



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04



Mission Report

Strengthening Institutional and Administrative Capacities of the Stakeholder Institutions with regard to the Enforcement Monitoring System

MISSION REPORT

Activity

Activity 2.1.4:

Preparing recommendations for improvement of coordination and communication mechanisms between stakeholders within the enforcement system, taking into account legal framework and monitoring responsibilities proposed through result 1.1. (*Strengthening institutional and administrative capacities of stakeholders institutions*)

INDEX

1. EXECUTIVE SUMMARY	2
2. SUMMARY OF FINDINGS FROM PREVIOUS AUDITS AND INVESTIGATIONS WITHIN THIS PROJECT	4
3. SELECTED CONCLUSIONS OF PREVIOUS ACTIVITIES.....	9
3.1. Conclusions from legal approach	9
3.2. Conclusions from organizational approach.....	9
3.3. Conclusions related to IT	10
3.4. Conclusions from qualitative approach.....	11
4. RECOMMENDATIONS	12
4.1. Recommendations related to coordination and efficacy of the enforcement processes	12
4.2. Recommendations related to better communication and efficiency of the system.....	13
4.3. Other Recommendations	16



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

1. EXECUTIVE SUMMARY


EXECUTIVE SUMMARY	
Experts	Ms. María Rosario Palacios González Mr. Javier Luis Parra García
Mission	Activity 2.1.4: Preparing recommendations for improvement of coordination and communication mechanisms between stakeholders within the enforcement system, taking into account legal framework and monitoring responsibilities proposed through result 1.1.
Dates	April 13 – 24, 2015
Places	Zagreb
Objectives	<p>Main objective: to prepare recommendations for improvement of coordination and communication mechanisms between institutions involved in civil enforcement taking into account the information obtained from previous activities under result 1.1.</p> <p>As specific objectives this activity pursues:</p> <ol style="list-style-type: none"> 1. To work in close cooperation with two representatives from the beneficiary institution, as stated in the contract. 2. To study conclusions and previous recommendations achieved through activities implemented under result 1.1. 3. To conduct further consultations with stakeholders, if necessary. 4. To gather any complementary information that can be useful to clarify previous reports, if needed. 5. To draft a report that will be thoroughly discussed with BC PL and representatives from the beneficiary institution, in order to agree on the recommendations. 6. To deliver final report with recommendations for improvement of coordination and communication mechanisms between stakeholders



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

	within the enforcement system.
Methodology	<ul style="list-style-type: none"> ■ Classification, analysing and processing of findings from previous reports ■ Interviews of verification with prominent stakeholders ■ Updating and checking of key conclusions ■ Preliminary identification of recommendations ■ Cross-checking of recommendations with BC PL and representatives from the beneficiary institution ■ Validation of final recommendations
Recommendations 	<p>Recommendations classified into three groups:</p> <ul style="list-style-type: none"> ● 4.1. Recommendations related to coordination and efficacy of the enforcement processes ● 4.2. Recommendations related to better communication and efficiency of the system ● 4.3. Other Recommendations <p>(See Section 4 of this Report)</p>



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

2. SUMMARY OF FINDINGS FROM PREVIOUS AUDITS AND INVESTIGATIONS WITHIN THIS PROJECT

ACTIVITY 1.1.1 Analysis of the legal framework (laws and bylaws regulating the enforcement system in the Republic of Croatia)

- There is a need for supplementary institutional strengthening of judges, bailiffs, notaries and other legal practitioners potentially involved in enforcement tasks.
- Some legal provisions on interruptions of enforcement and procedural requirements may be considered unnecessary obstacles to enforcement: excessive number of legal remedies; additional litigation proceedings; excessive number of hearings to the parties; duality of competent enforcement agents depending on the type of property; dispersion of competent authorities for a single enforcement case depending on the territorial location of the debtor's property. There are some legal barriers to enforcement that should be reviewed, particularly in relation to unnecessary obstacles to enforcement and the dispersion of competent authorities depending on the territorial location of the debtor's property.
- Enforcement tasks under responsibility of Bailiffs (*Sudski Ovršitelj*) and FINA are not comparable. The monetary assets investigation and attachment of cash from the debtor's account implies a less complex activity than the enforcement on immovable or movable assets (attaching, appraising, seizing, dispatching, entrusting and auction).
- Although ADR and mediation mechanisms during the enforcement procedure may play a complementary role in the workload reduction and strengthening of social cohesion, there is a lack of specific regulation on mutually agreeable solutions, mediation or other ADR system within the framework of enforcement procedures.
- IT resources in the Courts and interoperability standards may provoke result in inefficient workflow between parties, enforcement agents and competent agencies (FINA).
- Although bailiffs may work as a pool for several courts, there is no evidence about implementation of centralized Court Enforcement services or Court services dealing with enforcement procedures under rationality and efficiency criteria. It is desirable to evaluate the appropriateness of implementing centralized court common services specialized in enforcement procedures by applying economies of scale and scope based on criteria of rationality, quality, accountability, transparency, efficacy and efficiency.



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

- While some bodies (such as FINA) has obtained ISO 9000 certification, the research shows that there is no comprehensive Strategic Quality Plan in regard to enforcement procedure.

ACTIVITY 1.1.2 Analysis of the technical execution (overall process of involuntary collection of claims and problems which occur during the procedure) of different types of enforcement procedures known by the Croatian enforcement legislation.

- The reliability of the available statistical information can be improved. Any modern organization operating within the Information Society needs to rely on reliable statistical data. There is a room for improvements in relation to the registration system within the municipal Courts. The current rules imply counting the same enforcement proceedings more than once. Furthermore, statistical data confirm the need to reduce administrative barriers. For instance, changing of the objects of enforcement and obliging to file a new motion and registration seems rather burdensome and contributes to prolonging the procedure. Due to the complexity of the enforcement procedures, legal provisions and court practices, the rate of pendency of movable and real state represents an extremely high percentage in comparison with monetary claims.
- Most of the stakeholders consider that overall time efficiency of enforcement is low or very slow. There are no significant differences between judicial and non-judicial decisions in this respect. The main complaint of users concerning the enforcement system refers to the excessive length and excessive cost of the procedure.
- The lack of mandatory deadlines is perceived as obstacle in order to reduce the backlog. More than a half of respondents identify that the most important legal obstacles to the enforcement of judicial decisions are linked to the excessive number of legal remedies, the hearings to the parties and the dispersion and duality of competent authorities. Besides, certain measures are unnecessarily depending on the motion of the parties. The Court is too dependent on the dispositive principle with no space left for the court measures without the initiative of the parties, ex officio.
- The main practical and operational obstacles in the enforcement procedure are integrated by the slowness of procedure, the excessive backlog and the lack of uniform criteria and effectiveness.
- Stakeholders identify the lack of a central register of movable and immovable property as a crucial weakness of the enforcement system.
- The absence of a centralized and specialized judicial unit (or service responsible for all enforcements) is considered a challenge in order to improve the enforcement system.
- Privatization or outsourcing enforcement services is not considered an appropriate measure in order to improve the enforcement system.



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

- Some legal provisions on interruptions of enforcement and procedural requirements are considered unnecessary obstacles to execution¹.
- Despite the positive efforts made with the *Mirenje* program, mediation or other ADR system within the framework of enforcement procedures remains as unknown alternative for the enforcement phase among the vast majority of legal practitioners.
- Although there is specific software in process of full implementation, an electronic case management system (named e-SPIS), the lack of interoperability standards (between court services and other entities) may result in inefficient workflow between parties, enforcement agents and competent agencies (for instance, FINA).
- All legal practitioners agreed on one key point and all highlighted the need to give more efficiency to the notification systems; from both approaches, from the citizen perspective (in relation to the debtors), and from the legal practitioners' position (absence of any electronic system of notification to the lawyers). This latter lack implies a waste of time and budget for the Court).
- The current status of internal organization in Zagreb (Judges + assistant; Legal Advisors + assistant and administrative services under one coordinator) and the workflow between the different units may entail inefficiencies. Besides, there is a duplication of efforts and automation of the tasks which limits its internal capacity of response.
- Since the number of legal advisors far exceeds the rate of Judges specialized on enforcement cases, legal advisors account for the lion's share of tasks: preliminary advises, proposals for Judges' decisions and signing on their own some procedural decisions.
- Within the so called "*Kancel*" (a sort of administrative Court department of the Municipal Court of Zagreb) there are several units of administrative staff in support of Judges and Legal Advisors. Experts understood that there is a room for introducing greater rationalization. There is a need to modernize the way the Organization carries out its day-to-day work, by streamlining and simplifying the processes.
- Certain measures are unnecessarily depending on the motion of the parties. The Court is too dependent on the dispositive principle without any space left for court measures without the initiative of the parties, *ex officio*.

ACTIVITY 1.1.3 Comparative overview of enforcement monitoring systems with similar features of enforcement system as in Republic of Croatia.

¹ As pointed out on Section 2 of Report of Activity 1.1.1.



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

- There is a need to reliable statistical data in order to have a more effective monitoring system.
- A large number of legal remedies hinders the effective control of the enforcement proceedings therefore simple and transparent system of legal remedies should be applied to be able to monitor the proceeding efficiently.
- There is a lack of performance appraisal of enforcement activities. Periodical evaluation guarantees the professionalism.
- Disciplinary measures can be applied in order to minimize the shortcomings and the number of unlawful actions of the enforcement agents.
- There is a need of a proper IT system connected to several state registers for locating the debtor's assets what could contribute to the efficiency of enforcement. The use of such IT application needs to be monitored on a regular basis and by qualified professionals.

ACTIVITY 1.1.4 Round tables (inputs for improving enforcement monitoring system)

- Current statistical data are not completely reliable. It would be useful to have just one body compiling the data. The current IT system could be a good base for further improvements.
- The legal framework of disciplinary proceedings seems to be good and clear, but there are some troubles with the practical implementation. The outcomes of disciplinary proceedings should be more transparent.
- There is a need for exploring new ways for citizens to complain.
- Too many legal remedies make the enforcement proceedings slow and lengthy.
- There is a need for more evaluation and monitoring.
- Procedural deadlines are merely instructed.

ACTIVITY 1.1.5 Recommendations for improvement of enforcement monitoring system

- The supervision and control of courts can be entrusted to an independent and specialized body with staff dedicated exclusively to inspections tasks. There are no virtual inspections from IMCS.
- Statistics data should be collected directly from the IT management system in order to guarantee the gathering of reliable statistical information. Even the old enforcement cases that are collected and sent separately from the new ones.
- There is a need for having an overview of the statistical data from the different enforcement entities (Courts, FINA and Notary Chamber).
- Necessity of a well-developed complaint-handling mechanism for citizens.
- Excessive number of legal remedies because it hinders the effective control of the enforcement proceedings.



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

ACTIVITY 2.1.1 Communication procedures and mechanisms for information exchange between relevant institutions

- There is a lack of an IT application that enables a bidirectional communication, between the Court and the different enforcement stakeholders or legal operators, safe and under the guarantees of electronic signature, available for consultation 24 hours a day.
- The communication procedures among Municipal Courts, Ministry of Justice, Ministry of Finance, Bar Association, Ministry of the Interior and FINA are fundamentally in writing. In most cases only hand stamped documents dispatched by the competent authority are admitted by the courts with jurisdiction in the enforcement as legally valued documents.
- There is a deficiency of interconnection (interoperability) among the databases of the enforcement agents concerning the addresses and properties. (Tax Administration, FINA, Ministry of Internal Affairs).
- Apart from the Unified Register of Accounts, no centralized database on debtors' movable and immovable property is available. Therefore, the enforcement stakeholder is compelled to submit a written request in order to obtain a certified document.
- There are some IT applications or web pages that allow the access to information related to the enforcement but they are not updated, or they do not insert all files or not from all courts of the Republic of Croatia, which makes them unreliable for stakeholders.
- IT application from FINA compared to IT application from municipal courts, the Ministry of Justice, the Ministry of Finance and Ministry of Internal Affairs is more developed because of a budget fact.

ACTIVITY 2.2.3 Round tables (inputs for improvement of cooperation between stakeholders participating in the enforcement system)

- There is a pressing need to professionalize and centralize the enforcement functions.
- There is a room for greater efficiency of the current system. It is possible to obtain better results by putting in place specialized units or services that may assume the enforcement tasks on a harmonized way of practice.
- Stakeholders demand implementation of IT solutions for the enforcement procedures: interoperability, secure electronic communications...particularly a unique central database with all the information on properties of all natural and legal persons.



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

- Excessive legal barriers to enforcement such as excessive number of legal remedies.
- Stakeholders identified the need to reinforce the court or enforcement agency powers in order to act on its motion (*ex officio*).

3. SELECTED CONCLUSIONS OF PREVIOUS ACTIVITIES

3.1. Conclusions from legal approach

1. Some legal provisions (such as excessive number of legal remedies; additional litigation proceedings; excessive hearings to the parties; dispersion of competent authorities for a single enforcement case depending on the territorial location of the debtor's property, etc.) can be legal barriers to the enforcement and therefore may represent unnecessary obstacles to enforcement.
2. Courts are too dependent on the dispositive principle with no space left for certain procedural measures without the initiative of the parties, (*ex officio*). There are no expectations in order to open a reflection on the validity of dispositive principle and the need of ensuring the procedural handling during the enforcement stage.
3. There is a need of drawing a regulation of secure electronic delivery of documents to lawyers and other stakeholders.
4. Procedural deadlines are merely instructed. The lack of effective deadlines with consequences may hinder a faster procedure.
5. **Territorial jurisdiction.** When debtor's real estates are in different judicial districts, rules on territorial jurisdiction for initiating an enforcement procedure compel creditors to file so many proceedings as immovable properties.
6. Despite the positive efforts made with the *Mirenje* program, the absence of effective **mediation mechanisms** during the enforcement procedure does not permit the reduction of litigation and the rate of pendency.

3.2. Conclusions from organizational approach

7. Initial and continuous **training.** High quality training is important for the service of justice and to increase the trust of users in their justice system so, all personnel involved in the civil enforcement should be required to follow specific training, especially when the applicable legislation is modified.



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

8. **Organization of Court enforcement services.** It is possible to gain efficiency and obtain better results with creation of centralized court common services specialized on enforcement procedures based on criteria of rationality, quality, accountability, transparency, efficacy and efficiency under the supervision of the one single specialized Judge. It is possible to obtain better results by implementing specialized units or services that may assume the enforcement tasks on a harmonized way of practice.
9. **The role of Court Advisors.** It is possible to gain more efficiency by reinforcing the role of Court advisors, taking into account that the number of these professionals far exceeds the rate of Judges specialized on enforcement cases. In this manner the Judge's role could be focused on the very jurisdictional issues, such as appeals against decisions adopted by Court Advisors and some enforcement judges could be appointed (relocated internally) in other areas of the Municipal Court.
10. **Administrative services and Court Advisors.** There is a room for giving more important role to the enforcement court department, the "Kancel" (the administrative office for processing and handling the proceedings as well as serving of documents).

3.3. Conclusions related to IT

11. **Electronic access to debtors' property information.** The lack of a unique centralized database on debtors' assets (bank accounts, movable and immovable) property represents a practical obstacle for a more effective enforcement.
12. **Interoperability.** The interoperability is defined by de IEEE as "*Ability of a system or a product to work with other systems or products without special effort on the part of the customer. Interoperability is made possible by the implementation of standards²*".
The lack of interconnection or interoperability among the databases of the enforcement agents concerning the addresses and properties (Tax Administration, FINA, and Ministry of Internal Affairs) provokes as result an unnecessary workflow between parties, enforcement agents and competent entities
13. **Digital signature.** One of the main weaknesses of the Croatian Enforcement System is the lack of digital signature. The digital signature grants the same legal value at the electronic document as the paper hand-stamped document. The use of

² Institute of Electrical and Electronics Engineers (IEEE) - http://www.ieee.org/education_careers/education/standards/standards_glossary.html



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

electronic documents will drastically reduce the use of paper and therefore the enforcement activity would be more productive.

14. **Secure Code Verification.** Electronic documents have to use secure code systems for document verification in the development of automated actions. The practical absence of this code does not allow the verification of the integrity of the document.
15. **Electronic communication.** The enforcement process of a e-Justice system has to empower the citizens and professionals by providing them electronic services that allows them to interact electronically with Justice Administration. The inexistence of an IT application enabling a bidirectional communication (between the Court and different enforcement professionals and entities) hinders efficiency and slows down the enforcement proceedings.

3.4. Conclusions from qualitative approach

16. Since a comprehensive **Strategic Quality Plan** in regard to enforcement services is not implemented it is not possible to apply quality management policies for the sake of Croatian stakeholders, entities, professionals and citizens.
17. All the enforcement systems seek to be as much efficient as possible. The absence of **performance appraisal** (monitoring system of enforcement) for the benefit of the MoJ restraints to have the right information in right moment assuring the maximum efficiency at minimum cost.
18. To rely on a well-developed **complaint-handling mechanism** allows to obtain the necessary information in order to identify general strengths and weaknesses in the enforcement system.
19. **Reliable statistics.** The current registering and basis of accounting enforcement new cases is provoking unnecessary duplication of efforts. Besides, the recognition criteria may not offer a reliable insight of the state of play.



Improvement of the Enforcement System in the Republic of Croatia
Contract Number: 2010-01-23-010101
Twinning Number: HR/10/IB/JH/04

4. RECOMMENDATIONS

4.1. Recommendations related to coordination and efficacy of the enforcement processes

COORDINATION PROTOCOLS



Action Protocols need to be established to improve the coordination between different institutions involved in the enforcement.

How? Particularly, it is advisable to have action protocols between Courts and Police or Ministry of Internal Affairs –and competent authority for social welfare to coordinate actions in case of evictions with children or disabled. Likewise, it should be necessary to create a Protocol for the regulation of the information exchange between FINA and Courts and the same one with other institutions such as Tax administration, Chamber of Notaries, Ministry of Internal Affairs, and Ministry of Finance.

Benefits. These instruments would optimize the interrelationship and smooth mutual processes by avoiding problems or disagreements that may arise when different bodies develop co-performances or data must be exchanged.

ONGOING PERFORMANCE APPRAISAL



A monitoring tool (control panel or scoreboard) of the enforcement system is recommended for the benefit of the MoJ.

How? Dashboards are an innovative IT that allows an efficient and transparent measure of the enforcement activities. The proposed dashboard should provide updated and online information about different enforcement indicators: number of pending cases, number of incoming cases, clearance rate, time required to complete the enforcement, etc. among others. It can be shown in various views, such as table, graph or other innovative way. Users can examine and analyze results, print as PDF or HTML, save as PDF, or export them to a spreadsheet.

Benefits. Dashboards could provide customized views facilitating data of performance indicators of each court in comparison with others courts from other judicial districts.



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

This should allow having the necessary information in order to adopt policies assuring the maximum efficiency at minimum cost.

4.2. Recommendations related to better communication and efficiency of the system

ACCESS TO DEBTOR'S ASSETS



It is recommended to centralize in one single network node all the information about debtor's property.

How? The node would work as a hub for debtor's assets information at national level. It would imply a Web central unit connected to several State registers for tracking down the debtor's assets: cadasters, land registries, registry of the registered vehicles and vessels, etc.

Benefits. The system would avoid the burden of requesting information to several entities for the same debtor.

REGISTERING AND STATISTICAL CRITERIA



It is crucial to review the current registering criteria and the basis of accounting new enforcement cases avoiding that one single enforcement case provoke few different proceedings or files.

How? One single procedure for each case: a unique file case number should be assigned and this reference should be kept out until it is definitively archived.

Benefits. This proposal would revamp the registration of enforcement cases avoiding duplication of efforts and assuring more reliable statistical information.

INTEROPERABILITY



Full interoperability among the different enforcement entities, agents and courts would optimize the workflow.

How? As it is already happening with the Tax Administration, the ICMS should integrate the adequate information provided by all organizations or bodies involved in the enforcement- (FINA, Ministry of Finance, Ministry of Internal Affairs, Chamber of Notaries, etc. The interoperability should be extended to all



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

the entities and agents with which court have communications. Therefore it is necessary to define interoperability guides and to follow the interoperability standards and Security Framework.

Benefits. The exchange of data and information between different stakeholders would be optimized.

BIDIRECTIONAL SECURE COMMUNICATION SYSTEM



The current system of paper notifications from courts to the legal practitioners needs to be modernized. Therefore, a secure bidirectional electronic communication system should be implemented allowing electronic delivering of judicial documentation to the professionals (lawyers).

How? It has to be set up in form of mailboxes for professionals, identified by OIB number in order to identify unequivocally each user and under the guarantees of electronic signature³.

Benefits. This IT application would enable a faster communication system between the Court and different enforcement professionals (and entities). This will imply a reduction of paper, shipping cost, time and terms. Communication is done in a fast and safe manner, using electronic signatures, through a friendly interface.



On the other hand, since a bidirectional secure system is proposed, the same tool should allow **electronic submission** of lawsuits, claims and petitions from legal practitioners addressed to the courts.

How? As a prerequisite, the establishment, regulation and development of digital signature is essential in order to guarantee the requirements of authentication, integrity, non-repudiation and reliable time stamping of the electronic document. Electronic Signature legislation must be adapted to the European Union Regulation⁴. The electronic service should be available to all professionals. This electronic communication system shall be safe and under the guarantees of electronic signature, accessible 24 hours and 7 days a week.

Benefits. This electronic communications system represents an alternative solution to the use of paper documents. It would permit to courts the submission of writs, reports

³ See Report Activity 2.2.1. page 44

⁴ Last regulation in this field is the UE Regulation 910/2014 on electronic identification and trust services.



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

and documents to courts in electronic format avoiding unnecessary travelling, reducing shipping costs (an average of 2.03€ per notification).

The bidirectional communication system, linked to the advanced digital signature, would imply additional benefits⁵:

- ✎ Authentication (the accreditation, by electronic means, of the identity of a person, entity or agency).
- ✎ Confidentiality.
- ✎ Integrity (protection of a document against alteration or modification).
- ✎ Non-repudiation: the above requirements allow compliance/fulfilment. It is used to ensure that no party can deny the authorship of a transaction or a particular document.
- ✎ Time Stamping: allows certainty, by a trusted third party, that a particular document was signed at a time without controversy on the hour.

OPTIMIZATION OF THE DELIVERY SYSTEM TO THE PARTIES AND THE DECLARATION OF DEFAULT



It is crucial to simplify the current delivery system to enforcement debtors by reducing the number of mandatory notifications addressed to enforcement debtors⁶.

How? Regarding that system, we were explained that they are facing the following problem: in cases when the delivery to the party was not carried out successfully because the postal service provider left a notification to the party that the shipment shall be picked up in the post office within five days, than the party failed to pick up the shipment, so the shipment was returned by the postal service provider to the court with the indication "Informed, failed to collect the shipment". In that case, the court may repeat the delivery many times, and the party may continue to avoid picking the shipment up. It would be necessary to extend the deadline by which the party may pick up the shipment from the actual 5 to 15 days, and to indicate, on the notification left by a postal services provider, the court which sent the shipment and the number of court file case. In the event that the party fails to pick up the document, the court shall repeat the delivery. In the case when the shipment again fails to be picked up by the notified party, the document shall be published on the bulletin board of the court with a legal presumption that delivery has been made properly.

⁵ See Report Activity2.2.2, page 30.

⁶ Despite positive progress made with the Enforcement Act in 2014, further steps can be done in this issue.



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

Even a **further step** could be taken by means of legislating, as other EU MS procedural regulations, on the legal concept of **declaration of default** (the failure to appear in a court of law when somebody is summoned in its registered official address). The defendant and debtors may be notified by mail the decision which declares the default if his address is known and, if it is not known, notification shall be made through a public announcement (edicts) published in the bulletin board. Once this notification has a legal presumption and no other notification shall be made, except for notification of the decision which terminates the proceedings.

Benefits. This recommendation will allow the increased efficiency in reducing case processing time while ensuring the due process in accordance with the procedural provisions established for this purpose in many EU Member States.

4.3. Other Recommendations

TERRITORIAL JURISDICTION



It is advisable that just one single jurisdiction is entrusted with the enforcement proceeding of a title document or trustworthy document⁷.

How? Claimant would pursue enforcement action against debtor no matter where assets are located, even if the immovable is placed in different judicial districts. In the case of enforceable court decision the territorial jurisdiction could be the same court that rendered the decision. In the case of trustworthy document, the court whose area covers the permanent residence of enforcement debtor may be competent.

Benefits. Reduction of number of enforcement cases and costs.

COURT ADVISERS AND COURT SERVICES



It is desirable to evaluate the convenience of launching centralized court common services specialized on enforcement procedures based on criteria of rationality, quality, accountability, transparency, efficacy and efficiency under the supervision of one single specialized Judge.

How? This would imply to give a more substantive role to court advisors. In this manner the Judge's role could be focused on the very jurisdictional issues, such

⁷ See Conclusion 5 of Section 3.1. of this Report.



Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101

Twinning Number: HR/10/IB/JH/04

as appeals against decisions adopted by Court Advisors and some enforcement judges could be appointed (relocated internally) in other areas of the Municipal Court.

This could be implemented by means of appointing the current court advisers (one of them acting as coordinator) to that service. In the same sense, it would be desirable to extend the Court Advisors' powers, (apart of doing motions for resolutions to their mentors) and to extend their powers for signing their own decisions. On the other hand, it is necessary to professionalize the supervision of the *Kancel*. In this manner, the ongoing transfer of cases, judicial records and files from court's rooms to the office could be reduced significantly; likewise much of the administrative work done by the judges and Court Advisors' assistants could be implemented within this expanded/enlarged office.

Benefits. To gain in rationality, quality, accountability, transparency, efficacy and efficiency. Enforcement tasks implemented on a harmonized way of practice permit more legal certainty.