

**PROGRAM FOR THE MODERNIZATION OF THE  
ADMINISTRATION OF JUSTICE**

(CR-0073)

**EXECUTIVE SUMMARY**

**BORROWER AND  
GUARANTOR:** The Republic of Costa Rica

**EXECUTING AGENCY:** Supreme Court of Justice

**AMOUNT AND SOURCE:** IDB: US\$11.2 million (OC)  
Local counterpart funding: US\$ 4.8 million  
Total: US\$16.0 million

**FINANCIAL  
TERMS AND  
CONDITIONS:** Amortization period: 25 years  
Disbursement period: 5 years  
Interest rate: variable  
Inspection and supervision: 1%  
Credit fee: 0.75%

**OBJECTIVES:** The overall objective of the program is to help Costa Rica create a more equitable, accessible and dependable judiciary, enabling authorities to reduce the backlog of cases and relieve congestion in the court system. The program's specific objectives are to: (i) create a modern system of administration within the Judiciary; (ii) improve the management in judicial offices and throughout the Ministry of Justice; (iii) facilitate the access and utilization of information relating to jurisprudence, rules of law and current legislation; and (iv) provide training programs for the various officials engaged in the administration of justice.

**DESCRIPTION:** In accordance with the program's objectives, the funds for the proposed operation will be used to: (i) strengthen the administration of the Judiciary; (ii) improve the management of judicial offices, including the legal framework within which they operate, and review procedural laws that slow down the judicial process; (iii) provide training for judges, court officials and public officials; and (iv) develop and install a computerized legal-data system.

**ENVIRONMENTAL  
CLASSIFICATION:** The Environmental Management Committee, at its meeting of April 4, 1994, classified this as a Category II operation.

**BENEFITS:**

Justice constitutes a public service that is essential for guaranteeing social order and the rule of law, and promoting a favorable investment climate. As the situation stands, with its high incidence of backlogs and congestion of the courts, the Costa Rican justice system is evincing a number of deficiencies which the proposed operation is designed to correct.

**RISKS:**

The principal risk in the program concerns the legal reforms involved in the operation, namely: (i) review and study of procedural laws and proposals for amending them; and (ii) adaptation of the legal framework to the new organization of judicial offices during its gradual implementation. The risk is that the Legislative Assembly, which must approve these reforms, may fail to achieve the political consensus needed to pass them.

However, the above-mentioned risk is mitigated by the following factors: (i) the presence on the policy-making scene of the National Committee to Improve the Administration of Justice (CONAMAJ), which for some time now has been laying the groundwork for judicial reform among the various factions in the country's legislature; (ii) the reforms required under the program may be approved by the Judicial Committee of the Legislative Assembly - the Chairman is a member of CONAMAJ - without needing to go to plenary; and (iii) the Supreme Court of Justice may assume direct responsibility for using its regulations to adapt the legal framework to the judicial offices' new organizational structure, avoiding the need for legislative reform.

**THE BANK'S  
COUNTRY AND  
SECTOR POLICY:**

The Bank's strategy for Costa Rica is as follows: (i) to develop investment projects in the environmental sector in order to arrest the adverse effects of farming and urban development on the country's principal watershed areas; (ii) to consolidate the liberalization of the nation's trade and financial policies, with emphasis on the elimination of sector obstacles to private investment, and the definition of new areas of private-sector participation; (iii) to raise the level of commitment to meeting basic social needs; and (iv) to support the government's efforts at public-sector reform, modernization of the judicial system and governance.

**EXCEPTIONS TO  
BANK POLICY:**

The only exception to Bank policy is the participation of the firm INVERTEC in the bidding for the hire of consulting services to advise the Judiciary

on developing the component of management of judicial offices. This proposal is presented in greater detail in Section III C.

**SPECIAL  
CONTRACTUAL  
CONDITIONS:**

The program will have the following conditions precedent to the first disbursement of the loan:

(i) The borrower shall transfer the proceeds of the loan (on a nonrefundable basis) to the Judiciary, together with the local counterpart resources provided by the other agencies participating in the program. This will be done under an agreement which will also establish the mechanisms for the Judiciary's contributions of the local counterpart (see paragraph 4.1);

(ii) The borrower must submit evidence that it has created the executing agency with the staff needed to carry out the project (see paragraph 3.9);

(iii) Prior to the first disbursement of the loan, the Judiciary must sign execution agreements with the local agencies participating in the program (Office of the Attorney General of the Republic, Ministry of Justice, and the University of Costa Rica (see paragraph 3.9);

As a condition precedent to the first disbursement under the training component, the executing agency must:

(iv) Provide evidence that the Office of the Attorney General and the Ministry of Justice each have a representative on the Board of Directors of the Law School (see paragraph 2.10);

Other conditions:

(v) In addition, within 12 months of the effective date of the loan contract, the executing agency must submit evidence, to the Bank's satisfaction, that it has taken the legal necessary steps to implement the recommendations that followed the studies conducted under the judicial offices component, concerning: (a) procedural legislation; (b) matters that can be settled out of court; (c) the effect of legal practices on judicial backlogs in the justice system (see paragraph 2.8);

(vi) To ensure adequate supervision of the program, the executing agency and the Bank will carry out a joint annual review of progress beginning 12 months after start-up of the program. The topics for

discussion at these meetings will include those indicated in paragraph 3.17.

(vii) In the event that progress with the program is deemed unsatisfactory, the borrower - through the executing agency - shall have 60 days from the date on which the Bank makes its observations in which to report on the corrective measures it will take and the timetable for implementing them. Should such corrective measures prove unsatisfactory, the Bank may take such action as it deems appropriate in accordance with the provisions of the loan contract (see paragraph 3.19).

## I. FRAME OF REFERENCE

### A. Introduction

- 1.1 The proposed operation will be a main element of the reform aimed at making Costa Rica's judicial system more accessible, equitable, efficient and dependable. Costa Rica's civil society, authorities, and the Judiciary itself, are endeavoring to strengthen and modernize the country's legal system.
- 1.2 The proposed program will support the introduction of reforms designed to reduce the time and social cost of judicial proceeding, rationalize the use of resources by the Judiciary, modernize its administration and provide training for its personnel. The program will also facilitate the introduction of reforms aimed at improving legal and administrative procedures alike.
- 1.3 A key element for enhancing the participation of the private sector in the economy is the strengthening of the overall administration of justice so that civil and commercial cases in the judicial system are resolved efficiently and expeditiously. Furthermore, the establishment of alternative methods of conflict resolution (e.g. arbitration and mediation) would complement judicial system reforms by reducing congestion of the courts since the number of cases reaching the system would decline and promote private sector confidence in the just and efficient resolution of legal disputes.

### B. The justice sector

- 1.4 The justice sector in Costa Rica is made up of the Judiciary, the Ministry of Justice, the Office of the Attorney General of the Republic and the Community Defense Office [Defensoría de los Habitantes]. The Judiciary is responsible for the overall administration of justice through the rulings handed down by justices of the peace, ordinary and appellate courts, and the various chambers of the Supreme Court of Justice. It determines the legality of actions taken by the executive branch and serves as guarantor of the fundamental rights of citizens. 1/
- 1.5 The Ministry of Justice is the body within the executive branch with responsibility for government policy concerning the judicial sector, and that serves as the channel of communications with the Judiciary. It is in charge of crime prevention, and dealing with offenders, and administering the prison system. The Ministry also oversees the system of national registers of property, corporations

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1/ The organizational structure of the Judiciary is described in chapter IV.

and associations. Attached to the Ministry is the Office of the Attorney General of the Republic, the administration's highest consultative body on matters of legal expertise, and acts with full independence and discretion in its legal representation of the State.

- 1.6 The Community Defense Office forms part of the legislative branch, but performs its duties with full administrative and functional independence and discretion. Its task is to protect, promote and raise awareness of the rights and interests of the inhabitants in the event of conflicts arising from the actions of the public-sector administration, and to ensure that the public services operate effectively.
- 1.7 Lastly, there is the National Committee to Improve the Administration of Justice (CONAMAJ) which acts as a policy-making and coordinating body, and promotes activities intended to enhance the justice system. The Committee is composed of the most senior authorities in the sector, drawn from all three branches of government, the Bar Association and the Faculty of Law at the University of Costa Rica.
- 1.8 Efforts are being made to strengthen the institutional capacity of the Judiciary itself. Nevertheless, the justice system continues to show signs of weakness in several areas.

1. Weaknesses in the Judiciary

- a. Administrative inefficiency

- 1.9 The inefficiency of the Judiciary stems in part from excessive centralization of its administrative operations in San José, and in part from its lack of modern tools for administering its resources. The centralization of functions hinders operations, increasing Judiciary's administrative costs by requiring staff to travel to outlying areas to perform even the most elementary tasks which could be more efficiently carried out locally.
  - 1.10 The administration of financial, material and human resources is hampered by the lack of management techniques. There are no modern means of preparing, controlling, auditing and evaluating budgets, nor any of the financial accounting and data-processing technology needed for efficient management. Implementation of staffing policy is frustrated by the fact that it is spread among a number of senior officials.

- 1.11 Another problem is that investment in infrastructure is dependent upon the funds available in the Judiciary. <sup>2/</sup> Alternatives need to be devised, and a process for ex ante evaluation of investments included in the existing building plan. There has been no systematic use of methods of analysis such as cost-benefit or cost-effectiveness studies to evaluate plans. Although a certain line of physical planning for the new structures has been developed over the years, standardized designs are not used. Also, there is no formal capacity for inspection of works, which means that the consulting firm that designed a given infrastructure project must itself carry out such inspections. Lastly, there is no plan for preventive maintenance of premises.

b. Judicial delay

- 1.12 The slow pace of the judicial system in Costa Rica is caused, inter alia, by: (i) very formal and complex procedures; (ii) excessive reliance on judicial decisions and dearth of other means of negotiated settlement or out-of-court conflict resolution; (iii) inefficient management of the judicial offices; and (iv) the judicial officials' lack of updated knowledge of jurisprudence, rules of law and current legislation.

(i) Judicial procedures

- 1.13 The procedures laid down under Costa Rica's procedural law, together with divergent court practices, have caused the administration of justice to become bogged down in a morass of formal requirements which have to be met before a case can be heard. In civil matters the tempo is set by the parties to an action, resulting in situations that make it difficult for judges to move ahead with court proceedings. Meanwhile, there is no effective system for disciplining those who abuse the right to bring suits, or who make use of the many gratuitous delaying tactics available to litigants in the form of appeals, motions for dismissal, exceptions and other stratagems which themselves require time to resolve. Accordingly, the appropriateness and flexibility of these recourses, should be looked into, as should the effectiveness of mechanism for collecting costs or deposits precedent to the declaration of their admissibility.

(ii) Excessive reliance on the justice system

- 1.14 The fact that many of the cases and proceedings that come before judges do not warrant the costly legal red-tax involved makes the task of the judicial offices that much more difficult. Arbitration

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<sup>2/</sup> Infrastructure spending in 1990 was less than five percent of the overall budget for the judicial branch. In 1993 the figure was nearly 13%, and the amount allocated (but not yet committed) for 1994 represents 18% of the total budget.

is not used in Costa Rica and cases settled amicable, either in or out of court are rare. Examples are deposits, uninterested collections and other noncontentious issues. On the other hand, there are potentially conflictual cases in which the ordinary justice system may play only a subsidiary role, but which could nevertheless very well be resolved more efficiently by administrative bodies. One example is the large number of traffic violations that account for much of the congestion in judicial offices. In 1993, the number of such cases tripled.

(iii) Management of judicial offices

- 1.15 The more time judges have to spend on administration the less they can devote to imparting justice. In addition, there are a number of unnecessary steps and duplication of duties in the handling of cases. Human resources are not being employed rationally, and this is especially obvious in the case of process servers. For example, it is not uncommon to have four or five process servers visit the same law firm to deliver notices from a single judicial circuit. Moreover, the judicial offices themselves are completely lacking in the technology that could ease their tasks. And finally, the internal organization of the courts has remained unchanged for many years, thereby to rigidity and the inability placing constraints on the provision of judicial services to respond adequately to the demands of society.

(iv) Lack of specialized knowledge

- 1.16 Lack of access by judges and other officials of the justice system to information and specialized knowledge concerning current legislation, rules of law and jurisprudence has hampered the normal operation of the justice system. The uncertainty of judges in dealing with certain topics has forced them to postpone ruling until they can obtain the information they need to resolve an issue and hand down a decision. Nor is there a training program in place that would provide court officials with the necessary expertise to resolve complex or novel issues.

1.17 This combination of problems can be seen in the congestion of the courts and the backlog of cases to be dealt with. The heavy workload borne by judges, the substantial proportion (approximately 32 percent) of time they must dedicate to administrative tasks, and their lack of access to specialized information and expertise has resulted in a growing backlog of cases before the various types of courts (see chart). For example, a superior court judge receives over 100 cases per year on average, which he is expected to resolve. Were he in fact to do so, he would be spending less than three days per case. The result, of course, is a huge backlog of cases: over 65 percent of the cases heard by these courts require more than twelve months to settle. By the same token, an ordinary commercial or civil case can take up to seven years, and a simple executory judgment (with exception) can run for as long as three years.

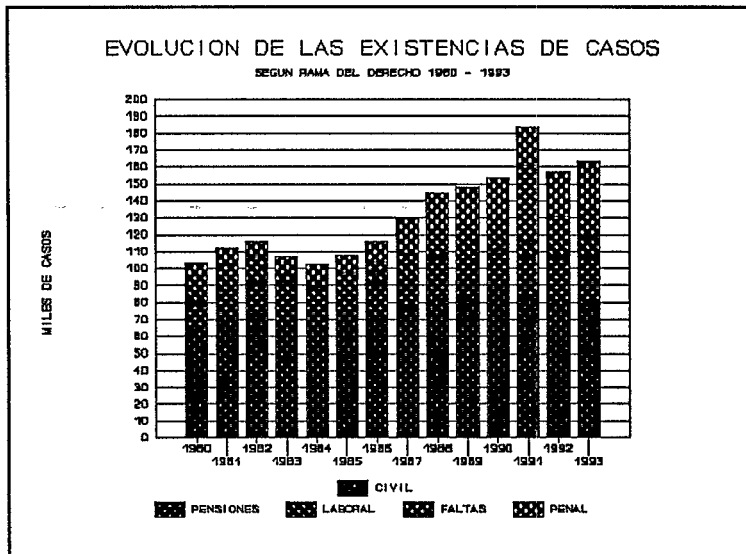


Figure 1

c. Inadequate access to justice

1.18 The exceedingly formal and complicated procedures, and the lack of clarity and knowledge of current legislation, combine to hinder access to the justice administration system. The judicial backlog and congestion of the courts particularly inhibit the provision of service to the poorer segments of the population, whose cases are regularly left unsolved and eventually closed because of the small amounts involved. In the same way, complex cases in the commercial field are not expeditiously resolved owing to the judges' lack of specialized knowledge. These factors have gradually undermined the prestige which the Costa Rica's Judiciary was enjoyed *vis-à-vis* the other countries of the region.

1.19 Costa Rica has no mechanisms for negotiated settlement of conflicts and disputes, that might provide an incentive and enable the private sector, the legal fraternity and civil society as a whole to resolve their differences outside the judicial system. Yet, setting the entire public apparatus in motion through the traditional courts system is a very costly way of resolving simple cases that involve small quantities. The recent creation of the

Community Defense Office has gone a long way toward solving the problem of inadequate access to the justice system by bringing citizens into closer contact with the State in order to resolve conflicts between individuals and the public sector, using informal procedures at cost to the parties.

## 2. Sector reform program

- 1.20 While the judicial system of Costa Rica enjoys a reputation for impartiality, the country's Judiciary is well aware of the need for a sweeping reform of the justice system, designed to correct the problems been identified, and ensure the prompt and full justice promised in the Constitution.
- 1.21 Since the beginning of 1993, the Supreme Court of Justice has been engaged in a series of national discussions and consultations on the problems affecting the sector. This process involved the organization and holding of regional workshops and forums, and culminated in the First National Congress on Administration of Justice, held in September 1993, with the Bank's support. Taken together, these efforts constitute a joint study and diagnosis of the weaknesses observed in the various areas of the justice system.
- 1.22 The government has agreed to give priority to modernizing the sector, for which will require changes ranging from the passage of laws and streamlining of the administration of justice, to us of the latest technology.

## 3. Support for reforming the sector

### a. The proposed operation

- 1.23 To help the country obtain a justice system that is both prompt and enforced, the program will fund activities designed to remove the main causes of the judicial backlog. The program will include strengthening the administration of the Judiciary, introducing modern methods of management in the judicial offices, reviewing procedural laws, establishing alternative methods for dealing with certain cases that can be resolved extrajudicially, training of personnel, and designing and implementing an information system containing data on the legal system, rules of law and current legislation.
- 1.24 To reduce congestion in the courts, expand citizen access to the justice system and meet the need for mechanisms by which people can become more directly involved in resolving their conflicts and defending their rights, it is necessary to complement these efforts by aiding in the establishment of alternative methods of conflict resolution.
- 1.25 It should be noted in this respect that the Bank is preparing a technical-cooperation program (TC-93-7-332) to be financed by the

Multilateral Investment Fund (MIF), which includes: (i) establishment of an institutional system of arbitration and mediation of trade disputes; and (ii) installation of an institutional mediation, conciliation and negotiation system.

b. Other operations

- 1.26 The authorities have received support from the United States Agency for International Development (USAID) and the United Nations Development Programme (UNDP).
- 1.27 The CONAMAJ was created with the cooperation of USAID (1989-1992), which also provided technical assistance for start-up of operation of the Constitutional Chamber of the Supreme Court. The system of information on current legislation, which this program is designed to improve, was launched at the same time. In May 1993 an amendment to the agreement with USAID was signed under which: (i) improvements were made in the operation of the Chambers of the Supreme Court, the Court Secretariat and the management of its Judicial Archives; (ii) a review of the criminal justice system was carried out; and (iii) alternative mechanisms of conflict resolution were studied.
- 1.28 In March 1993, the Supreme Court of Justice and UNDP signed a cooperation agreement under the "Law for Development" program, under which UNDP helped sponsor the First National Congress on the Administration of Justice.

C. The Bank's strategy for Costa Rica

- 1.29 The Bank's strategy for Costa Rica is geared to: (i) developing investment projects in the environmental sector to arrest the adverse effects of farming and urban development on the country's principal watershed areas; (ii) consolidating the liberalization of the nation's trade and financial policies, with emphasis on the elimination of sector obstacles to private investment, and the definition of new areas of private-sector participation; (iii) raising the level of commitment to meeting basic social needs; and (iv) supporting the government's effort at public-sector reform, modernization of the judicial system and governance.

## II. THE PROGRAM

### A. Objective

- 2.1 The overall objective of the program is to help Costa Rica consolidate a more equitable, accessible and dependable justice system, and reduce the backlog of cases and relieve the congestion in the courts. The specific program objectives will be to: (i) consolidate a modern system of administration of the Judiciary; (ii) improve the management of judicial offices and the Ministry of Justice as a whole; (iii) facilitate access to, and use of, information relating to the jurisprudence, rules of law, and current legislation; and (iv) provide training programs for the various officials engaged in the administration of justice.

### B. Description

- 2.2 The funds for the proposed operation will be used to strengthen the administration of the Judiciary, improve the management of judicial offices, provide legal training, and develop and install a computerized legal-data system. 3/

#### 1. Strengthening the administration of the Judiciary

- 2.3 The activities to be supported by this component are:

- a. Planning and delivery of courses for members of the Superior Council of the Judiciary 4/ and personnel in the following departments: General Administration, Planning, Internal Audits, and the newly created Personnel Department. The subjects to be covered in the courses include strategic planning, human-resource administration, financial management, methods of budget techniques, and management supervision systems.
- b. Analysis of existing management procedures used in the General administration management of the Superior Council, including those relating to procurement, accounting and finance, and general support services. The same analysis will be carried out in the Planning and Human Resource Departments.
- c. Design of the new procedures required for improving administrative management within the existing legal framework, including the necessary management-control and information systems needed for decision making by the Superior Council.

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3/ A detailed list of these activities and the terms of reference for the operation are contained in the department's technical files. A summary of these is set out in Annex II-1.

4/ See description of the judicial branch in chapter IV.

- d. Preparation of manuals of procedures containing the appropriate flow charts. Formulation of administrative policy on personnel, finance, accounting and data-processing.
- e. Design of a detailed plans for implementing the recommendations and the training program needed for giving effect to the new procedures.
- f. Support for improvements in the system of statistics kept by the Planning Department. Design and implementation of new procedures.
- g. Strengthening the preinvestment-studies area of the Judiciary by designing a pool of projects, conducting prefeasibility studies on a group of projects, and development of the feasibility studies on the projects selected.
- h. Support for organization of the engineering services of the Judiciary, design of projects that could be standardized and implementation of a preventive maintenance scheme.

## 2. Management of judicial offices

- 2.4 This component is designed to create the structures and systems necessary to measure and verify improved management indicators for judicial offices. The component includes developing and setting up: (i) new organizational structures; (ii) microcomputer networks; (iii) automated word processing and case flow management systems in judicial offices; (iv) plans for the training needed for adoption of the new functions and systems; and (v) plans for physical refurbishing of the offices.
- 2.5 New organizational models will be introduced to give judicial offices greater flexibility in providing their services: (i) mixed unified model; (ii) subject-organization model; (iii) single-justice model; and (iv) remote-administrator model. This component will include the creation of autonomous management units, centralization of notification services and improvement of the system for distribution of cases.
- 2.6 The reorganization of the judicial offices, including the reassignment of human and material resources, will be carried out in stages beginning with a two-year pilot project involving five groups of courts in San José, plus one regional grouping. The reorganization will expand to include the rest of the country's judicial offices after evaluation of the results obtained in the pilot project and a review of the legal framework for its implementation. Improvement of the productivity of the judicial offices will also be achieved gradually with the implementation of an information and case follow-up system, supported by a judicial statistics system as a monitoring device and management tool.

- 2.7 This component will also include the following legal studies designed to relieve congestion and reduce judicial delays: (i) review of aspects of procedural rules that tend to delay legal proceedings and preparation of proposals for their reform; (ii) review of controversies that might be resolved by methods other than ordinary court procedures and preparation of proposals for introducing such alternative methods; and (iii) a study of the impact of legal practices on backlogs of cases, including recommended solutions.
- 2.8 Within 12 months of the effective date of the loan contract, the executing agency must submit, to the Bank's satisfaction, evidence that it has taken the necessary legal measures to implement the recommendations resulting from the above-mentioned studies.

### 3. Judicial training program

- 2.9 The program will provide assistance for the Law School in the form of the following activities: (i) internal reorganization and strengthening of its administrative structure, including the creation of a budget program for capital investments and greater legal and financial flexibility in its operation; (ii) stepping up its program of continuous updating of judicial knowledge; (iii) modernization of methods used to teach management information systems; (iv) activation and improvement of its audiovisual center, including obtaining the equipment necessary for production of audiovisual aids and for printing and distribution of teaching materials, together with the hardware and software needed to enhance the Law School; (v) development of new teaching systems (distance education, special demonstration courts, internship programs); (vi) establishment of management training programs; (vii) provision of reference materials; and (viii) generation of decentralized capacity and an enhanced regional presence.
- 2.10 The program will help the Office of the Attorney General and the Ministry of Justice meet their training requirements in public law and the law on administrative disputes. To avoid duplication of efforts, programs will be channelled through the Law School. And in order to ensure that these training needs are met, the Law School will be required to add to its Council one representative each from the Office of the Attorney General and the Ministry of Justice, as a condition precedent to the first disbursement under this component of the program.

### 4. Computer legal-data system

- 2.11 This component will consist of: (i) design and implementation of a strategy for short-, medium- and long-term systems; (ii) strengthening of the Judiciary's Informatics Unit; (iii) enhancement and development and integration of an electronic documentation center to provide the Court with data on jurisprudence of the national system of current legislation in the Attorney General's Office, and

of the data base on legal theory in the various branches of law in the Law Faculty of UCR; (iv) development of software needed to integrate data registry, penitentiaries and judicial data; and (v) design and installation of equipment for the senior management of the Ministry of Justice and the Office of the Attorney General.

C. Size of the program

- 2.12 In determining the size of the program, officials took into account, on the one hand, the financing needed for restructuring both the Judiciary and the training program, and, on the other, the support required for improving the management of judicial offices, including their physical refurbishment.
- 2.13 Included in the component for administrative strengthening of the Judiciary are the resources for hiring the necessary consultants to assist the executing agency with the design, implementation and supervision of a management modernization program, and for obtaining the computer hardware and software needed for the information systems that will enable the Judiciary to administer justice more efficiently. The size of the training component is based on the requirements for strengthening the Law School and the need to provide training for officials in the Judiciary, the Office of the Attorney General and the Ministry of Justice in order to help them perform their duties more productively.
- 2.14 The size of the component to improve management in the judicial offices is based on: (i) the number of offices; (ii) the requirements for improving administration in each type of office; and (iii) the need for renovation of individual judicial offices. For the computer data system, the component also takes into account the hardware and software needed to create an information system that will integrate the different areas of justice, i.e. judicial administration, rules of law, jurisprudence and current legislation.

D. Cost

- 2.15 The total cost of the program is estimated as the equivalent of US\$16 million. The breakdown by source of financing and investment category is shown in the following table: 5/

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5/ Annex II-2 contains a detailed breakdown of the costs under each component.

Total cost of the program and financing plan (equivalent in US\$ thousands)				
INVESTMENT CATEGORIES	IDB	LOCAL	TOTAL	%
1. <u>Administration</u>	-	<u>2,230</u>	<u>2,230</u>	13.9
1.3 Administration	-	2,230	2,230	
2. <u>Direct costs</u>	-	<u>300</u>	<u>300</u>	1.9
2.1 Refurbishing of offices	-	300	300	
3. <u>Associated costs</u>	<u>8,450</u>	<u>1,700</u>	<u>10,150</u>	63.4
3.1 Consulting fees	3,880	1,100	4,980	
3.3 Hardware and software	4,570	400	4,970	
3.4 Supplies and publications		200	200	
SUBTOTAL	8,450	4,230	12,680	79.2
4. <u>Unallocated</u>	<u>1,100</u>	<u>350</u>	<u>1,450</u>	9.1
4.1 Contingencies	600	350	950	
4.2 Cost escalation	500	-	500	
5. <u>Financial costs</u>	<u>1,650</u>	<u>220</u>	<u>1,870</u>	11.7
5.1 Interest	1,528		1,538	
5.2 Credit fee	-	220	220	
5.3 Inspection and supervision	112	-	112	
TOTALS	11,200	4,800	16,000	
PERCENTAGES	70.0	30.0	100.0	100.0

1. Financing of the program

a. IDB Financing

2.16 The Bank will advance the equivalent of US\$11.2 million from the ordinary capital, representing 70 percent of the total cost of the program.

2.17 The terms and conditions of the loan will be as follows:

Source of financing:	Ordinary capital (OC)
Amount:	US\$11.2 million
Disbursement term:	5 years
Amortization term:	25 years
Grace period:	5 years
Interest rate:	variable
Credit fee:	0.75% per annum on undisbursed balance
Inspection and supervision:	1.0% on amount of loan

b. Local counterpart funding

- 2.18 The borrower will finance the equivalent of US\$4.8 million, which will come from the budget of the Judiciary and the central government and will be allocated primarily to expenses of program administration, refurbishing of offices, associated costs, and credit fee.

### III. PROGRAM EXECUTION

#### A. Institutional framework

- 3.1 The Supreme Court of Justice will be responsible for carrying out the program through an executing unit, which will be attached to the Commission for Modernization of the Judiciary [Comisión de Modernización del Poder Judicial] (CMPJ), working in cooperation with the CONAMAJ.

##### 1. Program coordination

- 3.2 The CMPJ is the body responsible for setting overall policy with respect to modernization of the Judiciary. Its members are the President of the Supreme Court, the Justices of each of its Chambers, and the representative of the Judiciary who sits on CONAMAJ.
- 3.3 CONAMAJ will liaise with the various entities that involved in the program and forming part of this Commission. It will also help to achieve consensus on the legislative reforms that must be implemented under the program.
- 3.4 The program executing unit will establish the necessary mechanisms for supervision and coordination with each of the organizations participating in the program: the Ministry of Justice, the Office of the Attorney General and the Faculty of Law of the University of Costa Rica.

##### 2. Organization of the executing unit

- 3.5 The UEP will be headed by a director and will have two support units: one responsible for the technical side (UTE), and another for the financial administration of the program (UFA). In addition, each participating entity will appoint an individual to be responsible for carrying out the components of the program and providing coordination between the executing unit and the respective entity.
- 3.6 The UTE will have as its principal mandate to provide technical coordination for the execution of the various components. This unit will be aided by coordinators for the areas of judicial administration, management of judicial offices, training, statistics and the computerized data system, to be drawn from the ranks of participating entities and assigned full-time to the UTE.
- 3.7 The UFA will be in charge of administering the loan resources and local counterpart funding. It will also be responsible for all administrative procedures, accounting records, personnel administration and logistical support. Its actions must be coordinated

with the UTE for purposes of monitoring the accounting and financial aspects of the program.

- 3.8 The organizational structure of the UEP, its legal aspects, the accounting system which it proposes to use, its contracting procedures for procurement of goods and services, its internal control mechanisms and external audits have all been studied with special care and are deemed satisfactory.
- 3.9 As a condition precedent to the first disbursement under the proposed loan, the borrower must submit: (i) proof that the UEP has been duly constituted with the personnel necessary for carrying out its functions; (ii) the execution agreements signed by the Judiciary and the various entities mentioned earlier as taking part in the program, and containing terms and conditions approved by the Bank. These agreements must identify the components that each entity will implement, the mechanisms for financial administration of these components, and the requirements of submitting reports at regular intervals, according to the provisions established in the loan contract.

B. Execution schedule

- 3.10 A detailed analysis of the principal activities to be carried out suggests that it will take five years to complete the program. The disbursement period will thus be five years according to the schedule that appears in the following table:

PROGRAM FOR MODERNIZING THE ADMINISTRATION OF JUSTICE PROGRAM SCHEDULE						
COMPONENTS AND ACTIVITIES	1995	1996	1997	1998	1999	2000
A. Administrative strengthening of the Judiciary						
Consultants	xx	xxxxx				
Implementation of recommendations			xx	xxxx		
B. Management of judicial offices						
Pilot project	xx	xxxx	xx			
Evaluation of pilot project			xx			
Remainder of component				xxxx	xxxxx	xx
C. Judicial training	xx	xxxx	xxxx	xxxx	xxxx	xx
D. Computerized data system						
Strategy plan	xx	xxxx				
Strengthening documentation center		xx	xxxx	xxxx	xx	
Support for administrative management of judicial offices		xx	xxxx	xxxx	xx	

DISBURSEMENT SCHEDULE (US\$ thousands)						
	YEAR I	YEAR II	YEAR III	YEAR IV	YEAR V	TOTAL
IDB	960	2,800	3,200	3,000	1,240	11,200
LOCAL	410	1,200	1,370	1,290	530	4,800
TOTAL	1,370	4,000	4,570	4,290	1,770	16,000
%	8.5%	25.0%	28.6%	26.8%	11.1%	100.0%

C. Procurement of goods and services

- 3.11 The following contracts for consulting services will be let by tender: (i) administrative strengthening of the Judiciary, in an amount of approximately US\$1 million; (ii) formulation of project cycle, in an amount of approximately US\$600,000; (iii) development of a preventive maintenance program for the infrastructure of the Judiciary and standardized design, in an amount of approximately US\$300,000; (iv) management of judicial offices for US\$1.7 million; and (v) computerized data system for the equivalent of US\$150,000.
- 3.12 Four calls for tender will be issued for procurement of equipment: one for the pilot project in the component for improving management

of judicial offices, in the amount of US\$350,000 and restricted to local bidders, and three international tender calls in amounts ranging from US\$1 million to US\$1.5 million.

- 3.13 Bearing in mind the innovative approach of the judicial offices management component, and at the request of the executing agency, it is proposed by way of exception to Bank policy on procurement of goods and services, that the IDB waive competitive bidding and directly contract the firm INVERTEC-ICT/CPU under the heading of "extension of services", to provide the consulting services required by the Judiciary for implementing the component to improve the management of its judicial offices. The need for consistency between the stages of design, execution and follow-up of an innovative project involving the utilization of advanced management and revamping techniques for the judicial offices warrants that the same experts who carried out the preparatory phases of the operation should also be involved in the practical implementation of their work.
- 3.14 The participation of the aforementioned firm would be advantageous owing to: (i) the small number of consulting firms with experience in modern management techniques and revamping of judicial offices; and (ii) the wholly satisfactory experience of the Bank and the government with this consulting firm in the preparation of this type of component for the same beneficiary institution.

D. Advance of funds

- 3.15 Given the nature of the program and the expected pace of progress, it is recommended that advances of funds equivalent to 10 percent of the loan be scheduled to cover programmed expenditures for 120 days.

E. Environmental impact

- 3.16 The Environment Committee classified this project as a Category II operation, inasmuch as it is not expected to have any direct or indirect impact on the environment. Nevertheless, in accordance with the recommendations of the committee, the program's support for development of infrastructure planning mechanisms will include environmental measures consonant with the applicable regulations governing Costa Rica's environment and natural resources. As well, environmental topics will be included in the judicial training subcomponent in order to broaden the environmental knowledge of officials responsible for the administration of justice.

F. Program supervision

- 3.17 Program supervision will be provided by the Country Office in Costa Rica, with the support of the project team. For this supervision, an annual review will be made jointly by the executing agency and the Bank beginning 12 months after the start of the program. These

meetings will study, inter alia, the results obtained during execution of the program, including: (i) evaluation of progress achieved in the component to improve management of judicial offices, particularly in reference to court congestion and delays, judicial efficiency and the indicators developed under the program 6/ for measuring productivity, congestion, judicial delays, quality and efficiency; (ii) advances in the review and study of legislation and the impact of legal practices on judicial delays and, where applicable, progress in implementing the resulting recommendations; (iii) advances in reviewing and studying the legal framework for purposes of adjusting it to the new model of judicial management and, where applicable, progress in implementing the resulting recommendations; (iv) incorporation of cost-benefit (or cost-efficiency) techniques in planning capital investments, and implementation of a program of preventive maintenance of judicial infrastructure; (v) the level of progress in implementing the computer data system for the Judiciary; (vi) adaptation of activities to the objectives of the program; and (vii) the degree of progress in developing greater legal and financial flexibility for the operations of the Law School.

- 3.18 Within 15 days prior to the annual supervision meetings, the executing agency must submit the reports needed for the meetings, based on the above topics.
- 3.19 The Bank will closely monitor compliance with the conditions discussed above. In the event that progress in carrying out the program is deemed unsatisfactory, the borrower - acting through the executing agency - shall have a period of 60 days from the date on which the Bank indicates its objections in which to report on the corrective measures it will take and the timetable for carrying them out. If these corrective measures are not satisfactory, the Bank may take such action as it deems appropriate in accordance with the provisions of the loan contract.

G. External audit of the program

- 3.20 The program's financial statements must be examined by an independent firm of auditors acceptable to the Bank during the life of the program and in accordance with Bank standards.

H. Women in development

- 3.21 The status of the judicial system affects women to a considerable degree, especially in family and labor courts. Examples include the large numbers of cases involving alimony, child support, wrongful dismissal, and separation of spouses. Women who appeal to the justice system in these cases are generally poor and, therefore, more vulnerable to the effects of judicial congestion and

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6/ These indicators are presented in Annex III-1.

delays. This group will benefit greatly from the program, particularly the component designed to improve the management of judicial offices, especially those with jurisdiction over the cases referred to above.

I. Ex post evaluation

- 3.22 Since this operation is the Bank's first venture in this area, within 60 days of the final disbursements under the program, the Bank will contract, at its own expense, the services of a consultant to evaluate the program's import compared to its objectives.

#### IV. BORROWER AND EXECUTING AGENCY

##### A. Borrower and executing agency

- 4.1 The borrower will be the Republic of Costa Rica and the executing agency the Supreme Court of Justice, with the cooperation of the various entities participating in the program. The borrower will transfer the proceeds of the loan (on a nonrefundable basis) to the Judiciary, along with the local counterpart resources corresponding to the other agencies participating in the program. This will be done under an agreement which also establishes the mechanisms to be used by the Judiciary to distribute the local counterpart funds, which agreement must be submitted as a condition precedent to the first disbursement under the proposed loan.

##### B. Costa Rica's Judiciary

###### 1. Legal framework

- 4.2 The Judiciary is one of the three branches of government defined in Costa Rica's Constitution. The Judiciary enjoys independent status, except in regard to the appointment of the judges of the Supreme Court of Justice and the disbursement of its budget.
- 4.3 When debating and approving bills relating to the organization or operations of the Judiciary, the Legislative Assembly must obtain the opinion of the Supreme Court of Justice. A two-thirds majority vote of the members of the Assembly is required to overturn the Court's opinion.
- 4.4 On January 1, 1994, the new Organic Law of the Judiciary came into effect, making this branch of government more flexible and at the same time putting order into its administrative structure. In addition, this law creates the Superior Council of the Judiciary, and the office of the Vice President of the Court.

###### 2. Overall organization

- 4.5 The Supreme court of Justice is the highest tribunal in the Republic of Costa Rica, and as such it has both administrative and regulatory powers. The organization of the Judiciary thus encompasses three fields: jurisdictional, administrative and that of support to the administration of justice.

###### a. Jurisdictional functions

- 4.6 The Supreme Court of Justice consists of three courts of appeal and one constitutional, with five judges for each of the first three and seven for the latter, making a total of 22 judges who constitute the Full Court. Unless otherwise provided by law, decisions

are by majority vote of those present. There are 270 units in all, counting the various types of courts. These account for 52 percent of the Judiciary's annual budget and have some 2,067 employees, of whom 348 are judges. This gives Costa Rica one of the highest judge/population ratios in the hemisphere.

- 4.7 Below the Supreme Court are the superior courts of Costa Rica. Although they primarily hear appeals, they are also competent to sit as a court trial in certain matters. Those in the capital specialize in particular fields (criminal, civil, labor, administrative, and agrarian law), while in the rest of the country they are mixed tribunals. Trial courts almost everywhere specialize in penal, civil, labor, and agrarian cases, and institution of proceedings. In San José there are courts that deal with administrative, family, and child-custody matters, and execution of judgement. In the provinces there are also mixed tribunals. Lastly, there are the municipal, single-judge and collegial tribunals. These may have jurisdiction over civil or those pertaining to State property, minor infractions, labor issues, child support and alimony, and traffic.

b. General administration of justice

- 4.8 Under this heading are: the Office of the Public Prosecutor, which is responsible for prosecuting offenses under public law; the Judicial Investigations Agency [Organismo de Investigación Judicial] (OIJ), which heads the judicial police; the Community Defense Office, which provides legal aid for those facing criminal prosecution; the Law School; the Jurisprudence Digest, and judicial archives and records. These services account for 30 percent of the Judiciary's annual budget.

c. Administrative duties

- 4.9 The Superior Council of the Judiciary is a subordinate body of the Supreme Court of Justice and is responsible for the administration and oversight of the Court with a mandate to ensure court independence, efficiency, correctness and decorum, and to safeguard the benefits of the judicial profession. The Council is made up of five members: four from the Judiciary, headed by the President of the Supreme Court, and the fifth an attorney from outside the court. The Superior Council is organized in collegially so that administrative decisions are taken by majority vote. The President of the Council casts a second and deciding vote in the case of a tie. The duties of the Superior Council include high-level day-to-day tasks at the senior level, such as approving all judicial pensions and retirement requests, determining rest days, granting leave, and transferring staff.
- 4.10 Carrying out the decision of the Superior Council is the responsibility of the Executive Board, which is headed by a Director who must be an attorney with business-administration experience. It is

the duty of the Director to oversee, organize, coordinate and supervise the administrative tasks of his divisions; ensure compliance with the decisions of the Superior Council; authorize expenditures by the judicial offices when they come out to the Judiciary's budget; issue directives and authorize payments; attend meetings of the Council with the right to speak but not to vote; recommend to the Superior Council the adoption of rules and regulations for organizing and standardizing administrative services in judicial offices throughout the Republic.

3. Institutional-financial assessment

a. Organization and structure

- 4.11 The organizational structure set out in the new law is most notable for its collegial management and reliance on ad hoc committees. This has enabled an organization accustomed to having routine matters decided by the judges of the Supreme Court to establish a management style which, although less than ideal from the standpoint of decision-making capacity and clear definition of areas of responsibility, is still at the initial stage of development. Under these circumstances, support for the task of training members of the Superior Council and its departments in their new duties is justified.
- 4.12 It is difficult to make a full and comprehensive assessment of the functioning of this new system given its recent introduction, but in general terms a potential problem can be seen in the continuing existence of a large number of working committees which tend to weaken the managerial capacity of the bodies responsible for administrative affairs.
- 4.13 There is no genuine decentralization process. Experience in a regional office points to a situation in which a few routine functions are decentralized to a court outside the capital that lacks the financial support of the central organization, operating on a petty-cash basis and therefore, by definition, allows providing for minor expenditures and contingencies only. The provisions of the Organic Law on the hiring of professional accountants to carry out certain budget operations represents no decentralization whatever, since the institutional framework in which the Judiciary operates is not prepared for the decentralization handling of its affairs.
- 4.14 A lack of consistent and timely management procedures hinders the type of administration capable of efficient and effective attainment of objectives and the strengthening the decision-making process. There is an absence of strategic planning that contemplates the management of the Judiciary in the future.
- 4.15 The proposed program includes an administrative-strengthening component designed to correct the present deficiencies in the

management of the Judiciary. More specifically, it contains a component intended to make the Superior Council and its units more efficient and effective in administrative tasks aimed at improving judicial management.

b. Human resources and information system

- 4.16 As of May 1994, the Judiciary had a total of 4,435 employees, of which 0.5 percent were at the senior or executive level. Staff has grown by 41.3 percent since 1988. The Judiciary has no human-resource management policy that would make for greater efficiency and more rational use of its employees. Accordingly, the development of such a policy has been included in the program.

c. Financial aspects

- 4.17 The Judiciary is part of the country's civil service and is therefore governed by the applicable laws, regulations and procedures of the public administration. Under Costa Rica's Constitution, the Judiciary is allocated a budget representing not less than 6 percent of current revenue calculated for the fiscal year. It is not legally empowered to generate income from any other source.
- 4.18 Budget performance is governed by regulations which bestow on the Comptroller General of the Republic an important role in ex ante and ex post audits. The budgeting system used in the Judiciary begins with the authentication of the year's expenditures by the Office of the Comptroller. The budget is prepared by the Planning Department under five headings: senior administration, judicial services (courts), criminal actions division, Office of the Public Prosecutor [Ministerio Público], the Community Defense Department, and judicial investigations. Budget performance over recent years is shown below in millions of constant 1993 dollars:

<u>Year</u>	<u>Allocated</u>	<u>Executed</u>	<u>Variation %</u>
1988	40.5	40.3	-
1989	48.7	48.6	20.6
1990	53.4	52.6	8.2
1991	44.2	44.2	-16.0
1992	53.8	53.8	21.7
1993	63.2	61.7	14.7
1994	75.7	-	19.7

- 4.19 Except for pension funds, funds received by the Judiciary may not be invested in the financial system. Current account funds for the so-called judicial deposits such as alimony, rent, distraint, and appropriations, are deposited with the Banco de Costa Rica in as many accounts as there are judicial offices.
- 4.20 The budget-administration method used in the public sector, of which the Judiciary is a part, employs rigid and traditional procedures without any analysis of the rational use of resources where they are most needed, and without effective control of spending based on real costs and achievement of the desired goals.

4. Internal and independent audits

- 4.21 Included in the organizational structure of the Judiciary is the Internal Audit Department, which reports directly to the Superior Council. This department will assist the executing agency with the task of overseeing and controlling the financial-administrative operations established for program execution. The independent audit will be performed by the Comptroller General of the Republic.

C. The Law School

- 4.22 The Law School is an organ of the Judiciary and is headed by a Board of Management and a Director, both appointed by the Full Court for terms of two and four years, respectively. The Board of Management - in addition to its Director - is made up of one magistrate, two judges and one representative from the Judicial Investigations Agency. As well, the board has two nonvoting members from the Community Defense Office and the Office of the Public Prosecutor. The board acts as the senior policy-making body for the Law School. The law creating the Law School did not grant it administrative, financial or technical autonomy, so that all three areas are controlled by the Supreme Court.

## V. FEASIBILITY AND RISKS

### A. Institutional and financial feasibility

#### 1. Institutional feasibility

- 5.1 The Judiciary is an independent branch of government. Its budget is guaranteed under the Constitution; it may take legal initiative, and enjoys wide powers for issuing its own internal rules and regulations, and organizing its work. The various components of the proposed operation seek solutions for the main problems affecting the sector and are consistent with the reform plan prepared by the Judiciary.
- 5.2 The Commission for Modernization of the Judiciary will coordinate the program activities and be in charge of the executing unit, thus enjoying ample capacity and flexibility for implementing the components of the proposed program. The executing agency will likewise receive specialist consulting services, so that no major difficulties are anticipated in the execution of this operation.

#### 2. Financial feasibility

- 5.3 The financial feasibility of the program is determined by assessing Costa Rica's ability to provide the local counterpart resources. The total amount of counterpart funding required is US\$4.8 million, equivalent to US\$940,000 per year over the life of the program. These funds will come from the budget of the Judiciary and, for those components in which other institutions participate, from special budget allocations made by the Government of Costa Rica. The high priority attached to the program by the government and the Judiciary, and the modest amount of annual counterpart funding required in proportion to the respective budgets, offer assurances that the resources will be available as needed.

### B. Technical feasibility

- 5.4 Justice is a public service which is essential for guaranteeing social order and the rule of law, and for promoting a favorable investment climate. Under present circumstances, owing to its high incidence of delays and congestion of the courts, the Costa Rican justice system is evincing a number of deficiencies. These factors have led to a gradual undermining of the prestige which Costa Rica's Judiciary once enjoyed in the eyes of the other countries of the region. Indeed, the satisfaction rating which Costa Ricans themselves assign to institutions in that country has fallen in the case of the judicial system from 80 percent in 1992 to 49 percent in August 1994.

- 5.5 The proposed program attacks the deficiencies inherent in the system's failure to improve the administration of justice, as a fundamental component of the national justice system. Costa Rica's Judiciary has the capacity and the will to absorb the proposed assistance and incorporate the recommended reforms. In addition, the Ministry of Justice and the Office of the Attorney General will make use of the support provided under the program to meet their training needs and improve their performance in the administration of justice. And as an aid to achieving the objectives of the program, the Faculty of Law of the University of Costa Rica will complete its work of compiling and developing a national data base of legal writings.
- 5.6 The component for management of the judicial offices has been designed for gradual implementation, based on the experience gained in pilot projects. Costa Rican legislation permits the adoption of these experiences without the need for any major amendments. Any attempt to formalize them in the basic laws from the outset has the drawback of establishing procedures before they can be tested. When it created the Superior Council, the Organic Law of the Judiciary included provisions for that body to make the changes needed to modernize the management of judicial offices. In fact, a good many reforms proposed under the program are already foreseen in the act.
- 5.7 At present, the concept of management as a means to objective and verifiable results within a specified period of time does not exist in Costa Rica. This represents a major obstacle which the program is designed to overcome, at the same time as it reinforces the rights of litigants and those who must set the wheels of justice in motion to defend one of their rights.
- 5.8 Once the pilot projects have been evaluated and the pertinent changes made, the necessary amendments can be made to the Organic Law of the Judiciary to formalize the changes. The program provides for the drafting, review and implementation of such amendments. Furthermore, the Supreme Court of Justice can invoke its existing powers to implement many of the proposed legal changes by promulgating regulations.
- 5.9 The program will also provide support for studying and reviewing those aspects of procedural law that tend to delay cases, together with those matters that might be removed from the court system and dealt with by other administrative bodies. In the same way, the program will attempt to determine more exactly the impact of legal practices on judicial delays. These aspects, which are intended to change the laws and ordinary procedures alike, constitute an important aid to complement the institutional reforms that make the program comprehensively feasible, since its execution will afford more efficient administration of justice through administrative, legal, procedural and human-resource reforms.

C. Socioeconomic feasibility

- 5.10 Judicial delays and congestion add to social costs on three levels. At the broadest level, the protraction of court cases represents a transaction cost which is not directly measurable at the project level, but that affects overall social well-being and economic growth; secondly, the parties involved in the process (attorneys, plaintiffs, defendants) incur additional (direct and opportunity) costs; and finally, the inefficiency of the judicial system means that its internal cost is unnecessarily high for a predetermined level of productivity.

1. Justice and economic growth

- 5.11 Credibility is a prerequisite of development. High, sustainable growth rates are unlikely to be achieved without clear, stable and predictable investment rules. A low rate of investment due to the risks associated with uncertain ground rules drags an economy down by reducing available capital. In addition to this direct effect of the investment rate on a country's capital stock, and assuming that foreign investment brings with it technological change, all things being equal, the lack of stable rules will bring down income levels.
- 5.12 By the same token, the absence of conditions for enforcing clear rules can lead economic agents to form informal networks or clubs with their own ad hoc rules partially replacing ordinary laws. This fragmentation results in smaller markets, and the potential growth associated with economies of scale is lost. As well, fragmentation of this sort makes the dissemination of technological change that much more difficult.
- 5.13 There is evidence that political-judicial instability has an adverse effect on growth. Recent studies show that the variables associated with greater political credibility of governments (including faith in the judicial system) can explain up to 50 percent of the variation observed in private-sector investment rates, and up to 22 percent of the difference in overall investment figures.

2. Economic analysis of the proposed reforms

- 5.14 The economic analysis of the program is based on two criteria: first, verification of the economic viability of the changes proposed under the office-administration component, which means assessing the benefits associated with increases in the internal productivity of judicial offices; and second, the application of economic criteria to future selection and execution of capital investment projects in the Judiciary, aimed at flexibility in the provision of judicial services.

a. Office management

- 5.15 The structure of Costa Rica's justice chambers is extremely rigid. The typical chambers with judge, clerk, assistant clerk, secretaries and porters is organized in assembly-line fashion, so that any savings in time resulting from improvements in the procedures for any one of these links would not benefit the system as a whole. Comprehensive and step-by-step reorganization of these offices is expected to result in an increase in judicial productivity of between 35 and 40 percent.
- 5.16 Since there are no market transactions or visible prices involved in judicial proceedings, indirect methods were used to measure the benefits. These 7/ are estimated on the basis of the savings in marginal operating costs associated with the increased productivity that will result from the innovations introduced into the system. Benefits were calculated both for current users of the judicial system, and for those potential users who are not being served at present.
- 5.17 Supply and demand for judicial services was projected with and without program. The present value of the cost savings from improved management is estimated at approximately US\$14 million, representing an internal rate of return of over 50 percent. A program to introduce innovations of this nature should present a higher rate of return than traditional investment projects. Experience has shown 35 percent to be a good benchmark. Increased productivity implies an increase in supply capacity. If this increase is greater than growth in demand, on an equivalent annual basis, a "supply surplus" will be produced and the theoretical increase in productivity will not translate into real cost savings, but will, rather, effectively restrict demand.

b. Project cycle

- 5.18 The procedures currently used to identify, select and implement projects in the Judiciary do not ensure that the system's resources are allocated to those activities which produce the greatest social benefits. The program seeks to: (i) ensure that the projects undertaken are the ones that yield the greatest social good, via the incorporation of cost-benefit techniques; and (ii) minimize the maintenance costs for physical plant already constructed, via the introduction of a periodic maintenance system.

D. Distributional impact

- 5.19 The leisurely handling of court cases, excessive formality, and congestion in judicial offices make access to the system very

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7/ The estimated "useful life" used for investments in innovation is 10 years.

costly, which is particularly detrimental to the poorest segments of the population. According to a survey conducted in September 1994, 17 percent of those with primary education resolved their conflicts in the courts, versus 13 percent of those with higher levels of education. In addition, in over 60 percent of all civil property cases (claims against the State) and in more than 20 percent of civil cases (between individuals), the amount in contention was less than the poverty-line per capita income level. Finally, the persons to whom nonjudicial settlements are not available are the very people for whom the expected cost of a lawsuit is greater than its opportunity cost. The poorest segments, with the lowest opportunity costs, have little access to justice. Reducing the expected transaction cost of a lawsuit by relieving congestion in the courts will facilitate this access.

E. Program risks

- 5.20 The principal risk in the program relates to the legal reforms proposed in its operations, namely: (i) review, study and drafting of proposed amendments to procedural law; and (ii) adaptation of the legal framework to the new organization of judicial offices as it is gradually implemented. The risk is that the Legislative Assembly will have to approve these reforms, and it may fail to muster the political consensus needed to pass the proposed changes.
- 5.21 However, the above-mentioned risk is mitigated by the following factors: (i) the presence on the political scene of the National Committee to Improve the Administration of Justice (CONAMAJ), which for some time now has been laying the groundwork for judicial reform among the various factions in the country's Legislature; (ii) the reforms required under the program may be approved by the Judicial Committee of the Legislative Assembly, whose chairman is a member of CONAMAJ, without needing to go to a plenary session; and (iii) the Supreme Court of Justice may assume responsibility for using its regulations to adapt the legal framework to the judicial offices' new organizational structure, avoiding the need for legislative reform.

PROGRAM FOR THE MODERNIZATION OF THE ADMINISTRATION OF JUSTICE  
(CR-0073)

COMPONENT	DESCRIPTION	CONSULTING SERVICES REQUIRED
Administrative strengthening	<p>Planning the policies and procedures required for improving the administration and management of the Judiciary.</p> <p>Improving pre-investment procedures in the Judiciary by designing a pool of projects, carrying out prefeasibility and feasibility studies for selected projects.</p> <p>Providing support for the Judiciary in (i) organizing the construction sector (engineering and maintenance) to optimize technical areas under the headings of new works and maintenance of infrastructure; (ii) recommending a number of architectural alternatives for infrastructure projects; and (iii) preparing a program of preventive maintenance on the Judiciary's infrastructure.</p>	<p>International/local consulting firm with 10 years' experience in business administration (public or private sector) and industrial engineering. Estimated duration: 18 months</p> <p>International consulting firm with 10 years' experience in the preparation and evaluation of projects, with emphasis on the social sector. Estimated duration: 13 months</p> <p>International consulting firm specializing in the planning of physical and engineering works, with experience in standardized architectural design and the social sector. Estimated duration: 6 months</p>

COMPONENT	DESCRIPTION	CONSULTING SERVICES REQUIRED
Improving management of judicial offices	The following will be developed and implemented: (i) organizational plan of the judicial offices; (ii) microcomputer networks; (iii) automated word-processing and case-flow management systems in judicial offices; (iv) training for court officials to adopt the newly incorporated functions and systems; (v) physical refurbishing of offices; (vi) study on the impact of legal practices on judicial delays; and (vii) study of aspects of procedural law that tend to delay cases, and matters that might be removed from the court system, together with recommendations for implementation of changes.	International consulting firm with experience in business administration, case processing, and with capacity to subcontract a local consulting firm and international experts. Estimated duration: 5 years
Judicial training	Support for the Law School for: (i) internal reorganization and strengthening of its administrative structure; (ii) upgrading its teaching staff; (iii) modernization of methods used to teach management information systems; (iv) activation and improvement of its audiovisual center; (v) development of new teaching systems (distance education, special demonstration courts, internship programs); (vi) establishment of management training programs; (vii) library; and (viii) generation of decentralized capacity programs and enhanced regional presence.	<p>An international consultant to provide long-term coordination of the component, 42 months</p> <p>A local consultant specializing in distance education, for 42 months</p> <p>A local consultant with experience in the above topics, for 42 months</p> <p>An international consultant to monitor the component, 2 person/months</p>

COMPONENT	DESCRIPTION	CONSULTING SERVICES REQUIRED
Systems and Informatics	(i) design and implementation of a strategy for short-, medium- and long-term systems; (ii) strengthening of the Informatics Unit within the Judiciary; (iii) enhancement and development of an integrated electronic documentation center to provide the courts with data on legal statutes, enlarging the national system of current legislation maintained by the Attorney General's Office, and expanding the data base on legal theory in the various branches of law created by the Law Faculty of UCR; (iv) development of the software needed to integrate penal and judicial statistics; and (v) design and installation of equipment for the senior management of the Ministry of Justice.	A local consultant for (i) and (ii) An international consulting firm for (iii) A local consultant for (iv) and (v)

PROGRAM FOR THE MODERNIZATION OF THE JUSTICE SYSTEM  
(CR-0073)

COST BREAKDOWN FOR THE PROGRAM AND ITS FINANCING (equivalent in US\$ thousands)				
INVESTMENT CATEGORIES	IDB	LOCAL	TOTAL	%
1. <u>Administration</u>	-	<u>2,230</u>	<u>2,230</u>	13.9
1.3 Administration	-	2,230	2,230	
2. <u>Direct costs</u>	-	<u>300</u>	<u>300</u>	1.9
2.1 Refurbishing of offices	-	300	300	
3. <u>Associated costs</u>	<u>8,450</u>	<u>1,700</u>	<u>10,150</u>	63.4
3.1 Consulting fees	3,880	1,100	4,980	
3.1.1 Administrative strengthening	1,580	330	1,910	
3.1.2 Management of judicial offices	1,260	460	1,720	
3.1.3 Judicial training	890	310	1,200	
3.1.4 Information systems	150		150	
3.3 Hardware and software	4,570	400	4,970	
3.3.1 Administrative strengthening	370	30	400	
3.3.2 Management of judicial offices	3,570	310	3,880	
3.3.3 Judicial training	300	50	350	
3.3.4 Information systems	330	10	340	
3.4 Supplies and publications		200	200	
SUBTOTAL	8,450	4,230	12,680	79.2
4. <u>Unallocated</u>	<u>1,100</u>	<u>350</u>	<u>1,450</u>	9.1
4.1 Contingencies	600	350	950	
4.2 Cost escalation	500	-	500	
5. <u>Financial costs</u>	<u>1,650</u>	<u>220</u>	<u>1,870</u>	11.7
5.1 Interest	1,538		1,538	
5.2 Credit fee	-	220	220	
5.3 Inspection and supervision	112	-	112	
TOTALS	11,200	4,800	16,000	
PERCENTAGES	70.0	30.0	100.0	100.0

**PROGRAM FOR THE MODERNIZATION OF THE  
ADMINISTRATION OF JUSTICE**

**MANAGEMENT INDICATORS FOR JUDICIAL OFFICES**

To improve office management and encourage a management culture within the Judiciary, it will be necessary to establish a series of indicators of those aspects to be acted upon. This will require an expedient for systematic measurement of everything from the end users of the system to the senior management level where command decisions are made and strategic planning takes place. The following table contains the recommended indicators for this component:

Level	Users	Indicators
1. Judicial offices	Judge Clerk Administrative coordinator	Congestion Judicial delay Productivity Quality Efficiency
2. Administrative coordinator	Administrative coordinator Management committee	Same (grouped together wherever possible) Use of incentives
3. Senior management	Office of the President Superior Council Planning	Same (grouped) Comparative analysis Fixed and variable (due to incentives) costs for human resources

**Congestion** is defined as the workload of cases in a given year that cannot be wound up in that same year. The numerical index of congestion is obtained by taking the quotient of [No. of cases pending at year-end (n-1) + no. of cases received during the year (n) - no. of cases received during the year (n)]. The result will always be between 0 and 1: the closer the number is to 1 the greater the congestion, and vice versa.

It is also possible to define the rate of change in this index as the result of dividing the total number of cases entering during the period, by the total number of cases settled in the same period, or the **rate of congestion**. If the rate is less than 1, the initial stock of cases is diminishing. If the rate is greater than 1, it is increasing.

**Judicial delay** refers to the time it takes to process a case. All times above the average duration for processing files on a given topic, and at a given level of the court system, can be classed as "delays". Figures are not available for all procedures and topics.

**Productivity** is calculated globally for each office and is defined as the quantity of cases settled, divided by the average number of service providers in that office during the year. Another indicator that might be used is productivity per judge, defined as the number of sentences handed down per judge over a given unit of time. In this case, a weighing factor would have to be used for comparison between different specialities.

**Quality** is a concept that can be viewed from different angles. On the one hand, it can be understood as a measurement of the degree of satisfaction obtained by end-users of the justice system, and one definition - accepted in the field of management - has it that quality equals "compliance with specifications". This approach implies that quality is to be defined from the point of view of users of the service. On the other hand, the term is generally understood within the Judiciary as referring to the quality of the decisions handed down by a judge, i.e. the term is defined from the viewpoint of the "producers" of judicial services. Although the methods for handling the practical aspects of this concept remain to be worked out, quality is provisionally defined as that proportion of the decisions handed down that are either appealed or overturned, per judge and per area of a specialization.

**Efficiency** refers to the degree to which the established objectives have been met, in relation to the corporate mission. The main indicators relating to this concept are level of activity, opportunity, coverage and equity.

While it is true that each case is different, that the various types of processes require different amounts of time and resources, and that comparisons must therefore be approached with caution, it is equally true that systematic measurement of these indicators can be one of the main tools for modernizing the management of judicial offices. To the extent that their measurement can be perfected, to that extent will progress be enhanced.

In other words, indicators afford an objective assessment of the offices. At the level of the individual office, this provides a basis for the manager's decisions. And at the level of the overall organization, such indicators can be used to establish certain categories and differentiate between the performance of comparable offices. With a subsequent more detailed study, it is even possible to compare specialties, based on an equivalence pattern.

An innovative project such as this offers an opportunity to develop an integrated system for management control of individual offices, a comprehensive data control system for groups of offices, and general performance statistics through implementation of computerized case-monitoring systems designed to provide such information.

APENDICE

PROPOSED RESOLUTION

COSTA RICA. LOAN /OC-CR TO THE REPUBLICA DE COSTA RICA  
(Administration of Justice Modernization Program)

The Board of Executive Directors

RESOLVES:

That the President of the Bank, or such representative as he shall designate, is authorized, in the name and on behalf the Bank, to enter into such contract or contracts as may be necessary with the República de Costa Rica, as Borrower, for the purpose of granting the former a financing to cooperate in the execution of an Administration of Justice Modernization Program. Such financing will be for the amount of up to US\$11,200,000, or its equivalent of in other currencies, except that of Costa Rica, which are part of the Ordinary Capital resources of the Bank, and it will be subject to the "Special Contractual Conditions" and the "Terms and Financial Conditions" of the Executive Summary of the Loan Proposal.