



## Données de référence 2018 (01/01/2018 - 31/12/2018)

Dates de début et fin de la campagne de collecte des données : 01/03/2019 - 01/10/2019

### Objectif :

La CEPEJ a décidé, lors de sa 31<sup>ème</sup> réunion plénière, de lancer le huitième cycle d'évaluation 2018 – 2020, portant sur les données de l'année 2018.

La CEPEJ souhaite utiliser la méthodologie développée dans le cadre des cycles d'évaluation précédents pour obtenir, en s'appuyant sur son réseau de correspondants nationaux, une évaluation globale des systèmes judiciaires des 47 Etats membres du Conseil de l'Europe ainsi que de trois pays observateurs (Israël, le Maroc et le Kazakhstan). Ceci permettra aux décideurs publics et aux praticiens du droit d'agir en tenant compte de ces informations uniques.

Le présent questionnaire a été adapté par le Groupe de travail sur l'évaluation des systèmes judiciaires (CEPEJ-GT-EVAL) à la lumière des cycles d'évaluation précédents et en tenant compte des commentaires des membres, observateurs, experts et correspondants nationaux de la CEPEJ. Le but de cet exercice est d'accroître la connaissance des systèmes judiciaires des Etats participants, de comparer le fonctionnement des systèmes judiciaires dans ses divers aspects ainsi que de comprendre les tendances de l'organisation judiciaire pour contribuer à améliorer l'efficacité de la justice. Le questionnaire d'évaluation et l'exploitation des résultats obtenus par ce biais ont pour ambition de devenir un véritable outil de politique publique de la justice, au service des citoyens européens.

### Instruction :

La manière d'utiliser l'application et de répondre aux questions est guidée par deux documents principaux:

- le manuel d'utilisation et,
- la note explicative.

Tandis que la note explicative apporte des définitions et explications sur le questionnaire d'évaluation de la CEPEJ et la méthodologie nécessaire pour y répondre, le manuel d'utilisation est un outil pour vous aider à naviguer dans cette application. Vous pouvez télécharger la note explicative dans son intégralité sur le site web de la CEPEJ. Les explications spécifiques sont également accessibles pour chaque question dans l'application sous l'onglet « Note explicative ». Ce dernier constitue un outil de consultation immédiate lorsque vous répondrez aux questions.

Le manuel d'utilisation est accessible dans l'onglet « Documentation » de l'application.

Si vous avez des questions relatives à ces documents ou à l'utilisation de l'application, n'hésitez pas à contacter le Secrétariat.

## 1. Informations générales et financières

### 1.1. Données démographiques et économiques

#### 1.1.1. Habitants et informations économiques



##### 001. Nombre d'habitants (si possible au 1er janvier de l'année de référence +1)

[ 6 963 764 ]

Commentaires 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 Kosovo and Metohija.

## 002. Total des dépenses publiques annuelles au niveau national et le cas échéant, les dépenses publiques des collectivités territoriales ou entités fédérales (en €)

	Montant
Niveau national ou fédéral	17 539 225 654 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Niveau territorial/entités fédérales (total pour l'ensemble des niveaux territoriaux/entités fédérales)	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Commentaires 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/macroeconomic-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. PIB par habitant (en €) en prix courant pour l'année de référence

[ 6 158 ]

Commentaires 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. Salaire moyen brut annuel (en €) pour l'année de référence

[ 7 645 ]

NA

Commentaires 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. Taux de change de la monnaie nationale (zone non Euro) en € au 1er janvier de l'année de référence +1

[ 118.1946 ]

Autorisation de décimales : 5

NAP

Commentaires

## A1. Veuillez indiquer les sources des réponses aux questions 1 à 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. Données budgétaires relatives au système judiciaire

**006. Budget public annuel (approuvé et exécuté) alloué pour le fonctionnement de l'ensemble des tribunaux, en € (sans le budget du ministère public et sans le budget de l'aide judiciaire). Si vous ne pouvez pas distinguer le budget alloué aux tribunaux des budgets alloués au ministère public et/ou à l'aide judiciaire, merci de vous référer à la question 7. Si vous êtes en mesure de répondre à la question 6, veuillez répondre NA à la question 7.**

	Budget approuvé (en €)	Budget exécuté (en €)
<b>TOTAL - Budget public annuel alloué pour le fonctionnement de l'ensemble des tribunaux (1 + 2 + 3 + 4 + 5 + 6 + 7)</b>	220 560 253 [ ] NA [ ] NAP	215 915 396 [ ] NA [ ] NAP
<b>1. Budget public annuel alloué aux salaires (bruts)</b>	127 151 063 [ ] NA [ ] NAP	126 242 372 [ ] NA [ ] NAP
<b>2. Budget public annuel alloué à l'informatisation</b>	3 849 504 [ ] NA [ ] NAP	3 599 791 [ ] NA [ ] NAP
<b>3. Budget public annuel alloué aux frais de justice (frais d'expertise, d'interprètes, etc.)</b>	30 874 513 [ ] NA [ ] NAP	30 022 120 [ ] NA [ ] NAP
<b>4. Budget public annuel alloué aux bâtiments des tribunaux (maintenance, budget de fonctionnement)</b>	1 095 114 [ ] NA [ ] NAP	780 972 [ ] NA [ ] NAP
<b>5. Budget public annuel alloué à l'investissement en nouveaux bâtiments (tribunaux)</b>	8 878 748 [ ] NA [ ] NAP	8 751 001 [ ] NA [ ] NAP
<b>6. Budget public annuel alloué à la formation</b>	[ ] NA [X] NAP	[ ] NA [X] NAP
<b>7. Autres (veuillez préciser)</b>	48 711 311 [ ] NA [ ] NAP	46 519 141 [ ] NA [ ] NAP

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus. Si le budget public annuel alloué au fonctionnement de l'ensemble des tribunaux qui a été réellement exécuté est différent du budget public annuel approuvé, veuillez indiquer les principales raisons de ces différences : 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. Si vous ne pouvez pas répondre à la question 6 parce que vous ne pouvez pas isoler le budget public alloué aux tribunaux des budgets publics alloués au ministère public et/ou à l'aide judiciaire, veuillez remplir uniquement la ligne adéquate dans le tableau selon votre système :**

	Budget approuvé (en €)	Budget exécuté (en €)
<b>Total du budget public annuel alloué aux tribunaux et au ministère public</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 du budget public annuel alloué aux tribunaux et à l'aide judiciaire</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Total du budget public annuel alloué aux tribunaux, au ministère public et à l'aide judiciaire</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Commentaires - Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus. Si le budget public annuel qui a été réellement exécuté est différent du budget public annuel approuvé, veuillez indiquer les principales raisons de ces différences : Data supplied by Ministry of Justice Sector for Material and Financial Affairs

**008. Existe-t-il une règle générale selon laquelle une personne doit payer une taxe pour tenter une procédure devant un tribunal de droit commun :**

	Obligation de payer une taxe pour intenter une procédure devant une juridiction de droit commun ?
en matière pénale	( X ) Oui ( ) Non
en matière autre que pénale	( X ) Oui ( ) Non

S'il existe des exceptions à la règle de payer une telle taxe, veuillez préciser ces 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. Quelle est, en quelques mots, la méthode de calcul de cette taxe :

- 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. Montant de la taxe exigée pour engager une action en recouvrement d'une créance d'un montant de 3000€ :

[ 143 ]

[ ] NA

[ ] NAP

Commentaires 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. Montant annuel des taxes perçues par l'Etat (en €) :

[ 53 326 971 ]

[ ] NA

[ ] NAP

Commentaires 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. Budget public annuel approuvé alloué à l'aide judiciaire, en €.

	TOTAL	Affaires pénales	Affaires autres que pénales
<b>TOTAL - Budget public annuel approuvé alloué à l'aide judiciaire (12.1 + 12.2)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>12.1 pour les affaires portées devant les tribunaux (taxes et/ou représentation légale)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>12.2 pour les affaires non portées devant les tribunaux (conseil juridique, ADR et autres services juridiques)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Commentaires 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. Budget public annuel exécuté alloué à l'aide judiciaire, en €.

	TOTAL	Affaires pénales	Affaires autres que pénales
<b>TOTAL - Budget public annuel exécuté alloué à l'aide judiciaire (12-1.1 + 12-1.2)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>12-1.1 pour les affaires portées devant les tribunaux (taxes et/ou représentation légale)</b>	10 975 651 [ ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>12-1.2 pour les affaires non portées devant les tribunaux (conseil juridique, ADR et autres services juridiques )</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Si le budget public annuel alloué à l'aide judiciaire qui a été réellement exécuté est différent du budget public annuel approuvé, veuillez indiquer les principales raisons de ces différences : 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. Budget public annuel (approuvé et exécuté) alloué au ministère public, en €.

	Budget approuvé (en €)	Budget exécuté (en €)
<b>Total du budget public annuel alloué au ministère public, en € (dont 13.1)</b>	45 268 424 [ ] NA [ ] NAP	43 247 046 [ ] NA [ ] NAP
<b>13.1 Budget public annuel alloué à la formation du ministère public</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Veillez ajouter tout commentaire utile à l'interprétation des données ci-dessus. De plus, si le budget public annuel alloué au fonctionnement du ministère public qui a été réellement exécuté est différent du budget public annuel approuvé, veuillez indiquer les principales raisons de ces différences : 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. Instances formellement responsables des budgets alloués aux tribunaux (réponses multiples possibles) :

	Préparation du budget global des tribunaux	Adoption/approbation du budget global des tribunaux	Gestion et répartition du budget entre les tribunaux	Evaluation de l'utilisation du budget au niveau national
<b>Ministère de la Justice</b>	( X ) Oui ( ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP	( X ) Oui ( ) Non [ ] NAP	( X ) Oui ( ) Non [ ] NAP
<b>Autre ministère</b>	( X ) Oui ( ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP
<b>Parlement</b>	( ) Oui ( X ) Non [ ] NAP	( X ) Oui ( ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP	( X ) Oui ( ) Non [ ] NAP
<b>Cour Suprême</b>	( ) Oui ( X ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP
<b>Conseil Supérieur de la Magistrature</b>	( X ) Oui ( ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP	( X ) Oui ( ) Non [ ] NAP	( X ) Oui ( ) Non [ ] NAP
<b>Tribunaux</b>	( X ) Oui ( ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP
<b>Organisme d'inspection</b>	( ) Oui ( ) Non [ X ] NAP	( ) Oui ( ) Non [ X ] NAP	( ) Oui ( ) Non [ X ] NAP	( ) Oui ( ) Non [ X ] NAP
<b>Autre</b>	( ) Oui ( X ) Non [ ] NAP	( ) Oui ( X ) Non [ ] NAP	( X ) Oui ( ) Non [ ] NAP	( X ) Oui ( ) Non [ ] NAP

Si autre ministère et/ou organisme d'inspection et/ou autre, veuillez préciser : Ministry of Finance – budget inspection; Other – State

## 014-1. (ancienne question 61) Quelles instances possèdent des compétences budgétaires au sein des tribunaux ?

	Préparation du budget	Arbitrage et répartition du budget	Gestion quotidienne du budget	Evaluation et contrôle de l'utilisation du budget
Conseil d'administration	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
Président du tribunal	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non
Directeur administratif du tribunal	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
Greffier en chef	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
Autre	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non

Commentaires - Si « autre », veuillez préciser : 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. Veuillez indiquer les sources des réponses aux questions 6 à 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. Données budgétaires relatives à l'ensemble du système de justice

015-1. Budget public annuel (approuvé et exécuté) alloué à l'ensemble du système de justice, en € (ce budget global inclut le budget du système judiciaire – voir 15-2 ainsi que d'autres éléments du système de justice – voir 15-3) :

	Budget approuvé (en €)	Budget exécuté (en €)
Budget public annuel alloué à l'ensemble du système de justice, en €	409 300 004 [ ] NA [ ] NAP	381 616 111 [ ] NA [ ] NAP

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus et préciser notamment si une part importante du budget provient d'une organisation internationale. De plus, si le budget public annuel alloué au fonctionnement de l'ensemble du système de justice qui a été réellement exécuté est différent du budget public annuel approuvé, veuillez indiquer les principales raisons de ces différences : 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. Eléments du budget du système judiciaire (Q6, Q7, Q12, Q13)



	Inclus	Non inclus	N'existe pas (NAP)
Tribunaux (voir question 6 ou 7)	( X )	( )	( )
Aide judiciaire(voir question 12 ou 7)	( )	( X )	( )
Ministère public (voir question 13 ou 7)	( X )	( )	( )

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

### 015-3. Autres éléments budgétaires

	Inclus	Non inclus	N'existe pas (NAP)
Système pénitentiaire	( X )	( )	( )
Service de probation	( X )	( )	( )
Conseil supérieur de la magistrature	( X )	( )	( )
Cour constitutionnelle	( X )	( )	( )
Service de gestion du système judiciaire	( )	( )	( X )
Service de l'avocat d'Etat	( X )	( )	( )
Service de l'exécution	( )	( X )	( )
Notariat	( )	( X )	( )
Service d'expertise légale	( )	( X )	( )
Protection judiciaire de la jeunesse	( X )	( )	( )
Fonctionnement du ministère de la Justice	( X )	( )	( )
Services des demandeurs d'asile et réfugiés	( )	( X )	( )
Service d'immigration	( )	( X )	( )
Certains services de police (ex : transfert, enquête, sécurité des détenus)	( X )	( )	( )
Autres	( )	( X )	( )

Si « autres », veuillez préciser : Other is not included.

### A3. Veuillez indiquer les sources des réponses aux questions 15-1, 15-2 et 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. Accès à la justice et à l'ensemble des tribunaux

### 2.1. Aide judiciaire

#### 2.1.1. Champ d'application de l'aide judiciaire

016. L'aide judiciaire concerne-t-elle :

	Affaires pénales	Affaires autres que pénales
Représentation devant les tribunaux	( X ) Oui ( ) Non [ ] NA [ ] NAP	( X ) Oui ( ) Non [ ] NA [ ] NAP
Conseil juridique, ADR et autres services juridiques	( X ) Oui ( ) Non [ ] NA [ ] NAP	( X ) Oui ( ) Non [ ] NA [ ] NAP

016-1. Veuillez décrire brièvement l'organisation du système d'aide judiciaire dans votre pays à la fois avant d'aller devant le tribunal et durant la procédure ?

- 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. L'aide judiciaire prévoit-elle la couverture ou l'exonération des frais de justice ?**

Oui

Non

NAP

Si oui, veuillez préciser : 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. Est-il possible de bénéficier de l'aide judiciaire pour des frais relatifs à l'exécution des décisions de justice (par exemple : honoraires d'un agent d'exécution) ?**

Oui

Non

NAP

Si oui, veuillez préciser : 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. L'aide judiciaire peut-elle être allouée pour d'autres frais (différents de ceux indiqués aux questions 16 à 18, par exemple honoraires d'un conseiller technique ou expert, honoraires d'autres professionnels de la justice (notaires), frais de voyage, etc.) ?**

	Affaires pénales	Affaires autres que pénales
<b>Allocation de l'aide judiciaire pour d'autres frais</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP

Commentaires - Si oui, veuillez préciser : 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. Informations relatives à l'aide judiciaire**

**020. Veuillez indiquer le nombre d'affaires ayant bénéficié de l'aide judiciaire :**

	Total	Affaires portées devant les tribunaux	Affaires non portées devant les tribunaux
<b>TOTAL</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>En matière pénale</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>En matière autre que pénale</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP

Commentaires - Veuillez préciser le cas échéant : 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.

**021. En matière pénale, les personnes n’ayant pas les moyens financiers suffisants peuvent-elles bénéficier de l’assistance gratuite (ou financée par un budget public) d’un avocat?**

	Assistance gratuite d’un avocat
<b>Personnes mises en cause</b>	( X ) Oui ( ) Non
<b>Victimes</b>	( X ) Oui ( ) Non

Commentaires - Si oui, veuillez préciser : 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.

**022. En matière pénale, ont-elles le libre choix de l'avocat dans le cadre de l'aide judiciaire?**

	libre choix de l'avocat
<b>Personnes mises en cause</b>	( ) Oui ( X ) Non [ ] NAP
<b>Victimes</b>	( ) Oui ( X ) Non [ ] NAP

Commentaires 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. Votre pays procède-t-il à un examen des revenus et/ou des biens (patrimoine) du demandeur avant d’octroyer l’aide judiciaire complète ou partielle ?**

Oui

Non

Commentaires - Veuillez préciser si d’autres critères sont pris en compte pour l’octroi de l’aide judiciaire et veuillez ajouter tout commentaire utile à l’interprétation des données ci-dessus : 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. Si oui veuillez indiquer ci-dessous:**

	Montant du revenu annuel (pour une personne), (en €)	Valeur des biens (patrimoine) (pour une personne), (en €)
Aide judiciaire complète accordée au demandeur en matière pénale	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Aide judiciaire complète accordée au demandeur en matière autre que pénale	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Aide judiciaire partielle accordée au demandeur en matière pénale	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Aide judiciaire partielle accordée au demandeur en matière autre que pénale	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

**024. Est-il possible de refuser l’aide judiciaire pour absence de bien-fondé de l’action (par exemple pour caractère abusif de l’action en justice ou en raison de l’absence d’un éventuel succès) ?**

Oui

Non

Commentaires - Si oui, veuillez expliquer les critères concrets pour refuser l’aide judiciaire : 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. La décision d'accorder ou de refuser l'aide judiciaire est-elle prise par :**

- le tribunal
- une instance extérieure au tribunal
- une instance mixte (tribunal/organe externe)

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

**026. Existe-t-il un système privé d'assurance de protection juridique permettant aux personnes physiques (cela ne concerne pas les entreprises ou autres personnes morales) de financer une action en justice ?**

- Oui
- Non

Commentaires - Le cas échéant, veuillez donner des indications sur le développement actuel de ce type d'assurance dans votre pays; s'agit-il d'un phénomène en progression ?

**027. La décision judiciaire peut-elle préciser la manière dont les frais de justice payés par les parties au cours de la procédure seront partagés :**

	La décision judiciaire précise le partage des frais de justice
en matière pénale	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non
en matière autre que pénale	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non

Commentaires

**B1. Veuillez indiquer les sources des réponses aux questions 20 et 23 :**

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

**2.2.Usagers des tribunaux et victimes**

**2.2.1.Droits des usagers et victimes**



028. Existe-t-il des sites/portails Internet officiels (ex: ministère de la Justice, etc.) à partir desquels le public a accès gratuitement :

	Oui	Adresse(s) internet :
aux textes juridiques (codes, lois, règlements, 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>



à la jurisprudence des hautes juridictions

( )

( 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>à d'autres documents (par exemple le téléchargement de formulaires, l'enregistrement en ligne)</b>	( )	( X ) http://www.prvisud.rs/obrasci; www.up.sud.rs; www.bg.vi.sud.rs;

Veillez préciser quels documents et informations sont inclus dans « à d'autres 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](http://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](http://www.bg.vi.sud.rs));

For the Court of Appeal ([www.bg.ap.sud.rs](http://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](http://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](http://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](http://www.up.sud.rs)).

## 029. Votre système prévoit-il une obligation d'informer les parties concernant les délais prévisibles de la procédure judiciaire ?

( ) Oui, toujours

( ) Non

( X ) Oui, seulement dans quelques situations particulières

Commentaires - Si oui seulement dans quelques situations particulières, veuillez préciser : Only in civil proceedings, i.e. determining the time-frame (Article 10 Paragraph 2 of the Law of Civil Procedure)

## 030. Existe-t-il un système d'information spécifique, public et gratuit, pour informer et aider les victimes d'infractions ?

( X ) Oui

( ) Non

Commentaires - Si oui, veuillez préciser : 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. Existe-t-il des modalités favorables particulières applicables aux catégories de personnes vulnérables suivantes, au cours des procédures judiciaires ?

	Dispositif d'information	Modalités particulières pour les auditions	Autres modalités particulières
<b>Victimes de violence sexuelle/viol</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Victimes du terrorisme</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Mineurs (témoins ou victimes)</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Victimes de violence domestique</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Minorités ethniques</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non	( ) Oui ( X ) Non
<b>Personnes handicapées</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non	( ) Oui ( X ) Non
<b>Délinquants mineurs</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Autres (par exemple, les victimes de la traite des êtres humains, mariage forcé, mutilation sexuelle)</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non	( X ) Oui ( ) Non

Commentaires - Si « autres personnes vulnérables » et/ou « autres modalités particulières », veuillez préciser : 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. Les mineurs peuvent-ils être parties à une procédure judiciaire :**

Oui

Non

Commentaires - Si oui, veuillez préciser pour quelles procédures (civile, pénale, administrative/procédure normale ou accélérée) et à

quelles conditions (les mineurs peuvent-ils bénéficier de l'aide judiciaire, d'un avocat, etc.) :

### **032. Votre pays dispose-t-il d'une procédure d'indemnisation des victimes d'infractions ?**

Oui, veuillez préciser pour quels types d'infractions : .....

Non

Commentaires 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. Une décision du tribunal est-elle nécessaire dans le cadre de la procédure d'indemnisation ?**

Oui

Non

Commentaires

#### **033. Si oui, cette indemnisation provient-elle :**

d'un dispositif avec des fonds publics

des dommages et intérêts à payer par la personne responsable

d'un dispositif avec des fonds privés

Commentaires

### **034. Existe-t-il des études permettant d'évaluer le taux de recouvrement des dommages et intérêts octroyés aux victimes par les juridictions ?**

Oui

Non

Commentaires - Si oui, veuillez illustrer avec des données disponibles concernant le taux de recouvrement, le nom des études, la fréquence des études et l'organe responsable : 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. Le procureur a-t-il un rôle spécifique au regard des victimes (protection et assistance) ?**

Oui

Non

Commentaires - Si oui, veuillez préciser : 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. Les victimes d'infractions peuvent-elles contester une décision du procureur de classer une affaire ? Veuillez vérifier la cohérence de votre réponse avec celle de la question 105 qui traite de la possibilité pour un procureur "de classer une affaire sans suite, sans avoir besoin d'obtenir une décision d'un juge". (La réponse NAP signifie que le procureur ne peut pas décider de classer une affaire de son propre chef. Une décision d'un juge est nécessaire.)**

Oui

Non

NAP

Commentaires - Le cas échéant, veuillez préciser :

**037. Existe-t-il un système d'indemnisation pour les usagers dans les circonstances suivantes :**

	Nombre de demandes d'indemnisation	Nombre de condamnations	Montant total (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>Durée excessive de la procédure</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-exécution des décisions de justice</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>Arrestation injustifiée</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>Condamnation injustifiée</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>Autre</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

Commentaires - Le cas échéant, veuillez fournir des renseignements concernant la procédure d'indemnisation et la méthode de calcul du montant de l'indemnisation (par exemple, le tarif journalier pour une arrestation ou une condamnation injustifiée) : 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. Confiance et satisfaction des citoyens dans leur système de justice



**038. Votre pays a-t-il mis en place des enquêtes auprès des professionnels de la justice et des usagers des tribunaux pour mesurer leur confiance dans la justice et leur degré de satisfaction par rapport au service rendu ? Si oui, à quelles fréquences et à quels niveaux ?**

	Au niveau national	Au niveau des tribunaux
<b>1. Enquêtes auprès des juges</b>	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc
<b>2. Enquêtes auprès du personnel des tribunaux</b>	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc
<b>3. Enquêtes auprès des procureurs</b>	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc
<b>4. Enquêtes auprès des avocats</b>	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc
<b>5. Enquêtes auprès des parties</b>	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input checked="" type="checkbox"/> Ad hoc
<b>6. Enquêtes auprès d'autres usagers des tribunaux (par exemple jurés, témoins, experts, interprètes, représentants des agences gouvernementales, ONG)</b>	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc
<b>7. Enquêtes auprès des victimes</b>	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc
<b>8. Autre(s) enquête(s) non mentionnée(s)</b>	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annuelle <input type="checkbox"/> Autre type de fréquence <input type="checkbox"/> Ad hoc

Commentaires - Veuillez indiquer les références et les liens vers les enquêtes de satisfaction citées :

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

**040. Existe-t-il un dispositif national ou local permettant de déposer une plainte concernant le fonctionnement du système judiciaire ? (par exemple le traitement d'une affaire par un juge ou la durée d'une procédure)**

( X ) Oui

( ) Non

**041. Si oui veuillez préciser certains aspects de ce dispositif :**

	<b>Autorité compétente pour traiter de la plainte</b>	<b>Existence d'un délai pour cette autorité pour traiter la plainte</b>
<b>Tribunal concerné</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Instance supérieure</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Ministère de la Justice</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Conseil supérieur de la magistrature</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Autres organisations extérieures (ex. médiateur)</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non

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

**041-1. Si oui, veuillez préciser certains aspects de ce dispositif :**

	<b>Nombre de plaintes</b>	<b>Montant des indemnisations accordées</b>
<b>Tribunal concerné</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Instance supérieure</b>	[ X ] NA [ ] NAP	[ ] NA [ X ] NAP
<b>Ministère de la Justice</b>	11 503 [ ] NA [ ] NAP	[ ] NA [ X ] NAP
<b>Conseil supérieur de la magistrature</b>	1 415 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Autres organisations extérieures (ex. médiateur)</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Commentaires - Si possible, veuillez donner des informations sur l'efficacité de cette procédure de plainte et veuillez indiquer tout commentaire utile : 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 complain 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 des tribunaux

#### 3.1. Tribunaux

##### 3.1.1. Nombre de tribunaux

#### 042. Nombre de tribunaux considérés comme entités juridiques (structures administratives) et implantations géographiques.

	Nombre de tribunaux
42.1 Tribunaux de droit commun de 1ère instance (entités juridiques)	91 [ ] NA [ ] NAP
42.2 Tribunaux spécialisés de 1ère instance (entités juridiques)	61 [ ] NA [ ] NAP
42.3 Tous les tribunaux (implantations géographiques) (ce chiffre inclut les tribunaux de droit commun de 1ère instance, les tribunaux spécialisés de 1ère instance, tous les tribunaux de seconde instance et cours d'appels et toutes les cours suprêmes)	159 [ ] NA [ ] NAP

Commentaires 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. Nombre (entités juridiques) de tribunaux spécialisés (ou ordre judiciaire spécifique) de 1ère instance

	Nombre de tribunaux
<b>Total (il doit correspondre au nombre indiqué à la question 42.2)</b>	61 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Tribunaux commerciaux (à l'exclusion des tribunaux de faillites)</b>	16 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Tribunaux des faillites</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Tribunaux du travail</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Tribunaux des affaires familiales</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Tribunaux des affaires locatives (tribunaux des baux)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Tribunaux de l'exécution des sanctions pénales</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Tribunaux en matière de lutte contre le terrorisme, le crime organisé ou la corruption</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Tribunaux en matière de contentieux de l'Internet</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Tribunaux administratifs</b>	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Tribunaux des assurances et/ou de la sécurité sociale</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Tribunaux militaires</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Autres tribunaux spécialisés de 1ère instance</b>	44 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Commentaires - Si « autres tribunaux spécialisés de 1ère instance », veuillez donner des précisions : The category “other” covers the 44 misdemeanour courts.

**044. Une réforme dans la structure des tribunaux est-elle envisagée [par exemple une diminution du nombre de tribunaux (implantations géographiques) ou une réforme de la compétence des tribunaux] ?**

Oui

Non

Commentaires - Veuillez préciser : 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. Nombre de tribunaux de 1ère instance (implantations géographiques) compétents pour une affaire concernant :**

	Nombre de tribunaux
le recouvrement d'une petite créance	83 [ ] NA [ ] NAP
le licenciement	67 [ ] NA [ ] NAP
le vol avec violence	93 [ ] NA [ ] NAP
faillite	16 [ ] NA [ ] NAP

Commentaires Commercial courts are competent for insolvency proceedings.

**045-1. Votre définition d'une petite créance est elle similaire à celle fournie dans la Note explicative ?**

Oui

Non

Commentaires - Si ce n'est pas le cas, veuillez préciser votre définition d'une petite créance :

**045-2. Veuillez indiquer le montant en € d'une petite créance :**

[ 3 000 ]

Commentaires

**C. Veuillez indiquer les sources des réponses aux questions 42, 43 et 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. Personnel des tribunaux

### 3.2.1. Juges et personnels non-juges



**046. Nombre de juges professionnels siégeant en juridiction (si possible au 31 décembre de l'année de référence). (Veuillez fournir l'information en équivalent temps plein et pour des postes permanents effectivement occupés, pour tous les types de juridictions confondus – droit commun et spécialisées.)**

	Total	Hommes	Femmes
Nombre total de juges professionnels (1 + 2 + 3)	2 586 [ ] NA [ ] NAP	745 [ ] NA [ ] NAP	1 841 [ ] NA [ ] NAP
1. Nombre de juges professionnels de première instance	2 225 [ ] NA [ ] NAP	658 [ ] NA [ ] NAP	1 567 [ ] NA [ ] NAP
2. Nombre de juges professionnels dans les cours d'appel (2ème instance)	320 [ ] NA [ ] NAP	71 [ ] NA [ ] NAP	249 [ ] NA [ ] NAP
3. Nombre de juges professionnels dans les cours suprêmes	41 [ ] NA [ ] NAP	16 [ ] NA [ ] NAP	25 [ ] NA [ ] NAP

Commentaires - Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus : 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 Appeal 46.3. 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. Nombre de présidents de tribunaux (juges professionnels).**

	Total	Hommes	Femmes
Nombre total de président(e)s de juridictions (1 + 2 + 3)	154 [ ] NA [ ] NAP	70 [ ] NA [ ] NAP	84 [ ] NA [ ] NAP
1. Nombre de président(e)s de tribunaux de première instance	147 [ ] NA [ ] NAP	66 [ ] NA [ ] NAP	81 [ ] NA [ ] NAP
2. Nombre de président(e)s de cours d'appel (2ème instance)	6 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP
3. Nombre de président(s) de cours suprêmes	1 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP

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

**048. Nombre de juges professionnels exerçant à titre occasionnel et rémunérés comme tel (si possible au 31 décembre de l'année de référence):**

	Donnée
Donnée brute	[ ] NA [ X ] NAP
Donnée en équivalent temps plein	[ ] NA [ X ] NAP

Commentaires - Veuillez ajouter tout commentaire utile à l'interprétation de la réponse à cette question :

**048-1. Ces juges professionnels siégeant occasionnellement traitent-ils une partie importante des affaires ?**

( ) Oui Si oui, veuillez apporter des précisions quant aux types d'affaires et une estimation en pourcentage.

.....

( ) Non

[ X ] NAP

Commentaires

**049. Nombres de juges non professionnels, non rémunérés, percevant, le cas échéant, un simple défraiement (si possible au 31 décembre de l'année de référence) (y compris les "lay judges" ou juges consulaires ; mais les arbitres ou les jurés sont exclus de cette donnée) :**

	Donnée
Donnée brute	2 123 [ ] NA [ ] NAP
Donnée en équivalent temps plein	[ X ] NA [ ] NAP

Commentaires 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. Si de tels juges non professionnels existent en première instance dans votre pays, veuillez préciser pour quels types d'affaires :**

	Oui	Non	Echevinage
affaires pénales (infractions graves)	( )	( )	( X )
affaires pénales (infractions mineures)	( )	( )	( X )
affaires familiales	( )	( )	( X )
affaires de droit du travail	( )	( )	( X )

affaires de droit social	( )	( X )	( )
affaires commerciales	( )	( )	( X )
affaires de faillite	( )	( X )	( )
autre affaires civiles	( )	( X )	( )

NAP

Commentaires - Si autre, veuillez préciser : NAP

**050. Votre système judiciaire prévoit-il un jury de jugement avec une participation des citoyens ?**

( ) Oui

( X ) Non

Commentaires

**050-1. Si oui, pour quell(s) type(s) d'affaire(s) ?**

affaires pénales

affaires autres que pénales

Commentaires

**051. Veuillez indiquer le nombre de citoyens ayant participé à de tels jurys pour l'année de référence ?**

[            ]

NA

NAP

Commentaires

**052. Nombre de personnel non-juge travaillant dans les tribunaux (si possible au 31 décembre de l'année de référence) (cette donnée ne doit pas inclure le personnel travaillant pour les procureurs, voir question 60) (répondre en équivalent temps plein et pour les postes permanents effectivement occupés).**

	Total	Hommes	Femmes
Nombre total de personnel non juge travaillant dans les tribunaux (1 + 2 + 3 + 4 + 5)	8 827 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2 583 <input type="checkbox"/> NA <input type="checkbox"/> NAP	6 244 <input type="checkbox"/> NA <input type="checkbox"/> NAP
1. Rechtspfleger (ou organes équivalents) chargés de tâches juridictionnelles ou para-juridictionnelles, ayant des compétences autonomes et dont les décisions peuvent être susceptibles de recours.	<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

2. Personnels non juges chargés d'assister les juges à l'instar des greffiers (préparation des dossiers, assistance à l'audience, tenue des procès verbaux, aide à la préparation de la décision)	3 700 [ ] NA [ ] NAP	330 [ ] NA [ ] NAP	3 370 [ ] NA [ ] NAP
3. Personnels chargés de tâches relatives à l'administration et la gestion des tribunaux (gestion des ressources humaines, gestion des moyens matériels y compris de l'informatique, gestion financière et budgétaire, gestion de la formation)	3 179 [ ] NA [ ] NAP	954 [ ] NA [ ] NAP	2 225 [ ] NA [ ] NAP
4. Personnels techniques	1 948 [ ] NA [ ] NAP	1 299 [ ] NA [ ] NAP	649 [ ] NA [ ] NAP
5. Autres personnels non juges	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Commentaires - Si « autres personnels non juges », veuillez préciser : NAP

**052-1. Nombre de personnel non-juge par instance (si possible au 31 décembre de l'année de référence) (cette donnée ne doit pas inclure le personnel travaillant pour les procureurs, voir question 60) (répondre en équivalent temps plein et pour les postes permanents effectivement occupés)**

	Total	Hommes	Femmes
Total de personnel non- juge travaillant dans les tribunaux (1 + 2 + 3)	8 827 [ ] NA [ ] NAP	2 533 [ ] NA [ ] NAP	6 294 [ ] NA [ ] NAP
1. Total de personnel non- juge auprès des tribunaux de première instance	7 923 [ ] NA [ ] NAP	2 328 [ ] NA [ ] NAP	5 595 [ ] NA [ ] NAP
2.Total de personnel non- juge auprès des cours d'appel (2ème instance)	708 [ ] NA [ ] NAP	137 [ ] NA [ ] NAP	571 [ ] NA [ ] NAP
3.Total de personnel non- juge auprès des cours suprêmes	196 [ ] NA [ ] NAP	68 [ ] NA [ ] NAP	128 [ ] NA [ ] NAP

Commentaires

**053. S'il existe dans votre système judiciaire la fonction de Rechtspfleger (ou organes équivalents), veuillez préciser dans quels domaines ils interviennent :**

- pour l'aide judiciaire
- en matière familiale
- pour les ordres de paiement
- pour les affaires liées aux registres (affaires liées au registre foncier et/ou au registre du commerce)
- exécution des affaires civiles

- exécution des affaires pénales
- autres types d'affaires non mentionnés (veuillez préciser en commentaire)
- pour les affaires non contentieuses
- NAP

Commentaires - Veuillez brièvement décrire leur statut et leurs fonctions : 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. Les tribunaux ont-ils délégué certains services relevant de leur responsabilité à un service externe ?

- Oui
- Non

Commentaires

### 054-1. Si oui, veuillez préciser quels services ont été externalisés :

- la maintenance informatique
- la formation du personnel
- la sécurité
- les archives
- le nettoyage
- autres types de services (veuillez préciser) : .....

Commentaires 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. Veuillez indiquer les sources des réponses aux questions 46, 47, 48, 49 et 52

Sources : Ministry of Justice and High Judicial Council

### 3.3.Ministère public

#### 3.3.1.Procureurs et personnel

055. Nombre de procureurs (au 31 décembre de l'année de référence). Veuillez fournir l'information en équivalent temps plein et pour des postes permanents effectivement occupés, pour tous les types de juridictions confondus – droit commun et spécialisées .



	Total	Hommes	Femmes
<b>Nombre total de procureurs (1 + 2 + 3)</b>	781 [ ] NA [ ] NAP	346 [ ] NA [ ] NAP	435 [ ] NA [ ] NAP
<b>1. Nombre de procureurs auprès des tribunaux de première instance</b>	716 [ ] NA [ ] NAP	308 [ ] NA [ ] NAP	408 [ ] NA [ ] NAP
<b>2. Nombre de procureurs auprès des cours d'appel (2ème instance)</b>	53 [ ] NA [ ] NAP	32 [ ] NA [ ] NAP	21 [ ] NA [ ] NAP
<b>3. Nombre de procureurs auprès des cours suprêmes</b>	12 [ ] NA [ ] NAP	6 [ ] NA [ ] NAP	6 [ ] NA [ ] NAP

Veillez ajouter tout commentaire utile à l'interprétation des données ci-dessus : 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. Nombre de chefs des ministères publics.

	Total	Hommes	Femmes
<b>Nombre total de chefs de ministères publics (1 + 2 + 3)</b>	90 [ ] NA [ ] NAP	53 [ ] NA [ ] NAP	37 [ ] NA [ ] NAP
<b>1. Nombre de chefs de ministères publics auprès de tribunaux de première instance</b>	85 [ ] NA [ ] NAP	50 [ ] NA [ ] NAP	35 [ ] NA [ ] NAP
<b>2. Nombre de chefs de ministères publics auprès des cours d'appel (2ème instance)</b>	4 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP
<b>3. Nombre de chefs de ministères publics auprès des cours suprêmes</b>	1 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP

Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus : 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. D'autres personnes ont-elles des fonctions comparables à celles des procureurs ?

( X ) Oui

( ) Non

Commentaires - Si oui, veuillez préciser leurs titres et fonctions :

#### 057-1. Veuillez préciser leur nombre (en équivalent temps plein) :

**059. Si oui, est-ce que leur nombre est inclus dans le nombre de procureurs que vous avez indiqué à la question 55 ?**

( ) Oui

( X ) Non

Commentaires 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. Les Parquets disposent-ils de procureurs spécifiquement formés en matière de violence domestique et violence sexuelle ?**

( X ) Oui

( ) Non

Commentaires 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. Nombre de personnel (non procureurs) rattaché au ministère public (si possible au 31 décembre de l'année de référence) (sans le nombre de personnels non juges, v. question 52)(répondre en équivalent temps plein et pour les postes permanents effectivement pourvus)**

	Total	Hommes	Femmes
Nombre de personnel (non procureurs) rattaché au ministère public	1 144 [ ] NA	263 [ ] NA	881 [ ] NA

Commentaires

**C2. Veuillez indiquer les sources des réponses aux questions 55, 56 et 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.Parité hommes/femmes

#### 3.4.1 Dispositions particulières pour faciliter la parité

061-2. Existe-t-il des dispositions particulières pour faciliter la parité hommes/femmes dans le cadre des procédures de recrutement :

	Oui, veuillez préciser	Non
des juges	( )	( X )
des procureurs	( )	( X )
du personnel non-juge	( )	( X )
des avocats	( )	( X )
des notaires	( )	( X )
des agents d'exécution	( )	( X )

[ ] NA

Commentaires - si la situation a changé depuis l'année de référence, merci de le préciser en commentaires. Si vous avez des commentaires supplémentaires, veuillez préciser : 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. Existe-t-il des dispositions particulières pour faciliter la parité hommes/femmes dans le cadre des procédures de promotion :

	Oui, veuillez préciser	Non
des juges	( )	( X )
des procureurs	( )	( X )
du personnel non-juge	( )	( X )
des avocats	( )	( X )
des notaires	( )	( X )
des agents d'exécution	( )	( X )

Commentaires - si la situation a changé depuis l'année de référence, merci de le préciser en commentaires . Si vous avez des commentaires supplémentaires, veuillez préciser : 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 Au niveau national

**061-4. Disposez-vous, au niveau national, d'une ou de plusieurs enquêtes ou rapports récents concernant, en tout ou partie, la répartition hommes/femmes au sein du système judiciaire concernant :**

	Oui	Non
les juges	( X )	( )
les procureurs	( X )	( )
le personnel non-juge	( X )	( )
les avocats	( X )	( )
les notaires	( X )	( )
les agents d'exécution	( X )	( )

Commentaires - Si la situation a changé depuis l'année de référence, merci de le préciser en commentaires. Pouvez-vous nous en préciser les références ou le lien internet pour accéder à ce(s) document(s), ou nous le/les adresser ? 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. Existe-t-il un programme national ou un document d'orientation visant à promouvoir l'égalité hommes/femmes dans le système judiciaire ?**

( ) Oui

( X ) Non

Commentaires - si la situation a changé depuis l'année de référence, merci de le préciser en commentaires. Pouvez-vous nous en préciser les références ou indiquer le lien internet pour accéder à ce(s) document(s), ou nous le/les adresser ? NAP

**061-6. Existe-il au niveau national une personne (par ex. un commissaire à l'égalité des chances)/une institution spécialement chargée des questions d'égalité hommes/femmes dans le système de justice concernant :**

	Oui, veuillez préciser	Non
le recrutement des juges	( )	( X )
la promotion des juges	( )	( X )
le recrutement des procureurs	( )	( X )
la promotion des procureurs	( )	( X )
le recrutement du personnel non-juge	( )	( X )
la promotion du personnel non-juge	( 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> ).	( )

Commentaires - Si cela concerne une autre situation que celle du recrutement ou de la promotion, veuillez préciser. Si la situation a

changé depuis l'année de référence, merci de le préciser en commentaires 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. Veuillez préciser le texte qui met en place cette personne/institution :**

(titre, date, nature du texte) 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. Veuillez préciser le statut de cette personne/institution :**

(par ex. indépendante, rattachée au ministère de la justice, à un Conseil supérieur de la magistrature ou équivalent ou à un organisme interministériel spécialement dédié à l'égalité homme/femme) 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. Veuillez préciser si cette personne/institution a une fonction d'information et de consultation ou si ses avis ou décisions ont des conséquences juridiques :**

(par ex. bloquer une décision, ouvrir un droit à recours) 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 Au niveau des tribunaux/des services du ministère public

**061-7. Existe-t-il, au niveau des tribunaux ou des services du ministère public une personne (par ex. un commissaire à l'égalité des chances)/institution spécialement chargée de veiller au respect de l'égalité hommes/femmes concernant l'organisation du travail judiciaire :**

	Oui	Non
<b>dans les tribunaux (juges)</b>	( )	( X )
<b>dans les services du ministère public (procureurs)</b>	( )	( X )
<b>pour le personnel non-juge des tribunaux</b>	( )	( X )

Commentaires - Si oui, veuillez préciser leurs titres et leurs fonctions. Si la situation a changé depuis l'année de référence, merci de le préciser en commentaires . NAP

**061-8. La féminisation de certaines fonctions - si elle existe dans votre pays – au sein des tribunaux ou des ministère public a-t-elle conduit à des modifications concrètes dans l'organisation du travail dans les domaines suivants :**

	Oui	Non
<b>Affectation dans les différents postes</b>	( )	( X )
<b>Répartition de la charge de travail</b>	( )	( X )
<b>Horaires de travail</b>	( )	( X )
<b>Modalités du télé-travail et présence dans les locaux de travail</b>	( )	( X )
<b>Remplacement des personnes absentes</b>	( X )	( )

<b>Organisation des audiences</b>	( )	( X )
<b>Autres</b>	( )	( X )

Commentaires - Si « autres », pouvez-vous préciser ? Pouvez-vous également donner des exemples concrets dans les différentes hypothèses évoquées ? Si la situation a changé depuis l'année de référence, merci de le préciser en commentaires. Replacement of women on maternity leave.

### **061-9. Pour améliorer la parité dans l'accès aux différentes professions judiciaires et l'égalité dans la promotion ou dans l'accès aux fonctions de responsabilité, quelles sont, dans votre pays :**

les mesures déjà mises en œuvre (veuillez préciser) : 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/>.



les mesures prévues (veuillez préciser) : NA

Commentaires - Si la situation a changé depuis l'année de référence, merci de le préciser en commentaires NAP

NAP

**061-10. Dans le système judiciaire de votre pays (en se basant éventuellement sur des évaluations, études ou rapports officiels), quelles sont les principales causes d'inégalités dans :**

les procédures de recrutement (veuillez préciser) :

les procédures de promotion et l'accès aux fonctions de responsabilité (veuillez préciser) :

Commentaires - Si la situation a changé depuis l'année de référence, merci de le préciser en commentaires

NAP

**061-11. Dans vos tribunaux, une attention particulière est-elle portée à la question de la parité vis-à-vis du public ou des usagers de la justice, notamment :**

	Oui, veuillez préciser	Non
les magistrats ou personnel des tribunaux sont plus des hommes ou des femmes selon certains types d'affaires	( )	( X )
la composition des audiences collégiales est toujours mixte	( )	( X )
il existe des statistiques hommes/femmes concernant les personnes qui saisissent le tribunal/les victimes, les auteurs d'infractions, etc.	( )	( X )

Commentaires - si vous avez des commentaires supplémentaires, veuillez préciser. Si la situation a changé depuis l'année de référence, merci de le préciser en commentaires . Relevant statistics do not exist.

### 3.5 Utilisation des technologies informatique dans les tribunaux

### 3.5.1 Politiques générales en matière de technologie informatique dans le système judiciaire

#### 062-1. Principes de base et modèles utilisés dans la définition des politiques et stratégies relatives aux technologies informatiques

	Organisation
Politiques et stratégies informatiques	<input type="checkbox"/> définies et coordonnées au niveau national par une institution <input checked="" type="checkbox"/> définies et coordonnées au niveau national conjointement par plusieurs institutions <input type="checkbox"/> définies et coordonnées au niveau des l'unité/ partie prenante <input type="checkbox"/> autre
TI Gouvernance informatique	<input type="checkbox"/> gouvernance au niveau national par une institution <input type="checkbox"/> gouvernance au niveau national conjointement par plusieurs institutions <input checked="" type="checkbox"/> organisées au niveau des l'unité/partie prenante <input type="checkbox"/> autre

Commentaires

#### 065-1. Dans le cas où il existe une structure nationale qui est en charge de la politique et de la gouvernance stratégique concernant la modernisation du système judiciaire (en s'appuyant, notamment, sur l'informatique) quelle est la composition de cette structure ?

personnels administratifs, techniques et scientifiques seulement

équipes mixtes comprenant des personnels judiciaires (juges/procureurs/etc.) et des personnels administratifs/techniques/scientifiques

autres (préciser en commentaire)

Commentaires - (veuillez préciser si d'autres approches de modernisation ont été mises en œuvre) Sectorial Council consists of high level representatives of the Ministry of Justice, High Judicial Council, Supreme Court of Cassation, State Prosecutorial Council, Republic Public Prosecutor's Office and State Attorney's Office of the Republic of Serbia. The Ministry of Justice IT Department supports the work of the Sectorial Council.

#### 065-2. Quel est le modèle d'organisation majoritairement retenu pour mener des projets structurels informatiques dans les tribunaux et la gestion des applications (maintenance, évolution) ?

	Conduite des nouveaux projets	Gestion des applications
Majoritairement par un service informatique avec l'appui de professionnels du domaine (juges, procureurs, personnel judiciaire non-juge, etc.)	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> No

<b>Majoritairement par les professionnels du domaine (juges, procureurs, personnel judiciaire non-juge, etc.) en association avec un service informatique interne et/ou un prestataire externe</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> No
<b>Autres approches (prestation externe uniquement – préciser en commentaire)</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> No

Commentaires - veuillez apporter des précisions également en cas d' « autres approches » 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. Existe-t-il un dispositif de détection et de valorisation des innovations en matière de technologies de l'information issues d'initiatives personnelles et/ou des tribunaux ?**

Oui

Non

Commentaires (précisez notamment les projets ayant connu des développements nationaux) 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. Avez-vous mesuré l'impact résultant de la mise en œuvre d'une ou de plusieurs des composantes de votre nouveau système d'information ?**

Oui

Non

#### **065-4-1. Si oui, avez-vous mesuré l'impact sur (multiples réponses possibles) :**

les processus opérationnels

la charge de travail

les ressources humaines

les coûts

autres, veuillez préciserfinancial

Commentaires (veuillez donner des exemples d'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 Sécurité du système d'information des tribunaux et protection des données à caractère personnel**

#### **065-5. Existe-t-il des audits indépendants ou autres mécanismes qui contribuent à la politique globale de sécurité concernant le système d'information judiciaire ?**

Oui

Non

Commentaires (précisez notamment si des cadres nationaux de sécurité informatique existent) 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. Une législation assure-t-elle la protection des données à caractère personnel traitées par les tribunaux ?**

Oui

Non

Commentaires - Si oui, veuillez préciser notamment : l'existence d'autorités spécifiquement en charge de la protection des données à caractère personnel ; l'étendue des droits conférés aux citoyens dans le cadre spécifique des logiciels utilisés par les tribunaux ; l'existence de contrôles ou de limitations par la loi en ce qui concerne le partage des bases de données traitées par les tribunaux avec d'autres 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 Bases de données centralisées d'aide à la décision**

#### **062-4. Existe-t-il une base de données nationale centralisée des décisions de justice (jurisprudence, etc.) ?**

Oui

No

Commentaires

**062-4-1. Si oui, merci de préciser les informations suivantes :**

	Pour les décisions de 1ère instance	Pour les décisions de 2ème instance	Pour les décisions de 3ème instance	Lien vers la jurisprudence CEDH	Données anonymisées	Base de données de jurisprudence disponible gratuitement en ligne	Ouverture de la base de données de jurisprudence en open data
<b>Civile et/ou commerciale</b>	( ) Oui pour tous les jugements ( ) Oui pour certains jugements ( X ) Non	( ) Oui pour tous les jugements ( ) Oui pour certains jugements ( X ) Non	( ) Oui pour tous les jugements ( X ) Oui pour certains jugements ( ) Non	( ) Oui ( X ) Non	( X ) Oui ( ) Non	( X ) Oui ( ) Non	( ) Oui ( X ) Non
<b>Pénale</b>	( ) Oui pour tous les jugements ( ) Oui pour certains jugements ( X ) Non	( ) Oui pour tous les jugements ( ) Oui pour certains jugements ( X ) Non	( ) Oui pour tous les jugements ( X ) Oui pour certains jugements ( ) Non	( ) Oui ( X ) Non	( X ) Oui ( ) Non	( X ) Oui ( ) Non	( ) Oui ( X ) Non
<b>Administrative</b>	( ) Oui pour tous les jugements ( ) Oui pour certains jugements ( X ) Non	( ) Oui pour tous les jugements ( X ) Oui pour certains jugements ( ) Non	( ) Oui pour tous les jugements ( ) Oui pour certains jugements ( X ) Non	( ) Oui ( X ) Non	( X ) Oui ( ) Non	( X ) Oui ( ) Non	( ) Oui ( X ) Non

Commentaires - si d'autres matières sont concernées, veuillez préciser : 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. Existe-t-il un fichier national informatisé centralisant les condamnations pénales?

( X ) Oui

( ) Non

Commentaires

#### 062-6-1. Si oui, veuillez apporter les précisions suivantes :

[ ] Mise en relation avec d'autres fichiers européens de même nature

[ X ] Contenu directement consultable par voie informatique par les juges et/ou les procureurs

[ ] Contenu directement consultable à d'autres fins que pénales (matières civiles, administratives)

Commentaires - Veuillez préciser quelle est l'autorité délivrant l'accès Ministry of Justice

### 3.5.4 Outils d'assistance à la rédaction

#### 062-7. Existe-t-il des outils d'aide à la rédaction dont le contenu est coordonné au niveau national ? (modèles ou bibliothèques de trames, paragraphes pré-rédigés, etc.)

( X ) Oui

( ) Non

Commentaires – si d'autres matières sont concernées, veuillez préciser 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. Si oui, merci de préciser les informations suivantes :

	Taux de disponibilité
<b>Civile et/ou commerciale</b>	( X ) 100% ( ) 50-99% ( ) 10-49% ( ) 1-9% ( ) 0% (NAP) [ ] NA
<b>Pénale</b>	( X ) 100% ( ) 50-99% ( ) 10-49% ( ) 1-9% ( ) 0% (NAP) [ ] NA
<b>Administrative</b>	( ) 100% ( ) 50-99% ( ) 10-49% ( ) 1-9% ( X ) 0% (NAP) [ ] NA

### 062-8. Existe-t-il des outils de dictée vocale ?

( X ) Oui

( ) Non

Commentaires Dictation tools are managed by every court ICT staff.

### 062-8-1. Si oui, veuillez apporter les précisions suivantes :

	Disponibilité d'outils de dictée simples	Disponibilité d'outils d'enregistrement multiples	Fonction de reconnaissance vocale
<b>Civile et/ou commerciale</b>	( ) dans tous les tribunaux ( ) dans la plupart des tribunaux ( X ) dans certains tribunaux / certaines phases pilotes ( ) non disponible pour cette matière [ ] NA	( ) dans tous les tribunaux ( ) dans la plupart des tribunaux ( ) dans certains tribunaux / certaines phases pilotes ( X ) non disponible pour cette matière [ ] NA	( ) Oui ( ) Essai pilote ( X ) Non [ ] NA

<b>Pénale</b>	<input type="checkbox"/> dans tous les tribunaux <input type="checkbox"/> dans la plupart des tribunaux <input checked="" type="checkbox"/> dans certains tribunaux / certaines phases pilotes <input type="checkbox"/> non disponible pour cette matière <input type="checkbox"/> NA	<input type="checkbox"/> dans tous les tribunaux <input type="checkbox"/> dans la plupart des tribunaux <input type="checkbox"/> dans certains tribunaux / certaines phases pilotes <input checked="" type="checkbox"/> non disponible pour cette matière <input type="checkbox"/> NA	<input type="checkbox"/> Oui <input type="checkbox"/> Essai pilote <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA
<b>Administrative</b>	<input type="checkbox"/> dans tous les tribunaux <input type="checkbox"/> dans la plupart des tribunaux <input checked="" type="checkbox"/> dans certains tribunaux / certaines phases pilotes <input type="checkbox"/> non disponible pour cette matière <input type="checkbox"/> NA	<input type="checkbox"/> dans tous les tribunaux <input type="checkbox"/> dans la plupart des tribunaux <input type="checkbox"/> dans certains tribunaux / certaines phases pilotes <input checked="" type="checkbox"/> non disponible pour cette matière <input type="checkbox"/> NA	<input type="checkbox"/> Oui <input type="checkbox"/> Essai pilote <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA

### 062-9. Existe-t-il un site intranet au sein du système judiciaire pour la diffusion d'information/actualités ?

#### Taux de disponibilité :

- 100% - accessible à l'ensemble de l'appareil judiciaire
- 50-99% - accessible à la plupart des juges/procureurs dans toutes les instances
- 10-49% - dans certains tribunaux seulement
- 1-9% - dans un seul tribunal
- 0% (NAP) - Pas d'accès

NA

Commentaires

### 3.5.5 Technologies utilisées pour l'administration des tribunaux et la gestion des affaires

#### 063-1. Existe-t-il un système de gestion informatisée des procédures judiciaires (CMS) ? (logiciel utilisé pour l'enregistrement des procédures judiciaires et leur gestion)

- Oui
- Non

Commentaires - si d'autres matières sont concernées, veuillez préciser 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. Si oui, merci de préciser les informations suivantes :

	Taux de déploiement	État d'avancement d'une affaire en ligne	Base de données centralisée ou interopérable	Dispositifs intégrés d'alertes préventives (pour une gestion dynamique des affaires)	Degré d'intégration/co connexion d'un CMS avec un outil statistique
<b>Civile et/ou commerciale</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 aux parties <input type="checkbox"/> publication de la décision en ligne <input type="checkbox"/> les deux <input checked="" type="checkbox"/> non accessible <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Entièrement intégré, y compris BI <input checked="" type="checkbox"/> Intégré <input type="checkbox"/> Non intégré mais connecté <input type="checkbox"/> Pas du tout connecté <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Pénale</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 aux parties <input type="checkbox"/> publication de la décision en ligne <input type="checkbox"/> les deux <input checked="" type="checkbox"/> non accessible <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Entièrement intégré, y compris BI <input checked="" type="checkbox"/> Intégré <input type="checkbox"/> Non intégré mais connecté <input type="checkbox"/> Pas du tout connecté <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 aux parties <input type="checkbox"/> publication de la décision en ligne <input type="checkbox"/> les deux <input type="checkbox"/> non accessible <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Entièrement intégré, y compris BI <input type="checkbox"/> Intégré <input type="checkbox"/> Non intégré mais connecté <input checked="" type="checkbox"/> Pas du tout connecté <input type="checkbox"/> NA <input type="checkbox"/> NAP

063-2. Registres informatisés gérés par des tribunaux

	Taux de déploiement	Données consolidées au niveau national	Service disponible en ligne	Module statistique intégré ou connecté
<b>Registre foncier</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"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non



<b>Registre relatif aux entreprises</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"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
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Commentaires – si d’autres matières sont concernées, veuillez préciser 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. Systèmes informatisés de gestion budgétaire et financière des tribunaux

	Taux de déploiement de l’outil	Données consolidées au niveau national	Système communiquant avec d’autres ministères (des finances notamment)
<b>Gestion budgétaire et financière des tribunaux</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"/> Oui <input type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non
<b>Gestion des frais de justice</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"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Autres (préciser en commentaires)</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"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non

Commentaires 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. Outils de mesure de la charge de travail des juges, procureurs et/ou personnels non-juge/ non-procureur (Outil permettant de quantifier l’activité des juges, procureurs et/ou personnels non-juge/ non-procureur – par exemple le nombre de dossiers traités)

- Oui  
 Non

Commentaires 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. Si oui, merci de préciser les informations suivantes :**

	Taux de déploiement des outils	Données utilisées pour un pilotage au niveau national	Données utilisées pour un pilotage au niveau local	Outil intégré dans le CMS
<b>Pour les juges</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"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Pour les procureurs</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"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Pour le personnel non-juge/ non-procureur</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"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP

**3.5.6 Technologies utilisées pour la communication entre les tribunaux, les professionnels et/ou les justiciables**

**064-2. Existe-t-il une possibilité de saisir des tribunaux par voie électronique ? (possibilité d'introduire une affaire par voie électronique, par exemple un courrier électronique ou un formulaire sur un site internet)**

Oui

Non

Commentaires 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. Si oui, merci de préciser les informations suivantes :**

Taux de disponibilité	Saisine papier obligatoire en parallèle	Cadre législatif spécifique autorisant la saisine	Outil intégré/connecté dans le CMS

<b>Civile et/ou commerciale</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"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Pénale</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"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non <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"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP

Commentaires - si d'autres matières sont concernées, veuillez préciser 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. Est-il possible de solliciter l'aide judiciaire par voie électronique ?

Oui

Non

Commentaires

#### 064-3-1. Si oui, merci de préciser les informations suivantes :

	<b>Solliciter l'aide judiciaire par voie électronique</b>
<b>Taux de disponibilité</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 de la demande par voie papier obligatoire en parallèle</b>	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Cadre législatif spécifique encadrant les demandes d'attribution d'aide judiciaire par voie électronique</b>	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>L'octroi de l'aide judiciaire est également électronique</b>	<input type="checkbox"/> Oui <input type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP

Information disponible dans le CMS

Oui

Non

NA

NAP

**064-4. Est-il possible de transmettre des convocations à un rendez-vous judiciaire ou à une audience par voie électronique ? (un rendez-vous judiciaire désigne des phases préalables à une audience judiciaire, notamment en vue de médiation ou de conciliation)**

Oui

Non

Commentaires

**064-4-1. Si oui, merci de préciser les informations suivantes :**

	Convocations générées par le CMS	Convocation papier obligatoire en parallèle	Consentement de l'utilisateur pour être avisé par voie électronique	Modalités (si autres préciser en commentaires)	Cadre législatif spécifique
<b>Civile et/ou commerciale</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> SMS <input type="checkbox"/> Courrier électronique <input type="checkbox"/> Application informatique spécifique <input type="checkbox"/> Autres	<input type="checkbox"/>
<b>Pénale</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> SMS <input type="checkbox"/> Courrier électronique <input type="checkbox"/> Application informatique spécifique <input type="checkbox"/> Autres	<input type="checkbox"/>
<b>Administrative</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> SMS <input type="checkbox"/> Courrier électronique <input type="checkbox"/> Application informatique spécifique <input type="checkbox"/> Autres	<input type="checkbox"/>

Commentaires

**064-6. Existe-t-il des possibilités de communication électronique entre les tribunaux et les avocats et/ou les parties ? (envoi de fichiers électroniques et de données concernant une procédure judiciaire avec ou sans documents numérisés, essentiellement à des fins de suppression d'échanges papiers)**

**Communication entre le tribunal et les avocats représentant les parties**

( X ) Oui

( ) Non

**Communication entre le tribunal et les parties non représentées par un avocat**

( X ) Oui

( ) Non

Commentaires

**064-6-1. Si oui, merci de préciser les informations suivantes :**

	Taux de déploiement de l'outil	Phases du procès concernées	Modalités (si différentes selon les phases du procès ou si autres, à préciser en commentaire)	Cadre législatif spécifique
<b>Civile et/ou commerciale</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) - pour cette matière <input type="checkbox"/> NA	<input type="checkbox"/> Saisine d'une juridiction <input type="checkbox"/> Phases préparatoires à l'audience <input checked="" type="checkbox"/> Calendrier des audiences et/ou gestion des renvois <input type="checkbox"/> Transmission des décisions des tribunaux	<input type="checkbox"/> Courrier électronique <input checked="" type="checkbox"/> Application informatique spécifique <input type="checkbox"/> Autres	<input type="checkbox"/> Oui
<b>Pénale</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) - pour cette matière <input type="checkbox"/> NA	<input type="checkbox"/> Saisine d'une juridiction <input type="checkbox"/> Phases préparatoires à l'audience <input checked="" type="checkbox"/> Calendrier des audiences et/ou gestion des renvois <input type="checkbox"/> Transmission des décisions des tribunaux	<input type="checkbox"/> Courrier électronique <input checked="" type="checkbox"/> Application informatique spécifique <input type="checkbox"/> Autres	<input type="checkbox"/> Oui

<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) - pour cette matière <input type="checkbox"/> NA	<input checked="" type="checkbox"/> Saisine d'une juridiction <input type="checkbox"/> Phases préparatoires à l'audience <input checked="" type="checkbox"/> Calendrier des audiences et/ou gestion des renvois <input type="checkbox"/> Transmission des décisions des tribunaux	<input type="checkbox"/> Courrier électronique <input checked="" type="checkbox"/> Application informatique spécifique <input type="checkbox"/> Autres	<input checked="" type="checkbox"/> Oui
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Commentaires 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. Modalités de communication électronique utilisées par des professionnels autres que les avocats (envoi de données électroniques concernant une procédure judiciaire avec ou sans documents numérisés, essentiellement à des fins de suppression d’échanges papiers)**

	Taux de déploiement de l’outil	Modalités (si différentes selon les actes ou si autres, à préciser en commentaire)	Cadre législatif spécifique
<b>Agents chargés de l’exécution des décisions de justice (tels que définis dans les Q169 et suivantes)</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"/> Courrier électronique <input checked="" type="checkbox"/> Application informatique spécifique <input type="checkbox"/> Autres	<input checked="" type="checkbox"/> Oui
<b>Notaires (tels que définis dans les Q192 et suivantes)</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"/> Courrier électronique <input checked="" type="checkbox"/> Application informatique spécifique <input type="checkbox"/> Autres	<input checked="" type="checkbox"/> Oui
<b>Experts (tels que définis dans les Q202 et suivantes)</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"/> Courrier électronique <input type="checkbox"/> Application informatique spécifique <input type="checkbox"/> Autres	<input type="checkbox"/> Oui
<b>Services de police judiciaire</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"/> Courrier électronique <input type="checkbox"/> Application informatique spécifique <input type="checkbox"/> Autres	<input type="checkbox"/> Oui

Commentaires 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. Existe-t-il des systèmes de traitement en ligne de contentieux spécialisés ? (contentieux de faible valeur, créances non contestées, phases préparatoires à la résolution d'un conflit familial, etc - veuillez préciser en commentaire)**

- ( ) Oui  
( X ) Non

Commentaire : Veuillez décrire le système existant.

**064-10. Vidéoconférence entre les tribunaux, les professionnels et/ou les usagers (concerne l'utilisation de dispositifs audiovisuels dans le cadre de procédures judiciaires tels que pour l'audition de parties, etc.).**

- ( X ) Oui  
( ) Non

Commentaires

**064-10-1. Si oui, merci de préciser les informations suivantes et de décrire en commentaires de cette rubrique les cas d'usage concrets de la vidéoconférence et les bénéfices attendus (par exemple, utilisation de ce dispositif afin de réduire le nombre de transferts de détenus vers le tribunal) :**

	Taux de déploiement	Phase de procédure	Cadre législatif spécifique
<b>Civile et/ou commerciale</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"/> Préalable à l'audience <input type="checkbox"/> Durant l'audience <input type="checkbox"/> Postérieurement à l'audience	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Pénale</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"/> Préalable à l'audience <input type="checkbox"/> Durant l'audience <input checked="" type="checkbox"/> Postérieurement à l'audience	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<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"/> Préalable à l'audience <input type="checkbox"/> Durant l'audience <input type="checkbox"/> Postérieurement à l'audience	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non

Commentaires 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. Enregistrement d'auditions ou de débats (enregistrement sonore ou audiovisuel en phase d'instruction et/ou de jugement)

Oui

Non

Commentaires 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. Si oui, merci de préciser les informations suivantes :

	Taux de déploiement	Type d'enregistrement	Cadre législatif spécifique
<b>Civile et/ou commerciale</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"/> Sonore <input type="checkbox"/> Vidéo <input type="checkbox"/> Les deux <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Pénale</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"/> Sonore <input type="checkbox"/> Vidéo <input type="checkbox"/> Les deux <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non <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"/> Sonore <input type="checkbox"/> Vidéo <input type="checkbox"/> Les deux <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non <input type="checkbox"/> NA <input type="checkbox"/> NAP

## 064-12. La preuve électronique est-elle admissible ?

	Admissibilité de la preuve électronique	Cadre législatif
<b>Civile et/ou commerciale</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input checked="" type="checkbox"/> De droit commun seulement <input type="checkbox"/> De droit commun et spécialisé <input type="checkbox"/> De droit spécialisé seulement



<b>Pénale</b>	( X ) Oui ( ) Non	( X ) De droit commun seulement ( ) De droit commun et spécialisé ( ) De droit spécialisé seulement
<b>Administrative</b>	( X ) Oui ( ) Non	( X ) De droit commun seulement ( ) De droit commun et spécialisé ( ) De droit spécialisé seulement

Commentaires 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 et évaluation

#### 3.6.1. Politiques nationales déclinées dans les tribunaux / les services du ministère public

##### **066. Existe-t-il des normes de qualité définies pour le système judiciaire au niveau national (existe-t-il un système de qualité et/ou une politique de qualité de la justice) ?**

( ) Oui

( X ) Non

Commentaires - Si oui, veuillez préciser : 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 it's 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. Existe-t-il des personnels spécialisés responsables de la mise en œuvre de ces normes de qualité élaborées au niveau national?**

	Oui / Non
dans les tribunaux	( ) Oui ( X ) Non
dans les services du ministère public	( ) Oui ( X ) Non

Commentaires

**3.6.2.Objectifs de performance et de qualité au niveau des tribunaux / des services du ministère public**

**077. Concernant l'activité des tribunaux, avez-vous défini des indicateurs de performance et de qualité ?**

( X ) Oui

( ) Non

Commentaires

**078. Si oui, veuillez préciser les principaux indicateurs de performance et de qualité qui ont été définis pour les tribunaux :**

[ X ] nombre de nouvelles affaires

[ X ] durée des procédures (délais)

[ X ] nombre d'affaires terminées

[ X ] nombre d'affaires pendantes

[ X ] stocks d'affaires

[ X ] productivité des juges et des personnels des tribunaux

[ ] satisfaction du personnel des tribunaux

[ ] satisfaction des usagers (au regard des services rendus par les tribunaux)

[ ] coûts des procédures judiciaires

[ X ] nombre de recours

[ ] taux de recours

[ X ] clearance rate

[ X ] disposition time

[ ] autre (veuillez préciser) : .....

Commentaires 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. Concernant l'activité des services du ministère public, avez-vous défini des indicateurs de performance et de qualité ?**

Oui

Non

Commentaires

**078-1. Si oui, veuillez préciser les principaux indicateurs de performance et de qualité qui ont été définis pour les services du ministère public:**

nombre de nouvelles affaires

durée des procédures (délais)

nombre d'affaires terminées

nombre d'affaires pendantes

stocks d'affaires

productivité des procureurs et des personnels des ministères publics

satisfaction du personnel des services du ministère public

satisfaction des usagers (au regard des services rendus par les ministères publics)

coûts des procédures judiciaires

clearance rate

disposition time

pourcentage de condamnations et d'acquittements

autre (veuillez préciser) : .....

Commentaires

**073. Existe-t-il un système d'évaluation régulière de la performance des tribunaux basé principalement sur les indicateurs définis?**

Oui

Non

Commentaires 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. Si oui, veuillez préciser à quelle fréquence ?**

Annuelle

Moins fréquente

Plus fréquente

Commentaires - Si l'évaluation est «moins fréquente » ou «plus fréquente », veuillez préciser : 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. Cette évaluation de l'activité du tribunal est-elle utilisée pour l'allocation ultérieure des ressources au sein de ce tribunal ?**

( X ) Oui

( ) Non

Commentaires

**073-2. Si oui, quelles mesures sont prises?**

[ X ] Identification des causes de l'amélioration ou de la détérioration de la performance

[ X ] Réaffectation des ressources (ressources humaines/financières en fonction de la performance)

[ X ] Réorganisation des procédures internes pour accroître l'efficacité

[ ] Autre (veuillez préciser) : .....

Commentaires 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. Existe-t-il un système d'évaluation régulière de la performance des services du ministère public basé principalement sur les indicateurs définis?**

( X ) Oui

( ) Non

Commentaires

**073-4. Si oui, veuillez préciser à quelle fréquence ?**

( X ) Annuelle

( ) Moins fréquente

( ) Plus fréquente

Commentaires - Si l'évaluation est «moins fréquente » ou «plus fréquente », veuillez préciser :

**073-5. Cette évaluation de l'activité des services du ministère public est-elle utilisée pour l'allocation ultérieure des ressources au sein des services du ministère public ?**

( X ) Oui

( ) Non

Commentaires

**073-6. Si oui, quelles mesures sont prises?**

[ ] Identification des causes de l'amélioration ou de la détérioration de la performance

[ X ] Réaffectation des ressources (ressources humaines/financières en fonction de la performance)

[ X ] Réorganisation des procédures internes pour accroître l'efficacité

[ ] Autre (veuillez préciser) : .....

**079. Quelle est l'autorité chargée d'évaluer la performance des tribunaux (réponses multiples possible) :**

- Conseil Supérieur de la Magistrature
- Ministère de la Justice
- Organe d'inspection
- Cour Suprême
- Organe d'audit extérieur
- Autre (veuillez préciser) : .....

Commentaires 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. Quelle est l'autorité chargée d'évaluer la performance des services du ministère public (réponses multiples possible) :**

- Conseil supérieur des procureurs
- Ministère de la Justice
- Chef de l'unité organisationnelle ou supérieur hiérarchique
- Procureur général /Procureur de la République
- Organe d'audit extérieur
- Autre (veuillez préciser) : .....

**3.6.3.Mesure de l'activité des tribunaux / des services du ministère public**

**070. Existe-t-il un système de suivi régulier des activités des tribunaux (performance et qualité) :**

- nombre de nouvelles affaires
- durée des procédures (délais)
- nombre d'affaires terminées
- nombre d'affaires pendantes

- stocks d'affaires
- productivité des juges et des personnels des tribunaux
- satisfaction du personnel des tribunaux
- satisfaction des usagers (au regard des services rendus par les tribunaux)
- coûts des procédures judiciaires
- nombre de recours
- taux de recours
- clearance rate
- disposition time
- autre (veuillez préciser) : .....

Commentaires 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. Existe-t-il un système de suivi régulier des activités des services du ministère public (performance et qualité) :**

- nombre de nouvelles affaires
- durée des procédures (délais)
- nombre d'affaires terminées
- nombre d'affaires pendantes
- stocks d'affaires
- productivité des procureurs et des personnels des ministères publics
- satisfaction du personnel des services du ministère public
- satisfaction des usagers (au regard des services rendus par le ministère public)
- coûts des procédures judiciaires
- clearance rate
- disposition time
- pourcentage de condamnations et d'acquittements
- autre (veuillez préciser) : .....

Commentaires

**071. Existe-t-il un mécanisme permettant de suivre le nombre d'affaires pendantes et les affaires qui ne sont pas traitées dans un délai raisonnable (arriéré):**

- en matière civile
- en matière pénale
- en matière administrative

Commentaires 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. Existe-t-il un mécanisme permettant de surveiller les temps morts durant les procédures judiciaires ?

	Oui (Si oui, veuillez préciser)	Non
dans les tribunaux	( X )	( )
dans les services du ministère public	( X )	( )

Commentaires 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 sur l'activité des tribunaux / des services du ministère public

## 080. Existe-t-il une institution centralisée responsable de la collecte de données statistiques concernant le fonctionnement des tribunaux ?

( X ) Oui (veuillez préciser le nom et les coordonnées de cette 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/>.

( ) Non

Commentaires 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. Est-ce que cette institution publie sur internet des statistiques sur le fonctionnement de chaque tribunal:

( X ) Oui, sur internet

Non, seulement en interne (sur un site intranet)

Non

Commentaires 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. Existe-t-il une institution centralisée responsable de la collecte de données statistiques concernant le fonctionnement des services du ministère public?**

Oui (veuillez préciser le nom et les coordonnées de cette institution) : Republic Public Prosecutor`s Office Nemanjina 22-26 Belgrade Republic of Serbia, [www.rjt.gov.rs](http://www.rjt.gov.rs)

Non

Commentaires

### **080-3. Est-ce que cette institution publie sur internet des statistiques sur le fonctionnement de chaque service du ministère public?**

Oui, sur internet

Non, seulement en interne (sur un site intranet)

Non

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

### **081. Les tribunaux individuels doivent-ils établir un rapport annuel d'activités (qui présente par exemple le nombre d'affaires terminées, d'affaires pendantes, le nombre de juges et de personnels administratifs, les objectifs à atteindre et un bilan d'évaluation) ?**

Oui

Non

Commentaires - Si oui, veuillez décrire le contenu du rapport et son public (c'est-à-dire à qui le rapport est-il destiné) : 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. Si oui, veuillez préciser sous quelle forme ce rapport est diffusé:**

Internet

Intranet

Diffusion papier

Commentaires 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. Si oui, veuillez préciser la fréquence à laquelle le rapport est diffusé :**



- Annuelle  
 Moins fréquente  
 Plus fréquente

Commentaires Six-monthly and annual reporting.

**081-3. Les services du ministère public doivent-ils établir un rapport annuel d'activités (qui présente par exemple des données sur le nombre d'affaires entrantes, le nombre de décisions, le nombre de procureurs et de personnel administratif, des objectives et une évaluation de l'activité)?**

- Oui  
 Non

Commentaires - Si oui, veuillez décrire le contenu du rapport et son public (c'est-à-dire à qui le rapport est-il destiné) :

**081-4. Si oui, veuillez préciser sous quelle forme ce rapport est diffusé:**

- Internet  
 Intranet  
 Diffusion papier

Commentaires 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. Si oui, veuillez préciser la fréquence à laquelle le rapport est diffusé :**

- Annuelle  
 Moins fréquente  
 Plus fréquente

Commentaires

### 3.6.5 Administration des tribunaux

**082. Existe-t-il une structure ou des processus de concertation entre le ministère public et les tribunaux à propos de la manière dont les affaires sont présentées et organisées devant les juridictions (par exemple organisation, nombre et calendrier des audiences, permanences pour les affaires urgentes, choix des modes simplifiés de poursuites....) ?**

- Oui  
 Non

Commentaires - Si oui, veuillez préciser : 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. Existe-t-il en général une structure ou des processus de concertation entre les avocats et les tribunaux à propos de la manière dont les affaires sont présentées et organisées devant les juridictions en matière non pénale (par exemple organisation, nombre et calendrier des audiences, permanences pour les affaires urgentes).**

Oui

Non

Commentaires - Si oui, veuillez préciser : 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 et évaluation des juges et des procureurs**

**083. Existe-t-il des objectifs quantitatifs de performance définis pour chaque juge (par exemple le nombre d'affaires résolues en un mois ou une année) ?**

Oui

Non

Commentaires 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. Veuillez préciser qui fixe les objectifs individuels pour chaque juge :

- Pouvoir exécutif (par exemple ministère de la Justice)
- Pouvoir législatif
- Pouvoir judiciaire (par exemple le Conseil supérieur de la magistrature, la Cour suprême)
- Président de la juridiction
- Autre (veuillez préciser) : .....

Commentaires 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. Existe-t-il un système d'évaluation individuelle qualitative de l'activité professionnelle du juge ?

- Oui
- Non

Commentaires 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. Si oui, veuillez préciser la fréquence de cette évaluation :

- Annuelle
- Moins fréquente
- Plus fréquente

### 083-2. Existe-t-il des objectifs quantitatifs de performance définis pour chaque procureur (par exemple le nombre d'affaires résolues en un mois ou une année) ?

- Oui
- Non

Commentaires

### 083-3. Veuillez préciser qui fixe les objectifs individuels pour chaque procureur :

- Pouvoir exécutif (par exemple Ministère de la Justice)
- Procureur général /Procureur de la République

Conseil supérieur des procureurs

Chef de l'unité organisationnelle ou supérieur hiérarchique

Autre (veuillez préciser) : .....

Commentaires

## 120. Existe-t-il un système d'évaluation individuelle qualitative de l'activité professionnelle du procureur ?

Oui

Non

Commentaires

### 120-1. Si oui, veuillez préciser la fréquence de cette évaluation

Annuelle

Moins fréquente

Plus fréquente

Commentaires 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. Veuillez indiquer les sources utilisées pour répondre aux questions de ce chapitre :

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.Procès équitable

### 4.1.Principes

#### 4.1.1.Principes du procès équitable

084. Pourcentage de jugements par défaut de première instance en matière pénale (affaires dans lesquelles le suspect n'est ni présent ni représenté par un avocat durant l'audience) ?

[            ]

NA

Commentaires - Veuillez indiquer la méthode de calcul utilisée :

### **085. Existe-t-il une procédure permettant la récusation effective d'un juge si une partie estime qu'il n'est pas impartial ?**

Oui

Non

Commentaires - Veuillez brièvement préciser: 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 entre le nombre total de procédures de récusations initiées et le nombre de récusations qui ont abouti (au cours de l'année de référence) :**

[ 43 ]

[ ] NA

Commentaires 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. Existe-t-il dans votre pays un système de suivi des violations relatives à l'article 6 de la Convention Européenne des Droits de l'Homme ?**

Pour les procédures civiles (non-exécution)

Pour les procédures civiles (durée)

Pour les procédures pénales (durée)

[ ] NAP

Commentaires - Veuillez préciser quelles sont les modalités de ce dispositif de suivi (information sur les violations constatées par la Cour Européenne des droits de l'Homme au niveau de l'Etat/au niveau des tribunaux ; mise en place de dispositifs internes pour prévenir d'autres violations (similaires) et s'il permet de mesurer une évolution des violations constatées): 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. Existe-t-il dans votre pays une possibilité de réexamen de l'affaire après un constat de violation par la Cour Européenne des droits de l'Homme ?**

Oui

Non

NAP

Commentaires 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. Veuillez indiquer les sources des réponses aux questions dans ce chapitre.

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. Durée des procédures

#### 4.2.1. Informations générales

##### 087. Existe-t-il des procédures spécifiques pour les affaires urgentes :

en matière civile

en matière pénale

en matière administrative

Il n'y a pas de procédure spécifique pour les affaires urgentes

Commentaires - Si oui, veuillez préciser : 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. Existe-t-il des procédures simplifiées :

en matière civile (petits litiges)

en matière pénale (infractions mineures)

en matière administrative

Il n'y a pas de procédure simplifiée

Commentaires - Si oui, veuillez préciser : 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. Pour ces procédures simplifiées, les juges peuvent-ils rendre des jugements par oral, accompagnés du dispositif écrit, et sans la motivation complète du jugement ?**

affaires civiles

affaires pénales

affaires administratives

Commentaires - Si oui, veuillez préciser : 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. Les tribunaux et les avocats ont-ils la possibilité de conclure des accords sur les modalités de**



## traitement des affaires (présentation des dossiers, fixation des délais accordés aux avocats pour soumettre leurs conclusions et des dates d'audience) ?

( X ) Oui

( ) Non

Commentaires - Si oui, veuillez préciser : 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. Gestion des flux d'affaires – première instance



#### 091. Tribunaux de 1ère instance : nombre total d'affaires "autres que pénales"

	Affaires pendantes au 1er janvier année de réf.	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre année de réf.	Affaires pendantes depuis plus de 2 ans à compter de la date à laquelle l'affaire est portée devant les tribunaux de 1ère instance
<b>Nombre total d'affaires "autres que pénales" (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. Affaires civiles (et commerciales) contentieuses (dont les affaires contentieuses relatives à l'exécution, si possible sans les affaires administratives, v. catégorie 3)</b>	254 152 [ ] NA [ ] NAP	324 445 [ ] NA [ ] NAP	358 013 [ ] NA [ ] NAP	220 584 [ ] NA [ ] NAP	47 258 [ ] NA [ ] NAP
<b>2. Affaires non contentieuses (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. Affaires civiles (et commerciales) générales non contentieuses, par exemple des créances incontestées, de requêtes en changement de nom, les affaires non contentieuses relatives à l'exécution etc. (si possible sans les affaires administratives, v. catégorie 3 ; sans les affaires non contentieuses relatives à un registre et/ou autres affaires, v. catégories 2.2 et 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. Affaires liées aux registres (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. Affaires non contentieuses relatives au registre foncier</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.2. Affaires non contentieuses relatives au registre du commerce</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.3. Autres affaires liées aux registres</b>	55 [ ] NA [ ] NAP	3 141 [ ] NA [ ] NAP	3 080 [ ] NA [ ] NAP	116 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>2.3. Autres affaires non contentieuses</b>	3 318 [ ] NA [ ] NAP	41 755 [ ] NA [ ] NAP	40 486 [ ] NA [ ] NAP	4 587 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP
<b>3. Affaires administratives</b>	30 731 [ ] NA [ ] NAP	25 073 [ ] NA [ ] NAP	18 346 [ ] NA [ ] NAP	37 458 [ ] NA [ ] NAP	5 149 [ ] NA [ ] NAP
<b>4. Autres affaires</b>	4 658 [ ] NA [ ] NAP	49 589 [ ] NA [ ] NAP	49 986 [ ] NA [ ] NAP	4 261 [ ] NA [ ] NAP	813 [ ] NA [ ] NAP

Commentaires 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-%20ENGLISKI\\_2.pdf](https://www.vk.sud.rs/sites/default/files/attachments/KNJIGA%20KONACNA-%20ENGLISKI_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. Si les tribunaux traitent des "affaires civiles (et commerciales) non contentieuses", veuillez indiquer les catégories incluses :**

. 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. Si "autres affaires", veuillez indiquer les catégories incluses :**

. 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. Tribunaux de 1ère instance : nombre d'affaires pénales.**

	Affaires pendants au 1 <sup>er</sup> janvier année de réf.	Nouvelles affaires	Affaires terminées	Affaires pendants au 31 décembre année de réf.	Affaires pendants depuis plus de 2 ans à compter de la date à laquelle l'affaire est portée devant les tribunaux de 1 <sup>ère</sup> instance
<b>Nombre total d'affaires pénales (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. Infractions graves</b>	28 611 [ ] NA [ ] NAP	51 708 [ ] NA [ ] NAP	52 361 [ ] NA [ ] NAP	27 958 [ ] NA [ ] NAP	5 302 [ ] NA [ ] NAP
<b>2. Infractions mineures</b>	324 706 [ ] NA [ ] NAP	347 081 [ ] NA [ ] NAP	411 236 [ ] NA [ ] NAP	260 551 [ ] NA [ ] NAP	16 744 [ ] NA [ ] NAP
<b>3. Autres affaires</b>	472 838 [ ] NA [ ] NAP	1 550 544 [ ] NA [ ] NAP	1 572 941 [ ] NA [ ] NAP	450 441 [ ] NA [ ] NAP	1 161 [ ] NA [ ] NAP

Commentaires - Si vous ne pouvez pas faire la distinction entre les infractions mineures et les infractions graves (selon les définitions de la CEPEJ), veuillez indiquer les catégories d'affaires reportées dans la catégorie « infractions graves » et les affaires reportées dans la catégorie « infractions mineures ». Si « autres affaires », veuillez préciser. 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. Gestion des flux d'affaires – seconde instance

##### 097. Tribunaux de 2<sup>ème</sup> instance (appel) : Nombre d'affaires « autres que pénales »

	Affaires pendants au 1 <sup>er</sup> janvier année de réf.	Nouvelles affaires	Affaires terminées	Affaires pendants au 31 décembre année de réf.	Affaires pendants depuis plus de 2 ans à compter de la date à laquelle l'affaire est portée devant les tribunaux de 2 <sup>ème</sup> instance
<b>Nombre total d'affaires "autres que pénales" (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. Affaires civiles (et commerciales) contentieuses (dont les affaires contentieuses relatives à l'exécution, si possible sans les affaires administratives, v. catégorie 3)</b>	64 155 [ ] NA [ ] NAP	146 084 [ ] NA [ ] NAP	130 412 [ ] NA [ ] NAP	79 827 [ ] NA [ ] NAP	3 374 [ ] NA [ ] NAP
<b>2. Affaires non contentieuses (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. Affaires civiles (et commerciales) générales non contentieuses, par exemple des créances incontestées, de requêtes en changement de nom, les affaires non contentieuses relatives à l'exécution etc. (si possible sans les affaires administratives, v. catégorie 3 ; sans les affaires non contentieuses relatives à un registre et/ou autres affaires, v. catégories 2.2 et 2.3)</b>	221 [ ] NA [ ] NAP	2 701 [ ] NA [ ] NAP	2 660 [ ] NA [ ] NAP	262 [ ] NA [ ] NAP	[ ] NA [ X ] NAP
<b>2.2. Affaires liées aux registres (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. Affaires non contentieuses relatives au registre foncier</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.2. Affaires non contentieuses relatives au registre du commerce</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.3. Autres affaires liées aux registres</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.3. Autres affaires non contentieuses</b>	625 [ ] NA [ ] NAP	7 703 [ ] NA [ ] NAP	7 659 [ ] NA [ ] NAP	669 [ ] NA [ ] NAP	[ ] NA [ X ] NAP
<b>3. Affaires administratives</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>4. Autres affaires</b>	0 [ ] NA [ ] NAP	5 [ ] NA [ ] NAP	5 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP

Commentaires - Si « autres affaires », veuillez préciser. 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. Tribunaux de 2ème instance (appel) : nombre d'affaires pénales.

	Affaires pendants au 1er janvier année de réf.	Nouvelles affaires	Affaires terminées	Affaires pendants au 31 décembre année de réf.	Affaires pendants depuis plus de 2 ans à compter de la date à laquelle l'affaire est portée devant les tribunaux de 2ème instance
<b>Nombre total d'affaires pénales (1+2+3)</b>	3 344 [ ] NA [ ] NAP	57 732 [ ] NA [ ] NAP	56 767 [ ] NA [ ] NAP	4 309 [ ] NA [ ] NAP	84 [ ] NA [ ] NAP
<b>1. Infractions graves</b>	1 440 [ ] NA [ ] NAP	24 758 [ ] NA [ ] NAP	24 630 [ ] NA [ ] NAP	1 568 [ ] NA [ ] NAP	81 [ ] NA [ ] NAP
<b>2. Infractions mineures</b>	1 892 [ ] NA [ ] NAP	30 075 [ ] NA [ ] NAP	29 243 [ ] NA [ ] NAP	2 724 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>3. Autres affaires</b>	12 [ ] NA [ ] NAP	2 899 [ ] NA [ ] NAP	2 894 [ ] NA [ ] NAP	17 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP

Commentaires - Si vous ne pouvez pas faire la distinction entre les infractions mineures et les infractions graves (selon les définitions de la CEPEJ), veuillez indiquer les catégories d'affaires reportées dans la catégorie « infractions graves » et les affaires reportées dans la catégorie « infractions mineures ». Si « autres affaires », veuillez préciser. "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. Gestion des flux d'affaires – Cour suprême

##### 099. Cour suprême : nombre d'affaires « autres que pénales »

Affaires pendants au 1er janvier année de réf.	Nouvelles affaires	Affaires terminées	Affaires pendants au 31 décembre année de réf.	Affaires pendants depuis plus de 2 ans à compter de la date à laquelle l'affaire est portée devant la Cour suprême

<b>Nombre total d'affaires "autres que pénales" (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. Affaires civiles (et commerciales) contentieuses (dont les affaires contentieuses relatives à l'exécution, si possible sans les affaires administratives, v. catégorie 3)</b>	5 284 [ ] NA [ ] NAP	11 079 [ ] NA [ ] NAP	10 366 [ ] NA [ ] NAP	5 997 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Affaires non contentieuses (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. Affaires civiles (et commerciales) générales non contentieuses, par exemple des créances incontestées, de requêtes en changement de nom, les affaires non contentieuses relatives à l'exécution etc. (si possible sans les affaires administratives, v. catégorie 3 ; sans les affaires non contentieuses relatives à un registre et/ou autres affaires, v. catégories 2.2 et 2.3)</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2. Affaires liées aux registres (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. Affaires non contentieuses relatives au registre foncier</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.2. Affaires non contentieuses relatives au registre du commerce</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.3. Autres affaires liées aux registres</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.3. Autres affaires non contentieuses</b>	79 [ ] NA [ ] NAP	319 [ ] NA [ ] NAP	352 [ ] NA [ ] NAP	46 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>3. Affaires administratives</b>	149 [ ] NA [ ] NAP	569 [ ] NA [ ] NAP	593 [ ] NA [ ] NAP	125 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>4. Autres affaires</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Commentaires - Si « autres affaires », veuillez préciser. 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. Existe-t-il une procédure d'irrecevabilité manifeste au niveau de la Cour suprême?

Oui

Non

Commentaires

### 099-1-1. Si oui, veuillez indiquer le nombre :

d'affaires reçues par la Cour suprême ? [ 0 ]

d'affaires classées par cette procédure ? [ 0 ]

Commentaires N/A

## 100. Cour suprême: nombre d'affaires pénales.

	Affaires pendantes au 1er janvier année de réf.	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre année de réf.	Affaires pendantes depuis plus de 2 ans à compter de la date à laquelle l'affaire est portée devant la Cour suprême
<b>Nombre total d'affaires pénales (1+2+3)</b>	300 [ ] NA [ ] NAP	1 871 [ ] NA [ ] NAP	1 818 [ ] NA [ ] NAP	353 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>1. Infractions graves</b>	285 [ ] NA [ ] NAP	1 826 [ ] NA [ ] NAP	1 767 [ ] NA [ ] NAP	344 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>2. Infractions mineures</b>	15 [ ] NA [ ] NAP	45 [ ] NA [ ] NAP	51 [ ] NA [ ] NAP	9 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>3. Autres affaires</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Commentaires - Si vous ne pouvez pas faire la distinction entre les infractions mineures et les infractions graves (selon les définitions de la CEPEJ), veuillez indiquer les catégories d'affaires reportées dans la catégorie « infractions graves » et les affaires reportées dans la catégorie « infractions mineures ». Si « autres affaires », veuillez préciser. The answer to question 100 in field 1 includes cases of the





#### 4.2.5. Gestion des flux d'affaires et durées – affaires spécifiques

**101. Nombre d'affaires de divorce contentieux, licenciement, faillite, vol avec violence, homicide volontaire, relatives aux demandeurs d'asile et relatives au droit de l'entrée et du séjour des étrangers reçues et traitées par les tribunaux de 1ère instance.**

	Affaires pendantes au 1er janvier année de réf.	Affaires nouvelles	Affaires terminées	Affaires pendantes au 31 décembre année de réf.
<b>Divorce contentieux</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Licenciement</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Faillite</b>	2 024 [ ] NA [ ] NAP	794 [ ] NA [ ] NAP	840 [ ] NA [ ] NAP	1 978 [ ] NA [ ] NAP
<b>Vol avec violence</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Homicide volontaire</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Affaires relatives aux demandeurs d'asile (statut de réfugié en application de la Convention de Genève de 1951)</b>	21 [ ] NA [ ] NAP	40 [ ] NA [ ] NAP	27 [ ] NA [ ] NAP	34 [ ] NA [ ] NAP
<b>Affaires relatives au droit de l'entrée et du séjour des étrangers</b>	0 [ ] NA [ ] NAP	8 [ ] NA [ ] NAP	5 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP

Commentaires - 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. Pouvez-vous décrire succinctement le dispositif de votre pays traitant des recours juridictionnels relatifs aux demandeurs d'asile (statut de réfugié en application de la Convention de Genève de 1951) et au droit de l'entrée et du séjour des étrangers :**

. 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. Durée moyenne des procédures, en jours (à partir de la date de saisine du tribunal). La durée moyenne des procédures est calculée à partir de l'introduction du recours jusqu'au prononcé du jugement, sans tenir compte de la phase d'exécution.**

	% des décisions ayant fait l'objet d'un appel	Durée moyenne en 1ère instance (en jours)	Durée moyenne en 2ème instance (en jours)	Durée moyenne en 3ème instance (en jours)	Durée moyenne de la procédure complète (en jours)	% d'affaires pendantes depuis plus de 3 ans, pour toutes les instances
<b>Affaires civiles et commerciales contentieuses</b>	<input type="checkbox"/> X ] 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"/> X ] NA <input type="checkbox"/> ] NAP
<b>Divorce contentieux</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	<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>Licenciement</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	<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>Faillite</b>	<input type="checkbox"/> X ] 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 type="checkbox"/> X ] NAP	499 <input type="checkbox"/> ] NA <input type="checkbox"/> ] NAP	63 <input type="checkbox"/> ] NA <input type="checkbox"/> ] NAP
<b>Vol avec violence</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	<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>Homicide volontaire</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	<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

Commentaires "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. Le cas échéant, veuillez préciser les procédures propres au divorce (contentieux et non contentieux) :**

. Please see general comments.

**104. Comment est calculée la durée moyenne des procédures pour les six catégories d'affaires de la question 102? Veuillez décrire la méthode de calcul.**

. 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. Gestion des flux d'affaires – ministère public**



**105. Veuillez décrire le rôle et les attributions du procureur dans la procédure pénale (plusieurs choix possibles) :**

[ X ] diriger ou superviser l'enquête policière

[ X ] mener des enquêtes

[ X ] quand cela est nécessaire, saisir le juge pour qu'il ordonne des mesures d'enquêtes

[ X ] porter une accusation

[ X ] soumettre l'affaire au tribunal

[ X ] proposer une peine au juge

[ X ] faire appel

[ ] superviser la procédure d'exécution

[ X ] classer l'affaire sans suite, sans avoir besoin d'obtenir une décision d'un juge (observer la cohérence avec la question 36 !)

[ X ] clore l'affaire par une sanction ou une mesure imposée ou négociée sans décision d'un juge

[ X ] autres attributions significatives (veuillez préciser) :Public Prosecutor is entitled to sign the plea agreement with the defendant which has to be confirmed by the judicial decision.

Commentaires 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. Le procureur a-t-il également un rôle dans les affaires suivantes :**

[ X ] affaire civiles

[ X ] affaires administratives

[ ] affaires de faillite

Commentaires - Si oui, veuillez préciser : 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. La gestion des affaires par le procureur : nombre total des affaires penales en première instance**

	Reçues par le procureur au cours de l'année de référence	Classées sans suite par le procureur (v. 108 ci-dessous) au cours de l'année de référence	Terminées par une sanction ou par une mesure imposée ou négociée par le procureur	Portées devant les tribunaux
<b>Nombre total d'affaires pénales traitées en première instance par le procureur</b>	397 097 [ ] NA [ ] NAP	228 173 [ ] NA [ ] NAP	18 719 [ ] NA [ ] NAP	43 663 [ ] NA [ ] NAP

Commentaires 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. Si la procédure du plaider coupable existe, combien d'affaires ont été portées par le procureur devant les tribunaux par le biais de cette procédure?

	Nombre de procédures du plaider coupable
<b>Total</b>	6 481 [ ] NA [ ] NAP
<b>Avant que l'affaire ne soit portée devant les tribunaux</b>	4 925 [ ] NA [ ] NAP
<b>Pendant la procédure judiciaire</b>	1 556 [ ] NA [ ] NAP

Commentaires 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. Nombre total des affaires classées sans suite par le procureur.

	Nombre d'affaires
Nombre total des affaires classées sans suite par le procureur (1 + 2 + 3 + 4)	228 173 [ ] NA [ ] NAP
1. Classées sans suite par le procureur parce que l'auteur de l'infraction n'a pas pu être identifié	[ ] NA [ X ] NAP
2. Classées sans suite par le procureur en raison d'une impossibilité de fait ou de droit	201 569 [ ] NA [ ] NAP
3. Classées sans suite par le procureur pour raison d'opportunité	18 719 [ ] NA [ ] NAP
4. Autre	7 885 [ ] NA [ ] NAP

Commentaires 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. Est-ce que ces données incluent le contentieux routier ?

Oui

Non

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

## D2. Veuillez indiquer les sources des réponses aux questions 91, 94, 97, 98, 99, 100, 101, 102, 107, 107-1 et 108.

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

## 5.Carrière des juges et procureurs

### 5.1.Recrutement et promotion

#### 5.1.1.Recrutement et promotion des juges

## 110. Comment les juges sont-ils recrutés ?

principalement par concours (concours ouvert)

principalement par une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience

professionnelle dans le domaine juridique (par exemple des avocats expérimentés)

une combinaison des deux (concours et expérience professionnelle)

autre (veuillez préciser) : .....

Commentaires 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. Autorité(s) responsable(s) pour le recrutement. Les juges sont-ils recrutés et nommés, initialement, en début de carrière, par :**

une instance composée seulement de juges

une instance composée seulement de non juges

une instance composée de juges et de non juges

Commentaires - Veuillez indiquer le nom de l'instance responsable de la procédure globale de recrutement et de nomination des juges. S'il existe plusieurs instances impliquées, veuillez décrire leurs rôles respectifs : 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. La même instance (Q.111) est-elle compétente pour la promotion des juges ?

Oui

Non

Commentaires

## 113. En quoi consiste la procédure de promotion des juges: (plusieurs réponses possibles)

Concours / Examen

Autre(s) modalité(s) (entretien professionnel ou autre)

Absence de procédure spécifique

Commentaires - Veuillez préciser comment se déroule la promotion des juges (en particulier s'il ne s'agit pas d'un concours ou d'un examen): 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. Veuillez indiquer les critères retenus pour la promotion d'un juge? (plusieurs réponses possibles)

Les années d'expérience

Les compétences professionnelles (ou/et la performance qualitative)

La performance (quantitative)

Les résultats d'évaluations

Les critères subjectifs (par exemple, l'intégrité, la réputation)

Autre(s)

Aucun critère

Commentaires - Veuillez fournir tout commentaire utile concernant le/les critère(s) (en particulier si vous avez coché les cases « performance » ou « autre(s) »): 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. Statuts, recrutement et promotion des procureurs**

### **115. Le ministère public est-il :**

statutairement indépendant

sous l'autorité du ministre de la Justice ou une autre autorité centrale

autre (veuillez préciser) :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

Commentaires - Le cas échéant, veuillez préciser les garanties objectives de cette indépendance (mutation, nomination...). 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. La loi, ou une autre réglementation, empêche-t-elle les instructions spécifiques de poursuivre ou de ne pas poursuivre qui seraient adressées à un procureur ?**

Oui

Non

Commentaires - Si oui, veuillez préciser :

### **116. Comment sont recrutés les procureurs ?**

principalement par concours (concours ouvert)

principalement par une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience dans le domaine juridique (par exemple des avocats expérimentés)

une combinaison des deux (concours et expérience professionnelle)



[ ] autre (veuillez préciser) : .....

Commentaires 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. Autorité(s) responsable(s) pour le recrutement. Les procureurs sont-ils recrutés et nommés, initialement, en début de carrière, par :**

- [ ] une instance composée seulement de procureurs
- [ ] une instance composée seulement de non procureurs
- [ X ] une instance composée de procureurs et de non procureurs

Commentaires - Veuillez indiquer le nom de l'instance responsable de la procédure globale de recrutement et de nomination des procureurs. S'il y a plusieurs autorités impliquées, veuillez décrire leurs rôles respectifs : 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. La même instance (Q 117) est-elle compétente pour la promotion des procureurs ?

Oui

Non, quelle instance est compétente pour la promotion des procureurs ? 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).

Commentaires

## 119. En quoi consiste la procédure de promotion des procureurs: (plusieurs réponses possibles)

Concours / Examen

Autre(s) modalité(s) (entretien professionnel ou autre)

Absence de procédure spécifique

Commentaires - Veuillez préciser comment se déroule la promotion des procureurs (en particulier s'il ne s'agit pas d'un concours ou d'un examen) : 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. Veuillez indiquer les critères retenus pour la promotion d'un procureur?

Les années d'expérience

Les compétences professionnelles (ou/et la performance qualitative)

La performance (quantitative)

Les résultats d'évaluations

Les critères subjectifs (par exemple, l'intégrité, la réputation)

Autre(s)

Aucun critère

Commentaires - Veuillez préciser tout commentaire utile concernant le/les critère(s) (en particulier si vous avez coché les cases « performance » ou « autre(s) »): The Program aimed at improving the work of public prosecutors' offices for the heads of offices.

## 5.1.3. Mandat et retraite des juges et procureurs

### 121. Le mandat des juges est-il à durée indéterminée (à savoir "à vie" = jusqu'à l'âge officiel de la retraite) ?

Oui, veuillez indiquer l'âge de la mise en retraite obligatoire : 65 (67 for judges of the Supreme Court of Cassation)

Non

Commentaires - Si oui, existe-t-il des exceptions (ex: la révocation comme sanction disciplinaire) ? Veuillez préciser : 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. Un juge peut-il être transféré dans une autre juridiction sans son consentement :

Pour des raisons disciplinaires

Pour des raisons organisationnelles

Pour d'autres raisons (veuillez préciser les modalités et garanties) : .....

Non

Commentaires 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. Une période probatoire est-elle instaurée pour les juges (par exemple avant d'être nommé à vie) ? Si oui, quelle en est la durée ?

Oui, durée de la période probatoire (en années) :3

Non

Commentaires 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. Le mandat des procureurs est-il à durée indéterminée (à savoir « à vie » = jusqu'à l'âge officiel de la retraite) ?

Oui, veuillez indiquer l'âge de la mise en retraite obligatoire : .....

Non

Commentaires - Si oui, existe-t-il des exceptions (la révocation comme sanction disciplinaire) ? Veuillez préciser :

## 124. Une période probatoire est-elle instaurée pour les procureurs ? Si oui, quelle en est la durée ?

Oui, durée de la période probatoire (en années) :3

Non

Commentaires

## 125. Si le mandat n'est pas à durée indéterminée pour les juges (v. question 121), quelle est la

**durée du mandat (en années)? Est-il renouvelable ?**

[            ]

[ ] NA

[ X ] NAP

Commentaires

**125-1. Est-il renouvelable ?**

( ) Oui

( ) Non

[ X ] NAP

Commentaires

**126. Si le mandat n'est pas à durée indéterminée pour les procureurs (v. question 123), quelle est la durée du mandat (en années)?**

[ 6 ]

[ ] NA

[ ] NAP

Commentaires 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. Est-il renouvelable ?**

( X ) Oui

( ) Non

[ ] NAP

Commentaires 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. Veuillez indiquer les sources utilisées pour répondre aux questions de ce chapitre :**

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

## 5.2. Formation

### 5.2.1. Formation des juges

**127. Types de formations proposées des juges :**

	Obligatoire	Facultative	Pas de formation proposée
Formation initiale (par exemple fréquentation d'une école de la magistrature, stage dans un tribunal)	( ) Oui ( X ) Non	( X ) Oui ( ) Non	( ) Oui ( X ) Non

<b>Formation continue générale</b>	( ) Oui ( X ) Non	( X ) Oui ( ) Non	( ) Oui ( X ) Non
<b>Formation continue pour des fonctions spécialisées (ex. juge pour les affaires économiques ou administratives)</b>	( X ) Oui ( ) Non	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Formation continue pour des fonctions spécifiques de gestion (ex. présidence d'un tribunal)</b>	( X ) Oui ( ) Non	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Formation continue pour l'utilisation des outils informatiques au sein des tribunaux</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Formation continue à l'éthique</b>	( X ) Oui ( ) Non	( ) Oui ( X ) Non	( ) Oui ( X ) Non

Commentaires 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. Fréquence de la formation continue des juges :

	<b>Fréquence de la formation</b>
<b>Formation continue générale</b>	[ X ] Régulièrement (par exemple tous les ans) [ ] Occasionnellement (en fonction des besoins) [ ] Pas de formation proposée
<b>Formation continue pour des fonctions spécialisées (ex. juge pour les affaires économiques ou administratives)</b>	[ X ] Régulièrement (par exemple tous les ans) [ ] Occasionnellement (en fonction des besoins) [ ] Pas de formation proposée
<b>Formation continue pour des fonctions spécifiques de gestion (ex. présidence d'un tribunal)</b>	[ ] Régulièrement (par exemple tous les ans) [ X ] Occasionnellement (en fonction des besoins) [ ] Pas de formation proposée
<b>Formation continue pour l'utilisation des outils informatiques au sein des tribunaux</b>	[ ] Régulièrement (par exemple tous les ans) [ X ] Occasionnellement (en fonction des besoins) [ ] Pas de formation proposée

<b>Formation continue à l'éthique</b>	<input checked="" type="checkbox"/> Régulièrement (par exemple tous les ans)
	<input type="checkbox"/> Occasionnellement (en fonction des besoins)
	<input type="checkbox"/> Pas de formation proposée

Commentaires - Veuillez fournir toute information concernant la périodicité de la formation continue des juges : 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. Formation des procureurs

### 129. Types de formations proposées aux procureurs :

	Obligatoire	Facultative	Pas de formation proposée
<b>Formation initiale</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Formation continue générale</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Formation continue pour des fonctions spécialisées (ex. procureur spécialisé en criminalité organisée)</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Formation continue pour des fonctions spécifiques de gestion (ex. Procureur Général, administrateur)</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Formation continue pour l'utilisation des outils informatiques au sein des tribunaux</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Formation continue à l'éthique</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non

Commentaires 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. Fréquence de la formation continue des procureurs :

	<b>Fréquence de la formation continue</b>
<b>Formation continue générale</b>	<input checked="" type="checkbox"/> Régulièrement (par exemple tous les ans) <input type="checkbox"/> Occasionnellement (en fonction des besoins) <input type="checkbox"/> Pas de formation proposée
<b>Formation continue pour des fonctions spécialisées (ex. procureur spécialisé en criminalité organisée)</b>	<input checked="" type="checkbox"/> Régulièrement (par exemple tous les ans) <input type="checkbox"/> Occasionnellement (en fonction des besoins) <input type="checkbox"/> Pas de formation proposée
<b>Formation continue pour des fonctions spécifiques de gestion (ex. Procureur Général, administrateur)</b>	<input type="checkbox"/> Régulièrement (par exemple tous les ans) <input checked="" type="checkbox"/> Occasionnellement (en fonction des besoins) <input type="checkbox"/> Pas de formation proposée
<b>Formation continue pour l'utilisation des outils informatiques au sein des tribunaux</b>	<input type="checkbox"/> Régulièrement (par exemple tous les ans) <input checked="" type="checkbox"/> Occasionnellement (en fonction des besoins) <input type="checkbox"/> Pas de formation proposée
<b>Formation continue à l'éthique</b>	<input checked="" type="checkbox"/> Régulièrement (par exemple tous les ans) <input type="checkbox"/> Occasionnellement (en fonction des besoins) <input type="checkbox"/> Pas de formation proposée

Commentaires - Veuillez fournir toute information concernant la périodicité de la formation continue des procureurs : 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. Disposez-vous d'(une) institution(s) publique(s) chargée(s) de la formation des juges et des procureurs?

	Formation initiale seulement	Formation continue seulement	Formation initiale et continue
Une institution pour les juges	[ ]	[ ]	[ ]
Une institution pour les procureurs	[ ]	[ ]	[ ]
Une institution commune pour juges et procureurs	[ ]	[ ]	[ X ]

Commentaires

### 131-0. Si oui, quel est le budget de cette (ces) institution(s)?

	Budget de l'institution pour l'année de référence, en €
Une institution pour les juges	[ ] NA [ X ] NAP
Une institution pour les procureurs	[ ] NA [ X ] NAP
Une institution commune pour les juges et procureurs	2 906 907 [ ] NA [ ] NAP

Commentaires 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. S'il n'y a pas de formation initiale obligatoire des juges et/ou des procureurs dans de telles institutions, pouvez-vous brièvement préciser comment ces juges et/ou procureurs sont formés ?

. 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. Nombre de formation continue (en jours) organisées par l'institution de formation judiciaire à l'intention des juges, des procureurs, du personnel non-juge et du personnel non-procureur

	Nombre de formation continue organisée, en jours (sans e-learning)	Formations en ligne disponibles tout au long de l'année de référence (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. Seulement pour les juges</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2. Seulement pour les procureurs</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>3. Seulement pour le personnel non-juge</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>4. Seulement pour le personnel non-procureur</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>5. Autres formations communes</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Commentaires : 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. Veuillez indiquer les sources utilisées pour répondre aux questions de ce chapitre :

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

### 5.3.Exercice de la profession

#### 5.3.1.Salaires et avantages des juges et procureurs



#### 132. Salaires des juges et des procureurs au 31 décembre de l'année de référence:

	Salaire annuel brut, en €	Salaire annuel net, en €	Salaire annuel brut en monnaie nationale	Salaire annuel net en monnaie nationale
<b>Juge professionnel de 1ère instance au début de sa carrière</b>	16 369 [ ] NA [ ] NAP	9 733 [ ] NA [ ] NAP	1 934 757 [ ] NA [ ] NAP	1 150 352 [ ] NA [ ] NAP
<b>Juge de la Cour suprême ou de la dernière instance de recours (veuillez indiquer le salaire moyen d'un juge de ce niveau, non pas le salaire du président de la cour)</b>	38 444 [ ] NA [ ] NAP	22 858 [ ] NA [ ] NAP	4 520 756 [ ] NA [ ] NAP	2 687 913 [ ] NA [ ] NAP
<b>Procureur au début de sa carrière</b>	18 478 [ ] NA [ ] NAP	12 953 [ ] NA [ ] NAP	2 184 000 [ ] NA [ ] NAP	1 530 984 [ ] NA [ ] NAP
<b>Procureur auprès de la Cour suprême ou de la dernière instance de recours (veuillez indiquer le salaire moyen d'un procureur de ce niveau, non pas le salaire du Procureur Général).</b>	35 268 [ ] NA [ ] NAP	23 509 [ ] NA [ ] NAP	4 168 505 [ ] NA [ ] NAP	2 778 671 [ ] NA [ ] NAP

Commentaires 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. Les juges et les procureurs bénéficient-ils des avantages complémentaires suivants ?**

	Juges	Procureurs
<b>Imposition réduite</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Retraite spécifique</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Logement de fonction</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Autre avantage financier</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non

Commentaires

**134. Si « autre avantage financier », veuillez préciser :**

[ X ] NAP

**135. Un juge peut-il cumuler son travail avec les autres fonctions suivantes ?**

	Rémunéré	Non rémunéré
<b>Enseignement</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Recherche et publication</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Arbitrage</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Consultant</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Fonction culturelle</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Fonction politique</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Médiateur</b>	( ) Oui ( X ) Non	( X ) Oui ( ) Non
<b>Autre fonction</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non

Commentaires - Si des règles existent dans votre pays (par exemple, une autorisation est exigée pour exercer une fonction), veuillez les préciser. Si « autre fonction », veuillez préciser. 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. Un procureur peut-il cumuler son travail avec les autres fonctions suivantes ?

	Rémunéré	Non rémunéré
<b>Enseignement</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Recherche et publication</b>	( X ) Oui ( ) Non	( X ) Oui ( ) Non
<b>Arbitrage</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Consultant</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Fonction culturelle</b>	( ) Oui ( X ) Non	( X ) Oui ( ) Non
<b>Fonction politique</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Méiateur</b>	( ) Oui ( X ) Non	( ) Oui ( X ) Non
<b>Autre fonction</b>	( ) Oui ( X ) Non	( X ) Oui ( ) Non

Commentaires - Si des règles existent dans votre pays (par exemple, une autorisation est exigée pour exercer une fonction), veuillez les préciser. Si « autre fonction », veuillez préciser : 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. Prime de productivité : les juges ont-ils droit à des primes en fonction du respect d'objectifs quantitatifs en rapport avec les affaires terminées (par exemple nombre d'affaires terminées pour une période donnée) ?**

Oui

Non

Commentaires - Si oui, veuillez préciser les conditions et éventuellement les montants:

### **5.3.2 Institution/organe d'éthique**

### **138. Disposez-vous dans votre pays d'une institution/ d'un organe qui émet des avis sur des questions d'éthique liées à la conduite des juges (par exemple, participation à la vie politique, utilisation des medias sociaux par les juges, etc.) ?**

Oui

Non

Commentaires 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. Si oui, quelle est la composition de cet institution/organe ?**

- juges uniquement
- juges et représentants d'autres professions juridiques
- autre, veuillez préciser : .....

Commentaires 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. Les avis de cet institution/organe sont-ils accessibles au public?**

- Oui
- Non

[ ] NAP

Commentaires - Veuillez décrire l'activité de cet institution/organe, la fréquence à laquelle sont rendus les avis, etc. No information supplied to date by the HCC.

[ ] NAP

### **138-3. Disposez-vous dans votre pays d'une institution/ d'un organe qui émet des avis sur des questions d'éthique liées à la conduite des procureurs (par exemple, participation à la vie politique, utilisation des medias sociaux par les procureurs, etc.) ?**

- Oui
- Non

Commentaires 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. Si oui, quelle est la composition de cet institution/organe ?**

- procureurs uniquement
- procureurs et représentants d'autres professions juridiques
- autre, veuillez préciser : .....

Commentaires 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. Les avis de cet institution/organe sont-ils accessibles au public?**

Oui

Non

NAP

Commentaires - Veuillez décrire l'activité de cet institution/organe, la fréquence à laquelle sont rendus les avis, 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).

NAP

## **5.4.Procédures disciplinaires**

### **5.4.1.Autorités responsables des procédures disciplinaires et des sanctions**

#### **140. Qui peut engager des procédures disciplinaires contre les juges (plusieurs options possibles) ?**

Justiciables

Tribunal concerné ou supérieur hiérarchique

Cour suprême

Conseil supérieur de la magistrature

Tribunal ou autorité disciplinaire

Médiateur (Ombudsman)

Parlement

Pouvoir exécutif (veuillez préciser) :for example, MoJ

Autre (veuillez préciser) :Anyone may file a complaint based on which disciplinary proceedings are formally initiated by the HJC disciplinary prosecutor.

Ceci n'est pas possible

Commentaires 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. Qui peut engager des procédures disciplinaires contre les procureurs (plusieurs options possibles) :**

Citoyens

Chef de l'unité organisationnelle ou supérieur hiérarchique

Procureur Général/Procureur d'Etat

Conseil supérieur des procureurs (Conseil supérieur de la magistrature)

Tribunal ou autorité disciplinaire

Médiateur (Ombudsman)

Organisme professionnel

Pouvoir exécutif (veuillez préciser) :MoJ

Autre (veuillez préciser) :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.

Ceci n'est pas possible

Commentaires 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. Quelle autorité détient le pouvoir disciplinaire à l'encontre des juges ? (plusieurs options possibles)**

Tribunal

Cour suprême

Conseil supérieur de la magistrature

Tribunal ou autorité disciplinaire

Médiateur (Ombudsman)

Parlement

Pouvoir exécutif (veuillez préciser) : .....

Autre (veuillez préciser) : .....

Commentaires

#### **143. Quelle autorité détient le pouvoir disciplinaire à l'encontre des procureurs ? (plusieurs options possibles)**

Cour Suprême



- Chef de l'unité organisationnelle ou supérieur hiérarchique
- Procureur Général/Procureur d'Etat
- Conseil supérieur des procureurs (Conseil supérieur de la magistrature)
- Tribunal ou autorité disciplinaire
- Médiateur (Ombudsman)
- Organisme professionnel
- Pouvoir exécutif (veuillez préciser) : .....
- Autre (veuillez préciser) : .....

Commentaires 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. Nombre de procédures disciplinaires et de sanctions

**144. Nombre de procédures disciplinaires intentées durant l'année de référence à l'encontre des juges et des procureurs. (Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.)**

	Juges	Procureurs
<b>Nombre total (1+2+3+4)</b>	15 <input type="checkbox"/> NA <input type="checkbox"/> NAP	5 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Faute déontologique</b>	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Insuffisance professionnelle</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Délit pénal</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Autre</b>	14 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Commentaires - Si « autre », veuillez préciser : 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. Nombre de sanctions prononcées durant l'année de référence à l'encontre des juges et des procureurs :**

	Juges	Procureurs
<b>Nombre total (total 1 à 10)</b>	6 [ ] NA [ ] NAP	5 [ ] NA [ ] NAP
<b>1. Réprimande</b>	2 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP
<b>2. Suspension</b>	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>3. Retrait d'une affaire</b>	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>4. Amende</b>	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>5. Diminution de salaire temporaire</b>	4 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>6. Rétrogradation de poste</b>	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>7. Mutation géographique dans un autre tribunal</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>8. Démission</b>	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>9. Autre</b>	0 [ ] NA [ ] NAP	2 [ ] NA [ ] NAP
<b>10. Révocation</b>	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP

Commentaires - Si « autre », veuillez préciser. S'il existe une disparité importante entre le nombre de procédures disciplinaires intentées et le nombre de sanctions prononcées, veuillez en préciser les raisons. 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. Veuillez indiquer les sources des réponses aux questions 144 et 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)

## 6. Avocats

### 6.1. Profession d'avocat

#### 6.1.1. Statuts de la profession d'avocat

##### 146. Nombre d'avocats exerçant dans votre pays :

	Total	Hommes	Femmes
Nombre d'avocats	10 068 <input type="checkbox"/> NA	6 544 <input type="checkbox"/> NA	3 524 <input type="checkbox"/> NA

Commentaires 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. Ce nombre inclut-il la catégorie « conseiller juridique » (« solicitor/in-house counsellor ») qui ne peut pas représenter de clients en justice ?

Oui ( )

Non ( X )

Commentaires

##### 148. Nombre de conseillers juridiques qui ne peuvent pas représenter de clients en justice :

[ ]

NA

NAP

Commentaires

##### 149. Les avocats ont-ils le monopole de la représentation en justice (plusieurs options sont possibles) pour les :

	Première instance	Seconde instance	Cour suprême
Affaires civiles	[ ]	[ ]	[ X ]
Affaires de licenciement	[ ]	[ ]	[ ]
Affaires pénales - Défendeur	[ X ]	[ X ]	[ X ]
Affaires pénales - Victime	[ X ]	[ X ]	[ X ]

Affaires administratives	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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NAP

Commentaires - Veuillez apporter toutes précisions utiles concernant le contenu du monopole des avocats :

**149-0. En cas d'absence de monopole, veuillez préciser les organismes ou personnes pouvant représenter les clients au tribunal :**

	Première instance	Seconde instance	Cour suprême
<b>Organisme de la société civile</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Membre de la famille</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Personne concernée elle-même</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Syndicat</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Autres</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non

Commentaires - Si « autres », veuillez préciser. De plus, veuillez préciser pour les catégories mentionnées quels sont les types d'affaires concernés par cette/ces représentation(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. Outre les fonctions de représentation en justice et de conseil juridique, un avocat peut-il exercer d'autres activités ?**

- Activité notariale
- Arbitrage/médiation
- Mandataire
- Syndic de copropriété
- Agent immobilier
- Autres (veuillez préciser) : .....

Commentaires

**149-2. Quelles sont les statuts de la profession d'avocat ?**

- Avocat indépendant
- Avocat salarié
- Avocat d'entreprise

Commentaires

**150. La profession d'avocat est-elle organisée à travers :**

- un barreau national
- un barreau régional

un barreau local

Commentaires

**151. Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'avocat ?**

Oui

Non

Commentaires - Si non, veuillez indiquer s'il existe d'autres exigences spécifiques en matière de diplôme ou de niveau universitaire:

**152. Existe-t-il un système de formation continue générale obligatoire pour les avocats ?**

Oui

Non

Commentaires

**153. La spécialisation dans certains domaines est-elle liée à certaines formations, à un certain niveau de compétence, à un certain diplôme ou à certaines autorisations ?**

Oui

Non

Commentaires - Si oui, veuillez préciser :

**F1. Veuillez indiquer les sources des réponses aux questions 146 et 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.Exercice de la profession**

**154. Pour le justiciable, existe-t-il une transparence sur les honoraires prévisibles des avocats (c'est à dire une information préalable sur le montant prévisible des honoraires demandés) ?**

Oui

Non

Commentaires

**155. Les honoraires des avocats sont-ils librement négociés ?**

Oui

Non

**156. La loi ou les règlements du Barreau contiennent-ils des règles sur les honoraires des avocats (même s'ils sont librement négociés) ?**

- Oui, la loi contient des règles
- Oui, les règlements du Barreau contiennent des règles
- Non, ni la loi ni les dispositions du Barreau ne contiennent de règles

**6.1.3. Standards de qualité et procédures disciplinaires**



**157. Des normes de qualité ont-elles été formulées pour les avocats ?**

- Oui
- Non

Commentaires - Si oui, quels sont les critères de qualité utilisés?

**158. Si oui, qui a la responsabilité d'établir ces normes de qualité :**

- le Barreau
- le législateur
- autre (veuillez préciser) : .....

**159. Existe-t-il une possibilité de déposer une plainte concernant :**

- la prestation de l'avocat
- le montant des honoraires

Commentaires - Veuillez préciser :

**160. Quelle est l'autorité compétente pour traiter des procédures disciplinaires?**

- Le juge
- Le ministère de la Justice
- Une instance professionnelle
- Autre (veuillez préciser) : .....

**161. Procédures disciplinaires initiées à l'encontre des avocats. (Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.)**

	Nombre de procédures disciplinaires
Nombre total de procédures disciplinaires initiées (1 + 2 + 3 + 4)	52 [ ] NA [ ] NAP

<b>1. Faute déontologique</b>	31 [ ] NA [ ] NAP
<b>2. Insuffisance professionnelle</b>	6 [ ] NA [ ] NAP
<b>3. Délit pénal</b>	[ ] NA [ X ] NAP
<b>4. Autre</b>	15 [ ] NA [ ] NAP

Commentaires - Si « autre », veuillez préciser : 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 prononcées à l'encontre des avocats.

	Nombre de sanctions
<b>Nombre total de sanctions (1 + 2 + 3 + 4 + 5)</b>	38 [ ] NA [ ] NAP
<b>1. Réprimande</b>	2 [ ] NA [ ] NAP
<b>2. Suspension</b>	2 [ ] NA [ ] NAP
<b>3. Retrait d'une affaire</b>	11 [ ] NA [ ] NAP
<b>4. Amende</b>	8 [ ] NA [ ] NAP
<b>5. Autre</b>	15 [ ] NA [ ] NAP

Commentaires - Si « autre », veuillez préciser. S'il existe une disparité importante entre le nombre de procédures disciplinaires initiées et le nombre de sanctions, veuillez indiquer les raisons : 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.

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## **7. Médiation conduite ou renvoyée par le tribunal et autres mesures alternatives au règlement des litiges**

### **7.1 Médiation conduite ou renvoyée par le tribunal**

#### **7.1.1. Précisions sur la médiation conduite ou renvoyée par le tribunal**

##### **163. Existe-t-il des processus de médiations conduite ou renvoyée par le tribunal dans le système judiciaire ?**

Oui

Non

Commentaires Please see general comments.

##### **163-1. Dans certains domaines, le système juridique prévoit-il la médiation obligatoire avec un médiateur ?**

Avant/à la place de la procédure devant le tribunal

Ordonnée par le tribunal, le juge, le procureur ou une autorité publique dans le cadre d'une procédure contentieuse en cours

Pas de médiation obligatoire

Commentaires - Si la médiation obligatoire existe, veuillez préciser quels sont les domaines concernés : Please see general comments.

##### **163-2. Dans certains domaines, le système juridique prévoit-il des séances d'information obligatoires avec un médiateur?**

Oui

Non

Commentaires -Si les séances d'information obligatoires existent, veuillez préciser quels sont les domaines concernés :

##### **164. Veuillez préciser, par type d'affaires, qui fournit des services de médiation conduite ou renvoyée par le tribunal ?**



	Médiateur privé	Autorité publique (autre que le juge)	Juge	Procureur
<b>Affaires civiles et commerciales</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non [ ] NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non [ ] NAP
<b>Affaires familiales</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non [ ] NAP
<b>Affaires administratives</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non [ ] NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non [ ] NAP
<b>Affaires liées au droit du travail, y compris les licenciements</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non [ ] NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non [ ] NAP
<b>Affaires pénales</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non [ ] NAP
<b>Affaires liées aux consommateurs</b>	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non [ ] NAP	<input checked="" type="checkbox"/> Oui <input type="checkbox"/> Non [ ] NAP	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non [ ] NAP

Commentaires 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. Est-il possible de bénéficier de l'aide judiciaire lors des médiations conduites ou renvoyées par le tribunal ou de bénéficier gratuitement de ces services?

Oui

Non

[ ] NAP

Commentaires - Si oui, veuillez préciser : 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. Nombre de médiateurs accrédités ou enregistrés pour exercer la médiation conduite ou renvoyée par le tribunal:

	Total	Hommes	Femmes
<b>Nombre de médiateurs</b>	735 [ ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Commentaires 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. Nombre de médiations conduites ou renvoyées par le tribunal:

	Nombre d'affaires pour lesquelles les parties s'accordent pour débiter une médiation	Nombre de médiations conduites ou renvoyées par le tribunal terminées	Nombre d'affaires conclues par un accord de règlement
<b>Total (1 + 2 + 3 + 4 + 5 + 6)</b>	435 [ ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>1. Affaires civiles et commerciales</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Affaires familiales</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>3. Affaires administratives</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>4. Affaires liées au droit du travail, y compris les licenciements</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>5. Affaires pénales</b>	199 [ ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>6. Affaires liées aux consommateurs</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Commentaires - Veuillez indiquer la 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. Est-ce que les formes suivantes de mesures alternatives de règlement des litiges existent dans votre pays ?

la médiation autre que la médiation conduite ou renvoyée par le tribunal

l'arbitrage

la conciliation (si différente de la médiation)

d'autres mesures alternatives au règlement des litiges (veuillez spécifier) : .....

Commentaires 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. 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.

### G1. Veuillez indiquer la source de la réponse à la 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.Exécution des décisions de justice

### 8.1.Exécution des décisions en matière civile

#### 8.1.1.Fonctionnement

### 169. Existe-t-il dans votre système judiciaire des agents d'exécution ?

( X ) Oui

( ) Non

Commentaires oint 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. Nombre d'agents d'exécution

	Total	Hommes	Femmes
Nombre d'agents d'exécution	213 [ ] NA	126 [ ] NA	87 [ ] NA

Commentaires 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. Les agents d'exécution sont-ils (plusieurs choix possibles) :

- des juges
- des huissiers de justice exerçant en profession libérale réglementée par les autorités publiques
- des huissiers de justice attachés à une institution publique
- autre

Commentaires - Veuillez préciser leur statut et leurs compétences (pouvoirs) : 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. Les agents d'exécution ont-ils le monopole dans l'exercice de leur fonction ?

Oui

Non

Commentaires - Veuillez apporter toutes précisions utiles concernant le contenu du monopole des agents d'exécution ou au contraire des indications sur la concurrence à laquelle ils peuvent être confrontés: 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. L'agent d'exécution peut-il réaliser les procédures civiles d'exécution suivantes :

	Option
<b>Saisie des biens meubles corporels</b>	<input type="checkbox"/> Oui avec monopole <input checked="" type="checkbox"/> Oui sans monopole <input type="checkbox"/> Non <input type="checkbox"/> NAP
<b>Saisie des immeubles</b>	<input type="checkbox"/> Oui avec monopole <input checked="" type="checkbox"/> Oui sans monopole <input type="checkbox"/> Non <input type="checkbox"/> NAP
<b>Saisie entre les mains d'un tiers des créances du débiteur portant sur une somme d'argent</b>	<input type="checkbox"/> Oui avec monopole <input checked="" type="checkbox"/> Oui sans monopole <input type="checkbox"/> Non <input type="checkbox"/> NAP
<b>Saisies des rémunérations</b>	<input type="checkbox"/> Oui avec monopole <input checked="" type="checkbox"/> Oui sans monopole <input type="checkbox"/> Non <input type="checkbox"/> NAP
<b>Saisies des véhicules terrestres à moteur</b>	<input type="checkbox"/> Oui avec monopole <input checked="" type="checkbox"/> Oui sans monopole <input type="checkbox"/> Non <input type="checkbox"/> NAP

<b>Mesures d'expulsion</b>	<input type="checkbox"/> Oui avec monopole <input checked="" type="checkbox"/> Oui sans monopole <input type="checkbox"/> Non <input type="checkbox"/> NAP
<b>Vente forcée par adjudication publique des biens saisis</b>	<input type="checkbox"/> Oui avec monopole <input checked="" type="checkbox"/> Oui sans monopole <input type="checkbox"/> Non <input type="checkbox"/> NAP
<b>Autres</b>	<input type="checkbox"/> Oui avec monopole <input checked="" type="checkbox"/> Oui sans monopole <input type="checkbox"/> Non <input type="checkbox"/> NAP

Commentaires other - enforcement on securities and shares in a company.

### **171-3. Outre l'exécution des décisions de justice, quelles sont les autres activités pouvant être exercées par les agents d'exécution ?**

- Signification ou notification d'actes judiciaires ou extrajudiciaires
- Recouvrement de créances
- Ventes aux enchères mobilières et immobilières publiques ou volontaires
- Séquestres
- Constats
- Service des audiences près les juridictions
- Conseils juridiques
- Procédures de faillites
- Missions confiées par le juge
- Représentation des parties devant les juridictions
- Rédaction des actes sous-seings privés
- Administrateur d'immeubles
- Autres

Commentaires 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. Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'agent d'exécution?**

- Oui
- Non

Commentaires 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. Existe-t-il un système de formation continue générale obligatoire pour les agents d'exécution ?**

Oui

Non

Commentaires Continuous training is obligatory and is organised by the Chamber of Enforcement Agents and Judicial Academy.

**173. La profession d'agent d'exécution est-elle organisée par (la réponse NAP signifie que la profession n'est pas organisée) :**

une instance nationale

une instance régionale

une instance locale

NAP

Commentaires Chamber of Enforcements - <http://www.komoraizvrsitelja.rs/>

**174. Pour le justiciable, existe-t-il une transparence sur le coût prévisible des frais d'exécution ?**

Oui

Non

Commentaires They are prescribed by law and bylaw, and are subject to supervision by the Chamber and Ministry of Justice.

**175. Est-ce que les frais d'exécution sont librement négociés ?**

Oui

Non

Commentaires

**176. Est-ce que la loi énonce des règles sur les frais d'exécution (même s'ils sont librement négociés) ?**

Oui

Non

Commentaires 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. Veuillez indiquer les sources pour la réponses à la question 170 :**

Source : Ministry of Justice – Sector for Judiciary – Department for Judicial Professions, Register.



### 177. Existe-t-il un système de supervision et de contrôle de l'activité des agents d'exécution ?

Oui

Non

Commentaires 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. Quelle est l'autorité chargée de superviser et de contrôler les agents d'exécution ?

une instance professionnelle

le juge

le ministère de la Justice

le procureur

autre (veuillez préciser) : .....

Commentaires 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. Des normes de qualité sont-elles formulées pour les agents d'exécution ?

Oui

Non

Commentaires - Si oui, quels sont les critères de qualité utilisés ? 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. Si oui, qui est chargé de formuler ces normes de qualité ?

un organisme professionnel

le juge



le ministère de la Justice

autre (veuillez préciser) : .....

Commentaires

**181. Disposez-vous d'un mécanisme spécifique pour l'exécution des décisions de justice rendues contre des autorités publiques, y compris pour assurer le suivi de cette exécution ?**

Oui

Non

Commentaires - Si oui, veuillez préciser : 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. Disposez-vous d'un système pour contrôler la manière dont la procédure d'exécution est conduite par l'agent d'exécution?**

Oui

Non

Commentaires - Si oui, veuillez préciser : 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. Quelles sont les principales plaintes des usagers concernant les procédures d'exécution ?  
Veuillez n'en indiquer que 3 au maximum.**

absence de toute exécution

non exécution des décisions judiciaires rendues contre des autorités publiques

manque d'information

durée excessive

pratiques illégales

supervision insuffisante

coût excessif

autre (veuillez préciser) : .....

Commentaires 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. Votre pays a-t-il préparé ou adopté des mesures concrètes pour changer la situation concernant l’exécution des décisions de justice – en particulier les décisions rendues contre les autorités publiques ?**

Oui

Non

Commentaires - Si oui, veuillez préciser : 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. oint 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. Existe-t-il un système mesurant la durée des procédures d'exécution :**

	Existence du système
<b>pour les affaires civiles</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>pour les affaires administratives</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non

Commentaires 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. Pour un jugement concernant un recouvrement de créances, pouvez-vous estimer le délai de notification aux parties habitant dans la ville du siège de la juridiction ? (Une seule option possible)**

- entre 1 et 5 jours
- entre 6 et 10 jours
- entre 11 et 30 jours
- plus (veuillez préciser) : .....

[ ] NA

Commentaires 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. Nombre de procédures disciplinaires initiées à l'encontre des agents d'exécution. (Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.)**

	Nombre de procédures disciplinaires initiées
Nombre total de procédures disciplinaires initiées (1 + 2 + 3 + 4)	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP
1. Pour faute déontologique	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP
2. Pour insuffisance professionnelle	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP
3. Pour délit pénal	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP
4. Autre	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP

Commentaires - Si « autre », veuillez préciser :

**188. Nombre de sanctions prononcées à l'encontre des agents d'exécution :**

	Nombre de sanctions prononcées
Nombre total de sanctions (1+2+3+4+5)	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP
1. Réprimande	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP
2. Suspension	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP
3. Retrait d'une affaire	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP
4. Amende	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP
5. Autre	<input type="checkbox"/> X ] NA <input type="checkbox"/> ] NAP

Commentaires - Si « autre », veuillez préciser. S'il existe une disparité entre le nombre de procédures disciplinaires initiées et le nombre de

sanctions, veuillez en indiquer les raisons : 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. Veuillez indiquer les sources pour les réponses aux questions 186, 187 et 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.Exécution des décisions pénales**

### **8.2.1.Fonctionnement de l'exécution des décisions pénales**

#### **189. Qui est chargé de l'exécution des décisions pénales? (plusieurs options possibles)**

Juge

Procureur

Services pénitentiaire et de probation

Autre autorité (veuillez préciser) :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.

Commentaires - Veuillez préciser ses fonctions et compétences (ex. fonctions d'initiative ou de contrôle). 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. En matière d'amendes prononcées par une juridiction pénale, existe-t-il des études permettant d'évaluer le taux de recouvrement effectif ?**

Oui

Non

Commentaires

## **191. Si oui, quel est le taux de recouvrement ?**

80-100%

50-79%

Moins de 50%

Commentaires - Veuillez indiquer la source ayant permis de répondre à cette question :

## 9. Notaires

### 9.1. Profession de notaire

#### 9.1.1. Nombre et statuts des notaires



192. Si votre pays dispose de notaires, veuillez indiquer leur nombre et leur statut. Sinon, veuillez passer à la question 197.

	Total	Hommes	Femmes
<b>TOTAL (1+2+3+4)</b>	198 <input type="checkbox"/> NA <input type="checkbox"/> NAP	85 <input type="checkbox"/> NA <input type="checkbox"/> NAP	113 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Statut privé (sans contrôle d'une autorité publique)</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
<b>2. Professionnels nommés par l'Etat</b>	198 <input type="checkbox"/> NA <input type="checkbox"/> NAP	85 <input type="checkbox"/> NA <input type="checkbox"/> NAP	113 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Fonctionnaires</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
<b>4. Autre</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

Commentaires - Si « autre », veuillez préciser le statut de ces notaires : 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. Quelles sont les conditions d'accès à la profession de notaire (plusieurs options possibles) :

diplôme

expérience professionnelle/formation professionnelle

examen

procédure de nomination par l'Etat

autre (veuillez préciser): 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).

Commentaires 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. Le mandat des notaires est-il à durée indéterminée (à savoir "à vie" = jusqu'à l'âge officiel de la retraite) ?

oui, veuillez indiquer l'âge de la mise en retraite obligatoire :67

non, veuillez indiquer la durée du mandat : .....

Commentaires - existe-t-il des exceptions (par exemple la révocation à titre de sanction disciplinaire). Veuillez préciser : 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. Quel type de fonctions exercent les notaires (plusieurs réponses possibles):**

dans le cadre de certaines procédure civile (par exemple successions ou partage successoral, divorce par consentement mutuel)

authentification

certification des signatures

contrôle de légalité des documents soumis par les parties

médiation

prestation de serments

autre, par exemple collecter les taxes, tenir des registres (veuillez préciser) :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.

Commentaires 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. Les notaires ont –ils des droits exclusifs dans l'exercice de leurs fonctions :**

dans le cadre de certaines procédure civile (par exemple successions ou partage successoral, divorce par consentement mutuel)

authentification

certification des signatures

contrôle de légalité des documents soumis par les parties

médiation

prestation de serments

autre, par exemple collecter les taxes, tenir des registres (veuillez préciser) :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.



Commentaires - Veuillez apporter toutes précisions utiles concernant le contenu des droits exclusifs des notaires ou, au contraire, des indications sur la concurrence à laquelle ils peuvent être confrontés: 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. Dans quels domaines du droit les notaires ont-ils des compétences (plusieurs réponses possibles) ?**

Transaction immobilière

Droit de la famille

Droit des successions

Droit des sociétés

Contrôle de la régularité des jeux de hasard

Autres

Commentaires

## **194-3. Les notariats utilisent-ils des systèmes numériques spécialisés dans leur activité ?**

Dans l'élaboration d'instruments authentiques

Dans l'enregistrement d'instruments authentiques (archives)

Pour d'autres activités (veuillez préciser) : 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.

Commentaires 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. Existe-t-il un système de supervision et de contrôle de l’activité des notaires ?**

Oui

Non

Commentaires 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://beleznik.org/images/pdf/zakon/pravilnik\\_o\\_nacinu\\_nadzora\\_nad\\_radom\\_jb\\_br\\_i-1-4433-2017.pdf](http://beleznik.org/images/pdf/zakon/pravilnik_o_nacinu_nadzora_nad_radom_jb_br_i-1-4433-2017.pdf).

## **196. Si oui, quelle est l’autorité chargée de superviser et de contrôler les notaires (plusieurs options possibles)?**

une instance professionnelle

le tribunal

le ministère de la Justice

le procureur

autre (veuillez préciser) : .....

Commentaires

### **196-1. Existe-t-il un système de formation continue générale pour les notaires ?**

Oui

Non

Commentaires 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.

## 11. Veuillez indiquer les sources de votre réponse à la 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>.

## 10. Interprètes judiciaires

### 10.1. Précisions sur la profession d'interprète judiciaire

#### 10.1.1. Statuts des interprètes judiciaires

#### 197. Le titre d'interprète judiciaire est-il protégé ?

Oui

Non

Commentaires 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. La fonction d'interprète judiciaire est-elle réglementée par des normes juridiques?

Oui

Non

Commentaires 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. Nombre d'interprètes judiciaires accrédités ou enregistrés :

[            ]

NA

NAP

Commentaires 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. Existe-t-il des critères relatifs à la qualité de l'interprétation dans les tribunaux ?

Oui

Non

Commentaires - Si oui, veuillez préciser (par exemple avoir passé avec succès un examen particulier) :

## 201. Les tribunaux sont-ils responsables de la sélection des interprètes judiciaires ?

Oui, pour les recruter et/ou les nommer pour un mandat d'une certaine durée

Oui, pour les recruter sur une base ad hoc en fonction des besoins d'une procédure spécifique

Non, veuillez préciser quelle autorité est responsable de la sélection Ministry of Justice

Commentaires

## J1. Veuillez indiquer les sources de votre réponse à la question 199

Sources : Ministry of Justice Department for Judicial Professions; Registry of Ministry of Justice; Registry of the Secretariat of AP Vojvodina.

## 11. Experts judiciaires

### 11.1. Profession d'expert judiciaire

#### 11.1.1. Statuts des experts judiciaires

## 202. Dans votre système, quels types d'experts judiciaires peuvent être impliqués dans des procédures judiciaires (plusieurs options possibles):

experts à qui les parties demandent d'apporter leur expertise pour soutenir leur argumentation,

experts nommés par le tribunal pour mettre à la disposition de celui-ci leurs connaissances scientifiques et techniques sur des questions de fait,

«Experts juristes » qui peuvent être consultés par le juge pour des questions de droit spécifiques ou qui ont pour tâche de soutenir le juge dans la préparation du travail judiciaire (mais qui ne participent pas au jugement).

Autre (veuillez préciser) : .....

**202-1. Existe-t-il des listes ou des bases de données d’experts judiciaires agréés ?**

- Oui
- Non

Commentaires - Veuillez fournir tout commentaire utile concernant ces listes ou bases de données d’experts si elles existent (par exemple : l’expert prête-t-il serment ? comment est évaluée sa compétence ? par qui ?) :

**202-2. Qui est responsable de l’enregistrement des experts judiciaires?**

- Le Ministère de la Justice
- Les tribunaux
- Un organisme indépendant (association d’experts judiciaires)
- Autre

Commentaires

**202-3. L'enregistrement des experts judiciaires est-il limité dans le temps ?**

- Oui, pour combien de temps .....
- Non

Commentaires 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. Le titre d’expert judiciaire est-il protégé ?**

- Oui
- Non

Commentaires - Le cas échéant, veuillez indiquer en quoi consiste cette 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. L’expert judiciaire a-t-il une obligation de formation ?**

	Obligation de formation
<b>Formation initiale</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non
<b>Formation continue</b>	<input type="checkbox"/> Oui <input checked="" type="checkbox"/> Non

**203-2. Si oui, cette formation concerne-t-elle :**

- la procédure judiciaire
- le métier de l'expert
- autre

**204. La fonction d'expert judiciaire est-elle réglementée par des normes juridiques?**

- Oui
- Non

Commentaires 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. A l'occasion d'une mission qui lui est confiée, l'expert judiciaire est-il dans l'obligation de signaler ses éventuels conflits d'intérêt ?**

- Oui
- Non

**205. Nombre d'experts judiciaires accrédités ou enregistrés :**

	Total	Hommes	Femmes
<b>Nombre d'experts</b>	6 855		
	<input type="checkbox"/> NA	<input checked="" type="checkbox"/> NA	<input checked="" type="checkbox"/> NA
	<input type="checkbox"/> NAP	<input type="checkbox"/> NAP	<input type="checkbox"/> NAP

Commentaires 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. Qui fixe la rémunération de l'expert ?**

- 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. Existe-t-il des dispositions impératives relatives à l'exercice de la fonction d'expert judiciaire dans le cadre des procédures judiciaires ?**

- Oui

( ) Non

Commentaires - Si oui, veuillez préciser, notamment les délais impartis pour présenter un rapport technique au juge : 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. Nombre d'affaires pour lesquelles une expertise a été ordonnée par un juge ou requise par les parties

	Nombre d'affaires
<b>Total (1+2+3+4)</b>	[ X ] NA [ ] NAP
<b>1.Affaires civiles et commerciales litigieuses</b>	[ X ] NA [ ] NAP
<b>2.Affaires administratives</b>	[ X ] NA [ ] NAP
<b>3.Affaires pénales</b>	[ X ] NA [ ] NAP
<b>4.Autre affaires</b>	[ X ] NA [ ] NAP

Commentaires

## 207. Les tribunaux sont-ils responsables de la sélection des experts judiciaires ?

[ ] Oui, pour les recruter et/ou les nommer pour un mandat d'une certaine durée

[ ] Oui, pour les recruter et/ou les nommer sur une base ad hoc en fonction des besoins d'une procédure spécifique

[ X ] Non, veuillez préciser qui est responsable de cette sélection For appointment - MoJ; for selection in a particular case - parties /court or the authority that conducts the procedure

Commentaires For appointment - Ministry of Justice; for selection in a particular case - parties /court or the authority that conducts the procedure

## 207-1. Le juge contrôle-t-il le déroulement des opérations d'expertises ?

( X ) Oui

( ) Non

Commentaires

**K1. Veuillez indiquer les sources de votre réponse à la 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. Les réformes dans le système judiciaire

### 12.1. Réformes envisagées

#### 12.1.1. Réformes

**208. Pouvez-vous fournir des informations relatives au débat actuel dans votre pays en ce qui concerne le fonctionnement de la justice ? Des réformes sont-elles envisagées ? Veuillez préciser si ces réformes sont en préparation ou si elles ont simplement été envisagées jusqu' alors. Des projets innovants ont-ils été mis en œuvre ? Si possible, respectez les catégories suivantes:**

1. Programmes de réforme généraux 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. Tribunaux et ministère public (par exemple pouvoir et organisation, modifications structurelles -par exemple la réduction du nombre des tribunaux-, gestion et méthodes de travail, technologies de l'information, arriéré judiciaire et efficacité, frais de justice, rénovation et construction de nouveaux bâtiments)

3.1. Accès à la justice et aide judiciaire 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. Conseil supérieur de la magistrature

5. Professionnels de la justice (juges, procureurs, avocats, notaires, agents d'exécution, etc.) : organisation, formation, etc.

6. Réformes en matière civile, pénale et administrative, de conventions internationales et d'actes de coopération

7. Exécution des décisions de justice 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. Médiation et autres mesures alternatives au règlement des litiges 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. Lutte contre la criminalité

### 9.1 Système pénitentiaire

9.2 La justice adaptée aux enfants 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 La violence entre partenaires

## 10. Nouvelles technologies de l'information et de la communication

## 11. Autres