

IMPROVING PUBLIC SECTOR PERFORMANCE

THROUGH INNOVATION AND
INTER-AGENCY COORDINATION



CASE STUDY FROM THE GLOBAL REPORT

Incentivizing Courts to Reduce Backlogs: Serbia's Court Rewards Program



CASE STUDY 15

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Overview

Confronted with large delays and backlogs across the judicial system, Serbia's Supreme Court of Cassation, the country's highest instance court, decided to introduce a rewards system to encourage individual courts across the country to improve their performance. The program, which began in 2016, gave prizes to the courts that made the largest improvements in backlog reduction and cases resolved per judge. As of 2018, it was too early to deem the program a success, but anecdotal evidence suggested the program was beginning to have a positive impact on Serbian courts.

Introduction

In Serbia, citizens have long been frustrated by inefficiency, corruption, political influence, lack of transparency, and unending delays in the judicial system. A multi-stakeholder survey conducted in 2014 found that only one in four citizens had trust in the justice system (World Bank 2014d). Delays were the biggest source of frustration. "Courts did not pay a lot of attention to timeliness of their decisions," said Srdjan Svircev, World Bank Public Sector Specialist. "Simple cases ended up staying there for quite a long time. There were many cases in the court system that had been there for three or four years, some even up to 40 years!"

The large backlog of cases was not a new problem, and many countries in Eastern Europe faced similar issues. Even still, Serbia had a particularly large backlog compared to its neighbors, with millions of backlogged cases clogging its courts. Further, there was wide variation between the performance of courts in Serbia. Some functioned well and made good progress on reducing backlogs, while others lagged behind. The World Bank's 2014 Judicial Functional Review in Serbia found that the two biggest performance challenges facing Serbian courts were:

- Low efficiency, as evidenced by long delays and backlogs
- Unpredictability of decision-making, driven by excessive variation in performance (Decker et al 2014)



SERBIA

POPULATION (July 2017 est.)¹

7.111 million

GDP PER CAPITA (current US\$)²

5,426.20

INCOME GROUP³

Upper middle income

GOVERNMENT EFFECTIVENESS⁴

55.8%

¹CIA World Factbook, ²World Bank (2016), ³World Bank (2016), ⁴World Bank (2016)

The variance in performance across the courts was perplexing. “There were big differences, but it was difficult to find causality,” said Svircev. “The immediate response was that the courts wanted more money and more people to fix the problem of inefficiency...but we knew that resources were not the problem. There were courts with lots of resources that performed poorly, and courts with resource shortages that performed well.”

Serbia’s Supreme Court of Cassation (SCC), the country’s highest instance court, had tried to improve the situation by providing performance incentives for individual judges. But the system had failed to result in better performance. “People thought the awards were based more on relationships than on merit,” said Svircev.

The World Bank was engaged with the justice sector through the Multi Donor Trust Fund for Justice Sector Support in Serbia (MDTF-JSS), a mechanism funded by a number of donors that were committed to strengthening Serbia’s justice sector reforms in support of the country’s plans to become part of the European Union. Among other efforts, the MDTF-JSS wanted to find a way to get underperforming judges up to standard. “If the worst performers could reach the average – not be stars but merely perform at the average – delays and backlogs would be greatly reduced and performance would largely align with EU benchmarks,” said Georgia Harley, Senior Governance Specialist at the World Bank.

Globally, the justice sector had been slow to adopt performance incentives that many governments had embraced as an important tool to encourage good performance. “There was this idea that the incentive mechanism in the court system should be the satisfaction in providing justice,” said Svircev. “But the truth of the matter is that judges are people like anybody else, and they appreciate rewards and recognition just the same.”

In early 2015, the World Bank encouraged the SCC to consider incentives and competition among the courts – the main units for delivering justice – as a way to boost court performance. The World Bank envisioned a program that would reward courts based on how much they improved each year, putting all courts on a level playing field and encouraging teamwork among judges.

Response

In early 2015, the World Bank team shared insights from the World Development Report 2015: Mind, Society and Behavior, about the power of recognition and incentives in driving performance among public sector employees. The team shared examples of World Bank programs and empirical studies that demonstrated how a well-designed rewards program could make a difference. According to Harley, “the SCC was receptive to the idea, and the dialogue deepened about ways we could work together to incentivize judges and staff in Serbia.”

Members of the SCC endorsed the idea in late 2015. To roll out the program, the court had to decide on what the rewards would be and an objective system to choose the winners. Next, the court had to promote the idea around the country to get courts interested. Finally, it had to share the experiences of the successful courts to encourage nationwide progress on backlog reduction.

Designing the program

It was critical to find a simple and objective way to measure court performance so that no one would question the results. “We wanted something easily understandable; something based on numbers; something that could be easily verified by anyone,” said Svircev. The team decided on two categories for rewards:

- The largest year-on-year improvement in backlog reduction per judge
- The largest year-on-year improvement in the number of resolved cases per judge

Measuring performance on a per judge basis allowed the program to control for variation in court size, so smaller courts with fewer judges would have an equal chance of success. Awards would be decided based on data from case management systems and verified by the SCC and the World Bank. To make the process fully transparent, the scores and results were available online.

The MDTF-JSS provided funds for the prizes. In each category, the first prize was €5,000 (about US\$5,600 at the time), the second prize was €3,000,

and the third prize was €2,000. “Through analysis, we decided on prize money that was sufficiently attractive to motivate behavioral change, but not so lucrative as to generate perverse incentives,” said Harley. Winning courts could choose to spend their rewards on either:

- ICT hardware (computers, monitors, printers, scanners, servers etc.)
- Office equipment (desks, chairs, shelves, clocks, legal texts etc.), or
- Court beautification (paint, plants, signage, repairs etc.)

Implementing the program

At the beginning of 2016, the SCC began communicating the new rewards program to courts, explaining the criteria that courts would be judged on, how they would be measured, and the prize money available. Courts around the country quickly got to work trying to improve their performance and reduce backlogs.

It was up to the president of each individual court to come up with a work plan for the year. In those work plans, the president would assign judges a certain number of cases to take on. If one judge moved quickly while another lagged behind, the president could reshuffle caseloads throughout the year. Judges sometimes expressed frustration about being shifted to different cases, and it was up to the court president to manage any complaints internally, and assign judges in the most efficient way possible. In some cases, court presidents brought in law students from local universities to assist in case preparation, which often helped speed up court processes and ensure judges put their time to best use.

Rewarding top performers

Through its case management system, the SCC could track every court’s progress on reducing backlogs throughout the year. It also published that data regularly so judges could see how they were doing compared to their peers. At the end of the year, the SCC and World Bank compiled the results, and invited the most improved courts to receive their prizes.

The SCC organized a gala dinner to present the awards, and the World Bank’s local communications team helped to ensure widespread Serbian press coverage of the ceremony. “We made a big splash!” said Vesna Kostic, senior communications officer at the World Bank. “The idea was to ensure the awards conveyed a degree of prestige on the winners, and openly recognized the hard work of those who were committed to performance improvement.” The high profile of the awards ceremony also helped to encourage positive competition between courts and give judges something to aspire to the following year.

The prize-winning process helped foster teamwork and continual improvement. Courts were required to decide as a team how to spend their reward, and to explain how their choice of prize would further improve their court’s performance. “Some of the courts invested the prize money in periodicals they needed for their court library, others created a digital information center in their court, and others used it to buy new ergonomic chairs for their staff,” said Svircev.

Reflections

As of 2018, it is too early to declare the initiative a success, as it has only been in operation for two years. Still, over that period first-instance court backlogs in Serbia reduced by more than 20%, indicating the program may be having a positive impact. “On average, courts are performing better than they used to be,” said Svircev. “We have seen the ones at the bottom beginning to tick up, though there is still lots of room for improvement.”

The program encouraged competition between courts, and awards bestowed a degree of prestige on those that performed well. Receiving an award at the ceremony and being mentioned in the media was a motivating factor for judges to improve performance. “One of the winners said he had been in the system for 40 years, and this was the first time he received any recognition,” said Svircev.

The next step will be to share the success of the winning courts, and encourage low-performing courts to learn from those that had managed to improve their performance and reduce backlogs. Svircev said it was still too early to look at sharing lessons, but

that the SCC was beginning to look at the improved numbers and procedures at the winning courts.

The program also created an opportunity for the justice sector in Serbia to improve its public perception. Though Serbian citizens still lacked confidence in the justice sector and continued to complain about delays and corruption, the rewards program presented an opportunity to put forth a different view of the work judges have been doing to improve the system. “The public are generally more interested in negative stories,” said Svircev. “But the SCC could use this program to shift the narrative and talk about the good things they have achieved.”

Compared to many other initiatives that aimed to reduce backlogs and improve performance, the Serbia Court Rewards Program was relatively low cost. The MDTF-JSS has spent about US\$50,000 on the program each year, which covered the prizes, trophies, ceremony, and related expenses.

While the project was fully supported by the MDTF-JSS and the World Bank in 2016 and 2017, the SCC has begun taking steps to institutionalize the initiative. “The SCC president has said the program will be included in their budget in 2019,” said Svircev. Further, the SCC added the project to the “Book of Rules” that the Serbian court system is governed by.

Time will tell if the program is going to achieve its aims, but as of 2018 the program appears to be an extremely cost effective and highly visible investment that has been helping to improve how courts and judges organize their workloads. “It started as a tiny program, but it has created a ripple effect,” said Svircev. “Small programs like this often tend to have much more impact than big programs that try to do too much.”

Success Drivers

Serbia’s introduction of a rewards program for its courts reflects **three** of the five key dimensions for successful public sector innovation.

Lack of **institutional capacity** to reduce backlogs in Serbian courts was what motivated the Supreme Court of Cassation (SCC) to create the rewards program. The program incentivizes courts to look for creative ways to improve their capacity to reduce backlogs; it also encourages underperforming courts to build capacity by learning from better-performing peers. In some cases, courts were able to increase capacity by bringing in additional help for judges to prepare cases, while other courts have redesigned their business processes to optimize judges’ caseloads.

Incentives are a key performance management tool, but judiciaries have been slower to adopt them than other parts of the public sector. Serbia’s court rewards program sought to change that. Prizes for winning courts are set at a level that aims to motivate behavioral change without creating perverse incentives. As well as the monetary prizes, the annual ceremony to celebrate prizewinners acts as an additional incentive for courts to optimize resources and improve performance.

Transparency in how prizes are awarded was critical to the success of the program. The SCC uses its case management system to track progress on reducing backlogs, and regularly publishes data online so that each court can easily compare its performance with others. In addition, measuring performance to determine the winners had to be a fully transparent process, so the SCC chose the reward categories in which performance was easily quantifiable and verifiable.