



**Reference data 2018 (01/01/2018 - 31/12/2018)**

**Start/end date of the data collection campaign : 01/03/2019 - 01/10/2019**

**Objective :**

The CEPEJ decided, at its 31th plenary meeting, to launch the eighth evaluation cycle 2018 – 2020, focused on 2018 data. The CEPEJ wishes to use the methodology developed in the previous cycles to get, with the support of its national correspondents' network, a general evaluation of the judicial systems in the 47 member states of the Council of Europe as well as three observer states (Israel, Morocco and Kazakhstan). This will enable policy makers and judicial practitioners to take account of such unique information when carrying out their activities.

The present questionnaire was adapted by the Working group on evaluation of judicial systems (CEPEJ-GT-EVAL) in view of the previous evaluation cycles and considering the comments submitted by CEPEJ members, observers, experts and national correspondents. The aim of this exercise is to increase awareness of judicial systems in the participating states, to compare the functioning of judicial systems in their various aspects, as well as to have a better knowledge of the trends of the judicial organisation in order to help improve the efficiency of justice. The evaluation questionnaire and the analysis of the results becomes a genuine tool in favour of public policies on justice, for the sake of the European citizens.

**Instruction :**

The ways to use the application and to answer the questions are guided by two main documents:

- User manual
- Explanatory note

While the explanatory note gives definitions and explanations on the CEPEJ evaluation questionnaire and the methodology needed for replying, the User manual is a tool to help you navigate through this application. You can download the Explanatory note as a whole on the CEPEJ website. The specific explanations are also accessible for each question within this application under the tab "Explanatory note". This will serve as immediate consultation tool when answering questions. The user manual is accessible in the "Documentation" tab of the application.

In case you have any questions related to these documents or on the use of the application, please do not hesitate to contact the Secretariat.

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## 1.General and financial information

### 1.1.Demographic and economic data

#### 1.1.1.Inhabitants and economic general information



##### 001. Number of inhabitants (if possible on 1 January of the reference year +1)

[ 6 963 764 ]

Comments The Office estimates the number of inhabitants on 01.01.2019 to be 6 963 764. The most recent census of population was conducted in 2011; <http://www.stat.gov.rs/oblasti/stanovnistvo/procene-stanovnistva/>. The data does not account for the population in AP

**002. Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €)**

	Amount
State or federal level	17 539 225 654 [ ] NA [ ] NAP
Regional / federal entity level (total for all regions / federal entities)	[ X ] NA [ ] NAP

Comments The answer for state or federal level is: 17,539,225,654 EUR. Data publicly available on the Website of the Ministry of Finance - Documents: Microeconomic Data, <https://www.mfin.gov.rs/en/documents/macro-economic-and-fiscal-data-january-2020/>. The difference in exchange rate (123.47 for 2016; 118.19 for 2018) should be kept in mind when comparing all budgetary questions. With respect to the increase of annual public expenditure at state level, in 2018, there was an increase in wages by 10% in the public sector and 5% in the administration, as well as an increase in pensions by 5%. In addition, more money for investments was also earmarked. In relation to the realisation in 2017, investments in 2018 were for the first time 30% larger.

**003. Per capita GDP (in €) in current prices for the reference year**

[ 6 158 ]

Comments Statistical Office of the Republic of Serbia publishes the results of the annual estimation of Gross domestic product (GDP) for the year 2018, by production and expenditure approach, at current and constant prices. Gross domestic product in 2018 at current prices amounted to RSD 5 068 588.5 million (42,883,418.53 EUR). When compared to the previous year, GDP increased by 6.6% in nominal terms. Please see: <https://www.stat.gov.rs/en-us/vesti/20191001-bruto-domaci-proizvod-2018/>. GDP growth in 2018 (4.4%, highest in a decade) was driven by investments and exports, as well as labour market recovery. Led by domestic factors, GDP growth accelerated to 4.8% y-o-y in Q3 2019 and additionally to above 5% y-o-y in Q4, despite global slowdown.

**004. Average gross annual salary (in €) for the reference year**

[ 7 645 ]

[ ] NA

Comments Average gross salaries and wages calculated for January 2019 amounted to 75 296 RSD, while average net salaries and wages amounted to 54 521 RSD. Compared with Jan 2018, average gross salaries and wages for January 2019 increased by 8.8% in nominal terms and by 6.6% in real terms, while average net salaries and wages increased by 8.9% in nominal terms and by 6.7% in real terms. Median net salaries and wages for January amounted to 41 467 RSD, meaning that 50% of employees realised wages and salaries up to the mentioned amount.

**005. Exchange rate of national currency (non-Euro zone) in € on 1 January of the reference year +1**

[ 118.1946 ]

Allow decimals : 5

[ ] NAP

Comments

**A1. Please indicate the sources for answering questions 1 to 5**

Sources: Question no.1: The Statistical Office of the Republic of Serbia;

Question no. 2: Data publicly available on the Website of the Ministry of Finance - Documents: Microeconomic Data, <https://www.mfin.gov.rs/en/documents/macroeconomic-and-fiscal-data-january-2020/>;  
 Questions no. 3 and 4: The Statistical Office of the Republic of Serbia; <https://publikacije.stat.gov.rs/G2019/PdfE/G20191075.pdf>;  
 Question no.5: National Bank of Serbia, official middle RSD exchange rate. The stated rate of exchange is applicable from 8 a.m. on 31/12/2018 until 8 a.m. on the day of setting the new rates: <http://www.nbs.rs/export/sites/default/internet/cirilica/scripts/ondate.html>

## 1.1.2. Budgetary data concerning judicial system

006. Annual (approved and implemented) public budget allocated to the functioning of all courts, in € (without the budget of the public prosecution services and without the budget of legal aid). If you cannot separate the budget allocated to the courts from the budgets of public prosecution services and/or legal aid, please go to question 7. If you are able to answer this question 6, please answer NA to the question 7.

	Approved budget (in €)	Implemented budget (in €)
<b>TOTAL - Annual public budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)</b>	220 560 253 <input type="checkbox"/> NA <input type="checkbox"/> NAP	215 915 396 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Annual public budget allocated to (gross) salaries</b>	127 151 063 <input type="checkbox"/> NA <input type="checkbox"/> NAP	126 242 372 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Annual public budget allocated to computerisation</b>	3 849 504 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3 599 791 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Annual public budget allocated to justice expenses (expertise, interpretation, etc.)</b>	30 874 513 <input type="checkbox"/> NA <input type="checkbox"/> NAP	30 022 120 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Annual public budget allocated to court buildings (maintenance, operating costs)</b>	1 095 114 <input type="checkbox"/> NA <input type="checkbox"/> NAP	780 972 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>5. Annual public budget allocated to investments in new (court) buildings</b>	8 878 748 <input type="checkbox"/> NA <input type="checkbox"/> NAP	8 751 001 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>6. Annual public budget allocated to training</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>7. Other (please specify)</b>	48 711 311 <input type="checkbox"/> NA <input type="checkbox"/> NAP	46 519 141 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Please indicate any useful comment to explain the figures provided. If the annual public budget allocated to the functioning of all courts actually implemented is different from the approved annual public budget allocated to the functioning of all courts, please indicate the main reasons for the differences: Data for 6.1 encompasses:

Total Approved budget: 220.560.253,07 eur Total Implemented budget: 215.915.395,97 eur

6.1.1 Judges' salaries: Approved budget: 50.793.220,37 eur

Implemented budget: 50.182.963.,05 eur

6.1.2. Salaries of court employees (civil servants and administrative, technical and other non-judicial engaged individuals: Approved

budget: 76.357.842,13 eur

Implemented budget: 76.059.408,70 eur

Data for 6.2 covers: The funds spent by the administrative equipment, furniture that computerization of courts (MoJ data), as well as the data of the judicial institutions on the state level (SCC, Misdemeanour Appellate Court, Commercial Appellate Court). This court budget data is from the 2018-2020 Evaluation Cycle separated from the PPO data with the following formula, having in mind the proportional allocation of resources: courts: 85%; ppo's: 15%, in line with the needs of the courts and ppo's.

Data for 6.3 (implemented) is given for expenses of judicial experts and court interpreters in court proceedings (data provided by High Judicial Council - HJC). Besides these two categories, includes expenses for lawyers (ex officio defence), lay judges (porotnici), proceedings in which the defendant has been acquitted.

Data for 6.4. Annual public budget allocated to court buildings (maintenance, operating costs) – This court budget data is from the 2018-2020 Evaluation Cycle separated from the PPO data with the following formula, having in mind the proportional allocation of resources: courts: 85%; ppo's: 15%, in line with the use of the building premises by the courts and ppo's. Data for 6.5. Annual public budget allocated to investment in new and reconstruction buildings - (ex. reconstruction of Second Basic Court in Belgrade and the Palace of Justice). This court budget data is from the 2018-2020 Evaluation Cycle separated from the PPO data with the following formula, having in mind the proportional allocation of resources: courts: 85%; ppo's: 15%, in line with the use of the building premises by the courts and ppo's. Data for 6.6. Annual public budget allocated to training – Annual public budget allocated to training is given in the section addressing the Judicial Academy.

Data for 6.7. Includes budget for HJC and MoJ as well as the data of the judicial institutions on the state level (SCC, Misdemeanour Appellate Court, Commercial Appellate Court). This court budget data is from the 2018-2020 Evaluation Cycle separated from the PPO data with the following formula, having in mind the proportional allocation of resources: courts: 85%; ppo's: 15%. Includes other funds related to compensation of expenses for civil servants and employees (ex. costs of travel), jubilee awards, improving the material position of employees (stimulation).

**007. If you cannot answer question 6 because you cannot isolate the public budget allocated to courts from the budget allocated to public prosecution services and/or legal aid, please fill only the appropriate line in the table according to your system:**

	Approved budget (in €)	Implemented budget (in €)
<b>Total annual public budget allocated to all courts and the public prosecution services together</b>	265 828 678 <input type="checkbox"/> NA <input type="checkbox"/> NAP	259 162 442 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Total annual public budget allocated to all courts and legal aid together</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Total annual public budget allocated to all courts, public prosecution services and legal aid together</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Please indicate any useful comment to explain the figures provided. If the annual public budget actually implemented is different from the approved annual public budget, please indicate the main reasons for the differences: Data supplied by Ministry of Justice Sector for Material and Financial Affairs

**008. Are litigants in general required to pay a court fee to start a proceeding at a court of general jurisdiction:**

	Litigants required to pay a court fee to start a proceeding at a court of general jurisdiction ?
for criminal cases	( X ) Yes ( ) No

for other than criminal cases

Yes

No

If there are exceptions to the rule to pay these court fees, could you please provide comments on those exceptions? Please see general comments. The Law on Amendments and Supplements to the Law on Court Fees ("Official Gazette of RS", no. 95/2018) was enacted in 2018 and is applicable from 1 January 2019. These amendments postpone the collection of court fees in order to leave the parties the opportunity to once again consider the amicable resolution of the dispute, once the court proceedings have been initiated. Through these provisions, the state offers financial incentives to the parties to consider other viable dispute resolution options early in the court proceedings by exempting them from paying all relevant court fees if they achieve a settlement by the time of the first hearing.

### 008-1. Please briefly present the methodology of calculation of these court fees:

- Court fees are calculated in accordance with the Law on Court Fees. The employees at the court administrative office determine the amount of court fees by the rules and scales (formulas) established in the Tariff of Court Fees, which is an integral part of the Law on Court Fees, with calculations depending on the type of dispute/procedure, the value of the dispute and court actions, as well as court jurisdiction. Court fees in litigation and enforcement proceedings are determined in the context of the minimum and maximum amounts. For example, before a court of general jurisdiction specified in the minimum amount of 16 € (for value of the dispute up to 772 €), up to a maximum fee of 806 € for the claim and counterclaim, as well as for the trial verdict. In civil, enforcement, and some non-contentious proceedings, as well as in administrative disputes, taxes are paid according to the value of the dispute at the time of filing law suits, and as the value of the dispute is the main claim, except in clearly specified subjects of dispute, when the law provides for a lump amount (ex. in proceedings for the determination or denial of paternity). If the value of the disputed cannot be determined, or if its value is not determined by the law, as the value in a civil action is taken the amount of 124 €, while the amount for the enforcement procedure for example is 62 €, regardless of which court has jurisdiction to resolve the dispute. On the other hand, tariff no. for privately initiated criminal proceedings provide for a lump sum amounts (ex. 8 € per private criminal lawsuit and counterclaim). The charged fees are an income to the budget of the Republic of Serbia.

### 008-2. The amount of court fees requested to commence an action for 3000€ debt recovery:

[ 143 ]

NA

NAP

Comments According to the Law on Court Fees, the lawsuit filed before the court of general jurisdiction is charged according to the value of the dispute. For the value of dispute of 3000 €, the fee would be 143 € (lump sum of 83 € + 2% of the value of the dispute).

The increase from 2016 by 2 EUR is a result of fluctuation in the exchange rate.

### 009. Annual income of court fees received by the State (in €):

[ 53 326 971 ]

NA

NAP

Comments A gradual drop in the annual income from court taxes/fees received by the state is noted due to the introduction of the notary system on 1 September 2014, upon which courts lost competence for certifying real estate conveyance contracts, etc. and parallel competences for verification of transcripts, signatures have been introduced. The given data does not include the public revenue paid on the basis of the costs of criminal proceedings and the lump sum court tax in criminal procedure (2.459.952 EUR in 2018 – Ministry of Finance Treasury Administration data; these funds go in the general state budget). Pursuant to the provisions of Article 29 Para. 2 and 3 of the Law on Verification of Signatures, Manuscripts and Transcripts ("Official Gazette of RS", Nos. 93/14 and 22/15), in the cities or municipalities for which notaries have not been appointed by the date of entry into force of this Law, signatures, manuscripts and

transcripts could be verified, as entrusted tasks, by the basic courts i.e. municipal administrations, until 1 March 2017 at the latest. In the cities or municipalities for which notaries have not been appointed, until the appointment of the notaries, the signatures, manuscripts and transcripts shall be verified, as entrusted tasks, by the basic courts, court units, as well as the registration offices of the basic courts and the municipal administration, in accordance with Article 13 Paragraphs 4 and 5 of the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutors Offices ("Official Gazette of RS", No. 101/13), until appointment of a notary. Therefore, from March 2017 onward, most courts have been liberated from the duty to provide certification services, and may allocate employees who performed these tasks to new duties. By the end of 2019, there were only four courts left performing these tasks. Likewise, a gradual transfer of inheritance proceedings to notaries from courts was effected in 2016 (please see section on Notaries for more information), affecting the relevant fees paid to courts.

## 012. Annual approved public budget allocated to legal aid, in €.

	TOTAL	Criminal cases	Other than criminal cases
<b>TOTAL - Annual approved public budget allocated to legal aid (12.1 + 12.2)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>12.1 for cases brought to court (court fees and/or legal representation)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>12.2 for cases not brought to court (legal advice, ADR and other legal services)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments Due to budget appropriation cumulative summing of expenses, within which legal aid costs are included, it's not possible to provide precise data at the moment.

The approved budget for legal representation in criminal proceedings is not available as only the overall figures for the budget of the courts relating to the costs of criminal proceedings are available: for judicial experts, court interpreters, expenses for lawyers (ex officio defence), lay judges (porotnici), and proceedings in which the defendant has been acquitted.

## 012-1. Annual implemented public budget allocated to legal aid, in €.

	TOTAL	Criminal cases	Other than criminal cases
<b>TOTAL - Annual implemented public budget allocated to legal aid (12-1.1 + 12-1.2)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>12-1.1 for cases brought to court (court fees and/or legal representation)</b>	10 975 651 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>12-1.2 for cases not brought to court (legal advice, ADR and other legal services)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

If the public budget actually implemented regarding legal aid is different from the annual approved public budget allocated to legal aid, please indicate the main reasons for the differences: The figure supplied by the HCC, Public Prosecution for War Crimes and Public Prosecution for Organised Crimes pertains to the costs for lawyers in criminal/civil proceedings (not including costs of ex officio defence prior to initiating of court proceedings). According to the State Prosecutorial Council (SPC) bookkeeping, as prescribed by the law, the costs of legal aid cannot be separated from other costs of investigation in the SPC annual report on budget of public prosecutor's offices, which are indirect budget users.

## 013. Annual (approved and implemented) public budget allocated to the public prosecution services, in €.

	Approved budget (in €)	Implemented budget (in €)
<b>Total annual public budget allocated to the public prosecution services, in € (including 13.1)</b>	45 268 424 [ ] NA [ ] NAP	43 247 046 [ ] NA [ ] NAP
<b>13.1. Annual public budget allocated to training of public prosecution services</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Please indicate any useful comment to explain the figures provided. Moreover, if the annual public budget allocated to the public prosecution services actually implemented is different from the approved annual public budget, please indicate the main reasons for the differences: The court budget data is from the 2018-2020 Evaluation Cycle separated from the PPO data with the following formula, having in mind the proportional allocation of resources: courts: 85%; ppo's: 15%.

#### 014. Authorities formally responsible for the budgets allocated to the courts (multiple options possible):

	Preparation of the total court budget	Adoption/approval of the total court budget	Management and allocation of the budget among the courts	Evaluation of the use of the budget at a national level
<b>Ministry of Justice</b>	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP
<b>Other ministry</b>	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
<b>Parliament</b>	( ) Yes ( X ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP
<b>Supreme Court</b>	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
<b>High Judicial Council</b>	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP
<b>Courts</b>	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
<b>Inspection body</b>	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP
<b>Other</b>	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP

If any other Ministry and/or inspection body and/or other, please specify: Ministry of Finance – budget inspection; Other – State Audit Institution - <https://www.dri.rs/>.

#### 014-1. (Former question 61) Who is entrusted with responsibilities related to the budget within the court?

	Preparation of the budget	Arbitration and allocation of the budget	Day to day management of the budget	Evaluation and control of the use of the budget
<b>Management Board</b>	( ) Yes (X) No	( ) Yes (X) No	( ) Yes (X) No	( ) Yes (X) No
<b>Court President</b>	(X) Yes ( ) No	( ) Yes (X) No	(X) Yes ( ) No	(X) Yes ( ) No
<b>Court administrative director</b>	( ) Yes (X) No	( ) Yes (X) No	( ) Yes (X) No	( ) Yes (X) No
<b>Head of the court clerk office</b>	( ) Yes (X) No	( ) Yes (X) No	( ) Yes (X) No	( ) Yes (X) No
<b>Other</b>	(X) Yes ( ) No	( ) Yes (X) No	(X) Yes ( ) No	(X) Yes ( ) No

Comments - If "other", please specify: The Head of the Financial Service of the Court and High Judicial Council is competent for the evaluation and control of the use of the budget. Also, the Ministry of Justice performs evaluation and control of the use of the budget by courts and the HJC.

## A2. Please indicate the sources for answering questions 6 to 14:

Sources: Ministry of Justice – Sector for Material and Financial Affairs; High Judicial Council; State Prosecutorial Council; Law on the Budget of the Republic of Serbia for 2018. Q9: Ministry of Finance – Treasury.

### 1.1.3. Budgetary data concerning the whole justice system

**015-1. Annual (approved and implemented) public budget allocated to the whole justice system, in € (this global budget includes the judicial system budget - see 15-2 and other elements of the justice system - see 15-3)**

	Approved budget (in €)	Implemented budget (in €)
<b>Total annual public budget allocated to the whole justice system in €</b>	409 300 004 [ ] NA [ ] NAP	381 616 111 [ ] NA [ ] NAP

Please indicate any useful comment to explain the figures provided above and specify if a large portion of the budget allocated to the whole justice system comes from an international organisation. Moreover, if the annual public budget allocated to the whole justice system actually implemented is different from the approved annual public budget, please indicate the main reasons for the differences: The indicated total amount does not include legal aid as it is N/A. Budgets for courts, pp, prison and probation system, high councils for the judiciary, state attorney's office, MoJ and Constitutional Court are included.

### 015-2. Elements of the judicial system budget (Q6, Q7, Q12 and Q13)

	Included	Not included	Does not exist (NAP)
<b>Courts (see question 6 or 7)</b>	(X)	( )	( )



Legal aid (see question 12 or 7)	( )	( X )	( )
Public prosecution services (see question 13 or 7)	( X )	( )	( )

For precise values, please see answers to Q6, 7,13.

### 015-3. Other budgetary elements

	Included	Not included	Does not exist (NAP)
Prison system	( X )	( )	( )
Probation services	( X )	( )	( )
High Judicial Council	( X )	( )	( )
Constitutional court	( X )	( )	( )
Judicial management body	( )	( )	( X )
State advocacy	( X )	( )	( )
Enforcement services	( )	( X )	( )
Notariat	( )	( X )	( )
Forensic services	( )	( X )	( )
Judicial protection of juveniles	( X )	( )	( )
Functioning of the Ministry of Justice	( X )	( )	( )
Refugees and asylum seekers services	( )	( X )	( )
Immigration Service	( )	( X )	( )
Some police services (e.g. : transfer, investigation, prisoners' security)	( X )	( )	( )
Other	( )	( X )	( )

If "other", please specify: Other is not included.

### A3. Please indicate the sources for answering questions 15-1, 15-2 and 15-3:

Sources: Ministry of Justice – Sector for Material and Financial Affairs; High Judicial Council; State Prosecutorial Council, etc.; Budget Law of the Republic of Serbia of the Republic of Serbia for 2018 and institutions' Budget Execution Plans.

## 2. Access to justice and all courts

### 2.1. Legal Aid

#### 2.1.1. Scope of legal aid

##### 016. Does legal aid apply to:

	Criminal cases	Other than criminal cases
Representation in court	( X ) Yes ( ) No <input type="checkbox"/> NA <input type="checkbox"/> NAP	( X ) Yes ( ) No <input type="checkbox"/> NA <input type="checkbox"/> NAP
Legal advice, ADR and other legal services	( X ) Yes ( ) No <input type="checkbox"/> NA <input type="checkbox"/> NAP	( X ) Yes ( ) No <input type="checkbox"/> NA <input type="checkbox"/> NAP

##### 016-1. Please briefly describe the organisation of the legal aid system in your country both before going to court and during court proceedings.

- The Law on Free Legal Aid has been adopted by the Parliament in November 2018. Implementation of the law started in October 2019. The Law distinguishes free legal aid (legal advice, representation before court, defence, drafting of motions) and free legal support (general legal information, mediation, services of public notaries). Legal advice and general legal information are available to everyone and are not subject to approval.

Beneficiaries of free legal aid are:

A) a national of the Republic of Serbia, a stateless person, a foreign citizen, a foreign national domiciled in the Republic of Serbia, or any other person entitled to free legal aid under any other law or ratified international treaty if:

- s/he is either eligible for social welfare payments under the law governing social welfare or for child allowance under the law governing financial support to families with children and members of that person's family or household, as defined under these laws;
- s/he is neither eligible for social welfare payments nor for child allowance but would become eligible for them if he had to pay for legal aid from his own resources.

B) Vulnerable groups, regardless of financial status:

- 1) a child whose right, obligation or interest grounded in law is to be decided in the proceedings conducted before the court, a state authority or a public authority;
- 2) a person subjected to a security measure of compulsory psychiatric treatment and confinement in a medical institution or a protective measure of compulsory psychiatric treatment;
- 3) a person faced with the proceedings for partial/total deprivation or restoration of business capacity;
- 4) a person exercising the right to legal protection from domestic violence;
- 5) a person exercising the right to legal protection from torture, inhuman or degrading treatment or punishment, or human trafficking;
- 6) a person seeking asylum in the Republic of Serbia;
- 7) a refugee, a person enjoying subsidiary protection or an internally displaced person;
- 8) a disabled person;
- 9) a child protected by using accommodation services in the social welfare system;
- 10) a child or a young person no longer using accommodation services he is entitled to until the age of 26;
- 11) an adult or an elderly person placed in a social welfare institution against his will;

- 12) a person exercising the right to have his time and place of birth established under the law governing non-adversarial proceedings;  
13) a person who has been affected by forceful eviction or relocation pursuant to the law governing housing.

Free legal aid providers are lawyers and legal aid services in local self-government units. Associations may provide free legal aid only based on the legal provisions governing the right of asylum and prohibition of discrimination. In other areas, on behalf of associations, free legal aid is provided by lawyers. Also, free legal aid in the legal aid services of local self-government units or on behalf of associations may be provided by graduate lawyers, in line with the powers laid down in the law governing the relevant proceedings.

Providers of free legal aid, as well as associations within the aims they have been set up to achieve, may provide general legal information and fill in forms as types of free legal support.

A local self-government unit may organize a joint legal aid service in partnership with another provider, within the powers vested in him under this Law, but it cannot transfer the provision of free legal aid to that provider entirely.

Providers of free legal support include notaries, mediators and law faculties. Notaries draft notarial deeds within the powers defined under the law governing notarial activity. Mediators may mediate in the resolution of disputes within the powers vested in them by law. Law faculties may provide general legal information and fill in forms.

### **017. Does legal aid include the coverage of or the exemption from court fees?**

Yes

No

NAP

If yes, please specify: The court shall exempt a party from the liability of paying the costs of the proceedings where that party's material situation does not allow them to bear such costs. Exemption from the payment of the costs of proceedings includes exemption from the payment of fees and the deposit for the costs of witnesses, expert witnesses, on-site inspections and court notices. The court may also release a party from the liability of paying fees only, in accordance with a special law. Prior to the decision on exemption on cost of proceeding, the court shall carefully consider all the circumstances, in particular the value of the subject of litigation, the number of persons supported by a party as well as the earnings and property owned by the party and party's family members. The party does not need to pay courts fees. If the motion is approved, the party will be exempted from payment of costs, in accordance with special laws. The decision on the exemption from payment of litigation costs shall be rendered by the first instance court at the motion of the party. The party shall furnish a certificate with the motion from the competent administrative body on his/her financial means. When necessary, the court itself may, ex officio, obtain the necessary data and information about the financial means of the party who is requesting exemption and may also hear the requesting party on the subject.

### **018. Can legal aid be granted for the fees that are related to the enforcement of judicial decisions (e.g. fees of an enforcement agent)?**

Yes

No

NAP

If yes, please specify: Exemption from the payment of court taxes in civil, non-contentious and criminal proceedings, as well as in administrative dispute proceedings, likewise also applies in the procedure for the court tax on enforcement of judgments made in those proceedings, if enforcement is requested within three months after the termination of the proceedings.

Nonetheless, legal aid is only possible in a limited sense, for court taxes (court decision on enforcement). For utility cases, which are in the exclusive jurisdiction of enforcement agents and for the implementation of enforcement proceedings, which from 1 July 2016 is for the most part in the jurisdiction of enforcement agents (please see section on enforcement), i.e. for fees of enforcement agents, legal aid

cannot be granted under the current legal framework. Moreover, the fee for enforcement has been adjusted in 2019 for beneficiaries of free legal aid.

**019. Can legal aid be granted for other costs (different from those mentioned in questions 16 to 18, e.g. fees of technical advisors or experts, costs of other legal professionals (notaries), travel costs etc.)?**

	<b>Criminal cases</b>	<b>Other than criminal cases</b>
<b>Legal aid granted for other costs</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If yes, please specify: Pursuant to the provisions of Article 29 Para. 2 and 3 of the Law on Verification of Signatures, Manuscripts and Transcripts ("Official Gazette of RS", Nos. 93/14 and 22/15), in the cities or municipalities for which notaries have not been appointed by the date of entry into force of this Law, signatures, manuscripts and transcripts may be verified, as entrusted tasks, by the basic courts i.e. municipal administrations, until 1 March 2017 at the latest. In the cities or municipalities for which notaries have not been appointed, until the appointment of the notaries, the signatures, manuscripts and transcripts shall be verified, as entrusted tasks, by the basic courts, court units, as well as the registration offices of the basic courts and the municipal administration, in accordance with Article 13 Paragraphs 4 and 5 of the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutors Offices ("Official Gazette of RS", No. 101/13), until appointment of a notary. Therefore, from March 2nd onwards, most courts have been liberated from the duty to provide certification services, and may allocate employees who performed these tasks to new duties. In order not to burden citizens with additional fees having in mind the aforesaid transfer, the Minister of Justice enacted on March 2, 2017 amendments to the Notary Tariff („Official Gazette of RS”, 17/2017), as agreed with the Chamber of Notaries. The amendments provide exemptions from payment of rewards for the verification of signatures and photocopies and reduction of fees for the certification of transcripts and photocopies. Namely, the notary fee for the verification of signatures and photocopies fill from now on not be paid for the following acts:

- a) used to receive state social insurance, social protection, protection of war veterans and civil war invalids, protection of the rights in accordance with the regulations governing financial support for families with children, as well as acts initiated in the process of exercising rights of victims of domestic violence;
- b) relating to enrolling of children in preschools, institutions of primary and secondary education, and for the first enrolment in higher education institutions;
- c) any act used by an unemployed person for employment and the exercise of rights on this basis.

Refugees and displaced persons from the territory of the former Yugoslavia and displaced persons from the territory APKM, on the basis of appropriate documents proving their status, within six months from the issuance, pay the amount of fee for the certification of photocopies, reduced by 70% of the fee.

**2.1.2. Information on legal aid**

**020. Please indicate the number of cases for which legal aid has been granted:**

	<b>Total</b>	<b>Cases brought to court</b>	<b>Cases not brought to court</b>
<b>TOTAL</b>	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP
<b>In criminal cases</b>	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP
<b>In other than criminal cases</b>	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP

Comments - Please specify when appropriate: Although individuals benefit from legal aid provided by municipal free legal aid services, as well as from court fee exemption and, in general, exemption from payment of litigation costs, there is no aggregate data. Reliable data is not available, given that the Law on Free Legal Aid has been adopted in 2018 and became applicable in 2019. Therefore, initial data on implementation of the Law on FLA may be expected by the end of the first half of 2020.

**Q21. In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer?**

	Assisted by a free of charge lawyer
<b>Accused individuals</b>	( X ) Yes ( ) No
<b>Victims</b>	( X ) Yes ( ) No

Comments - If yes, please specify: In order to overcome the existing gap and identified problems, the Law on Free Legal Aid stipulates that individuals are eligible for free legal aid in criminal proceedings including all the stages i.e. the law on FLA defines defence as representation of the suspect, defendant and the accused in the criminal proceedings. If free legal aid is approved in a particular case, the suspect/defendant will be referred to a lawyer (attorney at law) from the Registry of Free Legal Aid Providers. In case of particularly vulnerable groups (victims of human trafficking, victims of family violence, children, IDPs, etc.) free legal aid is available, regardless of their financial status and without fulfilling additional conditions. In addition, Action Plan for Chapter 23 stipulates that Criminal Procedure Code will be amended to align with the new EU acquis on procedural safeguards, including:

- Directive 2013/48/EU of the European Parliament and of the Council on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty
- Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings,
- Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings,
- Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, •Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

The Ministry of Justice established the Working group for amendments to the CPC in 2018, aimed at alignment with the acquis in the field of procedural safeguards, with regard to suspected or accused persons in criminal proceedings and victims' rights. The work on the alignment of the acquis on procedural rights will resume in 2020. These activities are being revised in the AP CH23. National Strategy for Victim Support has been drafted with the support of IPA2016, envisaging also a number of changes aimed at improved victim protection. Adoption is expected in beginning of 2020. Moreover, the implementation of the Law on Free Legal Aid started, thus enabling improved protection of procedural rights of accused or suspected persons (cases which do not fall under mandatory defense prescribed by the CPC). Hence, the free legal aid law now enables better access to a lawyer for individuals who cannot cover the costs of defense due to financial status.

**Q22. In criminal cases are these individuals free to choose their lawyer within the framework of the legal aid system?**

	free selection of lawyer
<b>Accused individuals</b>	( ) Yes ( X ) No [ ] NAP
<b>Victims</b>	( ) Yes ( X ) No [ ] NAP

Comments The Law on Free Legal Aid stipulates that beneficiary shall be appointed a lawyer from among the registered free legal aid providers. Individual is not free to select a lawyer. The Bar association provided a list of registered lawyers and they are appointed by order, pursuant to the city/area in which they work. General provisions of the CPC are allowing both accused individuals and victims to have a legal representation by their own choice, but also at their own expense.

However, in the criminal cases referred to question 21, the defense counsel will be appointed by a decision rendered by the president of the court before which the proceedings are being conducted, according to the order on the roster of attorneys provided by the competent bar association. The appointed defense counsel has the standing of a court appointed defense counsel (Art. 77 CPC).

The legal representative will be appointed by a decision of the president of the court from the ranks of lawyers according to the order on the roster of lawyers which is submitted to the court by a bar association competent for determining court appointed defense counsel (Art. 59 CPC).

### 023-0. Does your country have an income and assets evaluation for granting full or partial legal aid?

Yes

No

Comments - Please indicate if any other criteria are taken into account for the granting of legal aid and any comment that could explain the data provided above: Law on FLA (2018) stipulates income and assets evaluation for granting free legal aid, on the basis of the available criteria for determining the level of poverty. The Law provides for two groups of eligible individuals on the basis of income and assets evaluation:

1. individuals who are already beneficiaries of social benefits
2. individuals who do not fit the criteria for social benefits, but who would be eligible for social benefits if they would cover the cost of legal aid. This group is further specified in a relevant bylaw, including individuals who receive profits up to 30.000 RSD (or 60.000 RSD for spouses). Ownership of property in which an individual lives or a property (and a vehicle) utilised for work is not a reason for rejecting application for free legal aid.

#### 023. If yes, please specify in the table:

	Annual income value (for one person), (in €)	Assets value (for one person), (in €)
Full legal aid to the applicant for criminal cases	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Full legal aid to the applicant for other than criminal cases	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Partial legal aid to the applicant for criminal cases	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Partial legal aid to the applicant for other than criminal cases	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

### 024. Is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action or no chance of success)?

Yes

No

Comments - If yes, please explain the exact criteria for denying legal aid: The Civil Procedure Code provides that prior to the decision on exemption on cost of proceeding, the court shall “carefully consider all the circumstances”, in particular the value of the subject of litigation, the number of persons supported by a party as well as the earnings and property owned by the party and party’s family

members. Under the Law on Free Legal Aid, secondary free legal aid shall be rejected if it refers to:

- 1.commercial disputes;
- 2.the process of registration of legal entities;
- 3.the proceedings for compensation for violation of honour and reputation;
- 4.misdemeanour proceedings, unless a misdemeanour is punishable by imprisonment, or pre-investigative, investigative and criminal proceedings if mandatory defence is provided
- 5.the proceedings in which the value of the dispute would obviously be significantly disproportionate to the costs of the proceedings;
- 6.the proceedings in which it is obvious that there would be no chance of success in the dispute, particularly if the expectations of the party are not based on the facts, collected evidence or are in contradiction with the applicable regulations, public order and good customs;
- 7.when the applicant clearly abuses the right to free legal aid or other right.

**025. Is the decision to grant or refuse legal aid taken by:**

- the court
- an authority external to the court
- a mixed authority (court and external bodies)

Comments Currently it is the court. However, under the Law on FLA, it is an authority external to the court.

**026. Is there a private system of legal expense insurance enabling individuals (this does not concern companies or other legal persons) to finance court proceedings?**

- Yes
- No

Comments - If appropriate, please inform about the current development of such insurances in your country; is it a growing phenomenon?

**027. Can judicial decisions direct how legal costs, paid by the parties during the procedure, will be shared:**

	Judicial decisions direct how legal costs will be shared
in criminal cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
in other than criminal cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments

**B1. Please indicate the sources for answering questions 20 and 23 :**

Sources: Ministry of Justice; Law on Court Fees, Civil Procedure Code, Criminal Procedure Code, Law on Free Legal Aid (2018).

**2.2.Court users and victims**

**2.2.1.Rights of the users and victims**

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

	Yes	Internet adresse(es)
legal texts (e.g. codes, laws, regulations, etc.)	( )	( X ) <a href="http://www.pravno-informacioni-sistem.rs/">http://www.pravno-informacioni-sistem.rs/</a> ; <a href="http://www.mpravde.gov.rs/">www.mpravde.gov.rs</a> , <a href="http://www.vk.sud.rs/">www.vk.sud.rs</a> ; <a href="http://www.vss.sud.rs/">www.vss.sud.rs</a> , <a href="http://www.parlament.gov.rs/">www.parlament.gov.rs</a> , <a href="http://www.paragraf.rs/">www.paragraf.rs</a> , <a href="http://www.uzzpro.gov.rs/">www.uzzpro.gov.rs/</a>



case-law of the higher court/s

( )

( X ) Website of the Ministry of Justice – Court Portal: [www.portal.sud.rs](http://www.portal.sud.rs); Websites of the SCC and courts of appeal: [www.vk.sud.rs](http://www.vk.sud.rs); [www.bg.ap.sud.rs](http://www.bg.ap.sud.rs); [www.ikragujevac.com](http://www.ikragujevac.com); [www.ni.ap.sud.rs](http://www.ni.ap.sud.rs); [www.ns.ap.sud.rs](http://www.ns.ap.sud.rs); [www.pa.sud.rs](http://www.pa.sud.rs); [www.pkap.sud.rs](http://www.pkap.sud.rs); The Supreme Court of Cassation on its website, <http://www.vk.sud.rs/sr/solrsearch-page>, has publicly made available a case law database comprised of approximately 9000 anonymized representative decisions of the Supreme Court of Serbia and Supreme Court of Cassation. In 2019, representative judgments (anonymized) also of the appellate courts have been made available to public through the new case law data base (about 2700 judgments; <https://www.sudskapraksa.sud.rs/sudska-praksa>). The Commercial Court of Appeal in Belgrade publishes in quarterly intervals the most recent case law in the Bulletin of Judicial Practice of Commercial Courts, in the “Commercial Advisor”, prepared by the Case Law Department of the Commercial Court of Appeal. The Supreme Court of Cassation also keeps a database of case law, the most important of which is posted on the website of the court, including legal opinions which it adopted with respect to harmonization of case law of appellate courts: <http://www.vk.sud.rs/sr/%D0%B1%D0%B0%D0%B7%D0%B0-%D1%81%D1%83%D0%B4%D1%81%D0%BA%D0%B5->

		%D0%BF%D1%80%D0%B0%D0%BA%D1%81%D0%B5-%D1%81%D1%83%D0%B4%D0%B0.
<b>other documents (e.g. downloadable forms, online registration)</b>	( )	( X ) http://www.prvisud.rs/obrasci; www.up.sud.rs; www.bg.vi.sud.rs;

Please specify what documents and information are included in “other documents”: Different types of motions, applications, complaint and appeal forms.

Namely, for the courts of general jurisdiction, the following may be downloaded from the website of the Basic Courts:

Requests for access to information of public interest, complaint forms, urgencies and petitions, forms for initiating inheritance proceedings, for initiating extra-judicial proceedings, motions for enforcement, requests for revocation of court testimony, requests for issuing various documents issued by the court, a complaint form when the public authority did not act upon the request for the information of public interest, etc. (eg. from the website of the First Basic Court in Belgrade www.prvisud.rs);

- certificate that criminal proceedings have not been instituted against the applicant before the High Court in Belgrade (www.bg.vi.sud.rs);

For the Court of Appeal (www.bg.ap.sud.rs): -Request for access to information of public interest;

-Journalist accreditation form For courts of special jurisdiction:

- for commercial courts, from the website of the Commercial Court in Belgrade (www.bg.pr.sud.rs) the following can be downloaded:

- Certificates from the records kept pursuant to the provision of Article 41 of the Law on Economic Offenses: Certificate that the legal entity has not been convicted of economic offenses, Certificate that no legal person has been pronounced a legal measure of prohibition of performing business before the Commercial court under the Law on Economic Offenses and the Certificate that a natural person (as a responsible person in a legal entity) has not been convicted of commercial offenses;

- Certificates issued pursuant to the provisions of Article 75 of the Decree on Registration in the Court Register and Article 161 of the Law on General Administrative Procedure: Certificate that the subject of entry is kept at a certain number of the registration filing with the commercial court, Certificate that no bankruptcy procedure, liquidation or compulsory settlement is opened on certain entity;

- for misdemeanor courts: Certificates that natural and legal persons have not been punished by misdemeanor and that they have not been issued a protective measure prohibiting the performance of certain activities and prohibiting a legal person from performing certain activities, is issued by the misdemeanor court (www.bg.pk.sud.rs)

- for Administrative Court: Form of request for free access to information of public interest, Form of appeal against decision of the authority refusing or rejecting the request for access to information, Form of appeal when the authority did not act / did not act in full / upon request of the requester of information of public interest / upon request for protection of personal data within the legal deadline (silence of the administration) and the Complaint / Urgency form (www.up.sud.rs).

## 029. Is there an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings?

( ) Yes, always

( ) No

( X ) Yes, only in some specific situations

Comments - If yes, only in some specific situations, please specify: Only in civil proceedings, i.e. determining the time-frame (Article 10 Paragraph 2 of the Law of Civil Procedure)

## 030. Is there a public and free-of-charge specific information system to inform and to help victims of offences?

( X ) Yes

( ) No

Comments - If yes, please specify: The High Court Council has passed an Instruction on the approach, work methods, and course of action of service for help and support of witnesses and victims of the crime. This document regulates internal organisation of such service, its goals, course of action, jurisdiction, measures of protection, as well as electronic data base of every handled case.

In all 25 Higher Public Prosecutor's Offices of the Republic of Serbia and First Basic Prosecutor's Offices in Belgrade Victim and Witness Information Services were established and that way the network of the Services for support to the aggrieved parties (victims) and witnesses in judicial institutions in the Republic of Serbia has been fully established, having in mind already formed Services in higher courts. Furthermore, these Services were also formed in Organized Crime Prosecution and War Crime Prosecution. These Services undertake measures and activities with the goal to enable the victims and witnesses of crime efficient enforcement of right to receive information and right to access support services during the proceedings, in order to facilitate their participation in criminal proceedings, but also for purpose of greater efficiency of proceedings. On 20 February 2015 the Republic Public Prosecution signed a Memorandum of Understanding and Cooperation with the Victimology Society of Serbia as the most influential civil society organization with regards to the cooperation between prosecution offices and network of civil society organizations under the umbrella of HJC in the field of providing trained and specialized support to the victims and witnesses of the crime.

The published working draft of the National Strategy for the Reform of the Judiciary 2019-2024 emphasizes that the development of the National Strategy for the Exercise of the Rights of Victims and Witnesses of Crimes represents significant steps in the area of access to justice.

In the working draft it is stressed that the adoption of the National Strategy on the rights of victims and witnesses of crime for the period 2019-2025 has been motivated by the need to plan and provide for reform processes aiming at improving the status of victims and witnesses in line with EU standards in a comprehensive and systematic manner, taking into account the need to preserve and advance the achieved level of standards in the legislative framework and its implementation.

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

	<b>Information mechanism</b>	<b>Special arrangements in hearings</b>	<b>Other specific arrangements</b>
<b>Victims of sexual violence/rape</b>	( X ) Yes ( ) No	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Victims of terrorism</b>	( X ) Yes ( ) No	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Minors (witnesses or victims)</b>	( X ) Yes ( ) No	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Victims of domestic violence</b>	( X ) Yes ( ) No	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Ethnic minorities</b>	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
<b>Disabled persons</b>	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
<b>Juvenile offenders</b>	( X ) Yes ( ) No	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Other (e.g. victims of human trafficking, forced marriage, sexual mutilation)</b>	( X ) Yes ( ) No	( X ) Yes ( ) No	( X ) Yes ( ) No

Comments - If "other vulnerable person" and/or "other special arrangements", please specify: Courts are required to conduct criminal proceedings involving juveniles urgently, according to a lex specialis - the Law on Juvenile Crime Offenders and Criminal Protection of Juveniles. A juvenile shall have defense counsel during the first questioning and throughout the proceedings with the presence of psychologist. Bodies involved in juvenile proceedings and any other body or institution requested to supply information, reports or opinions shall do so without delay in order to conclude the proceeding speedily. Likewise, an attorney will be appointed, and publicity will be excluded.

Other categories enjoy special arrangements if they are given the status of "especially vulnerable witness". For example, victims of human

trafficking are considered especially vulnerable witnesses. The Law on Civil Procedure provides that the court may exclude the public from the whole or part of the trial if it is required by reasons of national security, public security, moral, in the interest of public order, privacy of the parties involved or when instructed by law. The court may also exclude the public in case when measures for maintaining of order provided under this law would not secure undisturbed proceedings at the trial. Proceedings regarding family relations shall be urgent especially if they concern a child or parent exercising parental right, or domestic violence and the rights of the child. The court has to inform the minor about his/her rights, as well as to provide the presence of experts during the whole proceedings, i.e. psychologists, pedagogues, social workers, in order to protect the security and privacy of the minor. The public is excluded in this type of proceedings. The authority conducting proceedings may ex officio, at the request of parties or the witness himself, designate as an especially vulnerable witness a witness who is especially vulnerable in view of his age, experience, lifestyle, gender, state of health, nature, the manner or the consequences of the criminal offence committed, or other circumstances (Art. 103 CPC).

An especially vulnerable witness may be examined only through the authority conducting the proceedings, which will treat the witness with particular care, endeavoring to avoid possible detrimental consequences of the criminal proceedings to the personality, physical and mental state of the witness. Examination may be conducted with the assistance of a psychologist, social worker or other professional, which will be decided by the authority conducting proceedings.

If the authority conducting proceedings decides to examine an especially vulnerable witness using technical devices for transmitting images and sound, the examination is conducted without the presence of the parties and other participants in the proceedings in the room where the witness is located.

An especially vulnerable witness may also be examined in his/her place of living or other premises or in an authorized institution professionally qualified for examining especially vulnerable persons. In such case the authority conducting proceedings may order application of these measures.

An especially vulnerable witness may not be confronted with the defendant, unless the defendant himself requests this and the authority conducting proceedings grants the request, taking into account the level of the witness's vulnerability and rights of defense (Art. 104 CPC).

If there circumstances exist which indicate that by giving testimony or answering certain questions a witness would expose himself or persons close to him to a danger to life, health, freedom or property of substantial size, the court may authorize one or more measures of special protection by issuing a ruling determining a status of protected witness.

The measures of special protection include questioning the protected witness under conditions and in a manner ensuring that his/her identity is not revealed to the general public, and exceptionally also to the defendant and his defense counsel, in accordance with this Code (Art. 105 CPC), in addition to excluding the public from the trial and prohibition of publication of data about the identity of the witness.

The measure of special protection whereby data about the identity of a protected witness is withheld from the defendant and his defense counsel may be ordered by the court exceptionally if after taking statements from witnesses and the public prosecutor it determines that the life, health or freedom of the witness or a person close to him is threatened to such an extent that it justifies restricting the right to defense and that the witness is credible (Art. 106 CPC).

The provisions related to protected witness apply accordingly to the protection of an undercover investigator, expert witness, professional consultant and professional.

The Law on Program of Protection of Participants in Criminal Proceedings (2005) envisages that the protection program is implemented if participants in the criminal proceedings and close people are due to giving evidence or notifications important for proving in criminal proceedings exposed to danger to life, health, physical integrity, freedom or property, and without that testimony or notification proving would be significantly difficult or impossible in criminal proceedings for criminal offenses:

- 1) against constitutional order and security;
- 2) against humanity and other goods protected by international law;
- 3) organized crime.

Other special arrangements are provided in the answer to Question 21.

### **031-1. Is it possible for minors to be a party to a judicial proceeding:**

Yes

No

Comments - If yes, please specify which procedures can be concerned (civil, criminal, administrative / normal or accelerated procedure) and at which conditions (can minor benefit from legal aid, be represented by a lawyer, etc.):

### **032. Does your country allocate compensation for victims of offences?**

Yes, please specify for which kind of offences: .....

No

Comments A claim for compensation which arose as a result of criminal offence or of a wrongful act designated by law as a criminal offence will be considered on a motion by authorised persons in criminal proceedings if those proceedings would not be substantially prolonged thereby. A claim for compensation in proceedings may be submitted by a person authorised to pursue such a claim in civil litigation process. The person is required to designate his/her claim in a certain manner and to submit evidence. If due to the criminal offence or wrongful act designated by law as criminal offence, damage was inflicted to public property, the authority authorised by a law or other regulation to look after the protection of this property may participate in proceedings in accordance with the authorisation it possesses pursuant to that law, or other regulation. A claim for restitution may be submitted no later than the conclusion of the main hearing before the court of first instance. If an authorised person has not submitted a claim for restitution until the charges are filed, s/he will be notified that s/he can submit it by the end of the process. If due to a criminal offence or wrongful act designated by law as a criminal offence damage was inflicted to public property, and no claim for restitution was submitted, court will notify thereof the authority.

#### **032-1. Is a court decision necessary in the framework of the compensation procedure?**

Yes

No

Comments

#### **033. If yes, does this compensation come from:**

a public fund

damages and interests to be paid by the person responsible

a private fund

Comments

### **034. Are there studies that evaluate the recovery rate of the damages awarded by courts to victims?**

Yes

No

Comments - If yes, please illustrate with available data concerning the recovery rate, the title of the studies, the frequency of the studies and the coordinating body: The state/courts have not yet performed any such relevant study. It is possible that judicial expert bureaux monitor and examine the amount of damages awarded by courts to victims; however, this is not publically published data.

### **035. Do public prosecutors have a specific role with respect to victims (protection and assistance)?**

Yes

No

Comments - If yes, please specify: In addition to the regular role of the prosecutor in respect of the protection of the rights of victims, there are additional possibilities for having a special role with respect to the victims, like in the field of trafficking of human beings or in the field of the domestic violence. In each basic public prosecution office, a specialized task force named "Group for cooperation and coordination in the cases of domestic violence" has been established. One of the tasks of these groups is development of individual plans for the protection and support of the victim. Pursuant to the Special Protocol on the performance of judicial authorities in the protection of persons who are victims of human trafficking in the Republic of Serbia, a public prosecutor should primarily build the relationship of trust with the victim by providing it with full information about the procedure and not only about the rights and obligations, but also about all the challenges that the trial is carrying. If possible, victims should be provided with direct contact with the public prosecutor so that they can communicate with prosecutor if they recall some important information or if there are any questions about the criminal proceedings.

Special attention has been exercised regarding avoiding of re-victimisation. During conversation with the victim, it's necessary to evaluate whether he/she needs professional psychological, psychiatric or medical assistance. Also, it's necessary to inform the victim that there are organizations dealing with support to victims of trafficking in human beings.

Victim and Witness Information Services are described in answer to question 30.

**036. Do victims of offences have the right to dispute a public prosecutor's decision to discontinue a case? Please verify the consistency of your answer with that of the question 105 regarding the possibility for a public prosecutor "to discontinue a case without needing a decision by a judge". (The answer NAP means that the public prosecutor cannot decide to discontinue a case on his/her own. A decision by a judge is needed.)**

Yes

No

NAP

Comments - If necessary, please specify:

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

	Number of requests for compensation	Number of condemnations	Total amount (in €)
<b>Total</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Excessive length of proceedings</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Non-execution of court decisions</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Wrongful arrest</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Wrongful conviction</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Other</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Where appropriate, please give details on the compensation procedure and the calculation method for the amount of the compensation (e.g. the amount per day for unjustified detentions or convictions): Excessive length of proceedings: Pursuant to the Law on Protection of Right to Trial within a Reasonable Time (2015) which entered into force on 1 January 2016, the State Attorney established the Commission to make decisions on settlement proposals for just satisfaction when a violation was determined for a trial within reasonable time. Reliable data on these statistics and other relevant compensation is not available at this time.

## 2.2.2 Confidence and satisfaction of citizens with their justice system

**038. Does your country implement surveys aimed at legal professionals and court users to measure their trust in justice and their satisfaction with the services delivered by the judicial system? If yes, how frequently and up to what level?**

	National level	Court level
1. Surveys aimed at judges	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
2. Surveys aimed at court staff	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
3. Surveys aimed at public prosecutors	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
4. Surveys aimed at lawyers	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
5. Surveys aimed at the parties	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
6. Surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies, NGOs)	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
7. Surveys aimed at victims	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
8. Other not mentioned	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc

Comments - Please, indicate the references and links to the satisfaction surveys you mentioned above:

<http://www.mdftjss.org.rs/archive//file/Serbia%20JFR%20-%20Main%20Findings%20and%20Recommendations.pdf>

**040. Is there a national or local procedure for filing complaints about the functioning of the judicial system? (for example, handling of the case by a judge or the duration of a proceeding)**

Yes

No

Comments

**041. If yes, please specify certain aspects of this procedure:**

	Authority responsible for dealing with the complaint	Existence of a time limit to deal with the complaint for this authority
Court concerned	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Higher court	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Ministry of Justice	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<b>High Judicial Council</b>	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Other external bodies (e.g. Ombudsman)</b>	( ) Yes ( X ) No	( ) Yes ( X ) No

Comments The time limit to deal with the complaint for by authorities is 15 days.

**041-1. If yes, please specify certain aspects of this procedure:**

	<b>Number of complaints</b>	<b>Compensation amount granted</b>
<b>Court concerned</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Higher court</b>	[ X ] NA [ ] NAP	[ ] NA [ X ] NAP
<b>Ministry of Justice</b>	11 503 [ ] NA [ ] NAP	[ ] NA [ X ] NAP
<b>High Judicial Council</b>	1 415 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Other external bodies (e.g. Ombudsman)</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Comments - If possible, please give information concerning the efficiency of this complaint procedure and any useful comment: There is no centralized electronic database of submitted complaints in the judicial system of the Republic of Serbia. The reasons for filing a complaint can be classified into two major groups: the party's dissatisfaction with a decision and the length of the proceeding. Article 8 of the Law on the Organization of Courts stipulates that the party and other participants in a court proceeding have the right to a complaint about the work of the court when they believe that the proceeding is being prolonged, that it is irregular, or that there is some undue influence on its course and outcome. Article 55 prescribes that the president of the court must consider the complaint, forward it to the judge to whom it refers for opinion, and to inform the complainants, as well as the president of the immediately superior court, of its merits and measures taken, within 15 days from the date of receipt of the complaint. S/he may dismiss the complaint, in full or a certain part of it, if s/he finds that the complainant abused the right to a complaint (e.g. the complaint has an offensive content or if s/he files a complaint of the same or similar content that has been previously decided). If the complaint is filed through the ministry in charge of the judiciary, the immediate superior court, or the High Court Council, the president of the court will notify the body through which the complaint was filed about the merits of the complaint and the measures taken. The party or other participant in the procedure who has the right to file a complaint on the work of the court is not denied the possibility to address the same complaint on the work of the same court regarding the same case to the court in which the complaint is in process, as well as to all higher courts, the ministry in charge of the judiciary, and the High Court Council. Accordingly, one complaint, as a statistical data, can occur several times. Therefore, the figure of 7,138 of the total number of complaints received by courts in 2018 and compiled by the Supreme Court of Cassation is not a realistic number of complaints, which is why it is not given in the table. Of the total of 7,138 complaints received in all courts, 944 referred to the work of lower-instance courts, addressed to the higher instance courts, and to the work of the higher instance courts themselves. It must be highlighted therefore that the total number of complaints received by courts in 2018 and compiled by the Supreme Court of Cassation (for courts concerned and higher courts) as well as received by the HJC and MoJ does not reflect the actual number of cases in which there was a complaint, as a complaint might have been filed based on one case to all the relevant instances and institutions. Moreover, the High Judicial Council and the MoJ, in accordance with their competencies prescribed by the Law on the High Judicial Council, act within the limits of its powers upon complaints. In 2018 the High Judicial Council received in total 1,415 new petitions i.e. complaints / submissions based on which new cases were established, which is 393 cases, i.e. 38.45% more in relation to 2017 (1,022 new cases). MoJ received 11,503 petitions and it conducted oversight in 23 cases in which it found the allegations were substantiated.



### 3. Organisation of the court system

#### 3.1. Courts

##### 3.1.1. Number of courts

#### 042. Number of courts considered as legal entities (administrative structures) and geographic locations.

	Number of courts
42.1 First instance courts of general jurisdiction (legal entities)	91 [ ] NA [ ] NAP
42.2 First instance specialised courts (legal entities)	61 [ ] NA [ ] NAP
42.3 All the courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all Supreme Courts)	159 [ ] NA [ ] NAP

Comments From January 1st 2014 a new judicial network has entered into force with an increased number of courts and public prosecutors' offices, with the aim of reducing expenses and contributing to easier access to justice. The network of courts and their jurisdiction in the Republic of Serbia is regulated by the Law on Organization of Courts ("Official Gazette of the RS", No. 116/08, 104/09, 101/10, 31/11 – state law, 78/11 – state law, 101/11 and 101/13, 106/15, 40/15, 13/16, 108/16) and the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutors' Offices ("Official Gazette of the RS", No. 101/13) which clearly stipulate the jurisdiction of every court (both have been amended since 2014). Courts of general jurisdiction are: basic, higher, appellate courts and the Supreme Court of Cassation. Courts of special jurisdiction are: commercial courts, the Commercial Appellate Court, misdemeanour courts, the Misdemeanour Appellate Court and the Administrative Court. Q 42.1 – The number given for first instance courts of general jurisdiction (legal entities) (91) is the sum of the number of basic courts (66)(with 29 court units) and higher courts (25). Although higher courts have jurisdiction in both first instance and second instance proceedings, the number and type of first instance proceedings is by prevalent jurisdiction. Higher Court in Kosovska Mitrovica and Basic Court in Kosovska Mitrovica are no longer part of the judicial map. Q 42.2 – First instance specialised courts (legal entities): the number is one less than in the previous three cycles (61) and includes: 44 misdemeanour courts (Misdemeanor Court in Kosovska Mitrovica is no longer part of the judicial map), 16 commercial courts, and an Administrative Court (with three departments).

Q 42.3 – All the courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts): 159 = 91 basic and higher courts of general jurisdiction (see 41.1), 61 first instance specialised courts (see 42.2), 1 Commercial Court of Appeal, 4 appellate courts, 1 Misdemeanour Court of Appeal, and the Supreme Court of Cassation as the supreme court.

The decrease in the number of courts is a result of integration of Serbian judicial authorities from the Misdemeanor Court in Kosovska Mitrovica, Higher Court in Kosovska Mitrovica and Basic Court in Kosovska Mitrovica, conducted in accordance with the Implementation Plan of the Agreement on the Normalization of Relations between Belgrade and Pristina.

Court network map is available on the following links: <https://portal.sud.rs/cr/interaktivna-mapa-sudova>;

<https://vss.sud.rs/sr/%D0%BC%D1%80%D0%B5%D0%B6%D0%B0-%D1%81%D1%83%D0%B4%D0%BE%D0%B2%D0%B0>.

#### 043. Number (legal entities) of first instance specialised courts (or specific judicial order)

	Number of courts
Total (must be the same as the data given under question 42.2)	61 [ ] NA [ ] NAP

<b>Commercial courts (excluded insolvency courts)</b>	16 [ ] NA [ ] NAP
<b>Insolvency courts</b>	[ ] NA [ X ] NAP
<b>Labour courts</b>	[ ] NA [ X ] NAP
<b>Family courts</b>	[ ] NA [ X ] NAP
<b>Rent and tenancies courts</b>	[ ] NA [ X ] NAP
<b>Enforcement of criminal sanctions courts</b>	[ ] NA [ X ] NAP
<b>Fight against terrorism, organised crime and corruption</b>	[ ] NA [ X ] NAP
<b>Internet related disputes</b>	[ ] NA [ X ] NAP
<b>Administrative courts</b>	1 [ ] NA [ ] NAP
<b>Insurance and / or social welfare courts</b>	[ ] NA [ X ] NAP
<b>Military courts</b>	[ ] NA [ X ] NAP
<b>Other specialised 1st instance courts</b>	44 [ ] NA [ ] NAP

Comments - If “other specialised 1st instance courts”, please specify: The category “other” covers the 44 misdemeanour courts.

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

( X ) Yes

( ) No

Comments - Please specify: A change in the administrative dispute proceedings is envisaged, with the introduction of the second instance court (currently, there is only one Administrative Court).

**045. Number of first instance courts (geographic locations) competent for a case concerning:**

	Number of courts
<b>a debt collection for small claims</b>	83 [ ] NA [ ] NAP

an employment dismissal	67 [ ] NA [ ] NAP
a robbery	93 [ ] NA [ ] NAP
an insolvency case	16 [ ] NA [ ] NAP

Comments Commercial courts are competent for insolvency proceedings.

**045-1. Is your definition for small claims the same as the one in the Explanatory note?**

( X ) Yes

( ) No

Comments - If not, please give your definition for small claims:

**045-2. Please indicate the value in € of a small claim:**

[ 3 000 ]

Comments

**C. Please indicate the sources for answering questions 42, 43 and 45:**

Sources: Ministry of Justice – Sector for Judiciary; High Court Council; Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices (“Official Gazette RS” no. 101/2013) and Law on Organisation of Courts (2008-2018).

**3.2. Court staff**

**3.2.1. Judges and non-judge staff**



**046. Number of professional judges sitting in courts (if possible on 31 December of the reference year). (Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts )**

	Total	Males	Females
<b>Total number of professional judges (1 + 2 + 3)</b>	2 586 [ ] NA [ ] NAP	745 [ ] NA [ ] NAP	1 841 [ ] NA [ ] NAP
<b>1. Number of first instance professional judges</b>	2 225 [ ] NA [ ] NAP	658 [ ] NA [ ] NAP	1 567 [ ] NA [ ] NAP
<b>2. Number of second instance (court of appeal) professional judges</b>	320 [ ] NA [ ] NAP	71 [ ] NA [ ] NAP	249 [ ] NA [ ] NAP

<b>3. Number of Supreme Court professional judges</b>	41 <input type="checkbox"/> NA <input type="checkbox"/> NAP	16 <input type="checkbox"/> NA <input type="checkbox"/> NAP	25 <input type="checkbox"/> NA <input type="checkbox"/> NAP
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Comment - Please provide any useful comment for interpreting the data above: 46.1. INCLUDES: Number of first instance professional judges (judges of: basic courts, higher courts, misdemeanour courts, commercial courts, Administrative Court)46.2. INCLUDES: judges of Commercial Court of Appeal, appellate courts, Misdemeanour Court of Appeal46.3. INCLUDES: Number of supreme court professional judges (judges of the Supreme Court of Cassation) Judges of the Administrative Court are considered as first instance judges, bearing in mind that the Administrative Court is a republic court of special jurisdiction, which at first instance resolves administrative disputes (currently, single instance procedure) and performs other duties determined by law.

**047. Number of court presidents (professional judges).**

	Total	Males	Females
<b>Total number of court presidents (1 + 2 + 3)</b>	154 <input type="checkbox"/> NA <input type="checkbox"/> NAP	70 <input type="checkbox"/> NA <input type="checkbox"/> NAP	84 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Number of first instance court presidents</b>	147 <input type="checkbox"/> NA <input type="checkbox"/> NAP	66 <input type="checkbox"/> NA <input type="checkbox"/> NAP	81 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Number of second instance (court of appeal) court presidents</b>	6 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Number of Supreme Court presidents</b>	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments Comment on 2018 data: Additionally, there were 5 acting presidents (v.f.), out of which 3 were male and 2 female.

**048. Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December of the reference year):**

	Figure
<b>Gross figure</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>In full-time equivalent</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments - If necessary, please provide comments to explain the answer provided:

**048-1. Do these professional judges sitting in courts on an occasional basis deal with a significant part of cases?**

- Yes If yes, please give specifications on the types of cases and an estimate in percentage. ....
- No
- NAP

Comments

**049. Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December of the reference year) (e.g. lay judges or**

“judges consulaires”, but not arbitrators or persons sitting in a jury):

	Figure
Gross figure	2 123 [ ] NA [ ] NAP
In full time equivalent	[ X ] NA [ ] NAP

Comments The High Judicial Council enacted a decision on 23 December 2014 on the appointment of lay judges (sudije porotnici) for a mandate period of the following 5 years, <https://vss.sud.rs/sr-lat/saop%C5%A1tenja/odluka-o-imenovanju-sudija-porotnika>. The number of lay judges appointed by the decision was 2564. However, due to various reasons, in 2018 the effective number decreased to 2,123.

**049-1. If such non-professional judges exist at first instance in your country, please specify for which types of cases:**

	Yes	No	Echevinage
criminal cases (severe)	( )	( )	( X )
criminal cases (misdemeanour and/or minor)	( )	( )	( X )
family law cases	( )	( )	( X )
labour law cases	( )	( )	( X )
social law cases	( )	( X )	( )
commercial law cases	( )	( )	( X )
insolvency cases	( )	( X )	( )
other civil cases	( )	( X )	( )

[ ] NAP

Comments - If “other”, please specify: NAP

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

( ) Yes

( X ) No

Comments

**050-1. If yes, for which type of case(s)?**

[ ] Criminal cases

[ ] Other than criminal cases

Comments

**051. Number of citizens who were involved in such juries for the year of reference:**

[ ]

[ ] NA

[ X ] NAP

Comments

**052. Number of non-judge staff who are working in courts (if possible on 31 December of the reference year) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled)**

	Total	Males	Females
<b>Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5)</b>	8 827 [ ] NA [ ] NAP	2 583 [ ] NA [ ] NAP	6 244 [ ] NA [ ] NAP
<b>1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2. Non-judge staff whose task is to assist the judges such as registrars (case file preparation, assistance during the hearing, court recording, helping to draft the decisions)</b>	3 700 [ ] NA [ ] NAP	330 [ ] NA [ ] NAP	3 370 [ ] NA [ ] NAP
<b>3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)</b>	3 179 [ ] NA [ ] NAP	954 [ ] NA [ ] NAP	2 225 [ ] NA [ ] NAP
<b>4. Technical staff</b>	1 948 [ ] NA [ ] NAP	1 299 [ ] NA [ ] NAP	649 [ ] NA [ ] NAP
<b>5. Other non-judge staff</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Comments - If "other non-judge staff", please specify: NAP

**052-1. Number of non-judge staff by instance (if possible on 31 December of the reference year) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled)**

	Total	Males	Females
<b>Total non-judge staff working in courts (1+2+3)</b>	8 827 [ ] NA [ ] NAP	2 533 [ ] NA [ ] NAP	6 294 [ ] NA [ ] NAP
<b>1. Total non-judge staff working in courts at first instance level</b>	7 923 [ ] NA [ ] NAP	2 328 [ ] NA [ ] NAP	5 595 [ ] NA [ ] NAP

<b>2. Total non-judge staff working in courts at second instance (court of appeal) level</b>	708 [ ] NA [ ] NAP	137 [ ] NA [ ] NAP	571 [ ] NA [ ] NAP
<b>3. Total non-judge staff working in courts at Supreme Court level</b>	196 [ ] NA [ ] NAP	68 [ ] NA [ ] NAP	128 [ ] NA [ ] NAP

Comments

**053. If there are Rechtspfleger (or similar bodies) in your judicial system, please specify in which fields do they have a role:**

- legal aid
- family cases
- payment orders
- registry cases (land and/or business registry cases)
- enforcement of civil cases
- enforcement of criminal cases
- other cases not mentioned (please describe in comment)
- non-litigious cases
- NAP

Comments - Please briefly describe their status and duties: According to the regulations in force in the judicial system of the Republic of Serbia, there is no such possibility or profession. However, in first instance courts of general jurisdiction (basic courts), in cases of inheritance, judicial assistants may de facto have these powers and conduct non-contentious proceedings, but judges are responsible, since they review and sign decisions (rulings) in those proceedings.

**054. Have the courts outsourced certain services under their responsibilities to external providers?**

- Yes
- No

Comments

**054-1. If yes, please specify which services have been outsourced:**

- IT services
- Training of staff
- Security
- Archives
- Cleaning
- Other types of services (please specify): .....

Comments With respect to fire protection activities, according to the provisions of the Fire Protection Act, courts are obliged to periodically (for three years) conclude contracts with professional service providers, regarding training of employees and draft an act that will regulate the manner of behavior of employees in case of fire;

Some courts have also concluded contracts for the performance of other jobs or works due to lack of staff in certain areas - with ICT experts;

Contracts are also concluded with a companies whose registered activity is to maintain the hygiene of the premises or other services required by the courts to perform day-to-day tasks that are not prescribed in court job systematization.

## C1. Please indicate the sources for answering questions 46, 47, 48, 49 and 52

Sources: Ministry of Justice and High Judicial Council

### 3.3. Public prosecution

#### 3.3.1. Public prosecutors and staff

055. Number of public prosecutors (on 31 December of the reference year). Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts.

	Total	Males	Females
<b>Total number of prosecutors (1 + 2 + 3)</b>	781 [ ] NA [ ] NAP	346 [ ] NA [ ] NAP	435 [ ] NA [ ] NAP
<b>1. Number of prosecutors at first instance level</b>	716 [ ] NA [ ] NAP	308 [ ] NA [ ] NAP	408 [ ] NA [ ] NAP
<b>2. Number of prosecutors at second instance (court of appeal) level</b>	53 [ ] NA [ ] NAP	32 [ ] NA [ ] NAP	21 [ ] NA [ ] NAP
<b>3. Number of prosecutors at Supreme Court level</b>	12 [ ] NA [ ] NAP	6 [ ] NA [ ] NAP	6 [ ] NA [ ] NAP

Please indicate any useful comment for interpreting the data above: Discrepancy explanation (State Prosecutorial Council): The reason why the number of deputy public prosecutors has increased significantly, compared to 2016, is that the State Prosecutors Council has in the last two years made decisions on increasing the number of first and second instance deputy pp's and based on those decisions, announced calls for the election of deputy public prosecutors.

056. Number of heads of prosecution offices.

	Total	Males	Females
<b>Total number of heads of prosecution offices (1 + 2 + 3)</b>	90 [ ] NA [ ] NAP	53 [ ] NA [ ] NAP	37 [ ] NA [ ] NAP
<b>1. Number of heads of prosecution offices at first instance level</b>	85 [ ] NA [ ] NAP	50 [ ] NA [ ] NAP	35 [ ] NA [ ] NAP
<b>2. Number of heads of prosecution offices at second instance (court of appeal) level</b>	4 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP
<b>3. Number of heads of prosecution offices at Supreme Court level</b>	1 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP

Please provide any useful comment for interpreting the data above: 1.1 Number of heads of prosecution offices at first instance level



consists of: 58 Basic PPOs +25 Higher PPOs+ 2 PPOs of special jurisdiction;

1.2 Number of MALE heads of prosecution offices at first instance level consists of: 32 Basic PPOs + 17 Higher + 1 special jurisdiction

1.3 Number of FEMALE heads of prosecution offices at first instance level consists of: 26 Basic PPO's + 8 Higher + 1 special jurisdiction

2.1 Number of heads of prosecution offices at second instance (court of appeal) level consists of: 4 Appellate PPs

2.2 Number of MALE of heads of prosecution offices at second instance (court of appeal) level consists of: 3 Appellate PP

2.3 Number of FEMALE public prosecutors at second instance (court of appeal) level consists of: 1 Appellate PP

3. Number of prosecutors at supreme court level: 1 Republic Public Prosecutor.

### **057. Do other persons have similar duties to those of public prosecutors?**

Yes

No

Comments - If yes, please specify their title and functions:

#### **057-1. Please specify their number (in full-time equivalent):**

[ 228 ]

[ ] NA

### **059. If yes, is their number included in the number of public prosecutors that you have indicated under question 55?**

Yes

No

[ ] NAP

Comments Public prosecutor assistants, employed for an indefinite period of time. In line with the Criminal Procedure Code, prosecutorial assistants can undertake specific procedural activities, authorized by a public prosecutor, i.e. deputy public prosecutor.

### **059-1. Do prosecution offices have specially trained prosecutors in domestic violence and sexual violence ?**

Yes

No

Comments Pursuant to Mandatory Instruction of the Republic Public Prosecutor from May 20, 2015 rendered in order to strengthen the combating of the criminal acts against sexual freedom and crimes against marriage and family, in all higher and basic public prosecutions in the Republic of Serbia a contact person was appointed who is in charge for work, monitoring and cooperation with other competent institutions and authorities regarding aforementioned criminal acts.

On the basis of the said Instruction, specialized departments for domestic violence and sexual freedom were established in First, Second and Third Basic Prosecutor's Offices in Belgrade as the largest basic public prosecution offices in Serbia covering over 60% of all criminal acts on that level across the country. Also, in the Basic Public Prosecutor's Office in Niš, a Group for working in cases formed in accordance with the Law on the Prevention of Domestic Violence was established. All Deputy Public Prosecutors working in these departments/group are specialised for these criminal acts.

Also, in accordance with the Law on the Prevention of Domestic Violence, which came into force on June 1, 2017 liaison officers were appointed in all basic and higher public prosecutions – specialized prosecutors in domestic and sexual violence.

### **060. Number of staff (non-public prosecutors) attached to the public prosecution services (on 31 December of the reference year) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).**

	Total	Males	Females
Number of staff (non-public prosecutors) attached to the public prosecution service	1 144 [ ] NA	263 [ ] NA	881 [ ] NA

Comments

## C2. Please indicate the sources for answering questions 55, 56 and 60

Sources: State Prosecutorial Council (Q55,56) and the Ministry of Justice (Q60);  
 Law on Public Prosecution Services ("Official Gazette of the Republic of Serbia", nos 116/2008, 104/2009, 101/2010, 78/2011 – state law, 101/2011, 38/2012 – Constitutional Court's decisions, 121/2012 and 101/2013, 111/2014 – Constitutional Court's decision, 117/2014, 106/2015 and 63/2016 - Constitutional Court's decision);  
 Law on the Organization and Competence of State Authorities in War Crimes Proceedings (Official Gazette of the Republic of Serbia, nos 67/2003, 135/2004, 61/2005, 101/2007, 104/2009, 101/2011-State Act 6/2015)

### 3.4. Gender equality

#### 3.4.1 Specific provisions for facilitating gender equality

061-2. Are there specific provisions for facilitating gender equality within the framework of the procedures for recruiting :

	Yes, please specify	No
judges	( )	( X )
prosecutors	( )	( X )
non-judge staff	( )	( X )
lawyers	( )	( X )
notaries	( )	( X )
enforcement agents	( )	( X )

[ ] NA

Comments - if the situation changed since the reference year, please specify in the comments. If you have additional comments please specify: Gender inequality in terms of representation of gender has not been indicated as an issue which needs active facilitation. This is why no specific positive discrimination provisions currently address this matter. The relevant bylaws of the High Court Council and State Prosecutorial Council provide for the need for non-discrimination on all bases, for both selection and promotion.

For example, Article 46 of the Law on Judges (Official Gazette of the RS, No. 116/2008, 58/2009 – decision of the CC, 104/2009, 101/2010, 8/2012 – decision of the CC, 121/2012, 124/2012 – decision of the CC, 101/2013, 111/2014 – decision of the CC, 117/2014, 40/2015, 63/2015 – decision of the CC, 106/2015, 63/2016 – decision of the CC and 47/2017) stipulates that when electing a judge and proposing the election of a judge, discrimination on any grounds is prohibited. According to Amendments to Rules of Procedure of the High Judicial Council ("Official Gazette of RS", No.7/18) Article 46-g prescribes that in the process of proposing a candidate and election

of judge, discrimination on any grounds is prohibited.

**061-3. Are there specific provisions for facilitating gender equality within the framework of the procedures for promoting :**

	Yes, please specify	No
judges	( )	( X )
prosecutors	( )	( X )
non-judge staff	( )	( X )
lawyers	( )	( X )
notaries	( )	( X )
enforcement agents	( )	( X )

[ ] NA

Comments - if the situation changed since the reference year, please specify in the comments. If you have additional comments please specify: Gender inequality in terms of representation of gender has not been indicated as an issue which needs active facilitation. This is why no specific positive discrimination provisions currently address this matter. The relevant bylaws of the High Court Council and State Prosecutorial Council provide for the need for non-discrimination on all bases, for both selection and promotion.

For example, Article 3 of the Rulebook on Criteria and Standards for Evaluation of Expertise, Competence and Worthiness for the Election of Judges with Permanent Tenure to Another or Higher Court and on Criteria for Proposing Candidates for Court Presidents ("Official Gazette of RS", No 94/2016) prescribes that in the election of judges with permanent tenure in another or higher court, as well as in the process of proposing candidates for court presidents, discrimination on any grounds is prohibited.

**3.4.2 At national level**

**061-4. Do you have, at national level, one or more recent surveys or reports related to - wholly or partly - the distribution males/females within the judicial system concerning:**

	Yes	No
judges	( X )	( )
prosecutors	( X )	( )
non-judge staff	( X )	( )
lawyers	( X )	( )
notaries	( X )	( )
enforcement agents	( X )	( )

Comments - If the situation changed since the reference year, please specify in the comments. Could you specify the reference or internet link of this/these document(s) or send it/them to us? Statistics on the distribution males/females within the judicial system are gathered yearly. It would be useful to note that the statistics of gender equity in employment in Serbian judiciary is considered generally

appropriate, as the „Serbia Judicial Functional Review” (Multi-Donor Trust Fund for Justice Sector Support in Serbia, October 2014, p. 309, <http://www.mdtfjss.org.rs/archive/file/Serbia%20Judicial%20Functional%20Review-Full%20Report.pdf> , accessed on 15 January 2018), published in 2014, states.. Figures submitted to the CEPEJ by Serbia throughout the evaluation cycles show more female than male professional judges in courts at all levels. Also, generally, among Court Presidents at first instance courts, the proportion of women is greater than men. This is reflected in the proportion of candidates for presidency of courts that are women. However, among Court Presidents at the second instance, men far outnumber women. The vast majority of non-judge staff in the courts are women. The overwhelming majority of professional judges sitting in courts are female: Generally, throughout the cycles: total: 70%; -First instance: 70%; -Second instance: 75%; and even at supreme court level: 58%. Therefore, the conclusions on gender representation made in 2014 by the MDTF Serbia Judicial Functional Review likewise stand today, although female second instance court presidents have become significantly more represented.

With respect to public prosecutors, while the proportion of women is higher in basic than higher level PPOs, women represent close to 50 percent of all prosecutors at all levels other than the Office of Organized Crime, throughout the cycles. In 2017, the State Prosecutorial Council has made an analysis of the number of female deputy prosecutors at various levels, based on data from 2016, which was submitted to the CEPEJ. The percentage of female deputy prosecutors is as follows: Basic PO: 58%; Higher PO: 53%; Appellate PO: 48%; Special PO's: 19%; Supreme (State) PO: 42%. In total, in 2016, out of 617 deputy prosecutors in public prosecutor's office of Serbia, 338 were female (55%) and 279 were male (45%). The percentage of female heads of offices is: in Basic PO: 41%; Higher PO: 32%; Appellate PO: 25 %; Special PO: 50%; and Supreme (State) PO: 100%. In total, in 2016, out of 90 heads of prosecutor's offices, 55 were male (61 %) and 35 were female (39 %). Thus, for the public prosecutor's office, it can be noticed that the female participation in the number of deputy prosecutors in 2016 remained the same as in 2013 – 55%, while their participation in the number of heads of public prosecutor's offices increased from 31% in 2013 to 39% in 2016. Further, female court presidents (professional judges) in 2016 have represented the majority of the court presidents (professional judges) -In total: 54%; First instance: 54%; Second instance: 50%; Supreme court of Cassation: 0%.

In April 2017, there were 97 female and 68 male notaries, pursuant to the “Report on the Implementation of the Notariat in the Republic of Serbia” (OSCE, Dejan urevi, Ph.D., Natalija Adži, notary). On 31 December 2017 there were 58% female notaries (94 female and 69 male) with additional 6 notaries appointed (2 male + 4 female) who began work in 2018.

**061-5. Is there a national programme or an orientation document to promote males/females equality within the judicial system?**

- ( ) Yes
- ( X ) No

Comments - if the situation changed since the reference year, please specify in the comments. Could you specify the reference or internet link of this/these document(s) or send it/them to us? NAP

**061-6. At national level, is there any specific person (e.g. an equal opportunities commissioner)/institution dealing with gender issues in the justice system concerning:**

	Yes, please specify	No
the recruitment of judges	( )	( X )
the promotion of judges	( )	( X )
the recruitment of prosecutors	( )	( X )
the promotion of prosecutors	( )	( X )
the recruitment of non-judge staff	( )	( X )

<p><b>the promotion of non-judge staff</b></p>	<p>( X ) On 1 June 2018, the Commissioner for Protection of Equality in Serbia has addressed gender inequality issues with respect to the promotion of non-judge staff in courts, with publishing and sending of a General Recommendation on Equality Measures to all courts in Serbia, with respect to the promotion of non-judge staff (please see: <a href="http://ravnopravnost.gov.rs/preporuka-mera-za-ostvarivanje-ravnopravnosti-sudovima-cir/">http://ravnopravnost.gov.rs/preporuka-mera-za-ostvarivanje-ravnopravnosti-sudovima-cir/</a>).</p>	<p>( )</p>
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Comments - if other than recruitment and/or promotion, please specify. If the situation changed since the reference year, please specify in the comments On 1 June 2018, the Commissioner for Protection of Equality in Serbia has addressed gender inequality issues with respect to the promotion of non-judge staff in courts, with publishing and sending of a General Recommendation on Equality Measures to all courts in Serbia, with respect to the promotion of non-judge staff (please see: <http://ravnopravnost.gov.rs/preporuka-mera-za-ostvarivanje-ravnopravnosti-sudovima-cir/>). This is a follow-up on the recommendations issued on April 20, 2016 by the Commissioner, following an application filed by S.V. and A.M.M. from Kragujevac against the Basic Court in Kragujevac. The applicants were denied promotion under same conditions as other employees due to maternity leave and childcare parental leave. The applicants stated in their complaints that during 2012 and 2013 they received maximum job performance marks but that in 2015 they failed to be promoted as they were not given a job performance mark in 2014 since they were on maternity and childcare parental leave respectively. The Basic Court in Kragujevac stated in its justification that applicants were not eligible for promotion as they had not received the highest job performance mark for the second year in the row since they were not assessed in 2014. The Commissioner for the Protection of Equality has issued a recommendation to the Basic Court in Kragujevac instructing them to implement the regulations governing the promotion of civil servants correctly and in such a way as to prevent putting them in a disadvantaged position due to a protected characteristics, that is, the Court is advised to consider the possibilities for their promotion by taking into account the job performance marks they have already been awarded i.e. to disregard the year in which they have not received a job performance mark due to maternity and childcare parental leaves (please see: <http://ravnopravnost.gov.rs/en/complaint-filed-by-s-v-and-a-m-m-against-basic-court-in-kragujevac-for-discrimination-on-grounds-of-family-status-in-area-of-work-and-employment/>).

Likewise, a Coordination Body for Gender Equality exists on the national level dealing with gender equality issues in general (not specific to the judiciary), established on 30 October 2014. The Minister of Justice is a member. Please see: <https://www.rodnaravnopravnost.gov.rs/>.

**061-6-1. Please specify the text which set up this person/institution :**

(title, date, nature of the text) The competence of the Commissioner for Protection of Equality is established and regulated by the Law on the Prohibition of Discrimination ("Official Gazette of the Republic of Serbia", No. 22/2009).

[ ] NAP

**061-6-2. Please specify the status of this person/institution:**

(e.g. independent, attached to the Ministry of Justice, to the High Judicial Council or equivalent or to an inter-ministerial institution specifically dedicated to gender equality) The Commissioner for Protection of Equality in Serbia is an independent, autonomous and specialized state authority established on the basis of the Law on Prohibition of Discrimination from 2009. The task of this state

authority is to prevent all forms, types and cases of discrimination, to protect the equality of natural persons and legal entities in all spheres of social relations, to oversee the enforcement of antidiscrimination regulations, and to improve realization and protection of equality. In line with the Law on Prohibition of Discrimination, the Commissioner has the Professional Service which helps them to perform their duties. The Professional Service is established on the basis of the Act on Internal Organization and Job Systematization, which was approved by the National Assembly. The Professional Service consists of sectors, as the basic organizational units, the Commissioner's Office as a separate internal unit, departments and groups.

[ ] NAP

**061-6-3. Please specify if this person/institution has an information and consultative function or if its opinions/decisions have legal consequences:**

(e.g. block a decision or allow an appeal) The Commissioner gives his/her opinion on whether there has been a violation of the provisions of the Law on Prohibition of Discrimination within 90 days of the day of receiving a complaint, of which he/she shall inform the person who submitted the complaint and the person against whom the complaint was submitted. If he/she decides that there has been a violation of the provisions of this Law, the Commissioner issues a recommendation to the person against whom the complaint was submitted, suggesting a way of redressing the violation in question. The person to whom the recommendation is addressed is obligated to act upon it and to redress the violation in question within 30 days of the day of receiving it and to inform the Commissioner of it. If the person to whom a recommendation is addressed fails to act upon it, that is, if he/she fails to redress the violation in question, the Commissioner shall caution him/her. Should this person fail to redress the violation in question within 30 days of having been cautioned, the Commissioner may inform the public about it.

For activities of the Commissioner for Protection of Equality regarding gender equality please see:

<http://ravnopravnost.gov.rs/en/gender-equality-in-serbia-and-prevention-of-discrimination-against-women/>.

[ ] NAP

**3.4.3 At court/public prosecution services level**

**061-7. At the court or public prosecution services level, is there a person (e.g. an equal opportunities commissioner)/institution specifically dedicated to ensure the respect of gender equality in the organisation of judicial work:**

	Yes	No
in courts (judges)	( )	( X )
in public prosecution services (prosecutors)	( )	( X )
for courts' non-judge staff	( )	( X )

Comments - If yes, please specify their titles and tasks. If the situation changed since the reference year, please specify in the comments.  
NAP

**061-8. Does the feminisation of certain functions, if it exists in your country, within courts or**

public prosecution services, lead to concrete changes in the organisation of the work in the following areas:

	Yes	No
Assignment in different positions	( )	( X )
Workload distribution	( )	( X )
Working hours	( )	( X )
Modalities of teleworking and presence in the work space	( )	( X )
Replacement of absent persons	( X )	( )
Organisation of the hearings	( )	( X )
Other	( )	( X )

Comments - If other, please specify. Could you also indicate concrete examples referring to the various possibilities mentioned? If the situation changed since the reference year, please specify in the comments. Replacement of women on maternity leave.

**061-9. In order to improve gender balance in access to different judicial professions and equality in promotion and in access to functions of responsibility, what are the measures, in your country, which:**

have been already implemented (please specify) : As statistics point out, gender balance in Serbian judiciary is generally present in terms to access to different judicial professions.

With respect to the promotion of non-judge staff, the Commissioner for Protection of Equality in Serbia has addressed gender inequality issues in 2016 and 2018. Namely, on 1 June 2018, the Commissioner for Protection of Equality in Serbia issued a General Recommendation on Equality Measures to all courts in Serbia, with respect to the promotion of non-judge staff (please see: <http://ravnopravnost.gov.rs/preporuka-mera-za-ostvarivanje-ravnopravnosti-sudovima-cir/>). This is a follow-up on the recommendations issued on April 20, 2016 by the Commissioner, following an application filed by S.V. and A.M.M. from Kragujevac against the Basic Court in Kragujevac. The applicants were denied promotion under same conditions as other employees due to maternity leave and childcare parental leave. The applicants stated in their complaints that during 2012 and 2013 they received maximum job performance marks but that in 2015 they failed to be promoted as they were not given a job performance mark in 2014 since they were on maternity and childcare parental leave respectively. The Basic Court in Kragujevac stated in its justification that applicants were not eligible for promotion as they had not received the highest job performance mark for the second year in the row since they were not assessed in 2014. The Commissioner for the Protection of Equality has issued a recommendation to the Basic Court in Kragujevac instructing them to implement the regulations governing the promotion of civil servants correctly and in such a way as to prevent putting them in a disadvantaged position due to a protected characteristics, that is, the Court is advised to consider the possibilities for their promotion by taking into account the job performance marks they have already been awarded i.e. to disregard the year in which they have not received a job performance mark due to maternity and childcare parental leaves (please see: <http://ravnopravnost.gov.rs/en/complaint-filed-by-s-v-and-a-m-m-against-basic-court-in-kragujevac-for-discrimination-on-grounds-of-family-status-in-area-of-work-and-employment/>).

Wage compensation to employed pregnant women has been enhanced upon enacting of the new Law on Financial Support to Families with Children (“Official Gazette of RS no. 113/2017) in December 2017, which is applicable from 1 July 2018 (please see: <http://www.parlament.gov.rs/upload/archive/files/lat/pdf/zakoni/2017/3743-17%20lat.pdf>). The law is based on several previously conducted analyses, and to a great extent improves the financial position of employed parents (please see:

[https://www.unicef.org/serbia/novcana\\_davanja\\_za\\_decu\\_i\\_porodice\\_sa\\_decom\\_u\\_rs.pdf](https://www.unicef.org/serbia/novcana_davanja_za_decu_i_porodice_sa_decom_u_rs.pdf); <http://www.oknis.org.rs/wp-content/uploads/2013/03/Financial-Assistance-to-Families-with-Children.pdf>).

The Action plan for Chapter 23 in EU Integration provides for the following activities which have been implemented:

3.6.1.9. Analysis of the effects of current National Strategy for improving the status of women and promoting gender equality ("Official Gazette RS ", No. 15/09). (deadline: IV quarter of 2015); 3.6.1.10. Development and adoption of a new National Strategy for improving the status of women and promoting gender equality and adoption of Action Plan for its implementation (deadline: for adoption: IV quarter of 2015; for implementation of the Action Plan: Continuously, commencing from IV quarter of 2015). On January 14, 2016, the Government of the Republic of Serbia adopted the new National Strategy for Gender Equality for the period 2016-2020, as well as an Action plan for its implementation, which are to provide greater economic empowerment of women and enhance their involvement in the political life; it would also enable them to occupy important leadership positions within the government, both at the local and national level (please see: <http://socijalnoukljucivanje.gov.rs/en/the-national-strategy-for-gender-equality-until-2020-adopted/>).

The Coordination Body for Gender Equality, established on 30 October 2014, meets on a monthly basis in order to consider questions of gender equality. Please see: <https://www.rodnaravnopravnost.gov.rs/>.

are planned (please specify) : NA

Comments - If the situation changed since reference year, please specify in the comments. NAP

[ ] NAP

**061-10. In your judicial system, and eventually based on evaluation, studies or official reports, what are the main causes of inequalities in:**

recruitment procedures (please specify):

promotion procedures and access to the functions of responsibility (please specify) :

Comments - If the situation changed since reference year, please specify in the comments.



**061-11. In your courts, is there particular attention given to gender issues regarding the public and users of justice, in particular:**

	Yes, please specify	No
judges and court staff are more chosen among males or females according to the type of cases	( )	( X )
the composition of hearings with several judges is always mixed	( )	( X )
statistics exist concerning males and females who initiate a case/victims, accused persons, etc.	( )	( X )

Comments - if you have additional comments please specify. If the situation changed since reference year, please specify in the comments. Relevant statistics do not exist.

### 3.5 Use of information technologies in courts

#### 3.5.1 General policies in Information Technology in judicial systems

**062-1. Basic principles and models used in Information technology policies and strategies definition**

	Organisation
IT policies and strategies	<input type="checkbox"/> defined and coordinated at national level by one institution <input checked="" type="checkbox"/> defined and coordinated at national level by several institutions <input type="checkbox"/> defined and coordinated at unit/stakeholder level <input type="checkbox"/> other
IT Governance	<input type="checkbox"/> governed on national level by one institution <input type="checkbox"/> governed on national level by several institutions <input checked="" type="checkbox"/> organised at unit/stakeholder level <input type="checkbox"/> other

Comments

**065-1. In case there is a national structure in charge of the strategic policy making and governance of the judicial system modernisation (including also IT) what is the composition of this structure?**

- administrative, technical and scientific staff only
- mixed teams of judicial staff (judges/prosecutors/etc.) and administrative/technical/scientific staff
- other (please specify in a comment)

Comments - (please specify if there are other modernisation approaches that have been implemented): Sectorial Council consists of high level representatives of the Ministry of Justice, High Judicial Council, Supreme Court of Cassation, State Prosecutorial Council, Republic

**065-2. Which is the organisational model primarily chosen for conducting structural IT projects in courts and the management of applications (maintenance, evolution)?**

	Implementing new projects	Management of applications
Mainly by an IT department with the help of professionals in the field (judges, prosecutors, non-judge judicial staff, etc.)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Non
Mainly by professionals in the field (judges, prosecutors, non-judge judicial staff, etc.) with the help of an internal IT department and/or an external service provider	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Non
Other alternatives (external service provider only – specify in a comment)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Non

Comments - please also describe in case of "other alternatives" The typical project team consists of a project manager from the Ministry of Justice IT Department, a key legal expert from a particular court or relevant institution (or consultant with the task to provide expert opinions on certain matters) and a representative of an external organisation (service provider) that is engaged in providing technical knowledge and work (or external consultant for providing technical knowledge). Management of applications is conducted in a similar manner, and improvements of the system can be initiated by the highest instance courts or Ministry of Justice (amendments of legal framework, introduction of the new technological solutions, etc.).

**065-3. Is there a device of detection and promotion of innovations regarding IT coming from personal and/or local/court level initiatives?**

- Yes  
 No

Comments (please specify projects that have experienced national developments) Although there are not many IT innovations initiated at court level there are examples of useful IT solutions developed by one court (Second Basic Court of Belgrade) which were implemented in the centralized system, such as software for automatic printing labels for court letters which was identified, tested and implemented in the centralised system for commercial courts . There is no institutionalized procedure for detecting of these IT innovations since these innovations are rare. However, user representatives of every informational system participate in the work of commissions for uniform usage and changes of informational system where they can present good practises or innovations from a particular court and suggest their more widespread usage.

**065-4. Have you measured the impact resulting from the implementation of one or several components of your new information system?**

- Yes  
 No

**065-4-1. If yes, have you measured the impact on (multiple answers possible):**

- Business processes  
 Workload  
 Human resources

Costs

Other, please specify financial

Comments (please specify examples of the impact) The impact of business processes is measured by comparing the number of procedures which are conducted only by ICT means instead of using paper forms or/and requiring physical presence of the parties involved. The workload is regularly measured by assessing the relevant statistics and number of queries via Judicial Informational System for data or number of documents (decisions) or data delivered via services.

The impact on human resources is measured by the number of users from courts, prosecutor offices, enforcement agents and notaries which are authorized to use the system features and are active users, as well as the number of their queries.

Cost benefit analyses are made regularly in light of financial savings caused by making case flow through paper forms obsolete (even forbidden in exchange with some institutions).

### **3.5.2 Security of courts information system and personal data protection**

#### **065-5. Are there independent audits or other mechanisms to contribute to the global security policy regarding the information system of the judiciary ?**

Yes

No

Comments (please specify in particular if national frameworks of information security exist): The ICT staff of the Ministry of Justice IT Department (on the centralized level) possess the ISO certificates for relevant standards (Informational security, GDPR, Project Management, Risk Management). All teams for developing and/or implementing software have at least one certified auditor for information security. Serbian Law on Information Security (2017 with amendments from 2019) is in line with the EU NIS Directive and established high standards in this area. The judicial information systems are recognized as those of special importance and because of that are under strict legal framework.

In 2018, the Ministry of Justice, in line with planned activities within the Action Plan for Chapter 23, started organising training of IT staff in courts for internal audits for ISO27001 and ISO22301. In 2019, it started implementing the project of drafting information security acts for the Ministry and the largest courts in the country.

#### **065-6. Is the protection of personal data managed by courts ensured at legislative level?**

Yes

No

Comment - If yes, please specify among others: if there are authorities specifically responsible for protection of personal data; the extent of the rights granted to citizens in the specific framework of software used by courts; if there are controls or limitations by law regarding the sharing of databases managed by courts with other administrations (police, etc.) The Independent body for Personal Data Protection in Serbia, the Commissioner for Information of Public Importance and Personal Data Protection carried out preventive personal data violation audits in almost every information system of the Ministry of Justice and in regard to every agreement on electronic data exchange between Ministry of Justice and other institutions. The Ministry of Justice drafted the Law on Personal Data Protection (2018) in line with EU General Data Protection Regulation (GDPR) and Directive 2016/680, which has subsequently been enacted. Also, the Judicial Academy organized a special course for judges on this topic. All teams for developing and/or implementing software have at least one person with specialised knowledge in this area.

### **3.5.3 Centralised databases for decision support**

#### **062-4. Is there a centralised national database of court decisions (case-law, etc.)?**

Yes

Non

Comments

**062-4-1. If yes, please specify the following information:**

	For 1st instance decisions	For 2nd instance decisions	For 3rd instance decisions	Link with ECHR case law	Data anonymised	Case-law database available free online	Case-law database available in open data
<b>Civil and/or commercial</b>	( ) Yes all judgements ( ) Yes some judgements ( X ) No	( ) Yes all judgements ( ) Yes some judgements ( X ) No	( ) Yes all judgements ( X ) Yes some judgements ( ) No	( ) Yes ( X ) No	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
<b>Criminal</b>	( ) Yes all judgements ( ) Yes some judgements ( X ) No	( ) Yes all judgements ( ) Yes some judgements ( X ) No	( ) Yes all judgements ( X ) Yes some judgements ( ) No	( ) Yes ( X ) No	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
<b>Administrative</b>	( ) Yes all judgements ( ) Yes some judgements ( X ) No	( ) Yes all judgements ( X ) Yes some judgements ( ) No	( ) Yes all judgements ( ) Yes some judgements ( X ) No	( ) Yes ( X ) No	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No

Comments - if it exists in other matters please specify For 2nd instance court decisions, the database includes relevant cases from Appellate courts and Misdemeanour appellate court. There are no 3rd instance court decisions for administrative disputes (decisions of the Supreme Court of Cassation and Supreme Court of Serbia (Highest court instance until 2006 are 2nd instance in these disputes).

**062-6. Is there a computerised national record centralising all criminal convictions?**

- ( X ) Yes  
( ) No

Comments

**062-6-1. If yes, please specify the following information:**

- [ ] Linkage with other European records of the same nature  
 [ X ] Content directly available through computerised means for judges and/or prosecutors  
 [ ] Content directly available for purposes other than criminal (civil and administrative matters)

Comments - Please specify who is the authority delivering the access Ministry of Justice

**3.5.4 Writing assistance tools**

**062-7. Are there writing assistance tools for which the content is coordinated at national level? (models or templates, paragraphs already pre-written, etc.)**

- ( X ) Yes  
( ) No

Comment – if it exists in other matters please specify Misdemeanour court information system SIPRES can provide users individualised templates of decisions which automatically use case data from database.

Civil and/or commercial - Templates of decisions which automatically use case data from database.

Criminal - Templates of decisions which automatically use case data from database; Special modules for generating drafts for court certificates for citizens (not being under investigation or similar).

**062-7-1. If yes, please specify the following information:**

	Availability rate
<b>Civil and/or commercial</b>	<input checked="" type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA
<b>Criminal</b>	<input checked="" type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA
<b>Administrative</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input checked="" type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA

**062-8. Are there voice recording tools?**

Yes

No

Comments Dictation tools are managed by every court ICT staff.

**062-8-1. If yes, please specify:**

	Availability of simple dictation tools	Availability of multiple speakers recording tools	Voice recognition feature
<b>Civil and/or commercial</b>	<input type="checkbox"/> in all courts <input type="checkbox"/> in most of the courts <input checked="" type="checkbox"/> in some courts / some pilot phases <input type="checkbox"/> not available for this matter <input type="checkbox"/> NA	<input type="checkbox"/> in all courts <input type="checkbox"/> in most of the courts <input type="checkbox"/> in some courts / some pilot phases <input checked="" type="checkbox"/> not available for this matter <input type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> Pilot testing <input checked="" type="checkbox"/> No <input type="checkbox"/> NA

<b>Criminal</b>	<input type="checkbox"/> in all courts <input type="checkbox"/> in most of the courts <input checked="" type="checkbox"/> in some courts / some pilot phases <input type="checkbox"/> not available for this matter <input type="checkbox"/> NA	<input type="checkbox"/> in all courts <input type="checkbox"/> in most of the courts <input type="checkbox"/> in some courts / some pilot phases <input checked="" type="checkbox"/> not available for this matter <input type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> Pilot testing <input checked="" type="checkbox"/> No <input type="checkbox"/> NA
<b>Administrative</b>	<input type="checkbox"/> in all courts <input type="checkbox"/> in most of the courts <input checked="" type="checkbox"/> in some courts / some pilot phases <input type="checkbox"/> not available for this matter <input type="checkbox"/> NA	<input type="checkbox"/> in all courts <input type="checkbox"/> in most of the courts <input type="checkbox"/> in some courts / some pilot phases <input checked="" type="checkbox"/> not available for this matter <input type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> Pilot testing <input checked="" type="checkbox"/> No <input type="checkbox"/> NA

**062-9. Is there an intranet site within the judicial system for distribution of news/novelities?**

**Availability rate:**

- 100% - accessible to everyone in judiciary
- 50-99% - accessible for most judges/prosecutors in all instances
- 10-49% - in some courts only
- 1-9% - in one court only
- 0% (NAP) - No access

NA

Comments

**3.5.5 Technologies used for administration of the courts and case management**

**063-1. Is there a case management system (CMS) ? (Software used for registering judicial proceedings and their management)**

- Yes
- No

Comments - if it exists in other matters please specify AVP (automatic management of cases) is a decentralised system that courts of general jurisdiction and commercial courts use for case management, activities and data. It was introduced in 2006 with the aim to improve the efficiency and transparency of the court proceedings. SAPS is a centralised court case management software solution that was developed and introduced in 2009. Pilot project has covered only 8 representative courts, Administrative court (one instance) and 7 courts of general jurisdiction. SIPRES software is centralised system used in misdemeanour courts. It enables the use of advanced technology with random case assignment, case management and management of activities and data.

**063-1-1. If yes, please specify the following information:**

CMS deployment rate	Status of case online	Centralised or interoperable database	Early warning signals (for active case management)	Status of integration/connection of a CMS with a statistical tool

<b>Civil and/or commercial</b>	<input checked="" type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> accessible to parties <input type="checkbox"/> publication of decision online <input type="checkbox"/> both <input checked="" type="checkbox"/> not accessible at all <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Fully integrated including BI <input checked="" type="checkbox"/> Integrated <input type="checkbox"/> Not integrated but connected <input type="checkbox"/> Not connected at all <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Criminal</b>	<input checked="" type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> accessible to parties <input type="checkbox"/> publication of decision online <input type="checkbox"/> both <input checked="" type="checkbox"/> not accessible at all <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Fully integrated including BI <input checked="" type="checkbox"/> Integrated <input type="checkbox"/> Not integrated but connected <input type="checkbox"/> Not connected at all <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Administrative</b>	<input checked="" type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input checked="" type="checkbox"/> accessible to parties <input type="checkbox"/> publication of decision online <input type="checkbox"/> both <input type="checkbox"/> not accessible at all <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Fully integrated including BI <input type="checkbox"/> Integrated <input type="checkbox"/> Not integrated but connected <input checked="" type="checkbox"/> Not connected at all <input type="checkbox"/> NA <input type="checkbox"/> NAP

### 063-2. Computerised registries managed by courts

	<b>Deployment rate</b>	<b>Data consolidated at national level</b>	<b>Service available online</b>	<b>Statistical module integrated or connected</b>
<b>Land registry</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Business registry</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comment – if it exists in other matters please specify The Land registry and Business registry have not been under courts' jurisdiction

since 2004. the Register of non-commercial subjects is managed by commercial courts and it includes the list of institutions (schools, hospitals, social care institutions, etc.). As there is no legal framework for the centralised database of those subjects the commercial courts developed different IT solutions for this purpose.

### 063-6. Budgetary and financial management systems of courts

	Tool deployment rate	Data consolidated at national level	System communicating with other ministries (financial among others)
<b>Budgetary and financial management of courts</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input checked="" type="checkbox"/> NA	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Justice expenses management</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input checked="" type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Other (please specify in comments)</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input checked="" type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments FMIS (Financial management informational system / in Serbian: Sistem za upravljanje javnim finansijama) is centralized system of electronic exchange of data regarding expenses of all budget users which enables control and transparency of public expenditure.

The Register of employees in judiciary (in Serbian: Evidencija zaposlenih u pravosudnim organima) is an application with HR data regarding employees in courts (assignment, education, professional experience and all other data needed for wage calculations). The court's role consists of submitting the data regarding employees. The Ministry of Justice uses the data as a tool for financial management, planning and monitoring.

### 063-7. Measurement tools to assess the workload of judges, prosecutors and/or non-judge/non-prosecutor staff (tool quantifying the activity of judges, prosecutors and/or non-judge/non-prosecutor staff – for example the number of cases resolved)

Yes

No

Comments In the 2016 question, the answer given by Serbia related only to the local level (which was an option offered), which means that ICT court staff can report to the court president on the number of cases for each judge on request (ad hoc reports). In answering the 2018 question, we understood that the question related only to the central level. Such an option is ready in 2020 only for courts of general jurisdiction, but we did not have it in the reporting period (2018).

#### 063-7-1. If yes, please specify the following information:



	Tools deployment rate	Data used for monitoring at national level	Data used for monitoring at court local level	Tool integrated in the CMS
<b>For judges</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>For prosecutors</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>For non-judge/non-prosecutor staff</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP

### 3.5.6 Technologies used for communication between courts, professionals and/or court users

**064-2. Is there a possibility to submit a case to courts by electronic means?(possibility to introduce a case by electronic means, for example an e-mail or a form on a website)**

Yes

No

Comments Q64-2-1 “Is there a possibility to submit a case to courts by electronic means? – Row 1: Civil and/or commercial - Column3: Specific legislative framework authorizing the submission of a case” – In 2016 the answer was YES and in 2018 the answer is NO. In the 2016 question, our answer referred to a short-term pilot project of e-filing via electronic mail as a form of court preparation and identification of problems with electronic document processing practices. In the answer for 2018, we stated that these electronic tools exist for the Administrative Court and a separate platform is being created for the other courts and procedures, but it is not in a pilot phase in the reporting period. The Law on Electronic Document, Electronic Identification and Trust Services in e-commerce (entered into force in 2017) and the E-Government Law (entered into force in 2018) regulate these issues in a general way and apply to the electronic means that we have mentioned, which is why there is no longer a specific regulation for the electronic means used.

**064-2-1. If yes, please specify the following information:**

	Availability rate	Simultaneous submission of cases in paper form remains mandatory	Specific legislative framework authorising the submission of a case	An integrated/connect ed tool with the CMS
<b>Civil and/or commercial</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input checked="" type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP

<b>Criminal</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input checked="" type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Administrative</b>	<input checked="" type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - if it exist in other matters please specify An administrative dispute can be initiated via special electronic platform for filing and service of electronic documents eSUD (eCOURT). Civil and/or commercial disputes can be initiated by electronic document via email, in several courts as pilot project of the e-filing system.

**064-3. Is it possible to request legal aid by electronic means?**

- Yes  
 No

Comments

**064-3-1. If yes, please specify the following information:**

	Requesting legal aid electronically
<b>Availability rate</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA
<b>Formalisation of the request in paper form remains mandatory</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Specific legislative framework regarding requests for legal aid by electronic means</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Granting legal aid is also electronic</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Information available in CMS</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP

**064-4. Is it possible to transmit summons to a judicial meeting or a hearing by electronic means? (a judicial meeting relates to stages prior to a court hearing, with a view to mediation or**

**conciliation)**

( ) Yes

( X ) No

Comments

**064-4-1. If yes, please specify the following information:**

	Summons produced by CMS	Simultaneous summon in paper form remains mandatory	Consent of the user to be notified by electronic means	Modalities (if other please specify in comments)	Specific legislative framework
Civil and/or commercial	[ ]	[ ]	[ ]	[ ] SMS [ ] E-mail [ ] Specific computer application [ ] Other	[ ]
Criminal	[ ]	[ ]	[ ]	[ ] SMS [ ] E-mail [ ] Specific computer application [ ] Other	[ ]
Administrative	[ ]	[ ]	[ ]	[ ] SMS [ ] E-mail [ ] Specific computer application [ ] Other	[ ]

Comments

**064-6. Are there possibilities of electronic communication between courts and lawyers and/or parties? (sending of electronic files and data concerning a judicial proceeding with or without scanned documents, mainly to develop dematerialised communication)**

**Communication between court and lawyers representing parties**

( X ) Yes

( ) No

**Communication between court and parties not represented by lawyer**

( X ) Yes

( ) No

Comments

**064-6-1. If yes, please specify the following information:**

	<b>Tool deployment rate</b>	<b>Trial phases concerned</b>	<b>Modalities (if there are different according to the trial phases or if other, please specify in a comment)</b>	<b>Specific legal framework</b>
<b>Civil and/or commercial</b>	<input checked="" type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) - for this matter <input type="checkbox"/> NA	<input type="checkbox"/> Submission of a case to a court <input type="checkbox"/> Phases preparatory to a hearing <input checked="" type="checkbox"/> Schedule of hearings and/or appeals management <input type="checkbox"/> Transmission of court decisions	<input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Specific computer application <input type="checkbox"/> Other	<input type="checkbox"/> Yes
<b>Criminal</b>	<input checked="" type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) - for this matter <input type="checkbox"/> NA	<input type="checkbox"/> Submission of a case to a court <input type="checkbox"/> Phases preparatory to a hearing <input checked="" type="checkbox"/> Schedule of hearings and/or appeals management <input type="checkbox"/> Transmission of court decisions	<input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Specific computer application <input type="checkbox"/> Other	<input type="checkbox"/> Yes
<b>Administrative</b>	<input checked="" type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) - for this matter <input type="checkbox"/> NA	<input checked="" type="checkbox"/> Submission of a case to a court <input type="checkbox"/> Phases preparatory to a hearing <input checked="" type="checkbox"/> Schedule of hearings and/or appeals management <input type="checkbox"/> Transmission of court decisions	<input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Specific computer application <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes

Comments The Ministry of Justice introduced an interoperability platform (envisaged by AP for Chapter 23) with pilot project for full data/documents exchange between parties in administration court (“eSud”). It enabled new modern way of communication between parties, including now only external users, such as lawyers, representatives, involved parties to particular case, but also various government bodies and agencies in the Administrative Court for administrative dispute cases on national level. The schedule of hearings and/or appeals is available on the Courts’ Portal.

**064-7. Terms and conditions of electronic communication used by professionals other than lawyers (sending of electronic data concerning a judicial proceeding with or without scanned documents, mainly to develop dematerialised communication)**

	Tool deployment rate	Modalities (if there are different according to the deeds or if other, please specify in a comment)	Specific legal framework
<b>Enforcement agents (as defined in Q169 and following)</b>	<input checked="" type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Specific computer application <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes
<b>Notaries (as defined in Q192 and following)</b>	<input checked="" type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Specific computer application <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes
<b>Experts (as defined in Q202 and following)</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input checked="" type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> E-mail <input type="checkbox"/> Specific computer application <input type="checkbox"/> Other	<input type="checkbox"/> Yes
<b>Judicial police services</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input checked="" type="checkbox"/> NA	<input type="checkbox"/> E-mail <input type="checkbox"/> Specific computer application <input type="checkbox"/> Other	<input type="checkbox"/> Yes

Comments There is a platform for coordination between notaries and courts regarding contracts of sale of immovable property - specialized application "ProNep" which is used for transferring data regarding contracts for courts validation. Enforcement agents have a specific legal framework - special bylaws regarding data exchange.

**064-9. Are there online processing devices of specialised litigation? (low value litigation, undisputed claims, preparatory phases to the resolution of family conflicts, etc. – please, specify in “comments” section)**

Yes

No

Comments – Please describe the system that exists.

**064-10. Videoconferencing between courts, professionals and/or users (this concerns the use of audio-visual devices in the framework of judicial proceedings such as the hearing of parties, etc.)**

Yes

No

Comments

**064-10-1. If yes, please specify the following information and describe in comments of this**

section the cases of actual use of videoconferencing and the expected benefits (for example, the use of this device to reduce the number of detainees' transfers to the court):

	Deployment rate (chose one only)	Proceeding phase	Specific legislative framework
<b>Civil and/or commercial</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input checked="" type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> Prior to the hearing <input type="checkbox"/> During the hearing <input type="checkbox"/> After the hearing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Criminal</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input checked="" type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> Prior to the hearing <input type="checkbox"/> During the hearing <input checked="" type="checkbox"/> After the hearing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Administrative</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input checked="" type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input type="checkbox"/> Prior to the hearing <input type="checkbox"/> During the hearing <input type="checkbox"/> After the hearing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments Video Hearings via Protected Internet Connection Skype for Business was introduced on 18 September 2018 by establishing a video link between one court and correctional prison facility, enabling judges to conduct online hearing without making the appearance of prisoners in court. A conducted analysis of time spent in transport of prisoners, the required use of special vehicles and special allowances for prison employees resulted with estimation that a middle-size institution could save between 11.000,00 and 22.000,00 EUR per year. There are 91 Courts and 31 Correctional Prison Facilities in the Republic of Serbia.

#### 064-11. Recording of hearings or debates (sound or audio-visual recording during the investigation and/or trial phase(s))

Yes

No

Comments Recording of courts' procedures has not been established, except in special criminal procedures where it is obligatory (organised crime, war crimes). The legislative framework for audio recording is set in the Rulebook, and it is possible to use it for reason of publicity with approval from court, as an instrument for creating a written record or for audio recording of the procedure which is regulated by a special law.

##### 064-11-1. If yes, please specify the following information:

	Tool deployment rate	Type of recording	Specific legislative framework
<b>Civil and/or commercial</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input checked="" type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input checked="" type="checkbox"/> Sound <input type="checkbox"/> Video <input type="checkbox"/> Both <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP

<b>Criminal</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input checked="" type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input type="checkbox"/> NA	<input checked="" type="checkbox"/> Sound <input type="checkbox"/> Video <input type="checkbox"/> Both <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Administrative</b>	<input type="checkbox"/> 100% <input type="checkbox"/> 50-99% <input type="checkbox"/> 10-49% <input type="checkbox"/> 1-9% <input type="checkbox"/> 0% (NAP) <input checked="" type="checkbox"/> NA	<input checked="" type="checkbox"/> Sound <input type="checkbox"/> Video <input type="checkbox"/> Both <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP

## 064-12. Is electronic evidence admissible?

	<b>Admissibility of electronic evidence</b>	<b>Legislative framework</b>
<b>Civil and/or commercial</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> General law only <input type="checkbox"/> General and specialised law <input type="checkbox"/> Specialised law only
<b>Criminal</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> General law only <input type="checkbox"/> General and specialised law <input type="checkbox"/> Specialised law only
<b>Administrative</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> General law only <input type="checkbox"/> General and specialised law <input type="checkbox"/> Specialised law only

Comments Electronic evidence is admissible within the usual legislative framework without any specific provisions and they are treated as evidence presented in electronic form (e.g. scanned documents, digitalised paper photos or documents). The court will perform expertise evidence (findings and an opinion of the court expert witness) when validity of electronic document or information storage and transmission technology or similar technological question is relevant for case.

## 3.6. Performance and evaluation

### 3.6.1. National policies applied in courts and public prosecution services

**066. Are quality standards determined for the judicial system at national level (are there quality systems for the judiciary and/or judicial quality policies)?**

Yes

No

Comments - If yes, please specify: Although quality standards for the judiciary as such do not yet exist, the Rulebook on criteria, indicators and procedure for evaluating the work of judges and presidents of courts ("Official Gazette of RS", Nos. 81/2014, 142/2014, 41/2015, 7/2016) of the HJC provides for the evaluating the work of judges for the purpose of improving the efficiency of the judicial system, to preserve and improve the expertise, qualifications and responsibilities of judicial office holders, to encourage them to achieve the best results of their work, and to increase public confidence in the work of judges and courts.

The Rulebook stipulates that the evaluation of the work of judges and presidents of courts is expressed by a mark. The work of full-time judges and court presidents is regularly evaluated once every three years, and for judges who are first time elected evaluation is done once a year. Exceptionally, based on the decision of the HJC, the work of judges and presidents of courts may be extraordinary evaluated.

The criteria for evaluating judges' performance are quality and quantity. The quality of work shows the ability and knowledge of the judge in the application of substantive and procedural law, while the quantity of work shows the efficiency in solving cases.

The benchmarks for evaluating the quality of work of judges are the percentage of decisions revoked and the time necessary to bring decisions. Quality evaluation is done by establishing for each benchmark an individual grade, and on the basis of established individual grades, the evaluation of the quality of work of judges is determined. Individual marks for the quality of work benchmarks are: "extremely successful", "successful" and "not satisfactory".

The criterion for evaluating the quantity of judges' work is a monthly standard, and for judges who do not have a sufficient number of cases in the work, the number of cases solved from the total number of cases in the work.

The benchmark of the judges' work is evaluated by the individual grade "extremely successful", "successful" and "not satisfactory". The judgments related to the evaluation of the judge's work are "extremely successful in performing the judicial function", "successfully performing the judicial function" and "not satisfactory".

In 2016, our answer was "yes", based on the same system and its description. However, our answer has changed as the Explanatory Note in the 2016-2018 Cycle has been made more precise and states that when a system/policy exists, but it is not set up on national level, the answer should be "No" and the situation should be explained in the comment.

### 067. Do you have specialised personnel entrusted with implementation of these national level quality standards?

	Yes / No
within the courts	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
within the public prosecution services	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments

## 3.6.2. Performance and quality objectives at court level/public prosecution services

### 077. Concerning court activities, have you defined performance and quality indicators?

Yes

No

Comments

### 078. If yes, please select the main performance and quality indicators that have been defined for courts:

number of incoming cases

length of proceedings (timeframes)

number of resolved cases

number of pending cases

backlogs

productivity of judges and court staff

satisfaction of court staff

satisfaction of users (regarding the services delivered by the courts)

costs of the judicial procedures

number of appeals



- appeal ratio
- clearance rate
- disposition time
- other (please specify): .....

Comments The duration of judicial proceedings is monitored and it is reflected within the court reports. Also ,there are mechanisms for acceleration of the proceedings.

**077-1. Concerning public prosecution activities, have you defined performance and quality indicators?**

- Yes
- No

Comments

**078-1. If yes, please select the main performance and quality indicators for the public prosecution services that have been defined:**

- number of incoming cases
- length of proceedings (timeframes)
- number of resolved cases
- number of pending cases
- backlogs
- productivity of prosecutors and prosecution staff
- satisfaction of prosecution staff
- satisfaction of users (regarding the services delivered by the public prosecutors)
- costs of the judicial procedures
- clearance rate
- disposition time
- percentage of convictions and acquittals
- other (please specify): .....

Comments

**073. Do you have a system to evaluate regularly court performance based primarily on the defined indicators?**

- Yes
- No

Comments The allocation of resources was in 2016 an option by law but seldom used. It's use is more frequent in the 2018 cycle which is why we included it. Perhaps in this question we don't need to change the answer in 2016.g., but please be aware that since the new cycle, this option is more often used, which is why we have made the change in the answer.

**073-0. If yes, please specify the frequency:**

- Annual

Less frequent

More frequent

Comments - If "less frequent" or "more frequent", please specify: According to the Court Rules of Procedure, courts quarterly, semi-annually, annually and in three-year period prepare reports on the work of the court. Those reports are done under prescribed, uniform methodology and are submitted directly to the Minister, to the higher court, the Supreme Court of Cassation and the High Judicial Council. Reports on the work are being made according to special forms and instructions prescribed by the Courts Rules of Procedure and are an integral part of it. The President is authorized in addition to these reports to draft independently and some other reports. The Supreme Court of Cassation evaluates the work of courts also through the Uniform Backlog Reduction Program, its IT (CMS) system and its statisticians – monthly, quarterly, semi-annual and annual reports. According to the Article 44 of the Court Rules of Procedure, Courts create quarterly, semestral, annual and triennial activity reports for the court, departments and judges using the prescribed single methodology and submit them to the minister, superior court, Supreme Court of Cassation and High Judicial Council. These activity reports are made in accordance with special forms and instructions provided in the present Rules, which make its integral part. In addition to these reports, the president has the authority to make other reports on his/her own.

**073-1. Is this evaluation of the court activity used for the later allocation of resources within this court?**

Yes

No

Comments

**073-2. If yes, which courses of action are taken?**

Identifying to the causes of improved or deteriorated performance

Reallocating resources (human/financial resources based on performance (treatment)

Reengineering of internal procedures to increase efficiency (treatment)

Other (please specify): .....

Comments For example – delegation of cases to courts which are less burdened, implementing new specific work procedures concerning some types of cases, such as enforcement cases, election of new judges because of increase of number of cases (for example, in administrative disputes).

**073-3. Do you have a system to evaluate regularly the performance of the public prosecution services based primarily on the defined indicators?**

Yes

No

Comments

**073-4. If yes, please specify the frequency:**

Annual

Less frequent

More frequent

Comments - If "less frequent" or "more frequent", please specify:

**073-5. Is this evaluation of the activity of public prosecution services used for the later allocation of resources within this public prosecution service?**

Yes

No

Comments

**073-6. If yes, which courses of action are taken?**

Identifying to the causes of improved or deteriorated performance

Reallocating resources (human/financial resources based on performance (treatment))

Reengineering of internal procedures to increase efficiency (treatment)

Other (please specify): .....

Comments

**079. Who is responsible for evaluating the performance of the courts (multiple options possible) :**

High Judicial Council

Ministry of Justice

Inspection authority

Supreme Court

External audit body

Other (please specify): .....

Comments The Ministry of Justice collects and processes data – certain indicators on the performance of courts and participates with the SCC in public policy measures to improve the system. The competences of the three relevant institutions are regulated by the Law on Organisation of Courts and the Courts Rules of Procedure. Courts file their reports to all three institutions. The Supreme Court of Cassation reviews the application of law and other regulations, and the work of courts. The judicial administration tasks are carried out by the High Judicial Council and the Ministry responsible for the judiciary. The judicial administration tasks carried out by the Ministry responsible for the judiciary are: monitoring the work of courts; collecting statistics and other data; approval of court rules on internal organisation and job classification; supervision of proceeding in cases within statutory time limits and acting on complaints and petitions; the proposing of the part of the budget intended for investments, projects and other programmes for operation of judicial authorities; ensuring spatial requirements, equipment supply and security of courts; oversight of financial and material operations of courts and the High Judicial Council; organisation and development of the judicial IT system; organisation, development and maintenance of the database of legal enactments; development and implementation of capital projects and other programmes for judicial authorities; appointment and dismissal of expert witnesses and court interpreters. The judicial administration-related duties performed by the High Judicial Council are: determination of general guidelines on the internal court organisation; maintaining personal records of judges, lay judges and court staff, the proposing of the part of the budget intended for operation of courts relating to running costs, and allocation of these funds; control of authorised spending of budgetary funds and oversight of financial and material operations of courts. The Ministry responsible for the judiciary exercises supervision over the implementation of the Court Rules of Procedure.

**079-1. Who is responsible for evaluating the performance of the public prosecution services (multiple options possible) :**

Public prosecutorial Council

Ministry of Justice

Head of the organisational unit or hierarchical superior public prosecutor

Prosecutor General /State public prosecutor

External audit body

Other (please specify): .....



### 3.6.3. Measuring courts' / public prosecution services activity

#### **070. Do you regularly monitor court activities (performance and quality) concerning:**

- number of incoming cases
- length of proceedings (timeframes)
- number of resolved cases
- number of pending cases
- backlogs
- productivity of judges and court staff
- satisfaction of court staff
- satisfaction of users (regarding the services delivered by the courts)
- costs of the judicial procedures
- number of appeals
- appeal ratio
- clearance rate
- disposition time
- other (please specify): .....

Comments The number of appeals as such is not monitored. However, it is monitored how many cases were decided by higher instance and how it was decided (whether the judgment had been dismissed or amended, or case remitted to lower court). This indicates the quality of judicial decisions of lower courts.

Regarding satisfaction of users (regarding the services delivered by the courts), it is not known that such surveys were conducted in 2018, although they have been conducted in the past.

#### **070-1. Do you regularly monitor public prosecution activities (performance and quality) concerning:**

- number of incoming cases
- length of proceedings (timeframes)
- number of resolved cases
- number of pending cases
- backlogs
- productivity of prosecutors and prosecution staff
- satisfaction of prosecution staff
- satisfaction of users (regarding the services delivered by the by the public prosecution)
- costs of the judicial procedures
- clearance rate
- disposition time
- percentage of convictions and acquittals
- other (please specify): .....

### 071. Do you monitor the number of pending cases and cases that are not processed within a reasonable timeframe (backlogs) for:

civil law cases

criminal law cases

administrative law cases

Comments According to the Court Rules of Procedure, courts quarterly, semi-annually, annually and in three-year period prepare reports on the work of the court. Those reports are done under prescribed, uniform methodology and are submitted directly to the Minister, to the higher court, the Supreme Court of Cassation and the High Judicial Council. Reports on the work are being made according to special forms and instructions prescribed by the Courts Rules of Procedure and are an integral part of it. The President is authorized in addition to these reports to draft independently and some other reports. The Supreme Court of Cassation evaluates the work of courts also through the Uniform Backlog Reduction Program, its IT (CMS) system and its statisticians – monthly, quarterly, semi-annual and annual reports. The Law on the Protection of the Right to Trial within a Reasonable Time ("Official Gazette of the Republic of Serbia", No. 40/2015) provides judicial protection of the right to trial within a reasonable time and that way prevents violation of the right to a trial within a reasonable time.

### 072. Do you monitor waiting time during judicial proceedings?

	Yes (If yes, please specify)	No
<b>within the courts</b>	( X )	( )
<b>within the public prosecution services</b>	( X )	( )

Comments The Law on the Protection of the Right to Trial within a Reasonable Time ("Official Gazette of the Republic of Serbia", No. 40/2015) provides judicial protection of the right to trial within a reasonable time and that way prevents violation of the right to a trial within a reasonable time.

Judicial protection of the right to a trial within a reasonable time includes an investigation conducted by a public prosecutor in criminal proceedings.

The duration of judicial proceedings is monitored and it is reflected within the court reports. Also, there are mechanisms for acceleration of the proceedings.

### 3.6.4. Information regarding courts /public prosecution services activity

### 080. Is there a centralised institution that is responsible for collecting statistical data regarding the functioning of the courts?

Yes (please indicate the name and the address of this institution): Functioning of the courts: The Supreme Court of Cassation, Belgrade, Nemanjina 9 – collection and processing of the greatest number of data and preparation of an “Analysis of the performance of courts of general and special jurisdiction”, <http://www.vk.sud.rs/>; Ministry of Justice, Belgrade, Nemanjina 22-26 - collection and processing of data – certain indicators on the performance of courts; statistics on criminal policies i.e. penalties imposed by courts, <https://www.mpravde.gov.rs/>; High Judicial Council, Belgrade, Resavska 42 - collection and processing of data on the performance of judges, <https://vss.sud.rs/en>; Statistical Office of the Republic of Serbia, Belgrade, Milan Rakic 5, <http://www.rjt.gov.rs/>; Functioning of the public prosecution: Republic Public Prosecutor Office, Belgrade, Nemanjina 22-26, <http://www.rjt.gov.rs/>.

No

Comments Functioning of the courts: The Supreme Court of Cassation, Belgrade, Nemanjina 9 – collection and processing of the greatest number of data and preparation of an “Analysis of the performance of courts of general and special jurisdiction”, <http://www.vk.sud.rs/>; Ministry of Justice, Belgrade, Nemanjina 22-26 - collection and processing of data – certain indicators on the performance of courts;

statistics on criminal policies i.e. penalties imposed by courts, <https://www.mpravde.gov.rs/>; High Judicial Council, Belgrade, Resavska 42 - collection and processing of data on the performance of judges, <https://vss.sud.rs/en>; Statistical Office of the Republic of Serbia, Belgrade, Milan Rakic 5, <http://www.rjt.gov.rs/>; Functioning of the public prosecution: Republic Public Prosecutor Office, Belgrade, Nemanjina 22-26, <http://www.rjt.gov.rs/>.

**080-1. Does this institution publish statistics on the functioning of each court:**

- Yes, on internet  
 No, only internally (in an intranet website)  
 No

Comments On the website of the Supreme Court of Cassation - Annual and six month reports on the work of all courts are published - <https://www.vk.sud.rs/en/annual-report-work-courts>. Also, courts publish their individual reports on their internet presentations.

**080-2. Is there a centralised institution that is responsible for collecting statistical data regarding the functioning of the public prosecution services?**

Yes (please indicate the name and the address of this institution): Republic Public Prosecutor`s Office Nemanjina 22-26 Belgrade Republic of Serbia, [www.rjt.gov.rs](http://www.rjt.gov.rs)

- No

Comments

**080-3. Does this institution publish statistics on the functioning of each public prosecution service?**

- Yes, on internet  
 No, only internally (in an intranet website)  
 No

Comments Republic Public Prosecutor`s Office website: [www.rjt.gov.rs](http://www.rjt.gov.rs)

**081. Are individual courts required to prepare an activity report (that includes, for example, data on the number of resolved cases or pending cases, the number of judges and administrative staff, targets and assessment of the activity)?**

- Yes  
 No

Comments - If yes, please describe the content of the report and its audience (i.e. to whom the report is intended): All courts draw up a six-monthly and annual report on their work in accordance with the Court Rules of Procedure. In accordance with established reporting parameters, they submit their reports to the Supreme Court of Cassation and the Ministry of Justice. The Courts also draft and submit the Program for Resolution of Old Cases with the action plan and submit it to the Supreme Court of Cassation. All courts, except the first instance, draw up a Monitoring (visiting) Plan of courts within their jurisdiction. Courts also prepare annual schedule of work of judges and judicial assistants, etc.

Additionally, all state authorities, including courts are obliged in accordance with the Law on Free access to information of public importance (Art. 39), to publish information on its activities, organization etc. This information is available at the website of each court. (see for example website of the Supreme Court of Cassation (<http://www.vk.sud.rs>)).

**081-1. If yes, please specify in which form this report is released:**

- Internet  
 Intranet (internal) website

Paper distribution

Comments All courts draw up a six-monthly and annual report on their work in accordance with the Rules of Procedure. In accordance with established reporting parameters, they submit their reports to the Supreme Court of Cassation and the Ministry of Justice. The courts also draft and submit the Backlog Reduction with the Activity Plan and submit it to the Supreme Court of Cassation. All courts, except the first instance, draw up a Court Monitoring Plan of courts within their jurisdiction.

**081-2. If yes, please, indicate the periodicity at which the report is released:**

- Annual  
 Less frequent  
 More frequent

Comments Six-monthly and annual reporting.

**081-3. Are public prosecution services required to prepare an activity report (that includes, for example, data on the number of incoming cases, the number of decisions, the number of public prosecutors and administrative staff, targets and assessment of the activity)?**

- Yes  
 No

Comments - If yes, please describe the content of the report and its audience (i.e. to whom the report is intended):

**081-4. If yes, please specify in which form this report is released:**

- Internet  
 Intranet (internal) website  
 Paper distribution

Comments Every public prosecutor's office is required to prepare annual reports on their work. Based on those reports, the Republic Public Prosecutor's Office is preparing aggregated annual report of all prosecutor's offices. This report includes all relevant statistical data – number of reported persons, undertaken activities for criminal acts foreseen by the Criminal Code and other laws, i.e. investigation and indictments, data on first instance court decisions, etc. Furthermore, this report contains data on prosecutions' performance compared to previous year, trends, challenges and improvements in implementation of various criminal law institutes. Also, activities undertaken in line with national strategic documents and activities within the EU accession process are reported. Annual report is presented to the National Assembly and is published on the web site of the Republic Public Prosecutor's Office and made available for the public.

**081-5. If yes, please, indicate the periodicity at which the report is released:**

- Annual  
 Less frequent  
 More frequent

Comments

### 3.6.5 Courts administration

**082. Is there a process or structure of dialogue between the public prosecution services and courts regarding the way cases are presented before courts (for example the organisation, number and planning of hearings, on-call service for urgent cases, selection of simplified procedures of prosecution...)?**

Yes

No

Comments - If yes, please specify: At the initial, preparatory hearing, pursuant to the Criminal Procedure Code. The preparatory hearing, scheduled after the indictment is confirmed by the court, could be considered as a form of dialogue between the public prosecution services, courts and other participants of the criminal proceedings. At the preparatory hearing the parties state their positions in relation to the subject-matter of the charges, explain the evidence which will be examined at the trial and propose new evidence. Also, the factual and legal questions which will be the subject-matter of discussion at the trial are determined, a decision is rendered on a plea agreement, on detention and on discontinuing criminal proceedings, as well as on other questions the court finds of relevance for holding a trial. However, it is important to notice that the together with the prosecutor, defendant, defense counsel, the aggrieved party, legal representative and proxy of the prosecutor and aggrieved party, and if needed a translator and an interpreter, will be summoned to the preparatory hearing.

**082-1. Is there in general a process or structure of dialogue between lawyers and courts regarding the way cases are presented before courts in other than criminal matters (e.g. organisation, number and planning of hearings, on-call service for urgent cases)?**

Yes

No

Comments - If yes, please specify: Under the Law on Civil Procedure, the party (including its lawyer) is in obligation, no later than the preliminary hearing or at the first hearing for the main hearing, if the preliminary hearing is not mandatory, to present all facts required for explanation of its proposals, to propose evidence that confirm the presented facts, to give statement about the allegations and offered evidences of the opposing party, as well as to propose the time-frame for conducting of the proceeding. The court decides, at the hearing, on the time frame, especially on the number of hearings, time of hearings, schedule for taking of evidence at the hearings and taking of other procedural actions, court time frames, and total time of the main hearing.

**3.6.6 Performance and evaluation of judges and public prosecutors**

**083. Are there quantitative performance targets defined for each judge (e.g. the number of resolved cases in a month or year)?**

Yes

No

Comments Performance of judges with a standing tenure of office and court presidents' shall regularly be conducted once every three years, and in judges elected for the first time- once a year. Exceptionally, based on the Decision of the High Judicial Council performance of judges and court presidents may be evaluated extraordinarily (Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents "Official Gazette of RS", Nos. 81/2014, 142/2014, 41/2015, 7/2016). Criteria for evaluation of judges' performance are quality and quantity. Standards for evaluating quality of judges' performance shall be the percentage of repealed decisions and time for drafting decisions. Quality evaluation is performed by determining individual grade for each standard, and based on determined individual grades, final evaluation grade of judges' performance quality is determined. Individual grades for quality standards are as follows: "outstandingly successful", "successful" and "unsatisfactory". Standard for quantity evaluation of judges' performance is monthly caseload quota, and for judges not having sufficient number of pending cases, standard for quantity evaluation shall be the total number of closed cases against the total number of pending cases. Evaluation of judges' quantity performance shall be conducted by evaluating the judges' quantity standard by an individual performance grade, i.e. "outstandingly successful", "successful" and "unsatisfactory". Articles 17-26 of the Rules provide more detailed ruled on how quantity (efficiency) of judicial performance is evaluated. This is done based on the number of cases disposed by a judge over a period one month against the number of cases they should dispose- monthly caseload quota. The monthly caseload quota pertain to the cases adjudicated on merits, whereas three cases disposed of in some other manner shall be regarded as one case adjudicated on the merits. Derogating from paragraph 2 of this Article, in higher and appellate courts five closed cases in Kž and Kž2 subject matter shall be regarded as one case adjudicated on merits. In appellate court, five closed cases in Kžm2 subject matter shall be regarded as one case adjudicated on the merits. Three pending cases



protecting the right to a trial within a reasonable time period decided on based on the objection to accelerate the procedure and appeals, shall be regarded as one case adjudicated on merits. Two cases closed by entering into mediation agreement shall be regarded as one case adjudicated on merits. If a judge is unable to achieve the monthly caseload quota due to insufficient number of pending cases, the Commission shall take into account the total number of closed cases against the total number of pending cases. If a judge has handled cases of different types, the quantity of his performance shall be established by adding together percentages for each case type and by comparing it against the monthly caseload quota for that matter, provided that Commissions shall assess all the types of disposed cases specified by the Rules of Court Procedure and the law, but not mentioned herein.

### **083-1. Who is responsible for setting the individual targets for each judge?**

- Executive power (for example the Ministry of Justice)
- Legislative power
- Judicial power (for example the High Judicial Council, Supreme Court)
- President of the court
- Other (please specify): .....

Comments Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents (“Official Gazette of RS”, Nos. 81/2014, 142/2014, 41/2015, 7/2016) which is being applied as of 1st July 2015 provides for the Commission for evaluation of judges and court presidents’ performance which has three members appointed by the High Judicial Council from the ranks of Council members- judges. The Commission shall pass a decision on initiating procedure for judges and court presidents’ performance evaluation, which for each court sets forth the date when the Commission is to launch the evaluation procedure and the date of the evaluation procedure end, seat of the court where evaluation is being conducted, and appoints the Commission secretary. The Commission shall coordinate the work of commissions, discuss disputable issues in relation to the evaluation procedure of judges and court presidents’ performance, issue guidelines to commissions implementing the evaluation procedure and make proposals for improvement of the evaluation procedure and commissions’ operation. The Commission shall submit to the Council a report on actions undertaken in scope of the judges and court presidents’ performance evaluation procedure. Further, HJC appoints Commissions implementing the evaluation procedure and determining performance grades and a Commission deciding on objections of judges and court presidents to the performance evaluation and appraisal procedure.

### **114. Is there a system of qualitative individual assessment of the judges’ work?**

- Yes
- No

Comments According to Art. 33 of the Law on Judges, performance evaluation of judges and court presidents is evaluated by commissions of the High Judicial Council. The commissions are composed of three members, whereby judges of higher instance evaluate the work of judges and court presidents at lower instance. Objections to evaluation are decided on by the commission composed of three members appointed by the Council from among judges of the Supreme Court of Cassation (Article 33). Performance of judges with tenure of office and court presidents is regularly evaluated once in three years and of judges elected for the first time once a year.

#### **114-1. If yes, please specify the frequency of this assessment:**

- Annual
- Less frequent
- More frequent

### **083-2. Are there quantitative performance targets defined for each public prosecutor (e.g. the number of decisions in a month or year)?**

- Yes
- No

Comments

### 083-3. Who is responsible for setting the individual targets for each public prosecutor

- Executive power (for example the Ministry of Justice)
- Prosecutor General /State public prosecutor
- Public prosecutorial Council
- Head of the organisational unit or hierarchical superior public prosecutor
- Other (please specify): .....

Comments

### 120. Is there a system of qualitative individual assessment of the public prosecutors' work?

- Yes
- No

Comments

#### 120-1. If yes, please specify the frequency of this assessment:

- Annual
- Less frequent
- More frequent

Comments Please note that less frequent evaluation can only be applied for public prosecutors and deputy public prosecutors elected permanently, taking into account that described stands for regular evaluation of the work in the intervals of 3 years. For example, frequency of regular work evaluation component of promptness in proceedings is based on reports filed every four months within the period of three years.

One-year evaluation exists for deputy public prosecutors elected first time for the period of three years.

More frequent evaluation can be applied in the case of non-regular work evaluation, which is performed on the basis of the SPC decision

### C4. Please indicate the sources for answering the questions in this chapter:

Sources: High Court Council, State Prosecutorial Council; Law on Judges ("Official Gazette of the Republic of Serbia" No. 116/2008,58/2009-decision of Constitutional Court, 104/2009, 101/2010, 8/2012- decision of Constitutional Court, 121/2012, 124/2012- decision of Constitutional Court, 101/2013, 111/2014- decision of Constitutional Court, 117/2014, 40/2015, 63/2015 - decision of Constitutional Court, 106/2015, 63/2016- decision of Constitutional Court and 47/2017); Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents ("Official Gazette of RS", Nos. 81/2014, 142/2014, 41/2015, 7/2016)

## 4.Fair trial

### 4.1.Principles

#### 4.1.1.Principles of fair trial

### 084. Percentage of first instance criminal in absentia judgments (cases in which the suspect is not

attending the hearing in person nor is represented by a lawyer)?

[            ]

NA

NAP

Comments - Please add methodology for calculation used.

**085. Is there a procedure to effectively challenge a judge, if a party considers that the judge is not impartial?**

Yes

No

Comments - Please could you briefly specify: The Law on Judges (Art. 26 and 31, also provision of the Law on Civil Procedure (Article 67) and the Law on Criminal Procedure (Art. 37- 42) contain the relevant provisions.

**085-1. Ratio between the total number of initiated procedures of challenges and total number of finalised challenges (in the reference year):**

[ 43 ]

NA

Comments Ratio between the total number of initiated procedures of challenges and total number of finalised challenges (in 2018): Total number of finalised (positive) challenges (2588)/ Number of initiated procedures of challenges (6006)= 43%

**086. Is there in your country a monitoring system for the violations related to Article 6 of the European Convention on Human Rights?**

For civil procedures (non-enforcement)

For civil procedures (timeframe)

For criminal procedures (timeframe)

NAP

Comments - Please specify what are the terms and conditions of this monitoring system (information related to acknowledged violations by ECHR at the State/courts level; implementation of internal systems to prevent other violations (that are similar) and if possible to measure an evolution of the established violations): A specific procedure exists for monitoring of ECHR judgments related to violations of Article 6 of the European Convention on Human Rights, and reaction/compensation for the purpose of protection of Right to Trial within a Reasonable Time.

According to Article 46 of the European Convention on Human Rights, the Committee of Ministers of the Council of Europe monitors enforcement of judgments and decisions of the Court issued against all the contracting parties including the Republic of Serbia. Therefore, The Public Attorney's Office is obliged to submit reports on payments of compensation awarded, to the Committee of Ministers of the Council of Europe. This has been done on regular basis and number of Action plans and action reports have been submitted to the Committee of Ministers.

Concerning the prevention of similar violations of the part of Article 6, which relates to the trial within a reasonable time, it is exercised by courts of general and special jurisdiction on the requests of the party. The Law on the Protection of the Right to a Trial within a Reasonable Time stipulates that this right is one of the aspects of the right to a fair trial under Article 6 of the ECHR. The right to a trial within a reasonable time is granted to each party to the court proceedings, including the enforcement proceedings, each party under the law governing non-contentious proceedings, and the injured parties in criminal proceedings, the private prosecutor and the injured party as a prosecutor - only if they have submitted a property claim (pecuniary damages). The protection of other various aspects of the rights under Article 6 ECHR is exercised before the Constitutional Court by lodging a constitutional complaint. Sources are the RS Constitution (Official Gazette of the Republic of Serbia No 98/06), the Law on the Constitutional Court ("Official Gazette of the RS", No. 109/2007, 99/2011, 18/2013 - decision of the CC, 103/2015 and 40/2015 - other Law), the Law on the Organization of Courts ("Official Gazette of

the RS", No. 116/2008, 104/2009, 101/2010, 31/2011 - other Law, 78/2011 - other Law, 101/2011, 101/2013, 106/2015, 40/2015 - other Law, 13/2016, 108/2016, 113/2017, 65/2018 - decision of the CC, 87/2018 and 88/2018 - decision of the CC), and the Law on the Protection of the Right to a Trial within a Reasonable Time ("Official Gazette of the RS", No. 40/2015).

Since the Republic of Serbia became part of the Convention system in 2004 the European Court has adopted many judgments and decisions establishing a violation of the right to trial within a reasonable time in respect of the Republic of Serbia (Nemet v. Serbia, no. 22543/05, judgment of 8 December 2009; Rii and Others v. Serbia, no. 53736/08, judgment of 1 July 2014; etc.). In order to fully execute the mentioned judgments and decisions the Republic of Serbia adopted special domestic remedies with a view to preventing new violations of the right to trial within a reasonable time.

Concretely, the Law on Protection of the Right to a Trial within a Reasonable Time ("Official Gazette of the RS", No. 40/2015) was adopted and entered into force on 1 January 2016. The purpose of this law was to provide judicial protection of the right to a trial within a reasonable time and thus prevent future occurrences of a violation of this right. The Law is applied both in respect of criminal investigation and civil procedures.

The law introduces an objection as a legal remedy proposing the expedition of court proceedings and of which the President of the court decides, in a procedure to which the provisions of the Law on non-contentious procedure are applied. In case a party is not satisfied with the outcome, an appeal can be submitted. On the other hand, the Law introduces a request for just satisfaction, as a remedy to provide a party with satisfaction in cases where this right was violated. The satisfaction can be obtained in the following forms: the right to be paid financial compensation for non-pecuniary damage and the right to publish a written statement by the State Attorney's Office establishing that the right to a trial within a reasonable time has been violated, including the right to publish a judgment declaring that the party has been violated the right to a trial within a reasonable time.

Fair satisfaction can be achieved before the Attorney General's Office by filing a motion for settlement, as well as by filing a lawsuit with the competent court, under the conditions and in the manner prescribed by the provisions of this Law. The financial compensation is recognized in the amount of 300 Euros to 3,000 Euros, while in determining the amount of financial compensation the Attorney-General and the court apply the criteria for assessing the duration of the trial within a reasonable time prescribed by this Law. These criteria include above all the complexity of the subject matter of the trial or investigation, the conduct of the competent state authority and the party during the proceedings and the importance of the subject of the trial or investigation for the party.

Also, a party may file a lawsuit against the Republic of Serbia for compensation of pecuniary damage caused by the violation of the right to a trial within a reasonable time, within the statutory time limit, and to be decided by the court in accordance with the above criteria, according to the general rules of the Law of Obligations.

As a result of the successful implementation of the subject Law, a number of pending cases before the European Court (regarding the right to a trial within a reasonable time) is greatly reduced. In that regard it should be pointed to the fact that in 2019 neither case was communicated to the Republic of Serbia concerning possible violation of Article 6 para. 1 of the Convention, namely the right to a trial within a reasonable time.

For all other infringements of Article 6, the right to file a constitutional appeal exists before the Constitutional Court, according to Art. 82-92 of the Law on Constitutional Court.

## **086-1. Is there in your country a possibility to review a case after a decision on violation of human rights by the European Court of Human Rights?**

Yes

No

NAP

Comments In criminal proceedings, on the basis of Article 485 para. 1 point 3) of the Law on Criminal Procedure ("Official Gazette of the RS", No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014 and 35/2019) a criminal case can be reviewed upon a decision of the European Court. It is possible to file a request for the protection of legality after a decision of the European Court of Human Rights if human rights and freedoms of the defendant or other participant in the procedure guaranteed by the Constitution or the European Convention have been violated or denied, as established by a decision of the Constitutional Court or the European Court of Human Rights.

Pursuant to the Law on Civil Procedure ("Official Gazette of the RS", No. 72/2011, 49/2013 - decision of CC, 74/2013 - decision of CC, 55/2014 and 87/2018), there is a possibility for reopening a litigation proceedings which has ended with legally binding court decision in case a decision of the European Court was issued by which a violation of human rights was found, which can be of significance for adopting more favorable decision for the applicant.

According to the Law on General Administrative Procedure ("Official Gazette of the RS, No.18/2016 and 95/2018- authentic interpretation) there is a possibility of reopening a case in case the European Court has established a violation in respect of the same administrative matter, i.e. if the position from a subsequent decision of the European Court of Human Rights in the same matter may have an impact on the legality of a legally binding judicial procedure.

## D1. Please indicate the sources for answering questions in this chapter.

Sources: Code of Criminal Procedure, Article 485, Paragraph 1, Item 3; Code of Civil Procedure, Article 425, Paragraph 1, Item (11); Administrative Disputes Law; Supreme Court of Cassation.

## 4.2. Timeframe of proceedings

### 4.2.1. General information

#### 087. Are there specific procedures for urgent matters regarding:

- civil cases
- criminal cases
- administrative cases
- There is no specific procedure for urgent matters

Comments - If yes, please specify: In accordance with the Law on Civil Procedure, the court shall always pay special attention to the need for urgent solving of labour disputes. In actions related to trespassing, the court shall always pay special attention to the need for urgent solving of disputes, taking into account the circumstances of each case. The proceedings in family relations are also urgent in accordance with the Family Code, and all cases where it is necessary to issue a temporary measure, as well as other cases with increased social danger. The Law on Enforcement and Security also contains provisions on urgent procedure. The Court Rules of Procedure determine which procedures are to be considered urgent as well as handling of such cases - shorter deadlines and order of resolving.

In accordance with the Criminal Procedure Code, courts are required to conduct criminal proceedings without delays and to prevent all abuses of law aimed at delaying proceedings. Criminal proceedings against a defendant who is in detention are urgent, as well as domestic violence cases, cases in which minors are victims of crime, international cooperation cases, organized and other serious crimes, as well as cases with increased social danger. With respect to administrative cases specific procedures for urgent matters exist, based on various governing laws (ex. Law on Administrative Disputes („Official Gazette RS“, No. 111/09) – decision-making within 5 days upon request for postponement of execution; Law on Protection of Whistleblowers („Official Gazette RS“ No. 128/14) – decision-making within 8 days upon proposal for an interim measure and urgent procedure upon lawsuit; Law on Protection of Competition („Official Gazette RS“ Nos. 51/09 and 59/13) – decision-making upon lawsuit within 3 months; Law on Property Restitution and Compensation („Official Gazette RS“ Nos. 72/11 .. 142/14) – urgent procedure upon lawsuit; Law on High Judicial Council („Official Gazette RS“, Nos. 116/08...106/15) – urgent procedure upon lawsuit on the election of electoral members of the High Judicial Council; Law on Prevention of Harassment at Work („Official Gazette RS“, No. 36/10) – urgent procedure upon lawsuit; Law on Local Elections („Official Gazette RS“, No. 129/07...54/11) – deadline for deciding on appeal is 48 hours; etc.

#### 088. Are there simplified procedures for:

- civil cases (small disputes)
- criminal cases (misdemeanour cases)
- administrative cases
- There is no simplified procedure

Comments - If yes, please specify: According to the Law on Civil Procedure, in the process of low-value disputes, a complaint is not

submitted to the defendant to answer. With the summons to the defendant a lawsuit will be sent to him/her. In these cases, preliminary hearing is not scheduled to be held. Also, a judgement does not have to have reasoning if the parties have waived their right to a legal remedy, unless specified otherwise by law.

According to the Criminal Procedure Code, simplified criminal proceedings are applied for criminal offences for which a fine or a term of imprisonment of up to eight years or fine is prescribed as the principal penalty. The Prosecutor conducts necessary evidentiary actions and a motion to indict is filed to the court.

Special, simplified proceedings exist also in the actions taken with a private lawsuit.

Furthermore, the public prosecutor may defer criminal prosecution for criminal offences punishable by a fine or a term of imprisonment of up to five years if the suspect accepts one or more of the obligations. After the obligation is fulfilled, the prosecutor will reject criminal complaint – opportunity institute.

Simplified procedures for administrative cases exist:

The Law on Administrative Disputes prescribes simplified procedures when the Court decides in the preliminary procedure, as follows: 1. The rejection of a lawsuit due to its irregularities (if a lawsuit is incomplete or incomprehensible).

2. The rejection of a lawsuit due to other legal reasons (when the lawsuit has not been filed on time or it was filed prematurely; when the act which is challenged in the lawsuit is not an administrative act; if there are no evidence submitted with a lawsuit lodged due to silence of administration; when it is clear that the administrative act disputed in the lawsuit does not affect the rights of plaintiff or his direct personal interests based on the law; when after filing a lawsuit, challenged act is annulled upon lawsuit of other party; when an appeal could have been filed against the administrative act challenged in the lawsuit, but it was not filed at all or on time, or an appellant gave up from the appeal in the second-instance procedure; when there is already a legally effective decision rendered in an administrative dispute on the same matter).

3. Annulment of the administrative act in the preliminary procedure (if the Court finds that the challenged act contains such essential failings that prevent assessment of the legality of the act, it may for this reason annul the act by the judgement even without sending the lawsuit for an answer, requesting from an accused party preliminary comment).

4. Compliance with the lawsuit by an accused party (if an accused party during the court proceedings passes another act by which it amends or abolishes the administrative act against which the administrative dispute was instituted, and if in case from Article 19 of this Law it subsequently passes first-instance administrative act, or second-instance administrative act, and the plaintiff at the same time informs the court by written statement that he/she is satisfied with subsequently passed act or if he/she failed to submit a statement within the deadline prescribed in paragraph 2 of this Article, the Court shall render a ruling to terminate the proceedings.)

5. Withdrawal of the lawsuit by plaintiff.

## **088-1. For these simplified procedures, may judges deliver an oral judgement with a written order and without the full reasoning of the judgement ?**

civil cases

criminal cases

administrative cases

Comments - If yes, please specify: In Article 355 § 6 of the Law on Civil Procedure it is regulated that the judgment does not contain a reasoning if the parties have waived their right to a remedy, unless otherwise provided by a special law. Also, the same article stipulates that in the reasoning of the judgment for omission, the verdict on the basis of confession, the judgment on renunciation, the judgment on absenteeism and the judgment rendered pursuant to Article 29 § 2 of the Law, only the reasons justifying such judgments shall be stated. In criminal proceedings, they may verbally announce the verdict and make it without reasoning.

A written judgment need not contain a reasoning: 1) if the parties, defense counsel and person referred to in Article 433 para. 4 and 5 of this Code, immediately after the verdict was announced, stated that they waived their right to appeal, or 2) if the accused was sentenced to imprisonment for a term not exceeding three years, a fine, a sentence of work in public interest, a sentence of revocation of his driving license, a suspended sentence or a reprimand, and the conviction was based on the defendant's confession.

There are no verbal judgments in the conduct of administrative disputes.

The misdemeanor procedure (Article 252 of the Law on Misdemeanors) stipulates that the verdict is published verbally if the defendant is present, and a written verdict with justification will be delivered to the defendant and the applicant only if they so request.

If the verdict is published, only the operative part of the verdict is entered in the minutes and states that the verdict was communicated orally, that a brief explanation of the verdict and a remedy were given.

If the defendant requests that a written judgment be served on him, the court is obliged to deliver it within eight days of its publication.

Only the transcript of the sentence of the verdict will be provided to the claimant and to the defendant who is present at the hearing if: 1) the defendant declares that he does not request that a written verdict be served on him; 2) when the defendant waives the right to appeal.

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

( X ) Yes

( ) No

Comments - If yes, please specify: Yes, in civil and criminal proceedings. Not in administrative disputes - the proceedings are conducted through strict application of the time-frames set by law.

Under the Law on Civil Procedure, the party (including its lawyer) is in obligation, no later than the preliminary hearing or at the first hearing for the main hearing, if the preliminary hearing is not mandatory, to present all facts required for explanation of its proposals, to propose evidence that confirm the presented facts, to give a statement about the allegations and offered evidences of the opposing party, as well as to propose the time-frame for conducting of the proceeding. The court decides, at the hearing, on the time frame, especially on the number of hearings, time of hearings, schedule for taking of evidence at the hearings and taking of other procedural actions, court time frames, and total time of the main hearing.

**4.2.2. Case flow management – first instance**



**091. First instance courts: number of other than criminal law cases.**

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court
<b>Total of other than criminal law cases (1+2+3+4)</b>	1 183 057 [ ] NA [ ] NAP	1 011 008 [ ] NA [ ] NAP	1 166 314 [ ] NA [ ] NAP	1 027 751 [ ] NA [ ] NAP	702 442 [ ] NA [ ] NAP
<b>1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)</b>	254 152 [ ] NA [ ] NAP	324 445 [ ] NA [ ] NAP	358 013 [ ] NA [ ] NAP	220 584 [ ] NA [ ] NAP	47 258 [ ] NA [ ] NAP
<b>2. Non litigious cases (2.1+2.2+2.3)</b>	893 516 [ ] NA [ ] NAP	611 901 [ ] NA [ ] NAP	739 969 [ ] NA [ ] NAP	765 448 [ ] NA [ ] NAP	649 222 [ ] NA [ ] NAP
<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	890 143 [ ] NA [ ] NAP	567 005 [ ] NA [ ] NAP	696 403 [ ] NA [ ] NAP	760 745 [ ] NA [ ] NAP	649 221 [ ] NA [ ] NAP

<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	55 [ ] NA [ ] NAP	3 141 [ ] NA [ ] NAP	3 080 [ ] NA [ ] NAP	116 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>2.2.1. Non litigious land registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.2 Non-litigious business registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.3. Other registry cases</b>	55 [ ] NA [ ] NAP	3 141 [ ] NA [ ] NAP	3 080 [ ] NA [ ] NAP	116 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>2.3. Other non-litigious cases</b>	3 318 [ ] NA [ ] NAP	41 755 [ ] NA [ ] NAP	40 486 [ ] NA [ ] NAP	4 587 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP
<b>3. Administrative law cases</b>	30 731 [ ] NA [ ] NAP	25 073 [ ] NA [ ] NAP	18 346 [ ] NA [ ] NAP	37 458 [ ] NA [ ] NAP	5 149 [ ] NA [ ] NAP
<b>4. Other cases</b>	4 658 [ ] NA [ ] NAP	49 589 [ ] NA [ ] NAP	49 986 [ ] NA [ ] NAP	4 261 [ ] NA [ ] NAP	813 [ ] NA [ ] NAP

Comments The answer to question 91.1. includes litigious cases in higher courts (P, P1, P2, P3, P4, P-uz and R), basic courts (P, P1, P2, P1-uz, Prr and Prr1), commercial courts (P, P2). For commercial courts, bankruptcy cases (St) as well as reorganization in bankruptcy cases (Reo) which were previous to 2016-2018 cycle displayed in 2.3. are included in 2.1, since a judge decides in these cases. Newly added cases in this row, from 2016-2018 cycle are those pursuant to the Law on Protection of Whistle-blowers (applicable from 04.06.2015) and litigious proceedings pursuant to lawsuits for compensation of pecuniary and non-pecuniary damage due to infringement of the right to trial within a reasonable time from higher courts (P-uz, Ppr-uz, Prr1), basic courts (P1-uz, Prr, Prr1) and misdemeanour courts (Pr-uz).

A major change in the number of non-litigious cases (91.2 and 91.3) and, consequently, the total number of cases, is a result of the implementation of the new Law on Enforcement and Security from 1 July 2016 and the systemic measures defined in the special program for reduction of enforcement case backlog. Serbia has enabled a comprehensive disposition of enforcement case backlog. Amendments to the Law on Court Organization and the new Law on Protection of the right to a trial within reasonable time have shifted responsibility for protection of this right from the Constitutional Court to the courts of general and special jurisdiction. This has led to the filing of a large number of motions to that effect with all Serbian courts, including objections requesting acceleration of proceedings and claims for compensation for both tangible and intangible damages.

Commercial courts received a significantly higher number of cases in 2018 – 128,681, compared to 2017 when the total number of incoming cases was 99,903.

Comparative data on incoming cases in all courts in the Republic of Serbia (the influx of new cases and cases that are being processed again, but that were previously classified as disposed) indicate a significant increase of influx in the period from 2015 to 2018. A special category of cases within the increased inflow are the cases of the Administrative Court, due to the continuous expansion of the jurisdiction through new laws (restitution – civil and confessional, protection of labor rights of employees working in local self-government units, electoral cases...), cases which require urgent and particularly urgent actions, especially during electoral process and the increased number of regular cases of administrative law. The Administrative Court does not act promptly, since the trend of increased inflow and number of pending cases is continuous and it has been noted in both the 2018 and 2019 Annual Report of the Courts that it is necessary to undertake systematic organizational measures in order to organize the jurisdictions of this court (two instances, increased number of judges, increased number of court staff and review of the jurisdictions of this court under current regulations). (Please see: “Annual Report on the work of courts in the Republic of Serbia for 2018”, [https://www.vk.sud.rs/sites/default/files/attachments/KNJIGA%20KONACNA-%20ENGLSKI\\_2.pdf](https://www.vk.sud.rs/sites/default/files/attachments/KNJIGA%20KONACNA-%20ENGLSKI_2.pdf) and Information of the Administrative Court - <http://www.up.sud.rs/uploads/useruploads/Izvestaji-o-radusuda/GODI%C5%A0NJI-IZVE%C5%A0TAJA-ZA-2018.pdf>)

**092. If courts deal with “civil (and commercial) non-litigious cases”, please indicate the case categories included:**



. Under 91.2.1. the following categories are included: Higher court: Rehabilitation cases. Basic courts: inheritance, various non-litigious cases, PI (non-litigious payment orders) Commercial courts: liquidation and various civil cases, PI (non-litigious payment orders)

A significant drop in inheritance cases (O) is continued because of transfer of cases to notaries. All civil and commercial enforcement cases of basic and commercial courts are included in this category: Enforcement based on an enforceable and authentic document, proposals for implementation of enforcement based on enforceable and authentic documents by the enforcement officer, third-party objections regarding enforcement agreements, request for elimination of irregularities (to decisions made by enforcement agents), monetary fines, pleas regarding enforcements based on enforceable and authentic documents, complaints in the proceedings for settlement of claims on the basis of utility and similar services, and other enforcements.

Under 2.2/2.2.3. Provided data is from "Fi" registers in commercial courts, which include the number of cases pending before the court registries (related to public service institutions, such as healthcare institutions, education and cultural institutions).

Under 2.3. the number of cases related to trial within a reasonable time is given (pursuant to the Law on Protection of the Right to Trial Within a Reasonable Time – applicable from 01.01.2016)). Cases of trial within reasonable time in higher courts (R4 i, R4 k, R4 p), previously included in category 4 were transferred in this category and new cases were also added, pursuant to the new law. This category also includes Basic court cases "E-jb"- complaints against the work of notaries (ex. In case notary denies authentication of an act, for which a party claims to have a right.

### 093. Please indicate the case categories included in the category "other cases":

. Included under 91.4 are the cases of the courts in which judges act, but which could not be placed in the other categories - ex. Various letters rogatory on taking of evidence and service of documents, in civil and commercial proceedings, etc. (POM, Pom Ug, Pom IgH1, Pom IgN, Pom UgN, Pom UgH1, Pom IgH2, etc.), higher courts (POM Ig). Also included in this category are cases of drafting and authentication of notary deeds and records on real estate transactions by judges in the eight courts on which territory notaries have not been appointed yet (a designated judge acts as a notary in these courts).

### 094. First instance courts: number of criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court
<b>Total of criminal law cases (1+2+3)</b>	826 155 [ ] NA [ ] NAP	1 949 333 [ ] NA [ ] NAP	2 036 538 [ ] NA [ ] NAP	738 950 [ ] NA [ ] NAP	23 207 [ ] NA [ ] NAP
<b>1. Severe criminal cases</b>	28 611 [ ] NA [ ] NAP	51 708 [ ] NA [ ] NAP	52 361 [ ] NA [ ] NAP	27 958 [ ] NA [ ] NAP	5 302 [ ] NA [ ] NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	324 706 [ ] NA [ ] NAP	347 081 [ ] NA [ ] NAP	411 236 [ ] NA [ ] NAP	260 551 [ ] NA [ ] NAP	16 744 [ ] NA [ ] NAP
<b>3. Other cases</b>	472 838 [ ] NA [ ] NAP	1 550 544 [ ] NA [ ] NAP	1 572 941 [ ] NA [ ] NAP	450 441 [ ] NA [ ] NAP	1 161 [ ] NA [ ] NAP

Comments - If you cannot make a distinction between misdemeanour criminal cases and severe criminal cases (according to the CEPEJ definitions), please indicate the categories of cases reported in the category "serious offences" and cases reported in the category "minor offences". If "Other cases" please specify: The increase of the number of cases is primarily a result of the new category "other cases", which was previously (until 2018-2020 CEPEJ Cycle) mentioned only in the comments section. Additionally, new cases have been introduced in this cycle: K-Po4 I SPKPo 4, I SP k Po 3.



### 4.2.3. Case flow management – second instance

#### 097. Second instance courts (appeal): Number of “other than criminal law” cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court
<b>Total of other than criminal law cases (1+2+3+4)</b>	65 001 [ ] NA [ ] NAP	156 493 [ ] NA [ ] NAP	140 736 [ ] NA [ ] NAP	80 758 [ ] NA [ ] NAP	3 397 [ ] NA [ ] NAP
<b>1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)</b>	64 155 [ ] NA [ ] NAP	146 084 [ ] NA [ ] NAP	130 412 [ ] NA [ ] NAP	79 827 [ ] NA [ ] NAP	3 374 [ ] NA [ ] NAP
<b>2. Non litigious cases (2.1+2.2+2.3)</b>	846 [ ] NA [ ] NAP	10 404 [ ] NA [ ] NAP	10 319 [ ] NA [ ] NAP	931 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	221 [ ] NA [ ] NAP	2 701 [ ] NA [ ] NAP	2 660 [ ] NA [ ] NAP	262 [ ] NA [ ] NAP	[ ] NA [ X ] NAP
<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.1. Non litigious land registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.2 Non-litigious business registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.3. Other registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.3. Other non-litigious cases</b>	625 [ ] NA [ ] NAP	7 703 [ ] NA [ ] NAP	7 659 [ ] NA [ ] NAP	669 [ ] NA [ ] NAP	[ ] NA [ X ] NAP

<b>3. Administrative law cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>4. Other cases</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	5 <input type="checkbox"/> NA <input type="checkbox"/> NAP	5 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If "Other cases" please specify Under item 1. It is possible that the differences with respect to 2016 were due to the new Gž - I register as well as to the increased influx of appeals related to the trial within a reasonable time (Gž RR). Item 2.3 also saw an increase in cases due to the increased number of proceedings under the Trial within a Reasonable Time Act (objection to expedite the proceedings). The law came into force on January 1, 2016, so the number of legal actions provided by this law is increasing in 2017 and 2018.

"Other cases" include objections to provisional measures cases related to the media, a new case category. Repetitive cases in the appeal procedure burdened the appellate courts as well.

### 098. Second instance courts (appeal): Number of criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court
<b>Total of criminal law cases (1+2+3)</b>	3 344 <input type="checkbox"/> NA <input type="checkbox"/> NAP	57 732 <input type="checkbox"/> NA <input type="checkbox"/> NAP	56 767 <input type="checkbox"/> NA <input type="checkbox"/> NAP	4 309 <input type="checkbox"/> NA <input type="checkbox"/> NAP	84 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Severe criminal cases</b>	1 440 <input type="checkbox"/> NA <input type="checkbox"/> NAP	24 758 <input type="checkbox"/> NA <input type="checkbox"/> NAP	24 630 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 568 <input type="checkbox"/> NA <input type="checkbox"/> NAP	81 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	1 892 <input type="checkbox"/> NA <input type="checkbox"/> NAP	30 075 <input type="checkbox"/> NA <input type="checkbox"/> NAP	29 243 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2 724 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Other cases</b>	12 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2 899 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2 894 <input type="checkbox"/> NA <input type="checkbox"/> NAP	17 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If you cannot make a distinction between misdemeanour criminal cases and severe criminal cases (according to the CEPEJ definitions), please indicate the categories of cases reported in the category "serious offences" and cases reported in the category "minor offences". If "Other cases", please specify. "Other cases" shows the appeals of the higher and appellate courts against the "other criminal cases" enumerated in Q 94, as well as the complaints about the extension of the domestic violence measure (other criminal cases enumerated in Q 94 - Enforcement and complaints as regards enforcement decisions misdemeanor cases; cases related to criminal and misdemeanor proceedings, handled by judges in courts but related to "cases as such" - ex. conditional release, pardons, cases of extradition of defendants and transfer of convicted persons, agreement on the testimony of a defendant and convicted person, legal aid cases between domestic courts in criminal matters, for assistance and support to victims and witnesses, enforcement of criminal sanctions up to one year, enforcement of criminal sanctions, enforcement of alternative sanctions, outgoing and incoming letters rogatory in the criminal matter.)

More precisely, the following case categories: Other cases – 1) appellate court cases (Krm, Kr, Kr Po1, Kr Po2, Kr Po3, Kr Vp, Kž-uo, Kž-Poi, Kžm-r, Kž-r, Kž-Kre, Kžr-As, Kžmr-As, Kž-Toi, Kž-Po2-uo, Kž1-r-Po1, Kž-Po1-Poi, Kž-Po1-Toi, Kž-Po1-uo, Kž-Po2-Kre, Kž-Po1-Kre, Kž-r-Po3, Kžm-Uo 2) higher court cases (Kv SIK, Npž); 2) Misdemeanour Appellate court (PSD).

This table also includes the following case categories:

Severe criminal cases: 1) appellate court cases (Kž, Kž1, Kžm1, Kž1 Po1 Kž1 Po2, Kž1 Po3, Kž1 VP, Kž2, Kž2 Po1, Kž2 Po2, Kž2 Po3, Kž2 Vp, Kžm2, Kž3, Kž3 Po2, Kžm, Kž3 Po1, Kž1-Spk, Kž2-Spk, Kž1-Po1-Spk, Kž2-Po1-Spk, Kž2-Po3-Spk) 2) higher court cases (Kž, Kž1, Kž2)

Misdemeanour and / or minor criminal cases: 1) Commercial appellate court (Pkž), 2) Misdemeanour Appellate court (PRŽ, PRŽM, PRŽI, PRŽU)

## 4.2.4. Case flow management – Supreme Court



### 099. Highest instance courts (Supreme Court): Number of “other than criminal law” cases:

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the Supreme Court
<b>Total of other than criminal law cases (1+2+3+4)</b>	5 512 [ ] NA [ ] NAP	11 967 [ ] NA [ ] NAP	11 311 [ ] NA [ ] NAP	6 168 [ ] NA [ ] NAP	44 [ ] NA [ ] NAP
<b>1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)</b>	5 284 [ ] NA [ ] NAP	11 079 [ ] NA [ ] NAP	10 366 [ ] NA [ ] NAP	5 997 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Non litigious cases (2.1+2.2+2.3)</b>	79 [ ] NA [ ] NAP	319 [ ] NA [ ] NAP	352 [ ] NA [ ] NAP	46 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.1. Non litigious land registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.2 Non-litigious business registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.3. Other registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.3. Other non-litigious cases</b>	79 [ ] NA [ ] NAP	319 [ ] NA [ ] NAP	352 [ ] NA [ ] NAP	46 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>3. Administrative law cases</b>	149 [ ] NA [ ] NAP	569 [ ] NA [ ] NAP	593 [ ] NA [ ] NAP	125 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>4. Other cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Comments - If “Other cases”, please specify The answer to question 99 in field 1 shows cases of the Civil Department without registers (SPP, SPP1, R1, R). Field 2.3. shows registers (SPP, SPP1, R1, R) and cases of the Department for Trial within a reasonable period. Field 3 shows cases of the Administrative Department.

Note: In relation to the previous reporting period, the following changes have been made:

Field 2.3 shows a new register (SPP1) and cases of the Department for Trial within a Reasonable Time, which were previously shown in field 4.

Regarding Item 1 - Increase in the number of cases at the beginning of 2018 compared to 2016: result of increased inflow during 2017 compared to 2016 (inflow increased by about 4,500 cases). The trend of increased inflow continued.

2.3 and accordingly 2. - non-litigious cases - the number of cases is reduced due to the reduced jurisdiction of the SCC in relation to the trial within a reasonable time (see comment under Q91). In the period from 2012 to 2018, the Supreme Court of Cassation received twice as many cases than expected, not counting the cases delegated by the higher courts in Belgrade and Novi Sad in 2013, 2015 and 2017 (5,000+7,000+5,000), as a consequence of changes in regulation on the jurisdiction of the Supreme Court of Cassation, reduction of the review threshold to EUR 40,000 € in RSD equivalent, introduction of a special revision as a new extraordinary legal remedy, as well as the expansion of the jurisdiction of the highest court to decide on the revision, i.e. to decide on the new extraordinary legal remedies. Increase in the number of pending cases was particularly pronounced in civil matter in the period 2014–2018. The largest increase of inflow happened in the Civil Department, which, with the existing number of judges and judicial assistants that are assigned to this Department, was not able to absorb the inflow of cases recorded in the last four years (for more info please see:

[https://www.vk.sud.rs/sites/default/files/attachments/Annual%20Report%20on%20the%20Work%20Of%20Courts%202018\\_2.pdf](https://www.vk.sud.rs/sites/default/files/attachments/Annual%20Report%20on%20the%20Work%20Of%20Courts%202018_2.pdf)”).

### 099-1. At the level of the Highest court (Supreme Court), is there a procedure of manifest inadmissibility?

Yes

No

Comments

#### 099-1-1. If yes, please indicate the number of:

cases received by the Highest court? [ 0 ]

cases closed by this procedure? [ 0 ]

Comments N/A

### 100. Highest instance courts (Supreme Court): Number of criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the Supreme Court
<b>Total of criminal law cases (1+2+3)</b>	300 [ ] NA [ ] NAP	1 871 [ ] NA [ ] NAP	1 818 [ ] NA [ ] NAP	353 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>1. Severe criminal cases</b>	285 [ ] NA [ ] NAP	1 826 [ ] NA [ ] NAP	1 767 [ ] NA [ ] NAP	344 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	15 [ ] NA [ ] NAP	45 [ ] NA [ ] NAP	51 [ ] NA [ ] NAP	9 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>3. Other cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Comments - If you cannot make a distinction between misdemeanour criminal cases and severe criminal cases (according to the CEPEJ definitions), please indicate the categories of cases reported in the category "serious offences" and cases reported in the category "minor offences". If "Other cases", please specify The answer to question 100 in field 1 includes cases of the Criminal Department without registers (KZZP, KZZPR, KRRZ).

Field 2 shows cases listed in the registers (KZZP) and in the new register (KZZPR).

#### 4.2.5. Case flow management and timeframes – specific cases



**101. Number of litigious divorce cases, employment dismissal cases, insolvency, robbery cases, intentional homicide cases, cases relating to asylum seekers and cases relating to the right of entry and stay for aliens received and processed by first instance courts.**

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec ref. year
<b>Litigious divorce cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Employment dismissal cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Insolvency</b>	2 024 <input type="checkbox"/> NA <input type="checkbox"/> NAP	794 <input type="checkbox"/> NA <input type="checkbox"/> NAP	840 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 978 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Robbery case</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Intentional homicide</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Cases relating to asylum seekers (refugee status under the 1951 Geneva Convention)</b>	21 <input type="checkbox"/> NA <input type="checkbox"/> NAP	40 <input type="checkbox"/> NA <input type="checkbox"/> NAP	27 <input type="checkbox"/> NA <input type="checkbox"/> NAP	34 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Cases relating to the right of entry and stay for aliens</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	8 <input type="checkbox"/> NA <input type="checkbox"/> NAP	5 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - The answer to question 101 in criterion "Employment dismissal cases" has been marked as NA as we are at this time able to gather data only from register (P1) of basic and higher courts (not only Employment dismissal cases but all labour law cases; data on employment dismissal cases is N/A). - Bankruptcy proceeding - register (St) of commercial courts.

- Cases relating to asylum seekers (refugee status under the 1951 Geneva Convention) and cases relating to the right of entry and stay for aliens - gathered from the Administrative Court. Asylum cases naturally increased in number having in mind Serbia's geographic position.

**101-1. Could you briefly describe the system in your country dealing with judicial remedies relating to asylum seekers (refugee status under the 1951 Geneva Convention) and the right of entry and stay for aliens:**

. Protection of refugees in the Republic of Serbia is regulated by the Law on Asylum ("Official Gazette of RS", no. 109/2007). With respect to asylum applications and the cessation of the right to asylum, the competent organizational unit of the Ministry of the Interior, the Asylum Office, conducts the procedure and takes all decisions in the first instance (Art. 19), while the Asylum Commission, as a second instance, decides on complaints lodged against the decisions brought by the Asylum Office (Art. 20). Against the negative decision of the Asylum Commission, an asylum seeker is entitled to a lawsuit with suspensive effect which may

be lodged to the Administrative Court. The judgement of the Administrative Court is final. The asylum seeker is entitled to file extraordinary legal remedies and constitutional appeal, which do not have a suspensive effect.

The Law on Foreigners (Official Gazette of RS, no. 97/2008) regulates conditions of the entry, movement and stay of foreigners in the territory of the Republic of Serbia. The right of entry and stay is under the competences of the Office for Foreigners, Police Department, Ministry of the Interior which decides in the first instance. If the applicant is not satisfied with the decision, s/he is entitled to file an appeal within the same Ministry of the Interior, Police Department, the office of the border police. The appeal does not have suspensive effect, but the applicant can request an interim measure from the Administrative Court and ask for enforcement delay of the first instance decision until the second instance decides on his/her appeal. In case that the applicant is not satisfied with the second instance decision of the Ministry of the Interior Police Department, he/she is entitled to file a lawsuit before Administrative Court that does not have suspensive effect, as well as request for an interim measure. S/he may submit the request for an interim measure and ask for a delay in enforcement of the first instance decision until the court decides upon his/her lawsuit. The judgement of the Administrative Court is final. The applicant is entitled to file extraordinary legal remedies and constitutional appeal without suspensive effect.

**102. Average length of proceedings, in days (from the date the application for judicial review is lodged). The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure.**

	% of decisions subject to appeal	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)	% of cases pending for more than 3 years for all instances
<b>Civil and commercial litigious cases</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	225 <input type="checkbox"/> NA <input type="checkbox"/> NAP	223 <input type="checkbox"/> NA <input type="checkbox"/> NAP	211 <input type="checkbox"/> NA <input type="checkbox"/> NAP	224 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Litigious divorce case</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Employment dismissal case</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Insolvency</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	859 <input type="checkbox"/> NA <input type="checkbox"/> NAP	34 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	499 <input type="checkbox"/> NA <input type="checkbox"/> NAP	63 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Robbery case</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Intentional homicide</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments "Employment dismissal cases" has been marked as NA as we are at this time able to gather data only from register (P1) of basic and higher courts (not only Employment dismissal cases but all labour law cases; data on employment dismissal cases is N/A). NAP was selected for "% of cases pending for more than 3 years for all instances" for insolvency cases as the Supreme Court of Cassation is not decide in insolvency cases, only in litigious cases which emerge from insolvency.

**103. Where appropriate, please indicate the specific procedure regarding divorce cases (litigious and non-litigious):**

. Please see general comments.

**104. How is the length of proceedings calculated for the six case categories of question 102? Please give a description of the calculation method.**

. In order to calculate the average length of the court proceedings in days for the first and second instance, for civil and commercial litigious cases and insolvency, the following formula was used: pending / resolved \* 365

**4.2.6. Case flow management – public prosecution**



**105. Role and powers of the public prosecutor in the criminal procedure (multiple options possible):**

[ X ] to conduct or supervise police investigation

[ X ] to conduct investigations

[ X ] when necessary, to request investigation measures from the judge

[ X ] to charge

[ X ] to present the case in court

[ X ] to propose a sentence to the judge

[ X ] to appeal

[ ] to supervise the enforcement procedure

[ X ] to discontinue a case without needing a decision by a judge (ensure consistency with question 36!)

[ X ] to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision

[ X ] other significant powers (please specify): Public Prosecutor is entitled to sign the plea agreement with the defendant which has to be confirmed by the judicial decision.

Comments The Public Prosecutor is entitled to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision through the opportunity institute.

A pp may request investigation measures from the judge pursuant to the new Criminal Procedure Code.

**106. Does the public prosecutor also have a role in:**

[ X ] civil cases

[ X ] administrative cases

[ ] insolvency cases

Comments - If yes, please specify: According to existing legal framework, a public prosecutor can be a procedural party in civil,



misdemeanour and administrative cases. Under the conditions specified by the law, a public prosecutor can initiate misdemeanour procedure in front of misdemeanour court, initiate procedure in front of commercial court for commercial delicts, file a lawsuit in front of civil court, file an administrative claim in front of administrative court, file an appeal in administrative proceedings (not in front of court), etc.

**107. Cases processed by the public prosecutor - Total number of first instance criminal cases:**

	Received during the reference year	Discontinued during the reference year (see Q108 below)	Concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases brought to court
<b>Total number of first instance cases processed by the public prosecutor</b>	397 097 [ ] NA [ ] NAP	228 173 [ ] NA [ ] NAP	18 719 [ ] NA [ ] NAP	43 663 [ ] NA [ ] NAP

Comments The content of “Total number of cases processed by the public prosecutor” for previous years included only criminal cases with known adult and minor perpetrators. For 2018, criminal cases with unknown perpetrators and criminal events were also included in total and that is the reason for the difference in data. In accordance with the Regulation on Administration in Public Prosecutions, there is a separate register in Public Prosecutions for criminal events (other criminal cases). This category of cases includes various reports and other submissions of state bodies, legal entities and citizens, various petitions, complaints, proposals, as well as information from public media and information about events relevant to the work of the Public Prosecution. Furthermore, criminal reports which are incomprehensible, which cannot be considered as any source of knowledge about criminal offense or perpetrator and which, for other reasons, are inappropriate for the register of criminal cases with known adult perpetrators, are also considered as criminal events (other criminal cases). The statistical data of public prosecution offices are based on the number of persons, not the number of case files nor criminal offences.

**107-1. If the guilty plea procedure exists, how many cases were brought to court by the prosecutor through this procedure?**

	Number of guilty plea procedures
<b>Total</b>	6 481 [ ] NA [ ] NAP
<b>Before the court case</b>	4 925 [ ] NA [ ] NAP
<b>During the court case</b>	1 556 [ ] NA [ ] NAP

Comments As the Republic Prosecutors Office has started gathering the data on the guilty plea procedures during the court case, the statistics are now more reliable for this question, and the SCC is no longer the source of information for "during the court case" statistics. During 2016, proposals of the Public Prosecutor or the defendant and his defense attorney to conclude the guilty plea agreement were made regarding 3447 defendants before the indictment was filed, and regarding 1548 defendants after the filing of the indictment. Out of the total number of proposals (4995), plea agreements were signed with 4934 defendants (not all proposals were accepted). (Republic Public Prosecution Office data). The RPPO does not differentiate between the filed proposals before the court procedure/during the court procedure.

As concerns cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor, please note that greater use of guilty plea/opportunity and other simplified procedural forms are pursuant to the National Judicial Reform Strategy, Strategic guideline no. 5.3.1.: wider implementation of the simplified procedural forms and institutes such as plea bargaining, implementation of the principle of opportunity in criminal prosecution and directing parties towards alternative dispute resolution methods whenever allowed by legislative framework (activity: Broader application of actions based on the opportunity of criminal prosecution).

Additional discrepancy note: The content of “Total number of cases processed by the public prosecutor” for previous years included only criminal cases with known adult and minor perpetrators. For 2018, criminal cases with unknown perpetrators and criminal events were also included in total and that is the reason for the difference in data.

Please note that, in accordance with the Regulation on Administration in Public Prosecutions, there is a separate register in Public Prosecutions for criminal events (other criminal cases). This category of cases includes various reports and other submissions of state bodies, legal entities and citizens, various petitions, complaints, proposals, as well as information from public media and information about events relevant to the work of the Public Prosecution. Furthermore, criminal reports which are incomprehensible, which cannot be considered as any source of knowledge about criminal offense or perpetrator and which, for other reasons, are inappropriate for the register of criminal cases with known adult perpetrators, are also considered as criminal events (other criminal cases).

**108. Total number of cases which were discontinued by the public prosecutor.**

	Number of cases
<b>Total number of cases which were discontinued by the public prosecutor (1+2+3+4)</b>	228 173 [ ] NA [ ] NAP
<b>1. Discontinued by the public prosecutor because the offender could not be identified</b>	[ ] NA [ X ] NAP
<b>2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation</b>	201 569 [ ] NA [ ] NAP
<b>3. Discontinued by the public prosecutor for reasons of opportunity</b>	18 719 [ ] NA [ ] NAP
<b>4. Other</b>	7 885 [ ] NA [ ] NAP

Comments The content of “Total number of cases processed by the public prosecutor” for previous years included only criminal cases with known adult and minor perpetrators. For 2018, criminal cases with unknown perpetrators and criminal events were also included in total and that is the reason for the difference in data.

**109. Do the figures include traffic offence cases?**

( X ) Yes

( ) No

Comments Reported figures include only criminal law cases related to traffic offences, not the misdemeanours.

**D2. Please indicate the sources for answering questions 91, 94, 97, 98, 99, 100, 101, 102, 107, 107-1 and 108.**

Sources: 107, 107.1, 108 and 109 – Republic Public Prosecutor`s Office

**5. Career of judges and public prosecutors**

**5.1. Recruitment and promotion**

## 5.1.1. Recruitment and promotion of judges

### 110. How are judges recruited?

- [ X ] mainly through a competitive exam (open competition)
- [ ] mainly through a recruitment procedure for experienced legal professionals (for example experienced lawyers)
- [ X ] a combination of both (competitive exam and working experience)
- [ ] other (please specify): .....

Comments Judges in Serbia are elected for the first time for a three-year term of office by the National Assembly among one or more candidates nominated respectively by the High Judicial Council. After three years of service and upon high evaluation the judges are appointed to a permanent office respectively by the HJC. Currently there exist two parallel ways of access to the career of a judge: -As a judicial assistant -As a graduate of the Judicial Academy. Most of the candidates for appointment to the office of a judge are judicial assistants, which is the traditional (and still the principal in term of number of appointments) way of access to the judicial career. The legal status and the functions of judicial assistants are regulated by the Law on Organisation of Courts (Articles 57- 64). Their number is determined by each court president for his/her court. Selection and appointment is made by the court president, usually among the judicial interns. The law gives the latter the privilege of being permanently employed as judicial assistants in case they pass the bar exam “with distinction”. On the other hand, the HJC approve the number of “beneficiaries of initial training” to be admitted every year for initial training at the Academy (Article 26 on Law on Judicial Academy). The entrance exams and the graduation criteria are vaguely regulated by the Law. The candidates who completed initial training with the Judicial Academy are exempted from the obligatory exam and the criteria for competence and qualification evaluation for judicial position is the final exam grade achieved in the basic training at the Academy.

According to the Law on Judges, a citizen of the Republic of Serbia who meets the requirements for employment in State bodies, who is a law school graduate, who has passed the State judicial exam may be elected a judge. Other requirements for the election of a judge are qualification, competence and worthiness, as well as duration of work experience in the legal profession upon passing of the State judicial exam.

### 111. Authority(ies) responsible for recruitment. Are judges initially/at the beginning of their career recruited and nominated by:

- [ ] an authority made up of judges only
- [ ] an authority made up of non-judges only
- [ X ] an authority made up of judges and non-judges

Comments - Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of judges. If there are several authorities, please describe their respective roles: At the session held on 17 January 2018, the High Judicial Council adopted a Rulebook on manner for evaluation of expertise, competence and worthiness of candidates for judges who are being elected for the first time, ("Official Gazette of RS", 7/18). This Rulebook shall establish the program and manner of taking the exam which assesses the expertise and competence of candidate for judge who are being elected for the first time, the authorities responsible for organizing and conducting the examination, grading and evaluation of candidates.

Expertise shall include possession of theoretical and practical knowledge required to perform judicial function. Competence shall imply skills which enable effective implementation of specific juridical knowledge in solving cases. The standard for assessing the expertise and the competence of candidates for judges who are being elected for the first time shall be the grade achieved on the exam.

The High Judicial Council shall establish one or more committees that conduct the examination. The exam consists of a written test and case study, which are taken on the same day. The written test is compiled by the committees from a unified database of questions database of questions posted on the website of the High Judicial Council [www.vss.sud.rs](http://www.vss.sud.rs). The committee determines the list of candidates for each court according to the success achieved in the exam, which shall be published on the website of the Council. The Commission shall submit the complete examination materials to the Council.

The National Assembly of the Republic of Serbia elects judges upon the proposal of the High Judicial Council. After the initial three-year term of office expires, the High Judicial Council elects the judge for a permanent tenure of office. Article 50 of the Law on Judges prescribes that in case of candidates for judges to be elected for the first time, in addition to qualification, competence and moral

character, the High Judicial Council shall particularly take into consideration the type of jobs that the candidate performed after passing the State Judicial Exam. With regard to candidates coming from among judge's assistants, it is mandatory to obtain their performance evaluation. Before presenting its nominations, the High Judicial Council may conduct interviews with the candidates. The High Judicial Council shall propose to the National Assembly one or more candidates for each judge's position. The National Assembly shall elect a first-time elected judge from among the candidates nominated by the High Judicial Council. The latter elects judges to be appointed to permanent office. A first-time elected judge whose work during the first three-year term of office is assessed with 'performs the judicial duty with exceptional success' rating shall be elected to permanent office as mandatory. A first-time elected judge whose work during the first three-year term of office is assessed as 'not satisfactory' may not be appointed to permanent office. Every decision on the election must be reasoned and published in the 'Official Gazette of the Republic of Serbia'.

## **112. Is the same authority (Q111) competent for the promotion of judges?**

Yes

No

Comments

## **113. What is the procedure for the promotion of judges? (multiple answers possible)**

Competitive test / Exam

Other procedure (interview or other)

No special procedure

Comments - Please specify how the promotion of judges is organised (especially if there is no competition or examination): The Rulebook on Criteria and Standards for Evaluation of Expertise, Competence and Worthiness for the Election of Judges with Permanent Tenure to Another or Higher Court and on Criteria for Proposing Candidates for Court Presidents, enacted by the HJC on 15th November 2016, provides that the High Judicial Council shall announce the election for judges in the "Official Gazette of the RS" and the daily magazine "Politika", in order to fill vacant judicial positions in courts in the Republic of Serbia. The Council shall then decide on the establishment of one or more committees consisting of three members from the ranks of judges - elected members of the Council.

Committee of the High Judicial Council shall provide performance evaluation grade from the Commission for the implementation of the evaluation procedure and determination of the performance evaluation grade of judges and court presidents.

Committee of the High Judicial Council shall make a list of preliminary candidates, in alphabetical order of the surnames of candidates, which shall be published on the website of the Council.

The Council, in the process of the election of judges with permanent tenure to another or higher court shall obtain the opinion of the Session of all judges of the court from which the judge has come from, as well as the opinion of the Session of all judges of immediately higher court. The Council shall especially appreciate: participation in the trainings for judges and court personnel; participation in training programs organized by the institution responsible for judicial training; scientific and professional papers in the field of legal doctrine, which the candidate has published as author or co-author; presentations in national and international scientific and professional conferences.

Work of all judges and presidents of the courts is subject to regular evaluation. Performance evaluation involves all aspects of a judge's work and/or work of a president of the court, and represents the basis for the election, mandatory training of judges, and dismissal.

Evaluation is conducted based on publicised, objective and uniform criteria and standards, in a single procedure ensuring the participation of the judge and/or president of the court whose performance is being evaluated. The criteria, standards, and procedure for the performance evaluation of judges and/or president of the courts are pursuant to the Law on Judges, Law on High Judicial Council and Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents ("Official Gazette of RS", Nos. 81/2014, 142/2014, 41/2015, 7/2016), which is being applied as of 1st July 2015.

Decisions of the HJC regarding the selection of judges to permanent judicial positions at the another or higher courts must be reasoned (based on the criteria outlined in the HJC's Rules of Procedure) and published in the Official Gazette.

## **113-1. Please indicate the criteria used for the promotion of a judge? (multiple answers possible)**

Years of experience

Professional skills (and/or qualitative performance)

- Performance (quantitative)
- Assessment results
- Subjective criteria (e.g. integrity, reputation)
- Other
- No criteria

Comments - Please specify any useful comment regarding the criteria (especially if you have checked the box “performance” or “other”):  
 The criteria and standard in the proces of election of judges to another or higher court are prescribed by Rulebook on Criteria and Standards for Evaluation of Expertise, Competence and Worthiness for the Election of Judges with Permanent Tenure to Another or Higher Court and on Criteria for Proposing Candidates for Court Presidents (Art. 4): expertise shall include possession of theoretical and practical knowledge required to perform judicial function; competence shall imply skills which enable effective implementation of specific juridical knowledge in solving cases. The standard for assessing the expertise and the competence for the election of judges with permanent tenure to another or higher court shall be performance evaluation grade (results of work), in the last three years. Worthiness shall mean ethical qualities a judge should possess and behavior in accordance with those qualities. Worthiness of candidates shall be assumed.

## **5.1.2. Status, recruitment and promotion of prosecutors**

### **115. What is the status of public prosecution services?**

- statutory independent
- under the authority of the Minister of Justice or another central authority

other (please specify): Autonomous. Under the Constitution of Serbia, the Public Prosecutor's Office shall be an independent state body which shall prosecute the perpetrators of criminal offences and other punishable actions, and take measures in order to protect constitutionality and legality. In accordance with the Law on Public Prosecution, public prosecutors and deputy public prosecutors are independent in the performance of their competences. All forms of influence by the executive and the legislative authorities on the work of the public prosecution and its activity in cases, attempted by using public office, the public information media and any other means, which may threaten the independence of the work of a public prosecution, is prohibited. Namely, Public Prosecutors and Deputies are independent towards everyone outside of Prosecution service, while they are autonomous inside of it, since higher ranked Prosecutor, in accordance with the Law, can issue mandatory instruction for case management. This kind of instructions is not possible in the Court system, thus the difference

Comments - When appropriate, please specify the objective guarantees of this independence (transfer, appointment...). Constitutional and Law definition is “autonomous”. It’s rightfully stated that on some occasion’s legal framework is using word “independence”. Yet, framework is using “autonomous” in the first place. Difference lays in the meaning of the subject matter. Namely, Public Prosecutors and Deputies are independent towards everyone outside of Prosecution service, while they are autonomous inside of it, since higher ranked Prosecutor, in accordance with the Law, can issue mandatory instruction for case management. This kind of instructions is not possible in the Court system, thus the difference.

### **115-1. Does the law or another regulation prevent specific instructions to prosecute or not, addressed to a public prosecutor?**

- Yes
- No

Comments - If yes, please specify:

### **116. How are public prosecutors recruited?**

- mainly through a competitive exam (open competition)
- mainly through a recruitment procedure for experienced legal professionals (for example experienced lawyers)

a combination of both (competitive exam and working experience)

other (please specify): .....

Comments In accordance with the Law on Public Prosecution Office ("Official Gazette of the RS", No. 116/2008, 104/2009, 101/2010, 78/2011 - other Law, 101/2011, 38/2012 - decision of Constitutional Court, 121/2012, 101/2013, 111/2014 - decision of Constitutional Court, 117/2014, 106/2015 and 63/2016 - decision of Constitutional Court), a citizen of the Republic of Serbia may be elected as a public prosecutor and deputy public prosecutor if he/she fulfils the general requirements for employment in government authorities, is a law school graduate with a passed Bar Exam, and is worthy of the office of a public prosecutor. In addition to general requirements, the person must have experience in the legal profession after passing the Bar Exam, as follows: as follows:

- four years for a basic public prosecutor, and three years for a deputy basic public prosecutor;
- seven years for a high public prosecutor, and six years for a deputy high public prosecutor;
- ten years for an appellate public prosecutor and a public prosecutor with special jurisdiction, and eight years for a deputy appellate public prosecutors and deputy public prosecutor with special jurisdiction;
- twelve years for the Republic Public Prosecutor and eleven years for Deputy Republic Public Prosecutor.

In the process of proposing candidates for the election of deputy public prosecutors for the first time the SPC also applies the Rulebook on criteria and standards for evaluation of qualification, competence and worthiness of candidates when proposing deputy public prosecutors elected for the first time ("Official Gazette of the Republic of Serbia", No 43/2015 and 80/2016 - other Rulebook)) and the Rulebook on the program and rules for taking the exam for the assessment of qualifications and competencies of candidates for the first election to the position of a deputy public prosecutor ("Official Gazette of the RS", No. 82/2017 and 91/2018). Provisions of the Rulebook define the program and rules for taking the anonymous exam, as well as criteria for assessment of qualification and competencies of a candidate. The Rulebook is in line with Article 77a of the Law on Public Prosecution Office, and it stipulates that candidates who passed initial education at the Judicial Academy do not need to take the exam, conducted by the examination commission of the State Prosecutorial Council. The Rulebook foresees transparency of the election procedure also by setting the obligation to post the exam results at the Council web page. According to Law on Public Prosecution Office, SPC has a competence to elect first-time deputy prosecutors to a permanent function, after a three-years period.

Regarding election of deputy public prosecutors to a higher position (promotion) and election of public prosecutors/heads of public prosecutor's offices, according to the Law on Public Prosecution Office, SPC is obliged to conduct election process in accordance with the Rulebook on criteria and measures for evaluation of professionalism, competence and worthiness of the candidates in proceedings of proposing and election of holders of public prosecutorial function (adopted on 14th May 2015.)

### **117. Authority(ies) responsible for recruitment. Are public prosecutors initially/at the beginning of their career recruited by:**

an authority composed of public prosecutors only

an authority composed of non-public prosecutors only

an authority composed of public prosecutors and non-public prosecutors

Comments - Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of public prosecutors. If there are several authorities, please describe their respective roles: According to the Constitution, the Law on Public Prosecution Office and the Law on State Prosecutorial Council, the SPC elects the first-time deputy prosecutors to a permanent function and deputy prosecutors to a higher position (promotion), whereas it proposes to the National Assembly for final decision the candidates for the first-time deputy prosecutors and submits to the Government the (rank) list of candidates for public prosecutors (heads of the public prosecution offices) for their proposal to the National Assembly for final decision. According to Law on Public Prosecution Office, SPC has a competence to elect first-time deputy prosecutors to a permanent function, after a three-years period.

Upon proposal of the State Prosecutorial Council, the National Assembly elects for a deputy public prosecutor a person elected for the first time to the position for a period of three years.

After conducting procedure described in q.116, State Prosecutorial Council submits to the Government the list containing one or more candidates for election to a public prosecutor position. The Government proposes to the National Assembly one or more candidates for election to a public prosecutor position from the list of candidates determined by the State Prosecutorial Council. Upon the Government proposal, the National Assembly elects a public prosecutor to the tenure of 6 years and he/she can be re-elected. If a public prosecutor does not get re-elected to the same position after expiration of its tenure or the position of a public prosecutor has expired upon a personal request, he/she is elected as a deputy public prosecutor.

## 118. Is the same authority (Q.117) formally responsible for the promotion of public prosecutors?

Yes

No, please specify which authority is competent for promoting public prosecutors. The State Prosecutorial Council is competent for promotion of deputy public prosecutors, as well as for appointment of deputy public prosecutors to permanent prosecutorial position three years after their first election. The State Prosecutorial Council is competent for proposing candidates for election of public prosecutors to the National Assembly (promotion of public prosecutors).

Comments

## 119. What is the procedure for the promotion of prosecutors? (multiple answers possible)

Competitive test / exam

Other procedure (interview or other)

No special procedure

Comments - Please, specify the procedure (especially if it is a procedure different from a competitive test or an exam): Evaluation of previous work, and for candidates for public prosecutors/heads of offices also the presentation of the program to improve the work of the Public Prosecutor's Office.

## 119-2. Please indicate the criteria used for the promotion of a prosecutor:

Years of experience

Professional skills (and/or qualitative performance)

Performance (quantitative)

Assessment results

Subjective criteria (e.g. integrity, reputation)

Other

No criteria

Comments - Please, specify any useful comment regarding the criteria (especially if you have checked the box "performance" or "other"): The Program aimed at improving the work of public prosecutors' offices for the heads of offices.

## 5.1.3. Mandate and retirement of judges and prosecutors

### 121. Are judges appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?

Yes, please indicate the compulsory retirement age: 65 (67 for judges of the Supreme Court of Cassation)

No

Comments - If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify: In accordance with the Law on Judges, a judge is appointed to office for an undetermined period, with the function lasting continuously from the first election to judge's office until retirement – until s/he turns 65 years of age, ex. lege, i.e. 67 for judges of the Supreme Court of Cassation.

Exceptionally, an individual elected to a judge's office for the first time is elected for a period of three years. Following the election, a judge's function may terminate under conditions provided under the Law on Judges ("Official Gazette of the Republic of Serbia" No. 116/2008, 58/2009- decision of Constitutional Court, 104/2009, 101/2010, 8/2012- decision of Constitutional Court, 121/2012, 124/2012- decision of Constitutional Court, 101/2013, 111/2014- decision of Constitutional Court, 117/2014, 40/2015, 63/2015 - decision of Constitutional Court, 106/2015, 63/2016- decision of Constitutional Court and 47/2017)- a judge's office ends at the request of the judge, with retirement age, due to a permanent loss of working ability, if not elected to permanent office, or in case of dismissal. A judge is dismissed if convicted for an offence carrying imprisonment sentence of at least six months or for a punishable act that demonstrates that he/she is unfit for the judicial function, in case of incompetence or due to a serious disciplinary offence.

**121-1. Can a judge be transferred to another court without his/her consent:**

- For disciplinary reasons
- For organisational reasons
- For other reasons (please specify modalities and safeguards): .....
- No

Comments Irremovability of judges is one of the basic principles proclaimed by the Law on Judges. Article 19 Paragraph 1 of the Law on Judges provides that a judge may be transferred or assigned from one court to another, or to another state authority, institution, or international judicial organisation only with his/her consent. The transfer may be done with consent of the judge, to another court of the same type and instance, should there be a need for an urgent filling up of a judge vacancy, which cannot be resolved by election or referral of a judge, with the obtained consent of presidents of both courts. Such consent shall be given in writing and must precede the decision on transfer or assignment. Exceptionally, a judge may be transferred without his/her consent to another court in case of the abolishing of a court, abolishing of the prevalent part of the jurisdiction of the court to which he/she is elected, leading to a reduction of the number of cases, on the basis of the decision of the High Judicial Council.

The High Judicial Council, in 2018 passed 10 decisions on the transfer of judges, as follows: 10 decisions on the transfer of basic court judges.

Pursuant Article 20 of the Law on Judges a judge may be assigned to work only in another court of same type and same or directly lower instance for a period no longer than one year. Exceptionally, a judge may be assigned to an immediately superior court if meeting the statutory requirements for election as a judge of the court to which he/she is assigned. A judge is assigned to court in which the lack, absence, or recusal of judges or other reasons impede or slow down the work of the court.

The High Judicial Council in 2018 passed 27 decisions on the assignment of a judge to another court, one decision on the assignment of a judge to the International Organisation and one decision on the assignment to the Judicial Academy.

**122. Is there a probation period for judges (e.g. before being appointed "for life")? If yes, how long is this period?**

- Yes, duration of the probation period (in years):3
- No

Comments The High Judicial Council elects judges to be appointed to permanent office.

A first-time elected judge whose work during the first three-year term of office is assessed with "performs the judicial duty with exceptional success" rating shall be elected to permanent office as mandatory.

A first-time elected judge whose work during the first three-year term of office is assessed as "not satisfactory" may not be appointed to permanent office.

Every decision on the election must be reasoned and published in the "Official Gazette of the Republic of Serbia".

**123. Are public prosecutors appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?**

- Yes, please indicate the compulsory retirement age: .....
- No

Comments - If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify:

**124. Is there a probation period for public prosecutors? If yes, how long is this period?**

- Yes, duration of the probation period (in years):3
- No

Comments

**125. If the mandate for judges is not for an undetermined period (see question 121), what is the**



**length of the mandate (in years)?**

[            ]

[ ] NA

[ X ] NAP

Comments

**125-1. Is it renewable?**

( ) Yes

( ) No

[ X ] NAP

Comments

**126. If the mandate for public prosecutors is not for an undetermined period (see question 123), what is the length of the mandate (in years)?**

[ 6 ]

[ ] NA

[ ] NAP

Comments Public prosecutors have a mandate of 6 years, renewable. Deputy public prosecutors are elected for an unlimited period of time, after the probationary period.

**126-1. Is it renewable?**

( X ) Yes

( ) No

[ ] NAP

Comments Public prosecutors have a mandate of 6 years, renewable. Deputy public prosecutors are elected for an unlimited period of time, after the probationary period.

**E1. Please indicate the sources for answering the questions in this chapter:**

Sources: High Court Council; Law on Judges; State Prosecutorial Council; Law on PP;

## 5.2. Training

### 5.2.1. Training of judges

**127. Types of different trainings offered to judges:**

	Compulsory	Optional	No training proposed
Initial training (e.g. attend a judicial school, traineeship in the court)	( ) Yes ( X ) No	( X ) Yes ( ) No	( ) Yes ( X ) No

<b>General in-service training</b>	( ) Yes ( X ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
<b>In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)</b>	( X ) Yes ( ) No	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>In-service training for management functions of the court (e.g. court president)</b>	( X ) Yes ( ) No	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>In-service training for the use of computer facilities in courts</b>	( ) Yes ( X ) No	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>In-service training on ethics</b>	( X ) Yes ( ) No	( ) Yes ( X ) No	( ) Yes ( X ) No

Comments Based on decisions of the High Court Council (HCC), certain types of training which is regularly organised as optional by the JA becomes compulsory. For example, since the 2016-2018 evaluation cycle, the HCC has enacted decisions whereby presidents of courts and acting presidents must undergo training for management functions. Moreover, while ethics training is organised as optional training, based on a decision of the HCC an, project plan funded by IPA, supporting the HCC, training on ethics has become compulsory, organised through this project. Moreover, certain laws enacted in the recent period have provided that judges and pp's acting in certain fields (ex. Anti-corruption) must undergo certain additional types of compulsory training.

In Serbia there exist two parallel ways of access to the career of a judge or a prosecutor: as a judicial or prosecutorial assistant (or any other candidate who fulfils the condition prescribed by Law) or as a Judicial Academy (JA) graduate. Therefore, having in mind the two tracks to become a judge/pp, the type of training may be initial training or general in service training (optional between the two tracks). We have chosen "optional" for both types of training as it reflects better the two track system. However, choosing and undergoing one of the two tracks is still compulsory.

## 128. Frequency of the in-service training of judges:

	<b>Frequency of the judges training</b>
<b>General in-service training</b>	[ X ] Regularly (for example every year) [ ] Occasional (as needed) [ ] No training proposed
<b>In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)</b>	[ X ] Regularly (for example every year) [ ] Occasional (as needed) [ ] No training proposed
<b>In-service training for management functions of the court (e.g. court president)</b>	[ ] Regularly (for example every year) [ X ] Occasional (as needed) [ ] No training proposed
<b>In-service training for the use of computer facilities in courts</b>	[ ] Regularly (for example every year) [ X ] Occasional (as needed) [ ] No training proposed
<b>In-service training on ethics</b>	[ X ] Regularly (for example every year) [ ] Occasional (as needed) [ ] No training proposed

Comments - Please indicate any information on the periodicity of the continuous training of judges: Pursuant to Article 43 of the Law on

Judicial Academy, continuous training is mandatory when required by the law or by the decision of the High Judicial Council and the State Prosecutorial Council in the event of a change in specialization, significant changes in regulations, the introduction of new methods of work and the elimination of shortcomings in the work of judges and deputy public prosecutor noted through evaluation of their work. The continuous training of judges is performed based on the Continuous Training Programme adopted by the Managing Board of the Academy every year for the next year. In 2018, the training programme covered the following areas: criminal, civil, labor, commercial, and administrative and misdemeanor law, human rights and European Union law. The training aimed at acquiring and improving special knowledge and skills (such as integrity and ethics, computer literacy) was singled out as a separate area. The capacities of the JA have been improving yearly, based on a dedicated capacity building plan. Therefore, certain training which have previously occurred only sporadically, on the basis of donor support, has now become regular part of the training program (ex. IT training), organised occasionally.

## 5.2.2. Training of prosecutors

### 129. Types of different trainings offered to public prosecutors:

	Compulsory	Optional	No training proposed
<b>Initial training</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>General in-service training</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>In-service training for specialised functions (e.g. public prosecutors specialised on organised crime)</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>In-service training for management functions (e.g. Head of prosecution office, manager)</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>In-service training for the use of computer facilities in office</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>In-service training on ethics</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments In Serbia there exist two parallel ways of access to the career of a judge or a prosecutor: as a judicial or prosecutorial assistant (or any other candidate who fulfils the condition prescribed by Law) or as a Judicial Academy (JA) graduate. Therefore, having in mind the two tracks to become a judge/pp, the type of training may be initial training or general in service training (optional between the two tracks). We have chosen “optional” for both types of training as it reflects better the two track system. However, choosing and undergoing one of the two tracks is still compulsory.

Certain laws enacted in the recent period have provided that judges and pp’s acting in certain fields (ex. Anti-corruption) must undergo certain additional types of compulsory training, which is why In-service training for specialised functions is now selected as compulsory. In-service training for management functions, training for the use of computer facilities in office and on ethics are now being organised by the JA.

### 130. Frequency of the in-service training of public prosecutors :

	Frequency of the in-service training
<b>General in-service training</b>	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed

<b>In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)</b>	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
<b>In-service training for management functions (e.g. Head of prosecution office, manager)</b>	<input type="checkbox"/> Regularly (for example every year) <input checked="" type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
<b>In-service training for the use of computer facilities in office</b>	<input type="checkbox"/> Regularly (for example every year) <input checked="" type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
<b>In-service training on ethics</b>	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed

Comments - Please indicate any information on the periodicity of the in-service training of prosecutors: Pursuant to Article 43 of the Law on Judicial Academy, continuous training is mandatory when required by the law or by the decision of the High Judicial Council and the State Prosecutorial Council in the event of a change in specialization, significant changes in regulations, the introduction of new methods of work and the elimination of shortcomings in the work of judges and deputy public prosecutor noted in evaluating their work.

The continuous training of prosecutors is performed based on the Continuous Training Programme adopted by Managing Board of the Academy every year for the next year. In 2018, the training programme covered the following areas: criminal, civil, labor, commercial, and administrative and misdemeanor law, human rights and European Union law. The training aimed at acquiring and improving special knowledge and skills (such as integrity and ethics, computer literacy) was singled out as a separate area. Article 165 of the Law on Juvenile Offenders and Criminal Legal Protection of Juveniles stipulates that the Judicial Academy, in cooperation with the Ministry of Justice, scholar institutions, professional associations and non-governmental organizations, has competence for providing special training and professional advancement to persons working in the area of rights of the child, juvenile offences and criminal legal protection of juveniles. The Academy is regularly organizing professional counseling, tests of knowledge and other forms of additional professional advancements and continuous training of judges for juveniles, public prosecutors for juveniles, judges and public prosecutors proceeding in criminal cases for criminal offences upon Article 150 of the Law, police officers, professional employees within the institutions of social protection, institutes and institutions for penal sanctioning, lawyers and other professionals. The Judicial Academy is issuing adequate certificates for the completed tests of knowledge and professional advancement. In addition to that, Article 28 of the Law on Prevention of Domestic Violence stipulates that competent police officers and public prosecutors, deputy public prosecutors and judges implementing the Law are obliged to complete specialized training in accordance with the program adopted by the Judicial Academy. The specialized training is conducted by the Judicial Academy for public prosecutors, deputy public prosecutors and judges, in cooperation with other professional institutions and organizations, and the specialized training is conducted for police officers by the Criminal-police Academy. Upon completed specialized training, the Judicial Academy and the Criminal-police Academy are issuing certificates on the completed training to the participants. The issuing and the form of the certificates are closely regulated by an act of the Judicial Academy and the Criminal-police Academy.

### 131. Do you have public training institutions for judges and / or prosecutors?

	<b>Initial training only</b>	<b>Continuous training only</b>	<b>Initial and continuous training</b>
<b>One institution for judges</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>One institution for prosecutors</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>One single institution for both judges and prosecutors</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**131-0. If yes, what is the budget of such institution(s)?**

	Budget of the institution for the reference year, in €
One institution for judges	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
One institution for prosecutors	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
One single institution for both judges and prosecutors	2 906 907 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments The stated budget includes state budgetary resources and foreign donations. The budget increased substantially, based on a dedicated capacity building plan of the Judicial Academy and greater competences of the institution.

**131-1. If judges and/or prosecutors have no compulsory initial training in such institutions, please indicate briefly how these judges and/or prosecutors are trained?**

. Still in Serbia there exist two parallel ways of access to the career of a judge or a prosecutor: as a judicial or prosecutorial assistant (or any other candidate who fulfils the condition prescribed by Law) or as a Judicial Academy (JA) graduate. The Judicial Academy has initial training, for candidates who can apply to calls for election of judges and public prosecutors. In addition to the Academy, candidates who successfully concluded initial training, judicial assistants who successfully pass tests organized by the State Prosecutorial Council and the High Court Council is also eligible for the elections. The candidates who successfully pass the admission exam to the JA become the users of the initial training. Beneficiaries of initial training, in accordance to the article 40 of the Law on Judicial Academy are employed for a fixed time of 30 months, in the Academy. The beneficiaries of initial training are paid 70% of elementary earnings of a basic court judge, during the fixed time employment in the Academy. Attendance to initial training is being considered as working experience in legal profession. The initial training is composed of practical and theoretical education, with knowledge and skill testing. Since 2012, when the first generation finished the Judicial Academy and until February 2019 (ending with VII generation) that took exit test, 99 candidates were proposed for the first time election to a judicial or prosecutorial function. Judges and prosecutors appointed for the first time who have not attended initial training (i.e. from the rank of judicial assistants, lawyers, and other jurists) must attend a mandatory special continuous programme. According to the Law on Judges, Article 9, there is a possibility that the HJC assign a judge to mandatory training as a result of the evaluation procedure; until present date, it never happened that someone came to training on this basis.

Judges and prosecutors appointed for the first time who have not attended initial training must attend a mandatory special continuing training programme. Since recently there is a possibility to assign a judge or a prosecutor to mandatory training as a result of the evaluation procedure; however, until now there was no such case as the regular 3-year evaluation will take place only in 2018. The candidates who successfully pass the admission exam to the JA become the users of the initial training which lasts for 30 months. The initial training is composed of practical and theoretical education, with knowledge and skill testing. In the past three years (2014-2016), 196 judges and deputy-prosecutors were appointed (elected) at first instance level, out of which only 21 (10.7 %) have graduated the Judicial Academy. The remaining 175 (89.3 %) were selected among the judicial and prosecutorial assistants. Those 175 appointments represent 9.7 % of the total number of judicial and prosecutorial assistants. On the other hand, 76% of the JA graduates from the past three years have not been appointed (elected) yet (Assessment Report on Judicial Training, drafted as part of the TAIEX Peer Review Mission conducted in the period 7-9 June 2017).

**131-2. Number of in-service training courses (in days) organised by the judicial training institution for judges, prosecutors, non-judge and non-prosecutor staff**

	Number of training courses in days organised, without e-learning	Online training courses available during the reference year (e-learning)
<b>Total</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>1. Only for judges</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2. Only for prosecutors</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>3. Only for other non-judge staff</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>4. Only for other non-prosecutor staff</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>5. Other common training</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments: Trainings are as a rule organised a common. Currently, accurate statistics on the number of training courses delivered, in days, do not exist. The fact that in Serbia there still exist two parallel ways of access to the career of a judge or a prosecutor: as a judicial or prosecutorial assistant (or any other candidate who fulfils the condition prescribed by Law) or as a Judicial Academy (JA) graduate is relevant also to the question of the number and type of in-service training courses. Judges and prosecutors appointed for the first time who have not attended initial training (i.e. appointed from the rank of judicial assistants, lawyers, and other jurists) must attend a mandatory special continuous programme. According to the Law on Judges, Article 9, there is a possibility that the HJC assign a judge to mandatory training as a result of the evaluation procedure; until present date, it never happened that someone came to training on this basis.

The continuous training is prepared and conducted for judges and prosecutors, judicial and prosecutorial staff and other legal professionals. Therefore, even though the initial training is not obligatory, judges and prosecutors who are already in the functions are trained through the continuous training organized by the Judicial Academy.

The continuous training program was implemented in 2018 in the following areas: criminal, civil, commercial and misdemeanor law, then human rights law and European Union law. As a special area, training for acquiring and enhancing specific knowledge and skills was set aside. Within each area, the topics and topics to be addressed are defined, the target groups, the expected goals and outcomes of each individual program, the manner of implementation and the duration of the training. During 2018, 329 educational events were held, which were attended by 8790 trainees, with 1084 lecturers participating. The training is voluntary in principle although training on some topics may become mandatory if requested by law or based on the decision of the HJC or SPC. There is neither a required nor a guaranteed minimum of training days or weeks per year for education. Participation in continuing training is neither considered by the law as a criterion for the evaluation of judges and prosecutors by the HJC or SPC nor does the JA have a role in it.

**E2. Please indicate the sources for answering the questions in this chapter:**

Sources: Judicial Academy Annual Report for 2018  
 High Judicial Council Annual Report for 2018  
 State Prosecutorial Council Annual Report for 2018

## 5.3.Practice of the profession

### 5.3.1.Salaries and benefits of judges and prosecutors



#### 132. Salaries of judges and public prosecutors on 31 December of the reference year:

	Gross annual salary, in €	Net annual salary, in €	Gross annual salary, in local currency	Net annual salary, in local currency
<b>First instance professional judge at the beginning of his/her career</b>	16 369 <input type="checkbox"/> NA <input type="checkbox"/> NAP	9 733 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 934 757 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 150 352 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)</b>	38 444 <input type="checkbox"/> NA <input type="checkbox"/> NAP	22 858 <input type="checkbox"/> NA <input type="checkbox"/> NAP	4 520 756 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2 687 913 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Public prosecutor at the beginning of his/her career</b>	18 478 <input type="checkbox"/> NA <input type="checkbox"/> NAP	12 953 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2 184 000 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 530 984 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Attorney General).</b>	35 268 <input type="checkbox"/> NA <input type="checkbox"/> NAP	23 509 <input type="checkbox"/> NA <input type="checkbox"/> NAP	4 168 505 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2 778 671 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments The data provided relates to:

1. "bruto 2" is given for bruto - the full bruto amount, pertaining to the taxes and contributions falling on both the employee and the employer. 2. For judges, instead of giving only the basic salary, the actual salary received by judge in the first instance basic court (calculating that the judge has 5 years' experience) is given and in the Supreme Court of Cassation - calculating the average 25 year's work experience as well as increase of the basic salary by 30%, based on a decision of the High Judicial Council, pursuant to Article 42 of the Law on Judges.

2. The average salary for a basic public prosecutor is given. The average salary for the deputy State Prosecutors are given, who also receive an increase of the basic salary of 30%.

SPC Comment: The discrepancy in gross and net salaries of 1st instance Deputy State Prosecutors between 2016 and 2018 is due to the end of the 10% reduction in public sector salaries, as well as the end of the elimination of the restriction on pay of on-call duty and overtime.

#### 133. Do judges and public prosecutors have additional benefits?

	Judges	Public prosecutors
<b>Reduced taxation</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Special pension</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Housing</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Other financial benefit</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**134. If “other financial benefit”, please specify:**

[ X ] NAP

**135. Can judges combine their work with any of the following other functions/activities?**

	With remuneration	Without remuneration
<b>Teaching</b>	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Research and publication</b>	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Arbitrator</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Consultant</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Cultural function</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Political function</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Mediator</b>	( ) Yes ( X ) No	( X ) Yes ( ) No
<b>Other function</b>	( ) Yes ( X ) No	( ) Yes ( X ) No

Comments - If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If “other function”, please specify. According to Law on Judges, a judge may not hold office in authorities which enact regulations, in executive public authorities, public services, and bodies of autonomous provinces and local self-management units; may not be members of political parties, engage in public or private paid work, provide legal services or provide legal advice for compensation. By exception, a judge may be a member of the governing body of the institution responsible for judicial training, in accordance with a decision of the High Judicial Council, pursuant to another law.

The High Judicial Council shall determine the offices and engagements that are contrary to the dignity, violate the autonomy, or damage the reputation of a court in accordance with the Ethical code. A judge may outside office hours engage without explicit permission in paid educational and scientific activities. In cases determined by the law, a judge may perform educational and scientific work during working hours.

A judge shall notify in writing the High Judicial Council of each service or engagement that may possibly be incompatible with the judicial function. The High Judicial Council shall inform the president of the court and the judge of the incompatibility of service or work with the judicial function. The President of the Court shall file a disciplinary complaint as soon as he/she learns that the judge performs a service or business or makes procedures that could be incompatible with his function.

Under the Art 33 of the Law on Mediation in Dispute Resolution (“Official Gazette of RS” No. 55/2014), which is applicable since 1 January 2015, Serbian judges may mediate outside of working hours of the court but may not be paid for their services as mediators. Instead, pursuant to the amendments and supplements to the Rulebook on the Criteria, Standards, Procedures and Authorities for Evaluating the Work of Judges and Court Presidents (“Official Gazette of RS”, no. 81/2014, 142/2014, 41/2015 and 7/2016) which are applicable from 15 July 2015, new criteria in evaluating judges’ quantity of work have been introduced: two cases which are concluded



with an agreement on resolving the dispute through mediation are counted as one case solved on the merits.

### 137. Can public prosecutors combine their work with any of the following other functions/activities?

	With remuneration	Without remuneration
<b>Teaching</b>	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Research and publication</b>	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Arbitrator</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Consultant</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Cultural function</b>	( ) Yes ( X ) No	( X ) Yes ( ) No
<b>Political function</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Mediator</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Other function</b>	( ) Yes ( X ) No	( X ) Yes ( ) No

Comments - If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If “other function”, please specify: Other: Scientific activity and cultural activity.

The activities specified as that they could be performed must be in line with the Constitution, Article 65 of the Law on Public Prosecution Office and the Code of Ethics of Public Prosecution Office. Article 65 of the Law on Public Prosecution Office stipulates that public prosecutors and deputy public prosecutors cannot hold a position in legislative authorities and executive authorities, public services and authorities of provincial autonomy and units of local self-government, cannot be members of political parties, to engage in publicly or privately paid businesses, and provide legal services or legal advice for remuneration. Exceptionally from paragraph 1 of the Article, a public prosecutor, i.e. a deputy public prosecutor, can be member of an authority managing an institution competent for education in judiciary, based on a decision of the State Prosecutorial Council, in line with a special law. Other positions, affairs or private interests contradicting dignity and independence of public prosecution office or harming his/her reputation are also incompatible with prosecutorial position. The State Prosecutorial Council is determining other positions and affairs contradicting dignity, i.e. harming independence or damaging reputation of public prosecution office. After working hours, a public prosecutor and a deputy public prosecutor can engage in educational and scientific activities for remuneration, without special approval. In situations defined by the law, within his/her working hours, a public prosecutor and a deputy public prosecutor may perform educational and scientific activities. They can take part in activities with civil, religious or humanitarian character if those activities do not interfere with performing of the position or if it could negatively reflect to their impartiality. Public prosecutors and deputy public prosecutors are obliged to restrain themselves from participation at political activities and campaigns. Public prosecutors and deputy public prosecutors may be members and may participate at work of professional or other organizations dealing with protection of their professional interests and undertaking of measures for preservation of independence in work, in line with the law. Public prosecutors and deputy public prosecutors are obliged to restrain themselves from giving statements in public or privately that could cause doubt into their impartiality, and especially they cannot give comments on cases where they are proceeding or where they could proceed.

A public prosecutor and a deputy public prosecutor can be sent to a study visit, i.e. other professional trip abroad, based on the State Prosecutorial Council decision, with the obtained opinion form the directly superior public prosecutor, i.e. a public prosecutor, where performance grades from the personal file of the public prosecutor, i.e. the deputy public prosecutor, and knowledge of a foreign language are especially taken into consideration.

**139. Productivity bonuses: do judges receive bonuses based on the fulfilment of quantitative objectives in relation to the number of resolved cases (e.g. number of cases resolved over a given period of time)?**

Yes

No

Comments - If yes, please specify the conditions and possibly the amounts:

### **5.3.2 Body/institution of ethics**

**138. Is there in your country an institution / body giving opinions on ethical questions of the conduct of judges (e.g. involvement in political life, use of social media by judges, etc.)**

Yes

No

Comments The HJC, at the session held on 4 September 2018, adopted Rules of Procedure (“Official Gazette of RS” No. 29/13, 4/16, 91/16, 24/17 and 7/18) of the Ethics Committee that has been established as a working body of the Council, considerably extending its competencies, tasks and powers to include the following:

§ monitoring compliance with the Code of Ethics for judges;

§ monitoring compliance with the Code of Ethics for members of the HJC;

§ proposing necessary amendments to the Codes of Ethics for both judges and members of the HJC;

§ undertaking activities, in close cooperation with the Judicial Academy, aimed at preparation and delivery of necessary training programme on ethics for all judges;

§ issuing opinion on whether the specific behaviour of holders of judicial function and / or that of members of the HJC is in conformity with their respective Codes of Ethics;

§ providing written guidelines with practical examples on ethical matters and issuing complementary guidance on provisions of the Code of Ethics as well as recommendations, explanations and interpretations regarding actual or presumed violation of the Code; § providing confidential counselling;

§ submitting annual reports;

§ performing other tasks in relation to the application of and full adherence to the two Codes of Ethics for both judges and members of the HJC.

However, this decision has subsequently been revoked. It was envisioned that @the Ethics Committee may act upon its own initiative or that of individual judges, the Council itself or a member of the HJC. External initiatives must be submitted in sealed envelopes addressed to the Ethics Committee. The Ethics Committee in performing its tasks within the entrusted scope of work must fully respect principles of confidentiality of the procedure and principles of privacy as well as provisions of the Law on Data Protection. Nevertheless, the work of the Ethics Committee is public and completely transparent (with the exception of confidential counselling which is intended to be kept highly confidential at all times). The publicity of the work of the Ethics Committee is ensured through the publication of annual reports, issued statements, opinions, written instructions and practical guidelines at the official website of the Council, pursuant to art. 6 of its Rules of Procedure.“

#### **138-1. If yes, how is this institution / body formed**

only by judges

by judges and other legal professionals

other, please specify: .....

Comments Yes, High Judicial Council. According to Art.30 of Law on Judges the High Judicial Council decides which activities are contrary to the dignity and independence of a judge and damaging to the reputation of the court, on the basis of the Code of Ethics.

#### **138-2. Are the opinions of this institution / body publicly available?**

Yes

No

NAP

Comments - Please describe the work of this institution / body, the frequency of opinions, etc. No information supplied to date by the HCC.

NAP

**138-3. Is there in your country an institution / body giving opinions on ethical questions of the conduct of prosecutors (e.g. involvement in political life, use of social media by prosecutors, etc.)**

Yes

No

Comments On 10th April 2017, the Commissioner for Autonomy sent a notification to all Public Prosecutors Offices in the Republic of Serbia, informing them on establishing the Commissioner for Autonomy and procedure for informing State Prosecutorial Council on improper influence on the work of public prosecution. By this notification, all holders of public prosecutorial function were informed that they can point out to the Commissioner for autonomy the acts that in their opinion endanger autonomy of public prosecution and professional integrity of holders of public prosecutorial function. It was also stated that, upon the need, the cases of endangering autonomy and integrity can be registered as classified cases, depending on possible degree of endangering or character of possible improper influence upon work of public prosecution.

After instituting the Commissioner for Autonomy based on Article 9 of the Regulation on work of the State Prosecutorial Council ("Official gazette of the Republic of Serbia", No. 29/17) and regulating with the Decision A No. 393/17 manner of actions of the Commissioner in cases of political and other forbidden influence to work of public prosecution office, the Deputy of the President of State Prosecutorial Council started to perform duties of the Commissioner for Autonomy.

**138-4. If yes, how is this institution / body formed**

only by prosecutors

by prosecutors and other legal professionals

other, please specify: .....

Comments The SPC, by decision, established the Ethics Committee, as an ad hoc working body, to ensure compliance with the Code of Ethics of Public Prosecutors and Deputy Public Prosecutors of the Republic of Serbia. The Ethics Committee is empowered to: - takes care of establishing and developing standards of professional ethics for holders of public prosecutorial office with the aim of contributing to strengthening the rule of law and public confidence in the performance of public prosecutorial office, - undertakes actions to raise awareness of the content and importance of standards of professional ethics, - points to practices that threaten professional ethics standards, - propose preventive measures to strengthen professional ethics, - cooperate with the Commissioner and disciplinary authorities, as well as other bodies and organizations dealing with professional ethics, - at the request of the Chamber or the office of prosecutor, give its opinion and recommendations, - draws up a report on the procedure.

The Ethics Committee has five members, one of whom is an election member of the SPC, three holders of public prosecutorial office, and one a person who has publicly asserted himself in defense of ethical values.

The members of the Ethics Committee are elected by the SPC for a term of three years and may be re-elected.

The members of the Ethics Committee may be dismissed by a decision of the SPC prior to the expiration of their term of office or upon personal request.

The work of the Ethics Committee is governed by a separate act.

**138-5. Are the opinions of this institution / body publicly available?**

Yes

No

Comments - Please describe the work of this institution / body, the frequency of opinions, etc. Provisions of the new Regulation on Work of the State Prosecutorial Council (“Official gazette of the Republic of Serbia”, No. 29/17), adopted at the Council session held on 23rd of March 2017, prescribe the procedure of the State Prosecutorial Council public reactions in cases of political influence to work of public prosecution office, including regular/periodic informing the public on existence of political or other illegal influence to work of public prosecution offices by the State Prosecutorial Council, and once every year. In addition to that, the procedure of extraordinary addressing of the State Prosecutorial Council to the public is also regulated related to political or other illegal influence to work of public prosecution offices, if needed. Article 9 of the Regulation defines that the Council Deputy President is informing on existence of political or other illegal influence to work of public prosecution offices, and he/she is in that case acting as the Commissioner for independence, whereas manner of the Commissioner’s acting and informing shall be regulated in detail by the Council special decision. The State Prosecutorial Council adopted the Regulation on work of the State Prosecutorial Council (“Official Gazette of the Republic of Serbia”, No. 29/17), which established the institute of the Commissioner for Autonomy. It stipulates that this function will be performed by the Deputy President of State Prosecutorial Council and prescribes the procedure of the State Prosecutorial Council public reactions in cases of political influence to work of public prosecution office, and regularly (once in a year) and extraordinary (if needed). With reference to that, on 7th of April 2017 the State Prosecutorial Council issued the Decision A No. 393/17, regulating in detail manner of actions of the Commissioner for Autonomy in cases of political and other forbidden influence to work of public prosecution office, in line with Article 9 of the Regulation on work of the State Prosecutorial Council (“Official Gazette of the Republic of Serbia”, No. 29/17).

## 5.4. Disciplinary procedures

### 5.4.1. Authorities responsible for disciplinary procedures and sanctions

#### 140. Who is authorised to initiate disciplinary proceedings against judges (multiple options possible)?

Court users

Relevant Court or hierarchical superior

High Court / Supreme Court

High Judicial Council

Disciplinary court or body

Ombudsman

Parliament

Executive power (please specify):for example, MoJ

Other (please specify):Anyone may file a complaint based on which disciplinary proceedings are formally initiated by the HJC disciplinary prosecutor.

This is not possible

Comments Anyone may file a complaint based on which disciplinary proceedings are formally initiated by the HJC disciplinary prosecutor.

A judge is dismissed when s/he is convicted of a criminal offense for which s/he is sentenced to unconditional imprisonment of at least six months or of a punishable offense rendering him/her unworthy of judicial office, in the case of unprofessional performance of judicial function, or for committing a serious disciplinary offense.

#### 141. Who is authorised to initiate disciplinary proceedings against public prosecutors (multiple options possible):

Citizens

Head of the organisational unit or hierarchical superior public prosecutor

Prosecutor General /State public prosecutor

Public prosecutorial Council (High Judicial Council)

Disciplinary court or body

Ombudsman

Professional body

Executive power (please specify):MoJ

Other (please specify):Anyone may file a complaint/disciplinary charges based on which disciplinary proceedings can be formally initiated by the SPC Disciplinary Prosecutor before the Disciplinary Commission.

This is not possible

Comments Anyone may file a complaint/disciplinary charges based on which disciplinary proceedings can be formally initiated by the SPC Disciplinary Prosecutor before the Disciplinary Commission.

#### **142. Which authority has disciplinary power over judges? (multiple options possible)**

Court

Higher Court / Supreme Court

High Judicial Council

Disciplinary court or body

Ombudsman

Parliament

Executive power (please specify): .....

Other (please specify): .....

Comments

#### **143. Which authority has disciplinary power over public prosecutors? (multiple options possible):**

Supreme Court

Head of the organisational unit or hierarchical superior

Prosecutor General /State public prosecutor

Public prosecutorial Council (High Judicial Council)

Disciplinary court or body

Ombudsman

Professional body

Executive power (please specify): .....

Other (please specify): .....

Comments A Disciplinary Prosecutor initiates the proceedings before the Disciplinary Commission. The State Prosecutorial Council is competent to decide on appeal. In 2016 only the first instance body was taken into account.

### **5.4.2.Number of disciplinary procedures and sanctions**

**144. Number of disciplinary proceedings initiated during the reference year against judges and public prosecutors. (If a disciplinary proceeding is undertaken because of several reasons, please**

count the proceedings only once and for the main reason.)

	Judges	Prosecutors
<b>Total number (1+2+3+4)</b>	15 [ ] NA [ ] NAP	5 [ ] NA [ ] NAP
<b>1. Breach of professional ethics</b>	1 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP
<b>2. Professional inadequacy</b>	0 [ ] NA [ ] NAP	2 [ ] NA [ ] NAP
<b>3. Criminal offence</b>	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>4. Other</b>	14 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP

Comments - If “other”, please specify: Disciplinary offenses in accordance with Article 90 of the Law on Judges: Paragraph 7 - unjustifiable prolonging of proceedings, Paragraph 9 -obviously incorrect treatment of participants in proceedings and the court staff, Paragraph 10 -incompliance with the working hours.

In 2018 five motions for conducting disciplinary proceedings for the following disciplinary offences were filed:

- a procedure was initiated for a significant violation of the Code of Ethics provisions; - two procedures were initiated for obvious violation of duties related to proper behavior towards judges, parties in the proceedings, their legal representatives, witnesses, staff and colleagues; - a procedure was initiated for a severe disciplinary offence;
- a procedure was initiated for violation of the principle of impartiality and damaging trust of citizens in the public prosecution office.

#### 145. Number of sanctions pronounced during the reference year against judges and public prosecutors:

	Judges	Prosecutors
<b>Total number (total 1 to 10)</b>	6 [ ] NA [ ] NAP	5 [ ] NA [ ] NAP
<b>1. Reprimand</b>	2 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP
<b>2. Suspension</b>	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>3. Withdrawal from cases</b>	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>4. Fine</b>	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>5. Temporary reduction of salary</b>	4 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP

<b>6. Position downgrade</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>7. Transfer to another geographical (court) location</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>8. Resignation</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>9. Other</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>10. Dismissal</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If “other”, please specify. If a significant difference exists between the number of disciplinary proceedings and the number of sanctions, please indicate the reasons. Within the stated period the following disciplinary sanctions were imposed to prosecutorial position holders against whom the disciplinary proceedings were conducted: - three public warnings;  
-two disciplinary sanctions of prohibition of promotion in duration of three years.

### E3. Please indicate the sources for answering questions 144 and 145:

Sources: Disciplinary bodies of the High Judicial Council file yearly report to the High judicial council, regarding their work. These reports can be found on internet site of High judicial council.

-Annual Report of High Judicial Council for 2018 – Disciplinary proceedings- proceedings of the High Judicial Council as a second instance authority in a disciplinary proceeding

-Annual Report of Disciplinary Commission 2018;

-Annual Report of Disciplinary Prosecutor 2018;

-Law on Judges (Official Gazette of RS, No. 116/08, 58/09 - Decision of the CCS, 104/09, 101/10, 8/12 - Decision of the CCS, 121/12, 124/12 - Decision of the CCS, 101/13, 111/14 - Decision of the CCS 117/14, 40/15, 63/15 – Decision of the CCS, 106/15, 63/16 Decision of the CCS and 47/17)

-Law on High Judicial Council (Official Gazette of RS, No. 116/08, 101/10, 88/11 and 106/15)

- The Rulebook on procedure for establishing the disciplinary responsibility of the judges and courts presidents (“Official Gazette of RS”, No. 116/08,41/15).

## 6.Lawyers

### 6.1.Profession of lawyer

#### 6.1.1.Status of the profession of lawyers

#### 146. Total number of lawyers practising in your country:

	Total	Male	Female
Number of lawyers	10 068 <input type="checkbox"/> NA	6 544 <input type="checkbox"/> NA	3 524 <input type="checkbox"/> NA

Comments The total number of lawyers in the Republic of Serbia on 31 December 2018 pursuant to Registry of Lawyers of the Bar Association of Serbia (Serbian lawyers are members of their local/regional bar and the national bar association).

**147. Does this figure include “legal advisors” who cannot represent their clients in court (for example, some solicitors or in-house counsellors)?**

Yes ( )

No ( X )

Comments

**148. Number of legal advisors who cannot represent their clients in court:**

[ ]

[ ] NA

[ X ] NAP

Comments

**149. Do lawyers have a monopoly on legal representation in (multiple options are possible):**

	First instance	Second instance	Highest instance court (Supreme Court)
Civil cases	[ ]	[ ]	[ X ]
Dismissal cases	[ ]	[ ]	[ ]
Criminal cases – Defendant	[ X ]	[ X ]	[ X ]
Criminal cases – Victim	[ X ]	[ X ]	[ X ]
Administrative cases	[ ]	[ ]	[ X ]

[ ] NAP

Comments - Please indicate any useful clarifications regarding the content of lawyers' monopoly:

**149-0. If there is no monopoly, please specify the organisations or persons that may represent a client in court:**

	First instance	Second instance	Highest instance court (Supreme Court)
Civil society organisation	( ) Yes ( X ) No	( ) Yes ( X ) No	( ) Yes ( X ) No
Family member	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
Self-representation	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
Trade union	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
Other	( X ) Yes ( ) No	( X ) Yes ( ) No	( X ) Yes ( ) No



Comments - If "other", please specify. In addition, please specify for the categories mentioned the types of cases concerned by this/these representation(s): "Other": 1) A representative of the legal aid service of the local self-government who obtained a law degree and passed the bar exam. 2) A legal entity may be represented by a lawyer or a person employed by such a legal entity who holds a law degree and has passed the judicial state exam but is not a registered lawyer.

**149-1. In addition to the functions of legal representation and legal advice, can a lawyer exercise other activities?**

- Notarial activity
- Arbitration / mediation
- Proxy / representation
- Property manager
- Real estate agent
- Other law activities (please specify): .....

Comments

**149-2. What are the statuses for exercising the profession of lawyer?**

- Self-employed lawyer
- Staff lawyer
- In-house lawyer

Comments

**150. Is the lawyer profession organised through:**

- a national bar association
- a regional bar association
- a local bar association

Comments

**151. Is there a specific initial training and/or exam to enter the profession of lawyer?**

- Yes
- No

Comments - If not, please indicate if there are other specific requirements as regards diplomas or university degrees:

**152. Is there a mandatory general in-service professional training system for lawyers?**

- Yes
- No

Comments

**153. Is the specialisation in some legal fields linked to specific training, levels of qualification, specific diploma or specific authorisations?**

- Yes
- No

Comments - If yes, please specify:

## **F1. Please indicate the sources for answering questions 146 and 148:**

Sources: Sources: Q146: Registry of Lawyers of the Bar Association of Serbia (Serbian lawyers are members of their local/regional bar and the national bar association), on 31 December 2018; Constitution of the Republic of Serbia, Law on Lawyers ('Official Gazette of the RS', no.: 31/2011 and 24/2012 - CC decision), Law on Bar Examination ('Official Gazette of the RS', no.: 6/97), Statute of the Bar Association of Serbia ('Official Gazette of RS', 85/2011, 78/2012 and 86/2013) (BAS autonomous act), Code of Professional Ethics of Lawyers ('Official Gazette of RS', 27/2012), Law on Civil Procedure, Criminal Procedure Code, and other relevant legislation.

### **6.1.2. Practicing the profession**

**154. Can court users establish easily what the lawyers' fees will be (i.e. a prior information on the foreseeable amount of fees)?**

Yes

No

Comments

**155. Are lawyers' fees freely negotiated?**

Yes

No

Comments

**156. Do laws or bar association standards provide any rules on lawyers' fees (including those freely negotiated)?**

Yes, laws provide rules

Yes, standards of the bar association provide rules

No, neither laws nor bar association standards provide rules

Comments

### **6.1.3. Quality standards and disciplinary procedures**

**157. Have quality standards been determined for lawyers?**

Yes

No

Comments - If yes, what are the quality criteria used?

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

the bar association

the Parliament

other (please specify): .....

Comments

**159. Is it possible to file a complaint about:**

the performance of lawyers

the amount of fees

Comments - Please specify:

**160. Which authority is responsible for disciplinary procedures?**

a judge

Ministry of Justice

a professional authority

other (please specify): .....

Comments

**161. Disciplinary proceedings initiated against lawyers. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)**

	Number of disciplinary proceedings
<b>Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)</b>	52 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Breach of professional ethics</b>	31 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Professional inadequacy</b>	6 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Criminal offence</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>4. Other</b>	15 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If "other", please specify: Other: Proceedings are not finished, appeal proceedings are ongoing. As a general note, the total number of cases increased from 2016 to 2018 because Disciplinary bodies (Disciplinary Prosecution and Disciplinary Court) of the Bar Association of Serbia were elected at the election assembly of the Bar Association of Serbia held on 16. September 2017. Prior to this, they could not carry out their functions due to a temporary measure of the court, related to the competencies and question of legitimacy of the previously elected bodies. The new bodies constituted themselves and started to work: on 10/8/2017 (Disciplinary Prosecution) and on 10/15/2017 (Disciplinary Court). Assignment of the cases received was made at constituent sessions, whereby they had to first address cases from 2016 and 2017 which were temporarily halted. With regard to the number of cases classified in the category "others", it should be borne in mind that according to the Law on Advocacy and the Statute of the Bar Association of Serbia, the injuries for which the lawyer may be responsible are classified as minor and serious. Injuries are prescribed by the Statute of the Bar Association of Serbia and that the list of violations also includes a violation of the Code of Professional Ethics of Attorneys.

**162. Sanctions pronounced against lawyers.**

	Number of sanctions
<b>Total number of sanctions (1 + 2 + 3 + 4 + 5)</b>	38 [ ] NA [ ] NAP
<b>1. Reprimand</b>	2 [ ] NA [ ] NAP
<b>2. Suspension</b>	2 [ ] NA [ ] NAP
<b>3. Withdrawal from cases</b>	11 [ ] NA [ ] NAP
<b>4. Fine</b>	8 [ ] NA [ ] NAP
<b>5. Other</b>	15 [ ] NA [ ] NAP

Comments - If "other", please specify. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons. The total number of sanctions increased from 11 in 2016 to 38 in 2018 because Disciplinary bodies (Disciplinary Prosecution and Disciplinary Court) of the Bar Association of Serbia were elected at the election assembly of the Bar Association of Serbia held on 16. September 2017. Prior to this, they could not carry out their functions due to a temporary measure of the court, related to the competencies and question of legitimacy of the previously elected bodies. The new bodies constituted themselves and started to work: on 10/8/2017 (Disciplinary Prosecution) and on 10/15/2017 (Disciplinary Court). Assignment of the cases received was made at constituent sessions, whereby they had to first address cases from 2016 and 2017 which were temporarily halted.

Regarding to the issues related to the removal of a lawyer for conviction in criminal proceedings, according to the Law on Advocacy, the decision on the termination of the right to practice as a lawyer, is issued on this basis by the Management Board of the competent Bar in administrative proceedings. Disciplinary bodies do not decide on the termination of the right to practice as a lawyer on this basis.

In 2018, a decision was made to delete a lawyer from the directory based on a conviction in criminal proceedings in 1 case, and in 1 case the decision on enrollment was annulled because it was later (upon the decision on enrollment) revealed that the candidate was found guilty for criminal offences - corruption in Republika Srpska. An administrative dispute is still pending in both cases.

With regard to the number of cases classified in the category "others", it should be borne in mind that according to the Law on Advocacy and the Statute of the Bar Association of Serbia, the injuries for which the lawyer may be responsible are classified as minor and serious. Injuries are prescribed by the Statute of the Bar Association of Serbia and that the list of violations also includes a violation of the Code of Professional Ethics of Attorneys.

It should also be borne in mind that the Law on Advocacy provides that a lawyer's right to practice as a lawyer may cease in the event that s/he does not pay the membership fee or does not receive mail at an address that is at the law firm's headquarters for more than 6 months.

The decision to terminate the right to practice as a lawyer on this basis is made in administrative proceedings, not in disciplinary proceedings.

## 7. Court related mediation and other alternative Dispute Resolution

### 7.1 Court related mediation

#### 7.1.1 Details on court related mediation

##### 163. Does the judicial system provide for court-related mediation procedures?

( X ) Yes

( ) No

Comments Please see general comments.

**163-1. In some fields, does the judicial system provide for mandatory mediation with a mediator?**

Before/instead of going to court

Ordered by the court, the judge, the public prosecutor or a public authority in the course of a judicial proceeding

No mandatory mediation

Comments - If there is mandatory mediation, please specify which fields are concerned: Please see general comments.

**163-2. In some fields, does the legal system provide for mandatory informative sessions with a mediator?**

( ) Yes

(X) No

Comments - If there are mandatory informative sessions, please specify which fields are concerned:

**164. Please specify, by type of cases, who provides court-related mediation services:**

	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
<b>Civil and commercial cases</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
<b>Family cases</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
<b>Administrative cases</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
<b>Labour cases including employment dismissals</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
<b>Criminal cases</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
<b>Consumer cases</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP

Comments Registered mediators, including judges. Such mediators may be private mediators (lawyers, etc.) or employees of the Centers for Social Work of local municipalities, etc.

Public prosecutors can apply settlement-mediation as a type of diversionary measure in criminal cases if they see fit (under the Law on Juvenile Crime Offenders and Criminal Protection of Juveniles, as explained in the general comments of Q163-1) but they themselves cannot be mediators. For more information, please see general comments.

**165. Is there a possibility to receive legal aid for court-related mediation or receive these services free of charge?**

( ) Yes

( X ) No

[ ] NAP

Comments - If yes, please specify (only one or both options):: The Law on Mediation in Dispute Resolution provides for certain monetary incentives in case of reaching an agreement to resolve the dispute through mediation after the judicial or other proceedings have been initiated and before the conclusion of the first hearing for the main trial, such as that the parties may be exempt from court or administrative fees, in accordance with the law which regulates court and administrative fees (Article 31). The Parliament has enacted the Law on Amendments and Supplements to the Law on Court Fees ("Official Gazette of RS", no. 95/2018), which further encourages parties to resolve their disputes by amicable means, through mediation, negotiated settlement, court settlement or any other amicable way. These amendments, which are applicable from 1 January 2019, postpone the collection of court fees in order to leave the parties the opportunity to once again consider the amicable resolution of the dispute, once the court proceedings have been initiated. Through these provisions, which have been drafted by the Ministry of Justice, the state offers financial incentives to the parties to consider other viable dispute resolution options early in the court proceedings by exempting them from paying all relevant court fees if they achieve a settlement by the time of the first hearing. Regarding general exemption from court fees please see comment to Q17.

Under the Free Legal Aid Law (2018) applicable from 2019, expenses of mediators, lawyers, etc. are a form of secondary legal aid and may be financed from the budget of the Republic of Serbia, pursuant to the provisions of the FLA Law.

Therefore, in the following evaluation cycle, effectively, the answer will be yes.

### 166. Number of accredited or registered mediators for court-related mediation:

	Total	Males	Females
<b>Number of mediators</b>	735 [ ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments On 31 December 2018 a total of 735 mediators have been registered in the public register of the Ministry of Justice. However, please note that mediators are registered for all types of mediation (not only court-related mediation). Moreover, only 149 mediators have reported to the Ministry of Justice that they have in fact mediated in 2018. Mediator's reports to the Ministry of Justice for 2018 are not highly reliable as the information given may be verified only upon the request of renewal of licence of the mediator.

The Action Plan for Chapter 23 provides for continuous promotion of mediation, continuous training of mediators and continuous registry of mediators by the Ministry of Justice. The rise of more than 75% from 2016 (419 mediators) to 2018 (735 mediators) is a result of the various promotional activities of the Ministry of Justice and the anticipation that more mediations will be demanded in the future.

### 167. Number of court-related mediations:

	Number of cases for which the parties agreed to start mediation	Number of finished court-related mediations	Number of cases in which there is a settlement agreement
<b>Total ( 1 + 2 + 3 + 4 + 5 + 6 )</b>	435 [ ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>1. Civil and commercial cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Family cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>3. Administrative cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>4. Labour cases including employment dismissal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

<b>5. Criminal cases</b>	199 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>6. Consumer cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Please indicate the source: Source: Ministry of Justice’s statistics based on submitted registered mediators’ annual reports (obligation from 2015 under the Law on Mediation in Dispute Resolution) (in total 244 reported court connected mediations) and statistics of the Statistical Office of the Republic of Serbia for diversionary measures for juvenile offenders - settlement with victims (mediation) (191).

Courts do have general statistics on court-related mediation, which is currently not reliable nor divided into subcategories with respect to the type of dispute at hand. Currently, these court statistics are not kept electronically in the automated case management system, making this data unreliable. Moreover, interpretations of what a mediated case is are different, and should be harmonised.

Reliable reporting on court-related mediations will not be possible without the further development of the relevant court and public prosecutor’s case management systems. Mediators’ reporting mechanisms to the MoJ must likewise be improved, in order to keep precise records of cases which have not been initiated before the court, as the current reporting mechanism allows for submitting of unreliable data. Also, the reporting and analytics are currently conducted semi-manually. Nonetheless, tentative statistics are given, based on mediators' reports. 167.5: Based on statistics of the Statistical Office of the Republic of Serbia in 2018, 191 diversionary measures for juvenile offenders - settlement with victims (mediation) have been ordered. These statistics are reliable and ordered by judges/pp’s, which is why we have indicated them.

### 168. Do the following alternative dispute resolution (ADR) methods exist in your country?

- Mediation other than court-related mediation
- Arbitration
- Conciliation (if different from mediation)
- Other ADR (please specify): .....

Comments In June 2018, the National Assembly of the Republic of Serbia adopted the Law on Amendments to the Law on Peaceful Labour Dispute Resolution. The Amendments to the Law significantly expanded the scope of the Republic Agency for Peaceful Settlement of Labour Disputes in accordance with its acquired experiences and practices. The competence for individual labour disputes was also expanded to include the disputes arising from: payment of salaries/wages, allowance of salaries/wages in accordance with the law, payment of severance pays during retirement, working hours and exercising rights to annual leave. An important novelty in the Law is the precise wording that the arbitrator should in the course of the proceedings indicate to the parties in the dispute the possibility of an amicable settlement of the dispute. The Minister of Justice has established a Working Group for drafting of amendments to the Law on Mediation in Dispute Resolution on 19 December 2018 with the task of drafting A new legal framework which should strike a balance between the need to regulate, on the one hand, and the need to preserve a sufficient level of party autonomy and procedural flexibility, on the other. The working group has in 2019 worked on the further improvement of all relevant provisions of the law, especially taking care that changes to the legal framework encompass: 1)transparency and clarity of the content of the mediation law in relation to how mediation is started, the mediation procedure itself, standards and qualifications for mediators, mediation centers and mediation training providers, as well as rights and obligations of participants in the mediation process; 2)specifying the position of judges in the mediation procedure; 3)enforceability of clauses on settling disputes through mediation;

4)the principle of confidentiality;

5)the enforceability of agreements reached in mediation and agreements reached in international mediation; and 6)the impact of mediation on the course of a lawsuit, including the possibility of prescribing the first obligatory meeting as a procedural precondition for initiating litigation in certain types of cases, as well as other ways in which the objective of Directive 2008/52/EC may be achieved.

### G1. Please indicate the source for answering question 166:

Source: Source: Ministry of Justice – Sector for Judiciary – Department for Judicial Professions. The Law on Mediation in Dispute

Resolution became applicable on 1 January 2015.

Ministry of Justice Website: <http://www.mpravde.gov.rs/intermediaries.php>.

## 8. Enforcement of court decisions

### 8.1. Execution of decisions in civil matters

#### 8.1.1. Functioning

#### 169. Do you have enforcement agents in your judicial system?

Yes

No

Comments Joint instructions were issued on 5 April 2016 by MoJ, HJC and SCC for the purpose of preparation for implementation of the new LoES and addressing contentious questions relating to transitional and final provisions of the LoES, which are accessible online, on the website of the MoJ, HJC and the SCC.

#### 170. Number of enforcement agents

	Total	Male	Female
Number of enforcement agents	213 [ ] NA	126 [ ] NA	87 [ ] NA

Comments As a rule, the Minister of Justice determines the number of enforcement agents, by appointing one enforcement agent per 25,000 inhabitants. The Ministry of Justice keeps the registry of enforcement agents, enforcement agents' partnerships and deputy enforcement agents.

The given number is the number of enforcement agents practicing as private professionals under the authority (control) of public authorities, including the number of deputy enforcement agents who have been granted authority to effectively practice.

The Bylaw on Determining the Required Number of Enforcement Agents foresees appointing of 308 enforcement officers.

#### 171. Are enforcement agents (multiple options are possible):

judges

bailiffs practising as private professionals under the authority (control) of public authorities

bailiffs working in a public institution

other

Comments - Please specify their status and powers: The Law on Enforcement and Security (adopted in 2011; hereinafter: "LoES") has from May 2012 introduced a mixed system of enforcement consisting of the previously existing court enforcement system and a new legal profession – the enforcement agent as an independent professional (entrepreneur/member of an enforcement agent partnership), appointed by the Ministry of Justice, with entrusted public powers. The aim of the reform was to lead to a more efficient and more effective enforcement system.

Court enforcement is initiated before the courts of the Republic of Serbia and implemented before a court enforcement officer or private enforcement officer ("parallelism in the carrying out of enforcement"). Until July 2016, the enforcement creditor had the option of choosing between the two systems of implementation of enforcement, except in cases of exclusive competence of courts i.e. judges - for conducting the enforcement of decisions concerning family matters and enforcement in reinstatement of employee to work, or in utility and similar cases, in which enforcement agents have exclusive jurisdiction.



From 1 July 2016, with the implementation of the new Law on Enforcement and Security (“Official Gazette of the RS”, no.: 106/2015, 106/2016 - authentic interpretation, 113/2017 - authentic interpretation and 54/2019), the competences (jurisdiction) of professional enforcement agents have been broadened whereby they now have exclusivity in carrying out (implementation) of enforcement for all new cases, while court bailiffs retain competences for cases which are still implemented by the court.

The Law on Organisation of Courts provides that basic and commercial courts have jurisdiction in enforcement cases, respectfully, while the new LoES introduces also jurisdiction of higher courts and Commercial Court of Appeal for appeals. The number of courts which have jurisdiction in first instance: 67 Basic Courts and 16 Commercial Courts (total of: 83). The first instance courts have special departments, competent for enforcement. The territorial jurisdiction of the courts in enforcement cases is prescribed in the Law on Enforcement and Security, depending on the nature of the attachment. Most simply put, the following categories of enforcement agents exist:

1. Judges (basic and commercial court judges; higher court and commercial appellate court judges are second instance judges) – make decisions on enforcement, except in utilities and similar cases; exclusively conduct the enforcement of decisions concerning family matters (ex. child custody, etc.) and enforcement in reinstatement of employee to work;
2. Bailiffs employed in courts (basic and commercial courts) – implement enforcement except when judges or enforcement agents have exclusive jurisdiction for implementation;
3. (Self-employed) enforcement agents (213) – exclusive jurisdiction for making decisions and implementing enforcement in utility and similar cases.

### 171-1. Do enforcement agents have the monopoly in exercising their profession?

Yes

No

Comments - Please indicate any useful clarifications regarding the content of the enforcement agents’ monopoly or on the opposite regarding the competition they have to deal with: The enforcement proceedings consist of two separate stages: deciding on the motions to enforce based on enforceable or authentic documents and carrying out of enforcement. The first stage involves “permission/motion to enforce”, while the second stage involves undertaking a series of actions used to carry out specific enforcement. The new LoES keeps the existing situation regarding deciding on motions to enforce based on enforceable or authentic documents and regarding the motion to secure. The court remains exclusively competent for ordering (permitting) enforcement while from 1 July 2016, carrying out of enforcement is under the exclusive jurisdiction of (private professional) enforcement agents in cases initiated from that dates (Art.4 LoES), including the enforcement of the ruling ordering a preliminary or interim measure, enforcement of the ruling imposing court penalties, etc. Exceptions are laid out below.

Jurisdiction of the court has expanded to a certain extent by LoES (2015) - the court now has exclusive jurisdiction to carry out enforcement of joint sale of immovable and moveable property (new institute), while they have retained jurisdiction for the enforcement of enforceable documents ordering the enforcement debtor to act, refrain from action or suffer an action, and enforceable documents related to family relations and reinstatement of employees to work. The enforcement agents have retained the exclusive jurisdiction to render rulings on motions to enforce based on authentic documents originating from provided utility and related services (they can dismiss or reject a motion or grant it by rendering an enforcement ruling based on an authentic document originating from the utility and related services) (Articles 392 – 397 of the Law on Enforcement and Security (“Official Gazette” No.106/2015)). Serbia’s strategic documents concerning the judiciary envisage the strengthening of the powers of enforcement agents. Therefore, in the domain of carrying out of enforcement, the new Law abolishes parallelism of competences. It should be noted also that from 2014, uniform distribution of cases to enforcement agents in utilities and similar claim cases was introduced, in order to improve the efficiency of the enforcement procedure - the enforcement creditor is obliged to address the Chamber of Enforcement Agents prior to submitting a proposal for enforcement, which will allocate an enforcement agent for the case, taking into account of the equitable distribution of cases.

### 171-2. Can the enforcement agent carry out the following civil enforcement proceedings:

	Option
Seizure of movable tangible properties	<input type="checkbox"/> Yes with monopoly <input checked="" type="checkbox"/> Yes without monopoly <input type="checkbox"/> No <input type="checkbox"/> NAP

<b>Seizure of immovable properties</b>	<input type="checkbox"/> Yes with monopoly <input checked="" type="checkbox"/> Yes without monopoly <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Seizure from a third party of the debtor claims regarding a sum of money</b>	<input type="checkbox"/> Yes with monopoly <input checked="" type="checkbox"/> Yes without monopoly <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Seizure of remunerations</b>	<input type="checkbox"/> Yes with monopoly <input checked="" type="checkbox"/> Yes without monopoly <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Seizure of motorised vehicles</b>	<input type="checkbox"/> Yes with monopoly <input checked="" type="checkbox"/> Yes without monopoly <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Eviction measures</b>	<input type="checkbox"/> Yes with monopoly <input checked="" type="checkbox"/> Yes without monopoly <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Enforced sale by public tender of seized properties</b>	<input type="checkbox"/> Yes with monopoly <input checked="" type="checkbox"/> Yes without monopoly <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Other</b>	<input type="checkbox"/> Yes with monopoly <input checked="" type="checkbox"/> Yes without monopoly <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments other - enforcement on securities and shares in a company.

### **171-3. Apart of the enforcement of court decisions, what are the other activities that can be carried out by enforcement agents?**

- Service of judicial and extrajudicial documents
- Debt recovery
- Voluntary sale of moveable or immoveable property at public auction
- Seizure of goods
- Recording and reporting of evidence
- Court hearings service
- Provision of legal advice
- Bankruptcy procedures
- Performing tasks assigned by judges
- Representing parties in courts
- Drawing up private deeds and documents
- Building manager
- Other

Comments All the above stated can be carried out within the enforcement or security proceedings. Other - members in bodies of the Chamber for Enforcement Agents, etc.; mediators

**172. Is there a specific initial training or exam to become an enforcement agent?**

Yes

No

Comments Beside passing the enforcement agent examination conducted by the Ministry of Justice, which was mandatory requirement from 2012, the Law on Enforcement and Security (2015) has introduced obligatory initial training (both theoretical and practical) for all newly appointed enforcement agents and deputies, from 1 July 2016. Likewise, it has introduced mandatory condition of passing the judicial state exam by 1 January 2018, for all enforcement agents.

**172-1. Is there a system of mandatory general continuous training for enforcement agents?**

Yes

No

Comments Continuous training is obligatory and is organised by the Chamber of Enforcement Agents and Judicial Academy.

**173. Is the profession of enforcement agents organised by (the answer NAP means that the profession is not organised):**

a national body

a regional body

a local body

NAP

Comments Chamber of Enforcements - <http://www.komoraizvrsitelja.rs/>

**174. Are enforcement fees easily established and transparent for court users?**

Yes

No

Comments They are prescribed by law and bylaw, and are subject to supervision by the Chamber and Ministry of Justice.

**175. Are enforcement fees freely negotiated?**

Yes

No

Comments

**176. Do laws provide any rules on enforcement fees (including those freely negotiated)?**

Yes

No

Comments The Enforcement Agent Tariff, a bylaw of the Minister of Justice ("Official Gazette of RS", No. 59 of 28 June 2016, <https://www.mpravde.gov.rs/tekst/13174/javnoizvrsiteljska-tarifa-.php>), has become applicable on 1 July 2016, concurrently with the new law. The new tariff introduces a new method of calculating fees, which is more transparent, precise and allows the creditor and the enforcement debtor to more easily identify the costs of enforcement proceedings. This completes the reform with respect to the costs of enforcement proceedings, which began in 2015 with the enacting of the Law on Amendments to the Law on Court Taxes ("Official Gazette of RS", no. 106/2015) in order to harmonise the system of collection of court taxes with the Law on Enforcement and Security, reduce the amount of court fees charged by the court in cases where enforcement is implemented by the enforcement agent and abolish the

payment of court fees for the enforcement ruling of the court regarding the motion to enforce on the basis of an enforceable or authentic document. Thereby, a significant regulatory improvement with respect to costs of these proceedings has been made, which has put an end to the “duplication” of fees charged by the court and enforcement agent, which existed since the introduction of this new legal profession in the judicial system in 2012. Additionally, in order to gain benefits from the system of enforcement agents, the competences for enforcing of taxes has been transferred to this legal profession, while parties are exempted from payment in the cases of entrusting of certain court proceedings or actions to notaries.

## H0. Please indicate the sources for answering question 170

Source: Ministry of Justice – Sector for Judiciary – Department for Judicial Professions, Register.

### 8.1.2. Efficiency of enforcement services

#### 177. Is there a body entrusted with supervising and monitoring the enforcement agents’ activity?

Yes

No

Comments Both the Chamber of Enforcement Agents and the Ministry of Justice Department for Judicial Professions supervise and monitor the enforcement agents’ activity. Likewise, the courts supervise the enforcement agents’ work within the enforcement proceedings. A novelty of the Law on Enforcement and Security from 2015 is the introduction of the Disciplinary Prosecutors of both the Chamber and the Ministry, who initiate disciplinary proceedings. On 24 March 2016, the Minister of Justice adopted the Rulebook on Monitoring over the Work of Enforcement Agents and the Rulebook on Disciplinary Proceedings Against Enforcement Agents (“Official Gazette of RS” No. 32/2016). These Rulebooks are applicable from 1 July 2016. The Rulebook on the Recordkeeping of Enforcement and Security Proceedings and Financial Operations of Enforcement Agents, the Manner of Reporting, the Content of the Report on the Work of the Enforcement Agents and on Archiving has also been adopted (“Official Gazette of RS“ No. 37/2016).

#### 178. Which authority is responsible for supervising and monitoring enforcement agents?

professional body

judge

Ministry of Justice

public prosecutor

other (please specify): .....

Comments The Chamber of Enforcement Agents has a special Supervision Commission, as a permanent body of the Chamber for supervision, for the territory of each organizational unit of the Chamber. The Ministry of Justice Department for Judicial Professions also supervises and is developing a system for electronic case management oversight, complementary to the on-site oversight. The Rulebook on the Disciplinary Proceedings against Enforcement Agents was adopted (“Official Gazette of RS”, No. 32 of 30 March 2016) and is applicable from 1 July 2016. On the basis of the Rulebook, the Commission of the MoJ that conducts the disciplinary proceedings against enforcement agents has five members, three of which are appointed by the Minister of Justice from among judges with experience in the enforcement field and the process of securing; two members are appointed by the Chamber of Enforcement Agents among enforcement agents.

#### 179. Have quality standards been determined for enforcement agents?

Yes

No

Comments - If yes, what are the quality criteria used? The quality standards which are set by the Law on Enforcement and Security (2015) for self-employed enforcement agents are reflected through their qualifications i.e. requirements for appointment – the individual has to be a law school graduate with a passed (state) enforcement agent exam, and successfully passed Judicial Examination, with at least two years of working experience in legal professions (after passing Judicial Examination), with the full legal capacity and moral credibility to perform duties of an enforcement agent, including not being subject of related criminal proceedings. Additionally, LoES introduces obligatory initial training as a condition for entering the profession, and more stringent rules on continuous training as well as passed state judicial (bar) exam. Quality criteria are also provided in the Code of Ethics of Enforcement Agents, which is adopted by the Chamber of Enforcement Agents and in the Standards of Professional Conduct of Enforcement Agents, a novelty of the new LoES, which will be adopted by the Minister of Justice.

**180. If yes, who is responsible for establishing these quality standards?**

- professional body
- judge
- Ministry of Justice
- other (please specify): .....

Comments

**181. Is there a specific mechanism for executing court decisions rendered against public authorities, including supervising such execution?**

- Yes
- No

Comments - If yes, please specify: Enforcement of judgments and decisions of the European Court for Human Rights: The Law on Public Attorney’s Office („Official Gazette of RS“, no. 55/14) in its article 13 para. 1-4 regulates representation of the Republic of Serbia before the European Court of Human Rights. Paragraph 5 of the same article provides that payment of the sum specified by the friendly settlement or in the Court’s judgment is conducted from the accounts of the public authorities which caused the violation. The procedure for enforcement of judgments and decisions is not further regulated by the above-mentioned Law. Consequently, domestic authorities adopted the following practise: non-pecuniary damages are being paid from the accounts of High Court’s Council; pecuniary damages (which represent sums awarded by non-enforced domestic judgments) are being paid from the accounts of Public Attorney’s Office. Therefore, according to the Law on Budget of the Republic of Serbia for the year 2016 („Official Gazette“, no. 103/15), awarded non-pecuniary damages were to be paid from the accounts of the High Court’s Council and awarded pecuniary damages were to be paid from the accounts of Public Attorney’s Office.

**182. Is there a system for monitoring how the enforcement procedure is conducted by the enforcement agent?**

- Yes
- No

Comments - If yes, please specify: The court (i.e. judges) performs oversight over the work of enforcement agents within the judicial proceedings, i.e. upon a filed objection or request for elimination of irregularities. On the other hand, forms of supervision outside of the enforcement or security proceedings exist if they are of non-procedural nature and are performed by the Ministry of Justice and the Chamber of Enforcement Agents. The principle is that the Ministry of Justice is authorised to primarily supervise the legality of the work of enforcement agents in the enforcement or security proceedings - the procedural aspect of the activities of enforcement agents and the Chamber is authorized to supervise these as well as other aspects of the activities of enforcement agents. The LoES 2015 stipulates that a civil servant who performed supervision is obliged to forward the record of supervision and evidence to the disciplinary prosecutor of the Ministry, as well as the disciplinary prosecutor of the Chamber, so that they might review the record and evidence, and possibly initiate disciplinary proceedings against the enforcement agent. The same applies mutatis mutandis when the supervision is conducted by the Chamber.

**183. What are the main complaints made by 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): .....

Comments Under “unlawful practices” or “other” may be classified as the frequent complaint regarding the service of documents, and the mistaken identity of enforcement debtor.

**184. Has your country prepared or established concrete measures to change the situation concerning the enforcement of court decisions – in particular regarding decisions against public authorities?**

- Yes
- No

Comments - If yes, please specify: In the period from 2014-2016, Serbia implemented a comprehensive reform of the legal framework for enforcement. The new Law on Enforcement and Security (“Official Gazette of the RS”, no.: 106/2015, 106/2016 - authentic interpretation and 113/2017 - authentic interpretation) was adopted on 18 December 2015, and has fully entered into force on 1 July 2016. The main novelties of the new LoES are: broadening of the competence of enforcement agents; transferal of backlogged utility cases into the competence of enforcement officers, by which the expenses and fees in those proceedings are also regulated; more stringent requirements for enforcement agents and candidates, such as mandatory initial training and a basis for a more efficient monitoring and control and disciplinary system; precise procedural provisions that should eliminate present ambiguities causing excessive delay in proceedings; detailed and unambiguous provisions on enforcement of pecuniary claims against real property as most valuable assets; reaching a compromise between the speed of the enforcement proceedings (primarily embodied in the acting of enforcement agents) and the harmonisation of case law (by way of reintroduction of the right of appeal - jurisdiction of higher courts).

Most notably, the new LoES has given a basis is given for transferal of backlogged utility cases into the competence of enforcement officers, by which the expenses and fees in those proceedings are also regulated. Namely, enforcement creditors in whose favour an enforcement ruling based on an enforceable or authentic document, or a security ruling, was rendered before enforcement agents began operating in the Republic of Serbia, related to which enforcement or security proceedings were still being conducted on 1 May 2016, had to declare, during the period lasting from 1 May 2016 to 1 July 2016, whether they wanted the court or an enforcement agent to implement enforcement. If the enforcement creditor failed to provide said declaration within the specified period of time, enforcement proceedings were discontinued.

The application of the Law has steadily resulted in a decrease of enforcement cases in courts, i.e. the reduction of the backlog of enforcement cases in Serbia.

Through the implementation of systemic measures defined in the special program for reduction of backlog enforcement cases, with the adoption of the new Law on Enforcement and Security, the Republic of Serbia has enabled a comprehensive disposition of backlog cases in the enforcement matter, since previously, the cases in this matter prevented the normal functioning of the judiciary. The Supreme Court of Cassation, the Ministry of Justice and the High Court Council have jointly drafted and adopted the Instructions for the implementation of the new Law on Enforcement and Security which contain measures that determine the jurisdiction of courts and public bailiffs in enforcement and security proceedings and stipulate the obligations of enforcement creditors, courts, the Chamber of Enforcement Agents (EA’s) and EA’s in enforcement cases where there is a change of jurisdiction pursuant to this new Law, sanction the failure of mandatory action of enforcement creditors and action in individual enforcement cases pursuant to the new Law, as well as in ongoing cases.

Implementation of the Instructions in basic courts was supported by the European Union through the IPA funded project “Judicial Efficiency”. The implementation of these measures and with this support, great results have been achieved and the number of enforcement cases was reduced by 811.322 cases only in 2016. Pending at the beginning of 2015: 1.939.807; Total incoming in 2015: 234.008; Total disposed in 2015: 380.628; Pending at the end of 2015: 1.793.787. Pending at the beginning of 2016: 1.855.129; Total incoming in 2016: 352.207; Total disposed in 2016: 1.225.471; Pending at the end of 2016: 981.865. (SCC data, annual report for 2016). By the end of 2017, most of the backlogged cases have been resolved or transferred to enforcement agents. Joint instructions were issued on 5 April 2016 by MoJ, HJC and SCC for the purpose of preparation for implementation of the new LoES and addressing contentious questions relating to transitional and final provisions of the LoES, which are accessible online, on the website of the MoJ, HJC and the SCC. Apart from the comprehensive and systemic regulatory reforms of the enforcement system in Serbia (enacting of LoES in 2015 and continuous reforms thereto related), it should be noted the Supreme Court of Cassation adopted the Uniform Backlog Reduction Program in the Republic of Serbia, and accompanying Action Plan for the Improvement of the Judicial System of Enforcement. In 2016, the Ministry of Justice has enacted the necessary by-laws and regulations necessary for the implementation of the LoES, in particular for establishing clearly defined professional standards and reporting criteria, professional ethics, disciplinary proceedings, and an efficient system of monitoring and control of enforcement agents, for a functional and transparent system of accountability of enforcement officers, as well as for conducting initial and continuous training programs.

Promotion of mediation is also aimed at decreasing the number of court decisions which require enforcement. The Supreme Court of Cassation, the High Judicial Council and the Ministry of Justice jointly enacted on 28 June 2017 the Joint Guidelines for the Improvement of Mediation in the Republic of Serbia, intended to reduce the number of old cases and to prevent their occurrence (<https://www.mpravde.gov.rs/tekst/16729/uputstvo-za-unapredjenje-medijacije-u-republici-srbiji-po-zakonu-o-posredovanju-u-resavanju-sporova.php>).

In the following period, the Public Attorney’s Office will be supported in improving capacities and way of dealing with enforcement of court decisions as regards decisions against public authorities.

Enforcement of judgments and decisions of the European Court of Human Rights:

The largest number of judgments issued by the European Court of Human Rights related to Serbia refers to violation of the right to a fair trial due to the length of the procedure and to the non-enforcement of domestic judgments. Enforcement cases are the prevalent culprit of Serbia’s judicial system backlog problem, with cases related to unpaid utility bills making up the majority of the enforcement caseload. The largest number of friendly/amicable settlements are also concluded because of inefficient enforcement procedure. This has contributed to the fact that the Court submitted a large number of applications in which the applicants complained about the non-enforcement of judgments rendered against companies with a majority of social capital. As the ECtHR declared these cases its well-established case-law (WECL), in 2013 and 2014 the state was delivered 2000 petitions with the proposal of the Court to conclude an amicable settlement. This was reflected in the number of concluded amicable settlements in this field as well as on the increase of number of judgments relating to ineffective enforcement.

**185. Is there a system measuring the length of enforcement procedures:**

	Existence of the system
for civil cases	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
for administrative cases	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments The CMS used by basic and commercial courts (AVP) currently does not provide the possibility to generate the required information automatically. For the purpose of reporting on the implementation of the new Law on Enforcement and Security, both the Chamber of Enforcement Agents and the Supreme Court of Cassation have devised formulas for calculating the average length before courts and enforcement agent, respectively. However, a comprehensive system for measuring the length of enforcement procedures is yet to be implemented.

**186. Regarding a decision on debt collection, please estimate the average timeframe to notify the decision to the parties who live in the city where the court sits (one option only):**

between 1 and 5 days

between 6 and 10 days

between 11 and 30 days

more (please specify): .....

NA

Comments Enforcement agents serve documents pursuant to the provisions of the Law on Enforcement and Security. After receipt of the document, the enforcement agent makes an attempt to deliver the document to the debtor on the following day. It is possible that the debtor receives the court document on the same day as the service/delivery was made. If, however, the debtor is not found at the address, the enforcement agent leaves them a notice to come and receive the court document at the competent court within the following five days. In these cases, the delivery shall be completed in 6 days maximum.

If it is necessary to undertake service/delivery through the court bulletin board, a longer period of time is required for delivery. This is because the practice is to first check the address of debtors through the Office of Population Register of the Ministry of the Interior, and after that placing the document on the notice board of the court. The Report of the Ministry of the Interior, in larger cities, can be expected upon an average up to three months. After submitting data of debtor address, data is placed on the notice board of the competent court. This is also the phase that further slows down the process of delivery, because of the refusal of the courts to place documents on the notice board of the court in proceedings which enforcement agents conduct.

In short: when the service is not done through the court bulletin board, it may be carried out within 6-10 days; if the service is done through the court notice board, it often requires a period longer than 30 days.

**187. Number of disciplinary proceedings initiated against enforcement agents. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)**

	Number of disciplinary proceedings initiated
<b>Total number of initiated disciplinary proceedings (1+2+3+4)</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. For breach of professional ethics</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. For professional inadequacy</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. For criminal offence</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Other</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If "other", please specify:

**188. Number of sanctions pronounced against enforcement agents:**

	Number of sanctions pronounced
<b>Total number of sanctions (1+2+3+4+5)</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Reprimand</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP



<b>2. Suspension</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Withdrawal from cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Fine</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>5. Other</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If “other”, please specify. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons: During 2016, the previous Enforcement Agent Disciplinary Commission, established by the Minister of Justice on 14 October 2014 and which started to work in March 2015, acted in 10 cases. One procedure was initiated by the Ministry of Justice, five by the Chamber of Enforcement Agents and four were initiated both by Ministry of Justice and Chamber of Enforcement Agents.

The Commission brought the following disciplinary measures: - 3 disciplinary measures - permanent ban on performing activity; - 5 disciplinary measures- a fine (money penalty); - 2 disciplinary measures- warnings. The Rulebook on the Disciplinary Proceedings against Enforcement Agents was adopted (“Official Gazette of RS”, No. 32 of 30 March 2016) and was applicable from 1 July 2016. On the basis of the Rulebook, the Commission of the MoJ that conducts the disciplinary proceedings against enforcement agents has five members, three of which are appointed by the Minister of Justice from among judges with experience in the enforcement field and the process of securing; two members are appointed by the Chamber of Enforcement Agents among enforcement agents. The newly formed disciplinary commission was established at the inaugural session at 10.11.2016. Between 10th of November 2016 and 31th of December 2016 there were no initiated disciplinary proceedings by Disciplinary Prosecutor of Ministry of Justice or Disciplinary Prosecutor of Chamber of Public Enforcement Agents.

## H1. Please indicate the sources for answering questions 186, 187 and 188:

Source: Q 186: Chamber of Enforcement Agents; Q’s 187-188: Ministry of Justice; Enforcement Agent Disciplinary Commission; Chamber of Enforcement Agents

## 8.2.Execution of decisions in criminal matters

### 8.2.1.Functioning of execution in criminal matters

#### 189. Which authority is in charge of the enforcement of judgments in criminal matters? (multiple options possible)

Judge

Public prosecutor

Prison and Probation Services

Other authority (please specify):The police enforce the penalty of seizure of driving license and safety measures of ban on driving a motor vehicle and expulsion of foreigners from the country; - The measure of compulsory psychiatric treatment without confiscation shall be executed in a health care institution designated by the court that imposed the measure; - When performing a profession, activity or duty is tied with approval of competent authority, the security measure of prohibition of performing a profession, activity or duty shall be enforced by the competent inspection; - The security measure of publication of the judgment is implemented by the media determined by

the court of first instance; - Safeguard measures imposed for misdemeanour offenses and economic offenses are enforced in the manner provided for security measures imposed for a criminal offense; - The guardianship/custodial authority is authorised to carry out the corrective measures, except of prison sentences; - Educational measures of referral to an educational institution and referral to a special institution for treatment and training are carried out in the appropriate institutions.

Comments - Please specify his/her functions and duties (e.g. initiative or monitoring functions). The Directorate for the Enforcement of Penal Sanctions organises, implements and monitors the enforcement of a prison sentence, juvenile imprisonment, community service sanctions, probation with protective supervision, security measures of compulsory psychiatric treatment and confinement in a medical institution, compulsory treatment of drug addicts and mandatory treatment of alcoholics and educational measures of committal to a correctional home and supervises individuals on probation if the court decision orders the convict to fulfill an obligation.

The Directorate for the Enforcement of Penal Sanctions continuously implements the measures and activities prescribed by the Strategy for the Development of the System of Enforcement of Penal Sanctions by 2020 ("Official Gazette of the RS" No. 114/2013) and the Strategy for Reducing Overcrowding in Penitential Facilities in the Republic of Serbia by 2020 ("Official Gazette of the RS" No. 43/2017).

In accordance with the Strategy for Reducing Overcrowding in Penitential Facilities in the Republic of Serbia by 2020 and the Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Penal Enforcement Administration works to improve accommodation conditions and build capacities in prisons. The most important investment is the completion of the construction of a new prison in Pancevo for the accommodation of 555 persons deprived of freedom, which began working in October 2018. The Penal and Correctional Institution in Pancevo was built in accordance with the international standards in terms of accommodation for convicted persons, sports facilities, workshops, rooms for the accommodation of persons with disabilities; healthcare stations, hospital rooms and dental office fully equipped. The Institute is equipped with state-of-the-art security protection systems.

In addition to building new accommodation facilities, the problem of overcrowding has also been addressed by the imposition of alternative sanctions. The number of the imposed alternative sanctions and measures increased in year 2018 compared to the previous period. In 2018, the Administration had 5000 decisions on pronounced alternative measures and sanctions, submitted for execution. The system of enforcement of alternative sanctions is constantly being improved, so that the enforcement of alternative sanctions currently covers 16.9% of the total number of criminal sanctions, which are within the competence of the Administration. The amendments to the Law on Execution of Criminal Sanctions from May 2019 provide for the possibility that even after the verdict becomes final, imprisonment of up to 1 year can be replaced by a sentence of house imprisonment, will further reduce the number of short-term imprisonments.

Based on the measures prescribed by the Strategy and the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, in the field of treatment and extension of treatment programs and activities for convicts, as well as the improvement of employee training, within the EU twinning project "Strengthening the Capacities of the Prison System in the RS" manuals were developed for the implementation of new treatment programs and education of trainers – employees in the service for the treatment and application of specialized treatment programs for prisoners and vulnerable groups of prisoners, all with the purpose of their successful reintegration.

Also, within the project of the Council of Europe, funded by the EU "Horizontal Facility for the Western Balkans and Turkey", under the section "Strengthening the protection of human rights of persons deprived of their freedom", general and specialized programs for offenders have been drawn up. Within the framework of this project, a preparation program for the release of convicted persons sentenced to imprisonment of more than 5 years was developed, with the involvement of representatives of the prisons, probation officers, the National Employment Service and non-governmental organizations.

Within the framework of this project, representatives of the Directorate for Enforcement of Criminal Sanctions also participated in the drafting of the Mental Health Strategy of the Ministry of Health, with the aim of establishing priorities for improving the protection of persons with mental disorders in prisons. The Special Prison Hospital participated in the experts' seminars of the Council of Europe dedicated to developing models of individualized treatment plans for psychiatric patients, with the representatives of all specialist psychiatric hospitals, and organized the education of hospital staff (physicians, sociologists, pedagogues and nurses).

With the support of the OSCE Mission to Serbia, a Network of NGOs has been established to deal with the post-penitentiary reception of prisoners and the provision of assistance and support after their release from prison. Trust offices (probation services) in the process of admitting persons after serving a sentence of imprisonment through the provision of assistance and support, will develop cooperation with the aforementioned institutions and organizations.

## **190. Are the effective recovery rates of fines decided by a criminal court evaluated by studies?**

( ) Yes

( X ) No

Comments

### 191. If yes, what is the recovery rate?

( ) 80-100%

( ) 50-79%

( ) less than 50%

Comments - Please indicate the source for answering this question:

## 9. Notaries

### 9.1. Profession of notary

#### 9.1.1. Number and status of notaries

192. Number and type of notaries in your country. If you do not have notaries skip to question 197.

	Total	Male	Female
<b>TOTAL (1+2+3+4)</b>	198 [ ] NA [ ] NAP	85 [ ] NA [ ] NAP	113 [ ] NA [ ] NAP
<b>1. Private professionals (without control from public authorities)</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2. Professionals appointed by the State</b>	198 [ ] NA [ ] NAP	85 [ ] NA [ ] NAP	113 [ ] NA [ ] NAP
<b>3. Public officials</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>4. Other</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Comments - If "other", please specify the status: Action Plan for Ch23 (EU Integrations) provides for activity no. 1.3.6.22. "Conducting of notary state exam and appointment of additional number of notaries, in accordance with the Law on the Notariat and rulebook on the number of notaries' positions and the official seats of notaries". Therefore, one of the strategic activities of RS since 2014 were the gradual increase of the number of notaries.

### 192-1. What are the access conditions to the profession of notary (multiple options possible):

[ X ] diploma

[ X ] professional experience/professional training

[ X ] exam

[ X ] appointment procedure by the State

[ X ] other (please specify): For the purpose of the registration into the Register of Notaries of the Chamber of Notaries, an entry fee has

been determined in the amount of 1.000,00 euros (in Serbian dinars counter value).

Comments For the purpose of the registration into the Register of Notaries of the Chamber of Notaries, an entry fee has been determined in the amount of 1.000,00 euros (in Serbian dinars counter value).

## **192-2. Are notaries appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?**

yes, please indicate the age of retirement:67

no, please specify the duration of the appointment: .....

Comments - are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify: Yes, a notary may be dismissed as a disciplinary sanction. Since the introduction of the profession (1 September 2014- December 2018), the engagement of a total of 14 notaries was terminated (2 died, 8 were dismissed at their own request, 1 retired and 3 were dismissed after disciplinary proceedings).

## **194. What kind of activities do notaries perform (multiple options possible):**

Within some civil procedures (for example inheritance or inheritance distribution; divorce by mutual consent)

Authentication

Certification of signatures

Legality control of documents submitted by the parties

Mediation

Taking of oaths

Other, for example collect taxes, keep registers etc. (please specify):Deposit operations such as depositing money by the parties for keeping, depositing securities, documents, works of art and other valuables, for which the parties receive a Notary Confirmation of Deposit; Conducting legal proceedings and undertaking actions as a trustee of the court (ex. inheritance proceedings); certification of signatures; The statement on recognition of paternity may be given before a notary; notarial last will and testament, etc.

Comments The most important legal services which are performed by the notary may be classified into three main groups: 1. The drafting, certifying and issuing of authentic documents on legal transactions, statements and facts on which certain rights are based and certify private documents; 2. Deposit operations for documents, money, securities, and other objects; 3. Conducting legal proceedings and undertaking actions as a trustee of the court. Notaries, as a new legal profession, have been introduced with the aim of reducing the courts' workload made up of non-adjudicatory cases, with the aim of improving judicial efficiency and ensuring legal certainty. The delegation of non-contentious proceedings to notaries represents one important instrument for the reduction of courts' workload and for ensuring trials within a reasonable time.

For the purpose of implementation of provisions of the competences of notaries to act as a trustee of the court, the Ministry of Justice, Supreme Court of Cassation and High Judicial Council enacted on 13 May 2016 "Instructions for the Implementation of Provisions of Arts. 30a and 110a of the Law on Non-Contentious Procedure and Art. 98 of the Law on Notary System", enabling the extension of notary competences to inheritance proceedings, thereby alleviating courts of this non-contentious judicial workload. The Minister of Justice enacted the Tariff ("Official Gazette of RS", 12/2016) and the Tariff for Notaries as Court Commissioners in Inheritance Proceedings ("Official Gazette of RS", no. 12/2016).

What the notaries have demonstrated so far, considering that they have been handling probate proceedings since May 2016, is that proceedings are sometimes completed within a month, with their average duration being two months, which is significantly less than it used to be when they were handled by the courts. A notary may act as a mediator although no notary has to date established an active mediation practice.

"Other": Deposit operations such as depositing money by the parties for keeping, depositing securities, documents, works of art and other valuables, for which the parties receive a Notary Confirmation of Deposit; Conducting legal proceedings and undertaking actions as a trustee of the court (ex. inheritance proceedings); certification of signatures; The statement on recognition of paternity may be given before a notary; notarial last will and testament, etc.

## **194-1. Do notaries have the exclusive rights when exercising their profession:**

Within some civil procedures (for example inheritance or inheritance distribution; divorce by mutual consent)

Authentication

Certification of signatures

Legality control of documents submitted by the parties

Mediation

Taking of oaths

Other, for example collect taxes, keep registers etc. (please specify): The Notary Chamber has established a Register of Notarial Testaments, for which it has exclusive competence. However, other testament forms are also permitted in Serbia.

Comments - Please indicate any useful clarifications regarding the content of the notaries' exclusive rights or on the opposite regarding the competition they have to deal with: Civil-law notaries have been introduced in 2014 in the real estate conveyance procedure, as guarantors of legality and mechanism for increasing legal security. Important legislative amendments were enacted on 21 January 2015, amending provisions of the Law on Notarial System, as well as the set of accompanying laws – Law on Non-Contentious Procedure, Law on Real Estate Transfer, Family Law and Inheritance Law. The Law on Amendments and Supplements to the Law on Notary System was adopted on 18 December 2015 ("Official Gazette of RS" no. 106/2015), applicable from 29 December 2015, ensure uniform and efficient application of notarial real estate conveyance, achieving greater legal security but simplifying procedures and improving their efficiency. Since the amendments of the Law on Notariat in January 2015, the valid form for transfer of immovable property is a private written form (drafted by an attorney or the party/parties) which has to be solemnized by a notary. The compulsory form of the notarial authentic deed is limited to only few exceptions (persons who lack legal capability, minors). The Law on Verification of Signatures, Manuscripts and Transcripts, which came into force in 2014, regulates the issue of notarial verification. At the time when the notarial profession was introduced, this Law envisioned that the subject-matter competence for the verification of signatures, transcripts and manuscripts in the territory of the Republic of Serbia belongs to notaries. After 1 March 2017 the verification of signatures, manuscripts and transcripts has become an exclusive competence of notaries, with only two exceptions: - In the cities or municipalities for which notaries have not been appointed, until the appointment of the notaries, the signatures, manuscripts and transcripts shall be verified, as entrusted tasks, by the basic courts, court units, as well as the registration offices of the basic courts and the municipal administration, until appointment of a notary (at the end of December 2018 only 4 territories of basic courts do not have appointed notaries). The transcript of an official document may also be verified by its issuer.

"Other": The Notary Chamber has established a Register of Notarial Testaments, for which it has exclusive competence. However, other testament forms are also permitted in Serbia.

## **194-2. In which areas of law do notaries perform their activities (multiple options possible)?**

Real estate transaction

Family law

Succession law

Company law

Legality control of gambling activities

Other

Comments

## **194-3. Do notaries use specialised digital systems in their activity?**

In establishing authentic instruments

In recording authentic instruments (archives)

Other activity (please specify): Under the Law on the Registration Procedure with the Cadastre of Real Estate and Utilities (Official Gazette of the RS No. 41/2018 and 95/2018), whose implementation started in the July 2018, notaries are required, within 24 hours from the preparation or certification of a document that results in a change in the Land register, to submit the document in the electronic format to the Land Register. The document is submitted solely through the special application "PRONEP" which is created and

developed by a Ministry of Justice. In practice, an electronic document is a notarial act, which is prepared on paper, signed by all participants in the legal transaction and the notary, and then scanned and signed by the notary's qualified electronic signature. So, this is not an electronic document as such, but a "digitalized" copy of a paper document with the qualified electronic signature of the notary. Also, in early 2018. the notaries were granted direct access to the platform for the electronic data exchange among state authorities, the Judicial Information System (JIS), via secured connection. The platform itself ensures an electronic connection and access of judicial authorities (including notaries) to different official records.

Comments Under the Law on the Registration Procedure with the Cadastre of Real Estate and Utilities (Official Gazette of the RS No. 41/2018 and 95/2018) , whose implementation started in the July 2018, notaries are required, within 24 hours from the preparation or certification of a document that results in a change in the Land register, to submit the document in the electronic format to the Land Register. The document is submitted solely through the special application "PRONEP" which is created and developed by a Ministry of Justice. In practice, an electronic document is a notarial act, which is prepared on paper, signed by all participants in the legal transaction and the notary, and then scanned and signed by the notary's qualified electronic signature. So, this is not an electronic document as such, but a "digitalized" copy of a paper document with the qualified electronic signature of the notary. Also, in early 2018. the notaries were granted direct access to the platform for the electronic data exchange among state authorities, the Judicial Information System (JIS), via secured connection. The platform itself ensures an electronic connection and access of judicial authorities (including notaries) to different official records.

### **195. Is there an authority entrusted with supervising and monitoring the notaries' work?**

Yes

No

Comments The amendments to the Law on Notary System from 18 December 2015 have improved the provisions on monitoring and control by the Ministry of Justice and the Notary Chamber, and have made the competences more precise. The Rulebook on the Composition, Method of Work and Decision-Making of the Commission of the Ministry of Justice Which Decides on Appeals against decisions of the Disciplinary Committee of the Notary Chamber has been adopted ("Official Gazette of RS", No. 16 of 26 February 2016). On the basis of this bylaw, the Commission of the Ministry has three members - a notary, an employee of the Ministry of Justice and prominent lawyers with at least ten years of experience in the legal profession. The President and members of the Commission have been appointed by the Minister of Justice.

The Chamber enacted the Rulebook on the Method of Supervision over the Work of Notaries which came into force on 29 July 2017, after having obtained the approval from the Ministry of Justice,

[http://beležnik.org/images/pdf/zakon/pravilnik\\_o\\_nacinu\\_nadzora\\_nad\\_radom\\_jb\\_br\\_i-1-4433-2017.pdf](http://beležnik.org/images/pdf/zakon/pravilnik_o_nacinu_nadzora_nad_radom_jb_br_i-1-4433-2017.pdf).

### **196. If yes, which authority is responsible for supervising and monitoring notaries (multiple options possible)?**

professional body

court

Ministry of Justice

public prosecutor

other (please specify): .....

Comments

### **196-1. Is there a system of general continuous training for all notaries?**

Yes

No

Comments The Chamber administers the professional training of notaries, notarial assistants, associates and interns. To that end, with the support and exchange of experiences with colleagues from the chambers of France, Germany, Austria, Macedonia, Republic of Srpska, Montenegro, and Croatia, workshops for newly appointed notaries have been organized since the very beginning, with the aim of sharing

experiences necessary for the notarial profession. Newly appointed notaries always go through initial training at notary offices, where they learn about the main principles of operation of a notary office through a series of practical examples. In addition to organizing initial trainings for new notaries and special trainings for Non-Contentious proceedings, for two years in a row the Chamber has been organizing regular lectures in cooperation with the High Council of French Notariat, where French guests have been sharing their long-term experience with their Serbian colleagues. The Expert Council of the Serbian Chamber of Notaries, composed of judges, university professors, notaries and other leading experts in the relevant fields of law, was established in order to harmonize the notarial practice, and to create a strong basis for future generations of notaries. The first symposium of notaries, organized by the Chamber, was held in Niš on November 26-27, 2016, and it was dedicated to the harmonization of the notarial practice, particularly in delegated activities. The symposium of notaries is held annually, every December.

## **I1. Please indicate the sources for answering question 192:**

Sources: The Notary Chamber of Serbia, which keeps the register of notaries. The list of notaries and their contacts, with an interactive map, is available on the website of the Notarial Chamber of Serbia, <http://beleznik.org/index.php/sr/pronadi-svog-javnog-beleznika/spisak-javnih-beleznika-i-kontakti>.

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## **10. Court interpreters**

### **10.1. Details on profession of court interpreter**

#### **10.1.1. Status of court interpreters**

#### **197. Is the title of court interpreters protected?**

Yes

No

Comments The Bylaw on Court Interpreters ('Official Gazette of the RS', no.: 35/2010, 80/2016 and 7/2017) proscribes rules on selection and work of court interpreters and translators. Based on the bylaws, appointed court interpreters and translators have the right to call themselves by this name and to make a court interpreter/translator seal, a sample of which they deposit with the court president, and with which they certify written translations and interpretations. Please see:

<https://www.mpravde.gov.rs/files/%D0%BF%D1%80%D0%B0%D0%B2%D0%B8%D0%BB%D0%BD%D0%B8%D0%BA%20%D0%BE%20%D1%81%D1%82%D0%B0%D0%BB%D0%BD%D0%B8%D0%BC%20%20%D1%81%D1%83%D0%B4%D1%81%D0%BA%D0%B8%D0%BC%20%D1%82%D1%83%D0%BC%D0%B0%D1%87%D0%B8%D0%BC%D0%B0.pdf>.

#### **198. Is the function of court interpreters regulated by legal norms?**

Yes

No

Comments The Law on Organisation of Courts ('Official Gazette of the RS', no.: 116/2008, 104/2009, 101/2010, 31/2011 – other law, 78/2011 – other law, 101/2011, 101/2013, 106/2015, 40/2015 – other law, 13/2016, 108/2016, 113/2017, 65/2018 - Decision of CC, 87/2018 and 88/2018 - Decision of CC), Bylaw on Court Interpreters ('Official Gazette of the RS', no.: 35/2010, 80/2016 and 7/2017) and Rulebook on Remuneration for Expenses in Judicial Proceedings ("Official Gazette of RS No. 9 of 5 February 2016 and no. 62 of 13 July 2016) regulate the function of court interpreters. Criminal Procedure Code likewise proscribes relevant provisions (ex. regarding professional secrecy) as well as the Law on Notarial System, which regulates the role of court translators and interpreters within notarial procedure.

#### **199. Number of accredited or registered court interpreters:**

[ ]

[ X ] NA

[ ] NAP

Comments Reliable data does not exist. According to the Bylaw on Court Interpreters (enacted on the basis of the Law on Organisation of Courts), the Ministry of Justice keeps records on court interpreters. Electronic records of permanent court translators and interpreters can be found on the following link: <https://www.mpravde.gov.rs/tekst/13857/elektronska-evidencija-stalnih-sudskih-prevodilaca-i-tumaca.php>. However, the electronic records are not fully updated and the number of court translators and interpreters is not fully accurate. Relevant data will be available when the new law and an improved electronic registry becomes applicable. In order to update the electronic records of permanent court interpreters and translators, all in accordance with Article 9 of the Rulebook on Permanent interpreters ("Official Gazette of RS" no. 35/10 and 80/16) the Ministry of Justice has on 8 October 2016 published a public call for the submission of data necessary for the update of the electronic records of permanent court interpreters and translators.

The total number of permanent court translators and interpreters in the Records of Ministry of Justice is around 800. In addition to this, the total number of court interpreters and translators in the Registry of the Secretariat of AP Vojvodina (which has transferred jurisdiction in this matter on the territory of the autonomous province) is 650, out of which 149 are male and 501 female.

It is important to note that the Ministry of Justice appointed 17 permanent court interpreters for sign language for deaf people, which is the first appointment of these court interpreters after almost a decade. Decisions on the appointment of permanent court interpreters were published in the "Official Gazette of the Republic of Serbia" No. 24 of March 17, 2017. An interpreter for sign language for deaf, blind and silent people can be a person who has completed at least a secondary education of four years - the fourth degree (amendments from 2017).

## 200. Are there binding provisions regarding the quality of court interpretation within judicial proceedings?

( X ) Yes

( ) No

Comments - If yes, please specify (e.g. having passed a specific exam):

## 201. Are the courts responsible for selecting court interpreters?

[ ] Yes, for recruitment and/or appointment for a specific term of office

[ ] Yes, for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

[ X ] No, please specify which authority selects court interpreters Ministry of Justice

Comments

## J1. Please indicate the sources for answering question 199

Sources: Ministry of Justice Department for Judicial Professions; Registry of Ministry of Justice; Registry of the Secretariat of AP Vojvodina.

## 11. Judicial experts

### 11.1. Profession of judicial expert

#### 11.1.1. Status of judicial experts

## 202. In your system, what types of judicial experts can be requested to participate in judicial



**procedures (multiple choices possible):**

experts who are requested by the parties to bring their expertise to support their argumentation,

experts appointed by a court to put their scientific and technical knowledge on issues of fact at the court's disposal,

"legal experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision).

Other (please specify): .....

Comments

**202-1. Are there lists or databases of registered judicial experts?**

Yes

No

Comments - Please indicate any useful comment regarding these lists or databases of experts, if they do exist (e.g. : Does the expert take an oath? How is his/her skill evaluated? By whom?):

**202-2. Who is responsible for registering judicial experts?**

Ministry of justice

Courts

Independent body (association of judicial experts)

Other

Comments

**202-3. Is the registration of judicial experts limited in time?**

Yes, for how long .....

No

Comments The Law on Judicial Experts (“Official Gazette of RS”, no. 44/2010) provided for general reappointment of experts, based on the new criteria. The the new law which is planned to be enacted, which will introduce criteria for selection, appointment and training in line with CEPEJ Guidelines, will provide for transitional and final provisions which will require the existing judicial experts to conform with the new requirements (i.e. their status will be limited until the start of application of the new law).

**203. Is the title of judicial experts protected?**

Yes

No

Comments - If appropriate, please explain the meaning of this protection: The Law on Judicial Experts specifies the appearance of the judicial experts’ seal as well as the need for depositing of his/her signature with the Ministry of Justice. No one other than appointed judicial experts may use such a seal and claim the title “sudski veštak” beside their name. Several criminal offences are prescribed by the Law on Judicial Experts which are a consequence of such protection. For example, 1) extortion of testimony (Article 136 CC) provides that an official who uses force or threat or other illicit means or inadmissible means in the course of his service in order to make a statement or other statement from a judicial witness shall be punished by imprisonment; 2) Giving false testimony (Article 335): a judicial expert who gives false testimony before a court, in disciplinary, misdemeanor or administrative proceedings or in other legally prescribed procedure, shall be punished by imprisonment; 3) Preventing and obstructing proof (Article 336) incriminates making or promising a gift or other benefit to a judicial expert or other participant in the proceedings before a court or other governmental authority.

**203-1. Does the judicial expert have an obligation of training?**

	Obligation of training
<b>Initial training</b>	( ) Yes ( X ) No
<b>Continuous training</b>	( ) Yes ( X ) No

Comments

**203-2. If yes, does this training concern:**

- judicial proceedings  
 the profession of expert  
 other

Comments

**204. Is the function of judicial experts regulated by legal norms?**

- ( X ) Yes  
( ) No

Comments The Law on Judicial Experts ("Official Gazette of RS", no. 44/2010), Criminal Procedure Code, Civil Procedure Code, Court Rules of Procedure, Rulebook on Remuneration for Judicial Expenses in Judicial Proceedings ("Official Gazette of RS No. 9 of 5 February 2016 and no. 62 of 13 July 2016)

**204-1. On the occasion of a task entrusted to him/her, does the judicial expert have to report any potential conflicts of interest?**

- ( X ) Yes  
( ) No

Comments

**205. Number of accredited or registered judicial experts:**

	Total	Male	Female
<b>Number of experts</b>	6 855 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments Governmental bodies which are competent for performing expertise, as well as scientific and professional institutes are not included in the register and do not undergo a system of certification. On 25 January 2019, 6.855 judicial experts (natural persons) and 95 judicial experts-legal entities (limited liability companies and joint-stock companies) are registered in the Republic of Serbia. Experts are enlisted on a rolling basis.

**205-1. Who sets the expert remuneration?**

- The amount and manner of compensation of costs and remuneration is determined in accordance with the regulation governing the reimbursement of costs in legal proceedings – a Ministry of Justice bylaw, Rulebook on Remuneration for Expenses in Judicial Proceedings ("Official Gazette of RS No. 9 of 5 February 2016 and no. 62 of 13 July 2016), which can be found at the following link: <https://www.mpravde.gov.rs/tekst/18081/pravilnik-o-naknadi-troskova-u-sudskim-postupcima-.php>.

## 206. Are there binding provisions regarding the exercise of the function of judicial expert within judicial proceedings?

Yes

No

Comments - If yes, please specify, in particular the given time to provide a technical report to the judge: There are obligatory provisions in the Criminal Procedure Code and in the Civil Procedure Code. The Criminal Procedure code stipulates that a person who is being summoned as an expert witness is required to respond to the summons and to provide his/her findings and opinion within a certain time limit. The Law on Civil Procedure stipulates that the deadline for submission of court findings and opinions cannot be longer than 60 days.

Pursuant to the Law on Judicial Experts, the expert is required to abide by the deadlines specified by the court decision and to perform the expertise conscientiously, professionally and impartially. The expert is obliged to preserve the confidentiality of information that is learned by performing the expertise.

It is considered that the expert performs expertise carelessly/negligently if s/he unreasonably refuses to perform the expertise, does not respond to the calls of the court or other authority conducting the proceedings, fails to perform the expertise within the time specified and in other cases provided by law. This is a basis for removal of the judicial expert from the register.

### 206-1. Number of cases where expert opinion was ordered by a judge or requested by the parties

	Number of cases
<b>Total (1+2+3+4)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1.Civil and commercial litigious cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2.Administrative cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3.Criminal cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4.Other cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

## 207. Are the courts responsible for selecting judicial experts?

Yes, for recruitment and/or appointment for a specific term of office

Yes, for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

No, please specify which authority selects judicial experts For appointment - MoJ; for selection in a particular case - parties /court or the authority that conducts the procedure

Comments For appointment - Ministry of Justice; for selection in a particular case - parties /court or the authority that conducts the procedure

### 207-1. Does the judge control the progress of the expertise?

Yes

No

## K1. Please indicate the sources for answering question 205

Sources: Ministry of Justice Department for Judicial Professions. The register of judicial witnesses is available on the website of the Ministry of Justice, <http://www.mpravde.gov.rs/tekst/740/sudski-vestaci.php>. A register of legal entities is also kept by the Ministry of Justice and publicly available on the website of the Ministry: <http://www.mpravde.gov.rs/registar.php?id=3998>.

## 12.Reforms in judiciary

### 12.1.Foreseen reforms

#### 12.1.1.Reforms

**208. Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? Please inform whether these reforms are under preparation or have only been envisaged at this stage. Have innovative projects been implemented? If possible, please observe the following categories:**

1. (Comprehensive) reform plans On January 22, 2019, the Ministry of Justice established a working group to develop a new National Justice Reform Strategy for the period 2019-2024 (Judicial Development Strategy), in order to ensure continuity and pursue reform processes in the field of justice. In order to present the Strategy to the broader public, the Ministry of Justice held four public hearings in Kragujevac (May 22nd), Novi Sad (June 4th), Nis (June 6th) and Belgrade (June 24th), leaving a deadline by 15 July 2019 for submitting comments and proposals for further improvement of the text of the Strategy.

At its final version, The Strategy's structure encompasses its vision, general objective, and specific objectives and measures that are formulated within the framework of internationally recognized principles in this field (independence, impartiality and accountability, competence, and efficiency). These principles are identical to the principles in AP23 in the field of judiciary, and also include two horizontal principles – transparency and e-judiciary –that constitute a cross-cutting structure without which further development and establishment of a modern judiciary is inconceivable. Public hearing on the Draft proposal of Judicial Development Strategy for the period 2019-2024 was held during December 2019, and it is expected that new strategy will be adopted at the beginning of 2020.

2. Budget

3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings)

3.1. Access to justice and legal aid Republic of Serbia is implementing a set of reforms to improve access to justice. Provision of legal aid is partially available in civil administrative and criminal proceedings, as explained above. The start of implementation of the Law on Free Legal Aid in 2019 will significantly increase access to justice for all citizens. Moreover, the Law enables civil society organisations to continue providing free legal aid and support to vulnerable groups. The Law on Personal Data Protection also allows CSOs to provide free legal aid in the field of personal data protection.

In addition, Action Plan for Chapter 23 stipulates that Criminal Procedure Code will be amended to align with the new EU acquis on procedural safeguards, including:

- Directive 2013/48/EU of the European Parliament and of the Council on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty
- Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings,
- Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings,
- Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, •Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

The National Strategy for Victim Support has been drafted with the support of IPA2016, envisaging also a number of changes aimed at improved victim protection. Adoption is expected in beginning of 2020. Moreover, the implementation of the Law on Free Legal Aid started, thus enabling improved protection of procedural rights of accused or suspected persons (cases which do not fall under mandatory defence prescribed by the CPC). Hence, the free legal aid law now enables better access to a lawyer for individuals who cannot cover the costs of defence due to financial status.

Finally, the Revised APCH23 prescribes alignment of the Civil Procedure Code and Criminal Procedure Code with the provisions of the Law on Free Legal Aid, to include this option in the relevant provisions.

#### 4. High Judicial Council

5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education and training, etc.

6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities

7. Enforcement of court decisions The Law on Amendments to the Law on Enforcement of Criminal Sanctions was adopted in May 2019 (“RS Official Gazette” No. 35/2019). The new law expands the judge's powers to enforce criminal sanctions in respect of: deciding on the replacement of the sentence of imprisonment up to one year by the execution of criminal sanction in the flat or house

where a convict lives, the so-called house imprisonment, if the purpose of punishment can be achieved by changing the manner in which the sentence of imprisonment is served, with the aim of achieving wider application of alternative forms of punishment instead of short-term imprisonments; making a decision that a convicted person who is categorized for a semi-open or open ward of the prison may be sent to work full time outside the prison, with the employer, and spend the remaining time in prison. Employment with the employer will contribute to a more effective implementation of the treatment program and easier integration into the society after serving a sentence, so that the convicted person does not commit any criminal offenses in the future; making a decision on the early release of a convicted person from a maximum of 12 months until the end of imprisonment, if the convicted person has served one half of the sentence, due to a serious illness, severe disability or old age, if continued imprisonment would represent inhumane treatment, in accordance with the recommendations of the European Committee for the Prevention of Torture.

8. Mediation and other ADR The Minister of Justice has established a Working Group for drafting of amendments to the Law on Mediation in Dispute Resolution on 19 December 2018 with the task of drafting a new legal framework which should strike a balance between the need to regulate, on the one hand, and the need to preserve a sufficient level of party autonomy and procedural flexibility, on the other. The working group has in 2019 worked on the further improvement of all relevant provisions of the law, especially taking care that changes to the legal framework encompass: 1) transparency and clarity of the content of the mediation law in relation to how mediation is started, the mediation procedure itself, standards and qualifications for mediators, mediation centers and mediation training providers, as well as rights and obligations of participants in the mediation process; 2) specifying the position of judges in the mediation procedure; 3) enforceability of clauses on settling disputes through mediation; 4) the principle of confidentiality; 5) the enforceability of agreements reached in mediation and agreements reached in international mediation; and 6) the impact of mediation on the course of a lawsuit, including the possibility of prescribing the first obligatory meeting as a procedural precondition for initiating litigation in certain types of cases, as well as other ways in which the objective of Directive 2008/52/EC may be achieved. The working group is guided by mediation standards provided in relevant acts of the United Nations, the European Union and the Council of Europe, as well as by the need for adapting standards and best practices to local possibilities and needs.

The Republic of Serbia has signed the Singapore Convention on 7 August 2019.

## 9. Fight against crime

### 9.1. Prison system

9.2 Child friendly justice Child friendly justice plays important role in several national strategic documents. Revised Action plan for Chapter 23 within EU accession process contains one section with aim at improvement of the protection and enforcement of rights of the child, including by strengthening the relevant institutions, ensuring better cooperation between the judiciary and the social sector and by fully implementing legislation on juvenile justice in line with EU standards. Also two strategies on criminal sanctions enforcement (Strategy for Development of the System of Execution of Criminal Sanctions in the Republic of Serbia from 2013 to

2020 and Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions) contain important measures for juvenile offenders as one of the vulnerable groups and envisages activities aimed at improvement of treatment programs, training and professional development of employees to ensure they have suitable knowledge, qualifications and motivation to implement the necessary reforms and enhancement of accommodation capacities for juveniles.

9.3. Violence against partners

10. New information and communication technologies

11. Other