



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2007

Country: Serbia

National correspondent

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## 1. Demographic and economic data

### 1. 1. General information

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

##### 1) Number of inhabitants

7411569

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

	Amount
State level	6402792430
Regional / entity level	

##### 3) Per capita GDP (in €)

3406,8

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

4525,20

##### 5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2007

79.577

##### Please indicate the sources for the questions 1 to 4

National bank of Serbia

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

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

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

156098339

##### 7) Please specify

##### 8) Does the approved budget of the courts include the following items? Please give for each item (or some of them) a specification of the amount concerned

Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	105940693
Annual public budget allocated to computerisation (equipment, investments,	<input checked="" type="checkbox"/> Yes	2730696

maintenance)

Annual public budget allocated to justice expenses  Yes 39549823

Annual public budget allocated to court buildings (maintenance, operation costs)  Yes

Annual public budget allocated to investments in new (court) buildings  Yes 7877126

Annual public budget allocated to training and education  Yes

Other (please specify):  Yes

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

Yes

No

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

Year (in Euro) Chain index Base index

2002 105,144,641

2003 120,251,942 114 114

2004 110,583,920 91 105

2005 115,772,608 104 110

2006 156,098,339 134 148

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

for criminal cases?

for other than criminal cases?

If yes, are there exceptions? Please specify:

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

73462953

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

171752356

**13) Total annual approved public budget allocated to legal aid (in €)****14) If possible, please specify**

	the annual public budget allocated to legal aid in criminal cases	the annual public budget allocated to legal aid in other court cases
Amount	NA	NA

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

- Yes  
 No

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

13864244

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

- Yes  
 No

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

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other ministry	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parliament	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Supreme Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judicial Council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Courts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inspection body	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

The Ministry of Finance

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your budgetary system and the main reforms that have been implemented

**over the last two years**

**- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process**

**Please indicate the sources for the questions 6, 7, 13 et 16**

The Law on Amendments and Supplements to the Law on the Budget of the Republic of Serbia for 2006 ("Official Gazette of the Republic of Serbia", no. 85/06, of 3 October 2006).

## 2. Access to justice

### 2. 1. Legal aid

#### 2. 1. 1. Principles

#### 20) Does legal aid concerns:

	Criminal cases	Other than criminal cases
Representation in court	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Legal advice	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

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

Ex officio defence for all criminal offences punishable with penalties of 10 years or more.

Where defendants are minors and where minors are witnesses in criminal matters

When parties are of insufficient means and are freed by the court from payment of all court costs (indigence rights).

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

Yes

No

If yes, please specify:

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

Yes

No

If yes, please specify:

#### 24) Number of cases granted with legal aid provided by (national, regional, local) public authorities:

	Number
Total	
Criminal cases	193 in 2006
Other than criminal	

cases

no data avai

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

- Yes  
 No

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

	No	Yes	Amount
for criminal cases?			
for other than criminal cases?			

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

- Yes  
 No

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

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

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

- Yes  
 No

Please specify:

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



	yes	no
criminal cases?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
other than criminal cases?	<input type="checkbox"/>	<input type="checkbox"/>

You can indicate below:

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

Either questions are not formulated precisely enough, or the translation is inadequate, so that the answers given here are in accordance with our own interpretation of the questions.

Please indicate the sources for the questions 24 and 26

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

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

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

- legal texts (e.g. codes, laws, regulations, etc.)?  yes
- <http://www.parlament.sr.gov.yu>,  
National Assembly of the Republic of Serbia  
<http://www.srbija.sr.gov.yu/>,  
Government of the Republic of Serbia  
<http://www.mpravde.sr.gov.yu/>,  
Ministry of Justice
- case-law of the higher court/s?  yes
- <http://www.vrhovni.sud.srbija.yu>,  
Supreme Court of Serbia  
<http://www.trgsud.org.yu>,  
Commercial Court in Belgrade  
<http://www.okruznisudbg.org.yu>,  
District Court in Belgrade  
<http://www.ustavni.sud.sr.gov.yu>,  
Constitutional Court of Serbia  
<http://www.prvisud.com>, First  
Municipal Court in Belgrade  
<http://www.opstinskisudnis.org>
- other documents (for example forms)?  yes
- <http://www.mup.sr.gov.yu>, Ministry of  
Internal Affairs  
<http://www.mod.gov.yu>, Ministry of  
Defence  
<http://www.mfin.sr.gov.yu>, Ministry of  
Finance  
<http://www.drzavnauprava.sr.gov.yu>,  
Ministry of State Administration and  
Local Self-Administration  
<http://www.minpolj.sr.gov.yu>,  
Ministry of Agriculture  
<http://www.merr.sr.gov.yu>, Ministry  
of Economy and Regional  
Development  
<http://www.mem.sr.gov.yu> , Ministry  
of Energy and Mining  
<http://www.mtid.sr.gov.yu>, Ministry of

Telecommunications and Informatics Society

<http://www.mtu.sr.gov.yu>, Ministry of Trade and Services

<http://www.minrzs.sr.gov.yu>, Ministry of Labour and Social Policy

<http://www.mntr.sr.gov.yu>, Ministry for Science

<http://www.ekoserb.sr.gov.yu>, Ministry of Environmental Protection

<http://www.mps.sr.gov.yu>, Ministry of Education

<http://www.mos.sr.gov.yu>, Ministry of Youth and Sports

<http://www.kultura.sr.gov.yu>, Ministry of Culture

<http://www.mv.sr.gov.yu/>, Ministry of Religions

<http://www.zdravlje.sr.gov.yu>, Ministry of Health

<http://www.arii.sr.gov.yu>, Republican Bureau for Informatics and the Internet

<http://www.statserb.sr.gov.yu/> Republican Statistics Bureau

<http://www.apr.sr.gov.yu>, Agency for Economic Registers

<http://www.priv.yu/>, Agency for Privatization

<http://www.poreskauprava.sr.gov.yu/>, Tax Administration

<http://www.fcs.yu>, Customs Administration

<http://www.nbs.yu>, National Bank of Serbia

<http://www.trgovinski.sud.srbija.yu>,

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

Yes

No

If yes, please specify:

No, but Article 52 of the Law on the Administration of Courts specifies that upon receipt of a complaint from one of the parties alleging undue length of the proceedings, the court president has an obligation to examine within 15 days whether the allegations are founded and inform the applicant thereabout

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

Yes

No

If yes, please specify:

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

	Information mechanism	Hearing modalities	Procedural rights	Other
Victims of rape	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Victims of terrorism	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Children/Witnesses/Victims	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Victims of domestic violence	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ethnic minorities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disabled persons	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juvenile offenders	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Yes

No

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

a public fund?

a court decision?

private fund?

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

Convictions in criminal cases.

In civil proceedings, compensation procedures for damage incurred to victims of crimes.

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

- Yes  
 No

If yes, please specify:

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

- Yes  
 No

If yes, please specify:

Article 504 of the CPC specifies that any information regarding the pretrial proceedings in organized crime cases can be made public only with the written approval of the public prosecutor.

Deputy Chief Prosecutor of the Republic of Serbia is also a member of the Commission for the Implementation of the Program of Protection and Assistance to the Parties in Criminal Proceedings and persons related to them who, because of statements or information of importance for obtaining evidence in criminal proceedings, are exposed to threats to their life, health, physical integrity, freedom or property, according to the Law on the Program of Protection for the Parties in Criminal Proceedings

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

- Yes  
 No

If yes, please specify:

When the public prosecutor finds that there is no ground for initiating criminal proceedings ex officio, he has 8 days to inform thereof the damaged party and to instruct the party of his/her right to file a private request for prosecution

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

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

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

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

Before filing a request for compensation, the damaged party has first to approach the Ministry of Justice and try to make an agreement on the compensation.

All details regarding the existing tariffs and funds are available at the Ministry of Justice.

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

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

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

Presumably, surveys of this type are conducted by NGOs and the public media

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

	Yes (surveys at a regular interval: for example annual)	Yes (incidental surveys)
Surveys at national level	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Surveys at court level	<input type="checkbox"/>	<input type="checkbox"/>

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

- Yes  
 No

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

	Time limit to respond (Yes)	Time limit for dealing with the complaint (Yes)
Court concerned	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Higher court	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ministry of Justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>
High Council of the Judiciary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other external organisations (e.g. Ombudsman)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

### 3. Organisation of the court system

#### 3. 1. Functioning

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

**45) Number of courts considered as legal entities (administrative structures) and geographic locations (please, complete the table)**

	Total number
First instance courts of general jurisdiction (legal entities)	138
Specialised first instance courts (legal entities)	17
All the courts (geographic locations)	199

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

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

Yes

No

If yes, please specify:

New courts which will be established by legislation yet to be adopted are: the Supreme Court of Cassation, appellate courts, the Administrative Court. District and municipal courts as courts of first instance. New competences will also be defined depending on the inflow of cases, certain courts will be closed.

**48) Number of first instance courts competent for a case concerning:**

	Number
a debt collection for small claims	146
a dismissal	136
a robbery	N.A.

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

Low-value disputes – up to 100,000 dinars for natural persons, and up to 300,000 dinars for legal persons.

**Please indicate the sources for the question 45**

Law on the Administration of Courts

**3. 1. 2. Judges, courts staff****49) Number of professional judges sitting in courts (present the information in full time equivalent and for permanent posts)**

2506

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

	Number
gross figure	
if possible, in full time equivalent	

**51) Please specify (answer only if the information has changed compared to the previous evaluation round):**

Q50 - No, we do not have such category.

**52) Number of non-professional judges (including lay judges and excluding jurees) who are not remunerated but who can possibly receive a simple defrayal of costs. Please specify (answer only if the information has changed compared to the previous evaluation round):**

4678

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

- Yes  
 No

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

Yes, in civil matters in municipal courts, as well as in panels processing family relations cases, in commercial courts: for economic offences and copyright disputes, in district courts: in civil law matters, paternity and maternity disputes, disputes concerning copyright and related rights, etc, as well as in panels for juveniles

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

2998

**55) Number of non-judge staff who are working in courts (present the information in full time**



**equivalent and for permanent posts)**

10696

**56) If possible, could you distribute this staff according to the 4 following categories:**

non-judge staff (Rechtspfleger), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	<input type="checkbox"/> Yes	
non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars	<input checked="" type="checkbox"/> Yes	3730
staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)	<input checked="" type="checkbox"/> Yes	3364
technical staff	<input checked="" type="checkbox"/> Yes	2353

**Please indicate the sources for the questions 49, 50, 52, 53 and 55**

Ministry of Justice

**3. 1. 3. Prosecutors****57) Number of public prosecutors (present the information in full time equivalent and for permanent posts)**

689

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

- Yes  
 No

If yes, please specify:

aggrieved parties

**59) Number of staff (non prosecutors) attached to the public prosecution service (present the information in full time equivalent and for permanent posts)**

834

Please indicate the sources for the questions 57 and 59

Republican Public Prosecution

### 3. 1. 4. Budget and New technologies

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

	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
Management Board	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Court President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Court administrative director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Head of the court clerk office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**61) You can indicate below:**

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

accounting dept.

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

	100% of courts	+50% of courts	-50% of courts	- 10 % of courts
Word processing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic data base of jurisprudence	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic files	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
E-mail	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet connection	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Case registration system	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Court management information system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Financial information system	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic web forms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Special Website	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other electronic communication facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**65) Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary (answer only if this information has changed compared with the previous evaluation round)?**

- Yes  
 No

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

The Republican Office of Statistics collects some data on the work of courts in accordance with its requirements. Article 66 of the Law on the Administration of Courts specifies which jobs fall within judicial administration. The Ministry of Justice collects statistical and other data on the work of judicial administration, including the data on the administration and development of the judicial information system

**You can indicate below:**

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

**Please indicate the sources for the questions 62, 63 and 64**

### 3. 2. Monitoring and evaluation

#### 3. 2. 1. Monitoring and Evaluation

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

- Yes  
 No

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

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

Please specify:

(the number of incoming cases is monitored by analysing quarterly, six-month and annual reports)

(the number of decisions is monitored by analysing quarterly, six-month and annual reports)

(all postponements of the main hearing in criminal and civil cases are recorded in the court registers, they are followed by the court president)

In collaboration with the Supreme Court of Serbia, the Ministry of Justice has developed a matrix for reporting intended for municipal and district courts. The High Judicial Council has issued a binding instruction on the tabular periodical reporting on the work of courts and judges and the way in which data should be entered into the corresponding tables. The tables contain columns on the number and type of incoming cases, the number of unresolved cases, backlog cases, the total number of pending cases, the number of decisions, the average number of cases per judge in each section, the number of resolved and unresolved cases per judge, the average number of cases pending per judge, and performance data for each judge according to the following indicators: the number of final, amended and overturned decisions.

As for the length of proceedings, statistical data are analysed by subject matter and length of proceedings according to the following timeframes: up to three months, between three and six months, between six months and one year, over one year.

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

Yes

No

Please specify:

**69) Concerning court activities, have you defined performance indicators?**

Yes

No

**70) Please select the 4 main performance and quality indicators that are used for a proper functioning of courts.**

Incoming cases

Length of proceedings (timeframes)

Closed cases

Pending cases and backlogs

Productivity of judges and court staff

Percentage of cases that are treated by a single sitting judge

The enforcement of penal decisions

Satisfaction of employees of the courts

- Satisfaction of clients (regarding the services delivered by the courts)
- Judicial and organisational quality of the courts
- The costs of the judicial procedures
- Other

Please specify:

**71) Are there performance targets defined for individual judges?**

- Yes
- No

**72) Are there performance targets defined at the level of the courts?**

- Yes
- No

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

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

Please specify

The legislative has passed the Law on the Administration of Courts and the Law on Judges. The Law on the Administration of Courts defines the types and jurisdiction of courts, internal organisation of courts and manner of their work, and the role of the court administration, which is managed by court president whose role is to ensure respect for the law, good performance and precision of the work of courts, and remove irregularities and delays in the work of courts.

The Law on Judges sets up the system of guarantees for judicial independence. Under the provisions of the said law, the Grand Personnel Chamber of the Supreme Court decides about the removal of judges and presidents of courts in cases of unprofessional and unconscientious discharge of duty, as well as unsuccessful performance of presidents of courts.

The role of the executive (i.e. the Ministry of Justice), according to Article 66 of the Law on the Administration of Courts, is to monitor the implementation of the law and other regulations concerning the administration and work of courts and the conditions of work (staffing, material).

As an organ of judiciary control, the Supervisory Board has the powers to inspect court files or initiate removal procedures upon receipt of a complaint, or at its own initiative.

**74) Please specify the main targets applied:**

Professional and conscientious work of judges

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

- the High Council of judiciary
- the Ministry of Justice
- an Inspection authority
- the Supreme Court
- an external audit body
- other?

Other, please specify:

Grand Personnel Chamber

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

- Yes
- No

If yes, please specify:

Article 55 of the Law on Judges defines what is deemed unconscientious and unprofessional in the work of judges. The Supreme Court of Serbia has defined at the General Meeting of all its judges the criteria for the evaluation of minimum successful performance for judges.

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

- Yes
- No

**78) Is there a system enabling to measure the backlogs and to detect the cases which are not processed within a reasonable timeframe for:**

- civil cases?
- criminal cases?
- administrative cases?

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

- Yes  
 No

If yes, please specify:

According to Article 25 of the Law on Judges, each judge has the obligation to report to the court president why in the first instance proceedings the case has not been closed within six months and to subsequently report on a monthly basis all time-related developments regarding that case.

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

- Yes  
 No

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

The internal organisation and work of courts is regulated by the Court Rules of Procedure ("Official Gazette of the Republic of Serbia, nos. 65/03, 115/05 and 4/06) adopted by the Minister of Justice with the approval of the President of the Supreme Court of Serbia. Article 2 of the Court Rules of Procedure specifies that the internal organisation and work of courts are to be viewed separately from court proceedings, they include the organisational, administrative, technical, professional, information, financial and other auxiliary tasks of importance for the functioning of the judiciary. The court president oversees the implementation and proper application of the Rules of Procedure by giving orders and instructions to the judicial and other court staff. The Ministry of Justice oversees the application of the Rules of Procedure on the basis of Article 3 of the Rules. According to Article 4 of the Rules, the Ministry of Justice, through its supervisor, controls the work of the court administration, office management and other activities related to the internal organisation and work of courts, by obtaining a report from the court president or by physically inspecting the court.

In 2006, supervision of all general jurisdiction and commercial courts in Serbia was performed in line with Articles 52, 66 and 71 of the Law on the Administration of Courts, and the priorities set in the Strategy for the Implementation of the Reform in the Judiciary.

Proceeding from the goals in the strategy - strengthening the independence and efficiency of courts - the priority was attached to putting programs in place for dealing with the backlog cases and monitoring the implementation of such programs by presidents of general jurisdiction and commercial courts. As a result, all courts have developed such programs, focusing on identifying the reasons for the delays and continuous monitoring of their implementation, which considerably reduced the number of backlog cases in comparison to previous years.

The monitoring of the set priorities continued in 2007 according to the Annual Plan of Supervision forwarded to all courts at the start of the year. There were 36 supervision visits to first- and second-instance courts, of which 20 visits were announced in the Annual Supervision Plan and 16 were extraordinary visits).

Special priority is attached to the monitoring of the length of court proceedings in order to develop the standards for each type of proceedings. Article 32 of the Constitution of the Republic of Serbia contains fair trial and reasonable time guarantees. In that context, it is particularly important to note the role of court presidents who, under Article 49 of the Law on the Administration of Courts, represent the court and manage

the court administration. It is the duty of court presidents to ensure the respect of the law, order and precision in court proceedings, as well as to remove irregularities and delays in the work of the court. Equally, it is their duty to ensure independence in judicial proceedings and respect for the work of courts

Work is in progress to determine which statistical data are relevant for evaluation and monitoring the implementation of projects in the judiciary, in order to develop standards and methodologies for statistical analyses and oversight of efficiency of the work of courts and prosecutors' offices.

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

Yes

No

If yes, please specify:

In 2007, the Ministry of Justice also supervised the implementation of the Rules of Administration in public prosecution offices, in accordance with Article 30 of the Law on Public Prosecution. After consultations with the Office of the Republican Public Prosecutor, the Annual Supervision Plan for 2007 was put in place and forwarded to the prosecution offices for each three-month period.

In the report period, a total of 22 supervision visits were made to municipal and district prosecution offices according to the Supervision Plan.

**You can indicate below:**

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

Regular and extraordinary supervisions equally focus on the supervision of the work of judges and court administration. In addition, supervision visits of the court administration are performed by the Ministry of Justice. The Law on the Administration of Courts also envisages the possibility of direct supervision by a superior court, and the Supervision Board and the Applications and Complaints Section of the Supreme Court.

**Please indicate the sources for the the question 70,71, 72 and 76**

Annual reports on the work of courts.



## 4. Fair trial

### 4. 1. Principles

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

**82) What is the percentage of judgements in first instance criminal cases in which the suspect is not attending in person or not represented by a legal professional (i.e. lawyer) during a court session (in absentia judgements) ?**

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

Yes

No

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

**84) Please give the following data concerning the number of cases regarding Article 6 of the European Convention on Human Rights (on duration and non-execution), for the year of reference**

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

**Please indicate the sources for the questions 82 and 84**

### 4. 2. Timeframes of proceedings

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

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

civil cases?

criminal cases?

administrative cases?

If yes, please specify:

There are specific procedures for all urgent matters. In civil proceedings, for example, all cases falling under the category of labour disputes, allowance and custody cases, cases preventing the rightful owner from enjoying his property, media cases and similar are dealt with by a specific procedure where the emphasis is on urgency. In criminal proceedings, special procedure is applied to detention cases and cases involving juvenile offenders. In administrative cases, special procedure is resorted to in election cases and cases related to the rights of convicts (guaranteed by the Law on the Execution of Penal Sanctions), status and labour dispute cases etc. In criminal cases, a detainee receives a court decision on detention not later than 24

hours after being deprived of his liberty. The decision can be challenged within the next 24 hours and the judicial chamber has 48 hours to make a decision (Article 148 of the Code of Criminal Proceedings - CPC). The detention can last up to one month and can be extended only if a new court decision is made to that effect. The duration of the extension cannot exceed two months. If the deprivation of liberty was ordered by court as part of criminal proceedings for an offence carrying a sentence of minimum five years in prison, a Supreme Court chamber can extend the detention for up to three months at the most (Article 144 of the CPC).

Once the indictment is submitted to court, a judicial chamber will, until the completion of the main hearing, review the reasons for detention every 30 days until the indictment is verified, and every two months thereafter (Article 146 of the CPC).

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

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

If yes, please specify (for example if you have introduced a new law on simplified procedures):

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

- Yes
- No

If yes, please specify:

Article 304 of the Code of Criminal Proceedings ("Official Gazette of the Republic of Serbia", no. 46/06 of 02/06/2006), whose application was postponed until 31 December 2008, introduces plea bargaining in our legal system for all criminal offences carrying a penalty of up to ten years in prison. The prosecutor can propose to the accused and his legal representative a plea bargaining agreement (the accused and his legal representative have the same right), which is then submitted to court for final decision. The CPC also contains a separate provision for expedient procedures for cases where criminal sanctions are pronounced without a main hearing, for amicable settlement cases and for cases where the court issues a reprimand.

The expedient procedure is also applied for criminal offences punishable by a fine or where the CPC prescribes a prison sentence of up to three years (Article 446).

For criminal offences punishable by a fine or a prison sentence of up to three months, the court can, at the proposal of the public prosecutor, make a final decision without holding a main hearing (Article 460).

The public prosecutor can also propose an expedient procedure to the investigating judge if a person was arrested in the course of perpetrating a crime punishable by a fine or a prison sentence of up to three years. Under such circumstances and if the accused

has confessed to committing the crime in question, the investigating judge can punish the perpetrator by ordering him to pay half of the prescribed fine or send him to prison for up to two years.

At the proposal of the accused or his legal representative, or at the proposal of the damaged party or his legal representative, or, equally, in situations when the public prosecutor acts ex officio, the public prosecutor can, upon receipt of the criminal report involving a crime punishable by a fine or one year in prison, invite the accused and the damaged party to a special hearing where they are informed about a possibility to reach an amicable settlement through mediation. The mediation proceedings are conducted by a certified mediator designated by the Republican Public Prosecutor.

The amicable settlement agreement, which is concluded in written form, can also contain a provision ordering the accused to remove the impact of his crime, to compensate for the damage incurred, to pay allowances overdue, to do community work and similar (Article 475 of the CPC).

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

### 88) Total number of cases in the first instance courts (litigious and non-litigious); (please complete the table)

	Pending cases on 1 January 2006	Incoming cases	Decisions	Pending cases on 31 December 2006
Total of civil, commercial and administrative law cases (1-7)				
1 Civil (and commercial) litigious cases*	113916	144356	158036	100236
2 Civil (and commercial) non-litigious cases*	38825	303227	303579	38473
3 Enforcement cases	139679	193351	200358	132674
4 Land registry cases**	22447	130254	118740	33961
5 Business register cases**				
6 Administrative law cases	1050	5163	4700	1513
7 Other				
Total criminal cases (8+9)				
8 Criminal cases (severe criminal offences)	46614	60951	59881	47684
9 Misdemeanour cases (minor offences)	4972	6535	7291	4216

**89) \* The cases mentioned in categories 3 to 5 (enforcement, land registry, business register) are excluded from this total and should be presented separately in the table. The cases mentioned in category 6 (administrative law cases) are also excluded from this total for the countries which have specialised administrative courts or units in the courts of general jurisdiction.**

**\*\* if applicable**

**Note: for the criminal law cases there may be a problem of classification of cases between severe criminal law cases and misdemeanour cases. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedure). Please indicate if possible what case categories are included under "severe criminal cases" and the cases included under "misdemeanour cases (minor offences)".**

#### Explanation

### 90) Total number of cases in the second instance (appeal) courts (litigious and non-litigious); (please complete the table)

	Pending cases on 1 Jan. '06	Incoming cases	Decisions on the merits	Pending cases on 31 Dec. '06
Total of civil, commercial and administrative law cases (1-7)				
1 Civil (and commercial) litigious cases*	15768	78329	70010	24087
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases				
7 Other				
Total criminal cases (8+9)				
8 Criminal cases (Severe criminal offences)				
9 Misdemeanour cases (minor offences)	2270	21175	21188	2257

**91) Total number of cases in the highest instance courts (litigious and non-litigious); (please complete the table)**

	Pending cases on 1 Jan. '06	Incoming cases	Decisions on the merits	Pending cases on 31 Dec. '06
Total of civil, commercial and administrative law cases (1-7)				
1 Civil (and commercial) litigious cases*	4022	8352	9019	3355
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases	11516	13501	10458	14559
7 Other				
Total criminal cases (8+9)				
8 Criminal cases (Severe criminal offences)	1892	7750	7606	2036
9 Misdemeanour cases (minor offences)				

**92) Number of divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and treated by first instance courts (complete the table)**

	Pending cases on 1 Jan. '06	Incoming cases	Decisions	Pending cases on 31 Jan. '06
Divorce cases				
Employment dismissal cases				
Robbery cases				
Intentional homicide case				

**93) Average length of proceedings (from the date of lodging of court proceedings)**

	% of decisions subject to appeal	% pending cases more than 3 years	1st instance	2nd instance	Total procedure
Divorce cases					
Employment dismissal cases					
Robbery cases					
Intentional homicide					

**94) Where appropriate, please specify the specific procedure as regards divorce:****95) How is the length of proceedings calculated for the four case categories? (please give a description of the calculation method)****96) Please describe the role and powers of the prosecutor in the criminal procedure (multiple options are possible):**

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

Please specify:

The Criminal Procedure Code (hereafter "the CPC") currently in force stipulates that a public prosecutor, i.e. a prosecutor authorized to initiate criminal prosecution in respect to criminal acts for which there is a statutory obligation of prosecution, leads pre-trial proceedings, requests conduct of an investigation, raises and represents an indictment, files a complaint against court decisions which are not final, and initiates proceedings based on extraordinary legal remedies against final decisions. He/she can furthermore take over prosecution from persons authorised to seek the initiation of prosecution in special cases stipulated by the law, give an opinion in regards to determining bail, suggest extension and give consent to termination of detention, abandon further prosecution (by filing a statement to that effect), withdraw an indictment during preparations for the main hearing, abandon the right to file an appeal. A public prosecutor also has certain competences in summary proceedings, is entitled to file a motion to initiate proceedings against a minor, can file a request for conduct of additional preparatory actions, can propose punishment or determination of safety measures such as mandatory (psychiatric) treatment and monitoring of a mentally disordered offender, that is his/her treatment while on liberty.

Competences of a public prosecutor will considerably increase once the new CPC enters into force on 31 December 2008, especially in regards to conduct of an investigation.

Part of this question has already been answered under question 86 of the Questionnaire

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

- Yes  
 No

If yes, please specify:

The prosecutor also has the right to seek extraordinary legal remedies.

**98) Functions of the public prosecutor in relation to criminal cases – please complete this table:**

	Received by the public prosecutor	Discontinued by the public prosecutor because the offender could not be identified	Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	Discontinued by the public prosecutor for reason of opportunity	Concluded by a penalty, imposed or negotiated by the public prosecutor	Charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	173838	23717			6817	59108

**You can indicate below:**

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

**Please indicate the sources for the questions 92 to 94 and question 98**

## 5. Career of judges and prosecutors

### 5. 1. Appointment and training

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

#### 99) How are judges recruited?

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

If other, please specify:

Election of judges is advertised by the High Judicial Council, which nominates candidates for judges, who are elected by the National Assembly of the Republic of Serbia. The National Assembly can only elected candidates nominated by the High Judicial Council

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

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

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

- Yes
- No

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

**102) Which procedures and criteria are used for promoting judges? (please specify).**

According to the Decision on Criteria and Standards for Nominating Candidates for the Election of Judges and Court Presidents issued by the High Judicial Council, the criterion for assessing the performance of judges who are candidates for promotion to a high-instance court is the number of decisions issued on merits, percentage of decisions upheld, reversed and set aside in the total number of cases decided on merits and reviewed according to regular and extraordinary remedies, and the percentage of decisions quashed in the total number of decisions issued on merits. Another criterion for rating performance is the processing of old cases (number of old cases received and number of old cases decided), as well as the number of criminal matters that have lapsed for which expiry the candidate can be held responsible.

For candidates who have decisions not completed for over 30 days, the High Judicial Council will always seek a detailed report about their performance in the preceding three years.

**103) How are prosecutors recruited?**

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

If other, please specify:

Election of public prosecutors and their deputies is conducted in the same manner as that of judges and court presidents.

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

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

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

- Yes
- No

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



**106) Which procedures and criteria are used for promoting prosecutors (please specify)**

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

- Yes  
 No

Are there exceptions? Please specify:

No

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

- Yes  
 No

Are there exceptions? Please specify:

Deputy public prosecutors are elected to a term of office of eight years and may be re-elected

**109) If no, what is the length of the mandate?  
 Is it renewable?**

for judges

yes, please  
 specify the  
 length

for prosecutors

yes, please  
 specify the  
 length

**You can indicate below:**

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

[5. 1. 2. Training](#)

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

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

**111) Frequency of the training of judges:**

	Annual	Regular	Occasional
Initial training	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
General in-service training	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for specialised judicial functions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for management functions of the court	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for the use of computer facilities in the court	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

**113) Frequency of the training of prosecutors:**

	Annual	Regular	Occasional
Initial training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General in-service training	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Specialised in-service training	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for management functions of the prosecution services	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for the use of computer facilities in the public prosecution service	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**You can indicate below:**

**- any useful comments for interpreting the data mentioned above**

- **comments regarding the attention given to the curricula to the European Convention on Human Rights and the case law of the Court**
- **the characteristics of your training system for judges and prosecutors and the main reforms that have been implemented over the last two years**

The institution which conducts judicial training is the Judicial Training Centre (JTC). The JTC's founders are the Government of the Republic of Serbia, the Ministry of Justice and the Associations of Judges of Serbia. Under its Statute, the JTC has a Management Board with 11 members. The Ministry of Justice appoints five members, one of whom is a judge and one a prosecutor. The Associations of Judges of Serbia appoints another five, and the last member is chosen from among JTC staff. The JTC has the legal status of a public institution with special competences.

The JTC's Programme Council has nine members, all elected by the Management Board. It is responsible for adopting curricula for the training of judges and prosecutors and for forming working groups. The JTC has working groups for civil law, criminal law, administrative law, commercial law, prosecutors, and human rights. In accordance with the JTC's obligation under the law to organise specialist training in the areas of juvenile justice law and family law, the working group for criminal law has a sub-group for juveniles and the working group for civil law a sub-group for family law.

Annual training programme and plan of activities

The annual programme of work is proposed by the Programme Council and adopted by the JTC's Management Board. JTC working groups and department heads are tasked with elaborating programme details and activities. In the process of developing training programmes, attention is paid particularly to the following:

- a) new basic laws, adopted in accordance with Serbia's commitment to judicial reform, integration in the EU and attracting foreign investments
- b) training judges and prosecutors for vigorous enforcement of the law in the fight against corruption, money laundering, human trafficking and organised crime
- c) informing judges and prosecutors about EU standards and the judiciary's obligations in the process of association with the EU
- d) training judges and prosecutors in the application of international human rights conventions. Special training programme: "European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Court of Human Rights" (ECHR).
- e) needs defined by judges and prosecutors in the questionnaire which is sent annually to all judges and prosecutors and the questionnaire they receive after every training seminar
- f) since May 2006, the regular programme has included training in court management, involving court presidents and secretaries, and training for courts' and prosecutions' spokespersons
- g) special compulsory training programme specialist training prescribed by law. Currently, training prescribed by the Law on Juvenile Criminal Offenders and the Criminal Law Protection of Juveniles, and the Family Law
- h) the JTC, as well as individual courts or prosecutions, organise computer (IT) training

The JTC has been organising a French language course, in co-operation with the Embassy of France in Belgrade. German-language courses were organised in 2005 and 2006.

Trainers

Some 95% of all JTC's trainers and lecturers are judges and prosecutors, mostly from the Supreme Court of Serbia and the Office of the Republican Public Prosecution. Under a decision of the Programme Council, all judges and prosecutors who conduct training for the JTC attend a compulsory train-the-trainer programme intended to develop teaching skills

Introduction

The JTC has from its foundation invested much effort in human rights issues. Accordingly, for the purpose of implementing the programme focusing on human rights standards in the best possible manner, the JTC has set up a human rights department, alongside those for criminal law, civil law, commercial law and administrative law. In co-operation with the Council of Europe office in Belgrade, a special train-the-trainer programme has been completed. The JTC now has nine national trainers – who have completed the Council of Europe training programme and received certificates from that organisation. In co-operation with the Council of Europe, the JTC has also completed training programmes for judges and prosecutors on the European Convention for the Protection of Human Rights and the corresponding case law.

Seminars: 'Council of Europe and the European Convention for the Protection of Human Rights, Articles 5 and 6' (basic seminar)

This is a training programme for judges and prosecutors implemented together with the Council of Europe. Between its start in 2004 and mid-2006, all district court judges in Serbia were covered by the programme. In September 2006, also with the Council of Europe, the JTC organised a special seminar for justices of the Supreme Court of Serbia, with 95% attendancy. The lecturers were judges of the European Court of Human Rights, and experts of the Council of Europe.

Training for prosecutors - 'The Council of Europe and the European Convention for the Protection of Human Rights, Articles 5 and 6' – began late in 2006 by the end of that year, seminars had been held in three District Prosecutions. In March and April 2007, another five seminars in this series were organised for prosecutors, in

co-operation with the Council of Europe.

In June 2007, the JTC began a programme entitled 'European Convention for the Protection of Human Rights, Article 3 and Article 5' intended for prosecutors and criminal law department judges. The programme covers five public prosecutions, including the Republican Public Prosecution.

Advanced training for judges and prosecutors in connection with the European Convention on Human Rights

In addition to a series of seminars for prosecutors on 'The Council of Europe and the European Convention for the Protection of Human Rights, Articles 5 and 6' in 2007, the JTC and the Council of Europe have concluded an arrangement concerning the organisation of the following seminars for judges and prosecutors in 2007:

1. Five seminars on the 'European Convention for the Protection of Human Rights, Articles 3 and 5' – for judges in district courts' criminal law departments.

2. Ten seminars on the 'European Convention for the Protection of Human Rights, Article 8 and Article 1 of Protocol No. 1' – for district courts' civil law department judges, beginning from September 2007

3. The JTC is planning to organise seminars for judges - 'European Convention for the Protection of Human Rights, Article 6 – Right to a Public Hearing within a Reasonable Time'. One-day seminars are planned at which only the length of the proceedings would be covered. The fact that most applications to the European Court concern the length of court proceedings makes it essential to inform judges about this problem and the standards set by the European Court in this area, so that they can focus attention on lengthy cases in their courts and in this way reduce the number of applications submitted to Strasbourg.

4. The programme 'European Convention for the Protection of Human Rights, Article 3 and Article 5', intended for prosecutors and criminal law department judges, began in June 2007. The programme covers five district prosecutions, including the Republican Public Prosecution.

5. After a successfully realised pilot-programme in 2007, training programmes will continue in 2008 on the standards set by the European Convention on Human Rights and the European Court in connection with civil, criminal and commercial law. The working group for criminal law, besides dealing with domestic legislation, also covers standards set by the ECHR in respect of detention, special investigatory measures and evidence. The working group for civil law has introduced ECHR standards in the family law and child-protection curricula. The commercial law programme now includes standards in the sphere of enforcement [of court decisions].

The JTC's programme for 2008 calls for organising special training in connection with the European Convention and the ECHR's standards for advisors in the Supreme Court of Serbia and the Constitutional Court of Serbia.

#### KEY ELEMENTS OF THE SYSTEM OF TRAINING AND REFORMS

Training of judges and prosecutors in Serbia is not compulsory, except for specialist training for juvenile and family law judges and prosecutors.

In 2006 the JTC organised a total of 212 training events of varying duration, covering a total of 9,061 judges and prosecutors statistically, in 2006, every judge and prosecutor in Serbia attended an average of 3.5 training events, lasting on average 5.80 days.

The data for 2007 (covering the period until 1st November) indicate a slight increase in the days spent in training (5.90).

The legal framework for the JTC's activity in the 2006 – 2007 period

a) In the Judicial Reform Strategy, adopted in the National Assembly of the Republic of Serbia, the JTC was designated as the body in charge of training in the judiciary. The Strategy envisages the JTC's institutional consolidation and transformation into a National Training Institute. In accordance with the commitment of the Government of the Republic of Serbia and of the Ministry of Justice to strengthening the JTC, the JTC nominates one member to the Commission for the Implementation of the Judicial Reform Strategy.

b) A Law on Training for Judges, Public Prosecutors and Judicial and Prosecutorial Assistants has been adopted under the Law the JTC has been authorised to develop, organise and implement continuous training for judges and prosecutors.

c) Under the Law on Juvenile Criminal Offenders and the Criminal-Law Protection of Juveniles, judges, prosecutors, lawyers and members of the police participating in proceedings in which a juvenile is the perpetrator of a criminal offence or where a juvenile is the victim of a criminal offence must pass specialist training organised by the JTC.

d) Under the Family Law, the Government of the Republic of Serbia has adopted a Regulation on the Manner of Acquiring Special Knowledge of the Rights of the Child for Judges Involved in Family Law Proceedings. Under the Regulation, the JTC is authorised to organise and implement compulsory training programmes for judges adjudicating family law cases.

## 5. 2. Practice of the profession

## 5. 2. 1. Salaries

**114) Salaries of judges and prosecutors (complete the table)**

	Gross annual salary (euro)	Net annual salary (euro)
First instance professional judge at the beginning of his/her career	13991	8328
Judge of the Supreme Court or the Highest Appellate Court	22258	13249
Public prosecutor at the beginning of his/her career	13991	8328
Public prosecutor of the Supreme Court or the Highest Appellate Instance	22258	13249

**115) Do judges and public prosecutors have additional benefits?**

	Judges	Prosecutors
Reduced taxation	<input type="checkbox"/>	<input type="checkbox"/>
Special pension	<input type="checkbox"/>	<input type="checkbox"/>
Housing	<input type="checkbox"/>	<input type="checkbox"/>
Other financial benefit	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

**116) If other financial benefit, please specify:**

Article 34, paragraph 1 of the Law on Judges stipulates that the High Council of the Judiciary can raise the basic salary of a judge or court president by 20%, depending on the complexity and volume of work. The basic salary of judges trying organized crime and war crime cases can be increased by an additional 100%.

Article 54, paragraph 2 of the Law on Public Prosecution stipulates that the High Council of the Judiciary can increase the basic salary of a public prosecutor by 20%, depending on the volume of work.

Also, the High Council of the Judiciary can increase the salaries for justices of the Supreme Court by 20%, depending on the complexity and volume of work.

**117) Can judges combine their work with any of the following other professions?**

	Yes with remuneration	Yes without remuneration	No
Teaching	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and publication	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitrator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cultural function	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other function	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**118) If other function, please specify:****119) Can prosecutors combine their work with any of the following other professions?**

	Yes with remuneration	Yes without remuneration	No
Teaching	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and publication	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitrator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cultural function	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other function	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

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

- Yes  
 No

If yes, please specify:

**Please indicate the source for the question 114**

### 5. 2. 2. Disciplinary procedures

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

Disciplinary sanctions for judges do not exist in Serbia. There is a possibility of issuing a reprimand to a judge as part of the procedure of dismissal., and the reprimand is then recorded in the judge's personal file. The motion for dismissal is filed by a court president, the Minister of Justice and the Supervisory Board of the Supreme Court.

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

Since there is no disciplinary accountability, there is no body with disciplinary powers. The reasons for dismissal are determined by the Grand Personnel Chamber (composed of nine justices of the Supreme Court), which has the possibility to issue a reprimand to a judge.

**124) Types of disciplinary proceedings and sanctions against judges and prosecutors: number of disciplinary proceedings initiated**

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

**125) Types of disciplinary proceedings and sanctions against judges and prosecutors: number of sanctions pronounced**

	Judges	Prosecutors
Total number (total 1 to 9)	103	0
1. Reprimand	36	
2. Suspension	29	
3. Withdrawal of cases		
4. Fine		
5. Temporary reduction of salary	38	
6. Degradation of post		
7. Transfer to another geographical (court) location		
8. Dismissal		
9. Other		

**You can indicate below:**

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

Q124 - We do not conduct such a record for judges or prosecutors

Q125 - There wasn't any pronounced sanctions against prosecutors in 2006

## 6. Lawyers

### 6. 1. Statute of the profession

#### 6. 1. 1. Profession

#### 126) Total number of lawyers practising in your country

6720

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

- Yes  
 No

#### 128) Number of legal advisors?

#### 129) Do lawyers have a monopoly of representation:

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

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

Civil cases\*\* No, except in respect of filing requests for review and filing requests for re-opening proceedings

Criminal cases - Defendant\* the size of the penalty prescribed by law determines whether a defender is mandatory, in which case it may only be a lawyer

Criminal cases - Victim\*where an aggrieved party in criminal proceedings is participating only as an aggrieved party, his/her attorney need not be a lawyer, but where in certain cases defined by law the aggrieved party is conducting criminal prosecution instead of the public prosecutor, his/her attorney must be a lawyer

Administrative cases\* no

#### 130) Is the lawyer profession organised through:

- a national Bar?  
 a regional Bar?  
 a local Bar?

Please specify:

Every lawyer registered in the Index of Lawyers is also registered in the National Bar Association's Register and the Register of a Regional Bar Association, of which there are eight in Serbia - organised according to district courts' territorial jurisdiction



**Please indicate the source for the question 126**

the Statute of the Bar Association of Serbia determines the internal organisation of the Bar Association, founded in accordance with the Law on the Lawyers' Profession and representing a self-governing and independent professional organisation

**6. 1. 2. Training****131) Is there a specific initial training and/or examination to enter the profession of lawyer?**

- Yes  
 No

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

- Yes  
 No

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

- Yes  
 No

If yes, please specify:

Where a participant in criminal proceedings is a minor, specific training is mandatory for lawyers and all other officers of the court

**6. 1. 3. Fees****134) Can users establish easily what the lawyers' fees will be?**

- Yes  
 No

**135) Are lawyers fees:**

- regulated by law?
- regulated by the Bar association?
- freely negotiated?

**6. 2. Evaluation****6. 2. 1. Complaints and sanctions****136) Have quality standards been formulated for lawyers?**

- Yes
- No

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

- the Bar association?
- the legislature?
- other?

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

**138) Is it possible to complain about :**

- the performance of lawyers?
- the amount of fees?

Please specify:

Clients, participants in proceedings may lodge complaints about the work of lawyers in written form

**139) Which authority is responsible for disciplinary procedures:**

- the judge?
- the Ministry of Justice?
- a professional authority or other?

Please specify:

The Bar Association's disciplinary bodies, as follows: the Disciplinary Prosecutor, and the Disciplinary Court. Disciplinary bodies in the first instance are formed in regional bar associations, while the second-instance Disciplinary authority is formed in the national Bar Association

**140) Disciplinary proceedings and sanctions against lawyers:****Disciplinary proceedings initiated**

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number	625			

**141) Disciplinary proceedings and sanctions against lawyers:****Sanctions pronounced**

	Reprimand	Suspension	Removal	Fine	Other
Annual number		7		10	1

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning the organisation of the Bar and the main reforms that have been implemented over the last two years

All proceedings concern violations of the professional code of ethics, classified as minor or serious breaches, the exact types of breaches are defined by the Statute of the Bar Association of Serbia  
Under the Law on the Lawyers' Profession, disciplinary sanctions include the following: fines, or striking from the Index of Lawyers for a certain period. Fines may not amount to less than five times the lowest fee in the Lawyers' Rates, or more than five times the highest fee in the Lawyers' Rates. Offenders may not be struck from the Lawyers' Index for less than six months or more than five years. Striking from the Index has been ordered in one case, but the disciplinary verdict is not final, in all other cases fines were handed down.

Where complaints are lodged by natural or legal persons in connection with the work or conduct of lawyers, the Disciplinary Prosecutor of the Bar Association mounts an investigation and determines whether it is justified to file disciplinary charges. Where disciplinary charges are filed, proceedings are conducted and a decision issued by the Disciplinary Court.  
Decisions are appealable.

Where a complaint against a lawyer has been dismissed as unfounded, an appeal may be lodged with the second-instance Disciplinary Prosecutor of the national Bar Association.

No reforms have been conducted in the past two years of the organisation of the national and regional Bar Associations.

## 7. Alternative Dispute Resolution

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

#### 7. 1. 1. Mediation

**142) If appropriate, please specify, by type of cases, the organisation of judicial mediation:**

	Possibility of private mediation or court annexed mediation	Private mediator	Public authority	Judge	Prosecutor
Civil and commercial cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Family law cases (ex. Divorce)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Administrative cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Employment dismissals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Criminal cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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

Yes

No

If yes, please specify:

Legal aid for mediation procedures can be rendered in the following ways:

1. The legal aid offered by the Center for Mediation by providing relevant information about the mediation procedure and the way in which an application for mediation can be submitted
2. Pursuant to the Law on Mediation ("Official Gazette of the Republic of Serbia", no. 125/04), legal representatives of the parties to the mediation procedure (lawyers) can also participate in the procedure

**144) Can you provide information about the number of accredited mediators?**

Yes

No

If yes, please provide the number of mediators:

202

**145) Can you provide information about the total number of judicial mediation procedures concerning:**

civil cases?	<input checked="" type="checkbox"/> yes, number:	1075
family cases?	<input checked="" type="checkbox"/> yes, number:	1
administrative cases?	<input type="checkbox"/> yes, number:	

employment dismissals?	<input checked="" type="checkbox"/> yes, number:	48
criminal cases?	<input checked="" type="checkbox"/> yes, number:	5

**Please indicate the source for the question 145**

Center for Mediation of the Republic of Serbia

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

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

Q146 - The Law on the Amicable Resolution of Labour Disputes was published in the Official Gazette of the Republic of Serbia, No. 125/2004 dated 22 November 2004. Depending on the type of dispute, there are two mechanisms for the peaceful resolution of disputes: conciliation procedures for collective labour disputes, and arbitration procedures for individual labour disputes. The Law provides for the establishment of the Republican Agency for Amicable Resolution of Labour Disputes.

Under the Law on Arbitration (Official Gazette of the Republic of Serbia, No. 46/2006) the conciliation procedure – mediation by an arbitration – is defined in Article 7, as follows:

(1) In cases where Arbitration may be competent for resolving disputes, any party, irrespective of whether the competence of the Arbitration has been contractually agreed, may seek mediation of the Arbitration for the purpose of conciliation according to the provisions of this Regulation.

(2) The conciliation procedure is independent from the arbitration procedure, and where a conciliation procedure does not succeed, the parties are not bound by anything done or stated orally or in writing during the procedure.

(3) Agreement to a conciliation procedure does not imply acceptance of the competence of the Arbitration if the conciliation does not succeed.

**You can indicate below:**

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

## 8. Enforcement of court decisions

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

#### 8. 1. 1. Functioning

#### 147) Number of enforcement agents

591

#### 148) Are enforcement agents:

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

Please specify their status:

Court administration

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

- Yes
- No

#### 150) Is the profession of enforcement agent organised by?

- a national body?
- a regional body?
- a local body?

#### 151) Can users establish easily what the fees of the enforcement agents will be?

- Yes
- No

#### 152) Are enforcement fees:

regulated by law?

freely negotiated?

**Please indicate the source for the question 147**

ministry of justice

### 8. 1. 2. Supervision

**153) Is there a body entrusted with the supervision and the control of the enforcement agents?**

Yes

No

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

a professional body?

the judge?

the Ministry of Justice?

the prosecutor?

other?

Please specify:

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

Yes

No

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



**156) Do you have a specific mechanism for executing court decisions rendered against public authorities, including for monitoring the execution?**

- Yes  
 No

If yes, please specify:

**Please indicate the sources for the questions 155 and 156**

High judicial cort

### 8. 1. 3. Complaints and sanctions

**157) What are the main complaints of users concerning the enforcement procedure? (please indicate a maximum of 3)**

- no execution at all?  
 non execution of court decisions against public authorities?  
 lack of information?  
 excessive length?  
 unlawful practices?  
 insufficient supervision?  
 excessive cost?  
 other?

Please specify:

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

- Yes  
 No

If yes, please specify:

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

- for civil cases?  
 for administrative cases?

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

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

Please specify:

**161) Disciplinary proceedings initiated against enforcement agents:**

- |                               |  |
|-------------------------------|--|
| Breach of professional ethics | <input type="checkbox"/> yes,<br>number: |
| Professional inadequacy       | <input type="checkbox"/> yes,<br>number: |
| Criminal offence              | <input type="checkbox"/> yes,<br>number: |
| Other                         | <input type="checkbox"/> yes,<br>number: |

**162) Sanctions pronounced against enforcement agents:**

- |            |  |
|------------|--|
| Reprimand  | <input type="checkbox"/> yes,<br>number: |
| Suspension | <input type="checkbox"/> yes,<br>number: |
| Dismissal  | <input type="checkbox"/> yes,<br>number: |
| Fine       | <input type="checkbox"/> yes,<br>number: |
| Other      | <input type="checkbox"/> yes,<br>number: |

**You can indicate below:**

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

The new Law on the Execution Procedure, of 23 February 2005

Q161 and Q162 - We do not have this information.

**Please indicate the sources for the questions 157 and 160****8. 2. Execution of decisions in criminal matters****8. 2. 1. Functioning****163) Is there a judge who is in charge of the enforcement of judgments?**

- Yes  
 No

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

in criminal cases judge is in charge

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

- Yes  
 No

If yes, please specify:

**You can indicate below:**

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

## 9. Notaries

### 9. 1. Statute

#### 9. 1. 1. Functioning

**165) Do you have notaries in your country? If no, go to question 170.**

- Yes  
 No

**166) Is the status of notaries:**

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

**167) Do notaries have duties:**

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

Please specify:

**Please indicate the source for the question 166**

#### 9. 1. 2. Supervision

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

- Yes

No

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

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

Please specify:

**You can indicate below:**

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

## 10. Functioning of justice

### 10. 1. Foreseen reforms

#### 10. 1. 1. Reforms

**170) Can you provide information on the current debate in your country regarding the functioning of justice? Are there reforms foreseen? (for example changes in legislation, changes in the structure of the judiciary, innovation programmes, etc). If yes, please specify.**

Yes, a judicial reform is under way and systemic laws regulating the judiciary are being revised. During its second session after the election of the Government, the National Assembly will harmonise with the Constitution laws regulating application of constitutional provisions to courts and public prosecutions, as follows: laws regulating the organisation and competences of courts, election and termination of service of judges and court presidents, the High Judicial Council, organisation and competences of Public Prosecutions, election and termination of service of public prosecutors and deputy public prosecutors, and the State Prosecutors' Council.