1. Key development issues and rationale for Bank involvement

In November 2004, the Macedonian Government formally adopted a Judicial Reform Strategy, which has become a key part of the Government’s effort to begin accession negotiations with the European Union. The Judicial Strategy *inter alia* envisages amending the 1991 Constitution and passing or amending several key laws which will improve judicial independence, accountability and efficiency and, ultimately, enhance the business environment. The Strategy was prepared partly in response to the European Commission’s identification of Macedonia’s inefficient and ineffective legal and judicial system as a major constraint to the further development of a market economy. The EC continues to highlight its concerns regarding the implementation and sustainability of judicial reform efforts in its recently-issued, positive Opinion on Macedonia’s accession application.\(^1\) In June 2005, the Bank completed a comprehensive Legal and Judicial Assessment (LJ Assessment) that focused on the intersection between the judicial system, implementing institutions and the business environment. The LJ Assessment identifies specific judicial, institutional and legislative constraints to the effective enforcement of property, creditor and contract rights and includes an evaluation of the Judicial Strategy.\(^2\) A key finding of the LJ Assessment was that although Macedonia has performed well...
in terms of building a modern legal framework, implementation and institution building have been comparatively weak. Procedural and institutional capacity problems and corruption interfere with the effective implementation of bankruptcy and other laws and constrain the efficient functioning of the courts. The Assessment’s findings have been corroborated by the results from the 2005 Business Environment and Enterprise Performance Survey (2005 BEEPS) conducted by the EBRD and World Bank which found that 53% of Macedonian firms felt the judicial system was a problem for doing business and that the courts were less affordable, slower and less honest in 2005 than 2002.  

Other donors, particularly USAID and the EC, have been and plan to remain active in providing grant funding to support the Government’s Judicial Strategy. This assistance has focused on improving court administration and case management, the enforcement of judgments, rehabilitation of some court facilities (in USAID’s pilot courts), preparing the law and charter for a judicial training academy and providing IT hardware and initial software to courts and other justice institutions. To date much of this assistance has been used to prepare the legislative and regulatory framework necessary to improve judicial efficiency and accountability and support the Judicial Strategy. Both the LJ Assessment and the Judicial Strategy identify a number of areas where additional donor support is needed to build the institutions and capacity necessary to implement the Government’s reform agenda and meet the EU’s accession requirements.

In parallel to the LJ Assessment, the Bank began to design a Programmatic Development Policy Loan (PDPL). To support the Government’s overall effort to implement the Judicial Strategy and improve the judicial system and the business environment, the PDPL incorporates the adoption and implementation of a number of key laws as policy measures to be fulfilled by the Macedonian Government.

Against the preceding background, the challenge for the Macedonian Government now is to implement the key laws and policy measures envisaged in the Judicial Strategy and PDPL. Specifically, the Government will need to develop and/or enhance the institutional capacity and build the implementing organizations necessary for operationalizing this comprehensive reform. In order to carry out the rationalization and reorganization of the court system envisioned in the Judicial Strategy, the Government will need to rehabilitate and refurbish certain courthouses. In addition, hardware and software will be needed to link the courts, Ministry of Justice and other implementing institutions into an effective network. During the preparation of the LJ Assessment and the PDPL, it became clear that the Government would require additional resources and technical assistance to implement effectively the Judicial Strategy and the PDPL policies.

The proposed LJIIIS will focus on assisting the Government in respect to implementation and capacity building in the areas listed below. An important feature of the areas selected for the functioning of an effective business environment. Financial Sector Assessment of FYR Macedonia, World Bank, (June 2003) and Administrative Procedures for Doing Business in Macedonia, Foreign Investment Advisory Service (June 2003). See also, The Macedonian Securities Legislation and its Compliance with IOSCO Principles of Securities Regulation, Deloitte Touche Tohmatsu, USAID (August 2004).


4 These laws include the Law on General Administrative Procedure, Law on Courts, Law on Enforcement, Law on Civil Procedure, Bankruptcy Law and the Audit Law.
Bank’s involvement is the synergy with the activities of other Bank investment projects, including BERIS and the Real Estate Cadastre and Registration Project. Through its work on the Assessment and PDPL, the LJIIS team has coordinated closely with USAID and EC counterparts and the Ministries of Justice and Finance to identify areas where the Government is willing to borrow for Bank assistance and technical advice. The Country Assistance Strategy identifies judicial reform to improve the enforcement of contract, creditor and property rights as a priority for Macedonia. The proposed LJIIS Project will address these priorities by building or strengthening public sector institutions, improving their accountability and supporting sustained private sector growth.

In light of the constraints identified in the Assessment and the A&A ROSC as well as the needs of the Judicial Strategy and the PDPL, it was agreed that the Government would request that the Bank prepare a sector investment loan to meet its financing needs. The Government expressed its desire to borrow for a legal and judicial reform sector loan with a letter to the Country Director dated March 22, 2005. The Government has participated fully in the identification of the LJIIS objective and components and has designated a Ministry of Justice (MoJ) State Secretary and State Advisor as the Bank’s counterparts for the Project.

2. Proposed objective(s)

The objective of the LJIIS Project is to assist the Government of Macedonia in enhancing government capacity and building institutions needed to systemically implement key laws and policies that are designed to improve the effectiveness and efficiency of the judicial system. Implementation of these laws and policies 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 (i.e., BEEPS), expert assessments (USAID’s Commercial Law and Institutional Reform assessments), annual EC reviews and others to be developed with the Government during further project preparation.

3. Preliminary description

Ministerial and Judicial Capacity Building: The LJ Assessment and the EC have identified weak institutional capacity in key ministries and the judiciary as constraints on the development and implementation of legislative and policy changes. Under this component the proposed LJIIS Project would help improve judicial and ministerial capacity to implement a number of key legislative and policy initiatives contained in the Judicial Reform Strategy and the PDPL. Assistance will be focused on the following subcomponents:

A. Enhancing Ministry of Justice Supervision. Technical assistance, equipment and training will be provided to the Ministry of Justice to enhance its supervisory, licensing and oversight capacity for key actors in the justice sector, including enforcement agents, notaries and others. In particular, assistance will be provided to help the Ministry of Justice effectively implement the new Enforcement Law. Under this subcomponent assistance will be provided to build the MoJ’s

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capacity to gather and analyze statistical information from the judicial system and to integrate this analysis into the Ministry’s policy making process.

B. **Strengthening Administrative Decisions and Dispute Resolution Capacity.** Following the passage of a new General Administrative Procedure Law and Constitutional amendments, the Government will develop new laws to guide administrative disputes and the handling of misdemeanors. These changes are designed to push decision making and enforcement of administrative sanctions down to administrative agencies; improve the transparency, fairness and equity of these decisions; and increase administrative accountability through effective appeal and dispute resolution procedures. In addition, it is expected that these changes will help alleviate the backlog currently plaguing Macedonia’s courts. This subcomponent will provide technical assistance, goods and equipment to build capacity in the MoJ’s Administrative Inspectorate which is charged with overseeing the implementation of these laws. Technical assistance, training and equipment may also be provided to a number of pilot ministries, commissions and/or other government organizations to improve administrative decision making and to implement fair and transparent dispute resolution procedures.

C. **Improving Bankruptcy Administration and Ministry of Economy Supervision.** Under a proposed new Bankruptcy Law, the Ministry of Economy (MoE) will have supervisory responsibility for examining, licensing and disciplining bankruptcy trustees. The new Law will create a professional cadre of trustees who will be re-licensed and organized into a regulated profession through the creation of a Chamber of Trustees. Under this subcomponent, the LJIIS Project will help to enhance the MoE’s supervisory capacity and its ability to implement the new Bankruptcy Law effectively through technical assistance, training and equipment. Assistance will also be provided for the drafting of secondary legislation; technical assistance and equipment to create the Chamber; and training programs for trustees.

D. **Enhancing Capacity of the Judicial Council and Administrative Office and Strengthening Judicial Training.** Following adoption of the Constitutional Amendments and a new State Judicial Council Law, the State Judicial Council will be reconstituted and given new responsibilities. Under this subcomponent, the LJIIS Project will provide the SJC with assistance to improve the Council’s role in the selection, evaluation and disciplining of judges. In collaboration with assistance provided by USAID’s Court Modernization Project the LJIIS Project could help to enhance the Administrative Office’s analytical capacity and use of statistical information provided by the courts. In addition, equipment, goods and furniture will be provided to a new judicial training academy as well as technical assistance to develop specific commercial law and other specialized courses (i.e., practical bankruptcy law courses, training on the impact of the new Administrative Procedure, Administrative Disputes and Misdemeanor Laws, enforcement of property registration, etc.).

**Court Rehabilitation and IT Networking:** Courtroom rehabilitation and courthouse reconstruction assistance will be provided to assist with the Government’s plans to create specialized divisions or courts and to rationalize court structure and jurisdiction. Assistance will also be provided to enhance and network the computer systems presently provided under the EAR CARDS program. The LJIIS Project may also help with the development of integrated case management software based on the EC-supplied ICIS software presently being piloted.
4. Safeguard policies that might apply

OP/BP4.01 Environmental Assessment Category B. The project will involve some internal rehabilitation of a number of courthouses. The project may include some building reconstruction. Environmental impacts will be addressed through an Environmental Management Plan.

5. Tentative financing

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6. Contact point

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