

Joint Review 2006: Justice Sector Report

1. Executive Summary – Main issues

In the justice sector there are signs of progress, however the challenges to substantially increase the quality of service delivery and the access to justice are big. The need to strengthen the integrated planning mechanisms (PEI and POPEI) and those of internal control, continues to affect the service delivery but is expected to reduce with the conclusion of the Vision and the establishment of an Integrated Monitoring and Evaluation System, currently under discussion.

The assessment of targets and results for the justice sector during 2005 shows some advances, while at the same time the challenges to substantially improve service delivery and access to justice for the citizens are increasing. Progress was noted in relation to the processing of cases by the courts. Also the Public Prosecution increased productivity. Yet, the interpretation of the official data does not permit to deduct a concrete improvement of service delivery for the majority of the population neither an increased access to justice.

Also notable is a reduction in the number of prisoners awaiting trial. Despite this fact, the sector, in general, continues to be confronted with an annual increase in the number of cases, the overcrowding of certain prisons and the insufficiency of resources for legal assistance. Some achievements were reached in legal reform, including the approval of a new Commercial Code and Civil Process Code. The target in relation to the Penal Code was not met, and the prison legislation was concluded in 2005 but not approved in due time. Some positive developments in the legislative reform are not adequately reflected by the indicators.

The indicators related to the Vision process of the sector, the revision of planning instruments and creation of a harmonized monitoring and evaluation system were not met. From a financial management point of view the completion of an internal audit in the Ministry of Interior was positive. Notwithstanding some positive results, it is recognised that the society still has a negative perception of the sector taking into account the eagerness of the population to see many cases resolved that were submitted to the institutions of the administration of justice.

The main achievements in the area of anti-corruption were the capacity strengthening of the *Gabinete Central de Combate a Corrupção* (Anti-Corruption Office), both institutional and in terms of resource allocation, the publication of the study of the judges' profile and the replication of the same study for public prosecutors and court officers. Within the scope of the current national strategies, the sector is all together capable of following-up the development of the sectoral measures towards the prevention and fight against corruption and to produce tangible results.

Given the complexity of the integrated strategic planning, associated with changing political factors, such as the revision of the Constitution in 2004, the formulation of a Vision document for the justice sector was not concluded as foreseen. Yet there is a notable development with the revision process of it: the preliminary version is foreseen to be concluded by the end of July of this year. The establishment of the Integrated Monitoring and Evaluation System was also not concluded, as it is prepared

concurrently to the Vision process, and thus subject to the same calendar for the conclusion of its first phase. A better integration of the justice sector must be guaranteed during the formulation of the second phase of the public sector reform, as well as, an improvement in the financial and administrative management, including the implementation of SISTAFE.

2. Performance Evaluation - 2005

A few critical aspects were registered, based on the PAF indicators and regarding the actions carried out during the period; these issues are being dealt with as follows:

- 2.1 *Strategic Planning* - The vision formulation process was resumed with the internal debate of the document draft version. From that debate inputs were provided as to improve the formulation and bearing in mind that a broader consultation will follow. Simultaneously with the vision process the establishment of the Integrated System for the Sector Planning, Monitoring and Evaluation was initiated, in accordance with the national implementation of the Electronic Government Strategy.
- 2.2 *Legal Reform* - Here it should be noted that not all the laws due for 2005 were completed; among others, the following drafts were transferred to 2006: the Penal Code and Penal Procedure Code, the law for IPAJ, the Regulating Law for the Community Courts and the Reform of the Prison Administration System.
- 2.3 *Access to Justice* - The achievements made during the previous year did represent an encouraging factor towards the gradual and sustainable improvement of the quality of services delivered to the public. These achievements refer to:
 - An increase of closed cases, from 25.079 in 2004 to 40.417 in 2005; reducing the number of pending processes (103.538 in the beginning of 2005 against 93.155 by the end of that year), in spite of the increased number of new cases, 1060 more when compared to 2004. According to the international partners' perspective the increased number of closed cases in 2005 results from the peak recorded in the Police Court (7.904 closed processes in 2004 *versus* 21.682 in 2005), and as such the overall increase should not be credited to an improvement in courts efficiency. The comparative analysis of the official data reported by all other courts (Police Courts excluded) shows 18.578 of closed cases in 2004 against 18.783 in 2005.
 - The General Prosecutors Office filed 12.039 cases in 2004 versus 23.877 filed cases in 2005.
 - The number of prisoners awaiting accusation and trial was reduced, amounting to 53% against the targeted 57%. As such the proposed target was considered accomplished, even though the Ministries of Justice and Interior did not provide concrete data supporting such fact. The respective Prison Regulation

- There are other positive developments as for example the introduction of measures for increasing the registers and notary offices response capability, the simplification of the procedures regarding the application and issuing requirements of criminal records (the number of days required was reduced, from 30 to 3 days).
- Several bills have been approved within the scope of the legal reform program, as follows: the new Civil Procedural Code introducing simplified procedures, the new Commercial Code, aiming to promote and expand the private sector operations, the Decree regulating the Law 6/2004, of July 17th, on Fight Against Corruption, putting up in place the conditions for the roll out of the *Gabinete Central de Combate à Corrupção* (Anti-Corruption Office), at central and regional levels in Maputo, Beira and Nampula.

The above referred developments, carried out within the ongoing reform program, still require a better integration into the overall sector priorities, laid out in the Vision, so as to address the public needs and to bridge with the informal justice system.

In the area of human resources development actions were taken in order to recruit, train and promote the officers of the justice administration. A positive impact is being expected in the sector's performance with particular emphasis in system management at district level, whereto the allocation of the now qualified human resources is a priority.

Due to the late approval of the State Budget, the budget execution was low, and therefore it was not possible to implement the plans within six month of their approval (also due to budget cuts and late disbursement of funds). There is a persistent lack of coordination between the external funded projects and the reporting of the institutions as well as the way these are reflected in the documents issued by the Ministry of Planning and Development.

This year, the fight against HIV/AIDS has the main focus on prisons, including personnel and detainees. The Sector, in partnership with the National Commission of Fight Against HIV/AIDS, designed a specific program to be implemented by the Ministry of the Justice. The HIV/AIDS is having a strong and negative impact in the police sector capability and, therefore, the Ministry of Interior has been developing programs to fight the dissemination of the HIV/AIDS among the police officers. As regards gender equity issues, the perspectives are that the domestic violence is included in the national penal legislation.

Key Lessons learned in 2005 / Recommendations for 2006

The process of formulating a Vision of the Justice Sector was not completed according to plan because this process is a complex one incorporating matters of integrated strategic planning and impacted by political factors. Nevertheless, the process has experienced progress and its completion is expected by the end of July 2006.

Within the current year, the implementation of the *Conselho Superior da Magistratura* (High Judiciary Council) directives on inspections and the strengthening of the PGR's (General Prosecutors Office) inspection services is expected. Also within the current year the establishment of the National Human Rights Commission is expected.

The Sector performance indicators need to be reviewed in order to produce an assessment not limited to the mere quantification of procedures but capable also of reflecting the quality of the delivered services. In the same line of action, there is a need to consolidate prison management statistical data, and to reinforce the coordination mechanisms between the provincial justice administration offices and the central monitoring system, including other partners in the process.

The budget execution analysis needs to be improved, guaranteeing the harmony between the data gathering instruments laid out by the Ministry of Plan and Development and the budget performance reports issued by the Sector institutions. Between the instruments of budget and the PES, the latter needs to be adjusted to the final budget disbursement figures. The possibility should also be considered to make the budget planning process a more participative one to other interested parties.

In 2006, the Ministry of Justice is going to reform and produce legislation regarding gender equity issues, specifically for those cases in which domestic violence is involved and taking into consideration the current country reality and specificities, in order to provide greater legal protection to the victims of such offences.

The quality of dialogue between international partners, sector institutions and the civil society, must be improved. For that, appropriate mechanisms must be put in place to facilitate the dialogue and the coordination at sectoral level.

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