



Q&A with YUCOM on 'Supporting the Judiciary in Combating Corruption in the Western Balkans'

1. Q: Can you demonstrate how the network and trial monitoring methodology is making a difference in reforming the judiciary?

A: Trial monitoring gave us in all three countries good ground for further work on combatting anti-corruption. With data collected, our argumentation was strengthened. In all three countries specific relations between CSOs and other stakeholders were built as a result of the PTF funded project. In Serbia, YUCOM established close link with Anti-Corruption Agency, Anti-Corruption Council, parts of the judiciary, representatives of the High Court of Cassation, Ministry of Justice and other bodies.

YUCOM's reports and findings were presented to the World Bank Serbian Judicial Functional Review (SJFR) during 2013 and 2014 and we spoke on findings with the team drafting this document. Namely, it was presented to Ms. Georgia Harley, World Bank Public Sector Specialist¹ and Mr. Srdjan Svircev from WB Belgrade Office along with the other representatives of the WB team. YUCOM got the opportunity to submit comments to the first version of the SJFR and they were included in the final draft.

WB presented the document on the meeting in Brussels in February 2015 attended by State Secretary of the Ministry of Justice, WB officials in Brussels, representatives of the DG Enlargement and YUCOMs director. Web portal became a good tool to show the findings and to gather other relevant material.

Also, in Bosnia and Croatia, partners had direct contact with stakeholders and trial monitoring helped them raise the level of professionalism and to gain attention of the stakeholders. In the process of EU integration, the thing needed is data, to see the starting point and to measure impact of the reforms. Some of the findings, in Croatia specifically problems addressed within the project, were stated at the final stage of the EU negotiation process. We all have direct contacts with the EU Commission and EU Delegation in all three countries. Also, YUCOM was on the GRECO meeting in Belgrade, where we discussed issues seen while

¹ Available at: <http://www.mdtfjss.org.rs/en/news/2015/serbia-judicial-functional-review-stakeholders-perspective> and <http://www.mdtfjss.org.rs/archive//file/resources/Serbia%20Judicial%20Functional%20Review%20Concept%20Note%20-%20Final.pdf>



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implementing the project. These advocacy activities were backed with the data collected.

Some specific questions are stated below. They are framed within a 'lessons learned' rubric in order to clarify what components of the methodology are accomplishing what they aim to accomplish, and which components need to be revised (and why) so as to maintain progress toward judicial reform.

4. Q: How has the use of a technology-based, 'network' (as a tool) improved transparency in exposing corruptive elements of the judiciary?

A: Giving the fact that three partner organizations work within different countries and slightly different judicial systems, disregarding possible field actions, perfect way of cooperating on the daily level is through web platforms or social networks. Partners have raised awareness, not only by posting daily reports and possible problems, but also media articles dealing with corruption and articles on corruption cases before the courts. This is the first chance for broad public to get familiar with the flow of criminal proceeding in cases with corruptive elements and show what kind of corruptive behavior can be punished by the law and what are the impediments for punishment. Partners have received comments and e-mails from people who wanted to draw attention on existing, but not processed cases in their community. At this moment YUCOM received data on a case concerning the Smederevo Steel Company (former owner is US Steel) and it is now owned by the state and is a subject of tender. It is a link between the fraud and misconduct that one of the employees reported and because of that became a subject of mobbing of the superior.

Also, other added value of the joint action was that the members of the judiciary – judges, prosecutors, even the defense, perceived the monitors who had shown up as expert public. Of course, because of previous actions in Serbia the case was as aforementioned and in BiH and Croatia this was the first time that someone has shown the interest for these cases, so it was expected to come upon some obstacles. As mentioned in the Final Report some other organizations and individuals in partner organization's countries were interested in our activities and wanted to make the action broader so we see the potential for broadening the network.

5. Q: How has the partnership among three countries in this pilot project strengthened the overall approach? What advantage is there to a regional group?

A: The overall approach has been straightened first of all by the networking of the organization working in the similar judicial systems such are the systems of Croatia, Serbia and Bosnia. The point was to exchange as much opinion and





good practice. Regarding the fact that Serbian system has newly accepted the adversarial approach and Croatia and BiH have already got used to this approach. On the other hand Serbia had much more experience in monitoring trials for corruption and organized crime than other two countries, so the initiation of these processes by itself was a success. High level of understanding and cooperating with the representatives of judiciary in Serbia was certainly important to show the good practice in the region.

Unfortunately, as we wanted the partners to follow our steps in commencing this cooperation process (such as organizing meetings with the presidents of the courts and state prosecutors) this wasn't accomplished because there hasn't been a will of these actors to be included in the process of empowering their institution through comprehensive monitoring. This has to be the focus of the further actions and launch some new ideas of overpassing this kind of noncooperation with judiciary. In this approach there has to be more examples related to the countries of region. Also, good practice in one country, in the process of EU negotiations, should be used in order to raise the level of support to the monitoring activities in the other countries in the region. It should be also used to raise the level of cooperation between different stakeholders within one country.

6. Q: What has been learned about a focus on trial monitoring as an effective approach (i.e. best use of human and fiscal resources) to judicial reform?

A: It has certainly influenced the direct and more precise implementation of the laws, especially when it comes to the procedural part. Regardless the fact that there were different opinions of the members of the judiciary on monitoring process, the procedure was always highly respected when monitor was present. For the future monitoring activities there needs to be a higher number of monitors involved, so the trainings for future monitors should be of greater scope and should include more interested students. This way broader scope of trials can be monitored so the results of monitoring process will be more precise.

We could clearly see the impact of the monitoring on the recently concluded case of Mile Lovre from Zrenjanin (case before the court out of Belgrade). On the 20th of February he was liberated of all the accusations. Monitors have commented that the process was highly politically influenced which could be seen at the beginning of the monitoring process and by its end the procedure was respected correctly and upon the given evidence and proves he was liberated.

Also, YUCOM, with several other organizations in Serbia has successfully raised the issue of the possible irregularities spotted in analyses of the call for proposal on around 2.5 million \$ that Ministry of Labor had published at the end



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of 2014. Our action brought to the savings in the budget of Serbia and we stopped the obvious fraud. Namely, after receiving the results of the call for proposals, we saw that half of the organizations from the list of future project implementors are registered only few months before the call for proposal, some of them even after the call for proposal. We have also found that many of the organizations submitted the same projects, only changing the name of the city where they will be implemented and many organizations were registered on the same addresses, and there are examples that two organizations were opened by husband and wife, on the same address and they both got grants. YUCOM submitted criminal charges in November 2014 and we are waiting for the response of the prosecutor office. Ministry decided to stop the allocation of funds on these organizations and they claimed that they were not organizing this scheme, although the data that we submitted to the prosecutor's office speak differently.²

As for the judicial reform, within the chapter 23, we had the chance to influence the process of judicial reform and to open topics that we saw within the monitoring process. Just as an example, we could name the lack of capacity of the judges and prosecutors to understand economic expert witnesses testimonies.

7. Q: If the focus on trial monitoring continues, what, if any, changes will be made to the overall training programme?

A: The trainees would be thought more about the new CPC and changed jurisdiction of the courts. As aforementioned there should be more training sessions throughout the involved countries, especially where there are Law schools or Legal clinics in order to get more volunteers and students to monitor trials and to attract public to follow the cases, not only when someone is arrested, but also during the process. It is visible in all countries that presumption of innocence does not exist and media are there instead of the court, they bring verdicts, even before the trial starts.

Focus should be put on the reporting techniques and principles of monitoring. There also could be a lecture on how to spot the problem within the community before the first phase of the proceedings.

8 Q: There is an emphasis on strengthening the capacity of civil society organizations as a way to stimulate judiciary to combat reform. How has the experience of this pilot project informed this objective?

A: The partners have tried as much possible to raise awareness on the existing problems in processing the criminal offences with elements of

² Available at: <http://www.blic.rs/Vesti/Drustvo/520657/Slucaj-Vulin-Udruzenja-gradjana-traze-krivicnu-odgovornost-za-ponisten-konkurs> and http://www.b92.net/info/vesti/index.php?yyyy=2014&mm=12&dd=04&nav_id=932280.





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corruption. We encouraged the organizations which deal with democratization and role of law issues to participate in trainings. That is the reason why we wanted to include as much organizations as possible in order to straighten the front of CSOs which can track the progress of judicial reforms.

Allied front can easily spot the main problems and by the reports and advocacy activities influence the possible change. Through recommendation given in the report we have emphasized the importance of respecting and following the procedure as well as empowering Prosecutors' offices which have become much more important actors in these cases. In the meetings with the prosecutor's deputies we have spotted all the possible problems they face within the reform process which we have later addressed in the recommendation. This was the result of the higher level of cooperation of expert public. We have also described above some of the cases where jointly CSOs reacted on some of the corruption cases.



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