

RAISING AWARENESS AND IMPROVING ACCESS TO JUSTICE: LESSONS FROM SERBIA

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The importance of ensuring access to justice is universally acknowledged as a global priority. A system that does not ensure effective access leaves citizens in situations where they are unable to exercise their fundamental rights and protect their best interests. The European Union (EU) places the rights to an effective remedy and to a fair trial at the heart of its member states' priorities. Access to justice is a prerequisite for states wishing to join the EU (EU 2012).

Around 4 billion people worldwide live outside of the legal system, without enough knowledge about their rights and the legal tools available to protect them (OECD and OSF 2016). As a result, insecurity and lack of trust in the judiciary dissuade citizens from engaging in economic activities. Communities experience negative impacts, and the situation worsens for low economic status and socially excluded groups (UNDP 2005).

Every state has an obligation to ensure access to justice in a way that protects and promotes the right to a fair trial and effective legal assistance. Better access to information is one way of improving access to justice for citizens. This *Governance Note* shares lessons learned from a technical assistance package implemented in partnership with stakeholders and the government of Serbia that could be applied in other countries.

ACCESS TO JUSTICE IN SERBIA

In Serbia, costly court processes constrain access to justice. Nearly 63 percent of the general public reported they were unlikely to pursue a dispute they believed could be settled in court, overwhelmingly citing fear of costs as a deterrent, according to the *Serbia Judicial Functional Review* (World Bank and MDTF-JSS 2014a).

Although parties financially unable to cover court-related costs can apply for exemptions, citizens have little awareness and understanding of this option. Furthermore, the court fee waiver program is unstructured, with limited oversight and monitoring. The result is inconsistent application across courts and cases (Nedic 2016).

Research has shown that Serbian citizens are largely unaware of free legal services that might be available to them. As many as 46 municipalities out of 145 in Serbia have Municipal Legal Aid Centers (MLACs), and another 10 provide legal aid

without a MLAC. However, according to an access to justice survey, 82 percent of respondents were not able to name a single organization or institution that provides legal aid free of charge, even when a MLAC was present in their municipality (World Bank 2015).

Moreover, if a citizen cannot afford an attorney, the specificities of the justice system place unrepresented litigants at a disadvantage. While self-represented litigants usually receive some guidance from judges during the proceedings, instructions in the form of lay guides or checklists are seldom available. Unsurprisingly, based on a multistakeholder survey conducted in 2013/2014, respondents who represented themselves had judgments go against them in a higher percentage of cases (60 percent) than those represented by a private attorney (44 percent) (World Bank and MDTF-JSS 2014b).

Finally, surveys demonstrate that awareness of the law is very low among the general population. In the 2013 Anti-Corruption Agency Court User Survey, nearly half of the respondents reported they were uninformed about the procedure that brought them to court (World Bank and MDTF-JSS 2014a). Additionally, focus group discussions suggest that people — regardless of their education, general awareness, or computer literacy — often do not know where to look for regulations and lack practical information that could help them uphold their rights. This knowledge vacuum significantly impedes their access to justice.

In partnership with the Lawyers' Committee for Human Rights (YUCOM),¹ the World Bank finalized a technical assistance package that supported the government of Serbia in its efforts to enhance access to justice. The approach combined the Bank's experience in justice reform, YUCOM's regional engagement in EU policy dialogue on access to justice, and input from local stakeholders.

The team worked closely with Serbian justice stakeholders, including courts, prosecutors' offices, police, government agencies, academia representatives, local civil society organizations (CSOs), and MLACs to disseminate information and reach different population segments, including vulnerable groups. Lessons from Serbia can be applied in other countries interested in pursuing similar reforms.

¹ For more information about the Lawyers' Committee for Human Rights, see <http://en.yucom.org.rs/>.

THE TOOLS

To enhance access to justice for Serbian citizens, the team used a first-order intervention for legal empowerment — raising basic legal awareness (OECD and OSF 2016). The use of guides and other toolkits can consolidate relevant information in a clear, understandable way to enhance citizens' awareness of the law and materially improve their access to justice. This benefit is especially true for those who perceive their lack of legal training as a barrier to enforcing their rights and those who do not uphold their rights simply because they are unaware that they are entitled to do so.

In collaboration with various stakeholders, a series of guides were designed, developed, and disseminated to address the challenges identified in the judicial functional review. Each of four guides and their means of dissemination are described.

A Guide to Self-Representation — First Time in Court or at a Courthouse

The guide provides basic legal information on, but does not advocate, self-representation (YUCOM 2017).² Its objective is to familiarize lay people with the judicial process to the greatest extent possible and enhance citizens' access to justice at a lower cost. The guide was disseminated widely to ensure availability and to increase access to information about the importance of access to justice.

It reached the relevant target groups following a massive publicity campaign conducted in cooperation with public institutions, including, but not limited to, courts and prosecutors' offices, and through the participation of legal aid CSOs. An animated movie, on the guide's contents and the way citizens can use it, was created as part of the campaign and served as an interactive and accessible way to reach various demographic groups.

Guide to Exemption from Court Fees: Fees in Civil Proceedings and How to Get Rid of Them

This comprehensive guide explains the process for requesting an exemption from court fees, when applicable.³ Many litigants in Serbia were unaware of a waiver of court fees and costs, or the process for submitting a waiver request, partly because information on exemptions was not consolidated.

The team analyzed judicial practice and collated the information into a single user-friendly guide. Both hard and electronic copies were disseminated among relevant parties and stakeholders. Collecting information and sharing it with courts and law practitioners harmonized legal practice on exemptions and helped make relevant information more accessible.

Interactive Map of Free Legal Aid Services

Citizens lacked information about free legal aid services available

in their municipalities. To ensure they could find out about institutions and organizations providing them, the type of aid available, and who is eligible to benefit from these services, the team updated an existing map of free legal aid services and transferred it to a more accessible internet domain.

To facilitate access to justice and to expand the impact and use of the map, the team enhanced its visibility and accessibility by launching it on the web pages of different partners and stakeholders, courts, legal aid CSOs, and other relevant state institutions.

The Guide for the Exercise of Right to a Court Interpreter — Translator

Information on the right to a court interpreter in Serbia was scant. Court websites did not provide it, and often, courts did not comply with an obligation to hold a hearing in a language understood by all parties, especially if it was a minority language. To reach vulnerable groups and to enable access to justice for non-Serbian and minority language speakers as well as the deaf, mute, and blind, the team developed a guide on the right to a court interpreter. Its purpose was to provide relevant information to all parties and ensure equal participation in civil procedures (YUCOM 2018).

To enhance impact and to reach a wider demographic, the guide was translated into five languages. Leaflets summarizing its contents were also translated and distributed.

GOING FORWARD

Noting the relevance and replicability of this work, justice stakeholders across the region have expressed interest in similar support from the World Bank to establish initiatives to enhance access to justice. The tools developed by the team can be adapted to different country contexts with relative ease, and the Bank can support client countries to conceptualize, implement, and monitor mechanisms to improve access to justice. For example, the Bank is implementing a project to develop and disseminate a self-representation guide for micro, small, and medium-size enterprises as a way to improve commercial justice in Bosnia and Herzegovina.

² The First Time Guide is intended to be a living document.

³ For more information and a link to the guide (Serbian), visit http://www.mdtfjss.org.rs/en/mdtf_activities/2018/strengthening-affordability-of-justice-in-serbia-guide-for-exemption-of-court-fees#.XcYDntVOnDd.

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