



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2009

## Country: Serbia

### National correspondent

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## 1. Demographic and economic data

### 1. 1. General information

#### 1. 1. 1. Inhabitants and economic information

##### 1) Number of inhabitants

7350222

##### 2) Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level (in €)

	Amount
State level	13700000000
Regional / entity level	

##### 3) Per capita GDP (in €)

4597

##### 4) Average gross annual salary (in €)

4056

##### 5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2009

89

**Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:**

National Bank of Serbia

### 1. 2. Budgetary data concerning judicial system

#### 1. 2. 1. Budget (courts, public prosecution, legal aid, fees)

##### 6) Total annual approved budget allocated to all courts (in €)

195863391

##### 7) Please specify

The above sum relates to court budgets and excludes prosecutors, the High Judicial Council, the State Prosecutorial Council, the Office of the Republican Attorney General and misdemeanor organs

**8) Does the approved budget of the courts include the following items? Please give for each item (or some of them) a specification of the amount concerned or indicate NA (not available) in case that the information cannot be supplied**

**Please provide comments to explain the data provided under question 8:**

Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	133565955
Annual public budget allocated to computerisation (equipment, investments, maintenance)		NA
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	65377307
Annual public budget allocated to court buildings (maintenance, operation costs)		NAP
Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	11949797
Annual public budget allocated to training and education		NAP
Other (please specify):	<input checked="" type="checkbox"/> Yes	7121534

Comment :

Law on the Budget for 2008

**9) Has the annual public budget of the courts changed (increased or decreased) over the last five years?**

Yes

No

If yes, please specify (i.e. provide an indication of the increase or decrease of the budget over the last five years):

There is an increasing tendency.

**10) In general are litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:**

for criminal cases?

for other than criminal cases?

If yes, are there exceptions? Please specify:

**11) If yes, please specify the annual income of court fees (or taxes) received by the State (in Euros)**

83533573

**12) Total annual approved budget allocated to the whole justice system (in €)**

**Please provide information concerning the budgetary elements that included in the whole justice system budget:**

.  Amount 332713073

Comment :

Excluding the budget for the Constitutional Court.

Annual apportions from the budget cover courts, prosecutors, High Judicial Council, State

Prosecutorial Council, Office of Republican Attorney General, misdemeanor organs, Ministry of Justice and the prison system.

**13) Total annual approved public budget allocated to legal aid (in €)**

**Please provide comments to explain the figure provided under question 13:**

.  Amount

Comment :

The Law on the Budget does not prescribe separate allocations for legal aid

**14) If possible, please specify (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):**

	Annual public budget allocated to legal aid in criminal law cases	Annual public budget allocated to legal aid in non criminal law cases
Amount	NAP	NAP

Comment :

Legal aid is included in overall current expenditures. The Law on the Budget does not envisage separate legal aid allocations

**15) Is the public budget allocated to legal aid included in the court budget ?**

Yes

No

**16) Total annual approved public budget allocated to the public prosecution system (in €)**

**Please provide comments to explain the figure provided under question 16:**

.  Amount 26845371

Comment :

This budget is intended for the Office of the Republican Prosecutor, War Crimes Prosecutor, District Prosecutors and Municipal Prosecutors

**17) Is the budget allocated to the public prosecution included in the court budget?**

Yes

No

**18) Authorities formally responsible for the budget allocated to the courts:**

	budget	budget	of the budget among the individual courts	budget at a national level
Ministry of Justice	Yes	No	Yes	Yes

Other ministry	No	No	Yes	Yes
Parliament	No	Yes	No	No
Supreme Court	No	No	No	No
Judicial Council	No	No	No	No
Courts	Yes	No	No	No
Inspection body	No	No	No	No
Other	No	No	No	No

**19) If other Ministry and/or inspection body and/or other, please specify (in regards to question 18):**

Ministry of Finance is also responsible

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your budgetary system and the main reforms that have been implemented over the last two years
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process

**Please indicate the sources for answering the questions 6, 8, 11, 12, 13, 14 and 16.**

The Law on Amendments to the Law on the Budget for 2008 (Official Gazette of the Republic of Serbia no. 102/2008 of 5 November 2008)

## 2. Access to Justice and to all courts

### 2. 1. Legal aid

#### 2. 1. 1. Principles

#### 20) Does legal aid concerns:

	Criminal cases	Other than criminal cases
Representation in court	Yes	Yes
Legal advice	No	No
Other	No	No

#### 21) If other, please specify (in regards to question 20):

#### 22) Does legal aid foresee the covering or the exoneration of court fees?

- Yes  
 No

If yes, please specify:

#### 23) Can legal aid be granted for the fees that are related to the execution of judicial decisions?

- Yes  
 No

#### 24) Number of cases granted with legal aid provided by (national, regional, local) public authorities (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Number
Total	
in criminal cases	
Other than criminal cases	

Comment :

#### 25) In a criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget) lawyer?

- Yes  
 No

**26) Does your country have an income and asset test for granting legal aid:**

	Yes	Amount in €
for criminal cases		
for other than criminal cases?		

Comment :

**27) In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?**

Yes

No

Please provide comments to explain the answer under question 27:

**28) If yes, is the decision for granting or refusing legal aid taken by:**

the court?

an authority external to the court?

a mixed decision-making authority (court and external)?

**29) Is there a private system of legal expense insurance enabling individuals to finance court proceedings?**

Yes

No

Please specify:

**30) Do judicial decisions have an impact on who bears the legal costs which are paid by the parties during the procedure in:**

	Yes (the decision has an impact on who bears the legal costs)
criminal cases?	Yes
other than criminal cases?	Yes

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

**Please indicate the sources for answering the questions 24 and 26**



## 2. 2. Users of the courts and victims

### 2. 2. 1. Rights of the users and victims

**31) Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for the following, which the general public may have free of charge access to:**

legal texts (e.g. codes, laws, regulations, etc.)? Internet address (es):  Yes

case-law of the higher court/s? Internet address(es):  Yes

<http://www.vrh.sud.rs/code/navigate.php?Id=563>

other documents (for examples forms)? Internet address(es):  Yes

**32) Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?**

Yes

No

If yes, please specify:

**33) Is there a public and free-of-charge specific information system to inform and to help victims of crimes?**

Yes

No

If yes, please specify:

**34) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:**

	Information mechanism	Hearing modalities	Procedural rights	Other
Victims of rape	Yes	Yes	Yes	No
Victims of terrorism	Yes	Yes	Yes	No
Children/Witnesses/Victims	Yes	Yes	Yes	No
Victims of domestic violence	Yes	Yes	Yes	No
Ethnic minorities	No	Yes	Yes	No
Disabled persons	No	Yes	Yes	No
Juvenile offenders	Yes	Yes	Yes	No
Other	No	No	No	No

Comment :

**35) Does your country have a compensation procedure for victims of crimes?**

- Yes  
 No

**36) If yes, does this compensation procedure consist in:**

- a public fund?  
 a court decision?  
 a private fund?

If yes, which kind of cases does this procedure concern?

It concerns criminal cases where the victim claims compensation in civil proceedings.

**37) Are there studies to evaluate the recovery rate of the compensation awarded by courts to victims?**

- Yes  
 No

If yes, please specify:

The trial chamber grants compensation up to the limit set by the case law of the Civil Cases Department of the highest-ranking court which has jurisdiction over such cases.

**38) Is there a specific role for the public prosecutor with respect to the (protection of the position and assistance of) victims?**

- Yes  
 No

If yes, please specify:

**39) Do victims of crimes have the right to contest to a decision of the public prosecution to discontinue a case?**

- Yes  
 No

If yes, please specify:

2. 2. 2. Confidence of citizens in their justice system

**40) Is there a system for compensating users in the following circumstances:**

- excessive length of proceedings?  
 non execution of court decisions?  
 wrongful arrest?  
 wrongful condemnation?

If yes, please specify (fund, daily tariff):

Compensation is paid from the Budget of the Republic of Serbia

**41) Does your country have surveys aimed at users or legal professionals (judges, lawyers, officials, etc.) to measure their trust and/or satisfaction (with the services delivered by the judiciary system)?**

- (Satisfaction) surveys aimed at judges  
 (Satisfaction) surveys aimed at court staff  
 (Satisfaction) surveys aimed at public prosecutors  
 (Satisfaction) surveys aimed at lawyers  
 (Satisfaction) surveys aimed at citizens (visitors of the court)  
 (Satisfaction) surveys aimed at other clients of the courts

If possible, please specify their titles, how to find these surveys, etc:  
 National and other televisions, NGO and some newspapers.

**42) If possible, please specify:**

	Yes (surveys at a regular interval: for example annual)	Yes (incidental surveys)
Surveys at national level	No	Yes
Surveys at court level	No	Yes

**43) Is there a national or local procedure for making complaints about the functioning (for example the treatment of a case by a judge or the duration of a proceeding) of the judicial system?**

- Yes  
 No

**44) If yes, please specify:**

**Please give elements of information concerning the efficiency of this complaint procedure:**

	Time limit to respond (Yes)	Time limit for dealing with the complaint (Yes)
Court concerned	Yes	Yes
Higher court	Yes	No
Ministry of Justice	Yes	No
High Council of the Judiciary	No	No
Other external organisations (e.g. Ombudsman)	No	No

Comment :

The Supreme Court of Serbia resounded to all complaints submitted in 2008. By taking a series of steps, such as monitoring the duration of court proceedings, asking the trial judge to respond to the

allegations contained in the complaint, which mostly concerned undue length of proceedings in general or undue length of time between two hearings or between the final hearing and the issuing of a decision, the Supreme Court has succeeded in accelerating the proceedings in most of the cases where it was objectively possible.

If it receives similar complaints from citizens, the Ministry of Justice too can invoke its oversight powers for checking whether the prescribed deadlines were duly observed

### 3. Organisation of the court system

#### 3. 1. Functioning

##### 3. 1. 1. Courts

**45) Number of courts considered as legal entities (administrative structures) and geographic locations (please, complete the table. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation.**

	Total number
First instance courts of general jurisdiction	138
Specialised first instance Courts (legal entities)	17
All the Courts (geographic locations) * (this includes Supreme Courts and/or High Courts)	199

**46) Please specify the different areas of specialisation (and, if possible, the number of courts concerned):**

Commercial courts

**47) Is there a change in the structure in the courts foreseen (for example a reduction of the number of courts (geographic locations) or a change in the powers of courts)?**

Yes

No

If yes, please specify:

Starting 1 January 2010, the number of courts and judges has been downsized to make the judicial system more efficient. New courts have been established, such as the Supreme Court of Cassation, Appellate Courts, first-instance Basic and Higher Courts and Misdemeanor Courts and Commercial courts.

**48) Number of first instance courts competent for a case concerning (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):**

	Number
a debt collection for small claims	138
a dismissal	138
a robbery	138

**Please specify what is meant by small claims in your country (answer only if the definition has been changed since the previous evaluation cycle):**

Jurisdiction of the Court defined by the law.

**Please indicate the sources for answering the questions 45 and 48:**

## 3. 1. 2. Judges, courts staff

**49) Number of professional judges sitting in courts (please give the information in full time equivalent and for permanent posts; if there is no data please indicate this with NA)**

**Please provide comments to explain the answer under question 49:**

Number  . 2506

Comment :  
Deffined by decision of National Assembly.

**50) Number of professional judges sitting in courts on an occasional basis and who are paid as such:**

	Number
gross figure	
if possible, in full time equivalent	

**51) Please provide comments to explain the answer under question 50:**

Such a system does not exist in Serbia.

**52) Is there in the legal system non-professional judges (including lay judges and excluding jurees) who are not remunerated but who can possibly receive a simple defrayal of costs? (Please indicate NA if no figures are available).**

**Please provide comments to explain the answer under question 52:**

	Yes	Number
Do you have non-professional judges?	No	

Comment :  
There are no non-professional judges in Serbia

**53) Does your judicial system include trial by jury with the participation of citizens?**

- Yes  
 No

If yes, for which type of case(s)?

First- and second-instance civil and criminal cases, cases before commercial courts

**54) If possible, indicate the number of citizens who were involved in such juries for the year of reference?**

3100

**55) Number of non-judge staff who are working in courts (in full time equivalent and for permanent posts). Please indicate NA if no figures are available.**

**Please provide comments to explain the answer under question 55:**

Number  . 9602

Comment :

This is regulated by internal court rules approved by the Ministry of Justice

**56) If possible, could you distribute this staff according to the 4 following categories. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).**

- non-judge staff (Rechtspfleger or similar bodies), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal  Yes 1007
- non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars  Yes 3847
- staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)  Yes 1307
- technical staff  Yes 3628

Comment :

This is regulated by the HR Plan for 2008.

**57) If there are Rechtspfleger (or similar bodies) in your judicial system, please describe briefly their status and functions:**

They assist judges in preparing case files, drafting court decisions etc.

### 3. 1. 3. Prosecutors

**58) Number of public prosecutors (in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).**

Number  . 689

Comment :

The number is defined by a Decision on the Number of Deputy Public Prosecutors.

**59) Do any other persons have similar duties as public prosecutors?**

- Yes  
 No

If yes, please specify:

Should a prosecutor decide to drop criminal charges, the victim can then press charges before a competent court

**60) Number of staff (non prosecutors) attached to the public prosecution service (in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).**

**Please provide comments to explain the answer under question 60:**

Number  . 950

Comment :

Regulated by the HR Plan for 2008.

### 3. 1. 4. Court budget and new technologies

**61) Who is entrusted with the individual court budget?**

	Preparation of the budget	Arbitration and allocation	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	No	No	No	No
Court President	Yes	Yes	Yes	No
Court administrative director	No	No	No	No
Head of the court clerk office	No	No	No	No
Other	No	No	Yes	Yes

**62) You can indicate below:**

- any useful comments for interpreting the data mentioned above
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process in the court

**63) For direct assistance to the judge/court clerk, what are the computer facilities used within the courts?**

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Word processing	Yes	No	No	No
Electronic data base of jurisprudence	No	Yes	No	No
Electronic files	No	No	Yes	No
E-mail	No	No	No	No
Internet connection	No	No	Yes	No

**64) For administration and management, what are the computer facilities used within the courts?**

	100% of courts	+50% of courts	-50% of courts	-10% of courts



Case registration system	No	No	Yes	No
Court management information system	No	No	Yes	No
Financial information system	Yes	No	No	No

**65) For the communication between the court and the parties, what are the computer facilities used within the courts?**

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic web forms	No	No	No	No
Special Website	No	Yes	No	No
Other electronic communication facilities	No	Yes	No	No

**66) Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary?**

- Yes  
 No

If yes, please specify the name and the address of this institution:

The Republican Statistical Office collects some data on the work of courts, as does the Ministry of Justice, in accordance with the Law on the Management of Courts (eg. data on the functioning of courts, court administration, IT systems etc.).

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your judicial system and the main reforms that has been implemented over the last two years

### 3. 2. Monitoring and evaluation

#### 3. 2. 1. Monitoring and evaluation

**67) Are the courts required to prepare an annual activity report?**

- Yes  
 No

**68) Do you have a regular monitoring system of court activities concerning the**

- number of incoming cases?  
 number of decisions?  
 number of postponed cases?  
 length of proceedings (timeframes)?  
 other?

Please specify:

Following consultations with the President of the Supreme Court, the Minister of Justice adopts the Court Rules of Procedure, which regulate the running of courts, collecting statistical data, reportinig on the work of courts and court staff and similar.

**69) Do you have a regular system to evaluate the performance of each court?**

- Yes  
 No

Please specify:

**70) Concerning court activities, have you defined performance indicators (if no, go to question 72)?**

- Yes  
 No

**71) Please select the 4 main performance and quality indicators that is used for a proper functioning of courts:**

- incoming cases  
 length of proceedings (timeframes)  
 closed cases  
 pending cases and backlogs  
 productivity of judges and court staff  
 percentage of cases that are treated by a single sitting judge  
 enforcement of penal decisions  
 satisfaction of employees of the courts  
 satisfaction of clients (regarding the services delivered by the courts)  
 judicial quality and organisational quality of the courts  
 costs of the judicial procedures  
 other:

Please specify:

This is regulated by the Court Rules of Procedure, which also prescribe separate forms for the collection of such data on a quarterly, six-month, nine-month, annual and triennial basis

**72) Are there performance targets defined for individual judges (if no go to question 74) ?**

- Yes  
 No

**73) Please specify who is responsible for setting the targets:**

- executive power (for example the ministry of Justice)?

- legislative power
- judicial power (for example a High Judicial Council or a Higher Court)
- other

If other, please specify:

**74) Are there performance targets defined at the level of the courts (if no go to question 77)?**

- Yes
- No

**75) Please specify who is responsible for setting the targets:**

- executive power (for example the ministry of Justice)?
- legislative power
- judicial power (for example a High Judicial Council or a Higher Court)
- other

If other, please specify:

**76) Please specify the main targets applied**

**77) Which authority is responsible for the evaluation of the performances of the courts:**

- High Council of judiciary
- Ministry of justice
- inspection authority
- Supreme Court
- external audit body
- other

If other, Please specify:

**78) Are there quality standards (organisational quality and/or judicial quality policy) formulated for the courts (existence of a quality system for the judiciary)?**

- Yes
- No

If yes, please specify:

**79) Do you have specialised court staff which is entrusted with quality policy and/or quality systems for the judiciary?**

- Yes  
 No

**80) Is there a system which measures the backlogs and which detects the cases not processed within a reasonable timeframe for:**

- civil cases?  
 criminal cases?  
 administrative cases?

**81) Do you have a way of analysing waiting time during court procedures?**

- Yes  
 No

If yes, please specify:

**82) Is there a system to evaluate the functioning of courts on the basis of an evaluation plan (timetable for visits) agreed a priori?**

- Yes  
 No

Please specify (including an indication of the frequency of the evaluation):

**83) Is there a system for monitoring and evaluating the functioning of the prosecution services?**

- Yes  
 No

If yes, please specify:

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter  
 the characteristics of your court monitoring and evaluation system

## 4. Fair trial

### 4. 1. Principles

#### 4. 1. 1. General principles

**84) What is the percentage of judgements in first instance criminal cases in which the suspect is not attending in person or not represented by a legal professional (i.e. lawyer) during a court session (in absentia judgements)? If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).**

NA

**85) Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?**

Yes

No

If possible, number of successful challenges (in a year):

Six such demands were granted by the Supreme Court of Serbia in 2008, In 2008, 76 such demands were granted by the High Commercial Court, four of which at the request of the trial judge.

**86) Please give the following data concerning the number of cases regarding Article 6 of the European Convention of Human Rights (on duration and non-execution), for the year of reference. If there is no data available, please indicate it (NA).**

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	1			1
Civil proceedings - Article 6§1 (non-execution)		15	6	
Criminal proceedings - Article 6§1 (duration)	15			

### 4. 2. Timeframes of proceedings

#### 4. 2. 1. General information

**87) Are there specific procedures for urgent matters as regards:**

civil cases?

criminal cases?

administrative cases?

Please specify:

It is stipulated by law which cases will be reviewed urgently by the Supreme Court. Bankruptcy cases and executions are dealt with urgently by the High Commercial Court, as well as cases to which the Law on Holding Companies pertains.

**88) Are there simplified procedures for:**

- civil cases (small claims)?
- criminal cases (petty offences)?
- administrative cases?

Please specify (for example if you have introduced a new law on simplified procedures):  
In the case of the Supreme Court of Serbia, such procedures are regulated by the Law on Civil Proceedings, Law on Criminal Proceedings and Law on Administrative Proceedings.

In the case of the High Commercial Court, these involve small claims cases and cases defined by relevant provisions of the Law on Civil Proceedings

**89) Do courts and lawyers have the possibility to conclude agreements on the modalities for processing cases (presentation of files, decisions on timeframes for lawyers to submit their conclusions and on dates of hearings)?**

- Yes
- No

If yes, please specify:

There are no such provisions in the law, but they are consulted about the scheduling of hearings

**4. 2. 2. Penal, civil and administrative law cases**

**90) Total number of cases in the first instance courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non litigious)*	565717	918108	1108702	324632
1 Civil (and commercial) litigious cases*	148295	191862	222818	1398556
2 Civil (and commercial) non-litigious cases*	11904	184649	193355	10417
3 Enforcement cases	348089	519225	512092	407884
4 Land registry cases**	39512	11411	175202	51225
5 Business register cases**	9	23	28	4
6 Administrative law cases	17908	10938	5207	15246
7 Other				
Total criminal cases (8+9)	53901	60447	66348	56393
8 Criminal cases (severe criminal offences)	4592	6049	6360	5024
9 Misdemeanour and / or minor	49309	54398	59988	51369

offences cases				
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**91) Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases - definition of misdemeanour cases, minor offences and severe criminal cases):**

The data relate to the High Commercial Court, Municipal and District Courts.

**92) Total number of cases in the second instance (appeal) courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations).**

**\* Please indicate (in the comments below) which types of cases are included in the total figures of civil, commercial and administrative law cases.**

**\*\* if applicable**

**Please check the consistency of data as mentioned under question 91.**

**Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases and possibly the existence of appeal rates for some case categories):**

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non-litigious)*	31868	81353	84742	39711
1 Civil (and commercial) litigious cases*				
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases				
7 Other				
Total criminal cases (8+9)				
8 Criminal cases (Severe criminal offences)				
9 Misdemeanour and/or minor offences cases	2415	19310	24758	2472

Comment :

**93) Total number of cases in the highest instance courts (litigious and non-litigious): please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**\* Please indicate (in the comments below) which types of cases are included in the total figures of civil, commercial and administrative law cases.**

**\*\* if applicable**

**Please check the consistency of data as mentioned under question 88.**

**Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and on possible limitations to the appeal to the highest instance court):**

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases* (litigious and non-litigious)				
1 Civil (and commercial) litigious cases*	3555	8891	8775	3671
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases	16412	10935	11719	15241
7 Other				
Total criminal cases (8+9)	2044	9720	9555	2209
8 Criminal cases (severe criminal offences)				
9 Misdemeanour cases (minor offences)				

Comment :

**94) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and treated by first instance courts: please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Jan. '08
Litigious divorce cases*	NA	NA	NA	NA
Employment dismissal cases*	35125	46535	54667	32174
Robbery cases	NA	NA	NA	NA
Intentional homicide	NA	NA	NA	NA

**95) Average length of proceeding (from the date of lodging of court proceedings) in days, number of pending cases more than 3 years and percentage of cases subject to appeal: please complete the tale. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 92:**

	% of decisions subject to appeal	% pending cases more than 3 years	1st instance (average length)	2d instance (average length)	Total procedure (average total length)
Litigious divorce cases*	NA	NA	NA	NA	
Employment dismissal cases*	NA	NA	NA	NA	
Robbery cases	NA	NA	NA	NA	
Intentional homicide	NA	NA	NA	NA	



Comment :

**96) Where appropriate, please specify the specific procedure as regards (litigious and non-litigious) divorce:**

**97) How is the length of proceedings calculated for the four case categories? Please give a description of the calculation method.**

**98) Please describe the role and powers of the prosecutor in the criminal procedure (multiple options are possible):**

- to conduct or supervise police investigation
- to conduct investigation
- when necessary, to demand investigation measures from the judge
- to charge
- to present the case in the court
- to propose a sentence to the judge
- to appeal
- to supervise enforcement procedure
- to end the case by dropping it without the need for a judicial decision
- to end the case by imposing or negotiating a penalty without a judicial decision
- other significant powers

Please specify:

According to Article 236 of the Law on the Criminal Proceedings, the prosecution can put criminal charges on hold if they involve criminal offences carrying a sentence of up to 3 years of imprisonment or a fine, providing that the suspect accepts one of the measures prescribed by the law. Once the measures are carried through, the prosecution drops the charges. In the closing statement, the prosecution can require a suspended sentence, which the court does not necessarily have to accept. Pursuant to Article 46 of the Law on Criminal Proceedings, the prosecution can seek extraordinary legal remedies against final court decisions. Requests for examining the rulings on the point of law can only be lodged by the Republican Prosecutor.

**99) Does the prosecutor also have a role in civil and/or administrative cases?**

- Yes
- No

Please specify:

The Republican Prosecutor can seek review on the point of law only in cases stipulated by the laws on civil and administrative proceedings

**100) Functions of the public prosecutor in relation to criminal cases – please complete this table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 100 and indicate in particular if the data given include traffic offences:**

	Received by the public prosecutor	Discontinued by the public prosecutor because the offender could not be identified	Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	Discontinued by the public prosecutor for reason of opportunity	Concluded by a penalty, imposed or negotiated by the public prosecutor	Charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	126750	NAP	23583	NA	NA	61534

**Comment :**

The first column lists criminal cases against identified offenders; the number of such cases against unidentified offenders in 2008 was 45074. It is for the police to search for perpetrators of criminal offences and establish their identities. Under Article 237 of the Law on Criminal Proceedings, the prosecution has the right to drop criminal charges, but there are no statistical data on such cases. The same goes with the application of Article 236, where prosecution can order the offender to meet his/her obligations under the law and, once the obligations are met, the criminal charges are dropped. The current Law on Criminal Proceedings does not contain a provision on plea bargaining. The data listed above include charges for 11392 traffic offences

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your system concerning timeframes of proceedings and the main reforms that have been implemented over the last two years**

A comprehensive reform of the judiciary is under way in Serbia – adoption of new laws for restructuring the court and prosecutorial networks, amending the current legislation, adopting a new set of criminal laws (Law on Criminal Proceedings, Criminal Law, Law on Мутуал Ассистанце in Criminal Matters, Law on Criminal Liability of Legal Persons, Law on Confiscation of Proceeds from Crime etc.).

**Please indicate the sources for answering the questions 90 to 95 and 100:**

The Law on Criminal Proceedings (Official Gazette of the FRY, no. 70/01) and Annual Report on Activities of Public Prosecutors Aimed at Curbing Crime and Protecting the Constitutional and Legal Order in 2008.

## 5. Career of judges and prosecutors

### 5. 1. Appointment and training

#### 5. 1. 1. Recruitment, nomination and promotion

##### **101) How are judges recruited?**

- Through a competitive exam (for instance after a law degree)?
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

Other, please specify:

Judges are elected by the National Assembly at the proposal of the High Council of the Judiciary. Starting April 2010, judges will be elected for permanent tenure by the High Judicial Council. The same body proposes nominees to the National Assembly for first-time judicial appointments

##### **102) Are judges initially/at the beginning of their carrier recruited and nominated by:**

- An authority composed of judges only?
- An authority composed of non-judges only?
- An authority composed of judges and non-judges?

##### **103) Is the same authority competent for the promotion of judges?**

- Yes
- No

If no, please specify which authority is competent for the promotion of judges:

##### **104) Which procedures and criteria are used for promoting judges? Please specify.**

Rules on the Criteria and Standards for the Evaluation of Professional Knowledge, Skills and Dignity of Candidates for Judicial Posts

##### **105) How are prosecutors recruited?**

- Through a competitive exam? (for example after a law degree)
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

Other, please specify:

Judges are elected by the National Assembly at the proposal of the High Council of the Judiciary. Starting April 2010, Deputy Public Prosecutors for permanent tenure will be elected by the State Prosecutorial Council. The same body proposes to the National Assembly the nominees for the first-time election to the office of Deputy Public Prosecutor, whose tenure is three years.

The State Prosecutorial Council nominates candidates for the office of Republican Prosecutor and public prosecutors; the list is sent to Government for verification and then relayed to Parliament for election. Public prosecutors are elected for a period of 6 years. After the expiration of his/her mandate, a public prosecutor can be re-elected to the same office.

**106) Are prosecutors initially/at the beginning of their carrier recruited and nominated by:**

- An authority composed of prosecutors only?
- An authority composed of non-prosecutors only?
- An authority composed of prosecutors and non-prosecutors?

**107) Is the same authority formally responsible for the promotion of prosecutors?**

- Yes
- No

If no, please specify which authority is competent for promoting prosecutors:

**108) Which procedures and criteria are used for promoting prosecutors? Please specify:**

Rules on the Criteria and Standards for the Evaluation of Professional Knowledge, Skills and Dignity of Candidates for Prosecutorial Posts

**109) Is the mandate given for an undetermined period for judges?**

- Yes
- No

Are there exceptions? Please specify:

3 years, starting from 2010

**110) Is there a probation period for judges? If yes, how long is this period?**

	Yes	Duration of the probation period (in years)
Probation period for judges		

**111) Is the mandate given for an undetermined period for prosecutors?**

- Yes
- No

Are there exceptions? Please specify:

**112) Is there a probation period for prosecutors? If yes, how long is this period?**

	Yes	Duration of the probation period (in years)
Probation period for prosecutors		

**113) If the mandate for judges/prosecutors is not for an undetermined period, what is the length of the mandate? Is it renewable?**

**Please specify the length**

for judges?  Yes  
 for prosecutors?  Yes 6yrs

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of the selection and nomination procedure of judges and prosecutors and the main reforms that have been implemented over the last two years

5. 1. 2. Training

**114) Nature of the training of judges. Is it compulsory?**

- Initial training
- General in-service training
- In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)
- In-service training for management functions of the court (e.g. court president)
- In-service training for the use of computer facilities in the court)

**115) Frequency of the training of judges**

	Annual	Regular	Occasional
Initial training	No	No	Yes
General in-service training	No	No	Yes
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	No	No	No
In-service training for management functions of the court (e.g. court president)	Yes	No	No
In-service training for the use of computer facilities in the court	No	No	Yes

**116) Nature of the training of prosecutors. Is it compulsory?**

- Initial training
- General in-service training
- Specialised in-service training (specialised public prosecutor)
- In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)
- In-service training for the use of computer facilities in the public prosecution service)

**117) Frequency of the training of prosecutors**

	Annual	Regular	Occasional
Initial training	No	No	No
General in-service training	No	No	Yes
Specialised in-service training (specialised public prosecutor)	Yes	No	No
In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)	No	No	No
In-service training for the use of computer facilities in the public prosecution service)	No	No	Yes

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- comments regarding the attention given in the curricula to the European Convention on Human Rights and the case law of the Court
- the characteristics of your training system for judges and prosecutors and the main reforms that has been implemented over the last two years

The Judicial Centre for the training of judges and public prosecutors organizes continuing training on the basis of annual programs developed by the Working Groups for civil law, criminal law, commercial law, human rights and administrative law. Attendance at training seminars is not mandatory, except when required by law (eg. the Law on Juvenile Offenders, Family Law). By the end of 2009, the Judicial Training Centre should be transformed into a Judicial Academy, on the basis of the Law on the Judicial Academy which is part of the judicial reform package. Initial training for judges and prosecutors will last two years and the first courses should start in 2010. Continuing training can be mandatory or voluntary. As a general rule, it will be voluntary, except when otherwise stipulated by the law or a decision of the High Judicial Council and the State Prosecutorial Council.

**5. 2. Practice of the profession****5. 2. 1. Salaries**

**118) Salaries of judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 118:**

| | | |

	Gross annual salary (€)	Net annual salary (€)
First instance professional judge at the beginning of his/her career	17480	10393
Judge of the Supreme Court or the Highest Appellate Court	33371	19840
Public prosecutor at the beginning of his/her career	17480	10393
Public prosecutor of the Supreme Court or the Highest Appellate Instance	27809	16533

Comment :

### 119) Do judges and public prosecutors have additional benefits?

	Judges	Public prosecutors
Reduced taxation	No	No
Special pension	No	No
Housing	No	No
Other financial benefit	Yes	Yes

### 120) If other financial benefit, please specify:

By a decision of the High Judicial Council, judges of the Supreme Court, with the exception of organized crime judges, receive a 20% bonus on their salaries.

### 121) Can judges combine their work with any of the following other functions ?

	Yes with remuneration	Yes without remuneration	No
Teaching	Yes	No	No
Research and publication	Yes	No	No
Arbitrator	No	No	No
Consultant	No	No	No
Cultural function	No	No	No
Other function	No	No	No

### 122) If other function, please specify:

### 123) Can prosecutors combine their work with any of the following other functions ?

	Yes with remuneration	Yes without remuneration	No
Teaching	Yes	No	No
Research and publication	Yes	No	No
Arbitrator	No	No	No

Consultant	No	No	No
Cultural function	No	No	No
Other function	No	No	No

**124) If other function, please specify:**

**125) Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?**

Yes

No

If yes, please specify:

**Please indicate the source for answering the question 118**

#### 5. 2. 2. Disciplinary procedures

**126) Which authority is authorized to initiate disciplinary proceedings against judges and/or prosecutors? Please specify:**

**127) Which authority has the disciplinary power on judges and prosecutors? Please specify:**

Grand Personnel Chamber

**128) Number of disciplinary proceedings initiated against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 128:**

	Judges	Prosecutors
Total number (1+2+3+4)		
1. Breach of professional ethics		
2. Professional inadequacy		
3. Criminal offence		
4. Other		

Comment :

**129) Number of sanctions pronounced against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 129**



	Judges	Prosecutors
Total number (total 1 to 9)		
1. Reprimand		
2. Suspension		
3. Withdrawal of cases		
4. Fine		
5. Temporary reduction of salary		
6. Degradation of post		
7. Transfer to another geographical (court) location		
8. Dismissal		
9. Other		

Comment :

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your system concerning disciplinary procedures for judges and prosecutors and the main reforms that have been implemented over the last two years**

## 6. Lawyers

### 6. 1. Statute of the profession

#### 6. 1. 1. Profession

**130) Total number of lawyers practising in your country. If there is no data available, please indicate it (NA).**

**131) Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court? If no go to question 133.**

- Yes  
 No  
 Not applicable

**132) Number of legal advisors. If there is no data available, please indicate it (NA)**

**133) Do lawyers have a monopoly of representation in (multiple options are possible):**

- Civil cases\*?  
 Criminal cases - Defendant\*?  
 Criminal cases - Victim\*?  
 Administrative cases\*?

\* If appropriate, please specify if it concerns first instance and appeal. And in case there is no monopoly, please specify the organisations or persons which may represent a client before a court (for example a NGO, family member, trade union, etc) and for which types of cases:

**134) Is the lawyer profession organised through?**

- a national bar?  
 a regional bar?  
 a local bar?

Please specify:

**Please indicate the source for answering the questions 130 and 132:**

#### 6. 1. 2. Training

**135) Is there a specific initial training and/or examination to enter the profession of lawyer?**

- Yes

No

**136) Is there a mandatory general system for lawyers requiring continuing professional training?**

Yes

No

**137) Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?**

Yes

No

If yes, please specify:

### 6. 1. 3. Fees

**138) Can users establish easily what the lawyers' fees will be?**

Yes

No

Please provide comments to explain the answer under question 138

The fees, approved by the Managing Board of the Bar Association of Serbia, are publicly accessible

**139) Are lawyers fees**

regulated by law?

regulated by Bar association?

freely negotiated?

Please provide comments to explain the answer under question 139:

## 6. 2. Evaluation

### 6. 2. 1. Complaints and sanctions

**140) Have quality standards been formulated for lawyers?**

Yes

No

**141) If yes, who is responsible for formulating these quality standards:**

the bar association?

the legislature?

other?

Please specify (including a description of the quality criteria used):

There is an idea to introduce certain quality standards, but it is still in its initial stage. According to this proposal, the standards should be developed by the Bar Association.

#### 142) Is it possible to complain about

the performance of lawyers?

the amount of fees?

Please specify:

Complaints concerning the performance of lawyers are submitted to the Disciplinary Board of the Regional Bar Association of which the lawyer in question is a member.

#### 143) Which authority is responsible for disciplinary procedures

the judge?

the Ministry of justice?

a professional authority or other?

Please specify:

The Disciplinary Board of the Bar Association is responsible for disciplinary procedure

**144) Disciplinary proceedings initiated against lawyers: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 141:**

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number	NAP			

Comment :

**145) Sanctions pronounced against lawyers : please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 145:**

	Reprimand	Suspension	Removal	Fine	Other
Annual number	NAP				

Comment :

**You can indicate below:**

any useful comments for interpreting the data mentioned in this chapter

**the characteristics of your system concerning the organisation of the Bar and the main reforms that have been implemented over the last two years**

## 7. Alternative Dispute Resolution

### 7. 1. Mediation and other forms of ADR

#### 7. 1. 1. Mediation

**146) Does the legal system provide for mediation procedures? If no go to question 151**

Yes

No

**147) If applicable, please specify, by type of cases, the organisation of mediation**

	Possibility for private mediation proposed by the judge or court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Prosecutor
Civil and commercial cases	No	No	No	No	No
Family law cases (ex. Divorce)	No	No	No	No	No
Administrative cases	No	No	No	No	No
Employment dismissals	No	No	No	No	No
Criminal cases	No	No	No	No	No

**148) Is there a possibility to receive legal aid for mediation procedures?**

Yes

No

If yes, please specify:

**149) Number of accredited mediators. If there is no data available, please indicate it (NA)**

NA

**150) Please Indicate the total number of judicial mediation procedures per case category. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

civil cases?  Yes

family cases?  Yes

administrative cases? NAP

employment dismissals? NAP

criminal cases? NAP

**Please indicate the source for answering the question 150:**

Since the Mediation Centre became operational on 1 March 2007, a total of 423 cases were resolved through mediation.

### 7. 1. 2. Other forms of alternative dispute resolution

**151) Can you give information concerning other forms of alternative dispute resolution (e.g. arbitration, conciliation)? Please specify:**

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years

## 8. Enforcement of court decisions

### 8. 1. Execution of decisions in civil matters

#### 8. 1. 1. Functioning

**152) Do you have in your system enforcement agents (judicial officers)? If no go to question 154**

- Yes  
 No

**153) Number of enforcement agents. If there is no data available, please indicate it (NA).**

31

**154) Are enforcement agents (multiple options are possible):**

- judges?  
 bailiff practising as private profession ruled by public authorities?  
 bailiff working in a public institution?  
 other enforcement agents?

Please specify their status and powers:

Judicial officers are employed in courts which are directly responsible for enforcements. Their role and powers are defined by the Law on the Enforcement Procedure.

**155) Is there a specific initial training or examination to enter the profession of enforcement agent?**

- Yes  
 No  
 Not applicable

**156) Is the profession of enforcement agent organised by?**

- a national body?  
 a regional body?  
 a local body?  
 not applicable

**157) Can users establish easily what the fees of the enforcement agents will be?**

- Yes  
 No  
 Not applicable



**158) Are enforcement fees:**

- regulated by law?  
 freely negotiated?  
 not applicable

**Please indicate the source for answering the question 153:**

According to data from the Administrative Offices of the 4th Municipal Court in Belgrade and Commercial Court in Belgrade.

**8. 1. 2. Supervision****159) Is there a body entrusted with the supervision and the control of the enforcement agents?**

- Yes  
 No  
 Not applicable

**160) Which authority is responsible for the supervision and the control of enforcement agents:**

- a professional body?  
 the judge?  
 the Ministry of justice?  
 the prosecutor?  
 other?

Please specify:

The trial judge controls the work of enforcement officers in his/her cases. The head of judicial officers (who by position is the head of the court registry, organizes and supervises their work. The president of the court in question evaluates their performance outputs.

**161) Have quality standards been formulated for enforcement agents?**

- Yes  
 No  
 Not applicable

If yes, who is responsible for formulating these quality standards and what are the quality criteria used?

**162) Is there a specific mechanism for executing court decisions rendered against public authorities, including the follow up to this execution?**

- Yes

No

if yes, please specify

**163) Is there a system for monitoring the execution?**

Yes

No

If yes, please specify

8. 1. 3. Complaints and sanctions

**164) What are the main complaints of users concerning the enforcement procedure?  
Please indicate a maximum of 3.**

no execution at all?

non execution of court decisions against public authorities?

lack of information?

excessive length?

unlawful practices?

insufficient supervision?

excessive cost?

other?

Please specify:

- non-execution is a problem, but it primarily depends on the situation concerning each case (eg. there is no money on the debtor's accounts, there are no other assets etc.)
- undue length of enforcement, because of the problem listed above and because the number of judicial enforcement officials is not sufficient

**165) Has your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions – in particular as regards decisions against public authorities?**

Yes

No

If yes, please specify:

Work is under way to amend the Law on the Enforcement Proceedure, to include private bailiffs and to introduce new solutions to accelerate enforcements.

**166) Is there a system measuring the timeframes of the enforcement of decisions :**

for civil cases?

for administrative cases?

**167) As regards a decision on debts collection, can you estimate the average timeframe to notify the decision to the parties which live in the city where the court sits:**

- between 1 and 5 days  
 between 6 and 10 days  
 between 11 and 30 days  
 more

If more, please specify

**168) Number of disciplinary proceedings initiated against enforcement agents. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

Total number of disciplinary proceedings	<input type="checkbox"/> number:	
for breach of professional ethics	<input type="checkbox"/> number:	
for professional inadequacy	<input checked="" type="checkbox"/> yes, number:	1
for criminal offence	<input type="checkbox"/> number:	
Other	<input type="checkbox"/> number:	

**169) Number of sanctions pronounced against enforcement agents. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

Total number of sanctions	<input type="checkbox"/> number:	
Reprimand	<input type="checkbox"/> number:	
Suspension	<input type="checkbox"/> number:	
Dismissal	<input type="checkbox"/> number:	1
Fine	<input type="checkbox"/> number:	
Other	<input type="checkbox"/> number:	

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter  
 the characteristics of your enforcement system of decisions in civil matters and the main reforms that has been implemented over the last two years

**Please indicate the source for answering the questions 167, 168 and 169:**

4th Municipal Court in Belgrade and Commercial Court in Belgrade, for question 164  
 4th Municipal Court in Belgrade, for questions 165 and 166.

## 8. 2. Execution of decisions in criminal matters

### 8. 2. 1. Functioning

**170) Is there a judge who is in charge of the enforcement of judgments?**

- Yes

No

If yes, please specify his/her functions and activities (e.g. Initiative or control functions). If no, please specify which authority is entrusted with the enforcement of judgements (e.g. prosecutor):

Court Presidents have initiating and control functions in this respect.

**171) As regards fines decided by a criminal court, are there studies to evaluate the effective recovery rate?**

Yes

No

If yes, please specify:

3rd Municipal Court in Belgrade

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your enforcement system of decisions in criminal matters and the main reforms that have been implemented over the last two years**

## 9. Notaries

### 9. 1. Statute

#### 9. 1. 1. Functioning

**172) Do you have notaries in your country? If no go to question 177**

- Yes  
 No

**173) Is the status of notaries (if the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations):**

- |   |                                 |
|---|---------------------------------|
| a private one (without control from public authorities)?    | <input type="checkbox"/> number |
| a status of private worker ruled by the public authorities? | <input type="checkbox"/> number |
| a public one?   | <input type="checkbox"/> number |
| other?  | <input type="checkbox"/> number |

Comment :

**174) Do notaries have duties:**

- within the framework of civil procedure?  
 in the field of legal advice?  
 to authenticate legal deeds?  
 other?

Please specify:

**Please indicate the source for answering the question 173**

#### 9. 1. 2. Supervision

**175) Is there an authority entrusted with the supervision and the control of the notaries?**

- Yes  
 No

**176) Which authority is responsible for the supervision and the control of the notaries:**

- a professional body?  
 the judge?

- the Ministry of justice?
- the prosecutor?
- other?
- not applicable

Please specify:

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your system of notaries and the main reforms that have been implemented over the last two years**

## 10. Court interpreters

### 10. 1. function

#### 10. 1. 1. Statute

**177) Is the title of court interpreter protected?**

- Yes  
 No

**178) Is the function of court interpreter regulated?**

- Yes  
 No

**179) Number of certified court interpreters. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations**

2300

**180) Are there binding provisions regarding the quality of court interpreting in judicial proceedings?**

- Yes  
 No

If yes, please specify:

**181) Are the courts responsible for the selection of court interpreters?**

- Yes  
 No

Please provide comments to explain the answers to question 178 (in particular, if no, which authority selects court interpreters?) :

In consultation with second-instance courts, the Minister of Justice decides which languages are required and announces the competition for court translators/interpreters/

The Minister of Justice makes the final selection from among the received applications.

## 11. Functioning of justice

### 11. 1. Foreseen reforms

#### 11. 1. 1. Reforms

**182) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? For example changes in legislation, changes in the structure of the judiciary, innovation programmes, etc. Please specify:**

Changes in the legislative framework

Acknowledging the need for analysis and needs assessment as the basis of every law, the Ministry of Justice has carried a thorough research and conducted a number of analyses of the current situation and problems in the judiciary. The standard practice for drafting legislation requires that expert groups, consisting of judges, prosecutors and renowned members of the legal profession, produce the first draft within a set deadline. Such drafts are then submitted for opinion and analysis to relevant institutions, legal experts and the Council of Europe. Before submitting the final draft to the Government for approval, the draft is subjected to round table discussions and public debate, after which the Ministry of Justice produces the final draft version. From July 2008 to July 2009, the Ministry of Justice proposed 28 draft laws, 22 of which were endorsed by the National Assembly.

The following legislation was adopted:

- Anti-Corruption Laws
- Law on the Anti-Corruption Agency
- Law on Amendments to the Law on the Financing of Political Parties
- Law on the Seizure of Proceeds of Crime
- Law on Criminal Responsibility of Legal Persons

Protection of Personal Data

- Law on the Protection of Personal Data
- Law on the Ratification of the Second Protocol to the Convention on the Protection of Individuals with Regard to Automated Processing of Personal Data, regarding supervisory bodies and transborder data flow

Package related to the judiciary

- Law on High Judicial Council
- Law on State Prosecutorial Council
- Law on Judges
- Law on Prosecutors
- Law on the Court System
- Law on the Seats and Areas of Jurisdiction of Courts and Prosecutorial Offices
- Amendments to the Misdemeanor Law

Other legislation, including the laws on verification of Council of Europe conventions

- Law on the amendments to the Law on Court Fees
- Law on Mutual Assistance in Criminal Matters
- Law on Amendments to the Law on Criminal Proceedings
- Law on the Ratification of the Convention on Cybercrime
- Law on the Ratification of the CoE Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism
- Law on the Ratification of the Additional Protocol to the Cybercrime Convention concerning the criminalization of acts of a racist and xenophobic nature committed through computer
- Law on the Ratification of the CoE Convention on Action against Trafficking in Human Beings
- Law on the Ratification of the CoE Convention on the Prevention of Terrorism
- Law on the Ratification of the Protocol amending the CoE Convention on the Prevention of Terrorism

The anti-corruption laws, which were among the prerequisites for visa liberalization, were adopted in the National Assembly on 23 October 2008. They include the Law on the Anti-



Corruption Agency, the Law on the Amendments to the Law on the Financing of Political Parties, the Law on the Seizure and Confiscation of Proceeds of Crime and the Law on Criminal Responsibility of Legal Persons.

We place particular emphasis on the Law on the Anti-Corruption Agency, which provides for the setting up of the Agency as an autonomous and independent state body. The Agency's prime role is to enforce the National Anti-Corruption Strategy and Action Plan. Under the Law on the Anti-Corruption Agency, its bodies are the Board and the Director. Members of the Board were elected on 18 March 2009 in the National Assembly. The Constituent Session of the Agency's Board was held on 15 April 2009, after which the Board adopted its Rules of Procedure and announced the competition for the post of Director. Mrs Zorana Markovic was appointed Director of the Agency on 3 July 2009.

Pursuant to the National Anti-Corruption Strategy, the Law on the Amendments to the Law on the Financing of Political Parties prescribes the transfer of powers related to the financing of political parties from the Republican Electoral Commission and the National Assembly's Finances Committee to the Anti-Corruption Agency.

The Law on the Seizure and Confiscation of Proceeds of Crime is aimed at improving the efficiency of government bodies in curbing and preventing all forms of organized crime and corruption. The Law envisages the setting up of the Directorate for the Management of Confiscated Property within the Ministry of Justice. The Ministry has set aside the premises and storage facilities for the Directorate. After the Government appointed the Director and adopted internal rules and organigram of the Directorate in February 2009, the Directorate became operational on 1 March 2009. A special unit within the Ministry of the Interior has also been formed for the same purpose.

The Law on Criminal Liability of Legal Entities, which is in full compliance with related international standards (UN and CoE conventions), governs the criteria for the liability of legal persons for criminal offences envisaged in the Criminal Law and other related regulations. Considerable progress has been made in the area of protection of personal data by adopting regulations which are in full conformity with international standards and which regulate with great precision all relevant issues. The Law on the Protection of Personal Data and the Law on the Ratification of the Additional Protocol to the Convention on the Protection of Individuals with Regard to Automated Processing of Personal Data regarding supervisory bodies and transborder data flow were adopted in the National Assembly on 23 October 2008. We wish to emphasize here that during the parliamentary debate on the proposed legislation, the government accepted amendments proposed by the Ombudsman on the draft Law on the Protection of Personal Data, according to which the Commissioner for Access to Public Information, as an autonomous and independent state organ, is given control powers over its implementation.

What undoubtedly stands apart as the biggest achievement of the Ministry of Justice was the adoption of the set of judicial laws in the National Assembly on 22 December 2008. The following laws were adopted on that occasion: the Law on the High Judicial Council, the Law on the State Prosecutorial Council, the Law on Judges, the Law on Prosecutors, the Law on the Court System, the Law on the Seats and Areas of Jurisdiction of Courts and Prosecutorial Offices, and Amendments to the Misdemeanor Law. It is important to note that professional circles and associations, the Supreme Court of Serbia, the Office of the Republican Prosecutor, other members of the judiciary and distinguished members of the legal professions had been involved in the drafting of the said legislation and that their opinions and suggestions had been largely incorporated in the final version of the legislation.

The National Assembly's adoption of the Law on Mutual Assistance in Criminal Matters and the ratification of several CoE Conventions on 18 March 2009 was significant for visa liberalization and consolidation of the legislative framework for the fight against organized crime.

The following draft laws have been submitted to parliament for approval:

- Draft Law on the Amendments to the Law on the Organization and Competences of State Organs in the Fight Against Organized Crime
- Draft Law on the Amendments to the Law on the Execution of Penal Sanctions
- Draft Law on the Execution of Prison Sentences for Organized Crime Cases
- Draft Law on Cooperation with ICJ
- Draft Law on the Amendments to the Law on Criminal Proceedings
- Draft Law on the Amendments to the Criminal Law

The Ministry of Justice devoted special attention to the reform of juvenile delinquency legislation and its harmonisation with the relevant international standards protecting the right of the child. For that purpose, the Government adopted the General Protocol for the Protection of Children Against Abuse and Neglect and is soon to sign the Special Protocol on the Role of Judicial Bodies

in the Protection of Children Against Abuse and Neglect, which devotes special attention to the way children should be treated in court proceedings. It is also very particular about the protection of children's rights and the need for swift action by all relevant institutions, protection of privacy and prevention of additional victimisation of children, as well as on ensuring that they participate in the proceedings accordingly.

Another important initiative in the reform of the juvenile legislation is a proposal to the Supreme Court of Serbia to set up a Committee for the Monitoring and Enhancement of Criminal Proceedings Against Juveniles and Execution of Criminal Sanctions Against Juvenile Offenders. This Committee should then propose to the Ministry of Justice and the Supreme Court different initiatives and recommendations how to best ensure protection of juveniles in line with international standards.

#### Structural Changes in the Judiciary and Innovation Programs

Taking into account that Serbia's judiciary laws proved to be inefficient and inappropriate, which resulted in a slow and inefficient judicial system which was not in line with the needs of modern society and the standards of the rule of law, legal certainty and respect for human rights, the Ministry of Justice launched a comprehensive reform of the judiciary in order to put onto rails an independent, transparent, responsible and efficient judicial system in full compliance with the highest EU standards.

At present, the Ministry of Justice is very active in pursuing the biggest reform of the judiciary in the past fifty years. The first step was the adoption of a set of judicial laws in the National Assembly of the Republic of Serbia on 22 December 2008.

The new laws provided for a completely new judicial network, new institutions as guarantors of independence of the judiciary and new mechanisms to enable the system to function in a more efficient way. Their adoption was exceptionally important for the reform of the judiciary primarily because they provided for the creation of new judicial institutions (eg. Supreme Court of Cassation, Appellate Courts, Administrative Court) which will considerably improve efficiency of the system and alleviate the burden on the existing court network. The same applies to the creation of the High Judicial Council and the State Prosecutorial Council and their Administrative Offices (the Administrative Offices will assist the two institutions in their day-to-day operations and enable it to successfully exercise their powers). The new laws also provide for an independent judicial budget and the development of clear and measurable criteria for the election, promotion, disciplinary procedures and dismissal of judges and prosecutors, that will serve as guidelines for the High Judicial Council and the State Prosecutorial Council for the evaluation of the work of judges and prosecutors. Professional associations, other members of the judiciary and eminent legal experts have all been involved in the drafting of the judicial legislation, and their opinions and suggestions have been largely taken into account when the final versions of the laws were drafted.

The new laws provide for the complete restructuring of the court network. Citizens will continue to have access to courts on the same locations where they were previously situated, but the whole system will be more efficient, impartial and objective. The 138 municipal laws are now reorganized into 34 basic courts, with different departments. It is also planned that some basic courts will specialize in a certain type of cases, in order to increase efficiency and improve the quality of court decisions. There are also changes in the jurisdiction and structure of the court network. The highest court in the Republic of Serbia is now the Supreme Court of Cassation.

Courts of general jurisdiction now include basic courts, high courts and appellate courts. Specialized jurisdiction courts include commercial courts, the Commercial Appellate Court, misdemeanor courts, High Misdemeanor Court and Administrative Court. Appellate Courts will now decide on the appeals against the decisions of basic and high courts.

The High Judicial Council is the guarantor of independent work of courts and judges. That body independently and autonomously decides how the allocations from the budget for the judiciary shall be distributed. It also develops the criteria for the election of judges, it is in charge of the election and dismissal of judges, their promotion, accountability, level of salaries, end of tenure, nomination of candidates to the National Assembly for first-time judicial appointment, nomination of candidates to the National Assembly of the President of the Supreme Court of Cassation, court presidents etc. Members of the High Judicial Council from the rank of judges are elected by judges themselves. In the case of the first composition of the High Judicial Council, this was done by the High Council of the Judiciary as the most relevant judicial body. The elected members of the High Judicial Council from the ranks of judges will be chosen at general elections under the rules set by the law.

The status of judges, their independence, autonomy and impartiality – all in line with European standards – are regulated by law. Appointments, dismissals, permanent tenure, the right to form

associations and the duty to work professionally and conscientiously to meet the reasonable time standard are also regulated by law. An important novelty is that the evaluation of the work of judges will now be done by judges themselves. The assessment will be the basis for promotion, dismissal and participation in mandatory training. Another important novelty concerns disciplinary responsibility for judges. The law prescribes with great precision what is considered a disciplinary offence, what disciplinary procedure shall be applied and which bodies are in charge of starting and conducting the disciplinary procedure. Under the new law, the High Judicial Council will be in charge of disciplinary proceedings.

The new legislation fully complies with the relevant provisions of the Constitution of the Republic of Serbia and the Constitutional Law on the Implementation of the Constitution, which sets out that there will be a general election for all judicial posts. Given the current situation in Serbia, it was obviously the only way to achieve the badly needed overhaul of the judicial system. The general election is also based on the fact that under the new judicial laws a completely new network of courts will be set up, including the courts which did not exist previously – the Supreme Court of Cassation, and appellate and administrative courts. In addition, the election procedure for judicial posts is now regulated in a completely new way. In accordance with the law, the High Judicial Council developed criteria and standards for the election of judges and court presidents, with the support of the European Commission project Support to the Implementation of the National Strategy for the Reform of the Judiciary. A working group was established in December 2008 to develop clear and objective criteria for the election of judges and court presidents in order to provide firm guarantees for the independence of the judiciary. The ten renowned members of the working group are headed by Dr Zoran Ivosevic, retired judge of the Supreme Court, professor at the Union Law Faculty in Belgrade, and the founder and first president of the Association of Judges of Serbia.

The working group met regularly to analyse and further develop the proposed criteria, whose final version was completed in February 2009.

The criteria for the election of judges and court presidents were sent for opinion to the Venice Commission on 19 March 2009. The Commission adopted its opinion at a plenary session held on 13 July 2009 and relayed it to the working group set by the High Judicial Council. The working group used the opinion of the Venice Commission as the guidance in formulating the final version of the Criteria.

The set of laws regulating the work of prosecutors have introduced the following novelties, with emphasis on their autonomy and responsibility:

As an autonomous body, the State Prosecutorial Council secures and guarantees the autonomy of Public Prosecutors and Deputy Public Prosecutors in their work. Provisions concerning the independent budget and other competences are similar to the ones contained in the Law on the High Judicial Council.

Under the new system, the State Prosecutorial Council participates in the election of public prosecutors and their evaluation for promotion. It also conducts disciplinary proceedings and the proceedings for establishing the grounds for the termination of office. The new laws also introduced the criteria for the evaluation of performance of public prosecutors, as a basis for promotion, dismissal and participation in mandatory training, as well as for starting disciplinary proceedings.

Another exceptionally important novelty, which ensures stability and autonomy for the profession, is that prosecutors who are not reelected will automatically be appointed to the posts of Deputy Prosecutors. This was a proposal of the Association of Prosecutors which the Ministry of Justice accepted. Under the previous law, if a prosecutor fails to be reelected, he/she would lose the job.

The Criteria and Standards for the evaluation of qualifications, competence and dignity of nominees for prosecutorial posts were also developed with the support of the European Commission Support Project to the Implementation of the National Judicial Reform Strategy. Similarly as in the case of judges, a working group was established in December 2008 to define clear and objective criteria for prosecutorial appointments and election. The working group consists of eight members, most of whom are prosecutors, but the academic community and the Association of Prosecutors are also represented. In February 2009, the draft text was sent to the Ministry of Justice and other relevant institutions, such as the Office of the Republican Prosecutor and the Association of Prosecutors of Serbia.

The criteria for prosecutors were sent to the Venice Commission on 19 March 2009 for its opinion and expertise. At its session held on 13 July 2009, the Venice Commission adopted the opinion and sent it to the Working Group, which then used it as a basis for drafting the final version of the Criteria and Standards for the Evaluation of Qualifications, Competence and

#### Dignity of Candidates for Prosecutorial Posts.

The organizational scheme of prosecutorial offices corresponds to the organizational scheme of courts. Accordingly, we now have basic, high and appellate prosecutorial offices, as well as offices of Special War Crimes Prosecutor and Special Prosecutor for Organized Crime.

We would like to emphasize that the High Judicial Council and the State Prosecutorial Council were formed on 30 March 2009.

The Ministry of Justice provided the necessary logistics for making the new judicial network operational as of 1 January 2010, above all the Supreme Court of Cassation, the Administrative Court and Appellate Courts, as well as the High Judicial Council and the State Prosecutorial Council.

Great attention was devoted to strengthening the security capacity of courts, in order to ensure adequate protection both for judicial staff and citizens. Concrete steps taken in that direction include:

- a significant increase in the capacity of court guard system; creating conditions for the recruitment of 750 court guards; training of court guards; purchase of new uniforms for court guards;
- improvement of security conditions and equipment; metal detector doors, x ray machines and hand metal detectors were introduced in courts; video surveillance systems were introduced in 10 district courts.

Within the USAID Project for the Reform of Commercial Courts Management Systems, automated case management systems were introduced in 16 commercial courts in the Republic of Serbia.

The system also provides for free internet access of citizens and parties to the proceedings, giving them search options for different cases according to the type of case and number, trial judge or name of the parties involved, the documentation in each case file and chronology of actions taken in each proceedings. The project was intended at modernizing the work of court management and creating favourable conditions for foreign and domestic investment. Since December 2008, the High Commercial Court supervises the work of all 16 commercial court electronically.

In addition, the Ministry of Justice has developed a Plan for the National Application of the Automated Case Management System once the new Law on the Court System comes into force. With the support of the World Bank, an invitation has been announced for filling in the post of consultant for the training of users of such programmes in general jurisdiction courts.