Strasbourg, 30/06/2021

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Part 2

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

HFII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans
"DASHBOARD Western Balkans"

Data collection: 2020

Report prepared by the CEPEJ for the attention of the European Commission

Part 2 (A) - Beneficiary profile - Serbia

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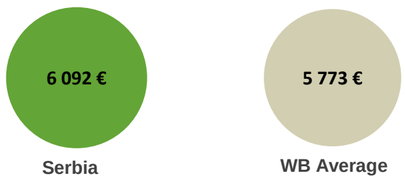
Executive Summary - Serbia in 2020

Population in 2020

GDP per capita in 2020



Average annual salary in 2020

8 471 €

WB Average: **8 067 €**

Budget

In Serbia, it is quite challenging to calculate the budget of the judiciary according to the CEPEJ guidelines. This is because the figure for the budget is provided by several different institutions and it is not clear how all types of expenditures are divided between courts and prosecutor offices. **For this reason, in Serbia only an estimate of the Judicial System Budget** (i.e. the budget for all courts, prosecutor offices and legal aid) **is available.** This budget is then divided between he all courts and prosecution services as follows: 85% to courts and 15% to prosecutor offices. Also, the total budget allocated to all courts is not available but only the sub-categories (salaries, computerisation, court buildings maintenance and investments in new buildings).

In 2020, Serbia spent 279 484 639€ as implemented Judicial System Budget. Thus, it spent **40,21€ per inhabitant, which was higher than the Western Balkans (WB) median** of 37,8€.
Regarding the implemented budget lines for all courts, in 2020 Serbia spent 159 093 547€ for gross salaries (14,7% more compared to 2019), 3 862 302€ for computerisation (-37% less than in 2019), 931 461€ for court buildings' maintenance (20,9% more compared to 2019), and 6 968 091€ for investments in new court buildings (-48,7% less than the previous year).

The amount of budget coming from **external donors** is difficult to calculate. This is because funds are often allocated on projects that last longer than one year and involve not only justice system but also other areas. Furthermore, it is difficult to identify how much is directly or indirectly allocated to courts, prosecutor offices and legal aid. However, Serbia was able to estimate a partial amount of 3 941 467 € provided by external donors.

Legal aid

In Serbia, **the Law on Free Legal Aid (2018) came into force on 1st October 2019.** The Ministry of Justice launched the initial data collection in late January 2020 on the implementation of the Law on Free Legal Aid. In 2020, the total number for cases for which legal aid was granted was 27 965. Thus, the number of legal aid cases per 100 000 inhabitants were 398,4, **which was higher than the Western Balkans (WB) median of 306**.

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).

The Law prescribes that citizens shall address to the local self-government units (hereinafter: LSG) to apply for free legal aid. Staff in LSG decide on the applications pursuant to Articles 4 and 7 of the Law (eligibility). Legal aid is provided by lawyers, as an independent and autonomous service, and legal aid offices established in the units of local self-government in accordance with the law.

Efficiency**

As previously mentioned, **Serbia regularly has the highest number of first instance incoming civil and commercial litigious and criminal cases per 100 inhabitants in the region, well above the WB median. In 2020, the incoming first instance cases were 5,59 per 100 inhabitants vs the WB median of 2,71 for civil and commercial litigious cases, and 25,97 vs 4,49 for criminal cases.** However, the high number of criminal law cases is due to the high number of "other cases", which include criminal enforcement cases.

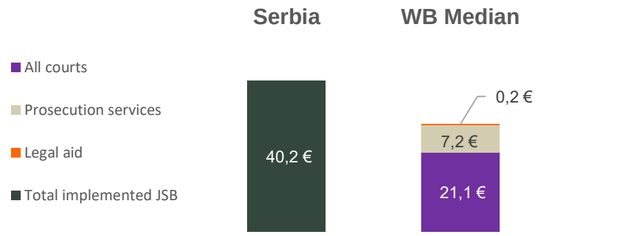
In particular, as regards civil and commercial litigious cases, the incoming cases had been constantly increasing between 2018 and 2020. In addition, in 2020, courts worked with reduced capacities because of the Covid-19 pandemic. This caused the decrease of the number of resolved cases. As a result, the clearance rate (CR) in first instance decreased (from 110% in 2018 to 71% in 2020), while the number of pending cases increased by 46%. Consequently, **the disposition time (DT) more than doubled in two years** (from 225 days in 2018 to 472 in 2020).

Yet, the incoming "non – litigious cases" (in particular "general civil and commercial non-litigious cases"), decreased significantly (-38%) from 2019 to 2020, while the number of resolved cases remained almost the same. Therefore, the number of pending cases at the end of the year decreased as well (-45%). The category "non-litigious cases" also includes enforcement cases. Serbia has enabled a comprehensive disposition of enforcement cases' backlog. 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 Law on Enforcement and Security, which came into force on 1 July 2016. Thanks to this law, all enforcement cases based on an authentic document should be transferred to public enforcement officers. Moreover, systemic measures defined in a special program have been implemented to reduce the enforcement cases' backlog. As consequence, there has been a major change of the number of other non-litigious cases and in 2020, about 240.000 cases were transferred by the courts to the public enforcement officer.

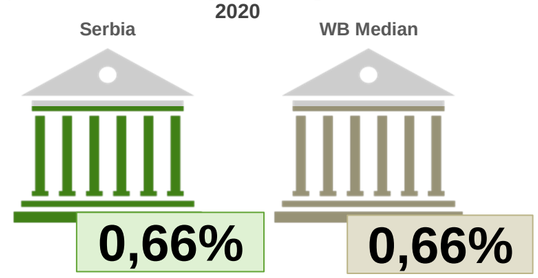
In Serbia, there are quantitative standards both for judges and prosecutors. In particular, judges' performance evaluation is based on monthly caseload quota. **Efficiency is evaluated based on the number of cases actually disposed by a judge over a month against the number of cases they should dispose (monthly caseload quota).**

**The CEPEJ has developed two indicators to measure court's performance: clearance rate and disposition time.
Clearance Rate, obtained by dividing the number of resolved cases by the number of incoming cases, is used to assess the ability of a judicial system to handle the inflow of judicial cases. Its key value is 100%. A value below 100% means that the courts weren't able to solve all the cases they received and, as a consequence, the number of pending cases will increase, while CR above 100% means that the courts have resolved more cases than they received (they have resolved all the incoming cases and part of pending cases) and, as a consequence, the number of pending cases will decrease.
Disposition Time is a proxy to estimate the lengths of proceedings in days. It is calculated as the ratio between the pending cases at the end of the period and the resolved cases (multiplied by 365). It estimates the time to resolve all pending cases based on the actual pace of work. This indicator is highly influenced by the number of pending cases: categories of cases with high backlog will have higher DT than categories of cases that do not have backlog. At the same time, it is affected by the number of resolved cases, and this is especially evident in 2020, when this number dropped.

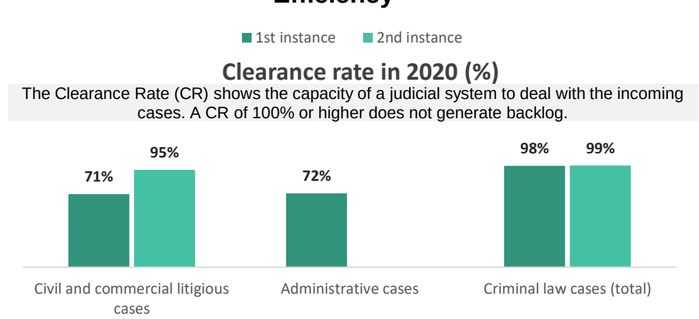
Budget of the Judiciary

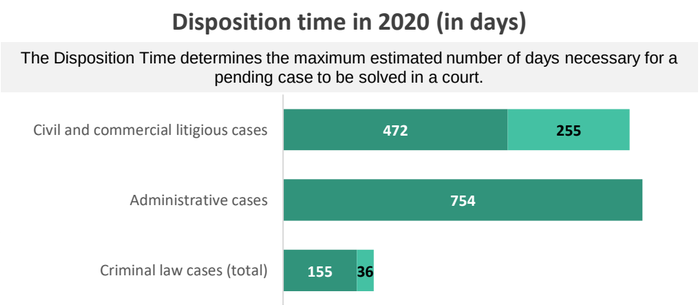


Implemented Judicial System Budget as % of GDP in 2020



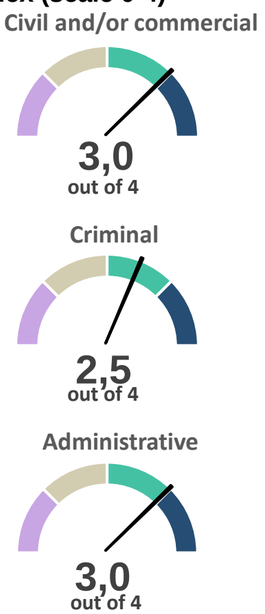
Efficiency





CMS index (scale 0-4)

Case management system (CMS) Index is an index 0 to 4 points calculated based on several questions on the features and deployment rate of the of the case management system of the courts of the respective beneficiary.
The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points for the 4 of the 5 questions apart of the deployment rate question are summarized and the deployment rate is multiplied as a weight. In this way if the system is not fully deployed the value is decreased even if all features are included to provide adequate evaluation.



Electronic case management system and court activity statistics

As regards the Caseload Management System CMS, the current CMS was developed more than 10 years ago. A procedure for awarding a contract for the implementation of a new Centralised CMS is underway. The scope of the contract covers the necessary hardware and software infrastructure, software solution, training, maintenance and support to migrate from and replace two software systems currently in use in the Judiciary. The CMS index for Serbia is slightly higher than the WB average for civil/commercial and administrative area (3 for each type of cases versus 2.9) and lower for criminal cases (2,5 vs 2,9).

Training

In 2020, the total number of available in-person training courses was 146; whereas the number of available online training courses was 42. Both figures were the same as the Western Balkans (WB) median. Regarding the training in EU law, the available in-person courses were 17 (while there were no online courses available). Serbia had 1 day of delivered in-person training courses in EU law and a total of 5 judges participated to these courses. There was no data available regarding this type of training courses organised within the framework of co-operation programmes.

Regarding the training in EU Charter of Fundamental Rights / European Convention on Human Rights, the available in-person courses were 9 (while there were no online courses available). Serbia had 4 days of delivered in-person training courses and a total of 5 judges participated to these courses. There was no data available regarding this type of training courses organised within the framework of co-operation programmes.

ADR

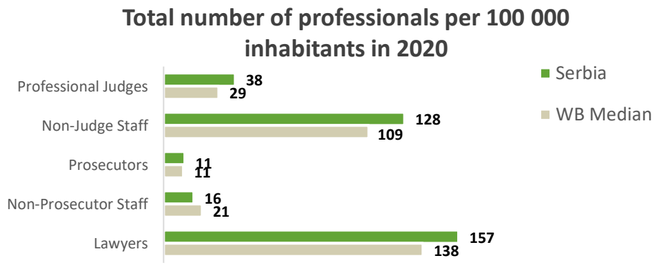
Generally speaking, ADR and mediation in particular are not well developed in the Western Balkans region. However, **the number of mediators in Serbia is significantly large (21,1 mediators per 100 000 inhabitants, whereas WB median is 5,4 mediators per 100 000 inhabitants). This is because of the increased interest of citizens in performing the work of mediators.**

In Serbia, court-related mediation procedures are available and legal aid ould be granted. The judicial system provides for mandatory mediation with a mediator before or instead of going to court. This can be ordered by the court, the judge, the public prosecutor or a public authority in the course of a judicial proceeding. However, there are no mandatory informative sessions with a mediator. In 2020, there were in total 498 cases for which the parties agreed to start mediation.

ECHR

In 2020, the applications pending before a European Court on Human Rights decision body for Serbia were 1 348 (30% more than the previous year). The judgements by the ECHR finding at least one violation for Serbia were 4; whereas they were 22 in 2019.

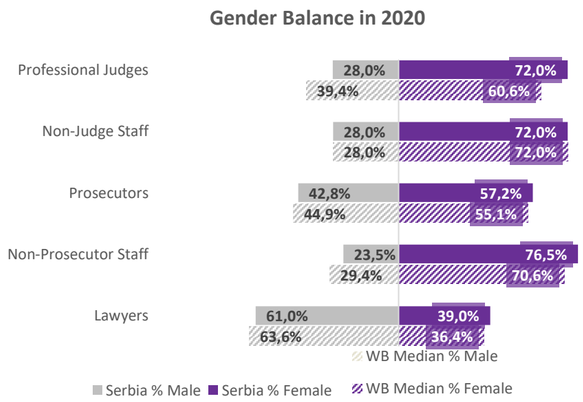
Professionals of Justice



Kosovo is not included in the calculation of summary statistics*

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Gender Balance



Professionals and gender

Eastern European countries traditionally have a very high number of professionals per inhabitants. Serbia confirms this tendency, having more judges (38,1 per 100 000 inhabitants) and more prosecutors (11,3 per 100 000 inhabitants) than the WB median (30,4 and 10,5 respectively).

This difference was particularly notable in the first instance: **33 judges per 100 000 inhabitants, whereas the WB median was 23 judges per 100 000 inhabitants**. The high number of judges and prosecutor is related to the high number of incoming cases. Serbia had indeed the highest number of incoming first instance civil/commercial litigious and criminal cases per 100 inhabitants in the region. Furthermore, the first instance Administrative court's judges deal not only with administrative disputes, but also with other duties determined by law.

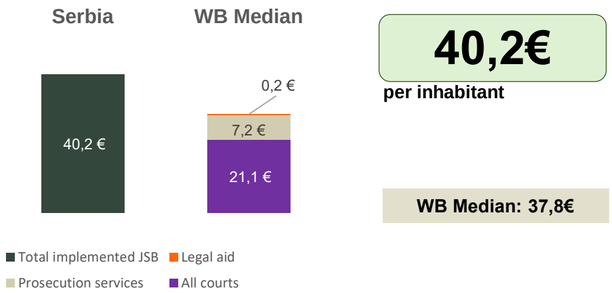
In proportion, there are less judges in second and third instance: 4,6 judges per 100 000 inhabitants in second instance (WB median is 6) and 0,6 judges in third instance (WB median is 1,6). Consequently, the number of non-judge staff is higher than the WB median in first instance (128 per 100 000 inhabitants vs 109) and lower in second and third (10,2 and 2,9 vs 12,4 ad 3,6). The majority of non-judge staff was assisting judges and represented 42,5% of the total.

As regards gender balance, **the percentage of female judges, prosecutors and staff was higher than the WB median in 2020**. It was particularly high for professional judges (72% of female judges (total) vs the WB median of 60,6%) and for non-prosecutor staff (76,5% of female staff vs WB median of 70,6%). For prosecutors, a diminution of the percentage of female can be observed from first to third instance, (from 58,1% to 49,4%) whereas there was an increase for non-judge staff from 69% in first instance to 71,5% in second instance. 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 a General Recommendation on Equality Measures to all courts in Serbia, with respect to the promotion of non-judge staff.

Compared to the national average salary, in 2020 judges received a lower salary than the WB median especially at the end of career (Serbian judges received 3,5 times the national salary, whereas WB median was 4,6 times). The prosecutors' salaries coincided with the WB median both at the beginning and at the end of career.

Budget of the judiciary in Serbia in 2020 (Indicator 1)

Implemented Judicial System Budget per inhabitant

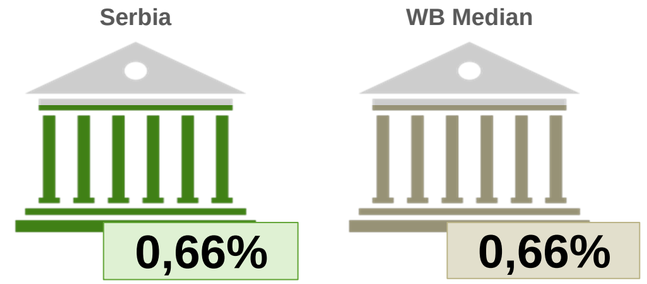


40,2€

per inhabitant

WB Median: 37,8€

Implemented Judicial System Budget as % of GDP



% Variation of Implemented JSB between 2019 and 2020

-8,1%

compared to 2019

JSB = Judicial System Budget

In Serbia only an estimate of the Judicial System Budget (JSB) is available. The Judicial System Budget is composed by the budget for all courts, public prosecution services and legal aid. In 2020, the implemented JSB for Serbia was 40,2 per inhabitant. This was higher than the Western Balkans (WB) median (37,8). It represented 0,66% of the GDP of Serbia (the same as the WB median), and it decreased by -8,1% since 2019.

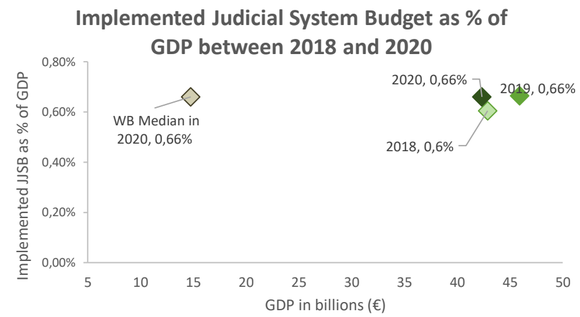
• Budget allocated to the judicial system (courts, prosecution services and legal aid)

In 2020, Serbia spent 279 484 639€ as implemented judcial system budget. This means that Serbia spent 40,21€ per inhabitant, more than the Western Balkans median of 37,8€.
Compared to 2019, Serbia has spent -8,1% less in implemented judicial system budget in 2020.

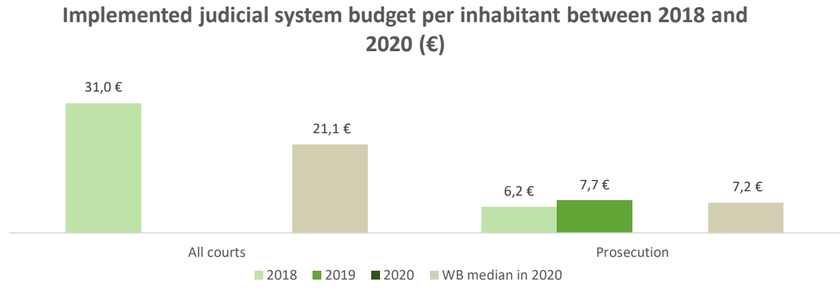
Judicial System Budget	Judicial System Budget in 2020		Implemented Judicial System Budget per inhabitant				Implemented Judicial System Budget as % of GDP			
	Approved	Implemented**	Per inhabitant	WB Median	% Variation 2018 - 2020	% Variation 2019 - 2020	As % of GDP	WB Median	Variation (in ppt) 2018 - 2020	Variation (in ppt) 2019 - 2020
Total	299 146 909 €	279 484 639 €	40,2 €	37,8 €	8,0%	-8,1%	0,66%	0,66%	0,06	0,00
All courts	NA	NA	NA	21,1 €	-	NA	NA	0,41%	NA	NA
Prosecution	NA	NA	NA	7,2 €	NA	NA	NA	0,15%	NA	NA
Legal aid	6 000 000 €	NA	NA	0,2 €	NA	NA	NA	0,003%	NA	NA

**The total implemented Judicial System Budget includes is an estimate

PPT = Percentage points



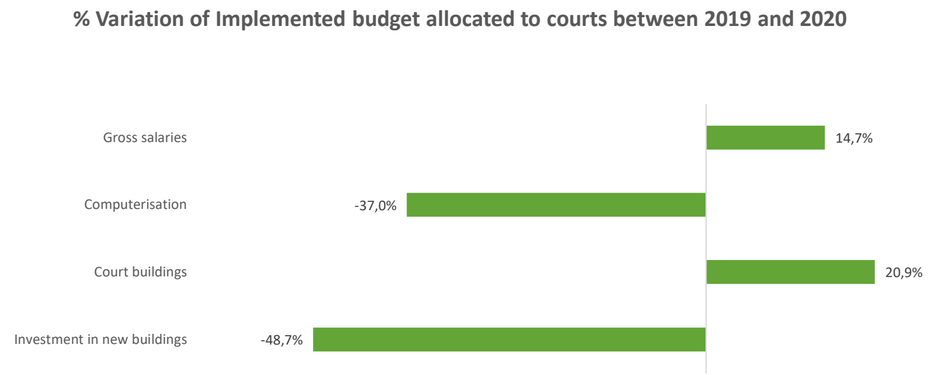
In 2020, total annual approved public budget allocated to legal aid was 6 million EUR. Nevertheless, due to COVID 19 and the fact that the budget was not spent during that budgetary year, there have been some adjustments to the total amount for cases brought to court (court fees and/or legal representation) and for cases not brought to court (legal advice, ADR and other legal services).
Serbian law stipulates funding from the state budget and local self-government budget for cases brought to court (court fees and/or legal representation), as well as for mediators and public notaries as providers of free legal aid. These cases are funded 50% from the state budget and 50% from local self-government budget. The actual payment takes place following the completion of a certain phase of the proceedings. Given that the law started implementation on October 1st 2019, most cases brought to court have not yet been finalized.



• Budget allocated to the functioning of all courts

The figure for the total budget allocated to all courts is not available for 2020. Regarding the implemented budget for all courts, in 2020 Serbia spent 159 093 547€ for gross salaries (14,7% more compared to 2019), 3 862 302€ for computerisation (-37% less than in 2019), 931 461€ for court buildings (20,9% more compared to 2019), and 6 968 091€ for investments in new buildings (-48,7 less than the previous year).

	2020		% Variation between 2018 and 2020		% Variation between 2019 and 2020	
	Approved budget	Implemented budget	Approved budget	Implemented budget	Approved budget	Implemented budget
Total	NA	NA	NA	NA	NA	NA
Gross salaries	165 799 946 €	159 093 547 €	30,4%	26,0%	18,2%	14,7%
Computerisation	5 734 733 €	3 862 302 €	49,0%	7,3%	-21,7%	-37,0%
Justice expenses	NA	NA	NA	NA	NA	NA
Court buildings	1 185 080 €	931 461 €	8,2%	19,3%	36,2%	20,9%
Investment in new buildings	7 540 019 €	6 968 091 €	-15,1%	-20,4%	-48,1%	-48,7%
Training	NAP	NAP	NAP	NAP	NAP	NAP
Other	NA	NA	NA	NA	NA	NA



Discrepancies from the previous cycle in implemented budget for computerization, approved and implemented budget in new court buildings and approved budget for buildings' maintenance are not explained.

Other expenses include funds related to compensation of expenses for civil servants and employees (ex. costs of travel), jubilee awards, improving the material position of employees (stimulation). Court buildings maintenance and other expenses are 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.

The amounts which the High Judicial Council and the MoJ transfer to the courts for various items also come from court fees. The budget system of RS provides for unified collection of court fees, which are all paid to one account. The collected court fees are a revenue of the Republic of Serbia, from which 40% is allocated to the High Judicial Council for current expenses of the courts (excluding staff) and 20% is allocated to the Ministry of Justice to improve the financial situation of employees in the courts and the public prosecutors' offices who are court staff and the staff of the Public Prosecutor's Office, other expenditures as well as investments in accordance with the law.

• Budget received from external donors

	Absolute value	Calculated as %	In percentage (%)
All courts	NA	NA	NA
Prosecution services	NA	NA	NA
Legal aid	NA	NA	NA
Whole justice system	3 941 467 €	NA	NA

EU projects can only present data from financial reports adopted by the Audit / Control, and the reporting period does not coincide necessarily with the calendar year. Namely, the reports are submitted every 6 months and the reporting periods goes from 1st of November to 31st March, and from 1st April to 31st October.
Projects are mostly implemented under the direct management modality (IPA), i.e. the donors themselves manage their funds - they are not paid into the budget and the MoJ/State does not have insight into the funds spent, nor has the budgetary data ever been collected as requested in the Questionnaire. The MoJ will look into modalities of gathering reliable data for the following evaluation cycle. Data for the period running from 1 November 2020 will be known at the end of that period (March 2021), upon adoption by the Audit.
Here follows a list of projects for which it is not possible to separate specific implemented budget allocated to the justice system.
Within the Component 3 of IPA 2013 project, which dealt with corruption repression, joint trainings for prosecution, courts, MoJ and other state authorities were organized. USDOJ / OPDAT was organized joint trainings for prosecution, courts and MoJ, and it is not possible to divide cost for each institution. Also, certification courses for fraud and money laundering (82 454 €) were organised for representatives of different state authorities (MoI, prosecution, etc.).
Within the item "donation of equipment and vehicles" (total amount of 250 393 €), there is donation to the Main Group for fighting human trafficking that consist of MoJ, Prosecution for organized crime, where is not possible to divide costs (41 458 €), as well as donation of equipment and vehicles for Specialized departments for suppression of corruption, which is only dedicated to the prosecution (208 935 €).
USAID GAI noted that there is no possibility to divide budget per institutions for 2019 and 2020, and that part of activities is being implemented with funding from other donors. OEBS organized joint trainings for courts, prosecution and MoI, and the implemented budget is not possible to divide. OEBS Project Strengthening capacities of Serbian police in a fight against corruption, Phase 2 is primarily supported MoI, but joint trainings for MoI and prosecution were organized.
Council of Europe Project Preventing money laundering and financing of terrorism in Serbia has been officially started 2020, but for the objective circumstances, implementation of activities started in November 2020. Within this period, implementation of activities started with other beneficiary institution's, and support to the RPPO is planned for 2021.

Kosovo is not included in the calculation of summary statistics

Professionals and Gender Balance in judiciary in Serbia in 2020 (Indicators 2 and 12)

Judges

38,1

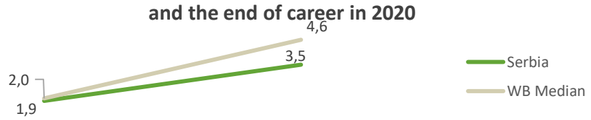
per 100 000 inhabitants

-1,8%
compared to 2019

WB Median: 30,4

72% female judges (total)

Judges - Ratio with the annual gross salary at the beginning and the end of career in 2020



Prosecutors

11,3

per 100 000 inhabitants

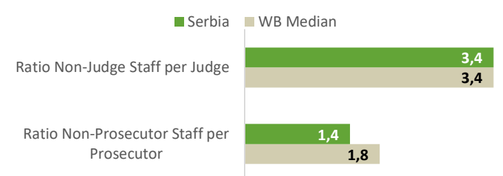
+ 0,30%
compared to 2019

WB Median: 10,5

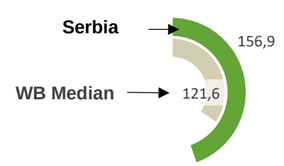
57% female prosecutors (total)

Prosecutors - Ratio with the annual gross salary at the beginning and the end of career in 2020

Non-Judge and Non-Prosecutor staff



Lawyers per 100 000 inhabitants



+ 3,9%
compared to 2019

In 2020, Serbia had 38,1 professional judges per 100 000 inhabitants and 11,3 prosecutors per 100 000 inhabitants. Both figures were above the Western Balkans (WB) median of 30,4 and 10,5, respectively. More than half of professional judges were women (WB median was 60,6%), as well as the percentage of female prosecutors (the WB median was 55,1%).

• Professional Judges

	Professional judges			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	2 649	100,0%	38,1	30,4
1st instance courts	2 289	86,4%	32,9	22,7
2nd instance courts	318	12,0%	4,6	6,0
Supreme Court	42	1,6%	0,6	1,6

For reference only: the 2019 EU median is 24,5 judges per 100 000 inhabitants.

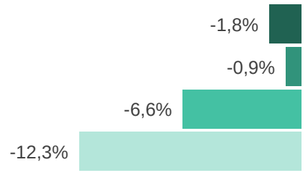
The absolute number of professional judges in Serbia in 2020 was 2 649, which was 38,1 per 100 000 inhabitants (higher than WB median of 30,4).

Compared to 2019, the number of professional judges decreased by -1,8%.

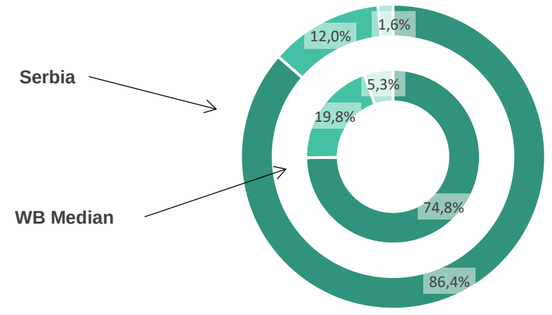
The figures show a difference of -11,6 percentage points between the percentage of judges in the first instance (86,4%) and the WB median (74,8%). In proportion, there are less judges in second and third instance. This is because "higher" courts judges, who deal with both 1st and 2nd instance cases, were counted under 1st instance.

The number of first instance professional judges includes indeed judges of “basic” courts, “higher” courts, misdemeanor courts, commercial courts, Administrative Court;
The number of second instance professional judges include judges of Commercial Court of Appeal, appellate courts, Misdemeanor Court of Appeal;
The number of supreme court professional judges includes 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.

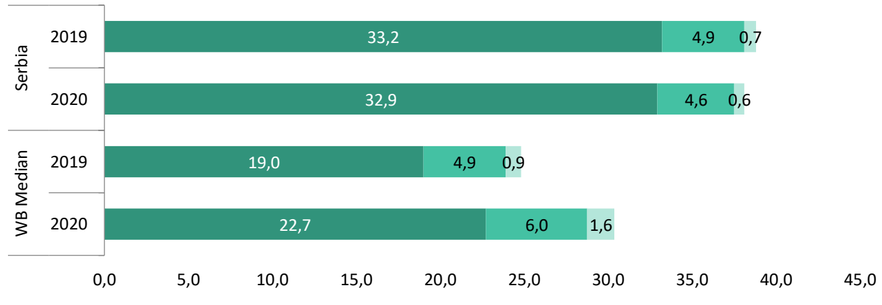
% Variation of no. of professionaljudges per 100 000 inh. 2019 - 2020



Distribution of professional judges by instance in 2020 (%)



Distribution of professional judges per 100 000 inhabitants by instance in 2019 and 2020



• Non-judge staff

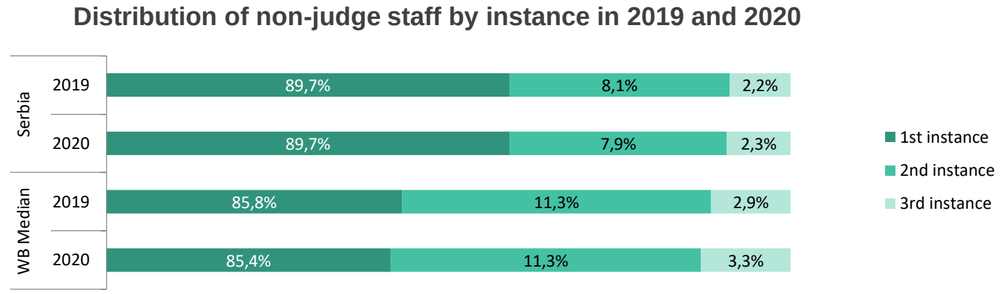
The total number of non-judge staff in Serbia was 8 909, which increased by 2,2% between 2019 and 2020. Thus, the number of non-judge staff per 100 000 inhabitants was 128,2, which was above WB median of 109,1.

In 2020, there is no significant variation in the distribution of non-judge staff among instances compared to 2019.

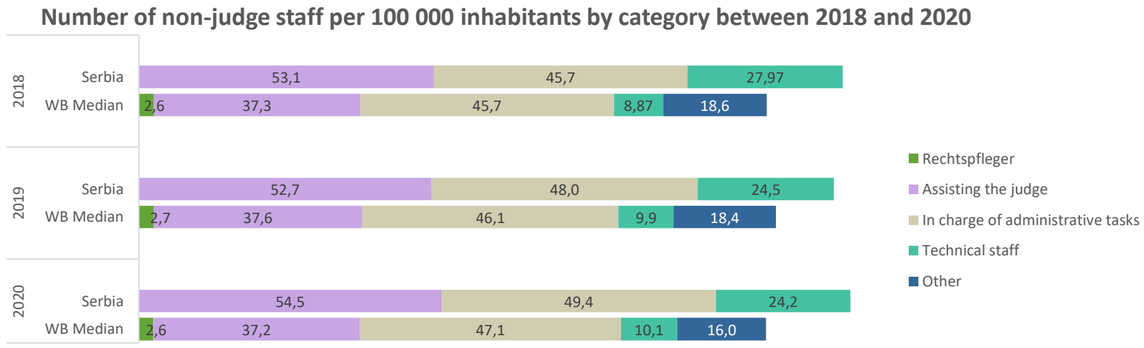
The highest number of non-judge staff are assisting judges, which represent 42,5% of the total.

	Number of non-judge staff by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	8 909	100,0%	128,2	109,1
1st instance courts	7 994	90%	115,0	93,2
2nd instance courts	708	8%	10,2	12,4
Supreme Court	207	2%	2,98	3,56

For reference only: the 2019 EU median is 57,5 non-judge staff per 100 000 inhabitants.



	Number of non-judge staff by category			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	8 909	100,0%	128,2	109,1
Rechtspfleger	NAP	-	NAP	2,6
Assisting the judge	3 790	42,5%	54,5	37,2
In charge of administrative tasks	3 435	38,6%	49,4	47,1
Technical staff	1 684	18,9%	24,2	10,1
Other	NAP	NAP	NAP	16,0

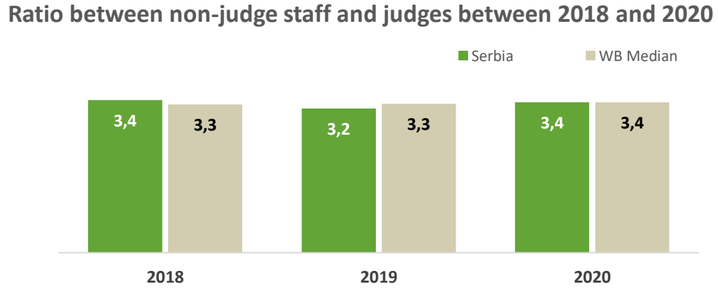


• Ratio between non-judge staff and professional judges

In Serbia, the ratio of non-judge staff per professional judge was 3,4 in 2020, the same as the WB median. This has not changed since 2018.

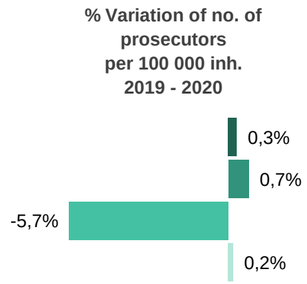
	Ratio in 2020		% Variation between 2019 and 2020	
	Serbia	WB Median	Serbia	WB Median
Total	3,4	3,4	4,2%	1,0%
1st instance courts	3,5	3,8	3,3%	-0,9%
2nd instance courts	2,2	2,7	8,1%	14,9%
Supreme Court	4,9	3,4	21,9%	-1,7%

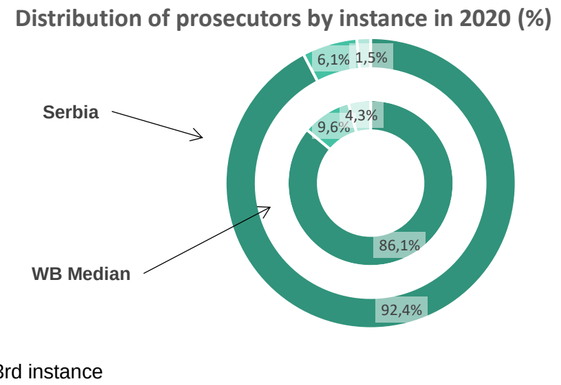
For reference only: the 2019 EU median ratio of non-judge staff per judge is 3,3 .



Prosecutors

	Number of prosecutors by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	785	100,0%	11,3	10,5
1st instance courts	725	92,4%	10,4	9,6
2nd instance courts	48	6,1%	0,7	1,1
Supreme Court	12	1,5%	0,2	0,5





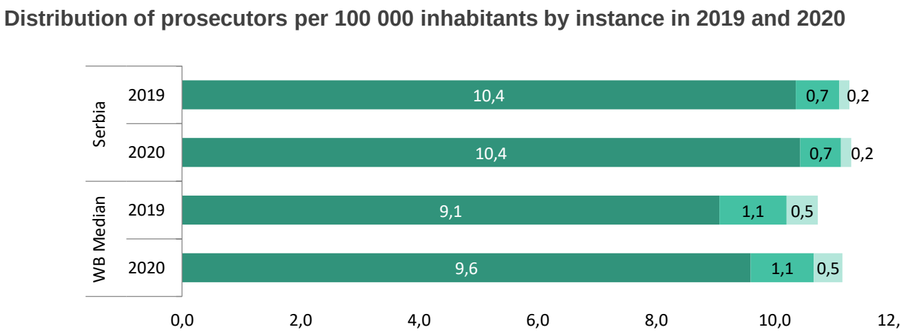
In 2020, the absolute number of prosecutors in Serbia was 785, which was 11,3 per 100 000 inhabitants (slightly higher than WB median of 10,5).

The total number of prosecutors increased by 0,3% between 2019 and 2020.

The figures show a difference of 6,3 percentage points between the percentage of prosecutors in the first instance (92,4%) and the WB average (86,1%)

The data represents the total number of deputy public prosecutors working in the position of public prosecutor.

Number of prosecutors at first instance level:
1. Basic public prosecutor's offices: total 476; males: 186; females: 290
2. Senior public prosecutor's offices: total 226; males 102; females 124
3. Prosecution for organized crime: total 13; males 10; females 3
4. Prosecution for war crimes: total 10; males 6; females 4



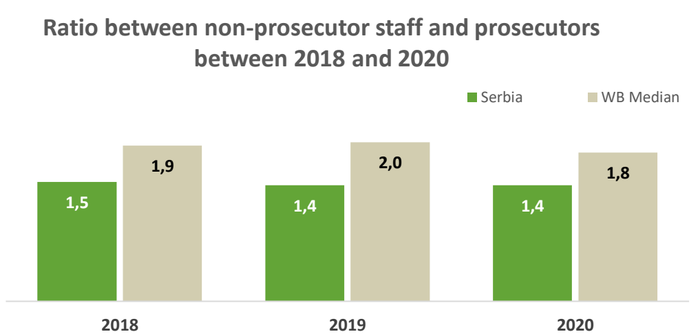
Non-prosecutor staff and Ratio between non-prosecutor staff and prosecutors

	Non-prosecutor staff in 2020			Ratio between non-prosecutor staff and prosecutors in 2020		% Variation of the ratio between 2019 and 2020	
	Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhab.	Serbia	WB Median	Serbia	WB Median
Total	1 117	16,1	20,5	1,4	1,8	-0,1%	-6,5%

In 2020, the total number of non-prosecutor staff in Serbia was 1 117, which decreased by -0,1% compared to 2019.

The number of non-prosecutor staff per 100 000 inhabitants was 16,1, below WB median of 20,5

The ratio of non-prosecutor staff per prosecutor was 1,42, which was significantly lower than WB median of 1,8.

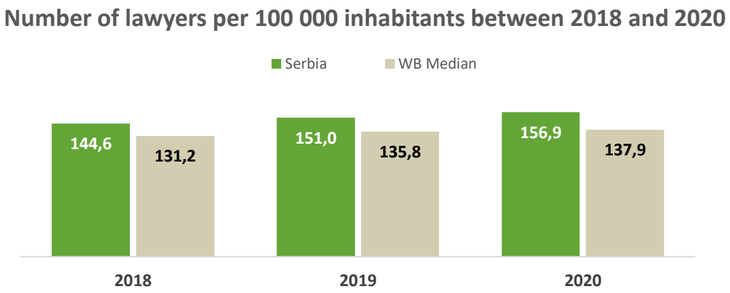


• Lawyers

	Number of lawyers			% Variation between 2019 and 2020	
	Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhabitants	Serbia	WB Median
Total	10 905	156,9	137,9	3,9%	1,6%

For reference only: the 2019 EU median is 121,3 lawyers per 100 000 inhabitants.

In 2020, the number of lawyers was 156,9 per 100 000 inhabitants, which was higher than the WB median (137,9).The number of lawyers increased by 3,9% between 2019 and 2020.



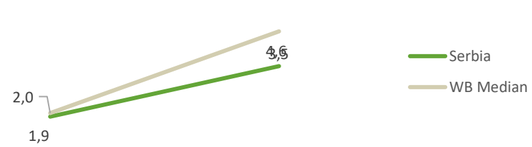
• Salaries of professional judges and prosecutors

In 2020, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Serbia was 1,9, which was slightly lower than the WB median (2,0).
At the end of career, judges were paid more than at the beginning of career by 83%, which was less than the variation of the WB median (127%).
In 2020, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Serbia was 2,2, the same as the the WB median.
At the end of career, prosecutors were paid more than at the beginning of career by 51,9%, the same as the variation of the WB median.

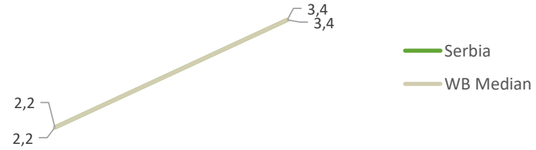
		Salaries in 2020 (Q15)				% Variation of Gross Salary between 2019 and 2020	
		Gross annual salary in €	Net annual salary in €	Ratio with the annual gross salary	WB Median Ratio with the annual gross salary	Serbia	WB Median
Professional judge	At the beginning of his/her career	16 277	11 410	1,9	2,0	-7,0%	-5,0%
	Of the Supreme Court or the Highest Appellate Court	29 788	20 882	3,5	4,6	-27,1%	-27,1%
Public prosecutor	At the beginning of his/her career	18 961	14 094	2,2	2,2	-0,1%	-0,1%
	Of the Supreme Court or the Highest Appellate Court	28 801	20 190	3,4	3,4	-17,9%	-11,5%

For reference only: the 2019 EU median for the ratio of judges and prosecutors' salaries with average gross annual national salary is:
- professional judges' salary at the beginning of career: 2,02
- professional judges' salary at the end of career: 4,1
- prosecutors' salary at the beginning of career: 1,77
- prosecutors' salary at the end of career: 3,57

Judges - Ratio with the annual gross salary at the beginning and the end of career in 2020



Prosecutors - Ratio with the annual gross salary at the beginning and the end of career in 2020



For judges, salary at the beginning of career is the actual salary received by a judge in the first instance basic court after 5 years' experience. Salary at the end of career is the salary received at the Supreme Court of Cassation, calculating an average of 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.
For prosecutors, the average salary for a basic public prosecutor is given as salary as beginning of career. Salary at the end of career is the average salary for the deputy State Prosecutors, who also receive an increase of the basic salary of 30%.

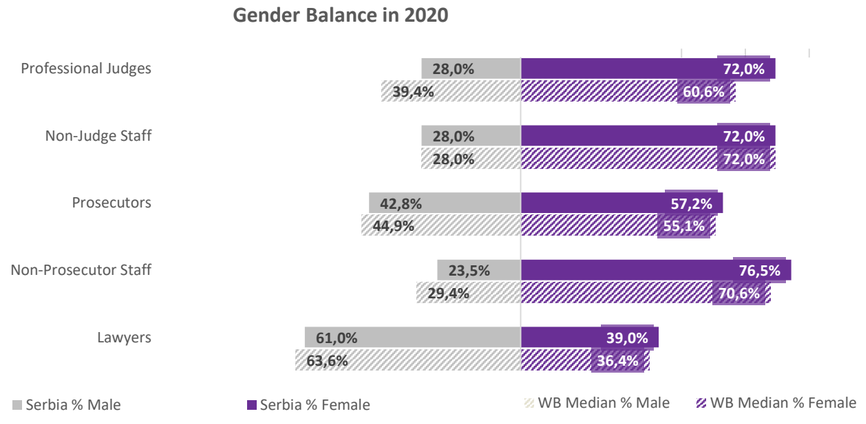
Additional benefits and bonuses for professional judges and prosecutors

	Reduced taxation	Special pension	Housing	Other financial benefit	Productivity bonuses for judges
Judges	✗	✗	✓	✗	✗
Prosecutors	✗	✗	✓	✗	

High ranking pp's and judges (ex. SCC, appellate) have the possibility to receive partial reimbursement of housing costs if they have been appointed to a court which is not in their place of domicile (ex. an appellate court judge from Novi Sad appointed to the Supreme Court of Cassation in Belgrade will receive additional compensation for the additional housing expense). Likewise, members of the HJC and SPC, judges and pp's who are not from Belgrade receive the compensation.

Gender Balance

	Total number per 100 000 inh.	% Female	WB Median	Variation of % females between 2019 and 2020 (percentage points)	
				Serbia	WB Median
Professional Judges	38,1	72,0%	60,6%	0,1	0,3
Non-Judge Staff	128,2	72,0%	72,0%	0,6	0,2
Prosecutors	11,3	57,2%	55,1%	0,8	1,9
Non-Prosecutor Staff	16,1	76,5%	70,6%	0,0	-1,4
Lawyers	156,9	39,0%	36,4%	3,0	1,3



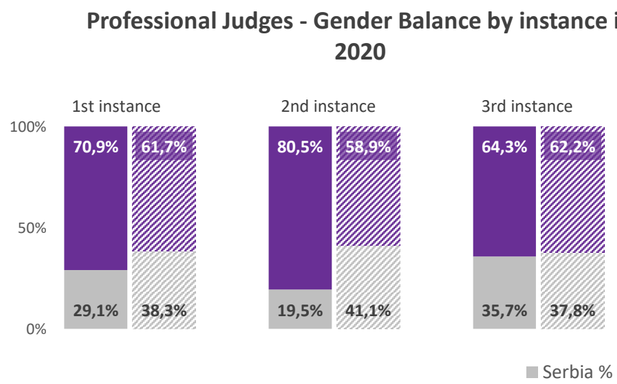
In 2020, the percentage of female judges was 72%, which was higher than WB median (60,6%). Moreover, the percentage of female non-judge staff was 72%.

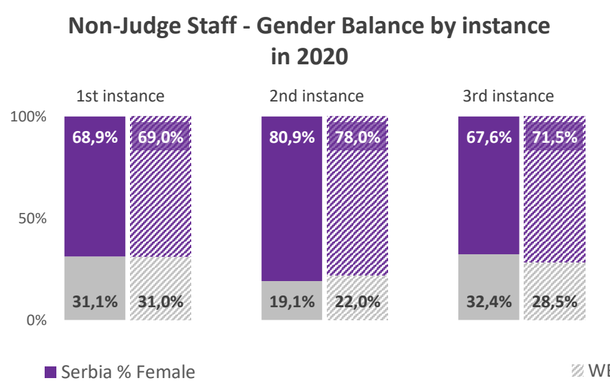
Also, in 2020, the percentage of female prosecutors was 57,2%, which was higher than WB median (55,1%). Moreover, the percentage of female non-prosecutor staff was 76,5%.

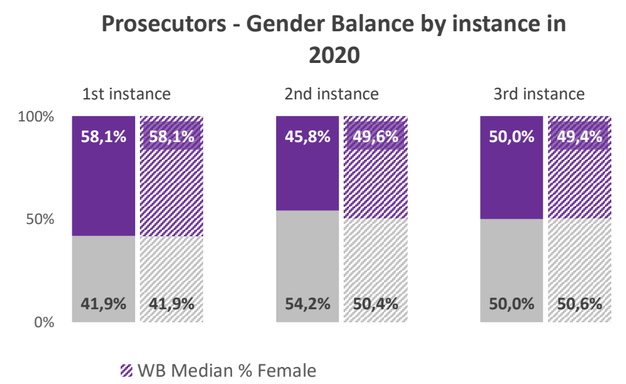
Finally, the percentage of female lawyers was 39%, which was higher than WB median (36,4%).

Lawyers is the only category where less than 50% of professionals are female.

	% Female Professional Judges		% Female Non-Judge Staff		% Female Prosecutors	
	Serbia	WB Median	Serbia	WB Median	Serbia	WB Median
1st instance courts	70,9%	61,7%	68,9%	69,0%	58,1%	58,1%
2nd instance courts	80,5%	58,9%	80,9%	78,0%	45,8%	49,6%
Supreme Court	64,3%	62,2%	67,6%	71,5%	50,0%	49,4%







For prosecutors, a diminution of the percentage of female can be observed from first to second instance, whereas it is an increase for non-judge staff.

Gender Equality Policies

	Recruitment		Promotion		Surveys or reports on national level, related to the male / female distribution	Person / institution specifically dedicated to ensure the respect of gender equality on institution level
	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level		
Judges	✗	✗	✗	✗	✓	✗
Prosecutors	✗	✗	✗	✗	✓	✗
Non-judge staff	✗	✗	✗	✓	✓	✗
Lawyers	✗		✗		✓	
Notaries	✗		✗		✓	
Enforcement agents	✗		✗		✓	

In Serbia there is no national programme or orientation document to promote gender equality.

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.
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 (http://ravnopravnost.gov.rs/preporuka-mera-za-ostvarivanje-ravnopravnosti-sudovima-cir/). 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.

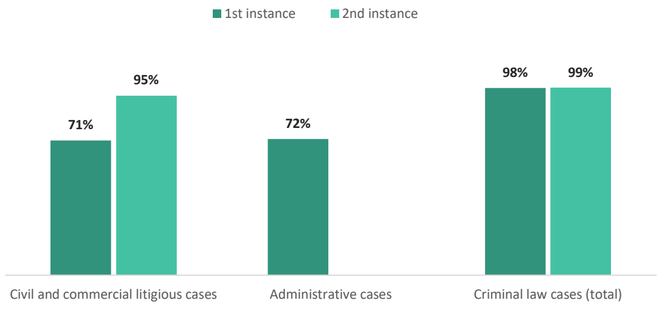
Statistics on the distribution males/females within the judicial system are gathered yearly. It would be useful to note that the statistics of gender equity in employment in Serbian judiciary is considered generally appropriate, as the „Serbia Judicial Functional Review" (Multi-Donor Trust Fund for Justice 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.

Kosovo is not included in the calculation of summary statistics

Efficiency in Serbia in 2020 (Indicators 3.1 and 3.2)

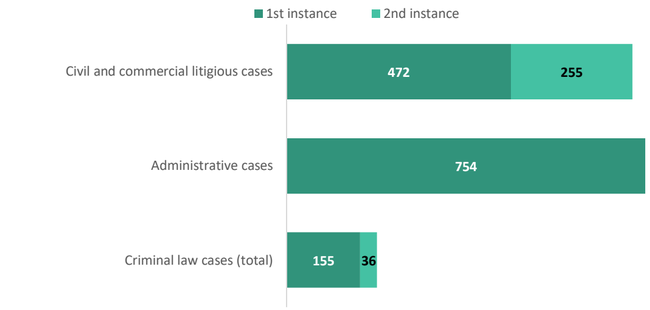
Clearance rate in 2020 (%)

The Clearance Rate (CR) shows the capacity of a judicial system to deal with the incoming cases. A CR of 100% or higher does not generate backlog.

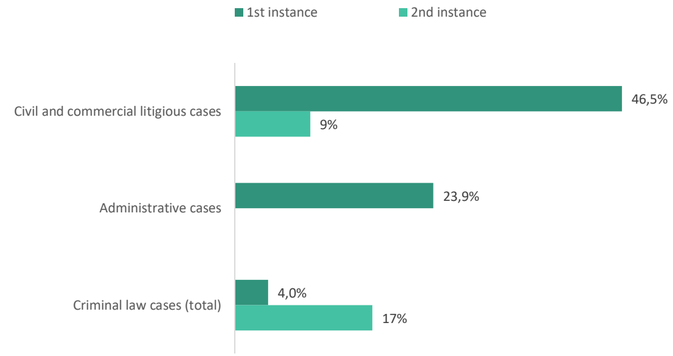


Disposition time in 2020 (in days)

The Disposition Time determines the maximum estimated number of days necessary for a pending case to be solved in a court.



Pending cases at the end of year - Variation between 2019 ad 2020 (%)



In 2020, the highest Clearance rate (CR) for Serbia is for the second instance total Criminal law cases, with a CR of 98,6%. However, it seems that Serbia was struggling to deal with the first instance Civil and commercial litigious cases (CR of 70,9%). With a Disposition Time of approximately 36 days, the second instance total Criminal law cases were resolved faster than the other type of cases.

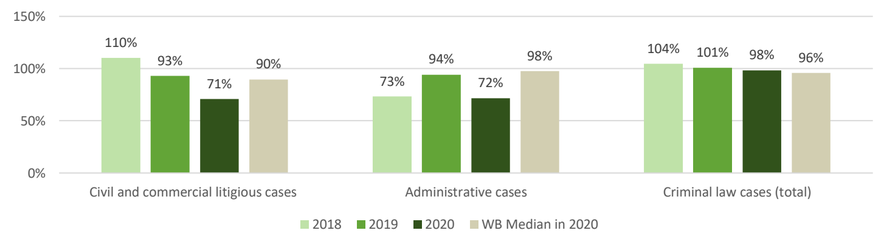
Compared to 2019, the pending cases at the end of year increased for the first instance Civil and commercial litigious cases (46,5%), whereas they increased for the first instance total Criminal law cases only by 4%.

From 2019 to 2020, a decrease in the Clearance Rate (lower than 100% in all categories and instances) and, consequently, an increase in the Disposition Time can be noticed. The clearance rate is particularly low as regards civil and commercial litigious cases (71%) and administrative cases (72%) in first instance. In 2020, for these two categories of cases, in first instance the DT was higher than the median (472 days vs 366 for civil and commercial litigious cases, 754 days vs 424 for administrative cases).

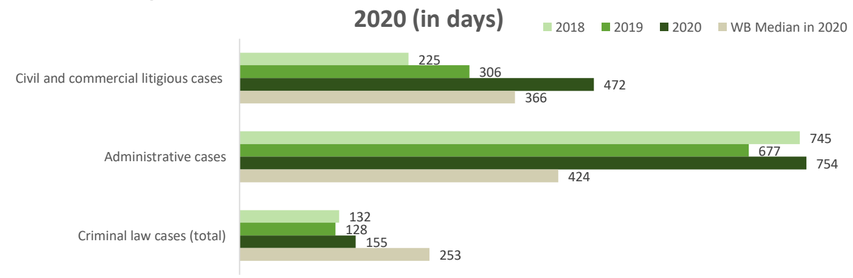
The DT for criminal cases, both in first and second instance, was lower than the median.

First instance cases

Clearance rate for first instance cases between 2018 and 2020 (%)

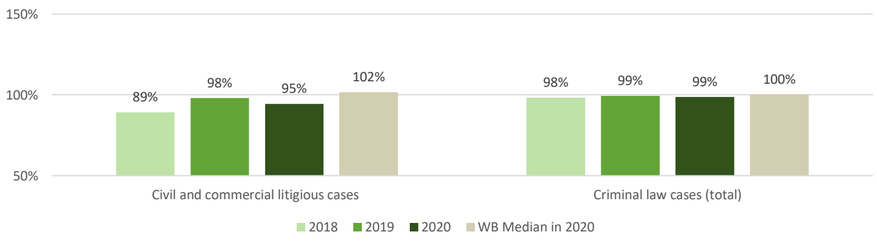


Disposition time for first instance cases between 2018 and 2020 (in days)

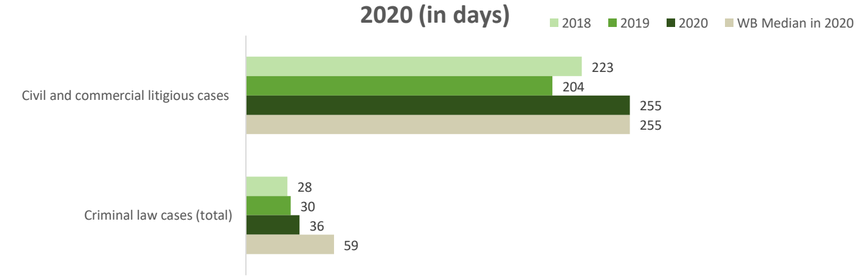


Second instance cases

Clearance rate for second instance cases between 2018 and 2020 (%)



Disposition time for second instance cases between 2018 and 2020 (in days)



• First instance cases - Other than criminal law cases

1st instance		2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
		Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)		969 626	1 152 668	783 844	372 170	118,9%	104,4%	248	269	13,9	16,6	11,3	5,4	-20,0%	-9,4%	-18,9%	-39,4%	13,9	-10,5%
1	Civil and commercial litigious cases	388 459	275 439	355 838	57 933	70,9%	89,6%	472	366	5,6	4,0	5,1	0,8	24,4%	-5,0%	46,5%	19,0%	-22,0	54,3%
2	Non-litigious cases**	437 467	741 093	378 084	304 020	169,4%	100,3%	186	161	6,3	10,7	5,4	4,4	-37,0%	-4,7%	-44,5%	-45,6%	57,3	-41,8%
3	Administrative cases	32 469	23 229	47 985	9 818	71,5%	97,6%	754	424	0,5	0,3	0,7	0,1	46,6%	11,3%	23,9%	62,9%	-22,7	11,3%
4	Other cases	111 231	112 907	1 937	399	101,5%	97,3%	6	195	1,6	1,6	0,03	0,01	-39,4%	-38,7%	-46,4%	-20,0%	1,1	-12,5%

PPT = Percentage points

** Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

For reference only: for the first instance Civil and Commercial litigious cases, the 2019 EU Median was as follows:

- Incoming cases per 100 inhabitants: 1,9;

- Clearance rate: 100,2% ;

- Disposition time: 213 days.

For reference only: for the first instance Administrative cases, the 2019 EU Median as follows:

- incoming cases per 100 inhabitants was 0,2;

- Clearance rate: 102,1%;

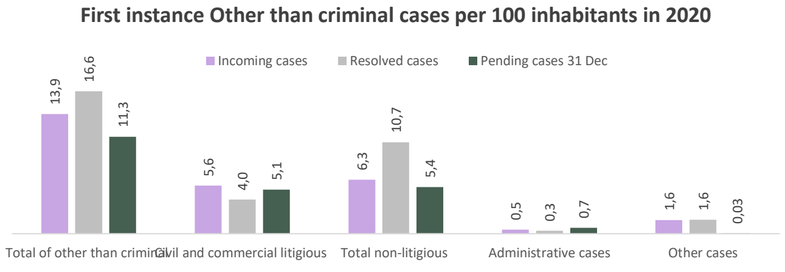
- Disposition time: 284 days.

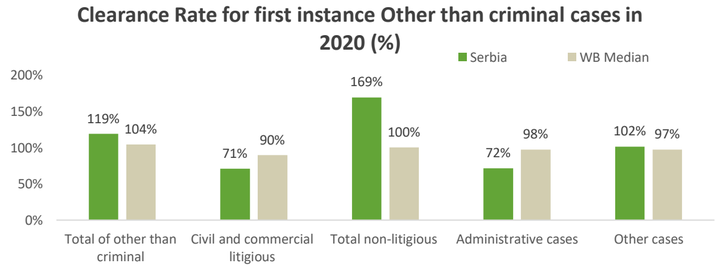
In 2020, the incoming civil and commercial litigious cases were 388 459, which was 5,6 per 100 inhabitants and 24,4% more than in 2019. The resolved cases were 275 439, which was 4 per 100 inhabitants and -5% less than in 2019. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2020 were more than in 2019 and the Clearance rate for this type of cases was 70,9%. This decreased by -22 percentage points compared to 2019 and was below the WB median (89,6%).

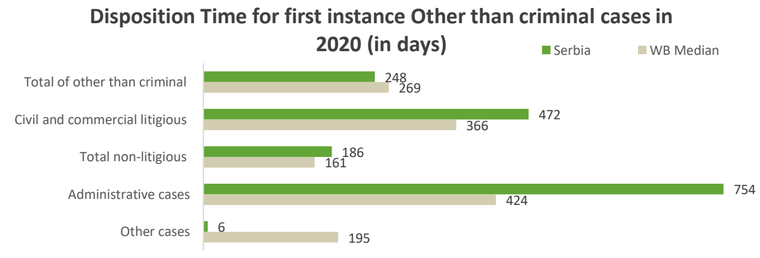
Finally, the Disposition Time for civil and commercial litigious cases was approximately 472 days in 2020. This has increased by 54,3% compared to 2019 and it was above the WB median (366 days).

In 2020, the incoming administrative cases were 32 469, which was 0,5 per 100 inhabitants and 46,6% more than in 2019. The resolved cases were 23 229, which was 0,3 per 100 inhabitants and 11,3% more than in 2019. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the administrative pending cases at the end of 2020 were more than in 2019 and the Clearance rate for this type of cases was 71,5%. This decreased by -22,7 percentage points compared to 2019 and was below the WB median (100,3%).

Finally, the Disposition Time for administrative cases was approximately 754 days in 2020. This has increased by 11,3% compared to 2019 and it was above the WB median (424 days).







Administrative cases are all cases before the Administrative Court: Administrative disputes; Various administrative cases; Execution of Administrative Court judgement; Postponement of enforcement before lodging a lawsuit; Objection to the decision of a single judge; Repetition of administrative-judicial procedure; Request for extraordinary review of court decision; Judicial protection in the election procedure for members of national councils of national minorities; Whistleblowers.

The category “non-litigious cases” includes enforcement cases. Since 2016 legislative and other measures have been taken in order to decrease the number of backlog enforcement cases (which is recognized as a systemic problem). In 2020 the number of backlog enforcement cases has been decreased significantly and it is reflected in total number of “non-litigious cases.” In accordance with the Law on Enforcement and Security all enforcement cases based on an authentic document (Iv) cases should be transferred to public enforcement officers. In 2020 about 240.000 such cases were resolved by the conclusion of the court to transfer the case to public enforcement officer.

As regards “civil and commercial litigious cases”, the number of pending cases at the end of the period increased by 46%. There has been general trend of increase of incoming civil litigious cases for last five years. Due to special circumstances and need to take safety measures because of Covid 19, in 2020 courts worked with reduced capacities, while there was increase of number of incoming cases. The decrease in the number of resolved cases refers primarily to basic and higher courts. As regards “non – litigious cases”, in particular “general civil and commercial non-litigious cases”, from 2019 to 2020 the number of incoming cases decreased significantly (-38%), while the number of resolved cases remained almost the same. As a consequence, the number of pending cases at the end of the year decreased as well (-45%). This is also in relation to enforcement cases based on an authentic document (Iv) cases. Public enforcement officers deal with such new cases, so the number of incoming cases decreased. On the other hand, there is still lot of these cases before courts (backlog cases), and the courts still have to resolve these cases (in majority cases by the conclusion of the court to transfer the case to public enforcement officer), and that is why the number of resolved cases remained the same and why the number of incoming cases significantly decreased.

From 2019 to 2020 the number of “administrative law incoming cases” increased by 47%, and the number of cases older than 2 years increased by 63%. In Serbia there is one Administrative Court (with seat in Belgrade, and three departments in Kragujevac, Novi Sad and Niš). It has broad competences and for several years number of incoming cases has been continuously increasing. In certain type of cases the Administrative Court has to decide urgently, like in electoral cases. Also, the work of this court was influenced by the circumstances caused by the virus and the fact that during 2020 parliamentary and local elections were held in Serbia and there were many electoral disputes which needed to be decided in short deadlines.

As regards “other cases”, from 2019 to 2020, there was a decrease in the number of incoming (-39%), resolved (- 39%), and pending cases (-46%). These cases relate to different kinds of citizens’ requests for verification of signatures, or requests for different certificates and probably circumstances caused by Covid, contributed to decrease of such requests of citizens.

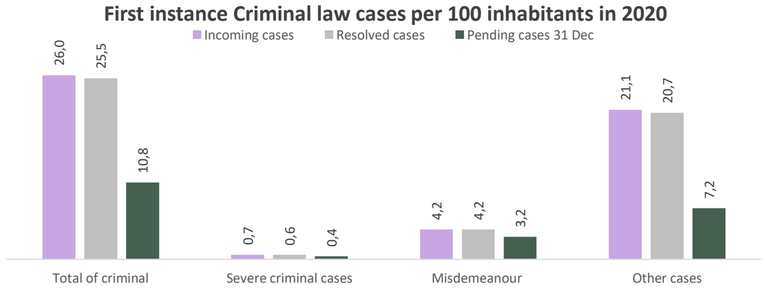
• First instance cases - Criminal law cases

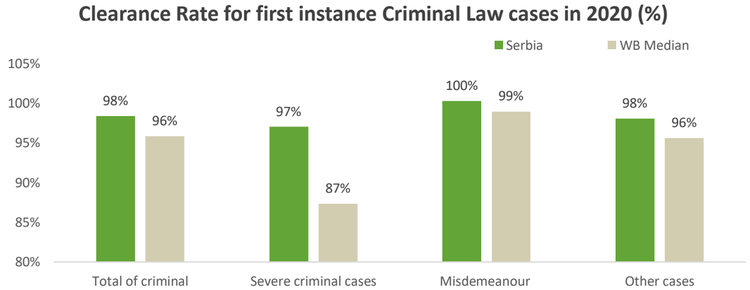
1st instance		2020 Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Per 100 inhabitants in 2020 Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	% Variation between 2019 and 2020 Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of criminal cases (1+2+3)		1 805 252	1 776 015	752 416	18 341	98,4%	95,8%	155	253	26,0	25,5	10,8	0,3	-12,1%	-14,1%	4,0%	-6,1%	-2,3	21,1%
1	Severe criminal cases	45 234	43 883	29 358	5 396	97,0%	87,3%	244	244	0,7	0,6	0,4	0,1	-13,8%	-16,3%	4,8%	13,8%	-2,9	25,2%
2	Misdemeanour and / or minor criminal cases	293 742	294 476	221 889	11 771	100,2%	98,9%	275	275	4,2	4,2	3,2	0,2	-3,6%	-14,0%	-0,4%	-14,0%	-12,1	15,8%
3	Other cases	1 466 276	1 437 656	501 169	1 174	98,0%	95,6%	127	313	21,1	20,7	7,2	0,0	-13,6%	-14,1%	6,0%	7,0%	-0,6	23,4%

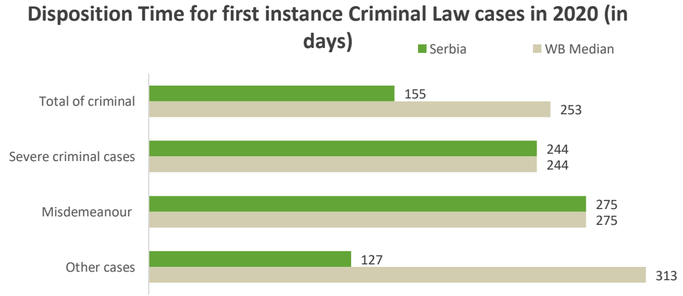
PPT = Percentage points

In 2020, the incoming total criminal cases were 1 805 252, which was 26 per 100 inhabitants and -12,1% less than in 2019. The resolved cases were 1 776 015, which was 25,5 per 100 inhabitants and -14,1% less than in 2019. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the total criminal pending cases at the end of 2020 were more than in 2019 and the Clearance rate for this type of cases was 98,4%. This decreased by -2,3 percentage points compared to 2019 and was above the WB median (95,8%).

Finally, the Disposition Time for total criminal cases was approximately 155 days in 2020. This has increased by 21,1% compared to 2019 and it was below the WB median (253 days).







Serbia started to report misdemeanour cases only in the 2014 cycle. Previously, misdemeanour cases were not considered as criminal because under the Serbian law they are prosecuted in specialised misdemeanour courts. In fact, the Criminal Code does not make the distinction between crimes based on their gravity (their qualifications may also be changed until enacting of the decision and determining the sentence).
Based on the CEPEJ definitions of categories of cases, Serbia has indicated that they include the following types of cases in each category:

The category severe criminal cases encompasses registries of high courts: (K, KIM, KM, K1, KI, Ki-Po1, Ki-Po2, KiPo3, K-Po1, K-Po2, Kpo3,Kpo4, SPK, SPK Po1, SPK Po2), Basic courts: (K, K1, Ki, Spk). It includes all criminal cases because the Criminal Code of the Republic of Serbia does not make the distinction between crimes – i.e. “severe/minor offences” (their qualifications may also be changed until enacting of the decision and determining the sentence). Therefore, all first instance criminal cases of basic and higher courts are included (in higher courts - organized crime, war crimes, and high-tech crimes, according to urgency, etc.); investigations and investigative actions before basic and higher courts; preparatory proceedings and proceedings against minors; confession of criminal offenses and criminal cases without a main hearing.

The category misdemeanor and/or minor criminal cases encompasses the following cases: Commercial courts: Pk, Pki, Pkr, Misdemeanor courts: PR, PRM. In Commercial Courts, these cases relate to initiation of proceedings due to commercial offenses against natural and legal persons; preliminary procedure for commercial offenses; cases before misdemeanor courts: misdemeanors and misdemeanors perpetrated by minors.

The category “other” encompasses the following cases: 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.

• Second instance cases - Other than criminal law cases

2nd instance		2020 Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Per 100 inhabitants in 2020 Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	% Variation between 2019 and 2020 Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)		147 055	139 298	91 641	8 676	94,7%	108,7%	240	184	2,12	2,00	1,32	0,12	-10,1%	-13,2%	9,2%	514,4%	-3,4	25,8%
1	Civil and commercial litigious cases	136 454	128 953	90 209	8 671	94,5%	101,7%	255	255	1,96	1,86	1,30	0,12	-9,6%	-12,9%	9,1%	524,3%	-3,6	25,2%
2	Non-litigious cases**	10 571	10 315	1 432	NAP	97,6%	103,9%	51	55	0,15	0,15	0,02	NAP	-16,7%	-17,1%	21,8%	NA	-0,5	47,0%
3	Administrative cases	NAP	NAP	NAP	NAP	NAP	98,2%	NAP	291	NAP	NAP	NAP	NAP	NA	NA	NA	NA	NAP	NAP
4	Other cases	30	30	0	0	100,0%	100,0%	0	5	0,0004	0,0004	0,00	0,00	500,0%	500,0%	NA	NA	0,0	-

PPT = Percentage points

** Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

For reference only: for the first instance Civil and Commercial litigious cases, the 2019 EU Median was as follows:

- Clearance rate: 101,8% ;

- Disposition time: 175 days.

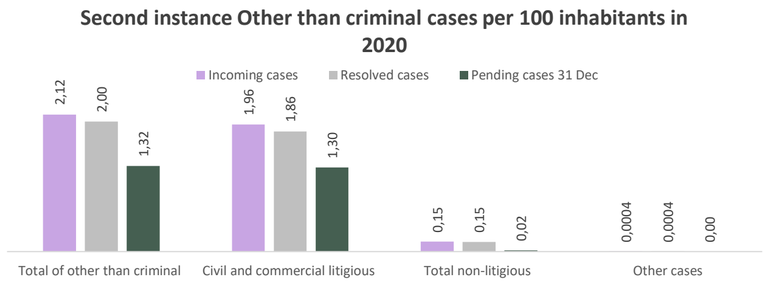
For reference only: for the first instance Administrative cases, the 2019 EU Median as follows:

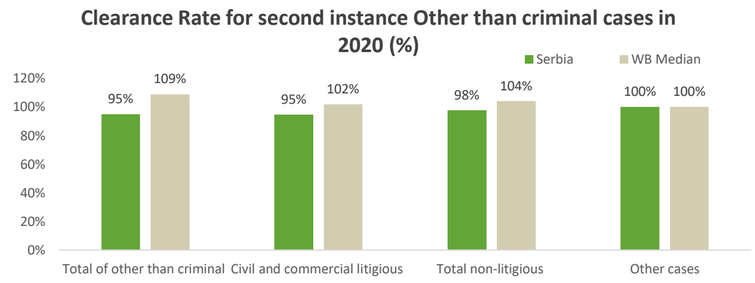
- Clearance rate: 96,9%;

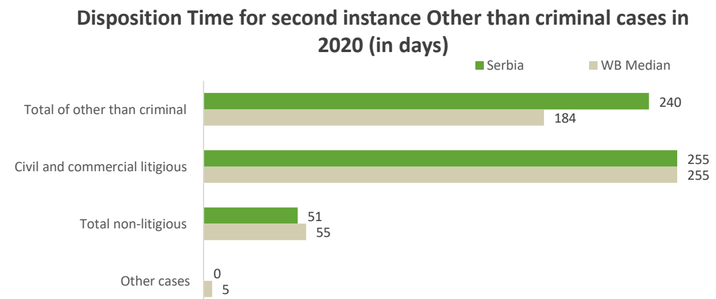
- Disposition time: 329 days.

In 2020, the incoming civil and commercial litigious cases were 136 454, which was 2 per 100 inhabitants and -9,6% less than in 2019. The resolved cases were 128 953, which was 1,9 per 100 inhabitants and -12,9% less than in 2019. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2020 were more than in 2019 and the Clearance rate for this type of cases was 94,5%. This decreased by -3,6 percentage points compared to 2019 and was below the WB median (101,7%).

Finally, the Disposition Time for civil and commercial litigious cases was approximately 255 days in 2020. This has increased by 25,2% compared to 2019 and it was equal the WB median (255 days).







Courts deciding in the second instance (on appeal) in the "non-criminal" cases, as courts of general jurisdiction are:
•"higher courts": upon the decisions in civil disputes and the judgment in small claims and the non-contentious proceedings;
•"appellate courts": upon the decisions of higher courts and judgements of the basic courts in civil disputes unless deciding on appeals is not under the competence of higher court.
The court of special jurisdiction, which decides in on appeal in the "non-criminal" cases is the Commercial Appellate Court (appeals on decisions of commercial courts and other bodies).
Cases on appeals in cases of commercial offences are excluded from the total number of cases in response to this question. There is no second instance in administrative disputes.
"Civil and commercial litigious cases" include
•cases before Appellate Courts in which decisions are made on appeals against decisions of first instance courts in civil disputes, in particular in labor, family, media, and copyright disputes, in connection with whistleblowing.
•Cases before higher courts: litigious proceedings involving appeals (small appellation);
•Cases before the Commercial Court of Appeal: second instance commercial proceedings involving appeals, conflict and delegation of jurisdiction between commercial courts;
•Cases before the Misdemeanor Court of Appeal: proceedings involving appeals against first instance decisions of misdemeanor courts in cases related to whistle-blowers and conflict and delegation of jurisdiction between misdemeanor courts (cases not misdemeanour as such).
Other non-litigious cases are cases pertaining to making decisions within a reasonable time in civil and criminal matters, and the cases of appeals to the first instance court decisions on complaints against the work of notaries.

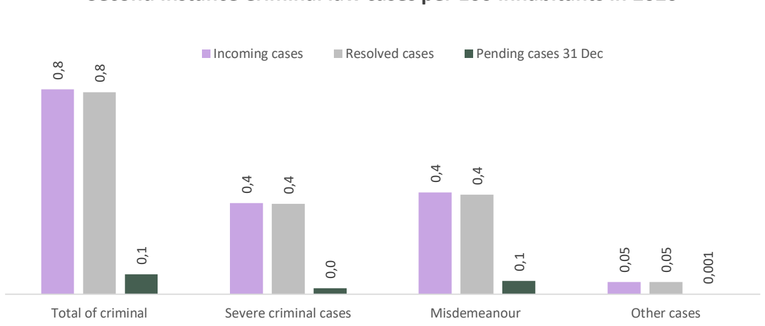
• Second instance cases - Criminal law cases

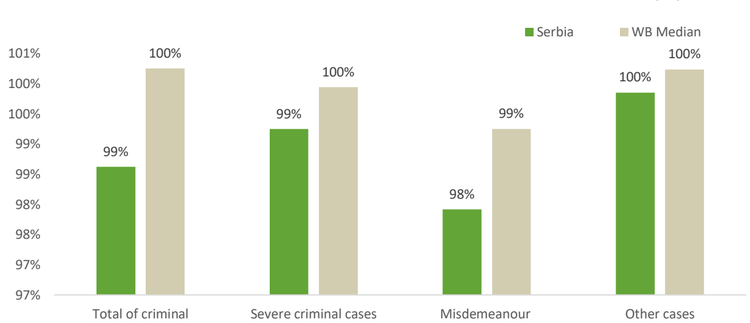
2nd instance		2020 Incoming cases	2020 Resolved cases	2020 Pending cases 31 Dec	2020 Pending cases over 2 years	2020 CR (%)	2020 WB Median CR (%)	2020 DT (days)	2020 WB Median DT (days)	Per 100 inhabitants in 2020 Incoming cases	Per 100 inhabitants in 2020 Resolved cases	Per 100 inhabitants in 2020 Pending cases 31 Dec	Per 100 inhabitants in 2020 Pending cases over 2 years	% Variation between 2019 and 2020 Incoming cases	% Variation between 2019 and 2020 Resolved cases	% Variation between 2019 and 2020 Pending cases 31 Dec	% Variation between 2019 and 2020 Pending cases over 2 years	% Variation between 2019 and 2020 CR (PPT)	% Variation between 2019 and 2020 DT (%)
Total of criminal cases (1+2+3)		56 672	55 891	5 473	0	98,6%	100,3%	36	59	0,8	0,8	0,1	0,0	-2,3%	-3,0%	16,5%	NA	-0,7	20,1%
1	Severe criminal cases	25 183	24 993	1 703	0	99,2%	99,9%	25	75	0,4	0,4	0,0	0,0	-1,5%	-2,4%	12,6%	NA	-1,0	15,4%
2	Misdemeanour and / or minor criminal cases	28 127	27 541	3 729	0	97,9%	99,2%	49	45	0,4	0,4	0,1	0,0	-3,4%	-4,0%	18,5%	NA	-0,6	23,4%
3	Other cases	3 362	3 357	41	0	99,9%	100,2%	4	16	0,05	0,05	0,001	0,0	0,8%	1,3%	13,9%	NA	0,4	12,5%

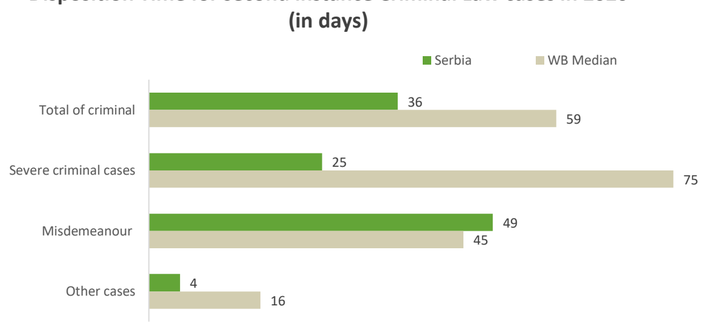
PPT = Percentage points

In 2020, the incoming total criminal cases were 56 672, which was 0,8 per 100 inhabitants and -2,3% less than in 2019. The resolved cases were 55 891, which was 0,8 per 100 inhabitants and -3% less than in 2019. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the total criminal pending cases at the end of 2020 were more than in 2019 and the Clearance rate for this type of cases was 98,6%. This decreased by -0,7 percentage points compared to 2019 and was below the WB median (100,3%).

Finally, the Disposition Time for total criminal cases was approximately 36 days in 2020. This has increased by 20,1% compared to 2019 and it was below the WB median (59 days).







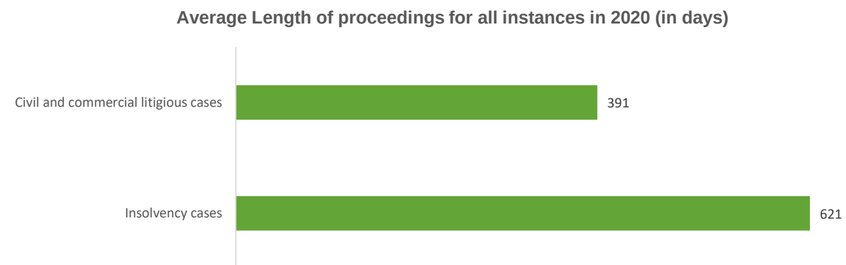
Second instance severe criminal cases include the following categories: cases before courts of appeal (criminal proceedings involving appeals on first instance and second instance verdicts and decisions (separated registers in second instance by special departments); criminal proceedings against minors involving appeals); cases before higher courts (criminal proceedings involving appeals (small appeal)).

Second instance misdemeanor and/ or minor criminal cases include the following categories: cases before the Commercial Court of Appeal (Pkž), and the Misdemeanor Court of Appeal (PRŽ, PRŽM, PRŽI, PRŽU).

The data on pending cases older than 2 years from the date the case came to the second instance court is not available since it is not gathered (Criminal Procedure Code methodology differs).

• Average length of proceedings for specific category cases (in days - from the date the application for judicial review is lodged)

	2020						% Variation between 2019 and 2020					
	Decisions subject to appeal (%)	Average length of proceedings (in days)				% of cases pending for more than 3 years for all instances	Decisions subject to appeal (PPT)	Average length of proceedings (in days)				Cases pending for more than 3 years for all instances (PPT)
		First instance	Second instance	Third instance	Total			First instance	Second instance	Third instance	Total	
Civil and commercial litigious cases	NA	472	255	355	391	NA	NA	54%	25%	106%	NA	NA
Litigious divorce cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Employment dismissal cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Insolvency cases	NA	887	78	NAP	621	67%	NA	30%	53%	NA	NA	NA
Robbery cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Intentional homicide cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Bribery cases	NA	NA	NA	NA	NA	NA						
Trading in influence	NA	NA	NA	NA	NA	NA						



The length of the proceedings is calculated for each instance according to CEPEJ Disposition Time formula and not an average length.

• Quality standards and performance indicators in the judicial system

In Serbia there are not quality standards determined for the judicial system at national level.

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".

• Performance and quality indicators and regular assessment in courts and prosecution offices

In Serbia performance and quality indicators are defined for both courts and prosecution offices as follows:

	Courts		Prosecution offices	
	Performance and quality indicators	Regular assessment	Performance and quality indicators	Regular assessment
Number of incoming cases	✓	✓	✓	✓
Length of proceedings (timeframes)	✓	✓	✗	✗
Number of resolved cases	✓	✓	✓	✓
Number of pending cases	✓	✓	✓	✓
Backlogs	✓	✓	✓	✓
Productivity of judges and court staff / prosecutors and prosecution staff	✓	✓	✓	✓
Satisfaction of court / prosecution staff	✗	✗	✗	✗
Satisfaction of users (regarding the services delivered by the courts / the public prosecutors)	✗	✗	✗	✗
Costs of the judicial procedures	✗	✗	✗	✗
Number of appeals	✓	✗		
Appeal ratio	✗	✗		
Clearance rate	✓	✓	✓	✓
Disposition time	✓	✓	✗	✗
Percentage of convictions and acquittals			✓	✓
Other	✗	✗	✗	✗

Monitoring of the number of pending cases and backlogs	
Civil law cases	Yes
Criminal law cases	Yes
Administrative law cases	Yes

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.

Monitoring of the waiting time during judicial proceedings	
Within the courts	Yes
Within the public prosecution services	Yes

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.

The duration of judicial proceedings is monitored, and it is reflected within the court reports.

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.

• Quantitative targets for each judge and prosecutor

In Serbia there are quantitative targets for both judges and prosecutors

Responsible for setting up quantitative targets for judges	
Executive power (for example the Ministry of Justice)	✗
Legislative power	✗
Judicial power (for example the High Judicial Council, Supreme Court)	✓
President of the court	✗
Other:	✗

Responsible for setting up quantitative targets for public prosecutors	
Executive power (for example the Ministry of Justice)	✗
Prosecutor General /State public prosecutor	✗
Public prosecutorial Council	✓
Head of the organisational unit or hierarchical superior public prosecutor	✗
Other	✗

Consequences for not meeting the targets	Judges	Public prosecutors
Warning by court's president/ head of prosecution	✗	✓
Disciplinary procedure	✗	✗
Temporary salary reduction	✗	✗
Other	✓	✗
No consequences	✗	✗

Performance of judges with a standing tenure of office and court presidents shall regularly be conducted once every three years, while for judges elected for the first time it is conducted once a year. Exceptionally, based on the Decision of the High Judicial Council, performance of judges and court presidents may be evaluated extraordinarily. Performance of judges is evaluated based on 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. Efficiency is evaluated based on the number of cases disposed by a judge over an one-month period against the number of cases they should dispose- monthly caseload quota. The monthly caseload quota pertains 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.

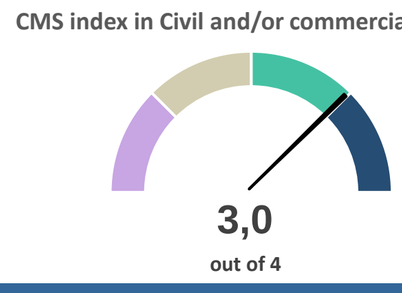
Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents ("Official Gazette of RS" Nos. 81/2014, 142/2014, 41/2015, 7/2016) which is being applied as of 1st July 2015 provides for the Commission for evaluation of judges and court presidents' 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.

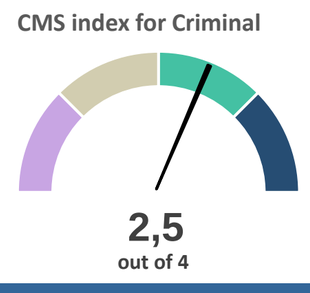
Law on Judges in Art. 52 prescribe that a first-time elected judge whose work during the first three-year term of office is assessed "not satisfactory" may not be appointed to permanent office.

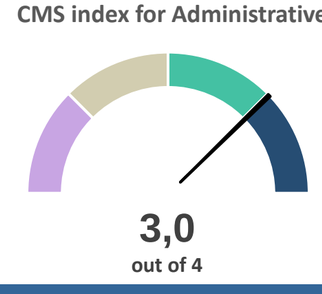
Kosovo is not included in the calculation of summary statistics

Electronic case management system and court activity statistics in Serbia in 2020 (Indicator 3.3)

Case management system (CMS) Index is an index 0 to 4 points calculated based on several questions on the features and deployment rate of the of the case management system of the courts of the respective beneficiary.
The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points for the 4 of the 5 questions apart of the deployment rate question are summarized and the deployment rate is multiplied as a weight. In this way if the system is not fully deployed the value is decreased even if all features are included to provide adequate evaluation.







• Electronic case management system

In Serbia, there is no IT Strategy for the judiciary. IT Development Guidelines in Justice Sector are in force. The procedure for awarding contracts for drafting an IT strategy based on public procurement is underway.

There is a case management system (CMS), eg software used for registering judicial proceedings and their management. This has been developed more than 10 years ago.
The CMS is developped in all courts and administrative cases data are stored on a database consolidated at national level. The CMS index for Serbia is slightly higher than the WB average for civil/commercial and administrative area (3 for each type of cases versus 2.9) and lower for criminal cases (2,5 vs 2,9).

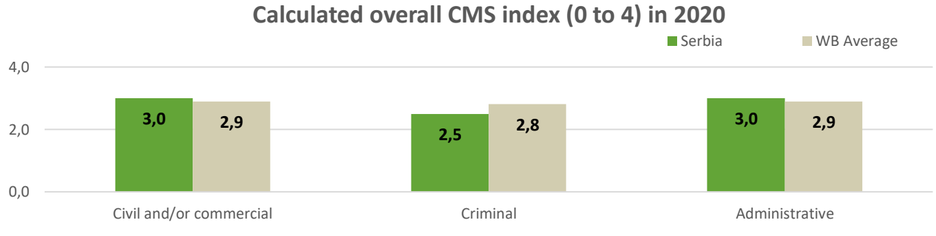
The tender for contract for implementation of a new Centralized Case Management System (CCMS) for the Serbian courts of general jurisdiction, Administrative court/s and commercial courts is available at https://etendering.ted.europa.eu/cft/cft-display.html?cftId=7703. The scope of the contract covers the necessary hardware and software infrastructure, software solution, training, maintenance and support to migrate from and replace two software systems currently in use in the Judiciary. Planned contract length is 36 months but more detailed timeline will be part of the offer. After contract award timeline will be part of project implementation plan.

	Case management system and its modalities				
	CMS deployment rate	Status of case online	Centralised or interoperable database	Early warning signals (for active case management)	Status of integration/ connection of a CMS with a statistical tool
Civil and/or commercial	100%	Both	✗	✓	Fully integrated including BI
Criminal	100%	Accessible to parties	✗	✓	Fully integrated including BI
Administrative	100%	Both	✓	✓	Not connected at all

Both: Accessible to parties
Publication of decision online

Early warnings is for cases at risk of falling under Statute of limitations. In the case of Serbia, the answer for civil and commercial is different because systems of courts of general jurisdiction in 2019 have been integrated with the statistical tool, and systems of commercial courts have not.

	Overall CMS Index in 2020	
	Serbia	WB Average
Civil and/or commercial	3,0	2,9
Criminal	2,5	2,8
Administrative	3,0	2,9



• Centralised national database of court decision

In Serbia, there is a centralised national database of court decisions in which the information presented in the following table is collected.

In Serbia, there is a centralised national database of court decisions in which some judgments are collected, with anonymised data. This case-law database is available for free online but not in open data. There is no links with ECHR case law (hyperlinks which reference to the ECHR judgments in HUDOC database) in this database.

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

Court for administrative disputes is Administrative court, which is the only instance for the Republic of Serbia. For judgements in administrative disputes there is no 3rd level instance of decisions, only 2nd level instance which is the Supreme Court of Cassation.

Kosovo is not included in the calculation of summary statistics

Legal Aid in Serbia in 2020 (Indicator 4)

In 2020, the total number for cases for which legal aid was granted was 27 965. Thus, the number of cases per 100 000 inhabitants were 398,4, which was higher than the Western Balkans (WB) median of 306.

Number of LA cases

398,4

per 100 000 inhabitants

WB Median: 306

Total number of LA cases per 100 000 inhabitants in 2020

• Implemented budget for legal aid and number of cases for which legal aid has been granted

Implemented budget for legal aid is not available yet, as the new Legal Aid reforms has only recently been implemented.

	Number of cases for which legal aid has been granted				
	Total			Cases brought to court	Cases not brought to court
	Absolute number	Per 100 000 inh.	% Variation (2019 - 2020)		
Total	27 695	398	NA	3 340	24 355
In criminal cases	NA	NA	NA	NA	NA
In other than criminal cases	NA	NA	NA	NA	NA

In 2020, the total number for cases for which legal aid was granted was 27 965. Thus, the number of cases per 100 000 inhabitants were 398,4, which was higher than the Western Balkans (WB) median of 306. The number of cases brought to court were 3 340, whereas the number of cases not brought to court were 24 355.

The Law on Free Legal Aid (2018) began to be applicable on 1st October 2019, which is why complete data were not available in the previous cycle. Data provided in 2019 applied to only the last quarter of the year, therefore they cannot be compared to the following cycles.
The Ministry of Justice has launched the initial data collection in late January 2020 to determine data on the implementation of the Law on Free Legal Aid.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. The Law prescribes that citizens shall address local self-government units (hereinafter: LSG) to apply for free legal aid. Staff in LSG decide on the applications pursuant to Articles 4 and 7 of the Law (eligibility). Article 67 of the Constitution of RS provides that everyone shall be guaranteed the right to legal aid under conditions stipulated by the law. Legal aid is provided by lawyers, as an independent and autonomous service, and legal aid offices established in the units of local self-government in accordance with the law. 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 him/her 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. However, information on the number of these exemptions nor their amount is currently not available.

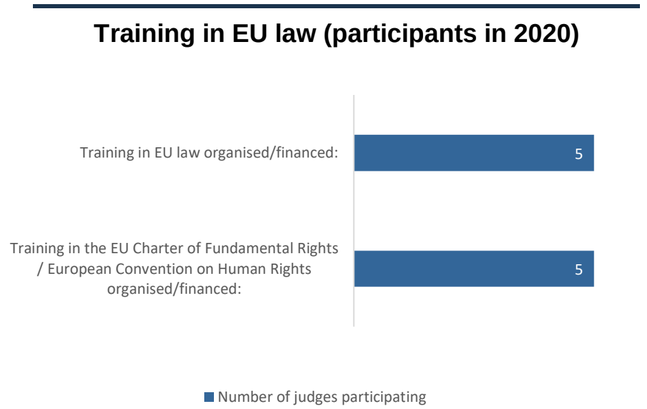
Kosovo is not included in the calculation of summary statistics

Training of judges and prosecutors in Serbia in 2020 (Indicator 7)

In 2020, the total number of available in-person training courses was 146; whereas the number of available online training courses was 42. Both figures were the same as the Western Balkans (WB) median.

Regarding the training in EU law, the available in-person courses were 17 (while there were no online courses available). Serbia had 1 day of delivered in-person training courses and a total of 5 judges participated to these courses. There was no data available regarding this type of training courses organised within the framework of co-operation programmes.

Regarding the training in EU Charter of Fundamental Rights / European Convention on Human Rights, the available in-person courses were 9 (while there were no online courses available). Serbia had 4 days of delivered in-person training courses and a total of 5 judges participated to these courses. There was no data available regarding this type of training courses organised within the framework of co-operation programmes.



• Type and frequency of trainings

		Judges		Prosecutors	
		Compulsory/ Optional or No training	Frequency	Compulsory/ Optional or No training	Frequency
	Initial training	Optional		Compulsory & Optional	
In-service training	General	Compulsory & Optional	Regularly	Compulsory & Optional	Regularly
	Specialised judicial functions	Compulsory & Optional	Regularly	Compulsory & Optional	Regularly
	Management functions of the court	Compulsory & Optional	Occasional	Compulsory & Optional	Occasional
	Use of computer facilities in courts	Compulsory & Optional	Occasional	Compulsory & Optional	Occasional
	On ethics	Compulsory & Optional	Regularly	Compulsory & Optional	Regularly

Based on decisions of the High Court Council (HCC), certain types of training have become compulsory such as the training for management functions for presidents of courts and acting presidents, or training on ethics organized through a project funded by IPA. Moreover, certain laws enacted in the recent period have provided that judges and prosecutors acting in certain fields (ex. Anti-corruption) must undergo certain additional types of compulsory training.

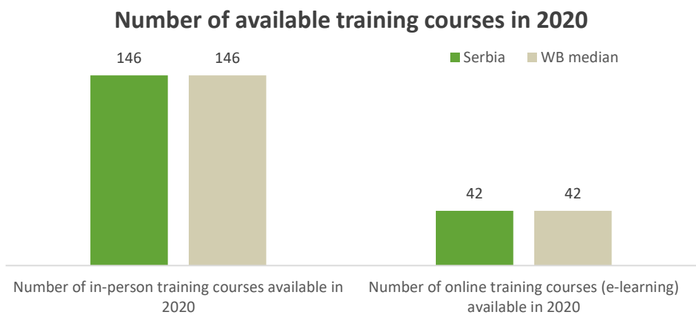
In Serbia there is two parallel ways of access to the career of judge or prosecutor: as a judicial or prosecutorial assistant (or any other candidate who fulfils the condition prescribed by Law) or as a Judicial Academy (JA) graduate. Therefore, having in mind the two tracks to become a judge/prosecutor,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

The capacities of the JA have been improving yearly, based on a dedicated capacity building plan. Therefore, certain training which has previously occurred only sporadically, on the basis of donor support, has now become regular part of the training program (ex. IT training), organised occasionally.

Following the 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 judges is performed based on the Continuous Training Programme adopted by Managing Board of the Academy every year for the next year. In 2020, 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.

• Number of in-service trainings and participants

	In-person training courses				Online training courses (e-learning)		
	Available (number)	Delivered (in days)		Number of participants	Available (number)		Number of participants
		In 2020	% Variation 2019 - 2020		In 2020	% Variation 2019 - 2020	
Total	146	NA	NA	2898	42	NAP	538
Judges	NA	NA	NA	NA	NA	NA	NA
Prosecutors	NA	NA	NA	NA	NA	NA	NA
Non-judge staff	NA	NA	NA	NA	NA	NA	NA
Non-prosecutor staff	NA	NA	NA	NA	NA	NA	NA
Other professionals	NA	NA	NA	NA	NA	NA	NA



The fact that in Serbia 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 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.

In Serbia, sanctions are foreseen if judges and prosecutors do not attend the compulsory training sessions.

If a specialization course is compulsory, those judges who do not receive certificate on that specialization will not be able to take cases on the relevant subject, e.g. juvenile law cases.

In Serbia, judges and prosecutors have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. This training lasts 2-3 days and they need to participate to it more than once on a regular basis.

Judges and prosecutors working in specialized departments for suppression of corruption have to undergo specialization on all relevant topics concerning fighting corruption, i.e. there are numerous courses covering this target group.

The average length of training dedicated to ethics is 1 day, the prevention of corruption 2 days and conflicts of interest 2 days.

Prosecution offices have specially trained prosecutors in domestic violence and sexual violence.

For domestic violence, according to Article 9 of the Law on the Prevention of Domestic Violence in each public prosecutor's office, except for those with special competencies, the public prosecutor appoints deputy public prosecutors who have completed specialized training in order to exercise the competencies of the public prosecutor's office in preventing domestic violence and prosecuting perpetrators of crimes defined by this law. According to Article 28, specialized training is conducted by the Judicial Academy for Public Prosecutors, Deputy Public Prosecutors and Judges, in cooperation with other professional institutions and organizations. According to Article 3 of the same Law, domestic violence, in the sense of this law, is an act of physical, sexual, psychological or economic violence.

• Number of EU law training courses and participants

	Training in EU law organised/financed:		Training in the EU Charter of Fundamental Rights / European Convention on Human Rights organised/financed:	
	By the training institutions for judges and prosecutors	Within the framework of co-operation programmes	By the training institutions for judges and prosecutors	Within the framework of co-operation programmes
Number of in-person training courses available	17	NA	9	NA
Number of delivered in-person training courses in days	1	NA	4	NA
Number of online training courses (e-learning) available	0	NA	0	NA
Number of judges participating	5	NA	5	NA
Number of prosecutors participating	NA	NA	NA	NA

Kosovo is not included in the calculation of summary statistics

Alternative Dispute Resolution in Serbia in 2020 (Indicator 9)

Legal aid for court-related mediation or related mediation provided free of charge	**Yes**
Court-related mediation procedures	**Yes**
Mandatory informative sessions with a mediator	**No**
Mandatory mediation with a mediator	**Yes**

V

Before/instead of going to court

Ordered by the court, the judge, the public prosecutor or a public authority in the course of a judicial proceeding

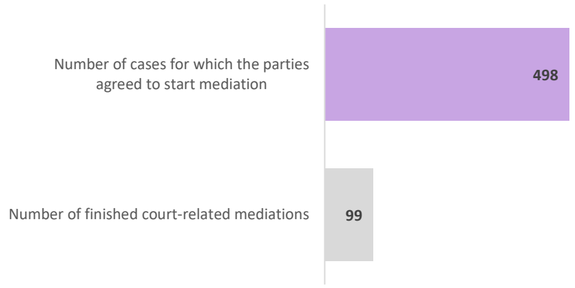
Mediators

21,1

per 100 000 inhabitants

WB Median: 5,4

Total number of court-related mediations



In Serbia, court related mediation procedures are available and legal aid for court-related mediation or related mediation provided free of charge could be granted. The judicial system provides for mandatory mediation with a mediator before or instead of going to court and ordered by the court, the judge, the public prosecutor or a public authority in the course of a judicial proceeding. However, there are no mandatory informative sessions with a mediator. In 2020, the number of mediators per 100 000 inhabitants was 21,1, which was above the Western Balkans median (5,4 per 100 000 inhabitats). There were in total 498 cases for which the parties agreed to start mediation and NA mediation procedures which ended with a settlement agreement.

• ADR procedures and mandatory mediation

In Serbia judges are required to inform the parties of a possibility of mediation but cannot order it.
Article 11 of the Law on Civil Procedure (“Official Gazette of RS”, no. 72/2011, 49/2013 - Decision of Constitutional Court, 74/2013 - Decision of the CC and 55/2014) provides that the court shall direct the parties to mediation or to an informative hearing for mediation, or to instruct the parties of the option of pre-trial settlement of dispute by mediation or through another amicable manner while Art. 305 Para. 3 provides that the court shall inform the parties of their right that the procedure can be conducted by means of mediation. Article 340 of the Law on Civil Procedure provides that the court shall stay the proceedings and refer the parties to mediation procedure when provided for by a special law, or when parties propose that the dispute be resolved through mediation. The mediation procedure is to be implemented in accordance with a special law. If the parties do not resolve the dispute through mediation, the court will schedule a hearing for the trial upon the expiry of 30 days from the day when a party informs the court that it has withdrawn from the mediation (Article 341). In accordance with Article 9 Paragraph 2 of the Law on Mediation in Dispute Resolution (“Official Gazette of RS” no. 55/2014), the court is obliged to provide all necessary information to the parties in the dispute about the possibilities of mediation, which can also be done by referring the parties to the mediator.
The Supreme Court of Cassation, the High Judicial Council and the Ministry of Justice jointly issued the Guidelines for the Improvement of Mediation in the Republic of Serbia on 28 June 2017. The Guidelines provide that the courts should, in the early phases of proceedings, resolve disputes by referring the parties to mediation or by encouraging them to reach a court settlement, to alleviate the burden on the court and allow for more efficient procedure in other cases where amicable resolution is not possible. They provide that Info-Services should be established for the Support of Alternative Dispute Resolution Methods within all basic, higher and commercial courts as well as mediation Info-Desks and active cooperation with external partners of the court, i.e. providers of mediation services should be encouraged based on signed protocols of cooperation.
The Law on Juvenile Crime Offenders and Criminal Protection of Juveniles (Juvenile Justice Law) (“Official Gazette of RS”, no. 85/2005) has introduced diversionary measures which aim to provide support to the juvenile to take responsibility for his/her actions and prevent re-offending. The purpose of a diversionary measure is to avoid instituting criminal proceedings against a juvenile or to suspend proceedings and/or influence proper development of a juvenile and enhance his/her personal responsibility in order to avoid a relapse into crime in future. Mediation is a possible diversionary measure, ordered when a judge/pp sees fit, and under the conditions provided in the law.
Family law provides that upon being served the action for annulment or divorce of marriage, the court shall schedule a hearing for conciliation/settlement, which is held only before a sole judge. The judge is under the obligation to recommend the spouses to undergo psycho-social counselling and will at the proposal of the spouses or with their consent entrust mediation to the competent guardianship authority, marriage or family counselling service, or other institution specialised in mediation in family relations (Article 232). The Law on Social Protection ("Official Gazette of the Republic of Serbia" No.24/2011) also provides mediation as a community based social service falling in the counselling-therapeutic and social-educational group of services, also irrespective of court proceedings (in Centers for Social Work of local municipalities).

• ADR methods

Mediation other than court-related mediation	Arbitration	Conciliation (if different from mediation)	Other ADR
✓	✓	✓	✗

The Law on Mediation in Dispute Resolution, which is applicable from 1 January 2015, applies also to mediation other than court-related mediation as it provides that “mediation is a procedure, regardless of its name, where the parties voluntarily seek to settle their dispute through negotiation, facilitated by one or more mediators assisting the parties to reach an agreement”. Mediation may be applied to disputes in which the parties are free to dispose of their claims, unless another law prescribes exclusive jurisdiction of a court or another authority, regardless of whether mediation is carried out before or after the initiation of judicial or other proceedings. Mediation is possible especially in property-related disputes concerning the fulfilment of the obligation to act, in other property disputes, in family, commercial disputes, administrative matters, disputes relating to environmental protection issues, consumer disputes, and in all other contentious relations where mediation is appropriate to the nature of the contentious relations and can aid in their resolution. The Law also applies to mediation in criminal and misdemeanour proceedings with respect to property claims and claims for damages, as well as in labour disputes unless otherwise stipulated by a special law.

The Law on Arbitration (“Official Gazette of RS”, no. 46/2006) regulates arbitral resolution of disputes without a foreign element (“domestic arbitration”) and disputes with a foreign element (“international arbitration”). As of 30 June 2016 the Permanent Arbitration at the Chamber of Commerce and Industry of Serbia became a single institution. It is an open arbitration institution of general type, competent to resolve all types of disputes arising out of both international and purely “domestic” business relations, provided that the parties have agreed upon its jurisdiction. Its jurisdiction may be agreed by all business entities, irrespective of their nationality or membership in the Chamber of Commerce of and Industry.

The Belgrade Arbitration Center was established in 2013 by the Arbitration Association as a permanent arbitral institution that administers domestic and foreign disputes in accordance with the BAC Rules, assists in technical and administrative aspects of ad hoc arbitral proceedings under UNCITRAL or other rules, organizes and conducts mediation sessions and provides for other services closely related to dispute settlement.

The Law on Peaceful Settlement of Labour Disputes (“Official Gazette of RS”, no. 125/04, 104/09, 50/18), established the Republic Agency for Peaceful Settlement of Labour Disputes as the first institutionalised service dealing with peaceful settlement of individual and collective labour disputes through arbitration and conciliation, respectively. The Agency is the only specialized institution that deals with labour law (http://www.ramrrs.gov.rs/en/).

The competences of the Agency in individual disputes (arbitration) are: termination of employment contract, bargaining and payment of minimum wages, workplace discrimination and harassment, allowances for meal, transportation, holiday cash grants and jubilee awards. In collective disputes (conciliation) the competences are: conclusion, amendments or implementation of collective agreement and general act that regulates rights, obligations and responsibilities of employees, employers, and trade union; right to form and to join trade union, right to strike and right to be informed; consulting and participation of employees in management. Additionally, the new competences (2018) are: 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.

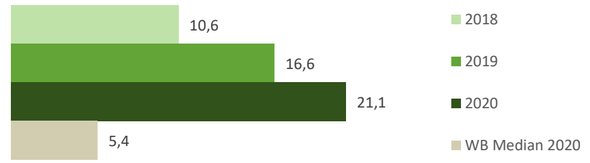
Conciliation as an alternative dispute resolution mechanism is highly present in regulating domestic relations, pursuant to the Family Law (“Official Gazette of RS”, no. 18/2005, 72/2011 - Other Law and 6/2015), which apart from providing for situations of referral to family counselling and institutions specialized in mediation in family relations provides for a procedure which, pursuant to Article 229 of the Family Law, includes the procedure for attempt at reconciliation (hereinafter: conciliation) and the procedure for attempt at consensual dispute resolution.

• Mediators and court-related mediations

Accredited/registered mediators for court-related mediation			% Variation between 2019 and 2020	
Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhabitants	Serbia	WB Median
1470	21,1	5,4	27,4%	-40,0%

For reference only: the 2019 EU median is 14,3 mediators per 100 000 inhabitants.

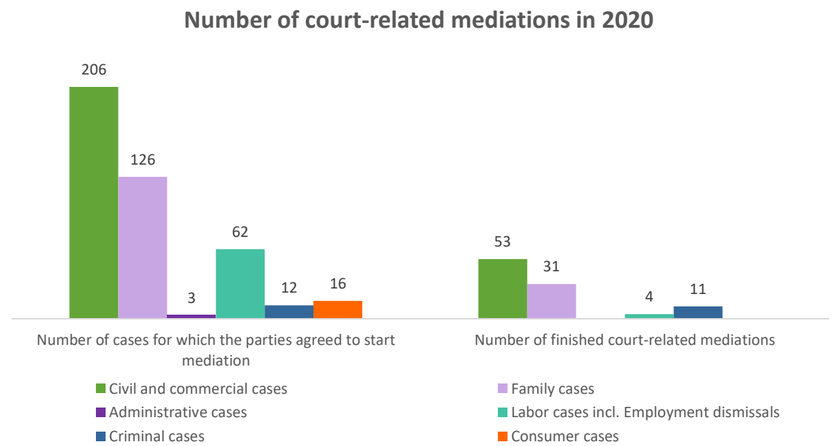
Accredited/registered mediators for court-related mediation per 100 000 inhabitants between 2018 and 2020



In 2020, the total number of mediators in Serbia was 1470 (27,4% more than the previous year). The number of mediators per 100 000 inhabitants was 21,1 which remarkably above the WB median of 5,4.

The number of mediators in the Republic of Serbia is significantly large due to the increased interest of citizens in performing the work of mediators, which is probably due to the documents adopted by the Republic of Serbia to improve the application of mediation in Serbia.

	Number of court-related mediations			Providers of court-related mediation services			
	Number of cases for which the parties agreed to start mediation	Number of finished court-related mediations	Number of cases in which there is a settlement agreement	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Total (1 + 2 + 3 + 4 + 5+ 6)	498	99	NA				
1. Civil and commercial cases	206	53	NA	✓	✗	✓	✗
2. Family cases	126	31	NA	✓	✓	✓	✗
3. Administrative cases	3	0	NA	✓	✗	✓	✗
4. Labour cases incl. employment dismissals	62	4	NA	✓	✗	✓	✗
5. Criminal cases	12	11	NA	✓	✓	✓	✗
6. Consumer cases	16	0	NA	✓	✗	✓	✗



Court related mediations are provided by private mediators,public authorities (other than the court) and judges. In 2020, mediation was most used for Civil and commercial cases and Family cases (206 and 126 cases, respectively, in which parties agreed to start mediation).

These 6 categories are not all categories in which mediation proceedings were conducted, and therefore the total number of cases in which the parties agreed to initiate mediation proceedings is slightly higher than the sum of the categories, including other types of disputes that are not included in these 6 listed in the report.

Registered mediators, including judges. Such mediators may be private mediators (lawyers, etc) or employees of the Centers for Social work of local municipalities, etc.

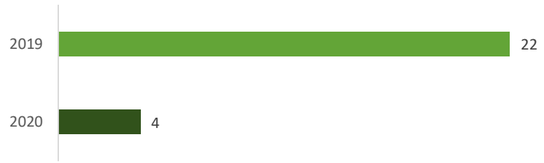
Kosovo is not included in the calculation of summary statistics

European Convention on Human Rights in Serbia in 2020 (Indicator 10)

European Convention on Human Rights – Article 6 – Right to a fair trial:

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Number of judgements finding at least one violation of ECHR in 2019 and 2020



Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process in 2019 and 2020

• ECHR

Office of the Agent of the Republic of Serbia before the European Court of Human Rights (hereinafter: the Court), performs monitoring of violations of the Article 6 of the European Convention on Human Rights (hereinafter: the Convention) in capacity of authority competent to take care of the execution of judgments and decisions rendered by the Court. Following the delivery of judgments establishing violation of Article 6 of the Convention, the Agents office translate the judgment concerned and publishes it in Official Journal, as well as informs domestic courts or other domestic authorities, which acts or omissions led to the violation of the right about the Court's findings. Having in mind that the Agent's office deals with the process of the execution of the Court's judgments and decision's, it cooperates with domestic authorities in order to prepare and enforce appropriate measures to prevent similar violations in future.

Monitoring system for violations related to Article 6 of ECHR		
Civil procedures (non-enforcement)	Civil procedures (timeframe)	Criminal procedures (timeframe)
✓	✓	✓

Moreover, on the request of the Agent's office, all domestic authorities are expected to provide necessary data in order to be presented before the Committee of Ministers of the Council of Europe in the form of action plans or action reports. Presented monitoring system is operated by the Agent's office and it is at the State level.

A specific procedure exists for monitoring of ECHR judgments related to violations 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, 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).

Since the Republic of Serbia became part of the Convention system in 2004, in order to fully execute the judgments and decisions of the European Court, 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.

Possibility to review a case after a decision on violation of human rights by the ECHR

Yes

Law of the Republic of Serbia enables a review of a case of the Court previously established a violation of rights guaranteed by the Convention. Actually, Law on Civil Procedure, Criminal Procedure Code and Law of the Administrative Procedure, through prescribed extra-ordinary legal remedies, enable the review of cases following the Court's decision's establishing infringement of rights and freedoms set in the Convention.

In 2020, the applications pending before an ECHR decision body for Serbia were 1755 (407 more than the previous year). The judgements by the ECHR finding at least one violation for Serbia were 4; whereas they were 22 in 2019.
The number of cases considered as closed after a judgement of the ECHR and the execution of judgements process was 40 in 2020; whereas they were 35 in 2019.

	2019	2020	% Variation between 2019 and 2020
Number of applications pending before a ECHR decision body**	1348	1755	30,2%
Judgements finding at least one violation**	22	4	-81,8%

** Source: ECHR

	2019	2020	% Variation between 2019 and 2020
Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***	35	40	14%

*** Source: Department of Execution of sanctions of the Council of Europe

Kosovo is not included in the calculation of summary statistics

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Part 2

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

HFII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans - "Dashboard Western Balkans"

Data collection 2020

Part 2 (B) - Beneficiary Profile – Serbia

This analysis has been prepared on the basis of the replies from the beneficiary (Dashboard correspondent) to the CEPEJ Questionnaire for the Dashboard Western Balkans, and relevant GRECO reports.

Selection and recruitment of judges and prosecutors

Judges are elected by the National Assembly upon a proposal of the High Judicial Council (HJC) and dismissed by the HJC as per the Constitution and the Law on Judges (Article 42 to 55, LoJ).

For judges, recruitment procedure is initiated through the publication of holding of elections for judges (in the Official Gazette and in the major daily magazine) by the HJC, to which applications are submitted along with evidence of eligibility. Two parallel ways of accessing the career of a judge exist, namely via: 1) permanent employment at court as a judicial assistant after passing the bar exam "with distinction"; or 2) completing an initial training at the Judicial Academy.

Entry criteria for the election of a judge are publicly available and include: Serbian citizenship, meeting the general requirements for employment in state bodies, being a law school graduate, having passed the bar exam and deserving of a judgeship (Article 43, LoJ). The required professional experience in the legal profession following the bar exam is two years for a judge of a misdemeanour court, three years for a judge of a basic court, six years for a judge of a higher court, a commercial court, and the Misdemeanour Appellate Court, 10 years for a judge of an appellate court, the Commercial Appellate Court and the Administrative Court and 12 years for a judge of the Supreme Court of Cassation.

Other requirements for the election of a judge are qualification, competence and worthiness, i.e. ethical characteristics that a judge should possess, and conduct in accordance with such characteristics. Having a clean criminal record is also necessary.

Those candidates that have completed the initial training at the Judicial Academy are exempt from taking the obligatory entry exam and the final exam grade achieved at the initial training is taken into account when assessing the criteria of competence and qualification evaluation for judicial positions.

The HJC collects information and opinions about the qualifications, competence and moral integrity of a candidate, namely from bodies and organisations where the candidate worked in the legal profession. In case of a candidate coming from a court, it is mandatory to obtain the opinion of the session (collegium) of all judges of that court, as well as the opinion of the session (collegium) of all judges of the immediately higher instance court. In addition, the HJC must take into particular consideration the type of jobs that the candidate performed after passing the bar exam. Before presenting its nominations, the HJC conducts interviews with the candidates.

A list of pre-selected candidates that are to be nominated for election is published on the HJC's website. The HJC presents the nominated candidates to the National Assembly for election which can either elect a nominated candidate or reject him/her (it cannot elect a candidate who has not been nominated by the HJC). Those elected as a judge for the first time are elected for a three-year mandate. The decision to elect a judge is published in the Official Gazette.

Non pre-selected candidates may file a complaint against the decision of the HJC in the pre-selection procedure which is to be considered by the HJC; however, the body competent to decide on appeal against the HJC's final decision is the Constitutional Court (Articles 57 and 67, LoJ).

A first-time elected judge whose work during the first three-year term of office is assessed as having "performed the judicial duty with exceptional success", is elected mandatorily to a permanent office by the HJC. If the assessment is "not satisfactory", appointment to permanent office is not possible and the HJC issues a decision on the termination of office against which an objection may be filed with the HJC; the HJC makes a final decision against which an appeal is possible to the Constitutional Court (Article 57 and 67, LoJ). Every decision related to election (including a final decision on termination of office) must be reasoned and published in the Official Gazette.

In the GRECO Evaluation Report from 2015 (see para. 111 to 115) the involvement of the National Assembly in the election (and promotion) of judges and court presidents was subject to GRECO's criticism which also referred to the opinions of the Council of Europe's Venice Commission and the EU expressed on this matter. Such involvement of the National Assembly seemed to be "a recipe for politicisation of the judiciary". Another issue of criticism was the lack of objective and clear criteria of the procedures for first election,

appointment to permanent office and career advancement for judges and that the proposals for the selection among candidates made by the HJC were made in a non-transparent manner, based mainly on interviews held behind closed doors. Although GRECO noted that the Serbian authorities had already been working on these issues which had been foreseen by the National Judicial Reform Strategy (NJRS), it recommended reforming the procedures for the recruitment and promotion of judges and court presidents, in particular by excluding the National Assembly from the process, ensuring that decisions are made on the basis of clear and objective criteria, in a transparent manner and that positions of court presidents are occupied on an acting basis only for short periods of time.

In the compliance procedure GRECO found some progress made, namely bylaws adopted by the HJC on evaluation criteria and discussions held on possible constitutional amendments to exclude the National Assembly from the process of appointment of judges (see para. 36 – 42, GRECO Compliance Report from 2017), as well as a preparation of constitutional amendments to exclude the National Assembly from the appointment process (see para. 33 – 40, Interim Compliance Report from 2019). However, due to the fact that the constitutional amendments had not yet been adopted and that the rulebooks, although provided for merit-based criteria and standards for the objective evaluation of candidates to judicial positions, had not bound the HJC when making a decision, GRECO assessed this recommendation to be partly implemented (see para. 32 – 36, GRECO Second Compliance Report from 2020).

Integrity of a candidate judge is checked in the pre-selection and the selection process via obtaining opinions on candidates from bodies and organisation where the candidate worked in the legal profession, including an opinion of the collegium of all judges of a court where the candidate worked, and via checking the candidate's criminal record.

A judge is appointed »for life«. A judge's office ends either at the request of a judge, upon retirement age 65 (age 67 for Supreme Court of Cassation judges), due to a permanent inability to work, if not elected to permanent office, or in case of dismissal (Articles 56 to 67, LoJ). As mentioned above, judges are first elected to office for a three-year term and are then mandatorily elected to permanent office if their work during the first three-year term has been assessed as having »performed the judicial duty with exceptional success«. A judge can be dismissed if convicted of an offence carrying a sentence of imprisonment of at least six months or of a punishable act that demonstrates that s/he is unfit for the judicial function, in case of incompetence or due to a serious disciplinary offence (LoJ).

Lay judges are appointed by the HJC based on proposals by the Minister of Justice – who must first obtain an opinion from the court to which a lay judge is to be appointed –, for a period of five years. They may be re-appointed. Any national of Serbia of legal age who is not older than 70 years at the time of appointment and who is worthy of the function may be appointed as a lay judge. As is the case for professional judges, worthiness means ethical characteristics that a judge should possess, and conduct in accordance with such characteristics. A lay judge is suspended from office by the court president if criminal proceedings have been instituted against him/her for an offence that might lead to dismissal, or if dismissal proceedings have been instituted. Possible reasons for dismissal of a lay judge are political activity or political party membership. The procedure to determine the reasons for the termination of the function of a lay judge is initiated on proposal of the court president, president of the immediately superior court, the president of the Supreme Court of Cassation or the Minister of Justice; the HJC conducts the proceedings and takes a decision.

Public prosecutors (including deputies) are elected by the National Assembly upon a proposal of the Government and dismissed by the National Assembly (while deputy public prosecutors are dismissed by the SPC) as per the Law on Public Prosecution Office (LPPO). Several bylaws of the SPC regulate in detail the election process (i.e. Rulebook on criteria and standards for evaluation of qualification, competence and worthiness of candidates when proposing deputy public prosecutors elected for the first time, 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, 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).

Deputy public prosecutors who are elected for the first time are elected by the National Assembly based on proposals by the SPC, for a term of three years. Apart from meeting the general conditions, they are required to have three years of professional experience in the legal profession following the bar exam. Their qualifications and competences are evaluated at the entry exam conducted by the Examination Commission of the SPC. Those candidates who have passed the initial training at the Judicial Academy are exempt from taking the entry exam the final grade awarded at the end of the training will be taken into consideration (Article 77a, LPPO). Following the three-year term, deputy public prosecutors are elected to a permanent office by the SPC within the prosecution service.

Public prosecutors (and deputy public prosecutors) are elected by the National Assembly, from the ranks of public prosecutors and deputy public prosecutors, upon the proposal of the government based on a list of candidates determined by the SPC, for a term of six years, with a possibility for a re-election. The SPC proposes to the government a list of one or more candidates for election. If only one candidate is proposed, the government may return the proposal to the SPC. The government and the National Assembly do not have the competence to elect a candidate who has not been nominated by the SPC.

In the GRECO Evaluation Report from 2015 (see para. 172 and 173) GRECO repeated its concerns expressed with respect to the recruitment (and promotion) of judges and court presidents also in relation to recruitment (and promotion) of public prosecutors, namely that the involvement of the National Assembly in the process provided room for undue political influence, that the selection of candidates by the SPC was non-transparent and lacked objective and clear criteria, that there had been cases where prosecution offices had been headed by acting public prosecutors for long periods of time, making them liable to pressure, and that the government enjoyed wide discretion in the appointment process when accepting or refusing candidates proposed by the SPC for election by the National Assembly. GRECO thus recommended reforming the procedures for the recruitment and promotion of public prosecutors and deputy public prosecutors, in particular by excluding the National Assembly from the process, limiting the discretion of the government and ensuring that decisions are made on the basis of clear and objective criteria in a transparent manner and that positions of public prosecutors (i.e. heads of office) are occupied on an acting basis only for a short period of time.

In the compliance procedure (see GRECO Compliance Report from 2017, para. 63 – 68; GRECO Interim Compliance Report from 2019, para. 61 – 68; and GRECO Second Compliance Report from 2020, para. 54 - 57), GRECO noted draft constitutional amendments addressing part of the recommendation (as regards the exclusion of the National Assembly and limiting the discretion of the government, although as regards this latter point GRECO noted that much of this would also depend on the influence over the process of selection at the Judicial Academy once it becomes the single entry point for the prosecution service). As these amendments had not been adopted yet, GRECO concluded that this part of the recommendation was partly implemented. There was no progress with regard to the other part of the recommendation.

Elections of public prosecutors and deputy public prosecutors are publicly announced by the SPC (in the Official Gazette, the SPC website and in other sources of public information with a coverage of the whole territory of the country) and applications are submitted along with evidence of eligibility.

Entry criteria for the election of a (deputy) public prosecutor are publicly available and include: Serbian citizenship, meeting the general requirements for employment in state bodies, being a law school graduate, having passed the bar exam and being worthy of the office. The required professional experience in the legal profession following the bar exam is four years for a basic public prosecutor and three years for a deputy basic public prosecutor, seven years for a higher public prosecutor and six years for a deputy higher public prosecutor, ten years for an appellate public prosecutor and a public prosecutor with special jurisdiction and eight years for a deputy appellate public prosecutor and deputy public prosecutor with special jurisdiction, 12 years for the Public Prosecutor of the Republic and 11 years for the Deputy Public Prosecutor of the Republic.

As well as having the required qualifications and competence, a candidate must demonstrate worthiness, i.e. the requisite ethical and moral integrity (honesty, diligence, fairness, dignity, persistence and exemplarity). Having a clean criminal record is also necessary.

The SPC collects information and opinions about the qualifications, competence and moral integrity of a candidate, namely from bodies and organisations where the candidate worked in the legal profession. Before presenting its nominations, the SPC conducts interviews with the candidates. The lists of pre-selected candidates compiled by the SPC are published on its website. The SPC must justify its proposals and decisions.

Non-selected candidates may file a complaint against the decision of the SPC on the ranking list in the selection procedure which is to be considered by the SPC; however, against the SPC's final decision an administrative dispute may be initiated.

Integrity of a candidate public prosecutor is verified by examining a program of organisation and promotion of work of the public prosecutor's office that is to be submitted by the candidate – on the basis of the program the candidate's ability to organize work, knowledge of the affairs of the public prosecutor's office, advocacy for preserving the reputation of the public prosecutor's office in the public and other measures of importance for the work of the public prosecutor's office for which is running are checked.

Public prosecutors enjoy a six-year tenure and may be re-elected. The tenure of deputy public prosecutors is permanent, until reaching the retirement age of 65 (may be extended for two years with the consent of the deputy public prosecutor due to cases already initiated) or upon completion of 40 years of service. The office may terminate earlier, either at the request of a public prosecutor, due to a permanent inability to work, or in case of dismissal.

The Public Prosecutor of the Republic is elected for a six-year term and may be re-elected.

Public prosecutors and deputy public prosecutors are dismissed if sentenced for a criminal offence to at least six months' imprisonment, or convicted for a punishable offence that renders them unworthy of office, or if they discharge their functions incompetently (i.e. their performance is rated "unsatisfactory"), or for committing a grave disciplinary offence. The National Assembly decides whether to terminate the functions of a public prosecutor if the recommendation for dismissal emanates from the government and is based on reasons for dismissal determined by the SPC. The SPC decides whether to terminate the functions of a deputy public prosecutor. Decisions on termination can be appealed to the Constitutional Court, which takes a final decision. Decisions on termination are published in the Official Gazette.

Promotion for judges and prosecutors

The HJC is responsible for the promotion of judges who are elected by the National Assembly.

There is no specific procedure for the promotion of judges and thus the general procedure for the election of judges is applied (see the section Appointment/recruitment/mandate of judges/prosecutors).

The promotion procedure is based on the expertise and competence which is to be checked through a performance evaluation for the last three years done by a HJC's committee composed of three judges, who are elected members of the HJC.

The criteria and standards in the process of election of judges to another or higher court are prescribed by 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. Especially the following criteria are taken into account: 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. Worthiness of candidates (ethical qualities a judge should possess and behaviour in accordance with those qualities) is also important and shall be assumed.

For candidate judges with permanent tenure an opinion of the Session of all judges of the court where the judge is serving is obtained, as well as the opinion of the Session of all judges of immediately higher court. A list of preliminary candidates is then made and published on the HJC's website.

Decisions of the HJC on the selection of judges to permanent judicial positions at another or higher court must be reasoned and published in the Official Gazette. As a rule, a judge is elected only to the court where s/he applied.

Objections to evaluation are decided on by a commission composed of three members appointed by the HJC from among judges of the Supreme Court of Cassation. An administrative complaint may be made against the HJC's decision.

The involvement of the National Assembly in the (recruitment and) promotion of judges and court presidents has been subject to criticism and recommendations by international instances, including GRECO. For the recommendation addressed to Serbia with regard to promotion of judges and progress made by the Serbian authorities see the section Appointment/recruitment/mandate of judges/prosecutors.

GRECO also addressed the system of appraisal of judges' performance (see GRECO Evaluation Report from 2015, para. 116 – 118), especially the fact that the system relied almost exclusively on elements of productivity, even among the so-called "qualitative" criteria (e.g. percentage of decisions set aside after a legal remedy has been sought, time period for rendering decisions in writing). It pointed out in this connection that, even though productivity was certainly a necessary element of the evaluation of judges' work, it should not be the only one. Elements of a more qualitative character, like the quality of reasoning and its contribution to the development of case-law, or the behaviour of a judge including adherence to ethical and integrity values, also had an important role to play. Moreover, GRECO was concerned that the excessive dependence on quantitative criteria could instil an improper attitude where the focus was on statistical targets rather than high-quality work. GRECO was furthermore concerned that evaluations served as grounds for dismissal if "unsatisfactory" and that the HJC could initiate evaluations outside the usual three-year cycle, which could carry a risk of possible harassment or pressure. GRECO therefore recommended that the system of appraisal of judges' performance be reviewed (i) by introducing more qualitative criteria and (ii) by abolishing the rule that unsatisfactory evaluation results systematically lead to dismissal of the judges concerned.

In the GRECO Compliance Report from 2017 (see para. 43 – 49) and the GRECO Interim Compliance Report from 2019 (see para. 41 - 47) GRECO noted some progress made with respect to the second part of the recommendation, namely explanation provided by the Serbian authorities showing that the evaluation mark "unsatisfactory performance"

was not really an issue in practice and that the issue would be further addressed in the constitutional reform process, leading to corresponding changes to the Law on Judges. Since the amendments were still pending, GRECO concluded the recommendation was partly implemented. The same conclusion was made also in the GRECO Second Compliance Report form 2020 (see para. 37 – 41).

The SPC is responsible for the promotion of deputy public prosecutors.

Promotion of a public prosecutor by means of election to a higher ranking public prosecution office follows the same procedure as for the election of public prosecutors.

The work of all prosecutors is subject to a regular evaluation, which represents, together with an interview conducted by the SPC, the basis for election to a higher position. Performance evaluation is to be conducted on the basis of the publicised, objective and uniform criteria and standards established by the SPC (Rulebook on criteria and standards for evaluation of performance of public prosecutors and deputy public prosecutors). The performance evaluation of a public prosecutor is conducted by the directly superior, after obtaining the opinion of the Collegium of the directly superior public prosecution office. The performance evaluation of a deputy public prosecutor is conducted by the public prosecutor, after obtaining the opinion of the Collegium of the public prosecution office.

According to the Rulebook, the criteria for the evaluation of the work of a public prosecutor are: general ability to administer a public prosecution office, ability to monitor and include the total performance results of the public prosecution office under his/her management. The criteria for evaluation of the work of a deputy public prosecutor are promptness when proceeding, expertise and results, professional commitment and cooperation. Performance ratings – “performs prosecutorial function exceptionally”, “satisfactory performance of prosecutorial function” and “unsatisfactory performance” – are entered onto the prosecutor's personnel file. Prosecutors can submit reasoned objections to the rating to the SPC.

Based on the decision on performance evaluation as well as the interview conducted with the Commission of the SPC, candidates are being ranked for the purpose of election to a higher position (promotion). The same procedure as for the election then follows.

The non-selected candidate may initiate an administrative dispute at an administrative court.

The concerns expressed by GRECO with respect to the (recruitment and) promotion of judges and court presidents applied *mutatis mutandis* to the (recruitment and) promotion of public prosecutors and deputy public prosecutors (see the section Appointment/recruitment/mandate of judges/prosecutors).

In its Evaluation Report from 2015 (see para. 176) GRECO also addressed a recommendation with regard to the system for appraising the performance of public prosecutors and deputy public prosecutors. It was noted that the system might give too much weight to quantitative factors, some of which appeared inadequate, that the evaluations served as grounds for dismissal if “unsatisfactory” and that the SPC could initiate them outside the usual three-year cycle, which provided room for possible harassment or undue pressure, and that the rules didn't provide for adequate participation of prosecutors in the evaluation procedure. GRECO thus recommended that the system for appraising the performance of public prosecutors and deputy public prosecutors be reviewed (i) by revising the quantitative indicators and ensuring that evaluation criteria consist principally of qualitative indicators and (ii) by abolishing the rule that unsatisfactory evaluation results systematically lead to dismissal and ensuring that prosecutors have adequate possibilities to contribute to the evaluation process.

In the GRECO Compliance Report from 2017 (see para. 69 – 79) and the GRECO Interim Compliance Report from 2019 (see para. 61 - 68) progress made by the Serbian authorities in respect of implementation of this recommendation was noted. The SPC set up a working group to prepare evaluation criteria that would include qualitative evaluation criteria. As regards the second part of the recommendation the matter would be addressed following the constitutional reform process, leading to further changes to the Law on Public Prosecution Office – at the time of compliance procedure the amendments were still pending. GRECO therefore concluded this recommendation to be partly implemented. However, no progress was made since as GRECO concluded in the GRECO Second Compliance Report (see para. 58 – 61).

Confidence and satisfaction of the public with their justice system

The legislation for protecting the right of citizens to seek compensation in case they have suffered pecuniary or non-pecuniary damage due to the violation of the right to a trial within reasonable time is in place (Law on Protection of Right to Trial within a Reasonable Time). 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. Legal remedies as per this law are: a complaint to speed up the procedure, an appeal and a request for just satisfaction which includes the right to payment of monetary compensation for pecuniary or non-pecuniary damages cause due to violation of the right to a trial within reasonable time. A lawsuit for monetary compensation against the Republic of Serbia may be filed within one year from the day when a party acquired the right to fair satisfaction. The amount of compensation for non-pecuniary damages is limited to 300 – 3.000 EUR while the amount of compensation for pecuniary damages is determined by court on the basis of principle of causality and provisions of the Law on Contracts and Torts.

Prior to entry into force of the Law on Protection of Right to Trial within a Reasonable Time rehabilitation and legal consequences of rehabilitation of persons deprived of life, liberty, and other rights for political, religious, national, or ideological reasons were regulated in the Law on Rehabilitation. Higher courts decide on requests for rehabilitation, which could be filed until December 15, 2016. Pursuant to the provisions of this law and based on a court decision approving the request for rehabilitation, rehabilitated persons and other persons determined by this law apply for rehabilitation compensation. The Rehabilitation and Compensation Commission, formed on 9 February 2012 by the decision of the Ministry of Justice, considers requests for rehabilitation compensation and makes appropriate decisions. If a request for rehabilitation compensation is not adopted and the Commission does not decide on it within 90 days from the date the request was filed, the claimant may bring an action for damages before the competent court.

	2019			2020		
	Number of requests for compensation	Number of compensations	Total amount (in €)	Number of requests for compensation	Number of compensations	Total amount (in €)
Total	1097	406	798.268 €	NA	NA	NA
Excessive length of proceedings	145	30	330.611 €	NA	NA	NA
Non-execution of court decisions	28	4	12.102 €	NA	NA	NA
Wrongful arrest	NA	NA	NA	NA	NA	NA
Wrongful conviction	NA	NA	NA	NA	NA	NA
Other	157	164	379.471 €	NA	NA	NA

Based on the Law on the Organisation of Court (Article 8) a party and other participants in court proceeding have a right to a complaint about the work of the court when they believe that the proceeding is being prolonged, is irregular or that there is some undue influence on its course and outcome. The court president must consider the complaint, forward it to a judge to whom it concerns for an opinion and inform the complainants and the president of the immediately superior court of its merits and measures taken, within

15 days from the day of the receipt of the complaint (Article 55). The complaint may be filed either directly with the court or through the Ministry of Justice, the High Judicial Council or the immediate superior court – in such a case these bodies are informed about the complaint's merits and the measures taken.

	2019		2020	
	Number of complaints	Compensation amount granted	Number of complaints	Compensation amount granted
TOTAL			NA	NA
Court concerned	NA	NA	NA	NA
Higher court	NA	NAP	NA	NA
Ministry of Justice	9912	NA	NA	NA
High Judicial Council	1144	NA	NA	NA
Other external bodies (e.g. Ombudsman)	NAP	NAP	NA	NA

There is a procedure in place to effectively challenge a judge in case a party considers the judge is not impartial. No information has been provided on the ratio between the total number of initiated procedures of challenges and total number of finalised challenges.

There is a law/regulation in place that prevents specific instructions to public prosecutors to prosecute.

Promotion of integrity and prevention of corruption

According to the Constitution, independence of the judiciary as a whole and of judges individually is guaranteed. In performing their judicial function, judges are independent and responsible only to the Constitution and the law, and any influence on judges while performing their judicial function is prohibited (Articles 3, 4, 142 and 149). Under Article 153 of the Constitution, the High Judicial Council (HJC) is established as an independent and autonomous body to provide for and guarantee the independence and autonomy of courts and judges – more detailed provisions are contained in the Law on High Judicial Council. In addition, the Law on Organisation of Courts emphasises the prohibition of use of public office, the media or any public appearance to unduly influence the course and outcome of court proceedings. It makes it clear that any single act of judicial administration interfering with the autonomy and independence of courts and judges is deemed null and void. Moreover, among the generally accepted principles prescribed by the Law on Judges (LoJ) figure independence, security of tenure and non-transferability, material independence, immunity, right to association and right to advanced professional education and training. Other legal texts which guarantee the independence of judges and the judiciary are the Code of Ethics and the Rules of Procedure of the HJC, adopted by the HJC.

Judges enjoy functional immunity (Article 151, Constitution), which implies that they cannot be held responsible for their expressed opinion or voting in the process of passing a court decision (except in cases when they committed a criminal offence by violating the law), nor may they be detained or arrested in legal proceedings instituted due to criminal offences committed in performing their judicial function without the approval of the HJC.

The prosecution service is an autonomous institution in relation to other state bodies. Its autonomy is guaranteed by the Constitution (Article 156) and by the Law on Public Prosecution Office (Articles 2, 5, 45, 46 and 50, LPPO). Any influence on the work of the public prosecution service and on actions in cases by the executive and the legislative powers through the use of public office, public media and in any other manner that may jeopardise the independence of the work of a public prosecution office, is prohibited (Articles 5 and 45, LPPO). Other legal texts which guarantee the independence of prosecutors are the Rulebook on Administration in Public Prosecutor's Offices (Article 4) and the Code of Ethics of the Public Prosecutors and Deputy Public Prosecutors (Article 1).

Prosecutors enjoy identical functional immunity as that of judges (Article 162, Constitution) – the approval for their detention or arrest is to be given by the Judicial, Public Administration and Local Self-Government Committee of the National Assembly.

Different breaches of integrity of judges are criminalised in the Criminal Code: Aggravated Murder (Article 114), Endangerment of Safety (Article 138), Obstruction of Justice (Article 336b), Violation of Law by a Judge, Public Prosecutor or his Deputy (Article 360).

Different breaches of integrity of public prosecutors are defined in LPPO, i.e. disciplinary offences, disciplinary liability and disciplinary sanctions (Articles 103, 104, 105). Further breaches are criminalised in the Criminal Code: Violation of Law by a Judge, Public Prosecutor or his Deputy (Article 360), Trading in Influence (Article 366), Soliciting and Accepting Bribes (Article 367).

Breaches of integrity of court staff are defined in Law on Civil Servants, i.e. disciplinary liability (Articles 107 – 110) and are criminalised in the Criminal Code.

The Code of Ethics for Judges, which was adopted in 2010, contains a compilation of ethical principles and rules of conduct with which judges must comply in order to maintain and improve their dignity and reputation. The document revolves around the following tenets: independence, impartiality, competence and responsibility, dignity, dedication, freedom of association and dedication to the principles of the Code of Ethics. The Code was inspired, in particular, by the 2002 Bangalore Principles of Judicial Conduct. Judges were involved in its preparation through their representatives in the HJC. Serious violations of the Code of Ethics constitute disciplinary offences. The code is published on the HJC's website. However, it is not regularly updated. The Ethics Committee which is composed of judges and other legal professionals is competent to monitor compliance of judges with the Code of Ethics, issue opinion on whether a judge's behaviour is in conformity with the provisions of the Code of Ethics, provides written guidelines with practical examples on ethical matter, issues complementary guidance on provisions of the Code of Ethics etc. The opinions are published on the HJC's website. In June 2018 the Ethics

Committee of the HJC decided to adopt a new code of ethics as the current one contained certain defaults. The draft Code of Ethics for Judges has been prepared and is currently being discussed, after which its adoption will follow.

The Code of Ethics for public prosecutors and deputy public prosecutors of the Republic of Serbia, which was adopted in October 2013, is aimed at strengthening the rule of law and public trust in the prosecution service by establishing standards of professional ethics for prosecutors. It covers the basic duties of public prosecutors and the ethical principles of independence, impartiality, respect of rights, responsibility and professional commitment, professionalism and dignity. Significant violations (i.e. deliberate, serious or repeated) of the Code of Ethics with respect to those ethical principles constitute disciplinary offences. On 29 May 2014, the SPC created an Ethics Committee as an *ad hoc* working body of the SPC consisting of five members (one of which is an elective Council member, three are prosecutorial position holders, and one is a person, who publicly affirmed itself as defender of ethical values). According to the Code of Ethics, the Ethics Committee is tasked with interpreting particular provisions of the Code and giving individual advice to prosecutors. The Code of Ethics is publicly available. However, it has not been updated so far. The opinions of the Ethics Committee are not publicly available.

In Serbia, Guidelines for the Prevention of Undue Influence on Judges and Guidelines on recognising and countering risks of undue influence intended for public prosecutors, deputy public prosecutors and prosecutorial assistants have been adopted in 2019. They provide guidance to judges and (deputy) public prosecutors on different mechanisms available to them in the event of undue influence exerted on them. One such mechanism is laid out in the Law on Anti-Corruption Agency which prescribes that an official shall promptly notify the Agency of any prohibited influence to which s/he has been subjected in the course of discharge of a public office. The Agency shall notify the competent body of the allegations of the official, to institute disciplinary, misdemeanour and criminal proceedings, in accordance with the law (Article 37). As per the Code of Ethics of the Public Prosecutors and Deputy Public Prosecutors public prosecutors and deputy public prosecutors are obliged to maintain confidence in independence of their function, and in particular to inform the competent state bodies of any unauthorized influence on the work of the public prosecutor's office in accordance with the law and other regulations. In relation to attempt on influence, public prosecutor or deputy public prosecutor are entitled to submitted complaint to the SPC`s Commissioner for independence. Judges, public prosecutors and deputy public prosecutors are entitled (like other natural persons) to file a criminal complaint for attempt of corruption. As per the Law on Whistleblower Protection anyone who reports or discloses corruption or other wrongdoing is entitle to protection as per this law.

Transparency in distribution of court cases is ensured. A random, computer generated allocation of court cases to judges is ensured via an information system, which takes into account urgency of the case as well as the number of urgent cases and the number of other cases assigned to a judge base on the case weighting methodology system adopted in May 2017. Allocation of court cases is based on a court schedule of tasks, in accordance with the Court Rules of Procedure, according to the order determined in advance for each calendar year, exclusively on the basis of the designation and the number of the case file. The order of admission of cases can be departed from in cases stipulated by the law, as well as in the case of work overload or justified unavailability of judges, in accordance with the Court Rules of Procedure. In its Evaluation Report from 2015 (see para. 122) GRECO referred to some concerns heard about the system for random allocation of cases which is not yet automated in all courts and the related risk of circumvention; the authorities are invited to address these concerns.

Court cases may be reassigned due to conflict of interest declared by the judge or by the parties, recusal of the judges or requested by the parties or physical unavailability (i.e. illness, longer absence).

All reassignments of cases which are processed through the computerised automatic allocation of cases have to be reasoned.

No data is available on number (absolute and per 100 judges/prosecutors) of initiated cases, completed cases and sanctions pronounced for years 2019 and 2020.

Level of implementation of GRECO recommendations in October 2020 (adoption of the GRECO Second Compliance Report on Serbia):

	JUDGES	PROSECUTORS
Implemented	0,00%	0,00%
partially implemented	100,00%	100,00%
not implemented	0,00%	0,00%

Declaration of assets for judges and for prosecutors

The disclosure regime for judges and public prosecutors is laid out in the new Law on the Prevention of Corruption (LPC), which has been adopted on 21st May 2019 and has become fully applicable as of 1st September 2020. It applies to public officials, thus both to judges and public prosecutors.

As per Articles 68 and 69 of the LPC judges and public prosecutors are required to submit a property disclosure report (report).

The report should include information on property rights on real estate at home and abroad; property rights on movable property subject to registration with the competent authorities in Serbia and abroad; property rights on movables of high value (valuables, valuable collections, art collections, etc.); deposits in banks and other financial organisations, at home and abroad; shares and interests in legal entities and other securities; rights deriving from copyright, patent and similar intellectual property rights; debts (principal, interest and repayment period) and receivables; source and amount of income from the discharge of public office, or public functions; entitlement to use an apartment for official purposes; source and amount of other net incomes; other public functions, jobs or activities discharged in accordance with the law and other special regulations; membership in civic association bodies; all other data and evidence deemed by the official as relevant for the implementation of this Law (Article 71, LCP).

Reports are to be submitted within 30 days of election, on an annual basis and within 30 days from the day of the termination of function as well as over a period of two years following the termination of public functions. In addition, a report must be filed if any significant changes occur since the previous report providing information on assets as on 31st December of the preceding year (i.e. any change which exceeds the average annual net income in Serbia). Also, a report should be filed upon appointment to another function (Articles 68 and 69, LPC).

Judges and public prosecutors are also required to report the assets and income of their spouses or common-law partners and of minors living in the same household (Article 68, LPC has extended the circle of associated persons as to include a family member of the public official, a blood relative of the public official, i.e. lateral blood relative to the second degree of kinship, as well as a natural person or a legal entity who may, on other bases and circumstances, be reasonably assumed to be associated in interest with the public official). The report is the same for the family members.

Declarations are submitted to the Anti-Corruption Agency (Agency) which keeps a Property Register containing all data provided in the reports (Article 72, LPC). The Agency also keeps a Register of Officials that are obliged to submit their reports (the officials that have assumed office or on the officials whose offices have terminated) and publishes it on its website – the information is provided by bodies in which the officials hold offices (Article 67, LPC).

Information on salary and other income received by officials from the budget and other public sources, and information on the public offices they are discharging, is public. The same is true for certain information concerning property, such as ownership rights on real estate at home or abroad (without specifying the address of such property), ownership rights on vehicles (without specifying the registration number), savings deposits (without specifying the bank and account number) and the right to use an apartment for official purposes. Furthermore, information on officials' property which is public according to other regulations, as well as other information which may be disclosed with the consent of the officials or their spouses or common-law partners, are deemed public information. The above-mentioned information is published on the official ACA website (http://www.acas.rs/pretraga-registra/), upon submission of the disclosure reports. Information from disclosure reports which is not deemed public may not be used for other purposes except in proceedings for determining whether a violation of the law has occurred.

Regarding financial disclosure verification competencies, the Agency checks the timeliness of submitting the report, completeness and accuracy of the information submitted as well as unexplained financial discrepancies (Articles 75 and 76, LPC). In case of suspected concealment of property, the Agency may request data on property and income directly from persons associated with a public official (i.e. judge, prosecutor) (Article 76, LPC).

Infringements of the obligations emanating from the LPC (including the requirement to file a report on property in the manner and within the deadlines provided by the law) constitute a misdemeanour which is punishable with fines (between 50 000 to 150 000 RSD/approximately 435 to 1 315 EUR) (Articles 103, LPC).

A caution and a public announcement of a recommendation for a dismissal are other possible measures that may be pronounced with respect to public officials while a caution and a public announcement of a decision on violation of the law on corruption prevention may be pronounced with respect to directly elected officials and officials whose public functions have terminated. (Article 82, LPC).

Furthermore, officials including judges and public prosecutors who fail to report property to the Agency or give false information about their property, with the intention to conceal details of it, are criminally liable and the applicable sentence is imprisonment for a period of six months to five years. In addition, their office terminates in accordance with the law and they are banned from assuming public office for a period of ten years from the day the court decision becomes final (Article 101, LCP).

Number (absolute and per 100 judges/prosecutors) of proceedings against judges for violations or non-declaration of assets in 2019 and 2020:

Serbia	Judges						Prosecutors					
	Number of initiated cases		Number of completed cases		Number of sanctions pronounced		Number of initiated cases		Number of completed cases		Number of sanctions pronounced	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
2019	32	1,18	27	1,00	24	0,89	13	1,66	13	1,66	13	1,66
2020	14	0,53	14	0,53	15	0,57	NA	NA	NA	NA	NA	NA

Conflict of interest for judges and for prosecutors

The legal framework for the prevention and the resolution of conflicts of interest applicable to judges is provided by the relevant provisions of: 1) the Constitution, as regards conflicts of interest, incompatibilities and accessory activities (Articles 6 and 152); 2) the procedural laws, which contain rules on recusal and self-withdrawal in individual cases (the Criminal Procedure Code – Articles 37 and 38; the Civil Procedure Code – Articles 66-69); 3) the Law on Judges (LoJ), as regards incompatibilities and accessory activities (Articles 30 and 31); 4) the Law on the Corruption Prevention - LCP, as regards *ad hoc* conflicts of interest (Article 42), gifts (Articles 57 to 66, LCP), incompatibilities and accessory activities (Article 45 to 50, LCP); and 5) the Code of Ethics.

As per Article 152 of the Constitution judges are prohibited from engaging in political actions and in other functions, actions or private interests which are incompatible with the judge's function as stipulated by law.

The reasons for disqualification of judges are listed in the relevant procedural laws (Article 37 to 42 of the Criminal Procedure Code; Articles 66 to 73 of the Civil Procedure Code) and include *inter alia* conflicts of interest due to being related by family or business relations to the parties or their representatives, by being a victim or a party to the case, by having worked on it before e.g. during preliminary proceedings etc. Aside from such specific reasons, a judge can be excluded from a case when there are any circumstances that cast doubt on their impartiality. Judges must, immediately upon becoming aware of the existence of any of the reasons for exclusion, discontinue proceedings upon the case and duly inform the parties (in civil proceedings) and the court president, who has to appoint a substitute. Likewise, in case of doubt judges must suspend the proceedings and duly inform the parties and the court president of the grounds for possible disqualification. Furthermore, the parties and the defence counsel (in criminal proceedings) may submit a motion for recusal of a judge. The court president is competent to decide on disqualification of the judge. Where the recusal concerns a court president, the recusal ruling is rendered by the president of the immediately higher court, and where the recusal of the president of the Supreme Court of Cassation is sought, the ruling is rendered by a General Session. In criminal proceedings (but not in civil proceedings), a ruling denying a recusal motion may be challenged by a special appeal which is decided by the appellate court. A ruling upholding a recusal motion is not appealable.

Pursuant to Article 30, LoJ, judges may not hold office in bodies enacting or enforcing legislation, public offices, or autonomous province and local self-management units. They may not be members of a political party or politically active in some other manner, engage in any paid public or private work, provide legal services or legal advice for compensation. As an exception judges may, without explicit permission, engage in compensated educational and research activity outside working hours and, in cases set out by law, in teaching and research activities in a judicial training institution during working hours. During working hours, with the approval of the court president, they can also participate in activities of professional bodies established in accordance with special regulations, and working groups for the drafting of laws and other regulations, and they may be sent on study and/or other professional visits abroad by decision of the HJC, following the opinion of the court president. Finally, the HJC decides, on the basis of the Code of Ethics, whether other functions, engagements and activities are to be considered contrary to the dignity and independence of a judge or damaging to the reputation of the court, in which case they would be deemed incompatible. As per Article 46, para. 4, LCP, a judge must also obtain a prior authorisation from the Agency for accessory activities s/he is about to take up.

A judge is required to notify the HJC, in writing, of any engagement or work that may be deemed incompatible, and the HJC notifies the court president and the judge if there is an incompatibility. The court president has to file disciplinary charges immediately upon learning that a judge is engaged in service, or work, or engaging in activities that may be deemed incompatible with his/her function.

The legal framework for the prevention and resolution of conflicts of interest is provided by Articles 40 – 42, 45 – 50, 56 LCP which are applicable to all "officials", including judges. Article 41, LCP defines a conflict of interests as "a situation where an official has a private interest which affects, may affect or appears to affect the discharge of public office." Articles 40 to 42, LCP provide for, *inter alia*, general rules on conflicts of interest and the duty to notify such conflicts; the prohibition on holding another public office; rules on holding a function and being a member in a political party/a political entity, on engaging in another job or activity etc. The law also provides that officials (judges included) must discharge their duties in a way that does not subordinate the public interest to the private interest, to secure and maintain the public's trust in their conscientious and responsible

discharge of public office, to avoid creating relations of dependency towards persons who may influence their impartiality in the discharge of public office and not to use public office to acquire any benefit or advantage for themselves or any associated person (a family member, a lineal blood relative, collateral blood relative to the second degree of kinship, as well as a legal or natural person whose interests, based on other grounds and circumstances, may be reasonably assumed to be associated with those of the official). Moreover, when taking up and holding public office, officials have to notify their direct superior and the Agency, in writing, within five days, of any doubts they might have concerning a conflict of interests that might involve themselves or an associated person

LCP (Articles 57 to 66) regulates the acceptance and handling of gifts. In particular, officials - including judges - (and associated persons) may not accept gifts in connection with the discharge of public office, except for protocol or appropriate gifts. Protocol gifts – as well as other gifts which cannot be refused – must be handed over to the body competent to manage property in public ownership, unless the value of the gift does not exceed 10% of the value of the average monthly net salary in Serbia, or the total value of gifts received during a calendar year does not exceed the amount of one average monthly net salary in Serbia. Officials must notify in writing the public authority in which s/he discharges public office about any gifts received – the court - in ten days from receiving the gift and/or from the day of returning to the country. The court keeps records of gifts received by public officials and their family members and submits a copy of the record of gifts to the Agency by 1st March of the current year for the preceding calendar year. The Agency must notify the public bodies of any determined violation of the law and publish a catalogue of gifts for the previous year by 1 June of the current year.

Proceedings for breaches of rules on conflicts of interest in respect of judges are regulated in the LCP and the LoJ. The LCP also regulates the procedure to sanction breaches of the rules on conflicts of interest in respect of judges.

The legal framework for the prevention and the resolution of conflicts of interest applicable to public prosecutors is provided by the relevant provisions of: 1) the Constitution, as regards incompatibilities and accessory activities (Article 163); 2) the procedural laws, which contain rules on recusal and self-withdrawal in individual cases (the Criminal Procedure Code); 3) the Law on Public Prosecution Office (LPPO), as regards incompatibilities and accessory activities; 4) the Law on the Corruption Prevention - LCP, as regards *ad hoc* conflicts of interest (Article 42), gifts (Articles 57 to 66, LCP), incompatibilities and accessory activities (Article 45 to 50, LCP); and 5) the Code of Ethics of Public Prosecution Office.

As per Article 163 of the Constitution public prosecutors are prohibited from engaging in political activities and in other functions, actions or private interests which are incompatible with the prosecutor's function as stipulated by law.

The provisions of the Criminal Procedure Code on disqualification of judges described above also apply to prosecutors. Public prosecutors decide on motions for the recusal of a deputy public prosecutor and motions for recusal of a public prosecutor are ruled on by the immediately superior public prosecutor. Motions to exclude the Public Prosecutor of the Republic are decided by the SPC once the opinion of the Collegium of the Office of the Public Prosecutor of the Republic has been obtained.

Pursuant to Article 65 LPPO, prosecutors may not hold office in authorities enacting or enforcing regulations, in bodies of executive power, public services, and bodies of autonomous provinces and local self-management units. They may not be members of political parties, engage in public or private paid work, nor provide legal services or legal advice for compensation. As an exception prosecutors may, without explicit permission, engage in compensated educational and research activity outside working hours and, in cases set out by law, in teaching and research activities in a judicial training institution during working hours. They may also engage in cultural, humanitarian and sports activities without the Agency approval if by doing so s/he does not compromise the impartial discharge and dignity of public office. However, they are required to report incomes from these activities to the Agency. They may also be sent on study and/or other professional visits abroad by decision of the SPC, following the opinion of the directly superior prosecutor. Finally, the office of public prosecutor is also incompatible with other offices, engagements or private interests that are contrary to the dignity and autonomy of a public prosecutor's position or are damaging to its reputation, which is decided upon by the SPC.

The legal framework for the prevention and resolution of conflicts of interest is provided by Articles 40 – 42, 45 – 50, 56 LCP which are applicable to all "officials", including public prosecutors.

The rules on gifts which are set out in the LCP apply also to public prosecutors.

A prosecutor does not need prior authorisation regarding performance of accessory activities (teaching, research and publication, mediation – with or without remuneration) nor has to inform his/her hierarchy or the Agency about these activities if it does not endanger his/her impartiality of office.

Proceedings for breaches of rules on conflict of interest in respect of public prosecutors are regulated in the LPC, Articles 77 to 86, LPPO and the Regulation on Disciplinary Liability and Disciplinary Proceedings of Public Prosecutors and Deputy Public Prosecutors. The same laws also regulate the procedure to sanction breaches of the rules on conflicts of interest in respect of public prosecutors.

Judges and prosecutors may combine their work with the following other functions/activities:

		With remuneration		Without remuneration	
		Judges	Prosecutors	Judges	Prosecutors
Combine work with other functions/activities	Teaching	√	√	√	√
	Research and publication	√	√	√	√
	Arbitrator				
	Consultant				
	Cultural function				√
	Political function				
	Mediator			√	
	Other function				

On the basis of Article 46 (para. 2), LPC, a public official (a judge and a prosecutor) may engage in scientific research, teaching, cultural, artistic, humanitarian and sports activities without the consent of the Agency, if they do not jeopardise the impartial discharge and reputation of the public office. A public official is obliged to report income from such work and/or business activity to the Agency.

On the basis of the Law on Mediation and Dispute Resolution (Article 33) judges may mediate outside of court working hours without compensation. Instead, such activities are taken into account in the work appraisal of the judge based on the Rulebook on the criteria, Standards, Procedures and Authorities for Evaluating the Work of Judges and Court Presidents.

Number (absolute and per 100 judges/prosecutors) of procedures for breaches of rules on conflict of interest for judges and prosecutors in 2019 and 2020:

Serbia	Judges						Prosecutors					
	Number of initiated cases		Number of completed cases		Number of sanctions pronounced		Number of initiated cases		Number of completed cases		Number of sanctions pronounced	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
2019	1	1,00	NA	NA	1	1,00	0	0,00	1	1,00	NA	NA
2020	1	1,00	NA	NA	2	2,00	2	2,00	1	1,00	NA	NA

Discipline against judges and prosecutors

Disciplinary accountability of judges is regulated in Articles 89 to 98 of the Law on Judges (LoJ) and relevant bylaws, namely Rulebook on Procedure for Establishing the Disciplinary Responsibility of the Judges and Court Presidents.

A judge is held disciplinarily responsible if s/he, *inter alia*, violates the principle of independence, fails to request his/her recusal due to negligent performance in cases where there are reasons for recusal or exclusion foreseen by law, unjustifiably delays proceedings, accepts gifts contrary to the regulations on conflicts of interest, obviously incorrectly treats parties and other participants in proceedings and court staff, engages in activities that are incompatible with a judge's function under the law, commits serious violation of provisions of the Code of Ethics (Article 90, LoJ).

Anyone may file a complaint against a judge, including a court user, the HJC, the president of the court where the judge works, the president of the higher court, the Ombudsman, the National Assembly, the executive branch (i.e. the Ministry of Justice) etc. based on which the Disciplinary Prosecutor formally initiates the disciplinary proceeding.

Disciplinary proceedings against judges are initiated by the Disciplinary Prosecutor, who is appointed by the HJC from among judges, and conducted by the Disciplinary Commission (members of which are also appointed by the HJC from among judges).

A judge may present his/her argumentation in a disciplinary proceeding at a hearing or in writing.

Decisions on disciplinary measures against judges are taken by the Disciplinary Commission and can be appealed to the HJC which has to decide within 30 days after receiving the appeal. It may either uphold or reverse the first-instance decision of the Disciplinary Commission. The decision by the HJC is final but the judge concerned may initiate an administrative claim (Article 98, para. 4, LoJ).

Disciplinary measures consist of reprimand, salary reduction of up to 50% for a period not exceeding one year, prohibition of advancement for a period of up to three years, and ultimately dismissal. Dismissal proceedings are instituted by the Disciplinary Commission if it established the judge's responsibility for a serious disciplinary offence as defined by law, in case of a conviction for a criminal offence to unconditional prison sentence of at least six months or of a punishable offence rendering the judge unworthy of judicial office, or in case of unprofessional performance of judicial office.

Judges may also be subject to ordinary criminal proceedings and sanctions if they commit offences such as bribery, fraud, breach of professional confidentiality or failure to report property to the Anti-Corruption Agency (Agency) or giving of false information, with an intention to conceal facts about it.

A judge may be transferred to another court without his/her consent only due to organisational reasons, if the court or the prevalent part of the court jurisdiction to which s/he was elected is dismantled by a decision of the HJC (Article 19, LoJ).

Disciplinary accountability of public prosecutors is regulated in Articles 103 to 111 of the Law on Public Prosecution Office (LPPO) and relevant bylaw (Rulebook on Disciplinary Procedure and Disciplinary Responsibility of Public Prosecutors and Deputy Public Prosecutors).

A public prosecutor is held disciplinary responsible if s/he, *inter alia*, fails to request recusal in cases where legal grounds for doing so exist, fails to comply with the written instruction of a superior public prosecutor, accepts gifts, contrary to regulations governing the conflict of interest, engages in inappropriate relations with the parties or their legal counsels in pending proceedings, engages in activities set forth by the Law as incompatible with a public prosecutorial office, violates the principle of impartiality and jeopardising the public's trust in the public prosecution service, significantly breaches the provisions of the Code of Ethics. Serious disciplinary offence are deemed to exist if a disciplinary offence referred to above resulted in a serious disruption in the performance of prosecutorial office, or in the performance of work tasks in the public prosecution, or in serious

damage to the reputation of, and trust in, the public prosecution, which in particular includes the expiry of the statute of limitations for criminal prosecution, as well as in cases of repeated disciplinary offences (Article 104, LPPO).

Anyone may file a disciplinary charge against a public prosecutor (i.e. a citizen, the Ombudsman, the Agency etc.). However, in certain cases institutions and individuals have a duty to file a disciplinary charge (i.e. the SPC and the Public Prosecutor of the Republic in case of a conflict of interest of a public prosecutor; the Agency in case of violation of the anti-corruption legislation). Based on the disciplinary charge filed the Disciplinary Prosecutor formally initiates the disciplinary proceeding.

Disciplinary proceedings are conducted by the Disciplinary Commission at the motion of the Disciplinary Prosecutor. Members of both disciplinary bodies are appointed by the SPC from among public prosecutors.

A prosecutor has a possibility to present his/her argumentation at a hearing or in writing.

An appeal may be filed against the decision of the Disciplinary Commission within eight days and the SPC has to take a decision on the appeal within 30 days, which is final, but the public prosecutor concerned may initiate an administrative claim.

Disciplinary sanctions include public reprimand (only in the case of a first disciplinary offence by a public prosecutor or a deputy public prosecutor), salary reduction of up to 50% for a period not exceeding one year and prohibition of advancement for a period of three years (Article 105, LPPO). A grave disciplinary offence is a reason for dismissal, to be decided upon by the National Assembly or the SPC (in the case of a deputy public prosecutor).

Public prosecutors may also be subject to ordinary criminal proceedings and sanctions if they commit offences such as bribery, fraud, breach of professional confidentiality or failure to report property to the Agency or giving of false information, with an intention to conceal.

		2019				2020			
		Judges		Prosecutors		Judges		Prosecutors	
		Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated during the reference year	Total number (1 to 5)	7	0,26	7	0,89	10	0,38	0	0,00
	1. Breach of professional ethics (including breach of integrity)	2	0,07	2	0,26	1	0,04	0	0,00
	2. Professional inadequacy	2	0,07	5*	0,64	0	0,00	0	0,00
	3. Corruption	0	0,00	0	0,00	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00	0	0,00	0	0,00
	5. Other	3	0,11	0	0,00	9	0,34	0	0,00
Number of cases completed in the reference year against	Total number (1 to 5)	11	0,41	4	0,51	11	0,42	6	0,76
	1. Breach of professional ethics (including breach of integrity)	2	0,07	0	0,00	3	0,11	1	0,13
	2. Professional inadequacy	9	0,33	4	0,51	0	0,00	5	0,64
	3. Corruption	0	0,00	0	0,00	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00	0	0,00	0	0,00
	5. Other	0	0,00	0	0,00	8	0,30	0	0,00
Number of sanctions pronounced during the reference year	Total number (total 1 to 10)	6	0,22	3	0,38	11	0,42	5	0,64
	1. Reprimand	1	0,04	1	0,13	1	0,04	1	0,13
	2. Suspension	NAP	NAP	0	0,00	NAP	NAP	0	0,00
	3. Withdrawal from cases	NAP	NAP	0	0,00	NAP	NAP	0	0,00
	4. Fine	NAP	NAP	0	0,00	NAP	NAP	0	0,00
	5. Temporary reduction of salary	4	0,15	1	0,13	5	0,19	3	0,38
	6. Position downgrade	NAP	NAP	0	0,00	NAP	NAP	1	0,13
	7. Transfer to another geographical (court) location	NAP	NAP		NAP	NAP	NAP	NAP	NAP
	8. Resignation	NAP	NAP	0	0,00	NAP	NAP	0	0,00
	9. Other	0	0,00	0	0,00	5	0,19	0	0,00
	10. Dismissal	1	0,04	1	0,13	0	0,00	0	0,00

*A professional inadequacy as one of the reasons for initiating disciplinary proceedings against public prosecutors is considered to be a failure to make public prosecutorial decisions and to file regular and extraordinary legal remedies within the prescribed period; often missed or late to scheduled hearings, hearings and other procedural actions in cases assigned to him/her; refusal to perform the tasks and tasks entrusted to him/her etc.

Council for the Judiciary/ Prosecutorial Council

Following the judicial reforms in Serbia since 2000, two bodies of self-administration were constituted in 2009, namely the High Judicial Council (HJC) and the State Prosecutorial Council (SPC).

The HJC is established as an independent and autonomous body to provide for and guarantee the independence and autonomy of courts and judges. Its composition and competences are defined in the Constitution (Article 153) and the Law on the High Judicial Council (LHJC).

It has 11 members, three of whom are *ex officio* members (the President of the Supreme Court of Cassation, the Minister of Justice and the President of the authorised committee of the National Assembly, i.e. the Committee on Justice). The other eight members are elected by the National Assembly, from candidates proposed by the competent bodies, namely six members are judges that are nominated by the HJC, following the result of an election by judges, and two members are respected and prominent lawyers who have at least 15 years of professional experience, one of whom must be a solicitor (nominated by the Bar Association of Serbia) and the other a professor at the law faculty (nominated by a joint sessions of deans of all law faculties in Serbia.

The eight electoral members of the HJC have a five-year term and can be re-elected, however, not consecutively. The HJC members hold a full-time position in the HJC.

In the GRECO Evaluation Report from 2015 (see para. 97 – 99), GRECO recommended changing the composition of the HJC as crucial to strengthening its independence and creating the conditions for resorting public trust in the judiciary. GRECO recalled that as per Recommendation Rec(2010)12 of the Committee of Ministers of the Council of Europe, judges elected by their peers should make up not less than half the members of councils for the judiciary. It also pointed out the Council of Europe's Venice Commission's criticism of the constitutional provisions on the composition of the HJC, stating that “the judicial appointment process is thus doubly under the control of the National Assembly: the proposals are made by the High Judicial Council elected by the National Assembly and the decisions are then made by the National Assembly itself. This seems a recipe for politicisation of the judiciary and therefore the provisions should be substantially amended.” While the Law on the HJC was then amended so that the National Assembly is only presented with the name of the person elected by the authorised nominators in respect of each vacancy, the National Assembly is still entitled to reject the candidate, in which case another election would take place. The *ex officio* membership of the Minister of Justice and the President of the Parliamentary Committee on Justice was also criticised and GRECO drew the attention of the authorities to Opinion No.10 (2007) of the Consultative Council for European Judges, which explicitly stresses that members of the Judicial Council should not be active politicians, in particular members of the government.

GRECO therefore recommended (i) changing the composition of the High Judicial Council, in particular by excluding the National Assembly from the election of its members, providing that at least half its members are judges elected by their peers and abolishing the ex officio membership of representatives of the executive and legislative powers; (ii) taking appropriate measures to further develop the role of the High Judicial Council as a genuine self-governing body which acts in a pro-active and transparent manner.

In the GRECO compliance procedure that followed, the GRECO Compliance Report on Serbia from 2017 and the GRECO Interim Compliance Report on Serbia from 2019 were adopted; some progress with regard to the first part of the recommendation has been made since as per draft constitutional amendments the HJC is to be composed of 10 members, of whom five are judges elected by their peers (for which it is provided that equal representation of all levels of the judiciary is to be taken into account), and the other five are prominent lawyers elected by the National Assembly. The National Assembly will thus be excluded from electing the judge-members of the HJC and the *ex officio* membership of representatives of the executive and legislative powers will be abolished. However, since GRECO’s recommendation also calls for the complete exclusion of the National Assembly from the election of the members of the HJC (and not just from electing the judge-members as it proposed by the amendments), as the government has also committed itself to in its own National Justice Reform Strategy and Action Plan for Chapter 23 and since the constitutional amendments have not been adopted yet, GRECO considered this part of the recommendation to be partly implemented (see para. 29 – 35 of the Compliance Report and Interim Compliance Report, para. 25 – 32). No progress was noted also in the GRECO Second Compliance Report from 2020 (see para. 25 - 31).

The HJC is competent to elect judges to permanent office and to propose candidates for election for a first three-year mandate, to appoint lay judges, to rule on the termination of a judge's functions, to propose the election and dismissal of the President of the Supreme Court of Cassation and court presidents to the National Assembly, to decide on the transfer and assignment of judges, to rule on the process of the performance evaluation of judges and court presidents, to rule on issues of immunity of judges and members of the HJC, to rule on the incompatibility of other services and jobs, to perform tasks in respect of the implementation of the National Strategy for the Reform of the Judiciary within its remit and to perform other duties as specified by law (Article 13, LHJC).

In the GRECO Evaluation Report from 2015 (see para. 99) GRECO also pointed out the perception of the HJC as being weak and ineffective and unlikely to perform key functions properly due to, *inter alia*, the role of the HJC in the re-appointment process, not acting in cases of public pressure put on judges, carrying out its important tasks with significant delay etc. A second part of the recommendation (see above) was to address these deficiencies. In the compliance procedure (see GRECO Compliance Report from 2017, para. 32, 34 and GRECO Interim Compliance Report from 2019, para. 28, 29, 31) the Serbian authorities provided information on amendments to the LHJC from 2015 and to the HJC's Rules of Procedure from 2016 and 2018 which provided for public sittings of the HJC, reasoned decisions and publication of the HJC's decisions, progress reports, agendas, minutes and decisions of the HJC's sessions and a calendar of activities on its website. Furthermore, the HJC adopted a communication strategy with an aim to make the work of the judiciary more accessible and transparent to the public. The amended Rules of Procedure provided for a clear procedure on necessary actions to be undertaken to publicly respond in case of undue political influence on the judiciary (including obligation to issue public statements) and introduced greater transparency of the selection procedure of judges (by allowing all interested parties to attend interviews for the first election to a judicial function, by recording those interviews, by publishing the list of candidates and the grades achieved in sitting examinations on the HJC's website). GRECO concluded that as practice needed to be established and further developed within the HJC for a transparent and proactive action, this part of the recommendation was partly implemented. Additional information provided by the Serbian authorities regarding the HJC's pro-active role as regards communication, to defend the court system and individual judges against political attacks and in the election of judges as well as about the HJC having some budgetary and management autonomy was noted by GRECO in its Second Compliance Report from 2020 but it concluded that recommendation remained partly implemented (see para. 25 – 31).

Under Articles 164 and 165 of the Constitution, the State Prosecutorial Council (SPC) is an autonomous body that provides for and guarantees the autonomy of prosecutors. Its composition and competences are defined in detail in the Law on the State Prosecutorial Council (LSPC).

It comprises of 11 members: the Public Prosecutor of the Republic, the Minister of Justice and the President of the Judicial, Public Administration and Local Self-Government Committee of the National Assembly are *ex officio* members, and eight electoral members who are elected by the National Assembly. Electoral members must include six prosecutors holding permanent posts – one of whom from the autonomous provinces – and two respected and prominent lawyers who have at least 15 years of professional experience, one of whom must be a solicitor and the other a professor at the law faculty. Upon the decision of the President of the SPC to initiate the nomination procedure for electoral members which is published in the Official Gazette authorised nominators (the SPC, the Bar Association of Serbia, the joint session of law school deans in the Republic of Serbia) initiate their respective procedures for selection of their candidates for electoral members. Candidates from the ranks of (deputy) public prosecutors are elected from the public prosecutor's offices as follows: one from the State Public Prosecutor's Office, one from the appellate public prosecutor's office and two specialised prosecutor's offices (for organised crime and war crimes), one from higher prosecutor's offices, two from basic prosecutor's offices and one from a public prosecutor's office from the territory of an autonomous province. (Deputy) public prosecutors are elected by their peers, in a secret vote based on the candidacy application submitted to the electoral commission. Electoral members of the SPC are elected for a five year term and may be re-elected, but not consecutively. The SPC members hold a full-time position in the SPC.

In its Evaluation Report from 2015 (see para. 164) GRECO reiterated its comments and concerns as regards the composition of the HJC also in respect of the SPC's composition and recommended (i) changing the composition of the State Prosecutorial Council (SPC), in particular by excluding the National Assembly from the election of its members, providing that a substantial proportion of its members are prosecutors elected by their peers and by abolishing the ex officio membership of representatives of the executive and legislative powers; (ii) taking appropriate measures to strengthen the role of the SPC as a genuine self-governing body which acts in a pro-active and transparent manner.

The second part of the recommendation above relates to the competence of the SPC which involves, *inter alia*, the election and termination of the functions of public prosecutors, promotion of public prosecutors, decides on suspension and dismissal of public prosecutors, determines positions and private interests that conflict with the dignity and

independence of the public prosecution office, proposes the scope and structure of budget funds necessary for the work of the public prosecution offices, having obtained the opinion of the Minister of Justice, distributes the funds amongst the public prosecution offices, conducts supervision of expenditure of budget funds etc.

During the evaluation procedure GRECO found a similar situation with regard to the SPC in respect of its weakness, ineffectiveness and lack of transparency and accountability as with the HJC (see para. 164 of the GRECO Evaluation Report from 2015), hence the second part of the recommendation above was addressed.

In the compliance procedure similar steps as those for implementing the recommendation addressed on the HJC have been taken by the Serbian authorities to implement also this recommendation. Due to draft constitutional amendments the new High Prosecutorial Council is to be composed of 10 members, of whom four members are (deputy) public prosecutors equally representing all levels of the prosecution service (elected by their peers) and four prominent lawyers (elected by the National Assembly), with additionally the Supreme Public Prosecutor and Minister in charge of the judiciary as *ex officio* members. GRECO considered the fact that the National Assembly would only elect four out of the ten SPC members a vast improvement. However, it noted that the planned amendments fell short of the requirements of the recommendation and of the government's own commitments as outlined in its National Justice Reform Strategy and Action Plan for Chapter 23, which called for the exclusion of the National Assembly in electing members of the SPC. Furthermore, GRECO noted that only four prosecutors out of ten members of the SPC are to be elected by their peers and that the *ex officio* membership of the executive power would remain in place (even if the *ex officio* membership of the legislature will be abolished, which was to be welcomed). Furthermore, amendments had not yet been adopted. GRECO therefore considered this part of the recommendation to be partly implemented (see para. 54-56 and 58 of the Interim Compliance Report from 2019). No progress was noted by GRECO in its Second Compliance Report from 2020 (see para. 47 – 49 and 51, 53).

With regard to the second part of the recommendation GRECO found in the compliance procedure various measures taken to be appropriate responses to the concerns expressed in the GRECO Evaluation Report, i.e. amended Law on the SPC in 2015 which provided for publicity of the SPC's sessions and decisions, amended Rules of Procedure in 2017 which required the SPC to publicly respond in case of political interference in the work of public prosecutors, adoption of the multi-year strategic plan to strengthen the SPC's role and capacities as a genuine self-governing body, and on its basis adoption of the first annual work plan, the establishment of the Commissioner for autonomy in cases of political and other undue influence to whom public prosecutors could turn to in concrete cases of undue influence and who issued several opinions on allegations of political pressure exerted on public prosecutors, several workshops held on how to report undue influence in the prosecutors' work etc. Since the whole reform process had not been completed and the SPC still needed to enhance its role GRECO considered this part of the recommendation as partly implemented (see GRECO Compliance Report from 2017, para. 58 – 62, and GRECO Interim Compliance Report from 2019, para. 54 – 60). In the GRECO Second Compliance Report from 2020 (see para. 47 – 48, 50, 52 – 53), GRECO noted public positions taken by the SPC and the active role it played to defend the autonomy of the prosecution service through the inspections it carried out as well as capacity building activities undertaken with international partners to strengthen the role of the SPC as a self-governing body and the SPC's increased resources. However, it also noted that the Rules of Procedure of the Commissioner for autonomy had not been adopted and that he continued to act on an ad hoc basis. As a result, GRECO concluded this part of the recommendation remained partly implemented.

Regarding operational arrangements in place to avoid an over-concentration of powers in the same hands concerning different functions to be performed by members of the HJC and the SPC no information has been provided by the Serbian authorities.

Accountability measures in place regarding the activities of the HJC include publication of the activity reports and decisions which are reasoned. The same applies to the SPC's activity reports and decisions; however, the decisions of the SPC are not reasoned.

In case of an evident breach of the independence or the impartiality of a judge the HJC is competent to provide for and guarantee independence and autonomy of courts and judges (see Article 153 of the Constitution). In a case of a political interference in the judiciary the HJC shall react publicly; a judge who considers there is a political influence on his/her work may address the HJC in writing. The HJC's session to consider the political influence on the work of the judiciary shall be held without delay on the President of the HJC's initiative/proposal of the HJC's member/address made by the judge in writing. The matter of political influence on the work of the judiciary shall be put on the agenda of the HJC's session by the President of the HJC and should not be voted on or changed. After the session, the public will be informed of the conclusions via press conference, public statement or publication of the conclusions on the HJC's website (Rules of Procedure of the HJC).

In case of an evident pressure on a prosecutor the SPC provides for and guarantees autonomy of (deputy) public prosecutors (as per the Constitution and the Law on the SPC). At the SPC the Commissioner for autonomy in cases of political and other forbidden influence on work of the public prosecution office has been appointed (as per the SPC's regulation on Work).