1. Country and Sector Background

Judicial reform is a priority for the Government of the Former Yugoslav Republic (FYR) of Macedonia. An inefficient and opaque judicial system is failing to adequately protect property, contract and creditor rights and has been repeatedly highlighted by the business community as one of the more serious failings of the investment climate. A number of assessments confirm this finding but also note that confidence in the legal and judicial system to enforce property and contract rights has declined since 2002. Strengthening the judicial system in FYR Macedonia is also a key area of reform required for the country’s progress toward accession to the European Union (EU).

To address these problems, the Government completed a Judicial Reform Strategy in 2004. The Strategy is well conceived – it presents a candid and accurate diagnosis of the weaknesses and outlines a comprehensive approach covering the judiciary and a number of related institutions, including the bar, prosecutors, the corrections and penitentiary system, and notaries. With a primary focus on the judiciary itself, the Strategy aims to strengthen its independence and efficiency through: (i) substantive law reform addressing the functions of the judicial system; (ii) litigation law reform to optimize processes and procedures; and (iii) structural and organizational changes in the judiciary. Following the passage of Constitutional amendments at the end of 2005, the Government is in the process of securing the passage of a comprehensive package of
new and revised legislation as the second stage of implementing its Strategy, estimated to be completed by June 2006.

Experience has shown, however, that this early focus on legislative reform will require strong follow-through on implementation and institutional strengthening in order to have a meaningful impact on the business climate. The Legal and Judicial Implementation and Institutional Support (LJIIS) Project is designed to assist in the implementation of some key laws which directly impact the business environment as well as strengthening the institutional framework of the judicial system by building capacity to manage and oversee its personnel, activities and performance. In particular, the Project will support the implementation of the following key laws: (i) the new Law on Courts which outlines a new structure for the court system; (ii) the new Law on the Judicial Council, which strengthens the framework for oversight and management of the judiciary; (iii) the new Bankruptcy Law; and (iv) the new legal framework for administrative dispute resolution.

2. Objectives

The objective of the LJIIS Project is to contribute to improving judicial efficiency and effectiveness and the business climate in FYR Macedonia by: (i) enhancing ministerial and judicial capacity to systemically implement the Government’s Judicial Reform Strategy and key laws; and (ii) improving judicial infrastructure. The Project will be implemented in the context of the World Bank’s development policy program and other donors’ programs. Implementation of the Judicial Reform Strategy and laws will help remove constraints on the legal and judicial system and improve the functioning of Macedonia’s business environment.

Achievement of the Project Development Objective will be measured by performance indicators, including Government and judicial statistics supplemented by broad-based surveys (for example, Business Environment Enterprise Performance Survey- BEEPS), expert assessments (USAID’s Commercial Law and Institutional Reform assessments and Judicial Reform Index), annual European Commission (EC) reviews and other indicators to be developed with the Government during project implementation.

3. Rationale for Bank Involvement

One of the critical lessons from the East Asian financial crisis and the collapse of some of the Eastern European transition economies in the 1990s was that, was the critical role of good institutions, including legal and judicial institutions that create the rule of law in economic growth and poverty reduction. As such, over the last decade the World Bank has accumulated some depth of experience in the reform and development of legal and judicial institutions, particularly in transition countries and with a medium-to-long term perspective.¹

As noted above, in FYR Macedonia, the inefficient and often non-transparent judicial system has been identified as a key constraint on the business environment, and the effective enforcement of property, creditor and contract rights. A preparatory Legal and Judicial Enforcement Assessment completed in 2005 and this LJIIS Project are part of broader effort by the World Bank, outlined

in the 2004-06 Country Assistance Strategy (Report No. 26513), to promote private sector
development and job creation in FYR Macedonia by strengthening the protection of contract,
creditor and property rights.

An important feature of the areas selected for support under the LJIIIS Project is the synergy with
the activities of other Bank-supported activities under this objective. These include, \textit{inter alia},
analytical work and operations on land reform, in the business environment and the financial
sector. The Government has prepared and is currently implementing a Business Environment
Reform and Institutional Strengthening Project (BERIS) and a Real Estate Cadastre and
Registration Project (RECR). In 2005, the Bank also launched a Programmatic Development
Policy Loans series (PDPL), the first pillar of which focuses on the business environment and
judicial reform and includes the adoption and implementation of a number of key laws. These
include, \textit{inter alia}, the Law on General Administrative Procedure, the Law on Courts and the
Bankruptcy Law.

Given the importance of legal and judicial reform to FYR Macedonia’s development and to its
prospects for EU accession, there are, notably, a large number of donors undertaking a broad
range of activities in this area. Within this framework, the LJIIIS Project will provide a critical
commitment of medium-term support for the implementation of FYR Macedonia’s Judicial
Reform Strategy to supplement the shorter-term assistance provided by most of the other
development partners in this field.

4. Description

The Project is designed around three components: (1) building ministerial and judicial capacity
to manage the justice system; (2) improving court infrastructure; and (3) strengthening judicial
information and technology systems.

\textbf{Component 1 – Ministerial and Judicial Capacity Building [US$2.45 million]}\textsuperscript{2}. This
component aims at strengthening the capacity of key institutions to implement the selected
reforms under the Judicial Reform Strategy. It is organized around three subcomponents –
improving quality of the judicial management and the judiciary, (b) implementing the new
bankruptcy law; and (c) implementing the new legal framework for administrative disputes and
appeals.

\textit{Subcomponent A: Improving the Quality of Judicial Management and the Judiciary [US$1.0
million]}. Judicial Council of the Republic of Macedonia. Following the adoption of the
Constitutional amendments and under the new Law on the Judicial Council (JCL), the State
Judicial Council will be renamed the Judicial Council of the Republic of Macedonia (RJC),
reconstituted with a majority of judges and become responsible for ensuring judicial
independence and accountability by managing the selection, evaluation, promotion and
disciplining of judges. This function is currently shared among the executive, judicial and
legislative branches of government. No other donors are presently providing or planning to
provide support to the new RJC at this time. Under this subcomponent LJIIIS will provide
financing and technical assistance to:

\textsuperscript{2} Loan financing
• Expand and renovate the State Judicial Council’s existing office space so that it can accommodate the enlarged RJC membership and additional staff.

• Develop effective and transparent criteria, procedures and processes for judicial selection, evaluation, promotion and discipline and provide training to RJC members and staff and judges in these areas.

• Design a program for managing specialized judicial careers, including, inter alia, standards for continuing education requirements and organizing specialized departments within the courts.

• Develop annual Parliamentary and public reports on its work.

Judicial Training Academy. The Government has created a new Judicial Training Academy which started operations in March 2006. The new Academy will benefit from a 2-year consultancy to strengthen institutional capacity, supported by the EC CARDS 2004 program and expected to start in May 2006. In collaboration with the Academy and other development partners active in this area, it was agreed that the LJIIS Project should support the development of specialized training courses for areas in the World Bank-supported policy reform agenda in FYR Macedonia and in which the LJIIS is supporting reform implementation. To this end, under this subcomponent, the LJIIS Project will provide assistance to:

• Develop specialized training courses and materials on: (i) Bankruptcy Law; (ii) General Administrative Procedure and Administrative Disputes Laws; (iii) application of real property law; and (iv) other laws important for the commercial and business environment.

• Develop management training courses for court presidents.

Subcomponent B: Administrative Inspections and the Administrative Dispute Resolution [US$700,000]. Monitoring and enforcement of compliance with new laws and a revised administrative process is the responsibility of the Ministry of Justice’s Administrative Inspectorate. The Inspectorate conducts routine inspections of all government and municipal agencies on a regular cycle and responds to citizen complaints. However, the Inspectorate operates under a number of constraints, including lack of equipment, training and information on new laws and regulations. Under the new legal framework, administrative decisions by government bodies can continue to be appealed to government-level appeals commissions (as is currently done for most agencies) or internally through procedures left to be defined. Appeals at the judicial level will be handled by a new Administrative Court established by the new Law on Courts. These changes have created significant uncertainty over how citizen appeals of administrative decisions will be handled and how agencies will enforce misdemeanor decisions. This subcomponent will provide assistance:

• to clarify, including through preparation of any necessary additional legislation and regulations, the new administrative appeals and dispute processes;

• create awareness within the public service and to the broader public of the new framework, agency compliance with this framework and citizen’s rights and obligation;

• strengthen the capacity of the Administrative Inspectorate to oversee the implementation of administrative dispute resolution by public agencies and;
• develop institutional arrangements for the new Administrative Court.

Subcomponent C: Improving Bankruptcy Administration and Ministry of Economy Supervision [US$ 750,000]. Under the new Bankruptcy Law, a new Chamber of Bankruptcy Trustees will be formed to professionalize the trustees through an ethics code, application of standards of conduct, effective discipline procedures and training. The Ministry of Economy (MoE) will take the lead in preparing implementing regulations, developing and conducting the initial licensing exam for trustees, and preparing the Chamber’s constituent documents. The MoE will ultimately have supervisory responsibility over the Chamber’s examination, licensing, and disciplinary actions. With the conclusion of USAID’s Corporate Governance and Corporate Law Project in February 2006, no other donors are providing assistance with the implementation of the new bankruptcy system. Specifically, this subcomponent of the LJIIS Project will support:

• A resident international bankruptcy advisor to assist the MoE with the day-to-day operation of its supervisory authority and general implementation of the new Bankruptcy Law.
• Assistance and equipment to build and enhance the MoE’s supervisory capacity, develop trustee licensing and disciplinary oversight, and generally improve its capacity to oversee the operation of the bankruptcy system.
• Creation of an effective Chamber of Trustees, including staffing, provision of offices and office equipment, and development of conduct standards, ethical rules, and disciplinary procedures. (Project assistance is expected to decrease over time as the Chamber becomes self-financing from trustee membership fees).
• Development of pre- and post-licensing training programs for trustees.
• Development of targeted training for commercial enterprises, creditor organizations and state agencies who participate in bankruptcy proceedings (including the cadastre and Central Registry).
• Drafting and revising implementing regulations, decrees, orders, etc. and any future legislative revisions.

Component 2 – Improving Court Infrastructure [US$ 8.6 million]. FYR Macedonia’s judicial infrastructure is in need of refurbishment and renovation in order to support its judicial reorganization and modernization plans. There is inadequate space in the basic courts to hold hearings and trials, for judges and their staff to work effectively and safely, and for parties and the public to have access to hearings and court documents. In addition, the Judicial Reform Strategy seeks to respond to the increasing demands on courts and the large backlog of cases, in part, by re-introducing court specialization. This will be accomplished by a number of jurisdictional changes for existing courts and the addition of a new Administrative Court, and will require both the expansion and adjustment of courthouse infrastructure. Under this component, LJIIS Project funds will support the renovation and modernization of a number of Macedonian courthouses as well as provide technical assistance to strengthen the design, management and maintenance of the judiciary’s real property assets. In particular, the project will support:

• Development of (i) design guidelines and standards and facilities management in accordance with best international practices, (ii) a national investment and rehabilitation
plan for FYR Macedonia court buildings and (iii) a facilities manual for maintenance and operation of courthouses.

- A feasibility study and subsequent design and construction of a new courthouse in Skopje.
- Renovations, including design and construction, of selected basic courts designated to have enhanced jurisdiction.
- Renovations of other courthouses, including design and construction, selected on criteria jointly developed by the Ministry of Justice and the Court Budget Council’s Administrative Office.
- Furniture and equipment for courtrooms, staff, judges, and the public.

Component 3 – Enhancing Judicial Information and Technology Systems [US$2.2 million].

Computerization of the judicial system is ongoing, initiated with state funds and continued with donor assistance, but remains incomplete. Notwithstanding this assistance, neither all the courts, nor all the judges have access to computers. There is presently no computerized network linking the different courts nor is there any network between the MoJ and other justice institutions, such as law enforcement bodies. A fledgling court information and case management system has very limited functionality and has not yet been rolled out to all the courts. Under the PDPL program, the Ministry of Justice is preparing a judicial information technology (IT) strategy to provide guidance on improving, integrating and maintaining IT systems throughout the broader justice system. The European Agency for Reconstruction (EAR) is providing assistance to establish a wide area network and searchable legal database information system, and USAID is piloting the case management software. In collaboration with these development partners and the Government, a set of priorities were developed for World Bank support to complement and supplement ongoing development of MoJ and judicial IT systems. Specifically, this subcomponent will provide assistance for:

- Integrating the various IT systems throughout the judicial system through the MoJ IT Center. (The IT Center and a judicial system network are being supplied through a grant from EAR.)
- Providing electronic access to the laws, decrees and regulations of FYR Macedonia to a broad range of justice system users, notably, judges, lawyers, and public notaries.
- Augmenting and enhancing the current court information system in order to create a functional Court Information System (CIS), including improved interface, more efficient document flow, additional reporting, and development of a management reporting module.
- Hardware, training and technical assistance for the rollout and implementation of the functional CIS to approximately 25 courts.
- Selected replacement and upgrades of existing systems and necessary staff training.

Expanding Analytical Capacity of the Judiciary. The lack of accurate, periodic statistics on court and judicial performance has had a negative effect on Macedonia’s ability to develop and implement sound judicial reform policies. The Court Administrative Office (AO) operating under the direction of the Court Budget Council chaired by the Chief Justice has responsibility for administering court operations. However, the AO lacks the capacity to compile and analyze detailed statistical data on judicial and court performance needed to support empirically-based
policy making by judicial oversight bodies. USAID will support general strengthening of the MoJ’s statistical department. However, the AO has requested that the LJIIS Project provide assistance for building its capacity to gather information from the future Court Information System and its new budget and financial management software under development with USAID assistance. Under this subcomponent, LJIIS funding will provide technical assistance to improve the AO’s capacity to analyze and integrate empirical data on court performance, caseloads and backlogs from the standardized statistical reports produced by CIS into its judicial policy recommendations. This assistance will be sequenced to coincide with the introduction of the functional CIS software.

5. Financing

Source: ($m.)

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6. Implementation

At the policy level, Project implementation will be overseen by a Steering Committee, appointed by formal government decree, comprising representatives of the Supreme Court, the Republic Judicial Council, the Ministry of Justice and the Ministry of Economy. The Court Administrative Office which is also a Project beneficiary will be represented by the Supreme Court and Republic Judicial Council which sit on its governing body, the Court Budget Council. The Government will designate the Minister of Justice as Chair of the Steering Committee. The Committee will provide the MoJ’s Sector for Planning Analysis and Finance Implementation Office (PAF IO) with guidance for the management of the Project and supervising implementation, but will not be required to approve individual Implementation Office actions nor be involved in detailed decision making.

The main implementing agency will be a new Implementation Office to be established in the MoJ’s Planning, Analysis and Finance Sector. The PAF IO will be responsible for day-to-day management of the Project, including procurement of goods, works and consulting services, disbursement of funds and financial management, audit and control, and monitoring and reporting on Project implementation and outcomes.

The manager of the PAF IO will be a MoJ civil servant. The PAF IO will be a permanent part of the MoJ’s organizational structure but will report to the Steering Committee on a regular basis. In addition to the manager, the LJIIS Project will support the staffing of the PAF IO with specialists necessary to implement the Project effectively and in line with World Bank rules and procedures, and training for other Implementation Office staff. Staffing will include, at a minimum, procurement and financial management specialists and an architect/engineer. IT specialists from the MoJ’s IT department will supplement this staff.

Implementation of the Court Infrastructure Component requires specific arrangements to accommodate the role of the judiciary, through the Court Administrative Office (AO), in managing Macedonia’s courthouses and funding the judiciary’s capital expenditures. The Implementation Office will be the responsible contracting office for all tendering actions. The
AO will participate in developing requirements and terms of reference and serve on procurement evaluation and selection committees. The President of the court being renovated or constructed will also participate in the development of design and feasibility standards for that courthouse. Once a civil works contract has been awarded, the Implementation Office will designate the AO as the “contracting office’s representative” to administer the contract (short of revising any contract terms) and supervise construction. Payments, however, will be administered by the Implementation Office on recommendation of the AO. The LJIIIS Project will support the hiring of a qualified architect or engineer in the AO to assist with its responsibilities in this regard.

7. Sustainability

The strong borrower commitment and ownership of the reform program underlying this operation are evident both from the Judicial Reform Strategy which enjoys multi-party support, and the Government’s and Parliament’s ambitious program to begin implementation of the Strategy with the adoption of Constitutional amendments and the passage of an impressive package of new and revised legislation in early 2006. There is also broad agreement among Macedonia’s business and government communities that improvements in the investment climate depend critically on strengthening justice system performance. As well, the general public consensus on the goal of EU accession which depends, in part, on legal and judicial reform should help to sustain reform efforts over the medium term. Finally, the policy framework within which the Project will operate is bolstered by its links with the World Bank’s ongoing Programmatic Development Policy Loan (PDPL) operations which support, *inter alia*, judicial reform policy and institutional development. Each of these factors should contribute to the continuation of the reform effort regardless of the outcome of the upcoming Parliamentary elections in July 2006.

Further evidence of borrower commitment and ownership of the specific activities under this operation are the policy actions and public expenditures made and committed by the Government in the component areas, in advance of project approval. These include establishment of the new Judicial Training Academy with Government resources and the Court Budget Council’s own capital improvement plans for courthouse renovation and rehabilitation, including creation of new courtrooms in the appeals courts as required by the revised Civil Procedure Law.

Finally, specific Project activities aimed at strengthening the capacity for management of the justice system should improve the sustainability of both the reform efforts underlying this project and the investments financed by Project resources. In particular, the establishment and strengthening of the Implementation Office in the Ministry of Justice and improvements in the statistical information and analysis on the court system will contribute to effective management of reform effort over time, including the coordination of development partner assistance. Sustainability of the physical investments will be supported by the preparation of a cost-effective investment plan for courthouse infrastructure, building capacity both in the Ministry of Justice and the Court Administrative Office for managing infrastructure maintenance, and loan covenants requiring sufficient Court Budget Council financing for proper maintenance of the renovated buildings. Similarly, IT investments will be sustained by implementing activities according to a broad judicial sector IT strategy developed under the PDPL, the appointment regular of IT support staff and budgeting for IT maintenance expenditures.
8. Lessons Learned from Past Operations in the Country/Sector

The design of the project draws on the lessons learned from World Bank-supported investment and policy-based operations in FYR Macedonia as well as from implementation of similar projects in other regions. Special consideration was given to the following aspects:

**Upfront analytical and diagnostic work can help to build support for Project interventions.** The LJIIS Project is designed mainly on the basis of the World Bank’s comprehensive Legal and Judicial Enforcement Assessment for FYR Macedonia completed in June 2005. During its preparation and dissemination, World Bank engaged in active dialogue with the Government, judicial and business communities and donors, which has contributed to building broad consensus and support for the LJIIS Project.

**Government-led development strategies are a strong signal of ownership.** In FYR Macedonia, there is broad consensus surrounding the Judicial Reform Strategy developed by the Government and approved by the Parliament, and while the World Bank and other donors are supporting implementation of the Strategy, the priorities, direction, and pace of the reforms are fully determined by Government.

**The need to link increased independence of the judiciary with strong accountability.** Analysis of the legal and judicial reform lessons in the Europe and Central Asian indicates that independence and accountability must go hand in hand to ensure honesty and quality in the judiciary. Businesses, in particular, want courts that are depoliticized, as well as fair, honest, able to enforce decisions, fast and affordable. Yet reforms that might strengthen one dimension, such as the independent self-regulation of the judiciary, may weaken another, such as judicial accountability, at least in the short run. In a country like FYR Macedonia, where public perception of the judiciary as inefficient and biased is high, a focus on judicial accountability is a necessary balance to increasing judicial independence. The LJIIS Project includes activities aimed at improving judicial accountability, including: (i) renovating court facilities to improve public access to court services and records; (ii) developing comprehensive performance evaluation mechanisms for judges and court personnel; and (iii) strengthening RJC capacity to enforce ethical and professional standards of judge behavior; and (iv) providing IT tool and assistance to develop monitorable indicators of judicial performance.

**Matching capacity to reform with demand for reform.** A recent World Bank review of legal and judicial reforms in Europe and Central Asia characterized FYR Macedonia as facing a high demand for judicial reform but with medium capacity to implement needed reforms. The review also concluded that countries such as FYR Macedonia require a comprehensive approach to judicial reform, covering issues of independence, accountability as well as efficiency, and touching on a broad range of institutions. The Government’s Judicial Reform Strategy envisions just such a comprehensive set of reforms and the LJIIS Project will focus on building the capacity for implementation. The Project is designed to: (i) complement ongoing Government and donor-funded reforms; and (ii) address the capacity “gap” facing the Ministries of Justice and Economy, the RJC and the court Administrative Office through targeted technical assistance.

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**Measuring judicial performance for policy making.** The capacity of public institutions such as courts to use empirical data for policy decisions is weak in most transition countries. A sustained and early focus on developing indicators and systematic and routine measurement systems is crucial for sustaining long term judicial reform efforts. LJIIS Project assistance to enhance Macedonia’s judicial IT systems will provide statistical information on caseloads, case flow and other operationally useful data. Paired with technical assistance to build the AO’s analytical capacity, the Project will provide the judiciary with tools to help it measure the impact of ongoing reforms and make necessary adjustments in the reform process.

9. **Safeguard Policies (including public consultation)**

The planned civil works under court infrastructure component will not involve any land acquisition, physical relocation and/or loss of access to income.

<table>
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<th>Safeguard Policies Triggered by the Project</th>
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<td>Projects on International Waterways (OP/BP 7.50)</td>
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</table>

10. **List of Factual Technical Documents**

**Bank Assessments**

5. *Improving the Business Climate in Macedonia: A Legal and Judicial Enforcement Assessment.* World Bank (June 2005).

**Government Documents**

*By supporting the proposed project, the Bank does not intend to prejudice the final determination of the parties' claims on the disputed areas*

**Other**


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