



Strasbourg, 10 September 2006

CEPEJ (2006)
Version finale

**Answer to the
REVISED SCHEME
FOR
EVALUATING JUDICIAL SYSTEMS
2004 Data**

**Réponse à la
GRILLE REVISEE
POUR
L'ÉVALUATION DES SYSTÈMES JUDICIAIRES
Données 2004**

SERBIA/SERBIE

Strasbourg, 15 September 2005 CEPEJ (2005) 2 REV 2

**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)**

REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

**adopted by the CEPEJ at its 5th Plenary Meeting (Strasbourg, 15 – 17 June
2005) and**

**approved by the Committee of Ministers on 7 September 2005
(936th meeting of the Ministers' Deputies)**

Contents

- I. Demographic and economic data p. 3
 - I. A. General information p. 3
 - I. B. Budgetary data concerning judicial system p. 3
- II. Access to Justice and to all courts p. 5
 - II. A. Legal aid p. 5
 - II. B. Users of the courts and victims p. 6
 - II. B. 1. Rights of the users and victims p. 6
 - II. B. 2. Confidence of citizens in their justice system p. 8
- III. Organisation of the court system p. 9
 - III. A. Functioning p. 9
 - III. B. Monitoring and evaluation p. 13
- IV. Fair trial p. 15
 - IV. A. Fundamental principles p. 15
 - IV. B. Timeframes of proceedings p. 16
 - IV. B. 1. General p. 16
 - IV. B. 2. Civil and administrative cases p. 17
 - IV. B. 3. Criminal cases p. 18
- V. Career of judges and prosecutors p. 20
 - V. A. Appointment and training p. 20
 - V. B. Practice of the profession p. 22
 - V. C. Disciplinary procedures p. 23
- VI. Lawyers p. 24
- VII. Alternative Dispute Resolution p. 27
- VIII. Enforcement of court decisions p. 29
 - VIII. A. Execution of decisions in civil matters p. 29
 - VIII. B. Enforcement of decisions in criminal matters p. 31
- IX. Notaries p. 32

REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

COUNTRY:

National correspondent

First Name – Name **MAJDA KRŠIČIĆ**

Position **Advisor to the Court on European Integration and Harmonisation of Legislation**

Organisation **Supreme Court of Serbia**

E-mail krsikapa@vrhovni.sud.sr.gov.yu

krsikapa@verat.net

Telephone +381 11 363 4203; +381 63 739 79 06

I. Demographic and economic data

I. A. General information

1. Number of inhabitants **7.498.001**

Source **Statistical office, Republic of Serbia, data on the 1st January 2005**

2. Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level

State level €

Regional / entity level € **AT THE MEETING ON THE 22-23 May we agreed to disregard this indicator**

Source

3. Per capita GDP € **2.255.01**

Source **Ministry of Finance of RS, December 2004**

4. Average gross annual salary € **285,486**

Source **Statistical office, Republic of Serbia, exchange rate 1€=72 dinars**

I. B. Budgetary data concerning judicial system

5. Total annual budget allocated to all courts

Type of Court	2004	Justice expenses borne by the State? €
Supreme Court of Serbia	2.319.138 €	2.319.138 €
District Courts	14.537.375 €	14.537.375 €
Municipal Courts	46.564.916 €	46.564.916 €
Commercial Courts	6.786.352 €	6.719.444 €
TOTAL:	70.207.781 €	70.140.873 €

Please specify: The data was taken from the Law on Budgets of the Republic of Serbia for 2004 (Official Gazette 115/2004) and the exchange rate on the 1st of July 2004, 1€=72 dinars. The above **presented sum DOES NOT include prosecution, capital investments and legal aid.**

6. Within this budget, can you isolate the following budgets and specify, if appropriate, their amount:

Yes

Amount

§ Salaries? €

SALARIES	2004
Supreme Court of Serbia	2.134.611 €
District Courts	11.851.916 €
Municipal Courts	39.724.638 €
Commercial Courts	5.013.513 €
TOTAL:	58.724.678 €

§ IT? € **NO**

§ Justice expenses borne by the State? €

Source The data was taken from the Law on Budgets of the Republic of Serbia for 2004 (Official Gazette 115/2004) and the exchange rate on the 1st of July 2004, 1€=72 dinars.

7. Annual public budget spent on legal aid **NO DATA AVAILABLE**

Source

8. If possible, please specify: **NO DATA AVAILABLE**

§ the annual public budget spent on legal aid in criminal cases €

§ the annual public budget spent on legal aid in other court cases €

Source

9. Annual public budget spent on prosecution system

TYPE OF PROSECUTORS OFFICE	2004
Republic prosecutor office	917.597 €
Prosecutor`s office for war crimes	336.875 €
District prosecutor office	3.452.875 €

Municipal prosecutor office	7.400.888 €
TOTAL:	12.108.235 €

Source The data was taken from the Law on Budgets of the Republic of Serbia for 2004 (Official Gazette 115/2004) and the exchange rate on the 1st of July 2004, 1€=72 dinars.

10. Bodies formally responsible for budgets allocated to the courts:

	Preparation of the budget (Yes/No)	Adoption of the budget (Yes/No)	Management and allocation of the budget among courts (Yes/No)	Evaluation of the use of the budget (Yes/No)
Ministry of Justice	YES	NO	YES	YES
Other ministry. Please specify	MINISTRY OF FINANCE	NO	NO	NO
Parliament	NO	YES	NO	NO
Supreme Court	YES	NO	YES	NO
Judicial Council		NO	NO	NO
Courts	YES	NO	YES	NO
Inspection body. Please specify.	NO	NO	MINISTRY OF JUSTICE	NO
Other. Please specify				

You can indicate below:

- any useful comments for interpreting the data mentioned above

The budget for judiciary in Serbia is defined in the Law on Budget for each year. The Part 4. of the Law is dealing with the justice system and includes all courts (Supreme Court of Serbia, Municipal Courts, District Courts, High Commercial Court and Commercial Courts, all public prosecutors offices (Republic, Prosecutors office for war crimes, District Prosecutors office, Municipal Prosecutors offices), Republic public attorneys office and Councils for petty offences) and in 2004 the total budget for all items amounted to 134.173.921 €. The exchange rate is 1€=72 dinars on the 1st July 2004.

- the characteristics of your budgetary system

II. Access to Justice and to all courts

II. A. Legal aid

11. Does legal aid concern:

	Criminal cases	Other than criminal cases
Representation in court (Yes/No)	YES	YES
Legal advice (Yes/No)	YES	YES
Other (Yes/No). Please specify		

12. Number of legal aid cases: **NO DATA AVAILABLE**

§ total

§ criminal cases

§ other than criminal cases

Source

13. 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 **YES**

14. Does your country have an income and asset test for granting legal aid:

No Yes/Amount **NO**

§ for criminal cases?

§ for other than criminal cases?

Source

15. 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 **NO**

16. If yes, is the decision taken by:

§ the court?

§ a body external to the court?

§ a mixed decision-making body (court and external)?

17. In general are litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:

Yes No

§ for criminal cases? YES

§ for other than criminal cases? YES

If yes, are there exceptions? Please specify: NO

18. Is there a private system of legal expense insurance for individuals in order to finance legal proceedings to court?

No NO

Yes Please specify:

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

Yes No

§ criminal cases? YES

§ other than criminal cases? YES

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your legal aid system

II. B. Users of the courts and victims

II. B. 1. Rights of the users and victims

20. 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:

Yes No YES

§ legal texts (e.g. codes, laws, regulations, etc.)?

Internet address(es): www.parliament.sr.gov.yu www.projuris.org

§ case-law of the higher court/s?

Internet address(es): vss@vrhovni.sud.sr.gov.yu

§ other documents (for examples legal forms)?

Internet address(es): www.sudije.org.yu; www.prvisud.com;

Some laws and legal instruments are available on the websites of the Government of Serbia www.srbija.sr.gov.yu Ministry of Justice

www.mpravde.sr.gov.yu Ministry of Finance www.mfin.sr.gov.yu

It is important to stress that these resources are helpful to the general public and improve transparency of the gov, but they are not very practical to judges in thier work.

21. Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?

Yes No NO

If yes, please specify:

22. Is there a public and free-of-charge specific information system to inform and to help

victims of crimes?

Yes No **NO**

23. Are there special arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:

	Information mechanism (Yes/No)	Hearing modalities (Yes/No)	Procedural rights (Yes/No)	Other (Yes/No). Please specify
Victims of rape	NO	YES	NO	
Victims of terrorism	NO	YES	NO	
Child/Witness/Victim	NO	YES	YES	
Victims of domestic violence	NO	YES	NO	
Ethnic minorities	NO	YES	YES	
Disabled persons	NO	YES	YES	
Juvenile offenders	NO	YES	NO	
Other				

24. Does your country have compensation procedure for victims of crimes?
Yes No **NO**

25. If yes, does this compensation procedure consist in: NOT APPLICABLE
Yes

§ a public fund?

§ a court order?

§ private fund?

26. If yes, which kind of cases does this procedure concern? **NOT APPLICABLE**

27. For victims, are there studies to evaluate the recovery rate of the compensation awarded by courts?

No **NO**

Yes Please specify:

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

28. Is there a system for compensating users in the following circumstances:

Yes No

§ excessive length of proceedings? NO

§ wrongful arrest? YES

§ wrongful condemnation? YES

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

29. Does your country have surveys on users or legal professionals (judges, lawyers, officials, etc.) to measure public trust and satisfaction with the services delivered by the judiciary system?

Yes No YES

There are independent surveys performed by various marketing agencies and NGO sector. Also, some courts have put questions on their web sites in order to see how citizens see the judiciary; Judges Association of Serbia has on its web site question about trust of the citizens in the judiciary, i.e. what do you think what is the main cause of a huge backlog of cases in courts: professional inadequacy, low number of judges, bad organization of courts...

If possible, please specify their titles, how to find these surveys, etc:

30. If yes, please specify:

	Trough systematic surveys (Yes/No)	Through ad hoc surveys (Yes/No)
Surveys at national level	NO	NO
Surveys at court level	YES	YES

31. Is there a national or local procedure for making complaints about the performance of the judicial system?

Yes No YES

32. If yes, please specify:

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

Ombudsman)

Can you give information elements concerning the efficiency of this complaint procedure?

From its constitution, i.e. Monitoring body in the Supreme Court until the end of 2004 received 756 (out of which 581 cases are related to civil procedure). 147 have been solved.

III. Organisation of the court system

III. A. Functioning

33. Total number of courts (administrative structure):

Supreme Court of Serbia	1
District Courts	30
Municipal Courts	138
Commercial Courts	17
High Commercial Court	1
TOTAL NUMBER OF COURTS	187

§ first instance courts of general jurisdiction In 2004, first instance courts of general jurisdiction are Municipal courts and District Courts.

Source Law on Organisation of Courts, Official Gazette of Serbia, No. 63/2001, with changes in No.42/2002, 27/2003, 103/2003, 29/2004 and 101/2005.

§ specialised first instance courts In 2004, specialized court are: Commercial Courts and High Commercial Court.

Source Law on Organisation of Courts, Official Gazette of Serbia, No. 63/2001, with changes in No.42/2002, 27/2003, 103/2003, 29/2004 and 101/2005.

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

Commercial courts have very broad jurisdiction in civil cases, including intellectual property cases, privatization, foreign investments, unjust competition, ships and aviation law, bankruptcy, and other disputes between domestic and foreign legal entities. High Commercial Court is competent in second instance to decide upon appeal against first instance decision and in first instance when it is stipulated by law.

34. Total number of courts (geographic locations)

Source **NO DATA AVAILABLE**

35. Number of first instance courts competent for a case concerning:

§ a debt collection for small claims **NO DATA AVAILABLE**

Please specify what is meant by small claims in your country:

§ a dismissal **NO DATA AVAILABLE**

§ a robbery **NO DATA AVAILABLE**

36. Number of professional judges sitting in courts

2.418 professional judges sitting in Courts in Serbia (Supreme Court – 76; Municipal – 1.696; District Courts – 410; Commercial Courts – 236)

(present the information in full time equivalent and for permanent posts)

Source **Ministry of Justice of Serbia, data from High Judicial Council who keeps the record on number of judges and public prosecutors.**

37. Number of professional judges sitting in courts on an occasional basis and who are paid as such: **NO DATA AVAILABLE**

§ gross figure

§ if possible, in full time equivalent

Source

Please specify:

38. Number of non-professional judges (including lay judges) who are not remunerated but who can possibly receive a simple defrayal of costs

AT THE MEETING 22-23 MAY 2006 OF CEPEJ WE DECIDE TO DISREGARD THIS INDICATOR

Source

Please specify:

39. Does your judicial system include trial by jury with the participation of citizens?

No

Yes **NO**

For which type of case(s)?

If possible, number of citizens who were involved in such juries for the year 2004?

40. Number of non-judge staff who are working in courts

(present the information in full time equivalent and for permanent posts)

TOTAL NUMBER OF NON-JUDGE STUFF IN 2004 IS:

Supreme Court of Serbia	144
District Courts	2.326
Municipal Courts	13.928
Commercial Courts High Commercial Court	1.773
TOTAL NUMBER OF EMPLOYEES	18.171

Source **Ministry of Justice**

41. If possible, could you distribute this staff according to the 3 following categories:

§ 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:

§ 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):

§ technical staff:

42. In courts, do you have non-judge staff entrusted with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal (such as German and Austrian Rechtspfleger):

No **NO**

Yes

Number of staff

43. Number of public prosecutors
(present the information in full time equivalent and for permanent posts)

800 prosecutors

Source

44. Do you have persons who have similar duties as public prosecutors?

No **NO**

Yes Please specify:

45. Is the status of prosecutors:

Yes

§ independent within the judiciary? **YES**

§ independent from the judiciary? **YES**

§ under the authority of the Ministry of Justice? **YES**

46. Number of staff (non prosecutors) attached to the public prosecution service (present

the information in full time equivalent and for permanent posts)

Source

47. Who is entrusted with the individual court budget?

	Preparation of the budget (Yes/No)	Arbitration and allocation (Yes/No)	Day to day management of the budget (Yes/No)	Evaluation and control of the use of the budget (Yes/No)
Management Board	NO	NO	NO	NO
Court President	YES	NO	YES	YES
Court administrative director	NO	NO	NO	NO
Head of the court clerk office	YES	NO	YES	YES
Other. Please specify				

48. In general, do the courts in your country have computer facilities?

Yes No **NO**. According to the Ministry of Justice, in 2004 there were about 3.000 computers. Several international donors funded computerisation programs. (USAID, EAR, Booz Allen Hamilton, DFID). Also, computers and information technologies are not necessarily being used efficiently by those judges who do have access to them. Many have basic computer skills and knowledge. Only, the Supreme court and Commercial court in Belgrade have their own internal networks that can be used by judges and court personnel for document sharing and other work. On the other hand, some judges use computers to draft decisions, organise their files, and perform research, yet many others continue to dictate their decisions to their assistants.

49. What are the computer facilities used within the courts?

Specific uses for computers in court administration and in the administration of justice are outlined in the Court Rules of Procedures (Art.124). These include general word processing tasks, accounting, creating the registry and otehr court administration records, printing case file folders, and updating court practice.

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

Direct assistance to the judge/court clerk	Word processing		X	
	Electronic data base of jurisprudence			X
	Electronic files			X
	E-mail			X
	Internet connection		X	
Administration and management	Case registration system			X
	Court management information system			X
	Financial information system			X
Communication between the court and the parties	Electronic forms			X
	Special Website			X
	Other electronic communication facilities			X

Source [Data from the Ministry of Justice of Serbia](#)

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

No **NO**

Yes Please specify the name and the address of this institution:

You can indicate below:

- any useful comments for interpreting the data mentioned above

CCASA has delivered computers in past years, installed a new computer network linking all of the Commercial Courts, and provided one of the most comprehensive judicial research tools in Serbia to the desks of each of the Court's 230 judges. Thanks to this initiative, all judges will now have access not only to the Internet, but also to a legal database, judicial education via multimedia, and legal documents and publications that will significantly expand the availability of important information and resources. The system will also enhance communication among the judges, providing email capability, enabling discussion forums on legal issues, and allowing the development of shared documents.

- the characteristics of your judicial system

III. B. Monitoring and evaluation

51. Are the courts required to prepare an annual activity report?

Yes No **YES**

52. Do you have a regular monitoring system of court activities concerning the:

Yes No

§ number of incoming cases? **YES**

§ number of decisions? **YES**

§ number of postponed cases? **NO**

§ length of proceedings? **NO**

§ other? **Number of decisions subject to an appeal; number of unsolved cases;**

Please specify:

53. Do you have a regular evaluation system of the performance of the court?

No **YES**

Yes Please specify:

54. Concerning court activities, have you defined:

§ performance indicators? Yes No **NO in 2004**

Please specify the 4 main indicators for a proper functioning of justice:

§ targets? Yes No **NO**

Please specify who is responsible for setting the targets:

Yes

- executive power?

- legislative power?

- judicial power?

- other? Please specify:

Please specify the main objectives applied:

Source

55. Which authority is responsible for the evaluation of the performances of the courts:

Yes

§ the High Council of judiciary?
§ the Ministry of justice? YES

§ an Inspection body?
§ the Supreme Court? YES
§ an external audit body?
§ other? Please specify:

56. Does the evaluation system include quality standards concerning judicial decisions?

No
Yes Please specify: NO

Source

57. Is there a system enabling to measure the backlogs and to detect the cases which are not processed within an acceptable timeframe for:

Yes No NO

§ civil cases?
§ criminal cases?
§ administrative cases?

58. Do you have a way of analysing queuing time during court procedures?

No
Yes Please specify: NO

59. Do you monitor and evaluate the performance of the prosecution services?

No
Yes YES

Please specify:

You can indicate below:

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

IV. Fair trial

IV. A. Fundamental principles

60. Is there in your judicial system:

§ a right for an interpreter for all those within your jurisdiction who cannot understand or speak the language used in court?

Yes No YES

	6§3d
	Article 6§3e
Civil proceedings	Article 6§1 (equity)
	Article 6§1 (duration)
	Article 6§1 (non execution only)

Serbia became a member of the Council of Europe in April 2003 and ratified European Convention on Human Rights in March 2004. Until to date, no judgement have been passed by the European Court of Human Rights against Serbia.

We have only data that against Serbia in 2003 there have been 101 applications filed, in 2004 - 615 applications and in 2005 - 629 application, which is all together 1345 applications. Out of this number, the Court proclaimed inadmissible 384 applications. It is visible that most of applications are related to article 6 of the Convention, referring to duration of proceedings.

The Law on the State Agent for representing Serbia before the European Court for Human Rights was passed in 2005 and the Agent was appointed in the beginning of 2006.

Source Report of the Agent of Serbia before the European Court of Human Rights from april 2006.

IV.B. Timeframes of proceedings

IV. B. 1. General

64. Are there specific procedures for urgent matters in:

Yes No

§ civil cases? **YES**

§ criminal cases? **YES**

§ administrative cases? **YES**

65. Are there simplified procedures for:

Yes No

§ civil cases (small claims)? **YES**

§ criminal cases (petty offences)? **YES**

§ administrative cases? **NO**

66. Is it possible for a second instance court to send back a case to a first instance court for

a new examination?

Yes No **YES**

67. Do courts and lawyers have the possibility to conclude agreements on modalities for processing cases (presentation of files, binding timeframes for

lawyers to submit their conclusions and dates of hearings)?

No **NO**

Yes Please specify:

IV. B. 2. Civil and administrative cases

68. Total number of civil cases in courts (litigious and not litigious):

Total number of litigious and not litigious cases in 2004 includes the following:

First instance cases	Incoming cases	464.072*
Second instance cases	Incoming cases	60.044
Old cases in both instances *unsolved cases	Old cases	232.642**
TOTAL NUMBER OF ALL CIVIL CASES IN COURTS IN 2004		756.758

Please specify the main types of cases:

*Out of 464.072 first instance cases we had an income of 236.528 surrogate and other not litigious cases and 227.544 litigious cases.

**Old cases in first instance were 39.448 surrogate and other not litigious cases and 183.911 litigious cases, which is together 223.359 all old civil cases in first instance.

Source Annual report of the Supreme Court of Serbia and all other courts in Serbia for 2004.

69. Litigious administrative and civil cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:

	Civil cases	Administrative cases	Divorce	Employment dismissal
--	-------------	----------------------	---------	----------------------

Total number (1st instance)	Incoming cases	464.072 1st instance cases + 223.359 cases from previous years that are still unfinished TOTAL: 687.431	4.054 1st instance cases + 1.106 cases from previous year that are still unfinished TOTAL: 5.160	No data available	No data available
	Decisions on the merits	461.589 *out of 687.431 total cases	4.268 *out of 5.160 total cases	No data available	No data available
	Percentage of decisions subject to appeal in a higher court	23,67% *Almost every third or fourth decision is subject to appeal		No data available	No data available
	Pending cases by 1 January 2005	225.555 unfinished cases at the end of 2004	892 cases at the end of 2004	No data available	No data available
	Percentage of pending cases of more than 3 years	No data available	No data available	No data available	No data available
Average length (from date of lodging of court proceedings*)	1st instance decisions	No data available	No data available	No data available	No data available
	2nd instance decisions	No data available	No data available	No data available	No data available
	Total procedure	No data available	No data available	No data available	No data available

* If you cannot calculate the average length from the date of lodging of court proceedings, how do you calculate length of proceedings?

There was no system to calculate the average length of proceedings in 2004.

Where appropriate, please specify the specific procedure as regards divorce:

Source

IV. B. 3. Criminal cases

70. Please describe the role and powers of the prosecutor in the criminal procedure:

Yes No

§ to conduct or supervise police investigation? NO

§ to conduct investigation? NO

§ when necessary, to demand investigation measures from the judge? YES

§ to charge? YES

§ to present the case in the court? YES

§ to propose a sentence to the judge? YES

§ to appeal? YES

§ to supervise enforcement procedure? NO

§ to end the case by dropping it without the need for a judicial decision? YES

§ to end the case by imposing or negotiating a penalty without a judicial decision? NO

§ other significant powers?

Please specify:

71. Does the prosecutor also have a role in civil and/or administrative cases?

No YES

Yes Please specify:

In civil proceedings, according to the Civil Procedure Code ("Official Gazette RS", No. 125/2004), public prosecutor may file a motion for the protection of legality against an effective court decision within three months.

In administrative proceedings, according to the Law on General Administrative Procedure, ("Official Gazette FRY", N.o 33/97, 31/2001), public prosecutor may file a motion for protection of legality against an effective decision, if is of the opinion that the law is violated by such decision.

72. Functions of the public prosecutor in relation to criminal cases– please complete this table:

	Total number of 1st instance criminal cases
Received by the public prosecutor	88.453

Discontinued by the public prosecutor	In general	
	Because the offender could not be identified	
	Due to the lack of an established offence or a specific legal situation	
Concluded by a penalty, imposed or negotiated by the public prosecutor		
Charged by the public prosecutor before the courts		44.881

Source

73. Criminal cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:

		Criminal cases	Robbery cases	Intentional homicides
Total number (1st instance)	Incoming cases	60.704 new cases + 44.685 cases unfinished from previous years TOTAL: 105.389	492	No data available
	Judicial decisions	56.824 cases finished out of total 105.389	492	No data available
	Convicted persons	No data available	451 prison sentence 38 conditional prison sentence 3 educational measures	No data available

Acquitted persons	No data available		No data available
Percentage of decisions subject to appeal in a higher court	25%	No data available	No data available
Pending cases by 1 January 2005	48.565 cases at the end of 2004		
Percentage of pending cases of more than 3 years	No data available		
Average length*(from the date of official charging)	1st instance decision	No data available	No data available
	2nd instance decision	No data available	No data available
	Total procedure	No data available	No data available

* If you cannot calculate the average length from the date of official charging, how do you calculate length of proceedings?

There was no system on the average length time of criminal proceedings in 2004.

Source [Annual Report of the Supreme Court of Serbia and other courts in Serbia for 2004.](#)

You can indicate below:

- any useful comments for interpreting the data mentioned above

In 2002 two special departments were established within the District Court in Belgrade: Special department for combating organized crime and Penal for war crimes.

In Special department for combating organized crime there were 18 new first instance cases in 2004 and 13 old cases, which makes total of 31 cases in first instance. 13 cases were finished and 18 cases were unfinished at the end of 2004.

In the Penal for war crimes, 3 new first instance cases were received and 3 old cases. 4 cases were finished and 2 cases were unfinished at the end of 2004.

- the characteristics of your system concerning timeframes of proceedings

V. Career of judges and prosecutors

V. A. Appointment and training

74. Are judges initially/at the beginning of their carrier recruited and nominated by:
Yes

§ a body composed of members of the judiciary? **NO**

§ a body composed of members external to the judiciary? **NO**

§ a body composed of members of the judiciary and external to the judiciary? **YES.**

According to the Law on High Judicial Council ("Službeni glasnik RS", br. 63/2001, 42/2002, 39/2003, 41/2003, 44/2004, 61/2005), High Judicial Council proposes to the National Assembly presidents of courts, judges, public prosecutors and deputies of public prosecutors, lay judges and other businesses stipulated by the law. National Assembly can not appoint any candidate who has not been proposed by the High Judicial Council. According to the Law on Judges, art. 41/50, High Judicial Council is making announcement for free posts for judges and others, and collecting opinions on professionalism and dignity of a candidate.

75. Are prosecutors initially/at the beginning of their carrier recruited and nominated by:
Yes

§ a body composed of members of the prosecution system?

§ a body composed of members external to the prosecution system?

§ a body composed of members of the prosecution system and external to the prosecution system? **YES.**

According to the Law on High Judicial Council ("Službeni glasnik RS", br. 63/2001, 42/2002, 39/2003, 41/2003, 44/2004, 61/2005), High Judicial Council proposes to the National Assembly presidents of courts, judges, public prosecutors and deputies of public prosecutors, lay judges and other businesses stipulated by the law. National Assembly can not appoint any candidate who has not been proposed by the High Judicial Council. According to the Law on Judges, art. 41/50, High Judicial Council is making announcement for free posts for judges and others, and collecting opinions on professionalism and dignity of a candidate.

76. Is the mandate given for an undetermined period for:

Yes No **YES**

§ judges? According to the Law on Judges, art.10, a judgeship shall last continuously from first election as judge until retirement. Judgeship may terminate prior to above only under conditions set forth in this Law.

§ prosecutors? According to the Law on Prosecutors, art. 39, prosecutors are appointed continuously from first election as judge until retirement.

Are there exceptions ? Please specify: **YES.**

If no, what is the length of the mandate: Is it renewable?

Yes No

§ of judges? **NO**

§ of prosecutors? **Deputy prosecutor is appointed for the period of 8 years, and can be reappointed.**

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of the selection and nomination procedure of judges and prosecutors

77. Nature of the training of judges:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory			
	Highly recommended	YES		
	Optional			
General in-service training	Compulsory		Annual	
	Highly recommended	YES	Regular	
	Optional		Occasional	YES
In-service training for specialised functions (e.g. judge for economic or administrative issues)	Compulsory		Annual	
	Highly recommended	YES	Regular	YES
	Optional		Occasional	
In-service training for specific functions (e.g. head of court)	Compulsory		Annual	
	Highly recommended	YES	Regular	
	Optional		Occasional	YES

78. Nature of the training of prosecutors:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory			
	Highly recommended	YES		

	Optional			
General in-service training	Compulsory		Annual	
	Highly recommended	YES	Regular	YES
	Optional		Occasional	
Specialised in-service training	Compulsory		Annual	
	Highly recommended	YES	Regular	
	Optional		Occasional	YES

You can indicate below:

- any useful comments for interpreting the data mentioned above

The Judicial Training Centre (JTC) is an organization that offers elementary, specialized and permanent education and professional advancement programmes for Serbian judiciary.

The JTC was founded by the Republic of Serbia – Ministry of Justice and the Association of Judges of Serbia in 2001.

The main aim of founding of the JTC was designing and implementation of training programme, advancement and upgrading knowledge and skills of judges, prosecutors and other employees in judiciary, introduce contemporary standards of the international legal system and court practice in the developed legal systems as well as new legal institutes and regulations as a part of European integration process.

The JTC has approximately 15,000 beneficiaries where 2,400 are judges and more than 700 prosecutors and deputy prosecutors, and almost 1000 interns, professional associates and advisers in courts and prosecutions and around 11,000 judicial administrative staff. In the near future, except from the programs for persons employed in judiciary in Serbia, the JTC should organize trainings based on specially prepared profitable programs for other jurist who wish to take the judicial exam, then court experts, mediators, public notaries and lawyers.

- the characteristics of of your training system for judges and prosecutors

V. B. Practice of the profession

79. Gross annual salary of a first instance professional judge at the beginning of his/her career

Source

80. Gross annual salary of a judge of the Supreme Court or of the highest appellate court

Source

81. Gross annual salary of a public prosecutor at the beginning of his/her career
€

Source

82. Gross annual salary of a public prosecutor of the Supreme Court or of the highest appellate court €

Source

83. Do judges and public prosecutors have additional benefits?

	Judges (Yes/No)	Public prosecutors (Yes/No)
Reduced taxation	NO	NO
Special pension	NO	NO
Housing	NO	NO
Other financial benefit (If yes, please specify)	<p>According to the Law on Judges, art. 34, High Judicial Council may increase up to 20% base salary of a judge and president of a court, depending on the scope of the workload and complicity of the work.</p> <p>High Judicial Council may increase the base salary up to 50% in a court where the judges` posts may not be filled.</p> <p>Base salary of a judge who handle criminal cases with the elements of organized crime and war crime, may be increased up to 100%. The decision will be made by the High Judicial Council with the approval from the Ministry of Justice.</p>	<p>According to the Law on Public Prosecutors` Office, art. 54, High Judicial Council may increase the base salary up to 50% in a public prosecutors` office where the prosecutors` posts may not be filled.</p> <p>High Judicial Council may increase the base salary of a public prosecutor up to 10% depending on the scope of the workload.</p> <p>Base salary of a public prosecutor who handle criminal cases with the elements of organized crime and war crime, may be increased up to 100%.</p> <p>The decision will be made by the High Judicial Council with the approval from the Ministry of Justice.</p>

84. Can judges or prosecutors combine their work with any of the following other professions?

	Judges			Prosecutors		
	Yes with remuneration	Yes without remuneration	No	Yes with remuneration	Yes without remuneration	No
Teaching	YES					NO
Research and publication	YES					NO
Arbitrator		YES				NO
Consultant			NO			NO
Cultural function		YES				NO
Other function to specify						

85. Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?

No NO

Yes Please specify:

V. C. Disciplinary procedures NO. THERE IS NO DISCIPLINARY PROCEEDINGS AGAINST JUDGES AND PROSECUTORS IN 2004.

However, there is High Personnel Council established in the Supreme Court of Serbia, and during 2004 had total incoming of cases 78; with old cases from previous year, the Council had to proceed with 93 cases. During 2004 solved 91 cases and left with 2 unfinished cases. Out of 91 cases, 38 were personal requests for retirement and due to other personal reasons.

86. Types of disciplinary proceedings and sanctions against judges and prosecutors:

		Judges	Prosecutors
Reasons for disciplinary procedures	Total number	25	NOT APPLICABLE
	Breach of professional ethics (Yes/No)		NOT APPLICABLE
It is not			

disciplinary proceedings	If yes, please specify the number		
	Professional inadequacy (Yes/No) If yes, please specify the number	YES	NOT APPLICABLE
	Criminal offence (Yes/No) If yes, please specify the number		NOT APPLICABLE
	Other (Yes/No) If yes, please specify		NOT APPLICABLE
Types of sanctions	Total number		NOT APPLICABLE
	Reprimand (Yes/No) If yes, please specify the number	3 judges	NOT APPLICABLE
	Suspension (Yes/No) If yes, please specify the number		NOT APPLICABLE
	Dismissal (Yes/No) If yes, please specify the number	5 judges were dismissed	NOT APPLICABLE
	Fine (Yes/No) If yes, please specify the number		NOT APPLICABLE
	Other (Yes/No) If yes, please specify		NOT APPLICABLE

You can indicate below:

- any useful comments for interpreting the data mentioned above

- the characteristics of your system concerning disciplinary procedures for judges and prosecutors

VI. Lawyers

87. Number of lawyers practising in your country

THIS DATA TO BE SUBMITTED

Source

88. Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court?

Yes No **NO**

89. Do lawyers have a monopoly of representation:

	Monopoly (Yes/No)		If no, possible representation by (Yes/No)	
Civil cases*	NO		Member of family	
			Trade Union	
			NGO	
			Other	YES
Criminal cases*	Defendant	YES	Member of family	
			Trade Union	
			NGO	
			Other	
	Victim	NO	Member of family	
			Trade Union	
			NGO	
			Other	YES
Administrative cases*	NO		Member of family	
			Trade Union	

NGO	
Other	YES

* If appropriate, please specify if it concerns first instance and appeal.

90. Is the lawyer profession organised through?

Yes YES

§ a national bar? YES. Bar Association of Serbia

§ a regional bar? NO

§ a local bar? YES. Bar Associations of Belgrade, Nis, Kragujevac, Cacak Pozarevac, Zajecar and Sabac.

Please specify:

91. Is there a specific initial training or examination to enter the profession of lawyer?

Yes No YES

According to the Law on Bar, art. 45, a person may become a member of Bar Association it is necessary to have a diploma of the Law University, Faculty of Law, and to fulfil other conditions prescribed by law. State of trainee can last 4 years the longest. Bar Association defines the plan and programme of the training of law trainees.

In order to get enrolled in the Bar Association, a trainee must pass bar exam.

92. Is there a mandatory general system for lawyers requiring continuing professional development?

Yes No NO.

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

No NO

Yes Please specify:

94. Can users establish easily what the lawyers' fees will be?

Yes No YES. Lawyers' fees are published in the Official Gazette of RS, and everyone can contact local and national bar associations in order to receive such information.

95. Are lawyers fees:

Yes

§ regulated by law? YES

§ regulated by Bar association?

§ freely negotiated? NO

96. Have quality standards been formulated for lawyers?

Yes No YES

There is a Code of professional ethics of lawyers and represents a group of rules on obligations and rights of lawyers, based on special type and high level of their professionalism and moral responsibility.

The main principles of the Code of Ethics are: independence, professionalism, conscientiousness, professional reputation, prohibition of advertising,

97. If yes, who is responsible for formulating these quality standards:

Yes

§ the bar association? YES

§ the legislature?

§ other? Please specify:

98. Is it possible to complain about :

§ the performance of lawyers? No

Yes YES

Please specify:

§ the amount of fees? Yes No YES

99. Disciplinary proceedings and sanctions against lawyers:

Disciplinary responsibility against lawyers is regulated by the Law on Bar and disciplinary proceedings and sanctions are regulated by the Statute of the National Bar Association.

	Yes /No (If yes, please specify the annual number)
Reasons for	Breach of professional ethics YES

disciplinary proceedings	Professional inadequacy	YES
	Criminal offence	
	Other	YES
Type of sanctions	Reprimand	YES
	Suspension	
	Removal	YES
	Fine	YES
	Other	YES

100. Who is the authority responsible for the disciplinary procedures:

Yes

§ a professional body? YES

Please specify: Bar Association of Serbia

§ the judge?

§ the Ministry of justice?

§ other? Please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning the organisation of the Bar

VII. Alternative Dispute Resolution

Mediation in Serbia was introduced only in 2005 by the Law on Mediation. Therefore for the year of 2004, this question do not apply to Serbia and there are no statistical data.

101. If appropriate, please specify, by type of cases, the organisation of the judicial mediation:

	Compulsion (Yes/No)		Body providing mediation (Yes/No)	
Civil cases	Compulsory stage prior to court proceedings	Not applicable	Private mediator	Not applicable
			Public or authorised by court body	Not applicable
			Court	Not applicable
	Compulsory stage in court proceedings	Not applicable	Judge	Not applicable
	Ordered by judge in certain cases	Not applicable	Prosecutor	Not applicable
Family cases	Compulsory stage prior to court proceedings	Not applicable	Private mediator	Not applicable
			Public or authorised by court body	Not applicable
			Court	Not applicable
	Compulsory stage in court proceedings	Not applicable	Judge	Not applicable
	Ordered by judge in certain cases	Not applicable	Prosecutor	Not applicable
Administrative cases	Compulsory stage prior to court proceedings	Not applicable	Private mediator	Not applicable
			Public or authorised by court body	Not applicable
			Court	Not applicable
	Compulsory stage in court proceedings	Not applicable	Judge	Not applicable
	Ordered by judge in certain cases	Not applicable	Prosecutor	Not applicable
Employment dismissals	Compulsory stage prior to court proceedings	Not applicable	Private mediator	Not applicable
			Public or	Not

			authorised by court body	applicable
			Court	Not applicable
	Compulsory stage in court proceedings	Not applicable	Judge	Not applicable
	Ordered by judge in certain cases	Not applicable	Prosecutor	Not applicable
Criminal cases	Compulsory stage prior to court proceedings	Not applicable	Private mediator	Not applicable
			Public or authorised by court body	Not applicable
			Court	Not applicable
	Compulsory stage in court proceedings	Not applicable	Judge	Not applicable
	Ordered by judge in certain cases	Not applicable	Prosecutor	Not applicable

102. Can you provide information about accredited mediators? **Not applicable**

103. Can you provide information about the total number of mediation procedure concerning: **Not applicable**

§ civil cases?

§ family cases?

§ administrative cases?

§ employment dismissals?

§ criminal cases?

Source

104. Can you give information concerning other alternative dispute resolution (e.g. Arbitration)? Please specify:

Attached to the Serbian Chamber of Commerce, there is Arbitration for solving disputes between parties through mediation, as well as judicating in commercial disputes between domestic legal entities, if parties agree on its competence. Each party may refer to the Arbitration for solving their disputes through mediation. If another party accepts the competence of Arbitration, a Commission will be formed, which will analyse the material submitted by the parties and will propose a solution to their dispute, which is not obligatory.

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning ADR

VIII. Enforcement of court decisions

VIII. A. Execution of decisions in civil matters

105. Are enforcement agents:

Yes

§ judges?

§ bailiff practising as private profession ruled by public authorities?

§ bailiff working in a public institution?

§ other enforcement agents? **They are employees of courts, not judges, but servants within the court**

Please specify their status:

106. Number of enforcement agents **No data available**

Source

107. Is there a specific initial training or examination to enter the profession of enforcement agent?

Yes No **NO**

108. Is the profession of enforcement agent organised by?

NO

Yes

§ a national body?

§ a regional body?

§ a local body?

109. Can users establish easily what the fees of the enforcement agents will be?

Yes No **YES**

110. Are enforcement fees:

Yes

§ regulated by law? **YES**

§ freely negotiated?

111. Is there a body entrusted with the supervision and the control of the enforcement agents?

No

Yes Which authority is responsible for the supervision and the control of enforcement agents:

Yes

§ a professional body?

§ the judge? YES

§ the Ministry of justice?

§ the prosecutor?

§ other?

Please specify:

112. Have quality standards been formulated for enforcement agents?

No NO

Yes Who is responsible for formulating these quality standards?

Source

113. What are the main complaints of users concerning the enforcement procedure:

Yes No

§ no execution at all? YES

§ lack of information?

§ excessive length? YES

§ unlawful practices?

§ insufficient supervision? YES

§ excessive cost?

§ other?

Source

114. Does your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions?

No NO

Yes Please specify:

Yes No

§ for civil cases? **NO**

§ for administrative cases? **NO**

116. 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 seats:

Yes

§ between 1 and 5 days **YES**

§ between 6 and 10 days

§ between 11 and 30 days

§ more: please specify

Source

117. Disciplinary proceedings and sanctions against enforcement agents: **NO**

	Yes /No (If yes, please specify the total number)	
Disciplinary proceedings	Breach of professional ethics	
	Professional inadequacy	
	Criminal offence	
	Other	
Sanctions	Reprimand	
	Suspension	
	Dismissal	
	Fine	
	Other	

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in civil matters

VIII. B. Enforcement of decisions in criminal matters

118. Is there a judge who has in charge the enforcement of judgments?

Yes Please specify his/her functions and activities (e.g. Initiative or control functions):

No Please specify which authority is entrusted with the enforcement of judgements (e.g prosecutor):

119. As regards fines decided by a criminal court, are there studies to evaluate the effective recovery rate?

No **NO**

Yes Please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in criminal matters

IX. Notaries

Republic of Serbia does not have an institution of notaries. It is now in the process of drafting Law on Notaries and introducing this institution into our legal system. But, for the year of 2004. this question do not apply to Serbia.

120. Is the status of notaries: **Not applicable**

Yes Number

§ a private one?

§ a status of private notary ruled by the public authorities?

§ a public one?

§ other?

Please specify:

Source

121. Do notaries have duties: **Not applicable**

Yes No

§ within the framework of civil procedure?

§ in the field of legal advice?

§ to authenticate legal deeds?

§ other?

If yes, please specify:

122. Is there a body entrusted with the supervision and the control of the notaries? **Not applicable**

No

Yes Which authority is responsible for the supervision and the control of the notaries:

Yes

§ a professional body?

§ the judge?

§ the Ministry of justice?

§ the prosecutor?

§ other? Please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system of notaries

123. Please indicate main orientations for reform and concrete measures which could improve the quality and the efficiency of your judicial system:

The National Judicial Reform Strategy in Serbia was adopted by the Government on the 13th April 2006 and was accepted by the Parliament on the 25th May 2006.

The future judiciary will be based on four key principles: independence, transparency, accountability and efficiency, which provide the framework for the design, development and organization of all judicial institutions. The major part of the Strategy is devoted to the reform of the Serbia`s court system, including courts of general and special jurisdiction and other parts of the judicial system: the Ministry of Justice, the prosecution and penal system, the law faculties and independent judicial professions.

The reforms are grouped into short-term (2006-2007), medium-term (2008-2009) and long-term (2010-2011) implementation timeframes.

Judicial Reform Framework

Independence	Transparency	Accountability	Efficiency
Self-Governing Structure	Open Judicial Selection,	Clear Judicial Productivity &	Improved Access to Justice

	Promotion & Discipline Processes	Performance Standards	
Independent Budget Authority	Appropriate Access to Court Records & Proceedings	Effective Court Administration & Management	Standardized System for Education & Training
Independent Policy & Rule-Making Authority	Enhanced Public Outreach & Participation	Effective Use of Judicial & Prosecutorial Resources	Modern Court Network

From the 1st January 2007, the new constitutional and legal framework will be the base for introducing a new system of courts: the Supreme Court will become only Cassation Court, Courts of Appeal will for the most part take over the jurisdiction of the present Supreme Court, and Administrative Court will start to function as special court. Other courts with minor changes will remain their present jurisdiction.

Moreover, information technology and modernization will allow monitoring of court performance and efficiency.

There will be major changes in criminal legislation; there is a new Criminal Procedure Code before the Parliament to be passed with the effect from 1st June 2007. The prosecutors will have grater autonomy. The Republic public Prosecutor, War Crimes Prosecutor and Organized Crime Prosecutor will be elected by the Parliament. The limiting of the role of investigative judges in court proceedings will enable the prosecutors to play a more direct role in the judicial process. Procedural reform and additional training for all prosecutors will be required.

Regarding training and education, the Government of Serbia will formally establish a National Judicial Trainig Institute by 2008, which will administer a standardized multi-level initial and continual education and training programme for judicial officers. The training will emphasize case management techniques to address the significant case backlogs in courts. Successfully passed final examination at this Institute will be a prerequisite and a guarantee for the nominees to be appointed to the judiciary.

Also, the new Law on Bar is in the procedure before the Parliament as well as the new Law on education of judges, prosecutors, deputy prosecutors and judges` and prosecutors` assistants.

There has been identified performance indicators for each of four defined areas with the targets defined.

INDEPENDENCE PERFORMANCE INDICATORS

Reform Goal	Indicator	Metric	Frequency	Target
Self-Governing Structure	Judicial System Management & Governance	Establishment of revised High Judicial Council	Annual	2008

		and Administrative Office		
Independent Budget Authority	Judicial System Financial & Budgetary Management	Establishment of independent budgetary process for the judiciary	Annual	2008
Independent Policy and Rule Making Authority	Judicial System Internal Operational Management	Unification of policy-making under the High Judicial Council's oversight	Annual	2008

TRANSPARENCY PERFORMANCE INDICATORS

Reform Goal	Indicator	Metric	Frequency	Target
Open Judicial Selection, Promotion & Discipline Processes	Judicial Nomination Process	Adoption of revised and expanded judicial selection criteria	Annual	2008
Appropriate Access to Court Records & Proceedings	Dissemination of Supreme Court Practice	Number of Supreme Court Opinions Available in Public Databases	Annual	Increasing
Enhanced Public Outreach & Participation	Perception of Judicial System Performance	Public complaints received	Annual	Decreasing

ACCOUNTABILITY PERFORMANCE INDICATORS

Reform Goal	Indicator	Metric	Frequency	Target
Clear Judicial Productivity & Performance Standards	Judicial Production (by court system)	Weighted Caseload per Judge	Annual	TBD
Effective Court Administration & Management	Case Productivity (by court system)	Average duration of cases	Annual	Decreasing
		Disposition Ratio (cases closed/cases filed)	Annual	Decreasing
		Remand-Reversal Ratio	Annual	Decreasing
		Average number	Annual	Increasing

		of productive hearings per case (hearings-unproductive hearings/hearings)		
Effective Use of Judicial & Prosecutorial Resources	Criminal Procedure Reform	Establishment of Plea-bargaining within the criminal justice system	Annual	2010

EFFICIENCY PERFORMANCE INDICATORS

Reform Goal	Indicator	Metric	Frequency	Target
Improved Access to Justice	Legal Aid Effectiveness	Number of complaints received on Legal Aid services	Annual	Decreasing
Standardized System for Education & Training	Training Penetration	Judicial Training Hours Delivered/Judges	Annual	Increasing
		Staff Training Hours Delivered/Staff	Annual	Increasing
Modern Court Network	Judicial Facility Availability	(Courtrooms + Chambers)/Judges	Annual	Increasing

