

IDLO Evaluation Brief

EVALUATION OF THE EBRD - IDLO PROJECT “MONGOLIA: STRENGTHENING ENFORCEMENT OF COURT DECISIONS – PHASE I AND II”

January 2018

1. Introduction and Background

This Evaluation Brief presents the findings of the end-of-project evaluation of the project “Mongolia: Strengthening Enforcement of Court Decisions Phase I and II (SECD)”, implemented by the International Development Law Organization (IDLO) from July 2014 to June 2016, and supported by the European Bank for Reconstruction and Development (EBRD) with a budget of Euro 657,000. The beneficiary institutions were the Mongolian General Executive Agency for Court Decisions (‘the Agency’) and the Mongolian Ministry of Justice and Home Affairs (MoJ). The project was an outcome of discussions between the EBRD and the Government of Mongolia (GoM), eventually leading to an official request by the GoM for EBRD’s assistance to design and implement a program to strengthen the enforcement of court decisions. The Project had three key components: 1) Conceptual support for the legislation working group of the MoJ; 2) Human resources (HR) capacity support to the Agency through training of trainers (ToT), apprenticeship and substantive training courses; 3) Institutional development support to the Agency.

2. Evaluation Purpose and Methodology

The purpose of this evaluation, carried out by an international independent expert, was to: (i) assess the extent to which the expected results were achieved; and (ii) identify lessons learned with a view to guide similar interventions in the future. The evaluation was conducted using a ‘theory-based’ approach, where the reconstruction of the program’s Theory of Change (ToC) allowed for presenting the overarching rationale behind the intervention. This led to the establishment of the causal link between activities, outputs, outcomes, and impacts. Subsequently, evaluation questions and indicators linked to the ToC have been formulated to gauge the program’s Relevance, Efficiency and Effectiveness, as well as Impact and Sustainability prospects (based on the OECD/DAC approach). A criterion looking at ‘IDLO’s value added’ has been also added.

Data for this evaluation was collected through: i) desk study of a wide array of relevant documents; ii) field mission to Mongolia with structured/semi-structured interviews and focus group discussions. The gathered data was triangulated to ensure its validity.

3. Findings

Project’s Relevance and Design

The evaluation considered the project as highly relevant, based on the GoM’s expressed need to improve the enforcement system for court decisions as a priority task. The project purpose was also seen as coherent with IDLO’s and EBRD’s strategic objectives of promoting rule of law, legal empowerment, training of legal professionals and strengthening of judicial institutions. Project activities corresponded to the needs of the target groups, as articulated in the baseline analysis conducted prior to the implementation. Synergies had been created with the previous EBRD-supported IDLO “Commercial Law Judicial Capacity Building Project” (CLJCBP), which aimed to assist the judiciary to enhance the quality of court decisions. Activities were also consistent with other EBRD-IDLO projects in Mongolia covering judicial and law enforcement aspects of the justice system.

The evaluation noted that, from the project cycle management (PCM) perspective, the project design lacked a detailed risk assessment strategy and a sound logical/results framework with Objectively Verifiable Indicators (OVIs) enabling regular internal monitoring of activities/objectives and preparation of a data reservoir for the external evaluation. Only the training component of the project has been tracked by IDLO’s “Training Information Management System (TIMS)”, which is a perception-based self-assessment of the utility of training activities.

Gender balance and fair geographical coverage were ensured in the process of identifying the key beneficiaries/target groups for project activities.¹

¹ While the majority (64%) of the ToT participants were male between 31-40 ages, the majority of the substantial classroom-training participants were female.

Time/Cost-Effectiveness and IDLO's Comparative Advantage

All activities were implemented without delay and inputs provided were of good quality. Financial and human resources were well-managed, and work plans jointly prepared by the IDLO project team and the Agency were followed. The allocated budget amount was sufficient and well utilized. All local and international experts interviewed (contracted for trainings and other project activities) expressed their satisfaction with the professionalism of the IDLO team as well as the contractual/administrative/logistical arrangements.

Significant improvements in Capacity and Skills of Enforcement Agents

The evaluation found that the project resulted in a significant improvement of the HR capacity of the Agency through the creation of a qualified pool of trainers comprising of 12 senior bailiffs with enhanced knowledge and skills on civil and administrative court decisions' enforcement. As a result of the project, the bailiffs are now capable to deliver trainings on these topics. The proficiency and skills of 200 bailiffs who undertook the substantive trainings also increased, as evident in the test scores and confirmed by relevant stakeholders. According to test results, most trainees (average rate 78 %) have received higher scores in post-training tests, as compared to pre-training tests. The evaluation revealed that the video lectures delivered by international experts to bailiffs were not always as effective as face-to-face sessions, as the trainees got more easily distracted and could not concentrate on the topics in a way they did in classroom sessions.

The bailiffs who participated in the apprenticeship gave positive feedback on the usefulness of these sessions. They also confirmed their better ability to apply the newly acquired know-how while performing their official duties. However, some stakeholders pointed out that, for motivational reasons, more junior professionals should be included in apprenticeships in comparison to seniors.

Application of the acquired skills was not hindered by geographical factors as equal participation to capacity building activities from all regions was generally ensured. Political and legal environment did not pose significant risks to effective application of new skills. While the project did not address development of staff retention policies as it was beyond its scope, it is evident that the retention of gained knowledge will depend on the personnel turnover rate of enforcement agents within the Agency.

Use of Training Modules

Among the positive outcomes of the project, the evaluation noted that the Agency had institutionalized the training modules prepared through the project and embedded them in its in-house training programs. This applies also to the handbooks prepared with the involvement of bailiff-trainers. The Agency is planning to organize regular in-service training courses conducted by the newly trained trainers, utilizing the outputs delivered by the project. However, the Agency does not yet have concrete financial means/strategies for a full utilization of project results. Although there is a general willingness to further reap the project benefits, there are no long-term budget allocations and HR plans in this regard.

Limited uptake of Institutional Capacity Development activities and legal advice

The evaluation found that institutional capacity development-related activities in the project had a rather limited uptake. The recommendations provided under the projects' institutional capacity/performance assessment were still being reviewed by the Agency at the time of the evaluation. While interviews carried out as part of the evaluation suggested the Agency's satisfaction with the usefulness of the recommendations for future structural changes, no steps had been taken to include them as priorities in the respective institutional action plans and strategies. The Agency had not yet made concrete plans to modernize its institutional quality management systems, in line with the recommendations provided by the project.

Similarly, while the project's legal advice on the Law on the Enforcement of Court Decisions (LECD) generally benefitted the development of the legal framework, at the time of the evaluation no tangible steps had been taken to amend the LECD. However, the evaluation concluded that the provision of technical assistance contributed to enhancing the capacity of the legislation working group within the MoJ. This helped create a conducive environment for long-term improvement of the legislation, as MoJ's support for amendments to the LECD and enforcement-related secondary law continues. However, prioritizing themes remains challenging and the pace of the reform for civil and administrative enforcement may slow down, due to changed priorities of the new GoM. These reportedly include prioritizing faster reforms within the criminal enforcement dimension, rather than civil and administrative court decisions' enforcement.

Enhanced trust in the Justice Sector and the Foreign Investment Climate

Interviews with private sector representatives revealed a certain optimism towards ensuring a more secure environment for commerce throughout the country. Activities such as the ones included in the IDLO project were seen as bringing about a positive change in this regard and they were supported by the private sector. Nevertheless, deteriorating economic conditions in Mongolia would necessitate further sector-wide interventions to safeguard the stability of the investment environment. This also means focusing on justice-related issues beyond improving courts decisions' enforcement. This was not feasible within the project's scope and budget.

4. Conclusions

Relevance

The Project was relevant, in line with the priorities and coherent with the strategies of the GoM as well as of EBRD and IDLO. It responded timely to the needs of the enforcement system. Synergies have been created between the CLJCBP and other previous EBRD-IDLO interventions to cover both judicial and enforcement aspects of the justice system. Gender balance and broad geographical coverage have been accurately taken into consideration. On the other hand, the project design lacked a structured risk assessment strategy and a sound result framework along with OVIs formulated under each result level, which would serve as a basis for regular internal monitoring of project's activities/results as well as provide data for an external evaluation.

Efficiency

The project benefitted from timely allocation and utilization of human and financial resources. This facilitated the completion of activities and outputs to a satisfactory utility, as judged by the target groups. IDLO utilized resources and staff flexibly, in particular for the projects' training component. Activities were generally implemented without delay through efficient coordination between the key stakeholders and project team. The allocated budget was fully disbursed.

Effectiveness

All three components of the project reached their expected results to an extent. The component with most tangible outcomes was the HR capacity development one, where the HR capacity of the Agency was significantly improved through the creation of a qualified pool of trainers comprising of 12 senior bailiffs, all willing and mostly available at the time of evaluation, to continue delivering trainings. With very few alternative options for gaining the necessary knowledge and skills, the trainings laid a good foundation for the trainees to handle the

decisions' enforcement process with more ease. This was broadly confirmed by the pre-post training test scores, as well as the interviews.

However, there were also some critical voices in terms of putting too much emphasis on senior trainees vis-à-vis juniors, which could be demotivational for junior staff. Stakeholders also noted that videoconference techniques used for delivering trainings were not as effective as face-to-face sessions. In relation to the project's training component, it is still too early to see an actual increase in the quality of case enforcement rates because of the trainings. Improvements in this area take time and depend on ensured sustainability of the capacity building activities.

The other two project components aiming at influencing institutional and legislative reforms were successful in terms of laying the ground for systemic reforms, although no steps had been taken yet to include the project's recommendations in the relevant action plans/strategies. The project was also successful in positively influencing the revised LECD. Although ratification of the LECD did not take place due to a change of governmental priorities after parliamentary elections, there are indications that the work on the LECD is likely to serve as a useful reference for further legislative reform.

Impact Prospects

The actual impact of capacity building initiatives to improve the investment climate was not immediately tangible. Whether it will materialize in future depends on the uptake/expansion of project's results. Based on the evidence acquired, the outlook is optimistic: i.e. there is an improved attitude towards the importance of judicial enforcement among the key stakeholders. In this sense the project triggered positive developments for enhancing investment climate in the country. This was also confirmed by interviews with private sector representatives. However, the deteriorating economic conditions in Mongolia would require further structural reforms to stabilize the investment environment – all elements which are highly dependent on the country's economic/political conditions and beyond the scope of this project.

Sustainability Prospects

The Agency has institutionalized the pool of trainers and training modules (along with the handbooks produced) and embedded them in its in-house HR development curricula. It is willing and planning to organize regular training courses for its staff by utilizing these outputs to the greatest extent possible. However, the Agency does not have concrete institutional/financial strategies to retain the bailiff-trainers in appropriate positions or to mobilize them when needed. Although there is willingness to include provision of systematic trainings in the long-term budget allocations and HR action plans, these intentions did not fully materialize at the time of the

evaluation. Precarious financial conditions were the main reason. This partially justifies the need for a continuation of external support by the EBRD and IDLO.

In terms of sustainability, the project had limited results beyond its training components, especially the one focused on strengthening laws and institutions. The project's recommendations mostly concern major systemic aspects and alternative policy options in critical areas such as privatization, bonus system and separation of civil and criminal functions. It is too early to see whether these will trigger the much-needed structural reforms, as these depend much on economic conditions and political will. EBRD's and IDLO's direct influence in this regard is limited, although structured policy dialogue with the GoM on these topics could play a constructive role.

IDLO Value Added

All local and international experts interviewed expressed their full satisfaction with IDLO's professionalism in managing the project. The selection of international experts for project implementation benefitted from IDLO's expansive network of legal professionals in several countries and strong experience in this area of expertise.

Another factor that added value to IDLO's contribution was related to the previous CLJCBP project. Some of the experts mobilized by IDLO to deliver trainings were the same professionals as within the CLJCBP. This made them more knowledgeable about the system in Mongolia and consequently increased the efficiency of the training courses. A smart mixture of academics and practitioners provided an environment where both theoretical and hands-on aspects related to various phases and fields of enforcements were discussed. Finally, a long and productive working history between the EBRD and IDLO contributed to an effective coordination between the two organizations.

5. Recommendations

Recommendation 1: Continuation of Institutional/Legislative Support for the Agency and MoJ

- Given the deteriorating economic conditions in Mongolia, and limited international financial support for improving the enforcement of court decisions, it is essential to continue support to the MoJ regarding legislation and to the Agency for upgrading its institutional systems. These efforts should be embedded within a long-term strategy formulated in a participatory way. A high-level policy dialogue with the key stakeholders should be the backbone of these efforts.

Recommendation 2: Improve Project Design, Monitoring and Reporting

- Future projects should be designed in a way to include not only activities and objectives, but also the intermediate phases that would demonstrate the linkages and flow among activities, outputs, outcomes and objectives in a logical result framework matrix, with OVIs defined under each result level. This, done in participation with key stakeholders, would allow for regular internal monitoring of results throughout the project's implementation period. Should the design period not allow a sufficient time to create a comprehensive result framework approach, the inception phase of the projects can be utilized to make the necessary modifications to design and upgrade the results framework.
- Risk assessment/mitigation strategy shall be part of the design. Fragile political context and frequent changes that occur at the governmental level may jeopardize achievement of the project objectives, and these risks need to be analyzed and addressed jointly with the stakeholders.
- The external evaluation, serving as a basis for this Evaluation Brief, was designed as part of the project activities, therefore conducted within the timeframe of the project implementation as the last activity. This meant that some higher-level project's results were still too early to detect. It would be more useful to conduct an ex-post evaluation exercise to better assess effectiveness and impact.

Recommendation 3: Agency's Institutional and Human Resources Capacity

- Adoption of staff retention strategies accompanied by satisfactory financial benefits to the bailiffs is necessary to keep the trained professionals in the Agency. This could be done through a motivational bonus system, which applies fairly to all cases and regions. It is also essential for the Agency to create opportunities to help the bailiffs refresh their knowledge and apply their skills in a participatory way, through interaction with their colleagues, learning from each other on a regular basis. It would also help to attract new law graduates to this profession.

Recommendation 4: Continuous Involvement of (Private) Commercial Sectors

- The MoJ shall continue its support to further amendments to the LECD and civil/administrative court decisions' enforcement-related secondary

legislation. This would respond to the private/commercial sectors' demand for a substantive legislation reform reflecting on rapid changes emerging in the economy. Related adjustments to the civil and administrative law enforcement functions of the Agency shall be considered.

Recommendation 5: Learning from the Training Feedback

- Delivering trainings for large groups of trainees via video-conference may not be the ideal approach. In future, for large groups of training participants it is recommended that IDLO makes the necessary budget allocations to allow for interactive, face-to-face training activities. In case video lectures cannot be avoided, it may be useful to record the lectures so that law students, as well as other groups of bailiffs can benefit from the knowledge in later stages, as required.
- Include not only senior bailiffs but also junior bailiffs in apprenticeship activities, to increase the motivation level of bailiffs from all levels on a fair basis. Selection of junior participants can be made according to annual performance scores, which would create additional motivation for their work.