measures the effectiveness and timeliness of the enforcement of civil justice decisions and judgments in practice.

7.7: Alternative dispute resolution mechanisms are accessible impartial, and effective

Measures whether alternative dispute resolution mechanisms (ADRs) are affordable, efficient, enforceable, and free from corruption.

Appendix III: Country Codes Used by CEPEJ

Country Codes

BE	Belgium
BG	Bulgaria
CZ	Czech Republic
DK	Denmark
DE	Germany
EE	Estonia
IE	Ireland
EL	Greece
ES	Spain
FR	France
IT	Italy
CY	Cyprus
LV	Latvia
LT	Lithuania
LU	Luxembourg
HU	Hungary
MT	Malta
NL	Netherlands
AT	Austria
PL	Poland
PT	Portugal
RO	Romania
SI	Slovenia
SK	Slovakia
FI	Finland
SE	Sveden
UK	United Kingdom
UK (EN+WL)	United Kingdom (England and Wales only)
UK (NI)	United Kingdom (Northern Ireland only)
UK (SC)	United Kingdom (Scotland only)

Attachment I:Uzbekistan Supreme Court Performance Criteria

DECISION

OF THE PRESIDIUM OF THE SUPREME COURT OF THE REPUBLIC OF UZBEKISTAN

May 21, 2014
city

No. 29-14

Tashkent

ON THE INTRODUCTION OF THE CRITERIA SYSTEM OF THE ASSESSMENT OF THE WORK OF COURTS AND JUDGES OF GENERAL JURISDICTION

In order to ensure the implementation of Orders of the President of the Republic of Uzbekistan “On the organizational measures to further improve the work of courts” No.ПФ -4486 from November 30, 2012 and “On measures to improve and increase the efficiency of the work of district and city courts of general jurisdiction” No. ПФ-4570 from October 4, 2013 and in accordance with the Article 24 of the Law “On courts” of the Republic of Uzbekistan, the Presidium of the Supreme Court

DECIDES:

1. The implementation of certain activities on the development of the assessment system of the work of courts and judges of general jurisdiction by the Supreme Court of the Republic of Uzbekistan in cooperation with the Higher Qualification Commission on selection and recommendation of judges candidates under the President of the Republic of Uzbekistan as well as other concerned ministries and departments shall be accepted for information.
2. The followings:
 - 2.1. The criteria system of the assessment of the work of courts and judges of general jurisdiction shall be approved in accordance with Annex 1;
 - 2.2. Methodology of the assessment of the work of courts and judges of general jurisdiction shall be approved in accordance with Annex 2.
3. The criteria system of the assessment of the work of courts and judges of general jurisdiction shall come into force from July 1, 2014.
4. The Higher Expert Board of Judges of courts of general jurisdiction:
in cooperation with the Higher Qualification Commission on selection and recommendation of judges candidates under the president of the Republic of Uzbekistan (based on the agreement), Research Center on democratization and liberalization of

judicial legislation and provision of independence of judicial system (R. Davletov) and the Department on coordination of organizational activity of courts within Supreme Court (B. Naimov) shall systematically organize the work of Expert Boards aimed to objectively assess the activities of courts and judges of general jurisdiction and ensure the development of a unique approach of the assessment process in accordance with the Methodology approved by this decision;

within one month in cooperation with the Research Center on democratization and liberalization of judicial legislation and provision of independence of judicial system and the united editorial of the Supreme Court (Sh. Hamroev) shall prepare for publication and publish the criteria system of the assessment of the work of courts and judges of general jurisdiction and the Methodology on the assessment of the work of courts and judges of general jurisdiction (with the necessary sample annexes) as a guidance, and deliver to all courts for their official use;

in cooperation with the Research Center on democratization and liberalization of judicial legislation and provision of independence of judicial system and the Department on coordination of organizational activity of courts within Supreme Court shall introduce the value and importance of the criteria system of the assessment of the work of courts and judges of general jurisdiction to all the judges and court employees, and in this regard, shall develop a special Plan of Actions within a week and conduct an advocacy work, as well as take other necessary organizational measures to ensure the effective implementation of the present decision.

5. The Research Center on democratization and liberalization of judicial legislation and provision of independence of judicial system (R. Davletov) in cooperation with the Higher Expert Board of judges of courts of general jurisdiction and the Department for the informational and legal support of courts within the Supreme Court shall within a month process the relevant regulatory acts and administrative documents of the Supreme Court because of the implementation of the criteria system of the assessment of the work of courts and judges of general jurisdiction, and develop a project on making amendments and additions to them.
6. Control over the implementation of the present Decision shall be assigned to the First Deputy Chairperson of the Supreme Court of the Republic of Uzbekistan Sh. A. Gaziev.

Chairperson of the Supreme Court

B. MUSTAFAEV

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Annex No.1
to the Resolution of the Presidium
of the Supreme Court of the Republic of
Uzbekistan from May “21”
2014 No.PC-29-14

The assessment system of the work of judges and courts of general jurisdiction

STAGES	INSTITUTIONS	ACTIVITIES	TERMS
Stage-I	Higher Expert Board of Judges of courts of general jurisdiction*	Preparation and approval of the list of judges and courts requiring the assessment in the next year with the indication of terms of conducting the assessment**	Annually by December 30
Stage-II	Relevant expert boards of judges	Assessment of the work of judges and courts based on the established criteria***	7 days (term may be extended up to 3 days)
Stage-III	Relevant expert boards of judges	Introducing the judges and the Chairperson of the court with the results of assessment	3 days after the assessment period
Stage-IV	Relevant expert boards of judges	Sending the generalized outcomes of the assessment to the Supreme Court and the Higher Expert Board for their information	7 days after generalization
Stage-V	Higher Expert Board of Judges of courts of general jurisdiction	1. Sending the judges, who received unsatisfactory feedback from the assessment to improve their professional skills as well as for the internship programs to the Supreme Court, regional courts and the courts equaled with them. 2. Development and approval of the Plan of Actions	By the end of each half of the year
	Authority of the Supreme Court	Considering the issue of inspiring the judges and the group of judges, who have received the highest results from the assessment.	By the end of each half of the year

*By the Higher Expert Board of Judges of courts of the general jurisdiction- in relation to the judges of the Supreme Court, judges of the regional courts and the courts equaled with them, as well as in relation to the regional courts and the courts equaled with them; by the relevant expert boards of judges – in relation to the judges of the inter-district, district (city) courts, as well as in relation to the inter-district, district (city) courts.

**The work of the judge and the court shall be assessed every 2,5 years.

***Assessment criteria shall be established by the decision of the Presidium of the Supreme Court.

The assessment criteria of the work of judges are:

1. The quality of judgments;
2. The level of promptness in the consideration of cases and materials;
3. The quality of drafting the procedural documents;
4. The volume of considered cases;
5. Respecting ethical rules;
6. The level of the judicial discipline;
7. The efficiency of the organization of considering cases;
8. The level of professionalism of judges;
9. The implementation of measures to improve the professional skills.

The assessment criteria of the work of courts are:

1. Accessibility and openness of the work of courts;
2. The quality of distribution of justice (quality of judicial process);
3. The level of organizational measures taken for the effective implementation of the work of courts.

Methodology of the assessment of the work of judges and courts of general jurisdiction

I. General provisions

1. The present Methodology in accordance with the Decree of the President of the Republic of Uzbekistan of November 30, 2012 No. OP-4486 "On the organizational measures for further improvement of the work of courts" and of October 04, 2013 No. OP-4570 "On measures for improvement and increasing the effective work of the district and city courts of general jurisdiction" defines criteria, periodicity, terms and procedures of the assessment of the work of judges and courts of the general jurisdiction (hereinafter- courts).

2. The present Methodology is aimed to ensure the objective determination of the compliance of judicial activities with the legislation, contemporary requirements, as well as the objectives of the reliable judicial protection of the rights and freedoms of citizens in accordance with the assessment system of the work of judges and courts developed by the Supreme Court.

3. The main principles of the assessment of work of judges and courts are:
legality;
impartiality and fairness;
non-interference with judicial activities of judges and courts;
complex and systematic analysis.

4. Assessment of the work of judges and courts is aimed to:

determine trends and circumstances negatively influencing on the effective administration of justice, taking measures to increase the quality of judicial activity and public trust in judicial authorities;

identify priority directions of improving professional skills and training of judges, develop and improve their educational programs;

implement organizational measures aimed to strengthen the guarantees of professional and career development of judges;

promote judges for their enormous professional achievements and stimulate judges and courts to improve their professional work.

5. Assessment shall be conducted of the work of judges of:

the Supreme Court of the Republic of Uzbekistan (hereinafter-Supreme Court);

the Supreme Courts of the Republic of Karakalpakstan on civil and criminal cases, regional and Tashkent city courts on civil and criminal cases;

inter-district, district (city) courts on civil cases, district (city) courts on criminal cases;

the Martial Courts.

6. Assessment shall be conducted of the work of:

the Supreme Courts of the Republic of Karakalpakstan on civil and criminal cases, regional and Tashkent city courts on civil and criminal cases;

inter-district, district (city) courts on civil cases, district (city) courts on criminal cases;

the Martial Courts.

II. Organization of the assessment of the work of judges and courts

7. Assessment of the work of judges of the Supreme Court, as well as the judges of the regional courts and the courts equaled with them shall be conducted by the Higher Expert Board of Judges of courts of the general jurisdiction. It also conducts the assessment of the work of regional courts and the courts equaled with them.

Assessment of the work of judges of inter-district, district (city) courts shall be conducted by the relevant Expert Board of Judges. It also assesses the work of inter-district, district (city) courts.

Assessment of the work of judges of the Martial Courts shall be conducted by the Expert Board of Judges of the Martial Courts. It also assesses the work of the martial courts except the Martial Court of the Republic of Uzbekistan.

The members and employees of the Higher Qualification Commission on selection and recommendation of judges candidates under the President of the Republic of Uzbekistan, judges of the Supreme Court, employees of the Research Center on democratization and liberalization of judicial legislation and provision of independence of judicial system under the Supreme Court (hereinafter-Research Center), employees of departments and units of the Supreme Court and other specialists maybe invited to take part in the assessment based on the agreement.

8. Annually, no later than December 30, the relevant Expert Boards of Judges shall approve the list of judges and courts, whose work requires the assessment next year with the indication of terms of the assessment.

9. Duration of the assessment of the work of judges and courts shall be 2,5 years.

Assessment of work of the judge shall be conducted systematically as established in paragraph one of the present point regardless of his/her reappointment for the new term of office or to another judicial post.

10. Each judge or court, whose work requires the assessment, shall be informed about upcoming assessment one month prior to the assessment period.

11. Duration of the assessment of the work of judges and courts shall not exceed seven working days. In exceptional cases, this term may be extended by the Higher Expert Board of Judges of courts of the general jurisdiction to three working days.

12. Sources of information necessary for the assessment of the work of the judge shall be:

outcomes of reports on the review of personal, professional and working qualities of judges;

materials of judicial orders, civil and criminal cases, and the cases of administrative offences tried on merits and disposed;

generalized materials of judicial practice;

statistical data;

outcomes of interviews conducted with the colleagues of the judge.

13. Sources of information necessary for the assessment of the work of courts shall be:

statistical data;

generalized materials of judicial practice;

outcomes of inspections (reviews) of the work of lower courts, through practical assistance;

information on the work on legal advocacy and interaction with mass media conducted by courts.

14. The work of judges and courts shall be assessed on 100-point grading scale.

15. The work of the judge, who earned in between of 45 and 59 points, shall be deemed satisfactory, in between of 60 and 75 points – good, 76 and more points – excellent. The work of the judge, who earned 44 and less points, shall be deemed fair.

16. The work of the court, which earned in between of 51 and 70 points, shall be deemed satisfactory, in between of 71 and 84 points – good, more than 85 points – excellent. The work of the court, which earned 50 and less points, shall be deemed fair.

III. Outcomes of the assessment of the work of judges and courts

17. The Assessment Report on the condition of judicial work, respectively, of the judge or court, which highlights the statistical index, general characteristics of working condition of the judge or the court, sources of information that underlie the Assessment Report, positive and negative aspects of the work, shortcomings in the administration and fulfillment of imposed duties, their reasons and others issues, shall be prepared at the end of the assessment.

The relevant Expert Boards of Judges shall indicate the relevant points in the Assessment Report based on the criteria provided by the present Methodology. The use of criteria that is not a part of the assessment system of the work of judges developed by the Supreme Court of the Republic of Uzbekistan shall be inadmissible.

The Assessment Report shall also indicate the concrete recommendations aimed to further improve the work of the judge or the court.

The Assessment Report shall be signed by all members of the relevant Expert Board of Judges.

When the members of the Expert Board of Judges are divided in opinion, a dissenting member can present his/her dissenting opinion that shall be appended to the Assessment Report.

18. The judge or the Chairperson of the court (in case of courts), whose work was assessed, shall be familiarized with the Assessment Report within three working days after the assessment.

19. The relevant Expert Board shall review the Assessment Report in its session; hear the information of its members, as well as the judges and the Chairpersons of courts, whose work was assessed.

At the end of comprehensive review of the Assessment Reports, the relevant Expert Board shall take decision on the amount of points earned by judges or courts and prepare a rating list.

When the judge or the Chairperson of the court (in case of courts), whose work was assessed, disagrees with outcomes of the assessment, he/she may present in written his/her reasoning and append them to the Assessment Report or send them to the Higher Expert Board of Judges of courts of the general jurisdiction.

In this case, the final decision on outcomes of the assessment of the work of the judge or the court shall be taken by the Higher Expert Board of Judges of courts of the general jurisdiction.

20. The relevant Expert Boards shall send to the Supreme Court only the outcomes of the assessment, that is to say, the name of the court and its grade (in points) – in case of courts, and the surname, name and middle name of the judge and his/her grade (in points) - in case of judges, no later than 7 days after the grading.

Generalized results shall be also send to the Higher Qualification Commission on selection and recommendation of judges candidates under the President of the Republic of Uzbekistan for its information.

21. The generalized results of the assessment carried out within the country shall be reviewed in the conference of the Presidium of the Supreme Court of the Republic of Uzbekistan at the end of each half-year.

22. Authority of the Supreme Court of the Republic of Uzbekistan may take measures to stimulate judges and courts having the highest achievements in their work.

To stimulate efficient work of the judges and courts, the Presidium of the Supreme Court may introduce the provision of the relevant positions and nominations as well as presenting gifts.

23. The Higher Expert Board of Judges of courts of the general jurisdiction may take measures vis-à-vis judges, who earned fair grades on their performance, to improve their professional skills taking into account their faults and mistakes emerged in their performance, particularly, they may be involved in the additional internships with the Supreme Court, regional courts and the courts equaled with them in order to obtain a practical experience.

24. The Higher Expert Board of Judges of courts of the general jurisdiction may approve the relevant programs for the courts, which earned fair grades on their work, with the purpose of eliminating the emerged shortcomings and improving their work.

25. The outcomes of the assessment of the work of judges carried out in accordance with the present Methodology cannot be the ground for:

bringing the judges up to the disciplinary liability;

early termination of office of the judge;

misappropriation of the qualification rank (class).

The outcomes of the assessment of the work of judges can be taken into account during the consideration of the issue of nomination of judges for the new term of office.

IV. Criteria of assessment of the work of judges

26. Criteria of the assessment of the work of judges shall be:

The quality of the delivery of lawful, reasonable and fair decision (verdict, ruling) by the court;

The level of timely case examination;

The quality of writing procedural documents and other judicial acts (decisions, verdicts, rulings, orders and others);

The amount (workload) of examined cases;

respect of the Code of ethical conduct of judges;

the level of judicial discipline and liability;

the effective organization of the case examination;

the level of professionalism of the judge;

the implementation of measures to improve professional skills.

The list of criteria of the assessment of the work of judges is provided in the Annex 1 to the present Methodology. In case if the criteria of judges on civil and criminal cases conforms to the assessment of the work of judges of the Martial Courts, then the amount of points shall be counted taking into account their decrease by half.

§ 1. The quality of issuing a lawful, reasonable and fair decision (verdict, ruling) by the court

27. The quality of issuing a lawful, reasonable and fair decision by the court flows from direct responsibilities of all judges, who come in the administration of justice; therefore, it is important to assess the present criteria with special thoroughness and attention.

In case if the judgment [of the court of first instance] was reversed or altered by the appellate or cassation panel, but the supervisory panel upheld the judgment of the court of first instance by altering or reversing the judgment again [of the appellate or cassation panel], then these altered or reversed judgments [of the appellate or cassation and supervisory panels] should not be taken into account.

28. The quality of trial of the civil cases shall be determined by the ratio of accepted judgments, which is determined in percentages, from the amount of the reversed and altered judgments of the appellate, cassation and supervisory panels from the total amount of civil cases tried by the judge in the court of first instance with the delivery of judgment.

29. The quality of trial of the criminal cases shall be determined by the ratio of accepted verdicts, which is determined in percentages, from the amount of the reversed and altered verdicts, orders of the appellate, cassation and supervisory panels from the total amount of criminal cases tried in the court of first instance with the delivery of verdict.

30. The quality of the delivery of lawful, reasonable and fair decision (verdict) by the judge shall be determined, which, when there are reversed or altered judgments exist, indicates in the Assessment Report the quantitative and qualitative characteristics (statistics, reasons of the reversed or altered judgments) of conditions that resulted the reversal or alteration of the judgment (verdict).

31. The quality of the trial of cases on administrative offences shall be determined by the ratio of accepted judgments, which is determined in percentages, from the amount of the reversed or altered judgments of the cassation and supervisory panels from the total amount of administrative cases tried with the delivery of judgment on the case of administrative offences.

32. The quality of the delivery of lawful, reasonable and fair decision (verdict) by the court shall be rated in between of 1 and 20 points.

33. The work of:

the judge of the Supreme Court of the Republic of Karakalpakstan on civil cases, regional and Tashkent city courts on civil cases;

the judge of the Supreme Court of the Republic of Karakalpakstan on criminal cases, regional and Tashkent city courts on criminal cases;

the judge of inter-district, district (city) courts on civil cases;

the judge of district (city) courts on criminal cases;

the judge of Martial Courts

shall be assessed based on the criteria of the quality of delivery of the lawful, reasonable and fair judgment (verdict) by the judge.

§ 2. The level of timely case examination

34. Timely case examination shall mean the strong respect of all procedural terms stipulated in the Civil Procedure, Criminal Procedure Codes and the Code of the Republic of Uzbekistan on administrative responsibility in the examination of civil, criminal cases and the cases on administrative offences.

The level of timely examination of judicial cases is a specific amount of judicial cases examined violating the procedural terms, examined in total amount for the period of case examination, which shall be counted separately based on the following criteria of judicial cases (in percentage):

civil cases at the first instance, civil cases in the appellate, cassation and supervisory reviews;

criminal cases at the first instance, criminal cases in the appellate, cassation and supervisory reviews;

case on administrative offences.

35. If the amount of civil cases at the first instance, civil cases in the appellate, cassation and supervisory review examined violating the procedural terms makes up to 0.1 percent out of their total amount, then this shall be rated in 10 points. The difference from 0.1 to 0.3 percent shall be rated in between of 7 and 9 points. The difference from 0.3 to 0.5 percent shall be rated in between of 4 and 6 points. The difference from 0.5 and more shall be rated in between of 1 and 3 points.

36. If the amount of criminal cases at the first instance, criminal cases in the appellate, cassation and supervisory review, as well as the cases of administrative offences examined violating the procedural terms makes up to 0.1 per cent out of their total amount, then this shall be rated in 10 points. The difference from 0.1 to 0.3 percent shall be rated in between of 7 and 9 points. The difference from 0.3 to 0.5 percent shall be rated in between of 4 and 6 points. The difference from 0.5 and more shall be rated in between of 1 and 3 points.

37. The work of judges of the Supreme Court shall be rated taking into account timely examination of received applications by them on filing a protest in the supervisory review, as well as the evoked cases in between of 1 and 20 points.

38. The work of all judges shall be assessed based on these criteria.

§ 3. The quality of writing procedural documents and other judicial acts (decisions, verdicts, rulings, orders and others)

39. The criteria of the quality of writing procedural documents and other judicial acts reflects the level of literacy of judges in general, as a result of which, well written and reasoned judicial act promotes development of law enforcement practice, strengthen the authority of judiciary.

The judicial act shall fulfill all the requirements, stipulated in procedural codes, for the present form of procedural document, be stylistically and grammatically correct, clear, contain convincing rationale.

40. The quality of writing a judicial act shall be determined through selective review of ten judicial acts (such as a rule, decision (verdict), order or another document) of one judge per each assessment year separately. At the end of review of ten documents during the assessment period, the quality of writing the acts shall be rated in between of 1 and 10 points.

41. The work of all judges shall be assessed based on these criteria.

§ 4. The amount (workload) of examined cases

42. The amount (workload) of judicial cases is a quantity of cases examined from the amount for one judge per month based on staffing of judges in the assessment period and shall be counted separately based on the following criteria of judicial cases (in units):

civil cases at the first instance;

civil cases in the appellate, cassation and supervisory reviews;

criminal cases at the first instance;

criminal cases in the appellate, cassation and supervisory reviews;

administrative cases tried at the first instance, as well as in the cassation and supervisory reviews.

43. If the amount of judicial cases of the judge exceeds the average of general indicator of the workload in this field (in case of regional courts and the courts equaled with them within the country) for more than 10 per cent, then it shall be rated in 10 points. If this index makes up in between of 5 and 10 percent, then it shall be rated in between of 8 and 9 points. If the workload is equal to the average of general indicator of the workload (for around 5 per cent), then this shall be rated in between of 6 and 7 points. If the workload of the judge is below the average of general indicator of the workload in between of 5 and 10 per cent, then this shall be rated in between of 3 and 5 points, if more than 10 percent, then no more than 2 points.

44. If the workload of judicial cases of the judge on criminal cases is below the average of general indicator of the workload, but this is because the majority of examined cases are complex (high treasons with characterizing signs and others), include many scenes, as well as involve five and more accused, then this workload shall be also rated in between of 3 and 7 points.

45. If the workload of judicial cases of the judge on civil cases is below the average of general indicator of the workload, but this is because the majority of examined cases are complex taking into account the specifications and categories of cases (cases on property rights, intellectual activity, as well as on personal non-property rights and others), then this workload shall be also rated in between of 3 and 7 points.

46. The assessment of the amount (workload) of judicial cases of judges shall be conducted based on the statistical data. The assessment of the amount (workload) of judicial cases of judges on criminal cases shall be also conducted taking into account the cases on administrative offences and shall not exceed the point provided by the paragraph 46 of the present Methodology.

47. In relation to the judges of the Supreme Court of the Republic of Uzbekistan, except the index indicated above, there is also the amount of examined cases that shall be taken into account on filing the protest in the supervisory review. In this case, all indexes shall be compared with the average statistical data of judges of the Supreme Court.

48. The assessment of the amount (workload) of judicial cases of judges of the Supreme Court shall be rated in between of 1 and 10 points.

49. The work of all judges shall be assessed based on these criteria.

§ 5. Respect of the Code of ethical conduct of judges

50. Each judge shall respect the Code of ethical conduct in his/her official work and non-official duty.

This Code describes the most important requirements for judges in relation to their professional (independence, impartiality, honesty, fairness, foreground judicial work, competency, systematic improvement of professional skills, limitation of public and political, and economic activity) and personal (honesty, probity, morality, competent attitude in the society, control over personal relations, apparent good order and condition) qualities.

51. The judge should, in any situation, including his/her non-official duty, respect these rules.

52. Respect of the Code of ethical conduct by judges shall be rated in between of 1 and 10 points.

53. The work of all judges shall be assessed based on these criteria.

§ 6. The level of judicial discipline and liability

54. In accordance with the Article 73 of the Law “On courts” of the Republic of Uzbekistan, the judge may be brought up to disciplinary liability by the decision of the Expert Board of Judges:

for the violation of legality in the administration of justice;

for omission in the organization of judicial work as a result of negligence and indiscipline, as well as for commission defaming the honor and dignity of the judge and derogating the authority of the court;

for the violation of the Code of Ethical Conduct of Judges;

55. If the judge, whose work requires the assessment, didn't receive any punishment in the assessment period, then this shall be rated in 5 points. Receiving one or more punishments in the assessment period shall be rated in 0 points.

56. The work of all judges shall be assessed based on these criteria.

§ 7. The effective organization of the case examination

57. The effective organization of the case examination shall mean the proper planning of judicial conferences, proper determination of the period of examination of concrete cases, administration of judicial procedures, prevention of red-tape for the parties of judicial process, proper organization of the work of the Secretary of judicial conferences. The skills of proper organization of the case examination of the judge shall promote the effective administration of justice. Every misconduct in such organization of cases may negatively reflect the trust in justice. Opinion polls among the population can be conducted in the examination of the present criteria.

58. The effective organization of the case examination and the work of judges shall be rated in between of 1 and 5 points.

§ 8. The level of professionalism of the judge

59. The level of professionalism of judges shall mean the skills and capabilities of the judge on the application of financial and procedural law in relation to the concerned parties of judicial process aimed to ensure the best of their interest.

60. The amount of closed criminal cases is important for judges on criminal cases due to the mediation reached during the judicial proceeding.

If the number of persons released from criminal charges (only cases received with accusation shall be taken into account) for the assessment period makes up 10 and more per cent from the total number of examined criminal cases, then this shall be rated in 10 points. If the difference makes up in between of 7 and 10 points, then this shall be rated in between of 8 and 9.9 points. If the difference makes up in between of 4 and 7 per cents, then this shall be rated in between of 5 and 7.9 points. If the difference makes up in between of 2 and 4 per cents, then this shall be rated in between of 2 and 4.9 points. If the difference makes up less than 2 percent, then this shall be rated in no more than 2 points.

61. The amount of judicial proceedings ended due to the mediation reached is important for judges on civil cases in accordance with the Article 100 of the Civil Procedure Code.

62. If the amount of judicial proceedings ended due to the mediation reached makes up 10 and more percent from the total amount of examined civil cases, then this shall be rated in 10 points. If the difference makes up in between of 8 and 9 per cents, then this shall be rated in between of 8 and 9.9 points. If the difference makes up in between of 5 and 7 per cents, then this shall be rated in between of 6 and 7.9 points. If the difference makes up in between of 2 and 4 per cents, then this shall be rated in between of 2 and 5.9 points. If the difference makes up less than 2 percent, then this shall be rated in no more than 2 points.

63. The level of professionalism of judges shall be determined based on the statistical data.

64. The level of professionalism of judges of the Supreme Court, as well as the judges of regional courts and the courts equaled with them shall be assessed based on the following indicators:

the efficiency of completed generalizations (development of methodic guides, presentation of recommendations to the Plenum on judicial, law enforcement practice);

the amount of recommendations to improve financial and procedural legislation;

the amount of recommendations to improve the law enforcement practice.

65. The professionalism of judges of the Supreme Court shall be rated in between of 1 and 20 points. The professionalism of judges of the regional courts and the courts equaled with them shall be rated in between of 1 and 10 points.

66. The work of all judges shall be assessed based on these criteria.

§ 9. The implementation of measures to improve professional skills

67. The important condition for the successful fulfillment of the judge of his/her responsibilities is the availability of additional skills of the judge, which are the broad horizon and profound special intellect of the judge, ambition to expand them.

This criteria includes:

development of professional level;

individual development of the level of knowledge (for instance, attending the special courses and etc.);

development of the level of knowledge about the legislative base, awareness of the amendments and additions made to the legislation, social and political environment in the country;

availability of publications or presentations in mass media on legal issues;

conducting lectures and presentations on legal issues among the population and educational institutions;

participation in various conferences and trainings to promote the legal advocacy.

The present criteria shall not be only limited to the glance of the period of attendance of the course for improving professional skills, but shall also unfold its quality more widely in accordance with above mentioned indicators.

68. The implementation of measures to improve professional training shall be rated in between of 1 and 10 points.

69. Possession of skills in using technology equipment by the judge: the knowledge of computer as a user (knowledge of Office programs, e-mails, competence to find the information on the internet), competence to use fax machine, copy machine, scanner, printer shall be rated in additional 5 points.

70. The knowledge of any foreign language (official languages of the United Nations Organization is an asset) shall be rated additionally up to the 5 points: if the judge speaks the foreign language fluently, then this shall be rated in 5 points, if good, then this shall be rated in 4 points, if fair, then this shall be rated in between of 1 and 3 points.

71. If it is difficult to determine the knowledge of foreign language, then the specialists may be involved to assess the knowledge of the judge.

72. The work of all judges shall be assessed based on these criteria.

V. Criteria of the assessment of the work of courts

73. The criteria of the assessment of the work of judges shall be divided to the following three categories that composed of:

accessibility and openness of work of the court;

quality of the administration of justice (quality of judicial process);

level of organizational measures taken for the effective implementation of work of the court.

74. The assessment of the work of courts shall be carried out in conformity with indicators according to the Annex 2 to the present Methodology.

§ 1. Openness of the court sessions

75. The openness of the court sessions shall be determined with the level of factual access of any adult regardless of sex, race, nationality, language, religion, social origin, and belief, personal and social status, who is not a party to the case, to the open court sessions. Opinion polls among the population can be conducted in the examination of the present criteria.

76. The openness of the court sessions shall be rated in between of 1 and 20 points.

§ 2. Publicity of information on the work of the court

77. The publicity of information on the work of the court shall be determined with the availability of accessible information on his/her work, and its sufficiency. The indicated information shall include the availability of stands (posters) unfolding the work of certain court, including the exemplary bills of complaint and the amount of the state fee. Moreover, regardless of the number of stands, the quality of stands (availability of concrete, objective and full information on the work of the court and which is important for visitors, and etc.) shall be taken into account.

78. The publicity of information on the work of the court shall be rated in between of 1 and 20 points.

§ 3. The work on legal advocacy

79. The criteria of the work on legal advocacy, interacting with the public, shall be determined with the number of conducted lectures, seminars, circuits, presentations on mass media, as well as the events to advance the legal culture of the population. The interaction with the public shall promote the increase of trust in the judicial system.

80. The work on legal advocacy shall be rated in between of 1 and 5 points.

§ 4. The level of conduct of judicial proceedings

81. The level of conduct of judicial proceedings shall mean the assessment of the work of judges with immediate examination of issues in the court session such as the stimulation of parties to reach agreement or mediation, the level of readiness for judicial proceedings and understanding of cases of the judges, ensuring the awareness of parties about their rights and responsibilities, as well as ensuring the judges with gradual case trials.

82. The level of conduct of judicial proceedings shall be rated in between of 1 and 15 points.

§ 5. Satisfaction with the quality of judicial process

83. The criteria of satisfaction with the quality of judicial process shall be determined through immediate examination of professionalism and the culture of communication of all judges during office hours and the employees of court apparatus during judicial process. Opinion polls among the population can be conducted in the examination of the present criteria.

The judges and employees of the court apparatus should always try to achieve the high level of cultural and moral behavior, be sensitive and responsive for the needs of parties taking part in judicial process.

84. The criteria of satisfaction with the quality of judicial process shall be rated in between of 1 and 10 points.

§ 6. The quality of writing judicial acts and decisions

85. The quality of writing judicial acts and decisions shall be composed of proper application of the financial and procedural norms, clear grounds of adopted judicial act, as well as the percentage of judicial acts reversed and altered by the courts of higher instance.

86. The criteria of writing judicial acts and decisions shall be rated in between of 1 and 10 points.

§ 7. The workload of courts

87. The present criteria shall determine the average monthly workload of judges taking into a consideration of total regional and country level.

88. This criteria shall be rated in between of 1 and 10 points.

§ 8. Following the terms of case trial

89. Procedurally justified length of judicial proceeding shall be understood under this criteria and it shall determine the organization and conduct of judicial sessions with the purpose of the prevention of unnecessary expenses and saving time of all parties to the judicial proceeding, as well as ensuring respect of time of the beginning of judicial sessions without delays, including timely processing with judicial acts and their delivery to parties of the process. Postponing

judicial proceedings from one day to another without valid reasons, beginning of judicial proceedings later than what the court notice prescribed shall be taken into account during the examination of the present criteria.

90. The criteria of following the terms of case trial shall be rated in between of 1 and 10 points.

VI. Final provision

91. The present Methodology was agreed with the Higher Qualification Commission on selection and recommendation of judges candidates under the President of the Republic of Uzbekistan (Regulation of May 2, 2014 No.6).

Annex 1

to the Methodology of the assessment of the work of judges and courts
of general jurisdiction

The list of criteria of the assessment of the work of judges of general jurisdiction

in points

No.	Name of criteria	Judges of the Supreme Court	Judges on civil and criminal cases of the regional courts and the courts equaled with them	Other judges
1	The quality of the delivery of lawful, reasonable and fair decision (verdict, ruling) by the court	-	20	20
2	The level of timely examination of cases and applications;	20	10	10
3	The quality of writing procedural documents and other judicial acts (decisions, verdicts, rulings, orders and others) by the judge;	10	10	10
4	The amount (workload) of examined cases;	10	10	10
5	Respect of the Code of ethical conduct of judges;	10	10	10
6	The level of judicial discipline and liability;	5	5	5
7	The effective organization of the case examination;	5	5	5
8	The level of professionalism of the judge;	20	10	10
9	The implementation of measures to improve professional skills.	20	20	20
	Total	100	100	100

Annex 2

to the Methodology of the assessment of the work of judges and courts
of general jurisdiction

Indicators of the assessment of the work of judges of general jurisdiction

No.	Indicator	Indicator	Method	Point
I. Accessibility and openness of work of the court				
1	Openness of the court sessions	The right to access of persons, not taking a part in the case, to an open session	Examining the implementation of accessibility of the court sessions to persons unassociated with the judicial proceeding. Conducting opinion polls among the population.	20
2	Publicity of information on the work of the court	1.Access to information on the work of the court 2.Sufficiency of information on the work of the court	Examining the condition of the announcement board of each court, as well as the analysis of sufficiency of the information on it.	20
3	The work on legal advocacy	1.The number of lectures, seminars, circuits, presentations on mass media 2.Conduct of event to advance the legal culture of the population	The analysis of statistics and information about the work on interaction with the public and mass media.	5
II. The quality of the administration of justice				
1	The level of conduct of judicial proceedings	1.Stimulating the parties to reach agreement or mediation. 2.Well readiness for the court sessions and understanding the case by the judge. 3.Awareness about the rights and responsibilities of parties. 4.Ensuring the consistent case trial.	Immediate examination of the level of conduct of proceedings.	15
2	Satisfaction with the quality of judicial process	Professionalism and the culture of communication of judges and employees of the court apparatus.	Immediate examination of the level of professionalism and the culture of communication. Conducting opinion polls among the population.	10
3	The quality of writing judicial acts and decisions	1.Proper application of financial and procedural norms. 2.Clarity of grounds of the adopted judicial act. 3. Percentage of judicial acts reversed and altered by the courts of higher instance.	Results of inspections (examination) of the work of lower courts and the statistics, through providing the practical assistance.	10
III. The level of organizational measures taken for the implantation of work of the court				
1	The workload of courts	1.Average monthly workload of judges.	Observing during the assessment.	10
2	Following the terms of case trial	1.Organization and realization of judicial sessions with the purpose of preventing unnecessary expenses of parties and saving time of all participants of the judicial proceeding. 2.Procedural reasoning of the period of judicial proceedings. 3. Ensuring respect of time of the beginning of judicial sessions without delays, timely processing judicial acts and their delivery to the concerned parties.	Observing during the assessment.	10
Total				100

Attachment II: Recommended Civil Case Categorization

Disputes arising out of labour law
Disputes arising out of matrimonial legislation (family law, divorce)
Disputes arising out of housing legislation
Disputes arising out of property law
Disputes related to communal debts and communal damages
Disputes related to communication services
Disputes arising out of contracts
Disputes arising out of land law
Disputes arising out of consumer law
Indemnification disputes
Other disputes (claims)
Appeals against actions of...
Other cases related to appeal against actions of
Establishing legal facts
Other cases heard in special proceedings
Cases related to arbitral awards (enforcing, annulling)
Undisputed cases

Attachment III: Form for Uzbek Data Assessment

Source	Is this data available?	Collected electronically? If so, using what system	Sent to a central place? If so, where?	Assessment of quality/consistency ?	Any statutory guidelines about the topic (if so, please name statute)
Court Registries					
# Cases filed by year					
Average age of pending cases					
# of hearings/case					
# Cases disposed/year					
Average time to disposition					
# Cases appealed					
# Cases upheld on appeal					
Records re assignment of cases to judges					
Roster of case assignments					
# Recusals requested by parties/yr.					
Data re enforcement of judgments					
# Cases sent for enforcement/year					
Monetary value of cases sent for enforcement/year					
# of enforcement agents					
# of enforcement cases successfully closed/year					
Monetary value of cases collected in					

Source	Is this data available?	Collected electronically? If so, using what system	Sent to a central place? If so, where?	Assessment of quality/consistency ?	Any statutory guidelines about the topic (if so, please name statute)
enforcement/ year					
Cost Data					
Schedule of Filing Fees					
# of requests for fee waivers/year					
Average cost of legal representation					
Public complaints					
# received in writing/year					
# responded to/year					
# received via hotline/on-line/year					
Disciplinary actions against judges					
# of cases filed					
# of cases investigated					
# of sanctions applied					
Opinion surveys					
Judges, court staff					
Professional public					
Court users					
Civil society					
General public					
Court site visits					
Court audits					
External studies					

Attachment IV: International Practices in Performance Measurement

Criteria	Netherlands Judicial Council	World Justice Project	World Bank Serbia Functional Review	U.S. CourTools	EU Justice Scoreboard/ CEPEJ	Tilburg University
Provides a balanced view of performance						
Includes measurement of efficiency, quality and access	Considers efficiency and quality. Does not assess accessibility/transparency	Considers perceived access and quality	Yes	Yes	Effectively considers efficiency and quality. Does not assess accessibility/transparency	Considers only perceptions of quality of outcomes
Provides specific metrics for measuring performance	Yes	Yes	Yes	Yes	Yes	Yes
Uses quantitative data, qualitative assessments and user perceptions	Yes	User surveys only	Yes	Yes	Data collected by member states not the EU. Sources depend on each country	No
Examines outputs, not just inputs	Yes	YEs	Yes	Yes	Yes	Yes
Includes consideration of all phases of cases, e.g.enforcement of judgments/appeals	Yes	Yes for enforcement	Yes	Data for first instance and appeals courts not cross-referenced. Enforcement not	Yes	Not explicitly

Criteria	Netherlands Judicial Council	World Justice Project	World Bank Serbia Functional Review	U.S. CourTools	EU Justice Scoreboard/ CEPEJ	Tilburg University
				a justice sector function in U.S.		

Criteria	Netherlands Judicial Council	World Justice Project	World Bank Serbia Functional Review	U.S. CourTools	EU Justice Scoreboard/ CEPEJ	Tilburg University
Data is actionable						
Reasonable limits on the number of measures	Yes	Yes	# of prime measures reasonable; large # of sub-measures	Yes	Yes	Yes
Sufficiently disaggregated by case type (i.e., by size of claim)	Yes	No	Yes, data divided into xx	xx	No	No
Used to make budget requests	Yes	No	Not yet	Depends on the court	No	No
Feasibility of data collection						
Data available in normal course of work ⁷⁴	Yes	No	Some	Yes	In some countries	No
Data can primarily be collected through automated processes	Yes	No	Data limitations required separate data collection effort. Judiciary working on establishing a performance dashboard with downloads from the case management and budget systems	Yes	No; relies on submission of data from included countries	No

⁷⁴ Excluding survey data which must be collected through a separate process.

Criteria	Netherlands Judicial Council	World Justice Project	World Bank Serbia Functional Review	U.S. CourTools	EU Justice Scoreboard/ CEPEJ	Tilburg University
Labor and automation costs of collection/reporting reasonable and adaptable to Uzbekistan	No. Specialized staff are employed to evaluate the data. Data collection particularly for cost per case is more complex than can be adapted in Uzbekistan at this time	No. Specialized staff are employed to collect and evaluate the data.	Yes, once the performance dashboard system is in place	Depends on the court. However, the limited number of measures and provision of specific methodologies for data collection reduce the administrative burden on the courts.	Specialized staff are employed to evaluate the data received. The labor and automation costs incurred by member states varies.	No
Methodology is transparent to/understandable by the public	Yes, other than workload assessment used for budgeting purposes	Yes	No	Yes	Yes	No

Analytical framework for judicial system performance Serbia (standards, measures, data collection methods and sources of information). Draft.

I. Judicial system performance measures

This part of the framework identifies three main areas to measure judicial system performance: Efficiency of judicial service delivery, quality of the services delivered, and access to these services. These measurement areas are divided into different aspects (“standards”). The framework then identifies relevant indicators, the primary data collection method, the frequency of data collection and the source of the relevant information and data.

	Indicator	Reference to relevant legal documents
1. EFFICIENCY OF JUDICIAL SERVICE DELIVERY		
Standard 1.1 Judicial system productivity		
Case disposition	1.1.1 Total number of incoming cases per case type (including enforcement)	
	1.1.2 Total number of cases disposed (aggregated and disaggregated per case type, court, and level of court)	
	1.1.3 Ratio of number of cases disposed of per judge (aggregated and disaggregated per case type, court, and level of court)	
	1.1.4 Clearance rates (aggregated and disaggregated per case type, court, and level of court)	
Backlog	1.1.5 Volume of stock (pending cases aggregated and disaggregated per case type, court, and level of court)	
	1.1.6 Age structure of stock (aggregated and disaggregated per case type, court,	

	Indicator	Reference to relevant legal documents
	and level of court)	
Standard 1.2 Efficiency of case processing		
Timeliness	1.2.1 Time to disposition (aggregated and disaggregated per case type, court, and level of court)	<ul style="list-style-type: none"> • <u>CCJE Opinion No. 6 (2004) on fair trial within a reasonable time</u> A.5. The remuneration of lawyers and court officers should be fixed in such a way as not to encourage needless procedural steps A.6. Provision should be made, pursuant to Recommendation No. R (84) 5 (principle 2-1 in the appendix), for sanctioning abuse of court procedure C.13. The key to conducting litigation proportionately is active case management by judges, the core principles of which are stated in Recommendation No. R (84) 5. The most important point is that judges should from the outset and throughout legal proceedings control the timetable and duration of proceedings, setting firm dates and having power to refuse adjournments, even against the parties' wishes. • <u>Council of Europe, Committee of Ministers Recommendation No. R (84) 5</u> Principle 1 Normally, the proceedings should consist of not more than two hearings, the first of which might be a preliminary hearing of a preparatory nature and the second for taking evidence, hearing arguments and, if possible, giving judgment. Sanctions should be imposed when a party, having perhaps received notice to proceed, does not take a procedural step within the time-limits fixed by the law or the court. Depending on the circumstances such sanctions might include declaring the procedural step barred, awarding damages, costs, imposing a fine and striking the case off the list.
	1.2.2 Percentage of cases resolved within certain time-frames (aggregated and disaggregated per case type, court, and level of court)	
	1.2.3 Percentage of cases likely to violate European time standards for reasonable duration (for selected case types)	
Procedural efficiency	1.2.4 Average number of adjournments (aggregated and disaggregated per case type, court, and level of court)	<ul style="list-style-type: none"> • <u>Opinion No. (2013) 16 on relations between judges and lawyers</u> The CCJE recommends that states establish appropriate procedural provisions, which must define the activities of judges and lawyers and empower judges to implement effectively the principles of a fair trial and to prevent illegitimate delaying tactics of the parties. It also recommends that judges, lawyers and court users be consulted in the drafting of these provisions and that these procedural frameworks be regularly evaluated. The CCJE recommends that judges organize case management hearings within the framework of the relevant procedural laws, and establish, in consultation with the parties, procedural calendars, e.g. by specifying the procedural stages, setting out reasonable and appropriate timeframes and structuring the manner and timing of the presentation of written and oral submissions and evidence.
	1.2.5 Perceived court efficiency	

	Indicator	Reference to relevant legal documents
Standard 1.3 Cost efficiency		
Cost	1.3.1 Cost per disposed case	
Standard 1.4 Effective enforcement		
Enforcement	1.4.1 Time for enforcing a civil judgment (aggregated and disaggregated per case type, court, and level of court, comparing cases enforced by private and court bailiffs)	<ul style="list-style-type: none">• CCJE Opinion No. 13, Conclusion D. There should be no postponement of the enforcement procedure, except on grounds prescribed by law. Any deferral should be subject to the judge’s assessment. The enforcement agents should not have the power to challenge or vary the terms of the judgment. F. The CCJE considers that, in a state governed by the rule of law, public entities are above all bound to respect judicial decisions, and to implement them in a rapid way “ex officio”. G. Enforcement should be fair, swift, effective and proportionate. H. The parties should be able to initiate enforcement proceedings easily. Any obstacle to this for instance excessive cost, should be avoided.
	1.4.2 Percentage of successful enforcement of civil judgments (aggregated and disaggregated per case type, court, and level of court)	
	1.4.3 Perceptions of the effectiveness of enforcement of civil judgments	
2. QUALITY OF JUDICIAL SERVICES DELIVERED		
Standard 2.1 Legal quality of court decisions		
Appeals	2.1.1 Percentage of cases appealed (aggregated and disaggregated per case type, court, and level of court)	<ul style="list-style-type: none">• <u>CCJE Opinion No. 6 (2004) on fair trial within a reasonable time</u> C.16. Court judgments should be immediately enforceable, notwithstanding any appeal, subject to provision of security where appropriate to protect the losing party in the event of a successful appeal• <u>Council of Europe, Committee of Ministers Recommendation No. R (84) 5</u> Principle 5 Except where the law prescribes otherwise, the parties' claims, limitations or defenses and in principle their evidence, should be presented at the earliest possible stage of the proceedings and in any event before the end of the preliminary stage, if there is one. On appeal, the court should not normally admit facts which were not presented at first instance unless: they were not known at first instance; the person presenting them was not a party to the proceedings at first instance; there is some special reason for admitting them.
	2.1.2 Percentage of successful appeals (aggregated and disaggregated per case type, court, and level of court)	
	2.1.3 Perceptions about appeals	

	Indicator	Reference to relevant legal documents
		Principle 7 Steps should be taken to deter the abuse of post-judgment legal remedies
Standard 2.2 General quality of court services		
Court services	2.2.1 Perceptions about the general quality of the court services	<ul style="list-style-type: none"> • CCJE Opinion No. 6 (2004) on fair trial within a reasonable time B.5. Although no generally accepted criteria exist at this moment as to data to be collected, the goal of data collection should consist in the evaluating justice in its wider context, i.e. in the interactions of justice with other variables (judges and lawyers, justice and police, case law and legislation, etc.), as most malfunctions of the justice system derive from lack of coordination between several actors B.7. Furthermore, "quality" of justice should not be understood as a synonym for mere "productivity" of the judicial system; a qualitative approach should address rather the ability of the system to match the demand of justice in conformity with the general goals of the legal system, of which speed of procedures is only one element B.8. Quality indicators should be chosen by wide consensus among legal professionals B.10. In order to reconcile the realization of this need with the guarantees of independence of the judiciary, the independent body mentioned in paragraphs 37 and 45 of the CCJE's Opinion No. 1 (2001) should be competent for the choice and the collection of "quality" data, the design of the data collection procedure, the evaluation of results, its dissemination as feed-back, as well as the monitoring and follow-up procedures.
	2.2.2 Perceptions about the quality of the administrative services of the court	

Standard 2.3 Fairness, impartiality and integrity		
Fairness, impartiality and integrity	2.3.1 Fairness and integrity as perceived by lawyers and citizens	<ul style="list-style-type: none">• <u>Opinion no. 3 on the principles and rules governing judges’ professional conduct, in particular ethics, incompatible behaviour and impartiality</u> Conclusions on the standards of conduct Conclusions on liability• <u>Recommendation CM/Rec(2010)12 on judges: independence, efficiency and responsibilities</u> Chapter VIII – Ethics of judges 72. Judges should be guided in their activities by ethical principles of professional conduct. These principles not only include duties that may be sanctioned by disciplinary measures, but offer guidance to judges on how to conduct themselves. 73. These principles should be laid down in codes of judicial ethics which should inspire public confidence in judges and the judiciary. Judges should play a leading role in the development of such codes.
	2.3.2 Number of officially logged complaints against judges and court staff	
	2.3.3 Number of disciplinary measures and sanctions against judges and court staff	
	2.3.4 Perceptions of citizens about courtesy of the judge	
Standard 2.4 Independence, transparency and accountability		
Independence, transparency and accountability	2.4.1 Perceptions of citizens and lawyers about the independence of judges	<ul style="list-style-type: none">• <u>Opinion no 7 (2005) on “justice and society”</u> B.2. The CCJE supports all the steps aiming at strengthening the public perception of impartiality of judges and enabling justice to be carried out B.3. Such initiatives may include:<ul style="list-style-type: none">- training programmes in non-discrimination and equal treatment organized by courts for judges and court staff (in addition to the similar programmes organised by lawyers or for lawyers);- court facilities and arrangements designed to avoid any impression of inequality of arms;- procedures designed to avoid giving unintended offence and to ease the involvement of all concerned in judicial proceedings.
	2.4.2 Adequacy of publicly available statistical reporting about court performance and resource allocation	
	2.4.3 Perceptions of citizens and lawyers about the judiciary and the media	

Standard 2.5 Relevant laws and their application		
Quality 2of laws and implementation	2.5.1 Perceptions about the quality of legislation	
	2.5.2 Perception of the application of the laws by the courts	
Standard 2.6 Public trust and confidence		
Trust and confidence	2.6.1 User trust and confidence in the judiciary	<ul style="list-style-type: none"><u>Opinion no 7 (2005) on “justice and society”</u> B.2. The CCJE supports all the steps aiming at strengthening the public perception of impartiality of judges and enabling justice to be carried out C. The relations of the courts with the media (to strengthen understanding of their respective roles; to inform the public of the nature, the scope, the limitations and the complexities of judicial work...)
	2.6.2 General public’s trust and confidence in the judiciary	
3. ACCESS TO JUDICIAL SERVICES		
Standard 3.1 Affordability of judicial services		
Cost for users	3.1.1 Level of court fees (aggregated and disaggregated between different types of cases, litigious and non-litigious, levels of jurisdiction)	<ul style="list-style-type: none"><u>CCJE Opinion No. 6 (2004) on fair trial within a reasonable time</u> A.4. Technology should be developed whereby litigants may, via computer facilities: - obtain full information, even before proceedings are instituted, as to the nature and the amount of the costs they will have to bear, and indication of the foreseeable duration of the proceedings up to the judgment
	3.1.2 Existence and effectiveness of court fee waiver provisions for indigent	
	3.1.3 Perceptions of affordability of courts	
	3.1.4 Affordability of court related legal services (e.g. appropriateness of lawyers)	

Standard 3.2 Effective legal representation		
Representation	3.2.1 % of the accused persons not legally represented before the court	<ul style="list-style-type: none">• CFREU Title VI Art. 47 paragraph 3 “Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.”• ECHR Art. 6 paragraph 3 "(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;"• United Nations Principles on Access to Legal Aid in Criminal Justice Systems (a list of principles)
	3.2.2 Perceptions about the legal representation before the courts	
	3.2.3 Number of cases granted with legal aid compared to number of refused cases and as percentage of overall number of cases	
Standard 3.3 Ease of access and use		
Ease of access and use	3.3.1 Perceptions of users about the geographical access to courts and level of comfort of the court buildings)	<ul style="list-style-type: none">• <u>CCJE Opinion No. 6 (2004) on fair trial within a reasonable time</u> A.1. States should provide dissemination of suitable information on the functioning of the judicial system (nature of proceedings available; duration of proceedings in the average and in the various courts; costs and risks involved in case of wrongful use of legal channels; alternative means of settling disputes offered to parties; landmark decisions delivered by the courts A.3. Simplified and standardized formats for the legal documents needed to initiate and proceed with court actions should be adopted• <u>Magna Carta of Judges(Fundamental Principles)</u> Access to justice and transparency 14. Justice shall be transparent and information shall be published on the operation of the judicial system. 16. Court documents and judicial decisions shall be drafted in an accessible, simple and clear language
	3.3.2 Perceptions of the judges and staff about the court facilities and level of comfort (to be compared with surveys of users).	
	3.3.3 Perceptions of the users about the access to relevant information	
	3.3.4 Perceptions among minority groups about accessibility of judicial services	

Standard 3.4 Accessibility of alternative dispute resolution mechanisms		
Use of mediation	3.4.1 Number of mediators	<ul style="list-style-type: none"> • <u>CCJE Opinion No. 6 (2004) on fair trial within a reasonable time</u> C.3. Judges should encourage consensual settlement (whether by the parties alone or through mediation) • <u>Magna Carta of Judges(Fundamental Principles)</u> 15. Judges shall take steps to ensure access to swift, efficient and affordable dispute resolution; they shall contribute to the promotion of alternative dispute resolution methods. • <u>Opinion No. (2013) 16 on relations between judges and lawyers</u> V. In order to meet the needs of the parties, the CCJE recommends developing arrangements for the friendly settlement of disputes. It considers that understanding the respective roles of judges and lawyers in the framework of friendly settlements by conciliation or mediation is a vital factor for developing this approach and that, as far as possible, joint training sessions on the various modes of friendly settlement should be provided. • <u>EUROPEAN CODE OF CONDUCT FOR MEDIATORS</u>
	3.4.2 Number of court referrals to a mediator	
	3.4.3 Number of incoming cases for a mediator (per type of dispute)	
	3.4.4 Number of cases resolved in mediation	
Cost	3.4.5 Cost of mediation to users	<ul style="list-style-type: none"> • <u>CCJE Opinion No. 6 (2004) on fair trial within a reasonable time</u> D.2. Legal aid should be available for ADR as it is for standard court proceedings; both legal aid resources as well as any other public expenditures to support ADR should make use of a special budget, so that the corresponding expenses are not charged to the operating budget of the courts
Effectiveness of mediation	3.4.6 Average number of mediation sessions from start until mediation agreement	<ul style="list-style-type: none"> • DIRECTIVE 2008/52/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 May 2008 on certain aspects of mediation in civil and commercial matters Article 6 - Enforceability of agreements resulting from mediation
	3.4.7 Average duration (days/months) of mediation procedures	
	3.4.8 Success rates of the mediations (no. of mediation agreements compared with unsuccessful mediations)	
	3.4.9 Effectiveness of enforcement of mediated decisions	
	3.4.10 Perceptions about mediation	

Attachment VI: Court Indicators and Measures (Recommended Additions in Blue)
Indicators of the assessment of the work of courts of general jurisdiction

No.	Indicator	Measure	Method	Types of Data	Sources	Frequency
IV. Accessibility and Openness						
1	Openness of court sessions	The right to access of persons, not taking a part in the case, to an open session	Examine the implementation of accessibility of the court sessions to persons unassociated with the judicial proceeding.	Qualitative assessment User perceptions	Expert site visits Opinion polls of general public	Every four years Every four years
2	Publicity of information on the work of the court	a. Access to information on the work of the court b. Sufficiency of information on the work of the court	a. Examine the condition of the announcement board of each court b. Analyze sufficiency of information.	Qualitative assessment	Expert site visits	Every four years
3	The work on legal advocacy	a. The number of lectures, seminars, circuits, presentations on mass media b. # of events to advance the legal culture of the population	Analyze statistics and information about the work on interaction with the public and mass media.	Quantitative and qualitative assessment	Standardized reports submitted by courts including numbers/types of events/participation	Quarterly

No.	Indicator	Measure	Method	Types of Data	Sources	Frequency
4.	Financial accessibility	a. Reasonableness of filing fees b. Proportion of fee waivers granted c. Clarity/transparency of fees and waiver procedures	a. Compare fees to regional incomes b. Evaluate granted to requested waiver requests by region c. Examine whether fees and fee waiver procedures are posted publically d. Examine sample of fee waiver requests	a and b. Quantitative c and d. Qualitative assessment	a. National Income Data from government b. ESUD – fields to be added c/d. Expert site visits	a. Annually b. Quarterly/ annually c. Every four years
5.	Geographic accessibility	a. Distance of citizens from civil courthouses b. Users served by each courthouse	a. Calculate average distance of courthouses from each other b. Head count of users	Quantitative	a. Work Group on Number and Location of Courts b. Civil Courts	a. Every ten years b. Monthly
V. Quality of Courts						
1	The level of conduct of judicial proceedings	a. Stimulating the parties to reach agreement or mediation. b. Well readiness for the court sessions and understanding the case by the judge. c. Awareness about the rights and responsibilities of parties. d. Ensuring the consistent case trial.	a. Immediate examination and user perceptions of the level of conduct of proceedings. b. Analyze statistics about number of mediations conducted, successfully completed	a. Qualitative assessment and user perceptions b. Quantitative	a. Expert site visits/ user surveys b. ESUD – fields to be added	a. Every four years b. Quarterly/ annually

No.	Indicator	Measure	Method	Types of Data	Sources	Frequency
2	Satisfaction with the quality of judicial process	Professionalism and the culture of communication of judges and employees of the court apparatus.	a. Immediate examination and user perceptions of the level of professionalism and culture of communication. b. Complaints, categorized by type	a. Qualitative assessment/user perceptions b. # of officially lodged and upheld complaints	a. Expert site visits/ user perceptions b. Supreme Court Complaints Division	a. Every four years b. Quarterly/ annually
3	The quality of writing judicial acts and decisions	a. Proper application of financial and procedural norms. b. Clarity of grounds of the adopted judicial act. c. Judicial acts reversed and altered by the courts of higher instance.	a. Results of inspections (examination) of the work of lower courts b. Percentage of judicial acts on appeal reversed and/or altered	a. Qualitative assessment b. Quantitative	a. Supreme Court sampling opinions/ expert site visits b. ESUD – fields and report to be added	a. Periodically/ every four years b. Quarterly/annually
4	Transparency of case distribution	Civil cases randomly and reasonably evenly distributed	Examine case distributions in case management system	Quantitative	ESUD – report to be added	Quarterly/ annually
5	Judicial independence	Judges and courts perceived to be independent of undue influence	a.Examine requested judge recusals b. Survey users about trust and confidence in the judiciary	a. Quantitative b. User perceptions	a. Data submitted by local courts b. User surveys	a. Quarterly b. Every four years
VI. Court Efficiency						

No.	Indicator	Measure	Method	Types of Data	Sources	Frequency
1	The workload of courts	Cases filed and pending in courts	Statistical measurement of: a. Incoming cases per month. b. Volume and average age of pending cases	Quantitative	a. ESUD b. ESUD –report to be added	Quarterly/ annually
2	Productivity	Ability of courts to process pending workload	Statistical measurements. Dispositions per judge b. Time to disposition c. Cost per disposed case	Quantitative	a, ESUD b. ESUD - Adapt report to include time in suspension c. ESUD for dispositions, financial data for costs	Quarterly/ annually

No.	Indicator	Measure	Method	Types of Data	Sources	Frequency
2	Following the terms of case trial	<p>a. Organization and realization of judicial sessions with the purpose of preventing unnecessary expenses of parties and saving time of all participants of the judicial proceeding.</p> <p>b. Procedural reasoning of the period of judicial proceedings.</p> <p>c. Ensuring respect of time of the beginning of judicial sessions without delays</p> <p>d. Timely processing judicial acts and their delivery to the concerned parties.</p>	<p>a, b, c. Observing during the assessment.</p> <p>d. Statistical measurement of time between court activities,. # of hearings per case and # of postponements</p>	<p>a-c. Qualitative assessment</p> <p>d. Quantitative</p>	<p>a-c. Expert site visits</p> <p>d. ESUD – fields and reports to be added</p>	<p>a-c. Every four years</p> <p>d. Quarterly/ annually</p>