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PART 2

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

### HFIII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans “DASHBOARD Western Balkans”

Data collection: 2022

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

## Part 2 (A) - Beneficiary profile - Serbia

## Executive Summary - Serbia in 2022

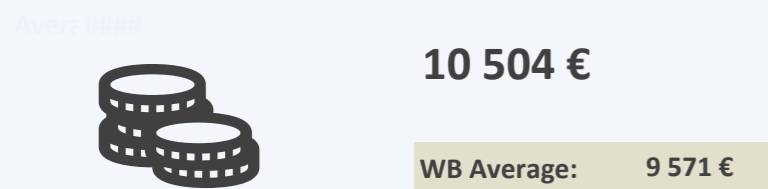
### Population in 2022



### GDP per capita in 2022



### Average annual salary in 2022



On the contrary, the **DT for the first instance administrative cases surged from 677 days in 2019 to 1 528 in 2022** (significantly above the WB average of 716 days). This was due to an increase of the number of incoming cases while the resolved cases remained stable. As a consequence, the **2022 CR** for this type of cases was **the lowest** calculated for all matters in the first and second instance courts (39%).

It is also worth noticing that, although Serbia had one of the highest number of incoming **criminal cases** per 100 inhabitants in the region in the past data collection cycles (mostly due to the high number of "other criminal cases"), its courts were able to deal with these cases, by keeping their **CR stable** at or above 100% and their **DT consistently below the WB average**. In particular, the DT was actually reduced for the first instance criminal cases from 152 days in 2018 to 105 days in 2022).

In Serbia, there are quantitative and qualitative standards both for judges and prosecutors. Also, courts and public prosecution services' performances are regularly monitored, and their evaluation is then used to identify the causes of improved or deteriorated performance (only for courts), reallocating resources and reengineering internal procedures to increase efficiency.

\*\*The CEPEJ has developed two indicators to measure court's performance: clearance rate and disposition time.

**Clearance Rate (CR)** is the ratio obtained by dividing the number of resolved cases by the number of incoming cases in a given period, expressed as a percentage. It demonstrates how the court or the judicial system is coping with the in-flow of cases and allows comparison between systems regardless of their differences and individual characteristics. Its key value is 100%. A value below 100% means that the courts were not able to solve all the cases they received and, as a consequence, the number of pending cases increases. A CR above 100% means that the courts have resolved more cases than they received (they have resolved all the incoming cases and part of the pending cases) and, as a consequence, the number of pending cases decreases.

**Disposition Time (DT)** is the indicator that calculates time necessary for a pending case to be resolved and estimates the lengths of proceedings in days. It is a ratio between the pending cases at the end of the period and the resolved cases within the same period, multiplied by 365 days. More pending than resolved cases will lead to a DT higher than 365 days (one year) and vice versa.

### ADR

In general, ADR and mediation are not well developed in the Western Balkans region. In Serbia, court-related mediation procedures are available and legal aid can be granted. The judicial system does not provide for mandatory mediation with a mediator before or instead of going to court or mandatory informative sessions with a mediator. However, 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 them to the mediator. In the early phase of the proceeding, 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 a dispute by mediation or through another amicable manner. In 2022, there were in total 1 942 cases for which the parties agreed to start mediation. Mediation was most used for Civil and commercial cases and Consumer cases (541 and 318 cases, respectively, in which parties agreed to start mediation).

### Budget

#### Budget

In 2022, Serbia spent 326 915 365€ as implemented Judicial System Budget (JSB). Thus, it spent **48,1 € per inhabitant, which was higher than the Western Balkans (WB) average** of 38,5 €. Compared to 2020, the JS budget increased by 11,1%.

#### Legal aid

In 2022, the **implemented budget for legal aid spent by Serbia was 92 056€** (0,03% of the judicial system budget). This means that an amount of 0,01€ was spent per inhabitant. The provided data on the Legal Aid budget is partial since the legal aid budget related to mandatory representation in courts (as per Criminal Procedure Code) is included in the courts' justice expenses and Serbian authorities are not currently able to separate these amounts. Thus, the Legal Aid budget only covers the amounts spent according to the Law on Free Legal Aid (**2018**), which came into force on 1st October 2019, and it was **implemented in 2020**. Therefore, the Serbian courts' and legal aid budgets are not comparable to the others in the region.

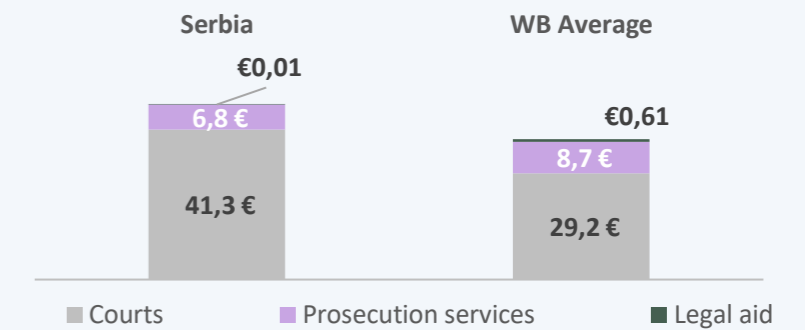
The Law on Free Legal Aid distinguishes between free legal aid and free legal support. On the one hand, free legal aid corresponds to "cases brought to court" (542 cases in 2022). On the other hand, free legal support corresponds to "cases not brought to court" (3 850 cases in 2022). Overall, there was no major change in the total number of cases between 2021 and 2022.

#### Efficiency\*\*

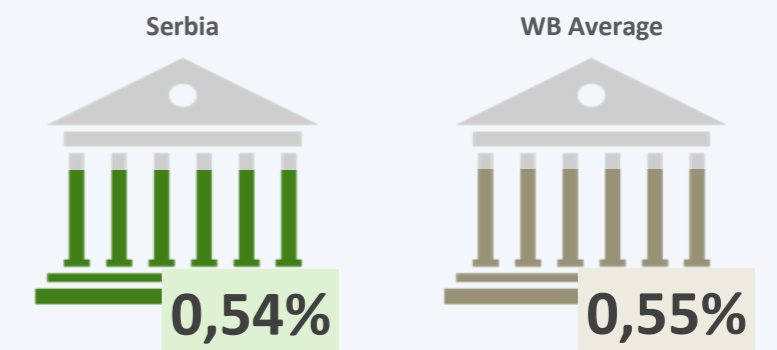
Since 2018, the Disposition Time (DT) had increased for the first instance civil and commercial litigious cases, reaching its peak in 2020. According to the authorities, this was caused by the high number of incoming cases, particularly related to the costs of bank loans, which courts could not handle efficiently. On 16th September 2021, the Supreme Court of Cassation delivered a supplement to a legal position that resolved the key legal question raised in these cases which gave a direction to lower instance courts on how to proceed. Since then, this group of cases have gradually decreased (-63% of civil/commercial incoming cases compared to 2021). As a result, the first instance courts dealing with civil and commercial litigious cases managed to raise their CR to 178% and lower their DT to 299 days, which is the lowest in the region (WB Average is 384).

### Budget of the Judicial System

#### Implemented Judicial System Budget per inhabitant in 2022



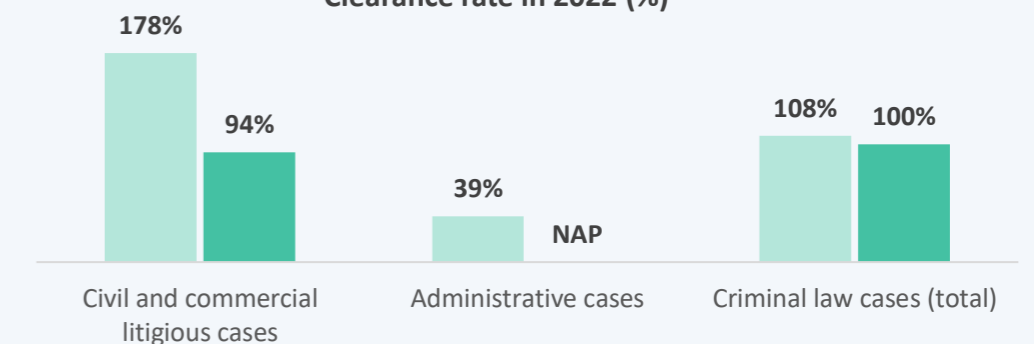
#### Implemented Judicial System Budget as % of GDP in 2022



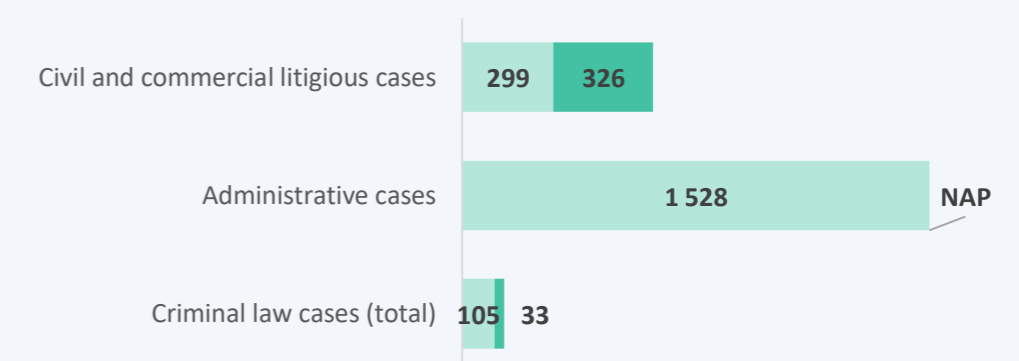
### Efficiency

1st instance 2nd instance

#### Clearance rate in 2022 (%)

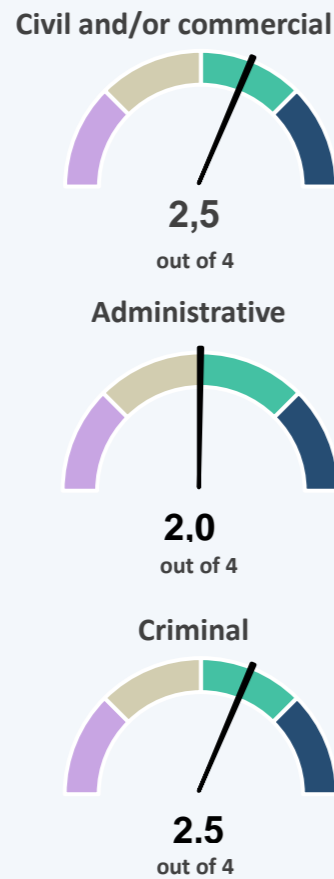


#### Disposition time in 2022 (in days)



### CMS index (scale 0-4)

The Case Management System (CMS) Index is an index from 0 to 4 points calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary. The methodology for calculation provides one index point for each of the five questions for each case matter. The points regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarized while 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 an adequate evaluation.



### Electronic case management system and court activity statistics

As regards the Caseload Management System (CMS), it was developed more than 10 years ago. The CMS is developed in all courts (100% deployment rate) and the data is stored on a centralised/interoperable database only for Administrative cases. The CMS index for Serbia is lower than the WB average (2.5 for civil and/commercial cases versus the WB Average of 2,6; and 2,0 for criminal cases versus the WB Average of 2,6).

An IT strategy was adopted by ICT Sectorial Council in February 2022 (ICT Strategy in Judiciary 2022-2027 with Action Plan).

### Training

In 2022, Serbia spent in total **4 200 813 € for training for judges and prosecutors**, of which 128 826 € are coming from donors. This represents 0,62 € per inhabitant which is less than the WB average of 0,66 €.

In Serbia, there is not a minimum number of trainings per year, but, on average, judges attend 0,6 trainings per year and prosecutors 1,3. No sanction is foreseen if judges and prosecutors do not attend the compulsory training sessions but, if a specialisation course is compulsory, those judges and prosecutors who do not receive certificate on that specialisation will not be able to take cases on the relevant subject, e.g. juvenile law cases.

As regards in-service training dedicated to prevention of corruption and conflict of interests, they are not compulsory, but, according to the authorities, Judicial Academy devotes a lot of attention to this topic in its Annual program and every year a large number of judges and prosecutors attend trainings in this area organised by Judicial Academy.

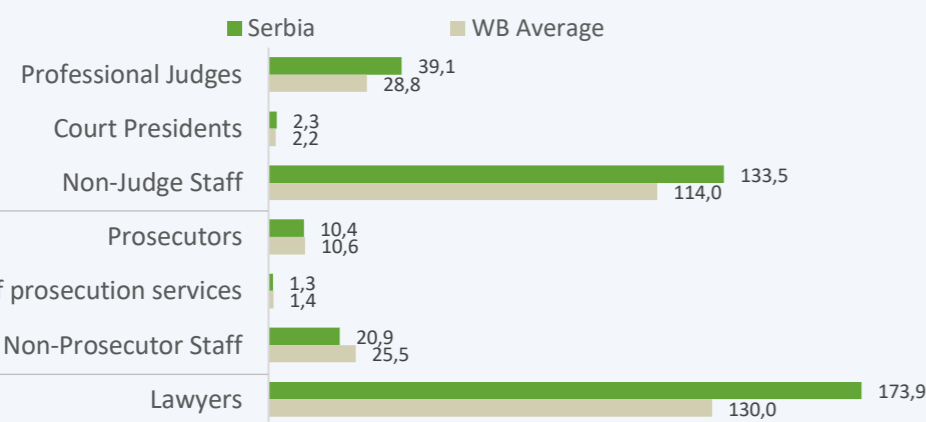
The average number of participants per delivered training is the lowest in the region (12,6 participants per training vs the WB Average of 19,8) because many trainings are organised “ad-hoc” for few participants whenever it is necessary.

### ECHR

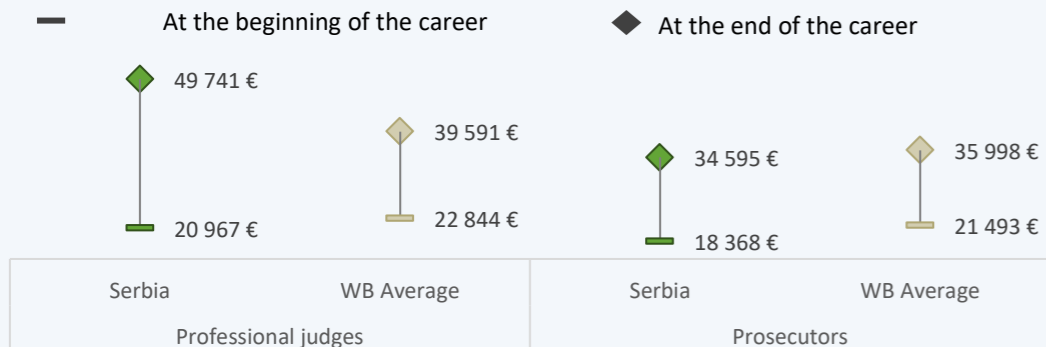
In 2022, the applications allocated to a judicial formation of the European Court on Human Rights for Serbia were 3 289 (65% more than the previous year). The judgements by the ECHR finding at least one violation for Serbia were 10 (while they were 5 in 2021). Half of these judgements concerned the non-enforcement of judicial decisions.

### Professionals of Justice

#### Total number of professionals per 100 000 inhabitants in 2022



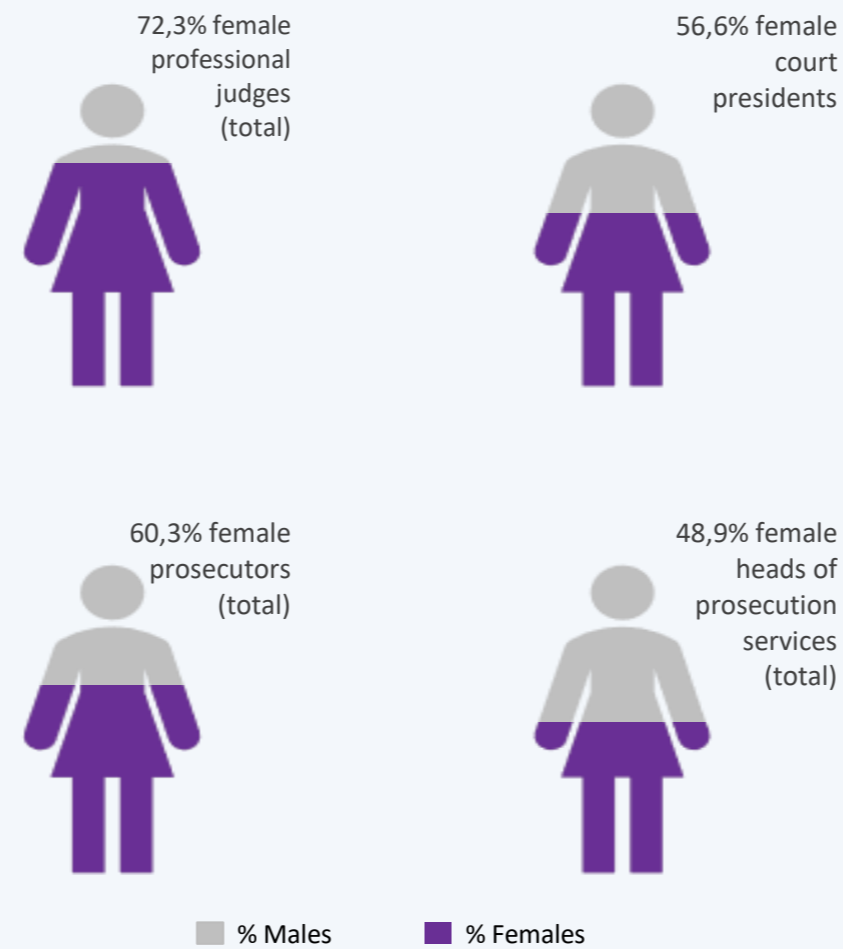
#### Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2022 (€)



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 ICI Opinion on the Kosovo Declaration of Independence.

### Gender Balance



### Professionals and gender

Western Balkans' countries traditionally have a very high number of professionals per 100 000 inhabitants. Serbia confirmed this tendency in 2022, especially in the first instance: **34,1 professional judges and 9,6 prosecutors per 100 000 inhabitants, which were above the WB averages of 21,7 and 8,2, respectively.**

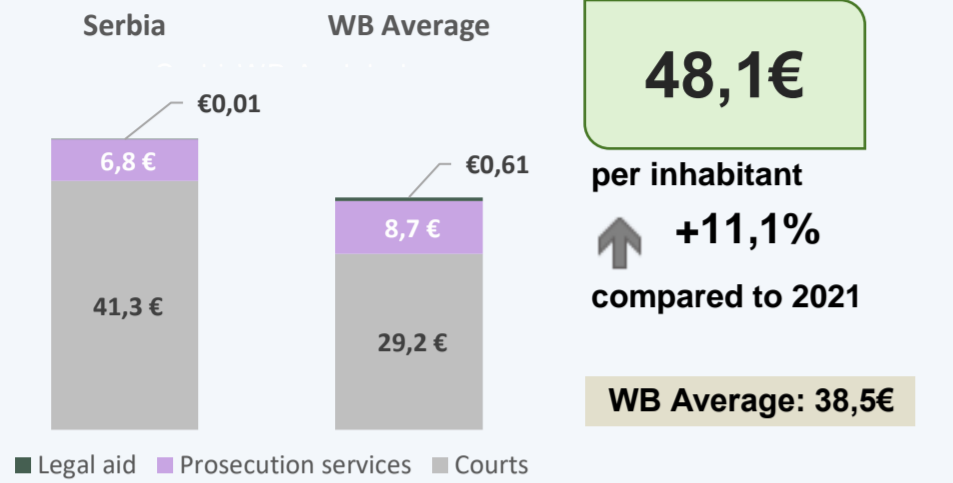
**Between 2019 and 2022**, there was no significant change in the number of professional judges, while the **total number of public prosecutors decreased by 7,5%**. In the meantime, the number of non-prosecutor staff instead increased. Thus, the ratio of non-prosecutor staff per prosecutor steadily rose from 1,4 in 2019 to 2 in 2022. However, it was still below the 2022 WB average of 2,4. The ratio of non-judge staff per professional judge was also below the 2022 WB average (3,4 vs 4), yet it remained rather stable over the period 2019 - 2022.

Regarding the gender balance, **the percentages of female judges, prosecutors and staff were above the WB averages in 2022 for all categories, including court presidents and heads of prosecution services.** The prevalence of Serbian female professionals was particularly remarkable for the total professional judges (72,3% vs the WB average of 62,4%). **Over the period 2019 - 2022**, the percentage of female professionals rose for most categories of professionals. **The highest increase was noticed for the percentage of female prosecutors (+3,9 percentage points).**

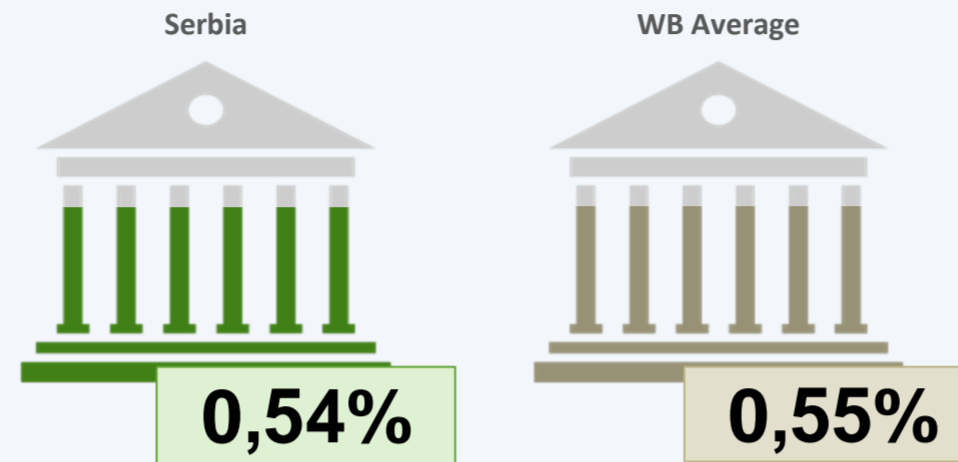
In Serbia, the average salary for judges at the beginning of their careers increased by almost 20% between 2019 and 2022. Compared to the national average salary, judges and prosecutors received a lower salary in 2022 than the WB average both at the beginning and at the end of their careers. The only exception was the **salary of judges at the end of the career**, which was **higher than the WB average** (4,7 times the average gross annual salary vs 4,1).

## Budget of the judicial system in Serbia in 2022 (Indicator 1)

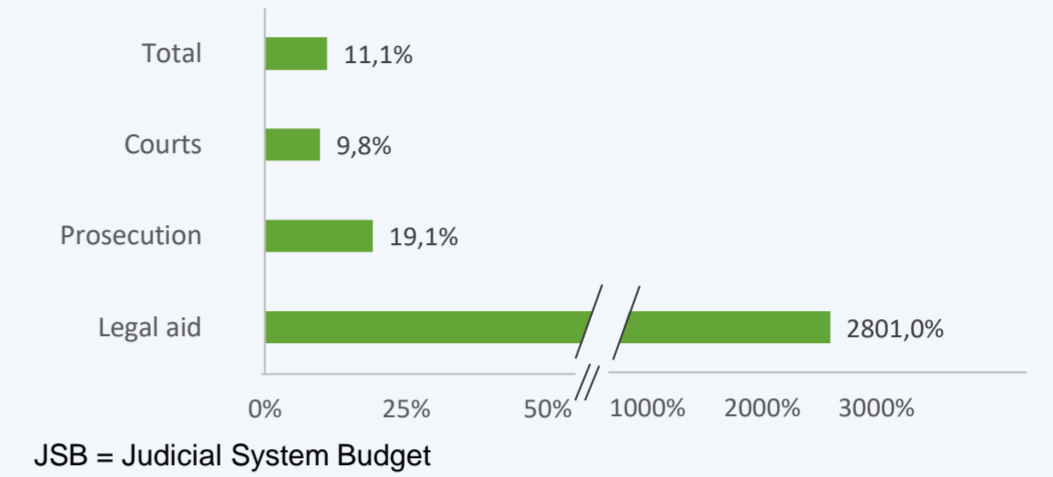
### Implemented Judicial System Budget per inhabitant



### Implemented Judicial System Budget as % of GDP



### Variation of the JSB per inhabitant between 2021 - 2022



The Judicial System Budget (JSB) is composed by the budget for courts, public prosecution services and legal aid. In 2022, the implemented JBS for Serbia was 48,1€ per inhabitant (+11,1% compared to 2021). It was higher than the WB Average of 38,5€. The expenditure on JSB represented 0,54% of the GDP of Serbia (the WB Average was 0,55%).

Please note that the Serbia's data on legal aid budget refers only to the budget spend by the local self-government units, spent according to the the Law on Free Legal Aid. Also, the data on cases only refers to cases where legal aid was granted according to Law on Free Legal Aid (whereas the data on cases in which legal aid was granted according to Criminal Procedure Code was not available). Therefore, these data are not comparable to the others in the region.

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

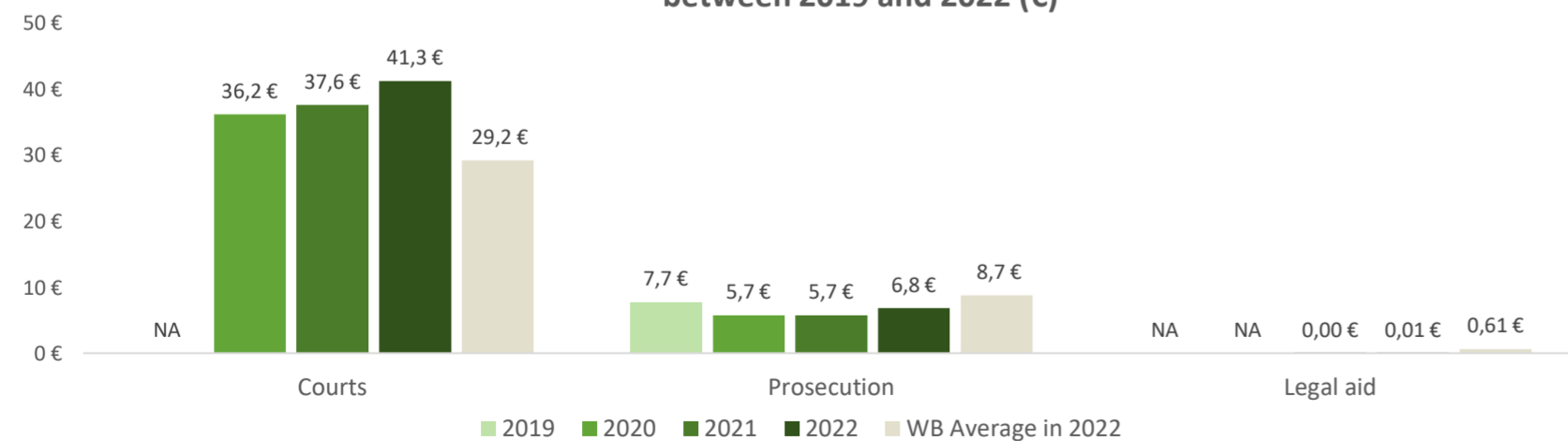
In 2022, Serbia spent 326 915 365€ on the implemented judicial system budget. This means that Serbia spent 48,1€ per inhabitant, which is more than the WB Average of 38,5€.

Compared to 2021, Serbia has spent, per inhabitant, 9,8% more for courts, and 19,1% more for prosecution services. This year, Serbia managed to identify a part of the legal aid budget, while the part related to mandatory representation in court for criminal cases is still counted under courts' budget.

Judicial System Budget	Judicial System Budget in 2022		Implemented Judicial System Budget per inhabitant				Implemented Judicial System Budget as % of GDP			
	Approved	Implemented	Per inhabitant in 2022	WB Average in 2022	% Variation between 2019 - 2022	% Variation between 2021 - 2022	As % of GDP	WB Average in 2022	Variation (in ppt) 2019 -2022	Variation (in ppt) 2021 - 2022
<b>Total</b>	NA	326 915 365 €	48,1 €	38,5 €	NA	11,1%	0,54%	0,55%	NA	-0,02
<b>Courts</b>	287 341 686 €	280 386 376 €	41,3 €	29,2 €	NA	9,8%	0,46%	0,41%	NA	-0,02
<b>Prosecution</b>	47 147 856 €	46 436 933 €	6,8 €	8,7 €	-11,7%	19,1%	0,08%	0,13%	-0,04	0,00
<b>Legal aid</b>	NA	92 056 €	0,01 €	0,61 €	NA	2801,0%	0,000%	0,01%	NA	0,000

PPT = Percentage points

### Evolution of the implemented judicial system budget per inhabitant between 2019 and 2022 (€)



The budget system of Serbia 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, except for expenses for court staff and staff at the public prosecutor's office, 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. Therefore, the amounts which the High Judicial Council and the MoJ transfer to the courts for various items also come from court fees.

In 2021, the methodology for data collection has been changed in collaboration with the CEPEJ

Please note that the total amount refers only to the cases of granted free legal aid according the Law on free legal aid. This amount does not cover the free legal aid that was provided according to the Criminal Procedure Code (mandatory defense, etc.)



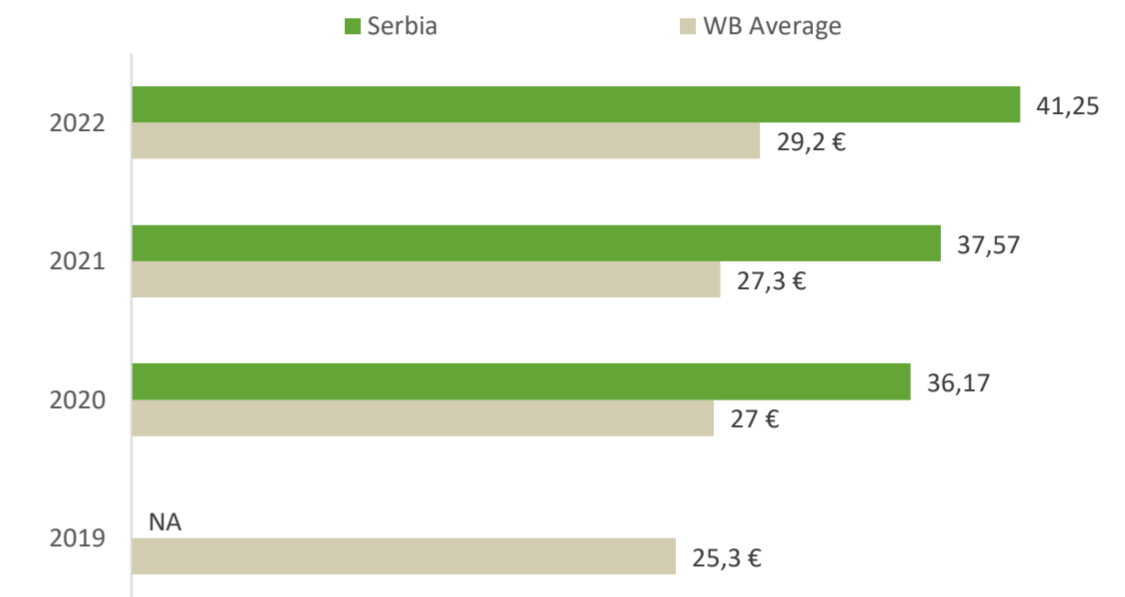
## Budget allocated to the functioning of the courts

In 2022, Serbia spent 280 386 376€ on the implemented budget for courts. 61,1% was spent for gross salaries, 2% for computerisation,

Between 2021 and 2022, the implemented budget for courts has increased by 8,6%.

	2022		% Variation between 2019 and 2022		% Variation between 2021 and 2022	
	Approved budget	Implemented budget	Approved budget	Implemented budget	Approved budget	Implemented budget
<b>Total (1 + 2 + 3 + 4 + 5 + 6 + 7)</b>	287 341 686 €	280 386 376 €	NA	NA	8,8%	8,6%
<b>1. Gross salaries</b>	171 954 062 €	171 209 853 €	22,6%	23,4%	7,7%	8,2%
<b>2. Computerisation (2.1 + 2.2)</b>	7 741 164 €	5 553 769 €	5,7%	-9,5%	12,0%	-10,3%
<b>2.1 Investment in computerisation</b>	2 257 028 €	1 676 448 €			16,2%	-10,6%
<b>2.2 Maintenance of the IT equipment of courts</b>	5 484 136 €	3 877 321 €			10,4%	-10,2%
<b>3. Justice expenses</b>	NA	NA	NA	NA	NA	NA
<b>4. Court buildings</b>	NA	NA	NA	NA	NA	NA
<b>5. Investment in new buildings</b>	NA	NA	NA	NA	NA	NA
<b>6. Training</b>	NAP	NAP	NAP	NAP	NAP	NAP
<b>7. Other</b>	NA	NA	NA	NA	NA	NA

Implemented budget allocated to the courts per inhabitant between 2019 and 2022 (€)



The budget system of Serbia 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, except for expenses for court staff and staff at the public prosecutor's office, 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. Therefore, the amounts which the High Judicial Council and the MoJ transfer to the courts for various items in also come from court fees.

Other expenses are: Seminars of judges, transportation, accommodation, solidarity aid, anniversary award, severance payments, new furniture, etc.

In 2021, the methodology for data collection has been changed in collaboration with the CEPEJ

• Budget allocated to the whole justice system

Whole Justice System Budget	2022		% Variation of the Whole Justice System Budget per inhabitant	
	Absolute number	Per inhabitant	2019 - 2022	2021 - 2022
Approved	NA	NA	NA	NA
Implemented	NA	NA	NA	NA

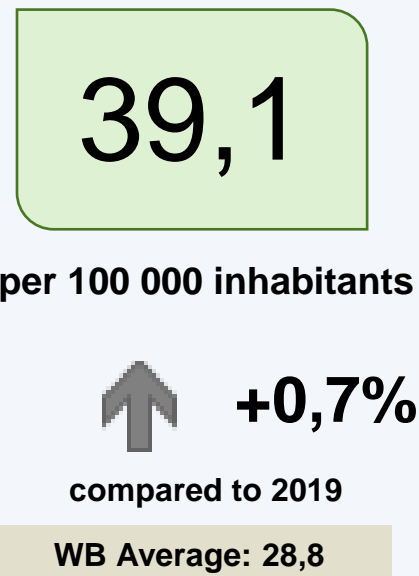
• Budget received from external donors

	Absolute value	Calculated as %
Courts	NA	NA
Prosecution services	NA	NA
Legal aid	NA	NA
Whole justice system	NA	NA

*Kosovo is not included in the calculation of summary statistics*

## Professionals and Gender Balance in judiciary in Serbia in 2022 (Indicators 2 and 12)

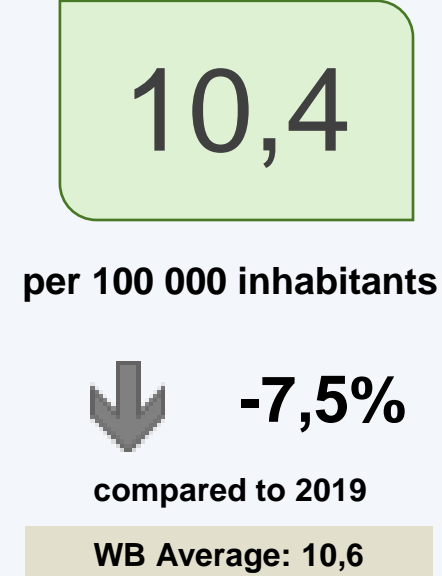
### Professional Judges



72,3% female judges (total)



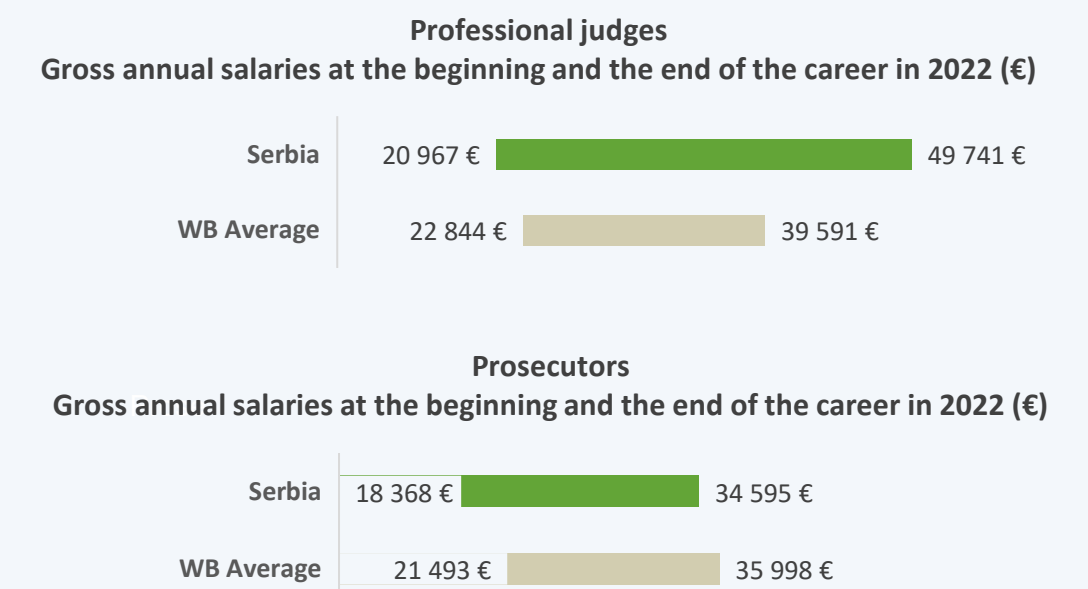
### Prosecutors



60,3% female prosecutors (total)



### Salaries of judges and prosecutors

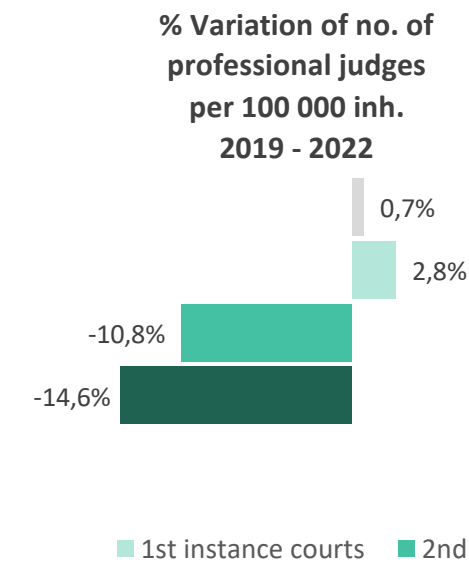


In 2022, Serbia had 39,1 professional judges per 100 000 (higher than the WB Average of 28,8); whereas prosecutors were 10,4 per 100 000 inhabitants (slightly lower than the WB Average of 10,6). More than half of professional judges and prosecutors were women (while the WB Average was 62,4% and 54,9%, respectively).

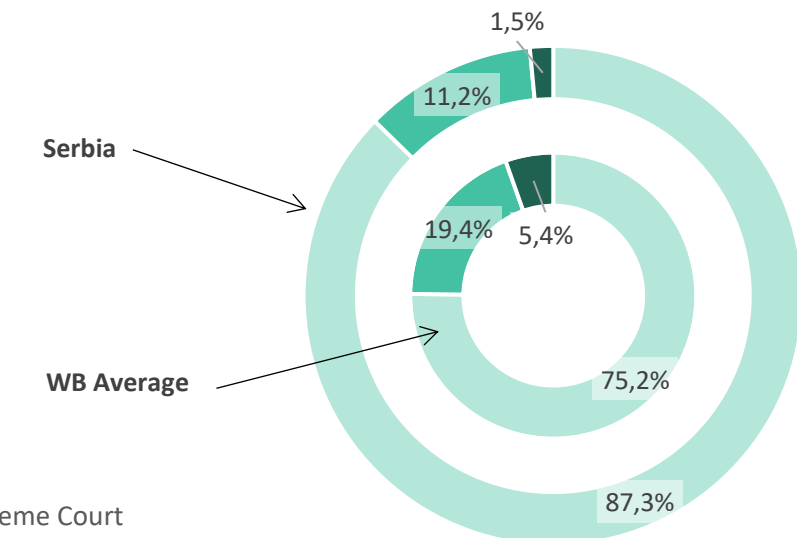
### Professional Judges

	Professional judges in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	2 657	100,0%	39,1	28,8
1st instance courts	2 320	87,3%	34,1	21,7
2nd instance courts	297	11,2%	4,4	5,6
Supreme Court	40	1,5%	0,6	1,6

For reference only: the 2021 EU median is 24,1 judges per 100 000 inhabitants.



### Distribution of professional judges by instance in 2022 (%)



In 2022, the absolute number of professional judges in Serbia was 2 657 (i.e. 39,1 per 100 000 inhabitants, which was higher than the WB Average of 28,8). Compared to 2019, the total number of professional judges per 100 000 inhabitants increased by 0,7%. Between 2021 and 2022, 4 Supreme court judges retired.

The figures show a difference of -12,1 percentage points between the percentage of judges in the first instance (87,32%) and the WB Average (75,2%)

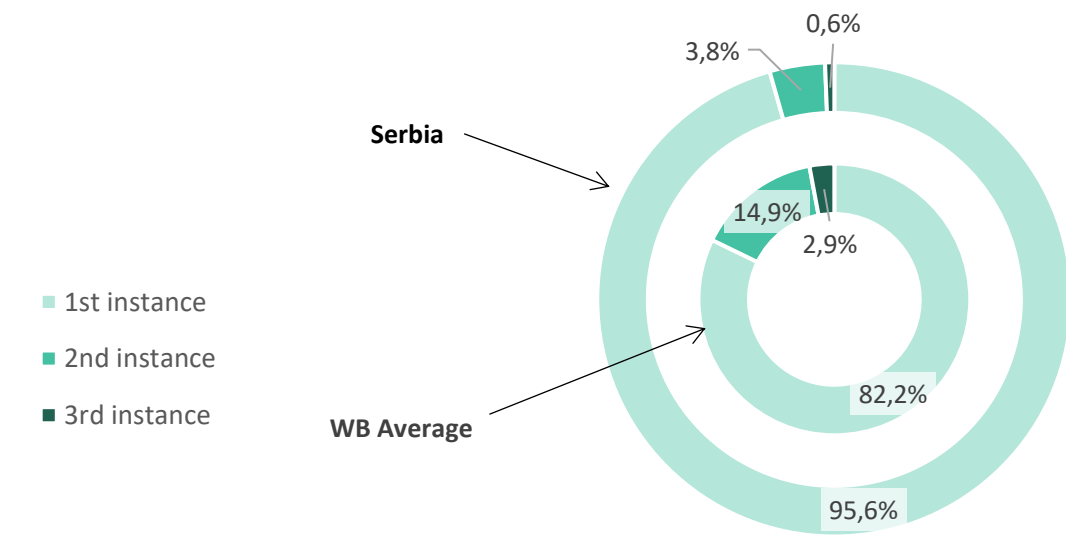
The number of first instance includes judges of: basic courts, higher courts, misdemeanor courts, commercial courts, Administrative Court). The number of second instance professional judges includes judges of Commercial Court of Appeal, appellate courts, Misdemeanor Court of Appeal. The number of Supreme court professional judges includes the judges of the Supreme Court of Cassation. The 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.

• Court presidents

	Court presidents in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	159	100,0%	2,3	2,2
<b>1st instance courts</b>	152	95,6%	2,2	1,8
<b>2nd instance courts</b>	6	3,8%	0,1	0,3
<b>Supreme Court</b>	1	0,6%	0,0	0,1

The absolute number of court presidents in Serbia in 2022 was 159 ( i.e. 2,3 per 100 000 inhabitants, which was slightly above the WB Average of 2,2). New appellate courts presidents were appointed since 2021.

Distribution of court presidents by instance in 2022 (%)





## • Non-judge staff

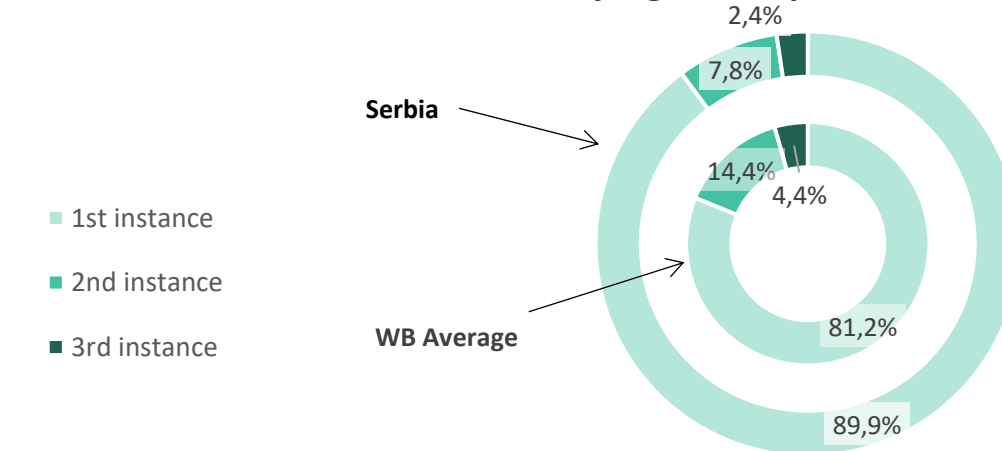
The absolute total number of non-judge staff in Serbia was 9 076, which increased by 4,1% between 2019 and 2022. The number of non-judge staff per 100 000 inhabitants was 133,5, which was above the WB Average of 114.

	Number of non-judge staff by instance in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	9 076	100,0%	133,5	114,0
1st instance courts	8 155	90%	120,0	92,5
2nd instance courts	707	8%	10,4	16,4
Supreme Court	214	2%	3,1	5,0

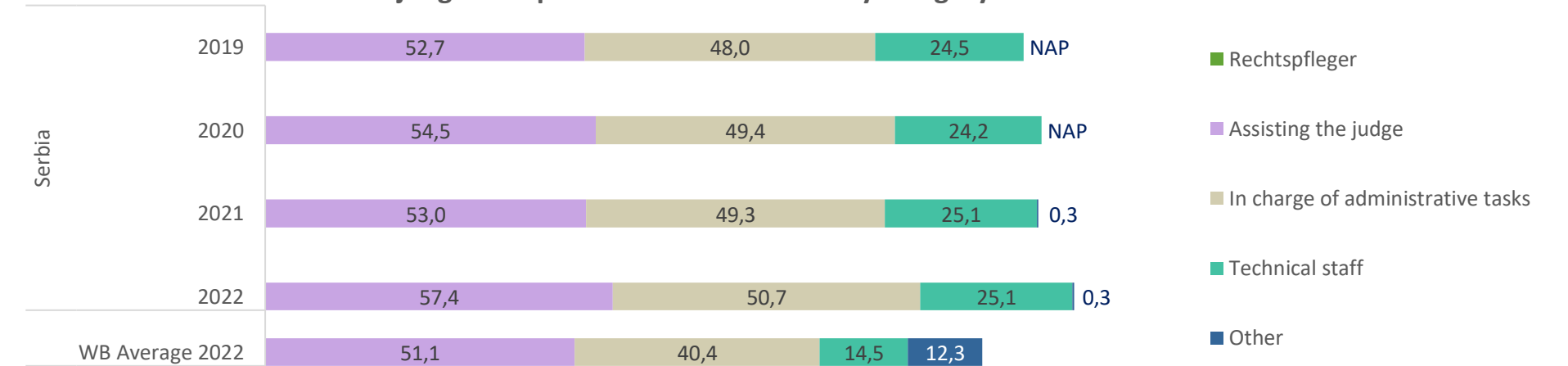
For reference only: the 2021 EU median is 58,5 non-judge staff per 100 000 inhabitants.

	Number of non-judge staff by category in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	9 076	100,0%	133,5	114,0
Rechtspfleger	NAP	NAP	NAP	-
Assisting the judge	3 899	43,0%	57,4	51,1
In charge of administrative tasks	3 448	38,0%	50,7	40,4
Technical staff	1 709	18,8%	25,1	14,5
Other	20	0,2%	0,3	12,3

Distribution of non-judge staff by instance in 2022



Number of non-judge staff per 100 000 inhabitants by category between 2019 and 2022



The highest number of non-judge staff were assisting judges and represented 43% of the total. Since 2019, there was no significant variation in the distribution of non-judge staff by category.

Judicial assistants are non-judge staff whose task is to assist the judge such as drafting the decision, helping with hearings, preparing case file. Judicial/prosecutorial assistants are people who graduated at Faculty of Law and passed the Bar exam and are employed in court or public prosecutor's office.

In the category "Other", the following non-judge staff are included: translator, interpreter, librarian, press coordinator, PR, counselor for European integration and international projects.

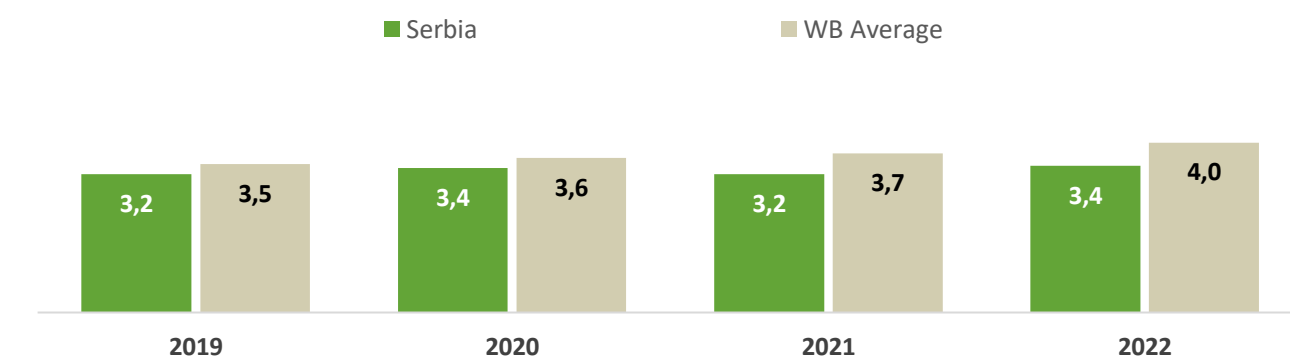
## • Ratio between non-judge staff and professional judges

In Serbia, the ratio of non-judge staff per professional judge was 3,4 in 2022 (below the WB Average was 4). While the WB Average ratio has steadily increased since 2019, in Serbia this ratio has remained rather stable (ranging from 3,2 to 3,4).

	Ratio in 2022		% Variation between 2019 and 2022
	Serbia	WB Average	Serbia
<b>Total</b>	3,4	4,0	5,9%
1st instance courts	3,5	4,2	3,9%
2nd instance courts	2,4	3,0	15,6%
Supreme Court	5,4	4,3	32,4%

For reference only: the 2021 EU median ratio of non-judge staff per judge is 3,1.

Ratio between non-judge staff and judges between 2019 and 2022



## Prosecutors

	Number of prosecutors by instance in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	708	100,0%	10,4	10,6
<b>1st instance level</b>	654	92,4%	9,6	8,2
<b>2nd instance level</b>	43	6,1%	0,6	1,9
<b>Supreme Court level</b>	11	1,6%	0,2	0,9

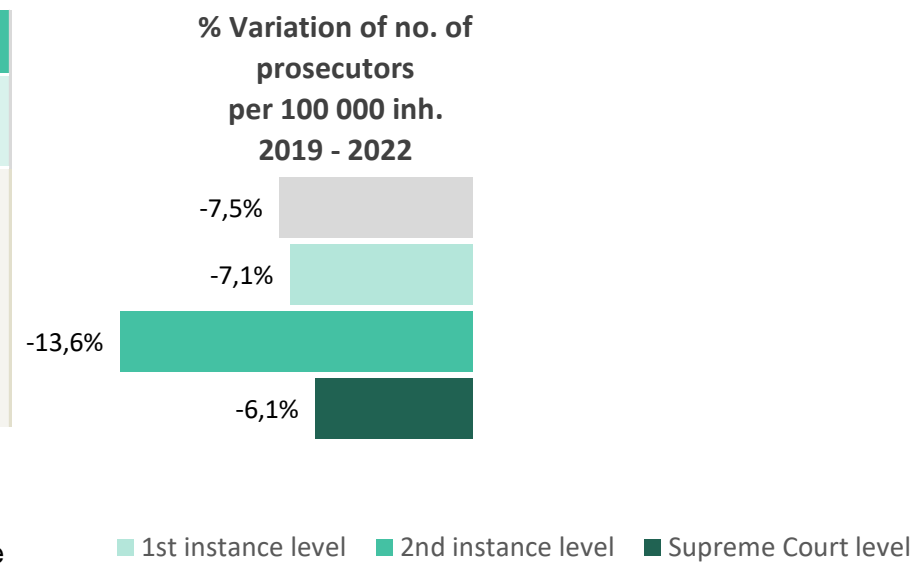
For reference only: the 2021 EU median is 10,8 prosecutors per 100 000 inhabitants.

In 2022, the absolute number of prosecutors in Serbia was 708 (i.e. 10,4 per 100 000 inhabitants, which was slightly lower than the WB Average of 10,6).

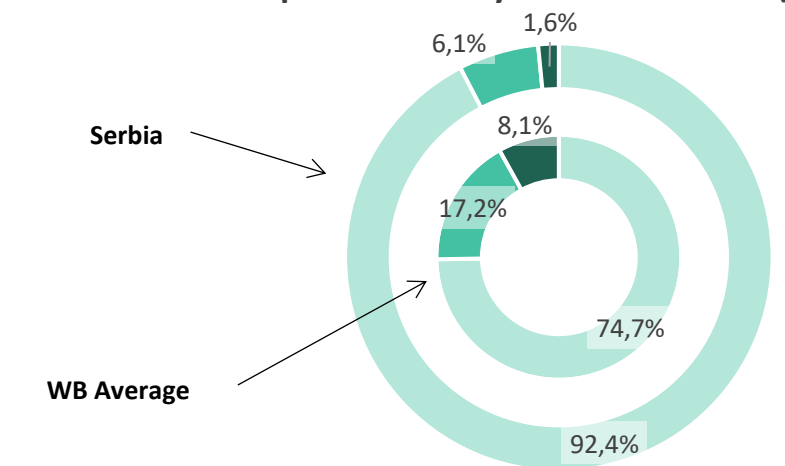
Over the period between 2019 and 2022, the total number of prosecutors per 100 000 inhabitants decreased by -7,5%. In particular, the number of the second instance prosecutors decreased by -13,6%.

The figures show a difference of -17,6 percentage points between the percentage of judges in the first instance (92,4%) and the WB Average (74,7%)

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



Distribution of prosecutors by instance in 2022 (%)

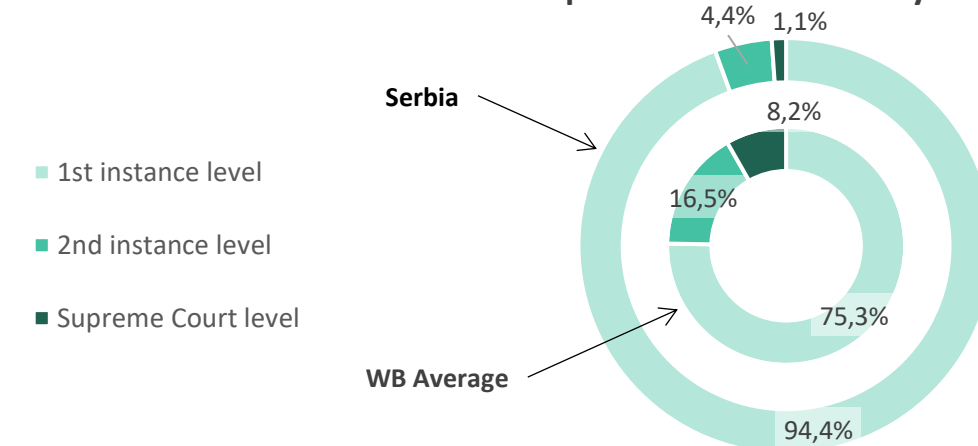


## Heads of prosecution services

	Heads of prosecution services in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	90	100,0%	1,3	1,4
<b>1st instance level</b>	85	94,4%	1,3	1,1
<b>2nd instance level</b>	4	4,4%	0,1	0,2
<b>Supreme Court level</b>	1	1,1%	0,01	0,12

In 2022, the absolute number of heads of prosecution services in Serbia was 90 (i.e. 1,3 per 100 000 inhabitants, which was slightly lower than the WB Average of 1,4).

Distribution of heads of prosecution services by instance in 2022 (%)



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

	Non-prosecutor staff in 2022			Ratio between non-prosecutor staff and prosecutors		
	Absolute number	Per 100 000 inhabitants		2022		% Variation 2019 - 2022
	Serbia	Serbia	WB Average	Serbia	WB Average	Serbia
<b>Total</b>	1 421	20,9	25,5	2,0	2,4	40,9%

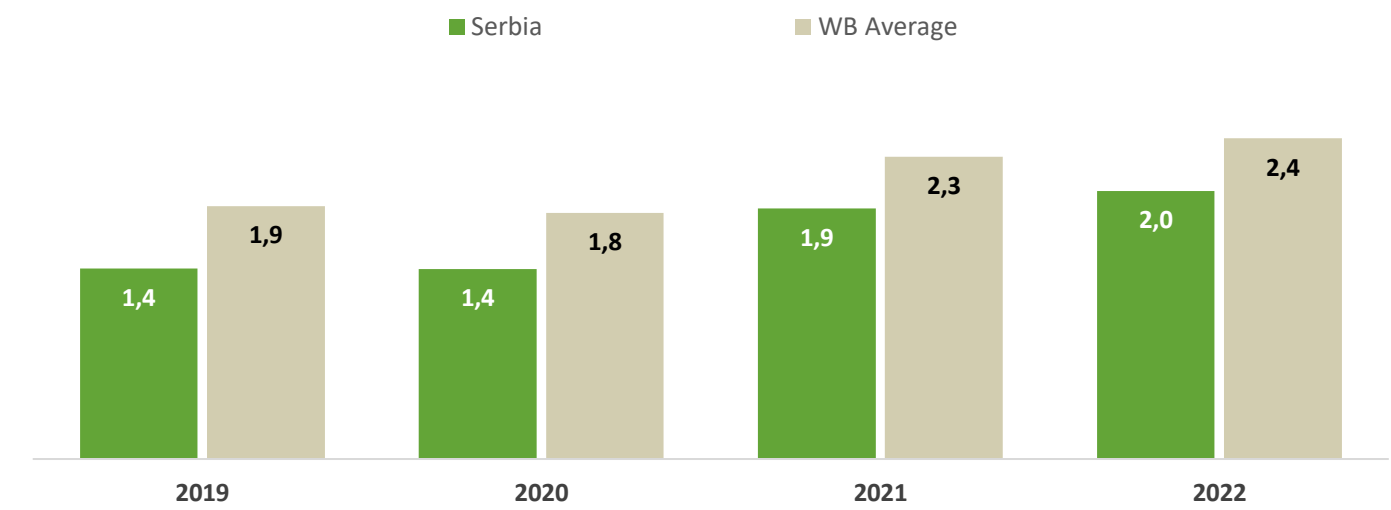
For reference only: the 2021 EU median is 14,7 non-prosecutors staff per 100 000 inhabitants.

In 2022, the total number of non-prosecutor staff in Serbia was 1421. Their number increased by 27,2% compared to 2019.

The number of non-prosecutor staff per 100 000 inhabitants was 20,9, which was below the WB Average of 25,5.

The ratio of non-prosecutor staff per prosecutor was 2 (significantly lower than the WB Average of 2,4). Yet, between 2019 and 2022, this ratio has steadily increased from 1,4 to 2.

Ratio between non-prosecutor staff and prosecutors between 2019 and 2022



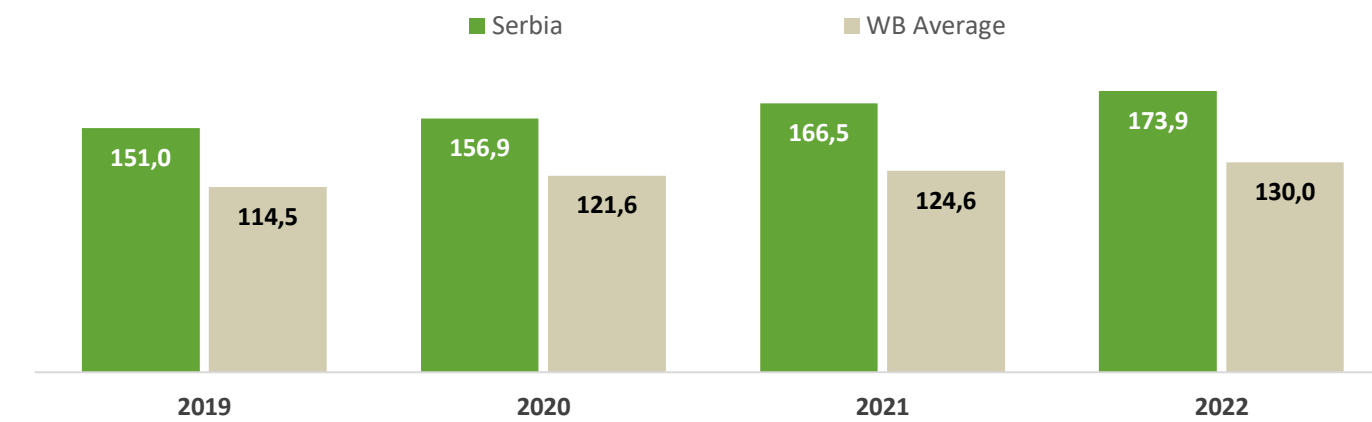
## • Lawyers

	Number of lawyers in 2022			% Variation 2019 - 2022
	Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhabitants	Serbia
<b>Total</b>	11 822	173,9	130,0	15,2%

For reference only: the 2021 EU median is 122,4 lawyers per 100 000 inhabitants.

In 2022, the number of lawyers was 173,9 per 100 000 inhabitants, which was higher than the WB Average (130). The number of lawyers per 100 000 inhabitants significantly increased by 15,2% between 2019 and 2022 ( from 151 to 173,9 per 100 000 inhabitant).

Number of lawyers per 100 000 inhabitants between 2019 and 2022



## Salaries of professional judges and prosecutors

In 2022, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Serbia was 2, which was less than the WB Average (2,5).

At the end of career, judges were paid more than at the beginning of career by 137,2%, which was more than variation noted for the WB Average (68%). Thus, the difference between the judges' salary at the beginning of the career and at the end of the career was greater than for the WB Average. Indeed, while the salary at the beginning of the career was less than the WB Average, the salary of at the end of the career was higher than the WB Average (both in absolute terms and as the ratio with the average gross annual salary).

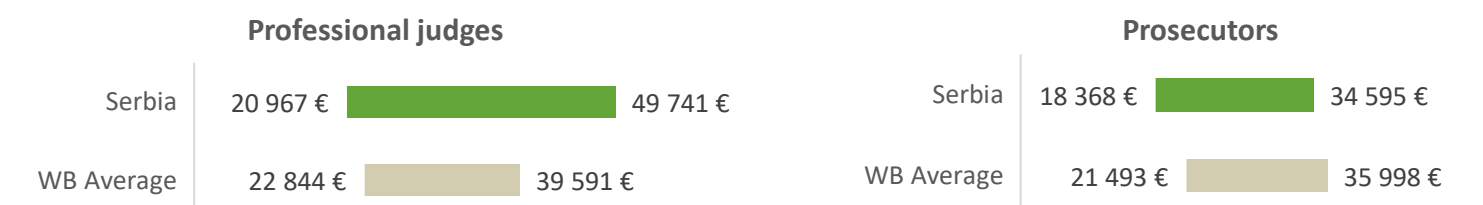
In 2022, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Serbia was 1,7, which was less than the WB Average (2,3).

At the end of career, prosecutors were paid more than at the beginning of career by 88,3%, which was more than the variation noted for the WB Average (63,6%). Although the difference between the prosecutors' salary at the beginning of the career and at the end of the career was greater than for the WB Average, the prosecutors' salaries at the beginning and at the end of the career are lower than the WB Average, both in absolute terms and as a ratio with the average gross annual salary.

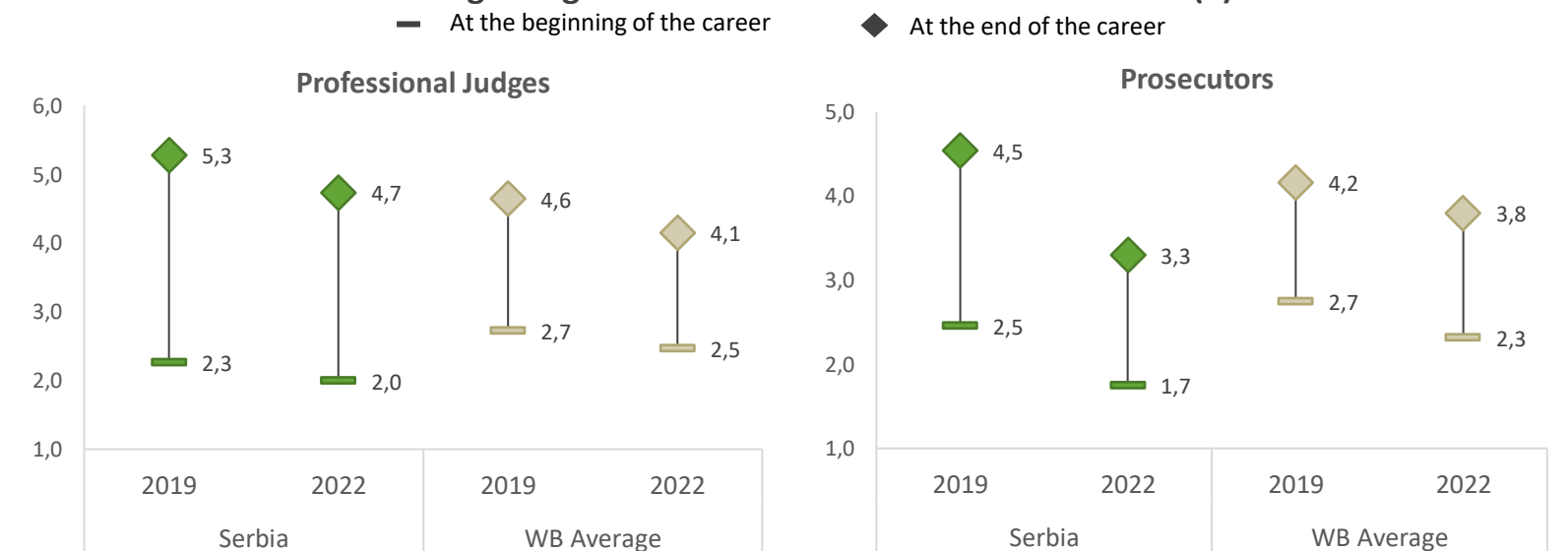
		Salaries in 2022 (absolute values)			Ratio with the average gross annual salary	
		Gross annual salary in €	% Variation 2019 - 2022	Net annual salary in €	Serbia	WB Average ratio
Professional judge	At the beginning of his/her career	20 967	▲ 19,9%	12 649	2,0	2,5
	Of the Supreme Court or the Highest Appellate Court	49 741	■ 0,0%	30 020	4,7	
Public prosecutor	At the beginning of his/her career	18 368	▼ -3,2%	12 858	1,7	2,3
	Of the Supreme Court or the Highest Appellate Court	34 595	▼ -1,4%	24 186	3,3	3,8

For reference only: the 2021 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: 1,9  
 - professional judges' salary at the end of career: 4,1  
 - prosecutors' salary at the beginning of career: 1,7  
 - prosecutors' salary at the end of career: 3,4

### Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2022 (€)



### Ratio of the gross annual salaries of judges and prosecutors with the average gross annual salary at the beginning and the end of career in 2019 and 2022 (€)



### 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 professional judges and public prosecutors (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 public prosecutors who are not from Belgrade receive the compensation.

## Gender Balance

	% Female in 2022		Variation of the % females between 2019 - 2022 (in ppt)
	Serbia	WB Average	Serbia
Professional Judges	72,3%	62,4%	▲ 0,4
Court Presidents	56,6%	50,6%	
Non-Judge Staff	72,9%	70,9%	▲ 1,5
Prosecutors	60,3%	54,9%	▲ 3,9
Heads of Prosecution Services	48,9%	39,7%	
Non-Prosecutor Staff	78,0%	68,7%	▲ 1,5
Lawyers	NA	37,2%	NA

PPT= Percentage points

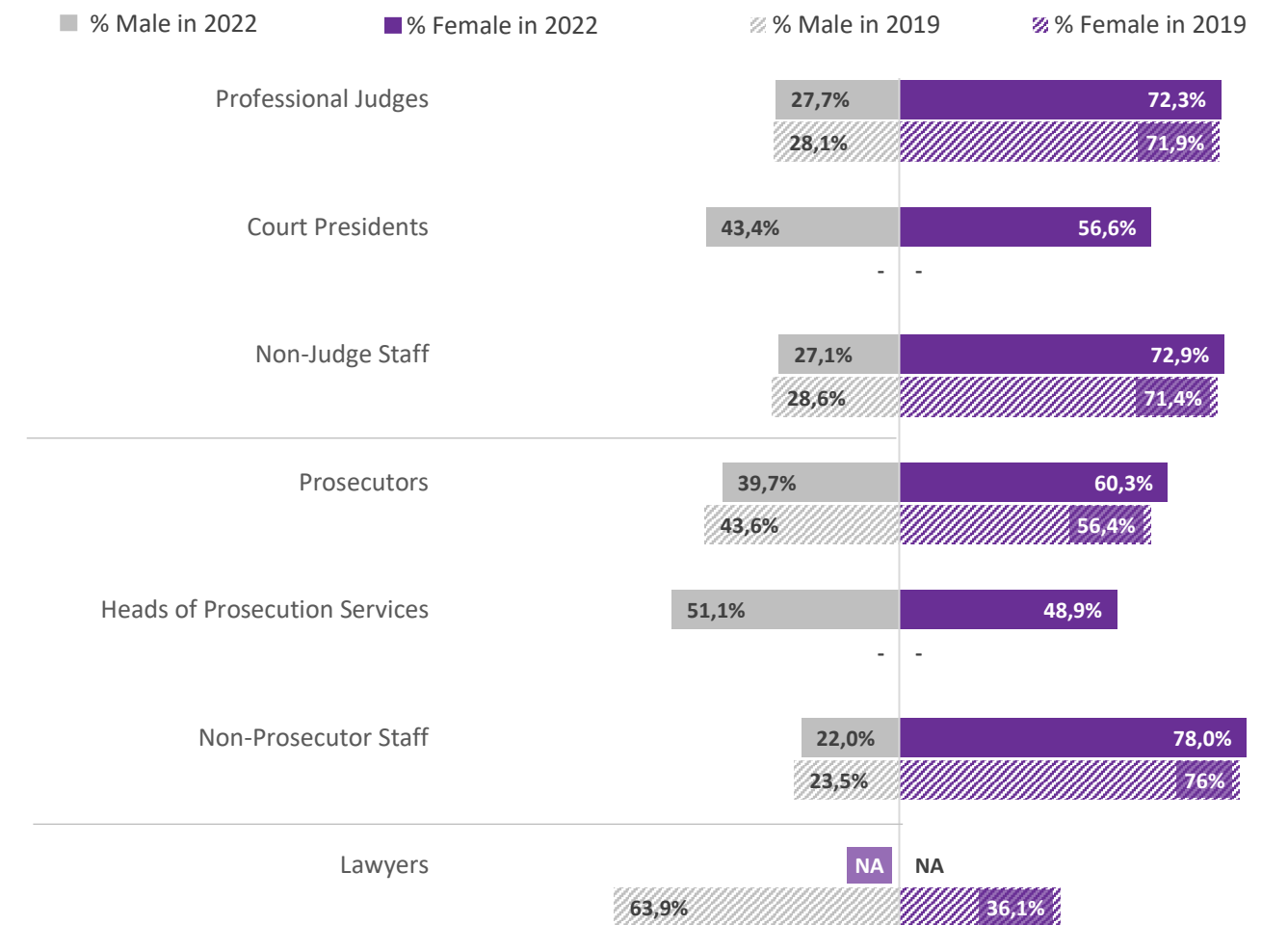
For reference only: 2021 EU medians on gender are among professionals are as follows: 62% women judges; 76% women non-judge staff; 60% women prosecutors; 74% women non-prosecutor staff; and 47% women lawyers.

In 2022, the percentage of female professional judges was 72,3%, which was higher than WB Average (62,4%). With a presence of 56,6%, the number of female court presidents in Serbia was slightly higher than the WB Average of 50,6%. Moreover, the percentage of female non-judge staff was 72,9%.

Also, the percentage of female prosecutors was 60,3% (higher than the WB Average of 54,9%). The number of female heads of prosecution services (48,9%) was significantly higher than the WB Average (39,7%). Moreover, the percentage of female non-prosecutor staff was 78%.

The heads of prosecution services were the only category with less than 50% of female presence.

## Gender Balance in Serbia in 2019 and 2022

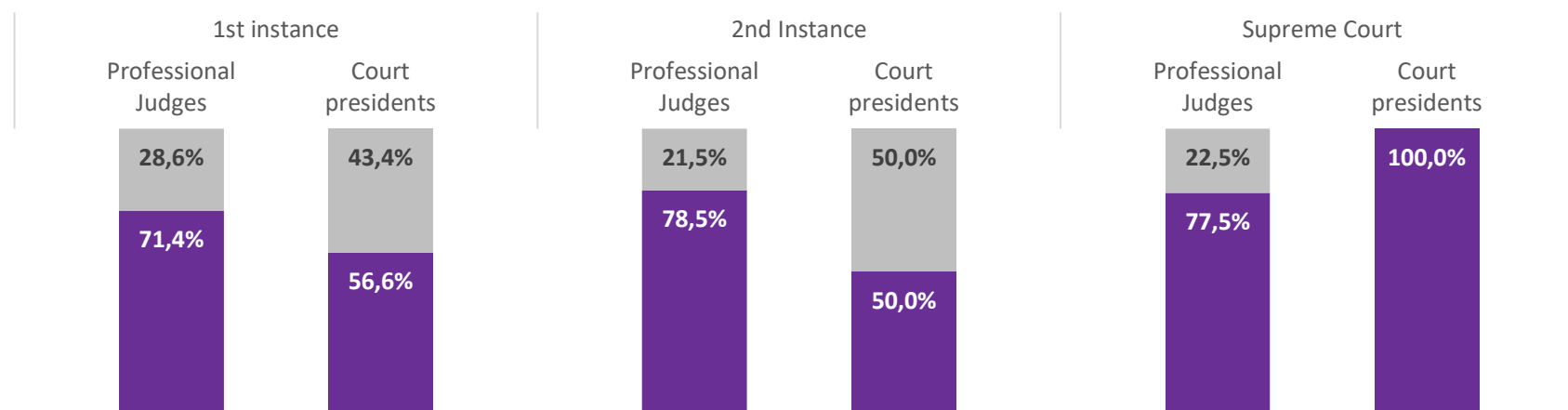


	Professional Judges % Female		Court presidents % Female		Prosecutors % Female		Heads of Prosecution Services % Female	
	Serbia	WB Average	Serbia	WB Average	Serbia	WB Average	Serbia	WB Average
1st instance	71,4%	62,2%	56,6%	51,9%	60,7%	57,0%	48,2%	43,3%
2nd instance	78,5%	64,5%	50,0%	39,1%	53,5%	48,4%	50,0%	25,0%
Supreme Court	77,5%	55,6%	100,0%	73,3%	63,6%	43,7%	100,0%	44,4%

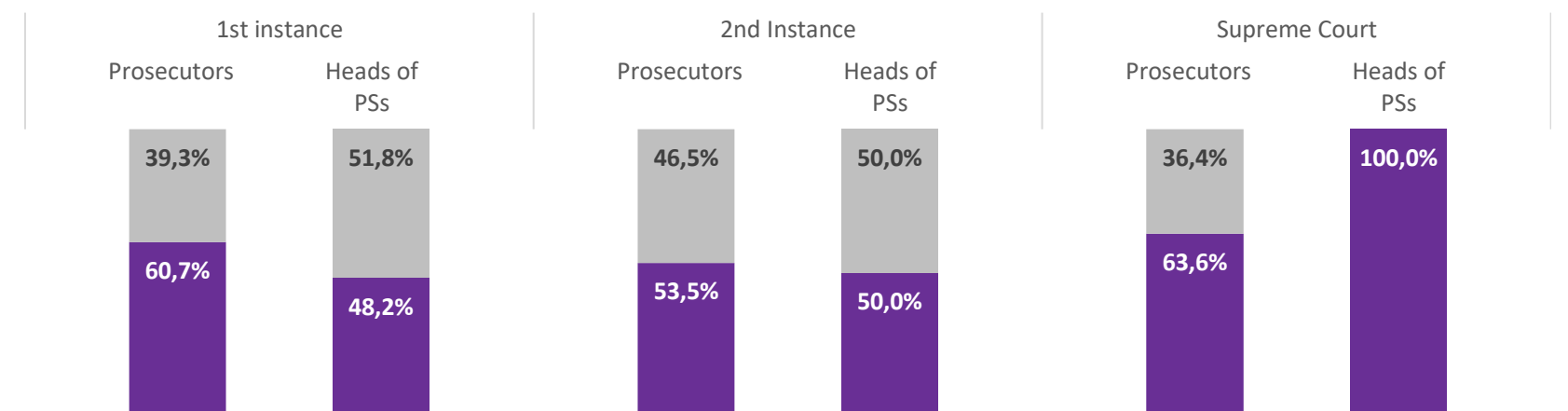
## Gender Balance by instance in 2022

■ % Females ■ % Males

### Professional Judges and Court Presidents



### Prosecutors and Heads of Prosecution Services



In 2022, a prevalence of female professionals was observed in all instances of Serbian courts and prosecution services, which is particularly noticeable in the region. The only exception was the first instance heads of the prosecution services for which the percentage of females was slightly less than 50% but still above the WB Average of 43,3%.

As shown in the table on the side, the percentages of Serbian female professionals were well above the regional averages for all the depicted categories. In particular, the percentages of the Serbian Supreme court female judges and second instance female heads of the prosecution services were significantly above the WB Average (22 and 25 percentage points, respectively).



• Gender Equality Policies

	Recruitment		Appointment	Promotion		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	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	
Court Presidents			✘			
Heads of Prosecution Services			✘			
Judges	✘	✘		✘	✘	✘
Prosecutors	✘	✘		✘	✘	✘
Non-judge staff	✘	✘		✘	✘	✘
Lawyers	✘			✘		
Notaries	✘			✘		
Enforcement agents	✘			✘		

In Serbia there is no overarching document (e.g. policy/strategy/action plan/program) on gender equality that applies specifically to the judiciary.

The authorities reported that there is no specific gender equality strategy in the judiciary. In Republic of Serbia, there is HR Strategy in the Judiciary adopted for period from 2022-2026. This strategy is qualified as sectoral and national strategy, and therefore it is harmonized with the other strategies, as well as the legislative framework of the Republic of Serbia (such as, with the Law on Gender Equality)

The Constitution and relevant legislation guarantee equality before law, equal protection of rights before the courts and other state bodies and bodies of AP Vojvodina and local self-government units (LSGs). The Constitutional provisions on the equality before law include equal protection before courts and other bodies and equal access to legal remedies (Art. 36) and legal assistance (Art. 67), right to rehabilitation and compensation of material or non-material damage inflicted by unlawful or irregular work of state bodies or other entities (Art. 35). The equal right to legal capacity is also guaranteed (Art. 37.1).

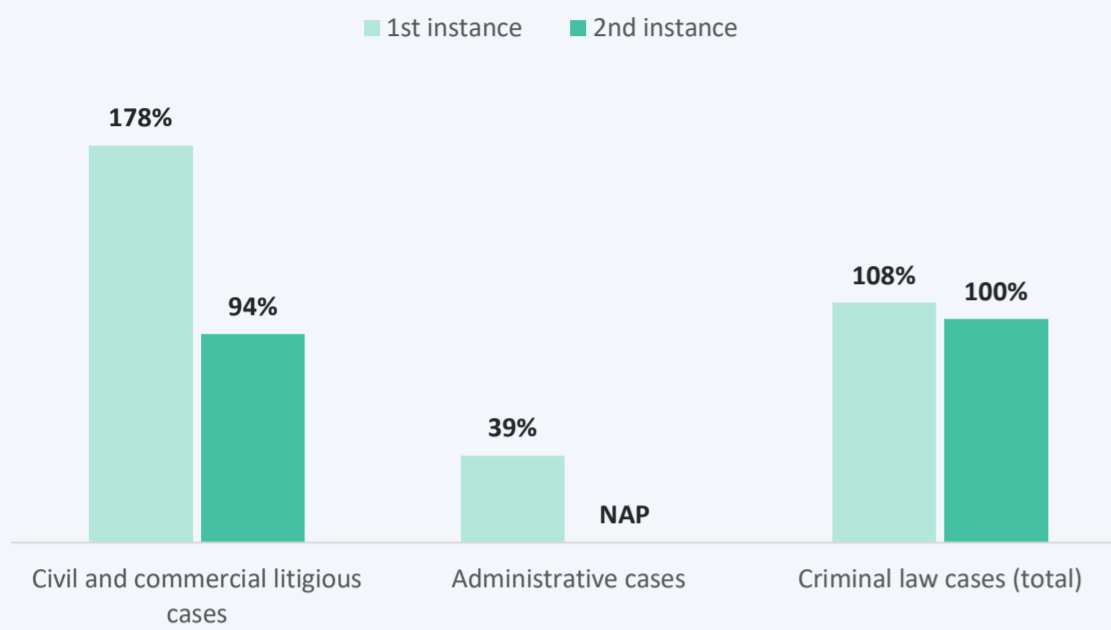
Also, the Law on Prohibition of Discrimination and the Law on the Equality Between Sexes ("Official Gazette of the Republic of Serbia", No. 104/2009)( unofficial English translation: <http://www.legislationline.org/documents/action/popup/id/16015> and in Serbian: [https://www.paragraf.rs/propisi/zakon\\_o\\_ravnopravnosti\\_polova.html](https://www.paragraf.rs/propisi/zakon_o_ravnopravnosti_polova.html)) additionally stress the following:

- the equality before law of both women and men;
- that all people are equal and enjoy the same status and equal legal protection regardless of their personal properties.
- Everyone has equal access and equal protection of rights before courts and public authorities. Discriminatory treatment by an official, namely by a responsible person of public authority is considered severe violation of work duty pursuant to law.

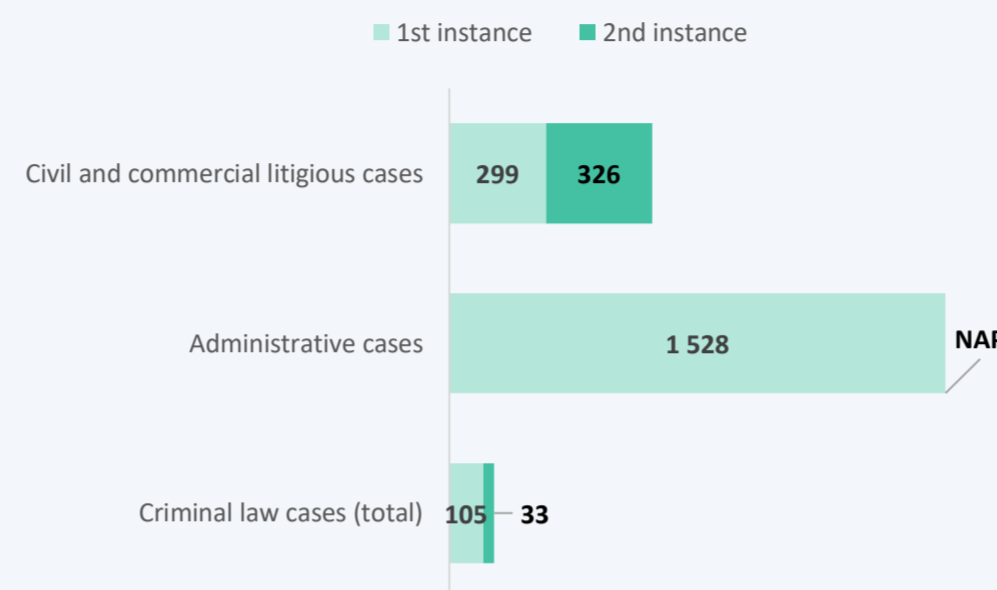
*Kosovo is not included in the calculation of summary statistics*

## Efficiency in Serbia in 2022 (Indicators 3.1 and 3.2)

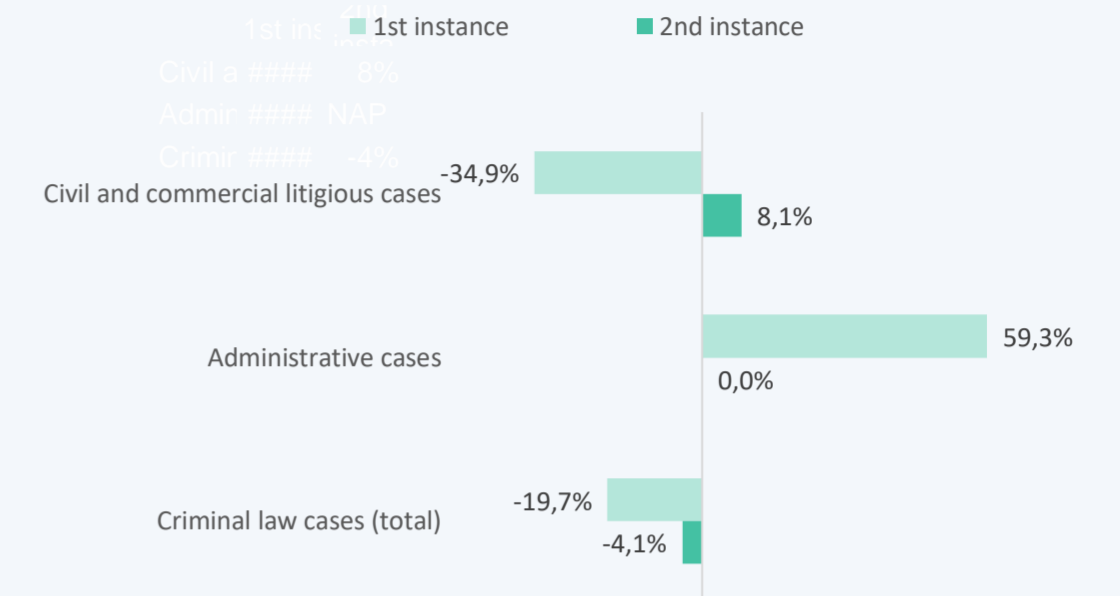
### Clearance Rate in 2022 (%)



### Disposition Time in 2022 (in days)



### % Variation of pending cases at the end of year between 2021 and 2022



In 2022, the highest Clearance rate (CR) for Serbia was calculated for the first instance Civil and commercial litigious cases, with a CR of 178%. However, Serbia was not able to deal efficiently with the first instance Administrative cases (CR of 39%). With a Disposition Time of approximately 33 days, the second instance total Criminal law cases were resolved faster than any other type of cases. Compared to 2021, the pending cases at the end of year increased for the first instance Administrative cases (59,3%), whereas they decreased for the first instance Civil and commercial litigious cases by -34,9%.

Since 2018, the Disposition Time (DT) increased for the first instance civil and commercial litigious, reaching its peak in 2020. It then started decreasing and, in 2022, it was 299 days. On the contrary, the DT for the first instance administrative cases surged from 677 days in 2019 to 1 528 in 2022 (significantly above the WB average of 716 days). This was due to an increase of the number of incoming cases while the resolved cases remained stable. As a consequence, the CR for this type of cases was the lowest calculated for all matters in the first and second instance courts (39%). In case the Serbian courts do not manage to deal with these cases more efficiently, they might incur the creation of a significant backlog in the future.

It is also worth noticing that, although Serbia had one of the highest number of incoming criminal cases per 100 inhabitants in the region in the past data collection cycles, its courts were able to deal with these cases, by keeping their CR stable at or above 100% and their DT consistently below the WB average. In particular, the DT was actually reduced for the first instance criminal cases from 152 days in 2018 to 105 days in 2022).

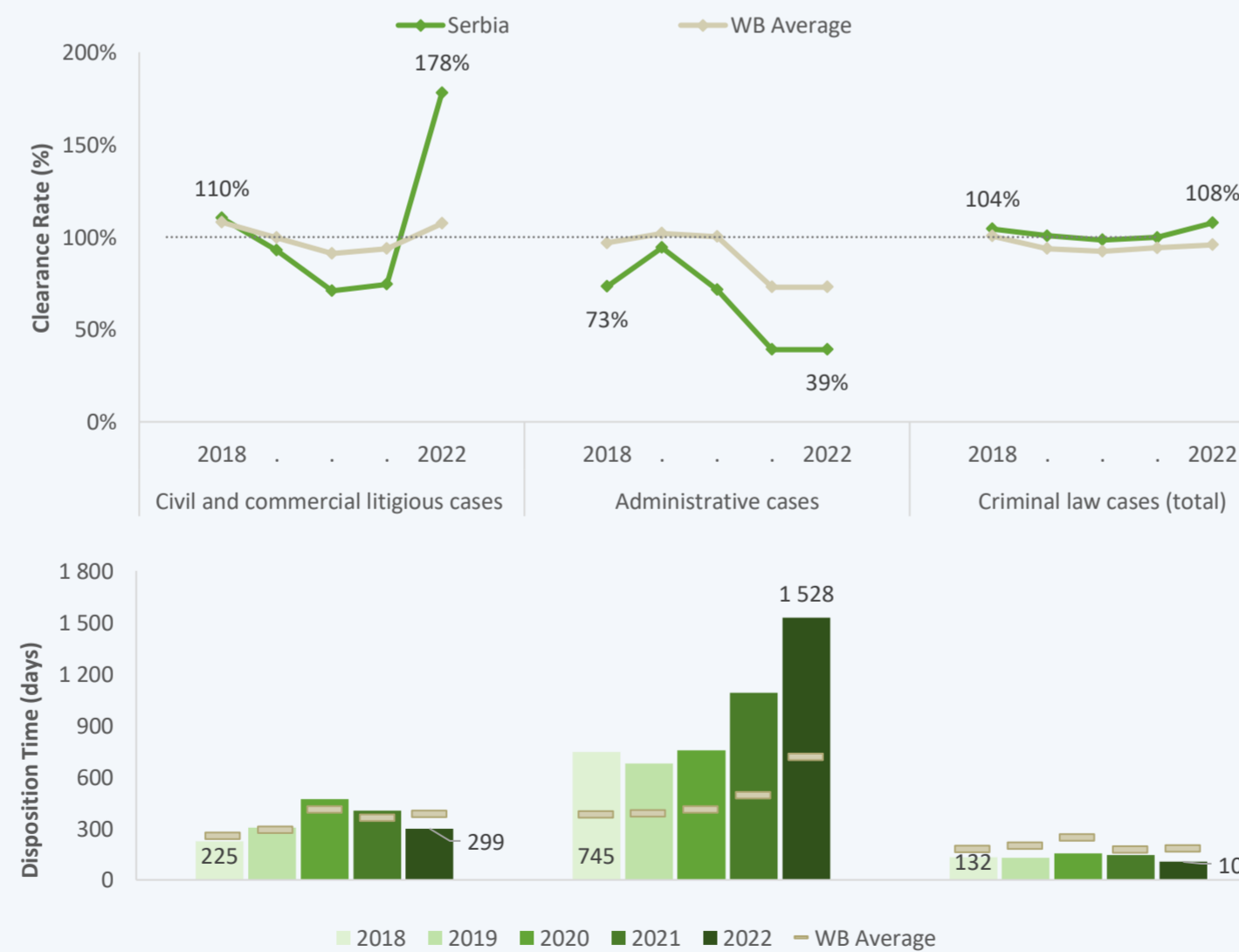
Furthermore, a sharp reduction of the first instance incoming civil and commercial cases took place in 2022, after supplementing the legal position of the Supreme Court of Cassation in September 2021 regarding the costs of bank loans cases (-63,3% compared to 2021). As a result, the first instance courts dealing with civil and commercial litigious cases managed to rise their CR to 178% and lower their DT by 104 days compared to the previous cycle.

As regards the second instance cases, the civil and commercial litigious cases are slower than first instance cases, but they are still faster than the WB Average. Despite their CR decreased from 98% in 2019 to 74% in 2021, the Serbian courts managed to increase it to 94%.

Finally, the CR and DT for the second instance total criminal cases were rather stable between 2018 and 2022. While the CR was around 100% for all cycles, the DT consistently remained well below the WB Average.

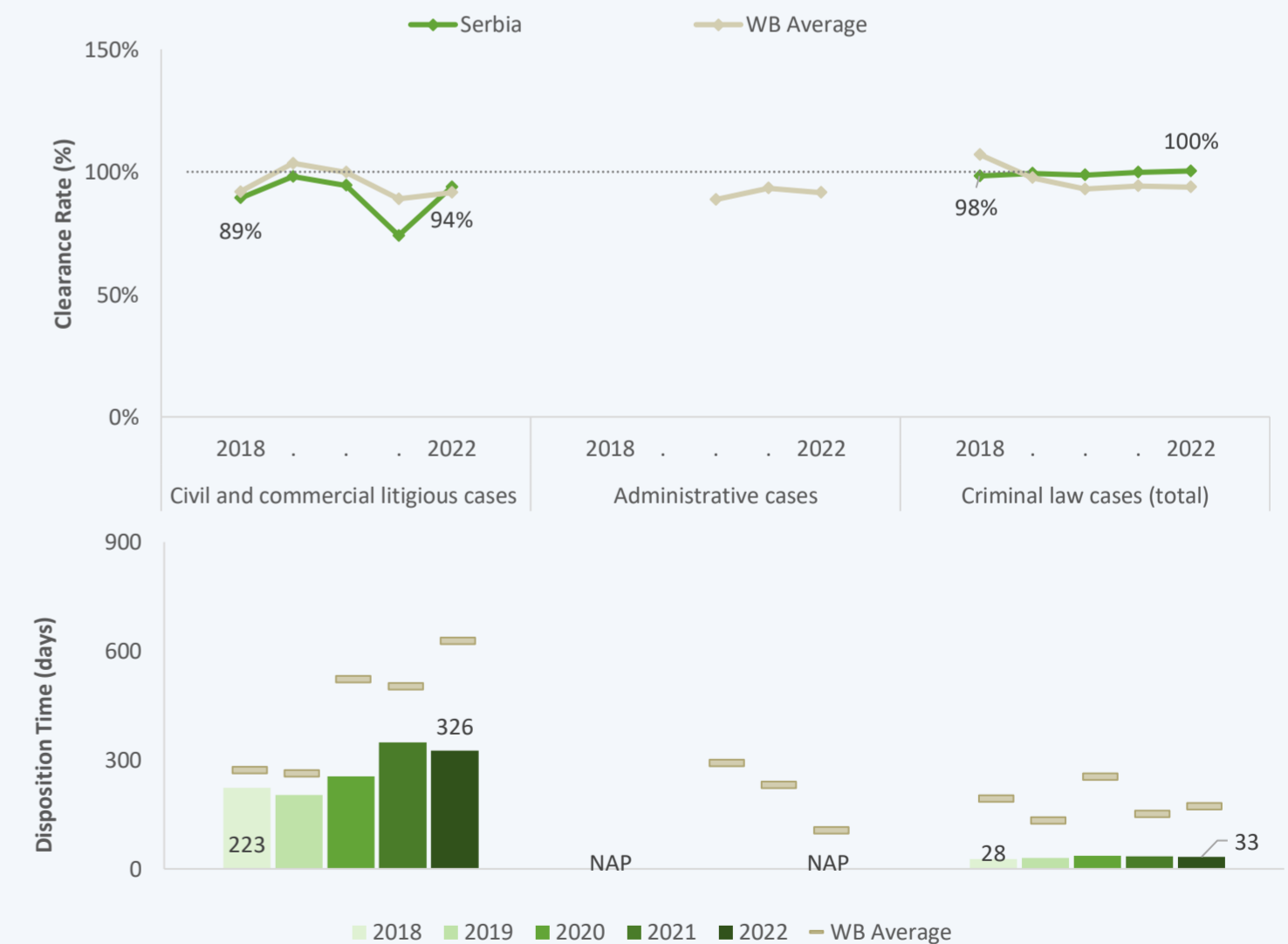
### First instance cases

#### Clearance rate (%) and Disposition Time (days) for first instance cases from 2018 to 2022



### Second instance cases

#### Clearance rate (%) and Disposition Time (days) for second instance cases from 2018 to 2022



NB: For the second instance Administrative cases: the WB Median of the Disposition Time is visualised in the graph above (instead of the WB average). Also, as per methodological note, the 2018 and 2019 WB Medians for these type of cases are not available.

**• First instance cases - Other than criminal law cases**

1st instance cases in 2022 (absolute values)	Serbia (2022)				% Variation between 2021 and 2022			
	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
<b>Total of other than criminal law cases (1+2+3+4)</b>	893 355	1 094 831	508 030	131 962	-32,6%	-21,8%	-28,4%	1,2%
1 Civil and commercial litigious cases	230 479	410 562	336 231	104 036	-63,3%	-12,1%	-34,9%	50,9%
2 Non-litigious cases**	473 310	532 829	67 067	10 136	-10,4%	-31,7%	-47,0%	-78,6%
3 Administrative cases	63 008	24 631	103 145	17 482	63,8%	13,5%	59,3%	28,2%
4 Other cases	126 558	126 809	1 587	308	-3,6%	-3,4%	-13,7%	-17,4%

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

In 2022, the first instance incoming civil and commercial litigious cases were 230 479 (3,39 per 100 inhabitants vs the WB Average of 2,7). They decreased by -63,3% between 2021 and 2022. The resolved cases were 410 562 (6,04 per 100 inhabitants) and, compared to the previous year, they decreased by -12,1%. In 2022, the number of resolved cases was higher than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2022 were less than in 2021. Moreover, the 2022 Clearance rate for this type of cases was 178% (above the WB Average of 107%). This increased by 103,7 percentage points compared to 2021.

The Disposition Time for civil and commercial litigious cases was approximately 299 days in 2022 (below the WB Average of 384 days). This decreased by -25,9% compared to 2021.

The first instance incoming administrative cases were 63 008 in 2022 (ie 0,93 per 100 inhabitants vs the WB Average of 0,84). They increased by 63,8% compared to the previous year. In 2022, the resolved cases were 24 631 (0,36 per 100 inhabitants, below of the WB Average of 0,46). Between 2021 and 2022, the number of resolved administrative increased by 13,5%. The number of incoming cases was thus higher than the resolved cases. As a consequence, the administrative pending cases at the end of 2022 were more than in the previous year, and the Clearance rate for this type of cases was 39% (below the WB Average of 73%). The CR decreased by -17,3 percentage points compared to 2021. Regarding the variations for the administrative cases, the Serbian authorities did not provide a special explanation for these variations (the Administrative Court has more incoming cases and the same number of resolved cases as in previous few years).

Finally, the Disposition Time for administrative cases was approximately 1 528 days in 2022. This has increased by 40,3% compared to 2021, and it was above the WB Average (716 days).

The lower number of incoming cases in 2022 is primarily explained by the decrease inflows in civil and commercial cases in basic and commercial courts. During 2019, 2020 and 2021 there was a large number of specific type of cases related to the costs of bank loans. After supplementing the legal position of the Supreme Court of Cassation from September 16, 2021, the number of these cases has gradually decreased. However, due to the mentioned repetitive cases (litigation for reimbursement of costs of bank loans), courts were unable to handle such a large influx from the previous year (regardless of the fact that the inflow in 2022 was lower), so the number of pending cases older than 2 years also increased.

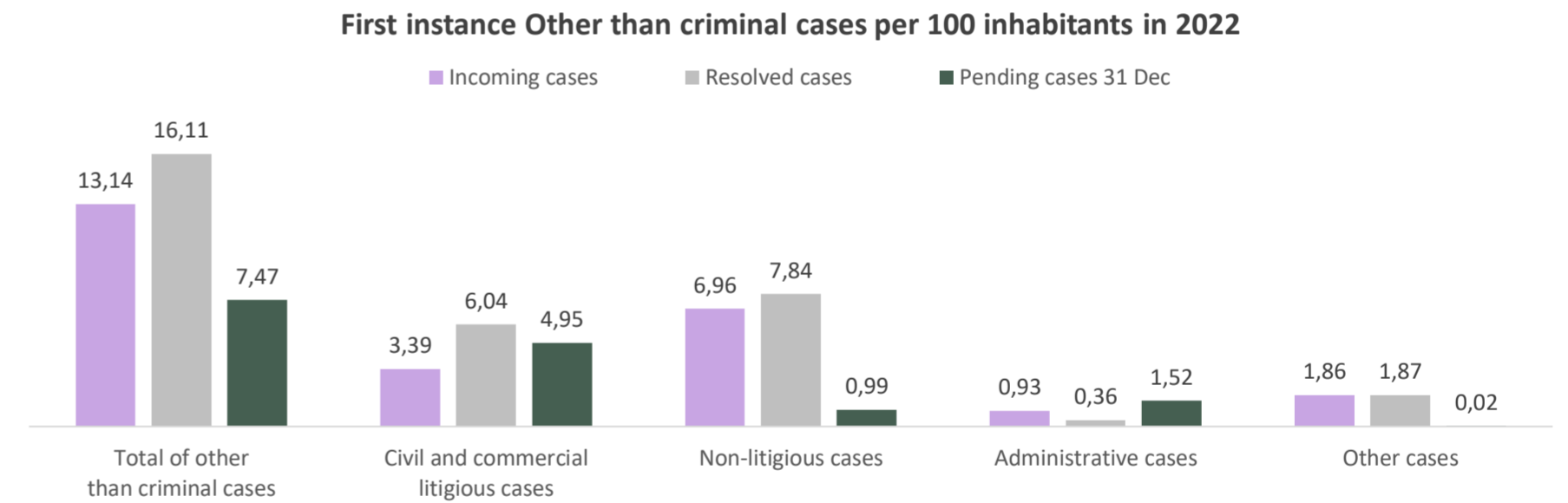
The authorities reported that, regarding the non-litigious cases, the Supreme Court of Cassation paid special attention to the problem of pending backlog enforcement cases, since in the previous period they affected the efficiency of the courts. Exceptional results were achieved through the cooperation of the Supreme Court of Cassation, the High Court Council and the Ministry of Justice, with the additional help of the IPA 2012 Projects "Improving Judicial Efficiency in the Republic of Serbia", "EU for Serbia – Support to the Supreme Court of Cassation" and "EU for Serbia – Support to the High Court Council", in the period from 2016 to the end of 2022 in the reduction of pending backlog court cases, and especially pending backlog enforcement cases in basic courts.

The administrative cases are all cases before the Administrative Court ("U"-administrative disputes; "Ur" - various administrative cases; "Uj" - execution of Administrative Court judgement; "Uo"- postponement of enforcement before lodging a lawsuit; "Uv" - objection to the decision of a single judge; "Up" - repetition of administrative-judicial procedure; "Uvp I", "Uvp II" – request for extraordinary review of court decision) "Uip" - judicial protection in the election procedure for members of national councils of national minorities; "Už" – appeals, "U-uz" - whistleblowers.

1st instance cases in 2022 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Serbia	WB Average	Serbia	WB Average	Serbia	WB Average	Serbia	WB Average
<b>Total of other than criminal law cases (1+2+3+4)</b>	13,14	11,82	16,11	12,47	7,47	15,15	1,94	11,40
1 Civil and commercial litigious cases	3,39	2,70	6,04	3,03	4,95	3,12	1,53	1,01
2 Non-litigious cases**	6,96	7,82	7,84	8,52	0,99	10,99	0,15	10,30
3 Administrative cases	0,93	0,84	0,36	0,46	1,52	1,01	0,26	0,09
4 Other cases	1,86	0,77	1,87	0,77	0,02	0,03	0,005	-

For reference only: the 2021 EU Median was as follows:  
 - Incoming first instance Civil and Commercial litigious cases per 100 inhabitants: 1,8;  
 - incoming first instance Administrative cases per 100 inhabitants: 0,3.

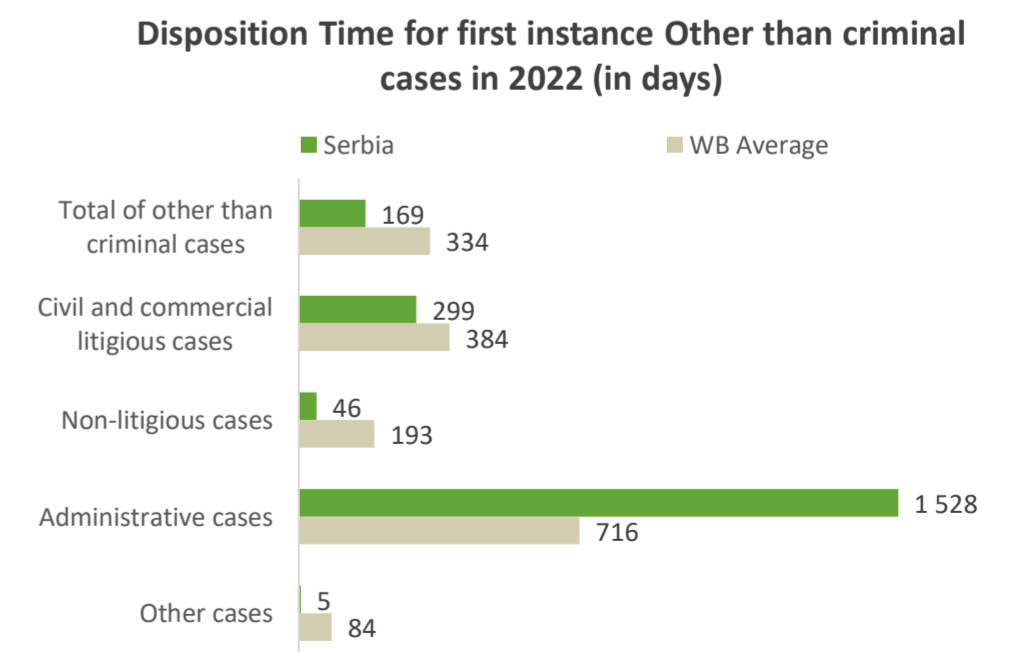
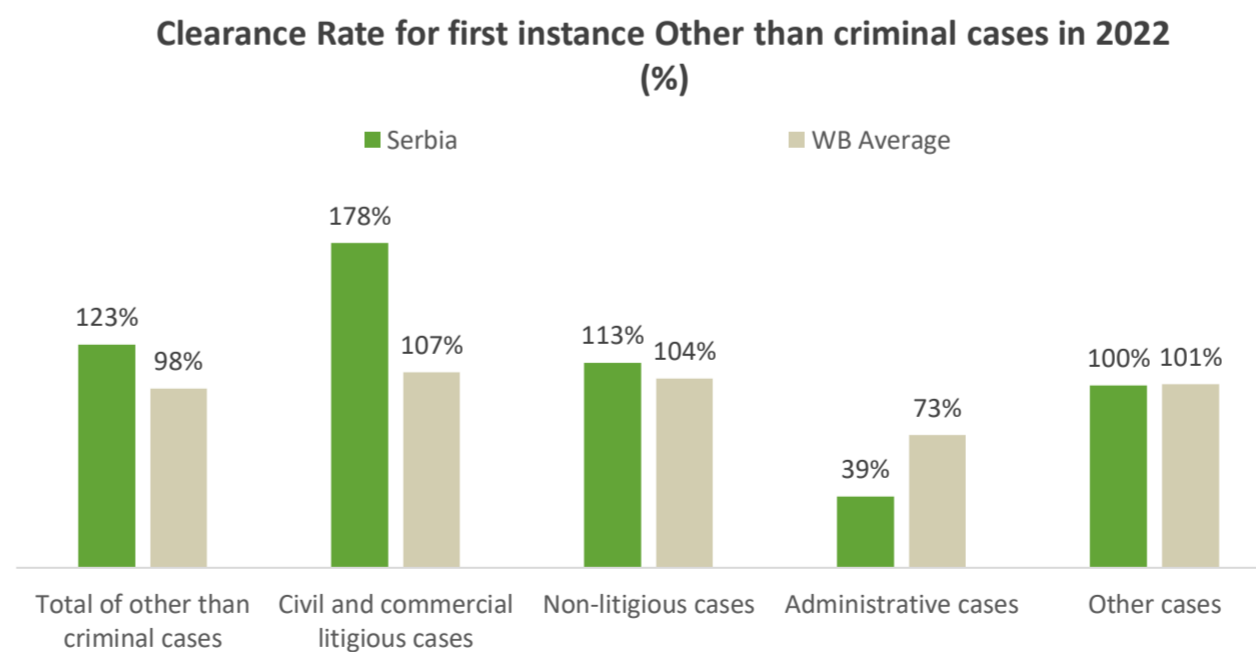
Key: > Higher than the WB Average  
 = Equal to the WB Average  
 < Lower than the WB Average



1st instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022	CR (%)		DT (days)		% Variation 2021 - 2022	
	Serbia	WB Average	Serbia	WB Average	CR (PPT)	DT (%)
<b>Total of other than criminal law cases (1+2+3+4)</b>	123%	98%	169	334	16,9	-8,4%
1 Civil and commercial litigious cases	178%	107%	299	384	103,7	-25,9%
2 Non-litigious cases**	113%	104%	46	193	-35,2	-22,4%
3 Administrative cases	39%	73%	1 528	716	-17,3	40,3%
4 Other cases	100%	101%	5	84	0,1	-10,6%

For reference only: the 2021 EU Median for the first instance Civil and Commercial litigious cases was as follows:  
 - Clearance rate: 102,5%; - Disposition time: 234 days.

For reference only: the 2021 EU Median for the first instance Administrative cases was as follows:  
 - Clearance rate: 101,7%; - Disposition time: 296 days.





• First instance cases - Criminal law cases

1st instance cases in 2022 (absolute values)	Serbia (2022)				% Variation between 2021 and 2022			
	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
Total of criminal law cases (1+2+3)	1 992 322	2 143 795	618 198	148 925	2,2%	10,9%	-19,7%	-1,1%
1 Severe criminal cases	44 742	46 404	26 898	5 355	-3,6%	-1,7%	-5,8%	-10,0%
2 Misdemeanour and / or minor criminal cases	326 498	347 268	210 282	11 143	-9,1%	-0,8%	-9,0%	-8,6%
3 Other cases	1 621 082	1 750 123	381 018	132 427	4,9%	14,0%	-25,3%	0,0%

In 2022, the first instance incoming total criminal cases were 1 992 322 (29,31 per 100 inhabitants vs the WB Average of 10,69). They increased by 2,2% between 2021 and 2022. The resolved cases were 2 143 795 (31,54 per 100 inhabitants). Between 2021 and 2022, they increased by 10,9%. The number of resolved cases was thus higher than the incoming cases. As a consequence, the total criminal pending cases at the end of 2022 were less than in 2021. Indeed, the 2022 Clearance rate for this type of cases was 108% (above the WB Average of 96%). This increased by 8,5 percentage points compared to 2021.

The Disposition Time for total criminal cases was approximately 105 days in 2022 (well below the WB Average of 185 days). This decreased by -27,6% compared to 2021.

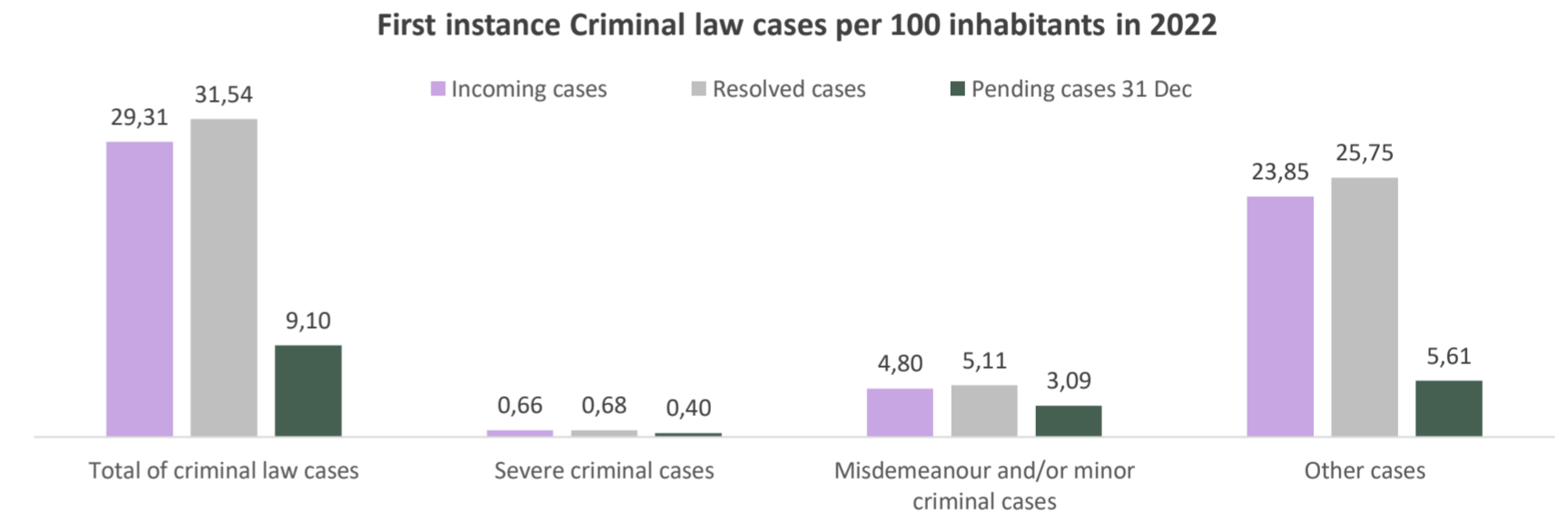
The Serbian authorities reported that the "total number of criminal cases" presents a sum of all criminal cases (in the first instance) before basic and higher courts, as well as misdemeanour cases and commercial offenses in the first instance from the jurisdiction of commercial courts as penal offenses. The category under "Severe criminal cases" 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).

Other criminal cases include: Incoming and outgoing cases of international legal cooperation, letters rogatory in criminal matters; Educational (supervision) orders; educational measures and security measures (educational orders and execution of educational orders and security measures); Execution of imprisonment in the Department for Organized Crime and the Department for War Crimes; Records on juvenile perpetrators of criminal offenses who were sentenced to an educational measure, educational order, security measure, accommodation in a correctional facility, imprisonment (criminal records for juveniles are kept by the court); Requests for amnesty (regular criminal department, organized crime department, war crimes department); Register of decisions of pre-trial judges regarding the proposals of the prosecutor's office for ordering detention or other measures (regular criminal department, organized crime department, war crimes department, high-tech crime, anti-corruption department); Requests for recognition of a foreign court decision, requests for extradition (regular criminal department, organized crime department, war crimes department); Requests for parole (Regular Criminal Department, Organized Crime Department, War Crimes Department, Juvenile Department, Anti-Corruption Department); Domestic letters rogatory in criminal cases; Requests for temporary confiscation of property (regular criminal department, organized crime department, war crimes department, anti-corruption department); Requests for permanent confiscation of property (regular criminal department, organized crime department, war crimes department); Certificates - whether or not a natural or legal person is being prosecuted; Proposals of the prosecution and decisions of the pre-trial judge in relation to special measures for producing evidence; Register in which the proposals of the competent prosecutor's office for the extension of the emergency measure prescribed by the Law on Prevention of Domestic Violence are introduced; cases for which legal assistance is sought from another misdemeanour court are cases in which misdemeanour proceedings are conducted against juveniles; Execution according to the decisions of the misdemeanour court, according to the decisions of the administrative bodies, and the execution of the misdemeanour order.

1st instance cases in 2022 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Serbia	WB Average	Serbia	WB Average	Serbia	WB Average	Serbia	WB Average
Total of criminal law cases (1+2+3)	29,31	10,69	31,54	10,62	9,10	4,77	2,19	1,02
1 Severe criminal cases	0,66	0,48	0,68	0,48	0,40	0,28	0,08	0,04
2 Misdemeanour and / or minor criminal cases	4,80	3,84	5,11	3,47	3,09	2,20	0,16	0,06
3 Other cases	23,85	7,97	25,75	8,34	5,61	2,85	1,95	0,92

For reference only: for the first instance Total Criminal law cases, the 2021 EU Median was as follows:  
- Incoming cases per 100 inhabitants: 1,6.

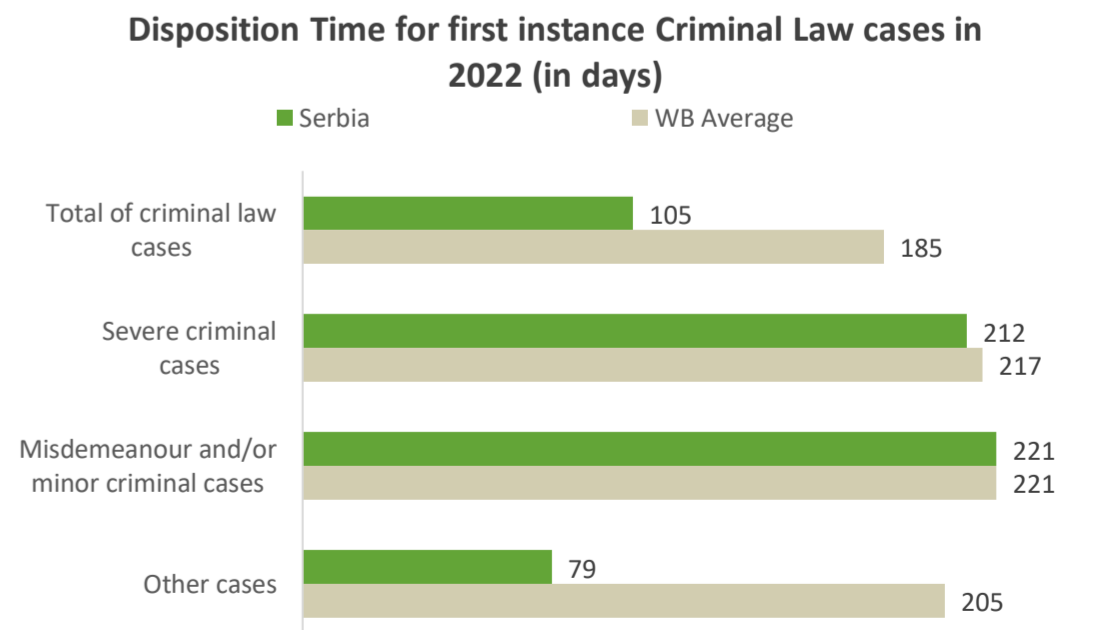
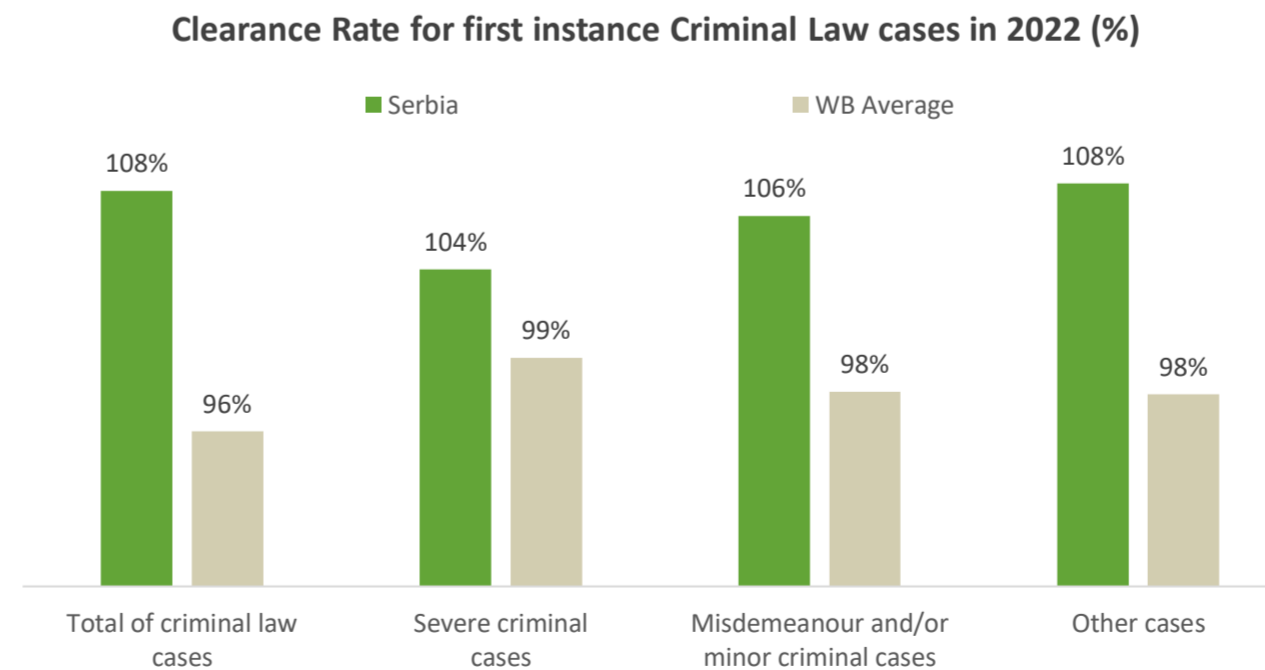
Key: > Higher than the WB Average  
= Equal to the WB Average  
< Lower than the WB Average



1st instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022	CR (%)		DT (days)		% Variation 2021 - 2022	
	Serbia	WB Average	Serbia	WB Average	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	108%	96%	105	185	8,5	-27,6%
1 Severe criminal cases	104%	99%	212	217	2,0	-4,2%
2 Misdemeanour and / or minor criminal cases	106%	98%	221	221	8,9	-8,3%
3 Other cases	108%	98%	79	205	8,6	-34,5%

PPT = Percentage points

For reference only: for the first instance Total Criminal law cases, the 2021 EU Median was as follows:  
- Clearance rate: 100%; - Disposition time: 134 days.



**Second instance cases - Other than criminal law cases**

2nd instance cases in 2022 (absolute values)	Serbia (2022)				% Variation between 2021 and 2022			
	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
<b>Total of other than criminal law cases (1+2+3+4)</b>	199 726	189 134	156 364	108 234	-8,3%	15,1%	7,3%	54,3%
1 Civil and commercial litigious cases	185 758	174 068	155 412	108 155	-8,7%	15,6%	8,1%	54,4%
2 Non-litigious cases**	13 959	15 057	952	79	-2,3%	10,2%	-53,6%	-9,2%
3 Administrative cases	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
4 Other cases	9	9	0	0	-25,0%	-25,0%	-	-

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

The courts deciding in the second instance (on appeal) in the "other than 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; 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.

The court of special jurisdiction, which decides in the second instance (on appeal) in the "non-criminal" cases is the Commercial Appellate Court (appeals on decisions of commercial courts and other bodies, conflict and delegation of jurisdiction between commercial courts).

Excluded from the total number of cases in response to this question are cases on appeals in cases of commercial offences.

Concerning the category "other", cases in the proceedings for protection of right to a trial within a reasonable time have been transferred to "other non-litigious cases".

There is no second instance in administrative disputes.

In 2022, the second instance incoming civil and commercial litigious cases were 185 758 (2,73 per 100 inhabitants vs the WB Average of 1,2). They decreased by -8,7% between 2021 and 2022. The lower number of incoming cases in second instance in 2022 is primarily explained by the decrease of incoming civil and commercial cases in basic and commercial courts. During 2019, 2020 and 2021 there was a large number of specific type of cases related to the costs of bank loans. After supplementing the legal position of the Supreme Court of Cassation from September 16, 2021, number of these cases gradually decreases. The resolved cases were 174 068 (2,56 per 100 inhabitants). Between 2021 and 2022, they increased by 15,6%. However, due to the mentioned repetitive cases (litigation for reimbursement of costs of bank loans), the second instance courts were unable to handle such a large influx from the previous year (regardless of the fact that the inflow in 2022 was lower). The number of resolved cases was thus lower than the incoming cases. As a result, the civil and commercial litigious pending cases at the end of 2022 were higher than at the end of 2021. In case the Serbian courts do not manage to deal with these cases more efficiently, they might incur the creation of a significant backlog in the future.

The Disposition Time for civil and commercial litigious cases was approximately 326 days in 2022 and it was considerably below the WB Average of 627 days. It also decreased by -6,4% compared to 2021.

2nd instance cases in 2022 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Serbia	WB Average	Serbia	WB Average	Serbia	WB Average	Serbia	WB Average
<b>Total of other than criminal law cases (1+2+3+4)</b>	2,94	1,37	2,78	1,30	2,30	1,11	1,59	0,71
1 Civil and commercial litigious cases	2,73	1,20	2,56	1,14	2,29	0,88	1,59	0,57
2 Non-litigious cases**	0,21	0,11	0,22	0,10	0,01	0,07	0,001	0,03
3 Administrative cases	NAP	0,13	NAP	0,12	NAP	0,24	NAP	0,16
4 Other cases	0,00	-	0,00	-	0,000	-	0,00	-

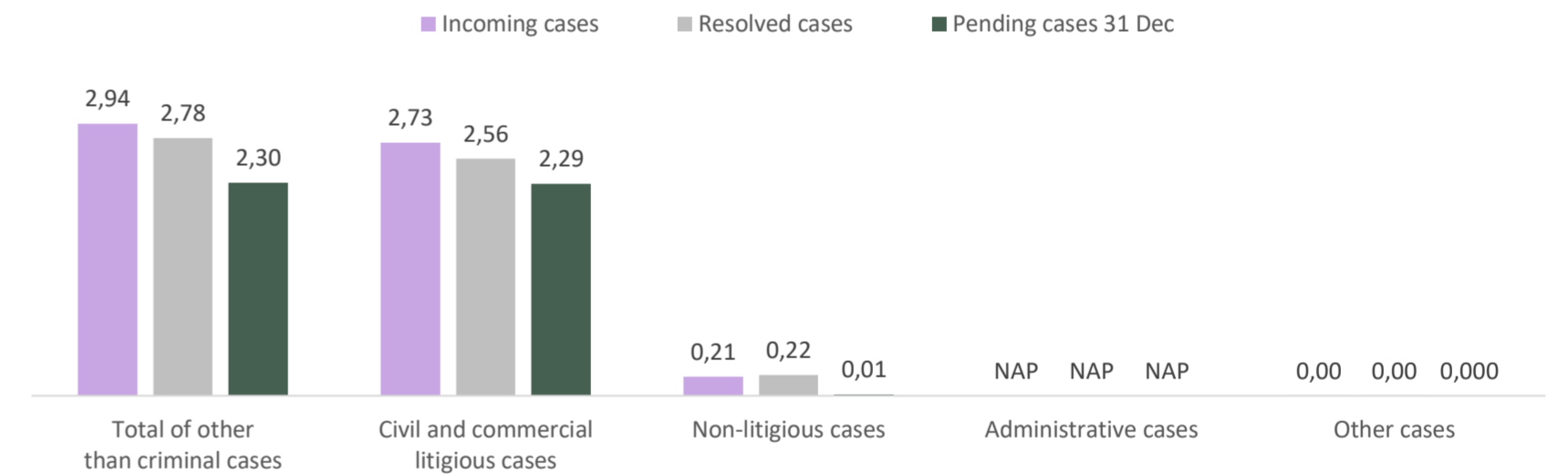
For reference only: the 2021 EU Median was as follows:

- Incoming Second instance Civil and Commercial litigious cases per 100 inhabitants: 1,8;

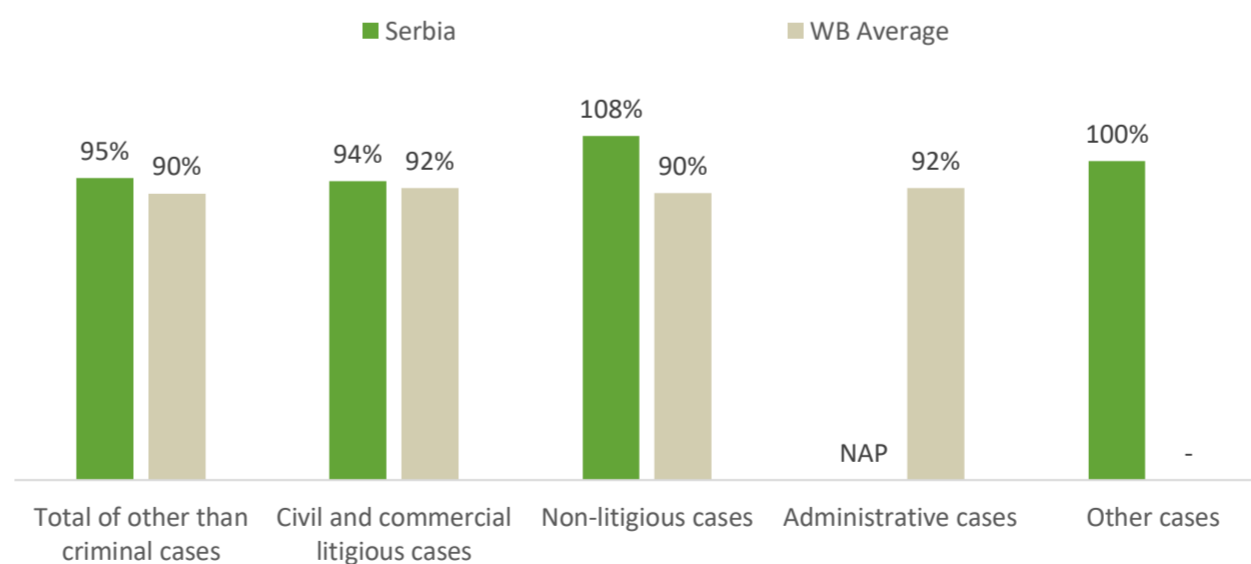
- incoming Second instance Administrative cases per 100 inhabitants: 0,3.

Key:	>	Higher than the WB Average
	=	Equal to the WB Average
	<	Lower than the WB Average

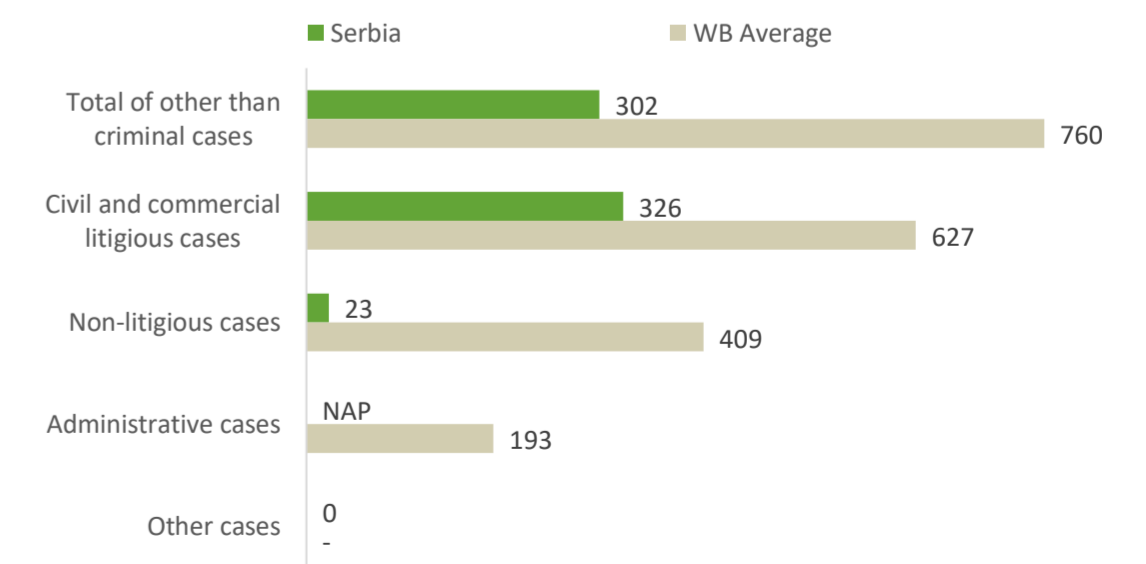
Second instance Other than criminal cases per 100 inhabitants in 2022



Clearance Rate for Second instance Other than criminal cases in (%)



Disposition Time for Second instance Other than criminal cases in (in days)



2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022	CR (%)		DT (days)		% Variation 2021 - 2022	
	Serbia	WB Average	Serbia	WB Average	CR (PPT)	DT (%)
<b>Total of other than criminal law cases (1+2+3+4)</b>	95%	90%	302	760	19,3	-6,8%
1 Civil and commercial litigious cases	94%	92%	326	627	19,7	-6,4%
2 Non-litigious cases**	108%	90%	23	409	12,2	-57,9%
3 Administrative cases	NAP	92%	NAP	193	NAP	NAP
4 Other cases	100%	-	0	-	0,0	-

PPT = Percentage points

For reference only: the 2021 EU Median for the Second instance Civil and Commercial litigious cases was as follows:

- Clearance rate: 102,5%;

- Disposition time: 234 days.

For reference only: the 2021 EU Median for the Second instance Administrative cases was as follows:

- Clearance rate: 101,7%;

- Disposition time: 296 days.

NB: In the table and the graph above, the WB Median of the Disposition Time is presented for the second instance Administrative cases, instead of the WB Average.



• Second instance cases - Criminal law cases

2nd instance cases in 2022 (absolute values)	Serbia (2022)				% Variation between 2021 and 2022			
	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
Total of criminal law cases (1+2+3)	59 689	59 894	5 372	951	0,4%	1,0%	-4,1%	-0,3%
1 Severe criminal cases	26 387	26 554	1 475	579	2,9%	3,3%	-10,2%	-10,6%
2 Misdemeanour and / or minor criminal cases	29 993	30 036	3 854	368	-1,8%	-1,0%	-1,7%	21,9%
3 Other cases	3 309	3 304	43	4	1,0%	0,9%	13,2%	0,0%

In 2022, the second instance incoming total criminal cases were 59 689 (0,88 per 100 inhabitants vs the WB Average of 0,5), and they increased by 0,4%, compared to the previous year. The resolved cases were 59 894 (0,88 per 100 inhabitants). Between 2021 and 2022, they increased by 1%. In 2022, the number of resolved cases was thus slightly higher than the incoming cases. As a consequence, the total criminal pending cases at the end of 2022 were less than in 2021. Also, the 2022 Clearance rate for this type of cases was 100% (above the WB Average of 94%). It increased by 0,6 percentage points compared to 2021.

The Disposition Time for total criminal cases was approximately 33 days in 2022 (considerably below the WB Average of 172 days). This decreased by -5% compared to 2021.

Other criminal cases: Register of appeal cases with regard to confiscation of property (including cases of organized crime), cases regarding requests for release on parole, different criminal cases regarding minors, cases regarding extradition and transfer of convicted persons in ordinary criminal cases, (also in cases of organized crime and war crimes), extension of detention in cases of cyber crime, different decision of the extrajudicial chamber, cases regarding transfer of cases to other courts.

2nd instance cases in 2022 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Serbia	WB Average	Serbia	WB Average	Serbia	WB Average	Serbia	WB Average
Total of criminal law cases (1+2+3)	0,88	> 0,50	0,88	> 0,47	0,08	< 0,16	0,01	< 0,04
1 Severe criminal cases	0,39	> 0,20	0,39	> 0,18	0,02	< 0,09	0,01	< 0,02
2 Misdemeanour and / or minor criminal cases	0,44	> 0,22	0,44	> 0,21	0,06	> 0,05	0,005	< 0,009
3 Other cases	0,05	< 0,13	0,05	< 0,14	0,001	< 0,02	0,0001	< 0,005

For reference only: for the second instance Total Criminal law cases, the 2021 EU Median was as follows:  
- Incoming cases per 100 inhabitants: 1,6.

Key: > Higher than the WB Average  
= Equal to the WB Average  
< Lower than the WB Average

Second instance Criminal law cases per 100 inhabitants in 2022



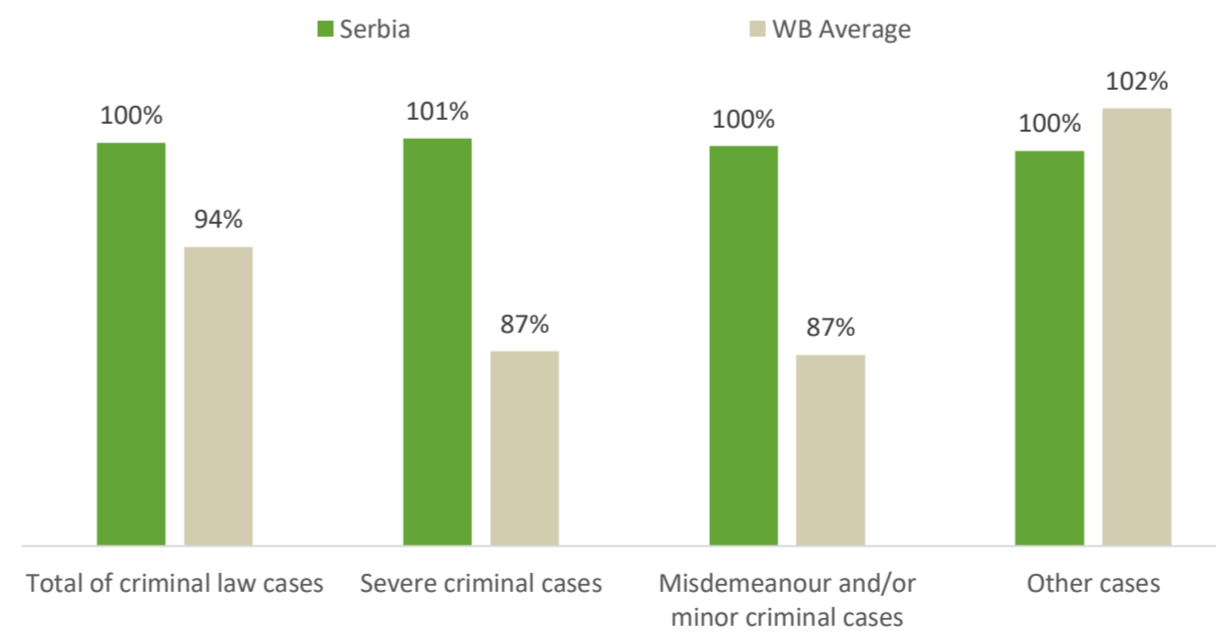
2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022	CR (%)		DT (days)		% Variation 2021 - 2022	
	Serbia	WB Average	Serbia	WB Average	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	100%	94%	33	172	0,6	-5,0%
1 Severe criminal cases	101%	87%	20	352	0,4	-13,1%
2 Misdemeanour and / or minor criminal cases	100%	87%	47	84	0,8	-0,7%
3 Other cases	100%	102%	5	53	-0,2	12,2%

PPT = Percentage points

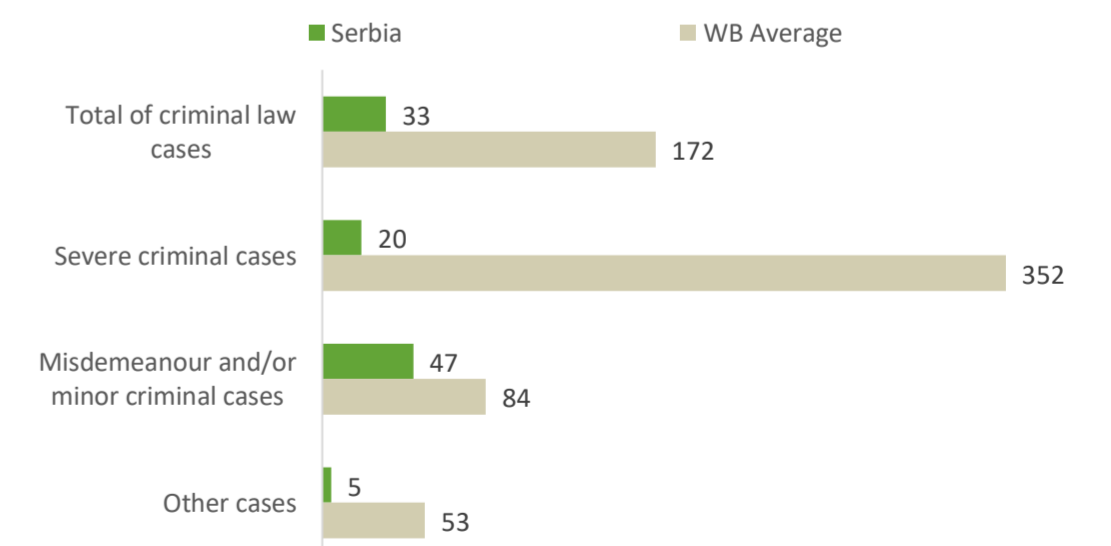
For reference only: for the second instance Total Criminal law cases, the 2021 EU Median was as follows:  
- Clearance rate: 100%; - Disposition time: 134 days.

NB: In the table and the graph above, the WB Median of the Disposition Time is presented for the second instance Other criminal cases, instead of the WB Average.

Clearance Rate for second instance Criminal Law cases in 2022 (%)



Disposition Time for second instance Criminal Law cases in 2022 (in days)



• Specific category cases

	Serbia (2022)						% Variation between 2021 and 2022					
	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	NA	NA	NA	NA	NA	NA	NA	NA	NA	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	689	33	NA	NA	66%	NA	NA	NA	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	NA	NA	NA	NA	NA	NA
Trading in influence	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

The average length of cases corresponds to the average length of resolved cases at a certain instance within the reference year.

In Serbia, in order to calculate the average length of the court proceedings in days for the first and second instance, for insolvency, the following formula was used as a proxy: pending / resolved \* 365.

## • Quality standards and performance indicators in the judicial system

In Serbia, there are no quality standards determined for the judicial system at national level.

The authorities reported that, 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.

According to the authorities, 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".

## • Regular monitoring of courts and prosecution offices' activities

In Serbia, there exists a system to regularly evaluate court performance based on the monitored indicators listed below. This evaluation of the court activities takes place more frequently than once a year (six-month and annual reports) and it is then used for the allocation of resources within the courts by identifying the causes of improved or deteriorated performance, reallocating resources (human/financial resources based on performance) and by reengineering internal procedures to increase efficiency (for example: delegation of cases to courts which are less burdened, implementing new specific work procedures concerning some types of cases, such as enforcement cases, election of new judges because of increase of number of cases).

Moreover, there exists a system to annually evaluate public prosecution services' performance based on the monitored indicators listed below. This evaluation of the public prosecution services' is then used for reallocating resources (human/financial resources based on performance) and for reengineering internal procedures to increase efficiency.

	Regular assessment	
	Courts	Prosecution offices
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	✗	✗

The authorities also reported that the number of appeals as such is not monitored. However, the number of cases that were decided by the higher instance and how they were decided is monitored (e.g. whether the judgment had been dismissed or amended, or case remitted to lower court). This indicates the quality of judicial decisions of lower courts.

The monitoring mechanism is set by the annual report of Supreme Court and the mechanism has not been changed in the last few years. One of the activities that are being monitored is the length of procedure. The annual report for 2022 can be found at following link, in Serbian: <https://www.vk.sud.rs/sr-lat/godi%C5%A1nji-izve%C5%A1taj-o-radu-sudova>

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. The Supreme Court of Cassation evaluates the work of courts also through the Uniform Backlog Reduction Program, its IT (CMS) system and its statisticians – monthly, quarterly, semi-annual and annual reports. The Law on the Protection of the Right to Trial within a Reasonable Time ("Official Gazette of the Republic of Serbia", No. 40/2015) provides judicial protection of the right to trial within a reasonable time and that way prevents violation of the right to a trial within a reasonable time.

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.

• Quantitative targets for each judge and prosecutor

Existence of quantitative targets for:		Judges	Prosecutors
Responsibility for setting up quantitative targets for judges lies on:			
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:		✗	✗
Responsibility for setting up quantitative targets for public prosecutors lies on:			
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		For judges	For public prosecutors
Warning by court's president/ head of prosecution		✗	✓
Disciplinary procedure		✗	✓
Temporary salary reduction		✗	✗
Reflected in the individual assessment		✗	✗
Other		✓	✗
No consequences		✗	✗

The Serbian authorities reported that the performance of judges with a standing tenure of office and court presidents' shall regularly be conducted once every three years, and in judges elected for the first time- once a year. Exceptionally, based on the Decision of the High Judicial Council performance of judges and court presidents may be evaluated extraordinarily. Criteria for evaluation of judges' performance are quality and quantity. Standards for evaluating the quality of judges' performance shall be the percentage of repealed decisions and time for drafting decisions. According to the authorities, the 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. The individual grades for quality standards are as follows: "outstandingly successful", "successful" and "unsatisfactory". The 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. According to the Serbian authorities, the evaluation of judges' quantity performance shall be conducted by evaluating the judges' quantity standard by an individual performance grade, i.e. "outstandingly successful", "successful" and "unsatisfactory".

The Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents 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. According to the Serbian authorities, 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.

The Law on Judges prescribes in Art 52 that a first-time elected judge whose work during the first three-year term of office is assessed as "not satisfactory" may not be appointed to permanent office. The Art.26 b of the Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents prescribes that the judge who has been evaluated as "unsatisfactory" is referred to mandatory training.

Quantitative performance targets are prescribed by the Rulebook on criteria and standards for evaluating the work of public prosecutors and deputy public prosecutors.

According to the Rulebook on criteria and standards for evaluating the work of public prosecutors and deputy public prosecutors, the fulfilment of the criteria is described by the following article: Article 15.

The individual grade is determined based on the average of the results from the four-month work reports made during the work evaluation period.

The four-month work report expresses the ratio of the number of assigned cases and the number of processed cases, which were dispatched no later than the 15th day after the end of the reporting period.

The results of the four-month reports are entered in the evaluation sheet.

An individual rating of "extremely successful" is determined for the deputy public prosecutor, who handled more than 80% of assigned cases during the evaluation period.

An individual grade of "successful" is determined for the deputy public prosecutor, who during the evaluation period handled 60% to 80% of assigned cases.

An individual rating of "not satisfactory" is determined for the deputy public prosecutor, who during the evaluation period processed less than 60% of assigned cases.



• **Qualitative targets for each judge and prosecutor**

Existence of qualitative targets for:		Judges	Prosecutors
Responsibility for setting up the criteria qualitative 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		✗	✗
Responsibility for setting up the criteria for the qualitative assessment of the public prosecutors' work			
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		✗	✗

Frequency of this assessment	For judges	For public prosecutors
Annual	✗	✓
Less frequent	✓	✗
More frequent	✗	✗

According to the Serbian authorities, the Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents 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.

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

The Serbian authorities reported that the quantitative and qualitative performance targets are prescribed by the Rulebook on criteria and standards for evaluating the work of public prosecutors and deputy public prosecutors.

The following articles of the Rulebook describe which authority is authorised to carry out the evaluation, the criteria for such evaluating, the grades/marks, and the extraordinary work evaluation.

Article 4.

The evaluation of the public prosecutor's work is carried out by the directly higher public prosecutor, with the opinion of the collegium of the immediately senior public prosecutor's office obtained.

The evaluation of the work of the deputy public prosecutor is carried out by the public prosecutor, with the opinion of the collegium of the public prosecution in which the deputy public prosecutor performs the public prosecutor's function.

Article 5.

The criteria for evaluating the work of the deputy public prosecutor are:

1. promptness in handling,
2. expertise and success in work,
3. professional commitment and cooperation.

The criteria for evaluating the work of the public prosecutor are:

1. general ability to manage the public prosecutor's office,
2. supervisory ability,
3. overall results of the work of the public prosecutor's office which he manages.

The criteria for evaluating the criteria are provided for in this regulation.

Article 6

The evaluation of the work of the holders of the public prosecutor's office is expressed by a grade.

Evaluation of work is carried out in such a way that for each criterion provided for in the Rulebook, an individual assessment is determined, on the basis of which the assessment of evaluation of work is made.

Marks

Article 7

The individual grades for the criteria for evaluating the work of public prosecutors are:

1. "extremely successful",
2. "successful",
3. "does not satisfy".

The evaluation grades for the work of the holders of the public prosecutor's office are:

1. "Extremely successfully performs the function of public prosecutor",
2. "Successfully performs the function of public prosecutor",
3. "Not satisfactory".



Extraordinary Work evaluation

Article 10.

The work of public prosecutors and deputy public prosecutors can be evaluated on an extraordinary basis based on the decision of the State Council of Prosecutors.

The State Council of Prosecutors can also make a decision on extraordinary performance evaluation based on the reasoned proposal of the public prosecutor of the public prosecution office, in which the deputy public prosecutor performs the public prosecutor's function or the deputy public prosecutor, whose work is extraordinarily evaluated.

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

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

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

The work of the deputy public prosecutor who was elected for the first time is evaluated once a year counting from the date of entry into the position of public prosecutor.

The work of the public prosecutor and the deputy public prosecutor on a permanent basis is regularly evaluated once in three years.

The work of public prosecutors and deputy public prosecutors can be based on the decision of the State Prosecutorial Council assess the prosecutors in an extraordinary manner.

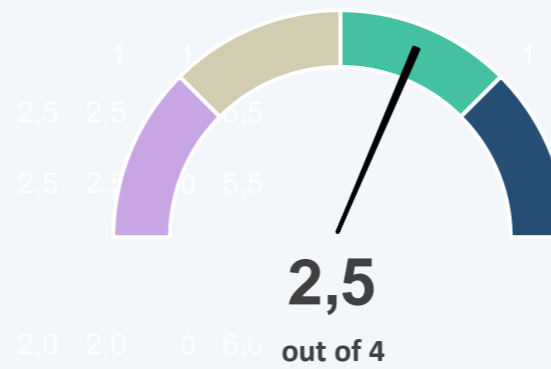
*Kosovo is not included in the calculation of summary statistics*

## Electronic case management system and court activity statistics in Serbia in 2022 (Indicator 3.3)

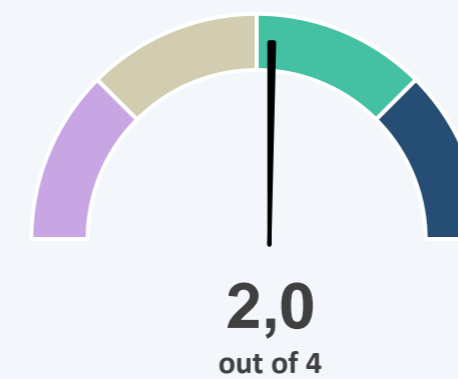
The Case Management System (CMS) Index is an index ranging from 0 to 4 points. It is calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary.

The methodology for calculation provides one index point for each of the five questions for each case matter. The points regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarized while 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. This methodology provides an adequate evaluation.

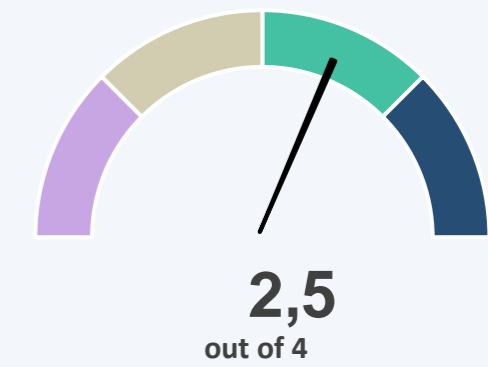
CMS index for Civil and/or commercial



CMS index for Administrative



CMS index for Criminal



### • Electronic case management system

In Serbia, there is an IT Strategy for the judiciary and there are plans for a significant change in the present IT system in the judiciary in 2022. Indeed, the IT strategy was adopted by ICT Sectorial Council on February 4th 2022 (ICT Strategy in Judiciary 2022-2027 with Action Plan).

There is a case management system (CMS), eg software used for registering judicial proceedings and their management, and it was more than 10 years. However, the implementation of the new centralized CMS is underway, it is planned to be completed by the end of 2024.

	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%	Accessible to parties	✗	✓	Fully integrated including BI
Administrative	100%	Both	✓	✗	Not connected at all
Criminal	100%	Accessible to parties	✗	✓	Fully integrated including BI

Legend for "Status of case online":

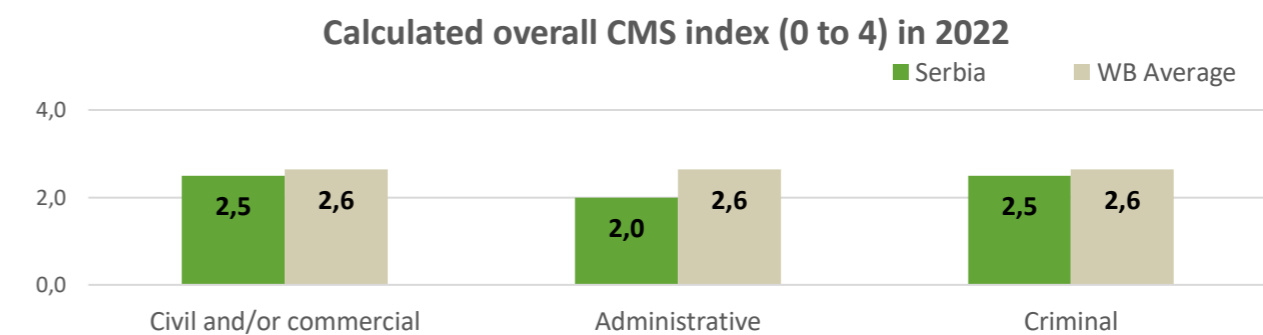
Both: Accessible to parties  
Publication of decision online

The CMS is developed in all courts (100% deployment rate) and the data is stored on a centralised / interoperable database only for the Administrative cases. The CMS index for Serbia is lower than the WB average (2.5 for Civil and/commercial cases versus the WB Average of 2,6; and 2,0 for criminal cases versus the WB Average of 2,6).

In all matters, parties can see the status of case online. For administrative cases, the decisions are also published online.

The CMS is fully integrated for civil and/or commercial and criminal cases in the sense that it uses data from cases from court DMS via web services to generate predefined and ad hoc reports.

	Overall CMS Index in 2022	
	Serbia	WB Average
Civil and/or commercial	2,5	2,6
Administrative	2,0	2,6
Criminal	2,5	2,6



• **Centralised national database of court decisions**

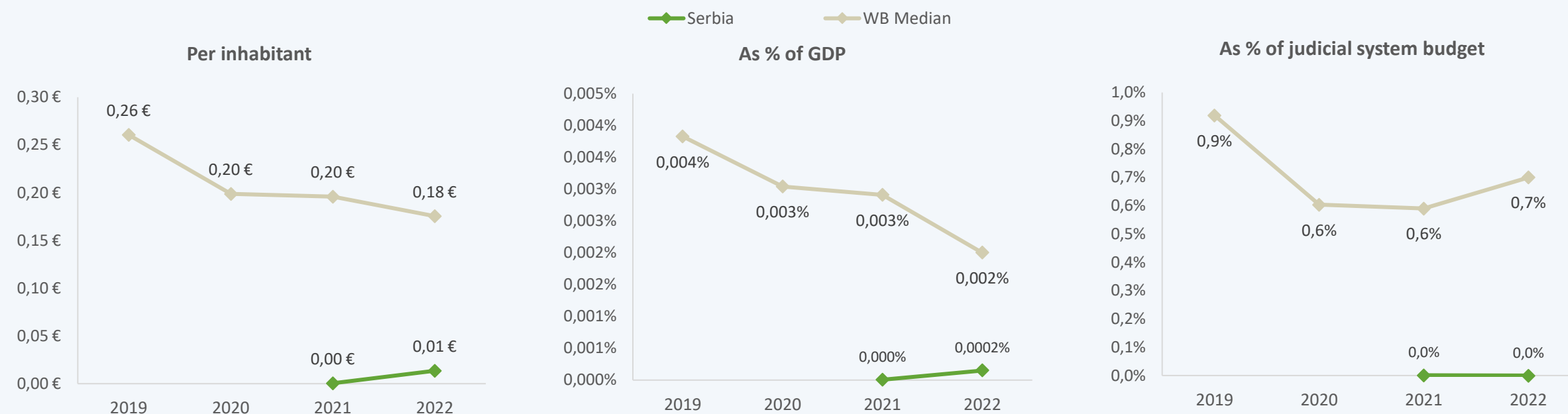
In Serbia, there is a centralised national database of court decisions. On one hand, only some judgements for all instance are collected given that, since 2021, there has been a migration of data (decisions) from Administrative Court portal to centralized database. Therefore, the centralized national database of court decisions does not include all judgements. On the other hand, data are anonymised and the case-law database is available online for free. Finally, the centralised national database has no links with the ECHR case law (hyperlinks which reference to the ECHR judgments in HUDOC 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
<b>Civil and/or commercial</b>	Yes some judgements	Yes some judgements	Yes some judgements	✗	✓	✓	✗
<b>Administrative</b>	Yes some judgements	Yes some judgements	Yes some judgements	✗	✓	✓	✗
<b>Criminal</b>	Yes some judgements	Yes some judgements	Yes some judgements	✗	✓	✓	✗

*Kosovo is not included in the calculation of summary statistics*

## Legal Aid in Serbia in 2022 (Indicator 4)

Total implemented budget for Legal Aid between 2019 and 2022



Number of cases for which LA has been granted in 2022



**0,06**

per 100 inhabitants

WB Median: 0,27

In 2022, the implemented budget for legal aid spent by Serbia was 92 056€ (0,03% of the judicial system budget). This means that an amount of 0,01€ was spent per inhabitant (below the WB Median of 0,18€). The budget for legal aid was equal to 0,0002% of the GDP, whereas the WB Median was 0,002%.

Please note that the Serbia's data on legal aid budget refers only to the budget spend by the local self-government units, spent according to the the Law on Free Legal Aid. Also, the data on cases only refers to cases where legal aid was granted according to Law on Free Legal Aid (whereas the data on cases in which legal aid was granted according to Criminal Procedure Code was not available). Therefore, these data are not comparable to the others in the region.

### • Organisation of the legal aid system

The Law on Free Legal Aid ("Official Gazette of RS", No. 87 of November 13, 2018, in force from October 1st 2019): The purpose of this law is to provide every person with effective and equal access to justice. Free legal aid consists of providing legal advice, drafting submissions, representation and defending in courts. When person applies for free legal aid, he/she must address to local self-government unit, which is entitled to approve/reject the request for granting free legal aid. If the request is granted, the person will be provided free legal aid by the benefactor who must be registrated on a list of benefactors kept by the Minister of Justice. Benefactor are lawyers, mediators, notaries, employees of the self-government unit, Faculties of Law and association which are registrated to provide legal aid in matters of asylum and discrimination. The request for granting free legal aid can be submitted personally or legal representative or attorney, can submit it on their behalf. The Criminal Procedure Code, Article 59:

When criminal proceedings are conducted for a criminal offense for which a sentence of imprisonment of more than five years may be imposed by law, court may, at the request of injured party, appoint a proxy (from the list of lawyers submitted to the court by the competent bar association) if it is in the interest of the proceedings and if the injured party financial situation, cannot bear the costs of representation.

Article 77: Defendant who, due to his financial situation, cannot pay the defense attorney's fee and expenses, will be assigned attorney at his request, if criminal proceedings are conducted for a criminal offense punishable by imprisonment for more than three years. In that case, the defense costs are borne by the court's budget.

#### Legal aid is applied to:

	Criminal cases	Other than criminal cases
Representation in court	✓	✓
Legal advice, ADR and other legal services	✓	✓



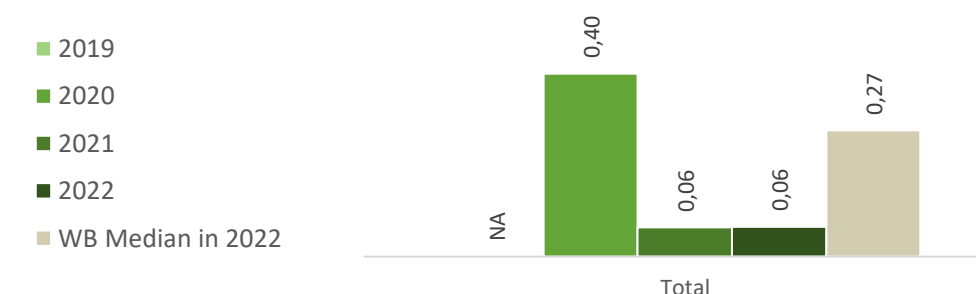
• **Implemented budget for legal aid and number of cases for which legal aid has been granted**

	Implemented budget for legal aid in €				Total implemented budget for legal aid per inhabitant		Total implemented budget for legal aid as % of GDP		Total implemented budget for legal aid as % of the judicial system budget	
	Total (a+b)	% Variation 2019 - 2022	Cases brought to court (a)	Cases not brought to court (b)	Serbia	WB Median	Serbia	WB Median	Serbia	WB Median
<b>Total (1+2)</b>	92 056 €	NA	NA	NA	0,01 €	0,18 €	0,000%	0,002%	0,03%	0,7%
<b>In criminal cases (1)</b>	NA	NA	NA	NA						
<b>In other than criminal cases (2)</b>	NA	NA	NA	NA						

In 2022, Serbia spent 92 056€ on the total implemented budget for legal aid. This means that it spent a lower amount per inhabitant compared to the WB Median (0,01€ and 0,18€, respectively). Yet, it is important to bear in mind that the budgetary data shown in this indicator refers only to the budget spent by the local self-government units according to the Law on Free Legal Aid. Thus, this amount does not cover the free legal aid that was provided according to the Criminal Procedure Code (mandatory defense, etc.). Indeed, the main part of the Legal Aid budget was included in the courts' budget for justice expenses and it cannot be separated from it.

	Number of cases for which legal aid has been granted				Amount of LA granted per case (€)			
	Total (a+b)			Cases brought to court (a)	Cases not brought to court (b)	Total	Cases brought to court	Cases not brought to court
	Absolute number	Per 100 inh.	% Variation 2019 - 2022					
<b>Total (1+2)</b>	4 392	0,06	NA	542	3 850	21,0 €	NA	NA
<b>In criminal cases (1)</b>	NA	NA	NA	NA	NA	NA	NA	NA
<b>In other than criminal cases (2)</b>	NA	NA	NA	NA	NA	NA	NA	NA

**Total number of LA cases per 100 inh between 2019 and 2022**



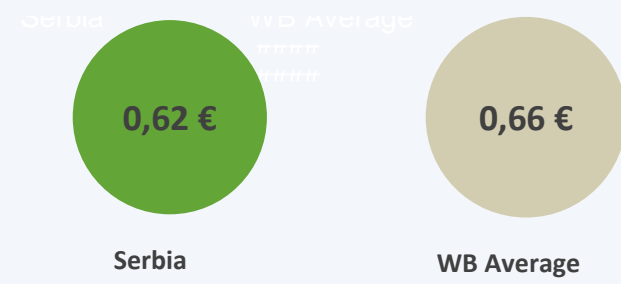
In 2022, the number of cases for which legal aid was granted was 4 392 (according to the Law on Free Legal Aid). The total cases brought to court were 542, while the total cases not brought to court were 3 850. On average, the amount granted per legal aid case was 21€.

The Law distinguishes free legal aid (legal advice, representation before court, defense, 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 the Republic of Serbia 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.

*Kosovo is not included in the calculation of summary statistics*

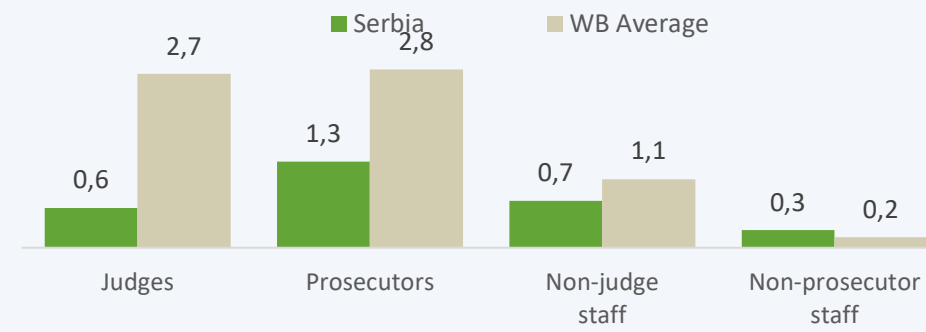
## Training of judges and prosecutors in Serbia in 2022 (Indicator 7)

### Total budget for training per inhabitant



### Average number of live training participations per professional

Please see the definition of the indicator on page 2.



### Average number of participants per delivered training



The total budget for training of judges and prosecutors in Serbia was 0,62€ per inhabitant, lower than the WB Average of 0,66€ per inhabitant.

In 2022, 3 265 participants (of which 1 651 judges and 947 prosecutors) were trained in 260 live trainings (in-person, hybrid or video conferences).

There were 116 participants in internet-based trainings. This shows that the participation on live trainings is higher than the participation in internet-based trainings.

In Serbia, each judge participated, on average, to 0,6 live trainings in 2022, which was below the WB Average (2,7) while each prosecutor participated, on average, to 0,1 live trainings, less than the WB Average (0,4).

Regarding the internet-based trainings (not-live), 7 trainings in total were provided on the e-learning platform of the training institution for judges and prosecutors, whereas a total of 6 trainings was completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc.). The total number of participants was 64 and 52, respectively.

### Budget for training

This part analyses the budget of training institution/s for judges and prosecutors but also the budgets of courts and prosecutions dedicated to training (when applicable)

	Budget of the training institution(s) (1)	Budget of the courts/prosecution allocated to training (2)	Absolute Number	Total (1)+(2)				% Variation 2019 - 2022	% Variation 2021 - 2022	WB Average per inhabitant
				Evolution of training budget per inhabitant						
				2019	2020	2021	2022			
<b>Total</b>	4 200 813 €	NAP	4 200 813 €	NA	NA	0,55 €	0,62 €	NA	12,7%	0,66 €
<b>Judges</b>	NAP	NAP	NAP							
<b>Prosecutors</b>	NAP	NAP	NAP							
<b>One single institution for both judges and prosecutors</b>	4 200 813 €		4 200 813 €			0,55 €	0,62 €			
<b>Donor's contribution</b>	128 826 €									

Serbia spent in total 4 200 813€ for training for judges and prosecutors in 2022, which is 0,62€ per inhabitant (below the WB average of 0,66€ per inhabitant).

## • Number of in-service live trainings and participants

### Organisation of the trainings (number, duration and average number of participants on trainings)

	Live (in-person, hybrid, video conference) trainings (2022)									
	Number of available trainings	Number of delivered trainings	Delivered trainings in days	Number of participants	Average duration of trainings in days		Average number of participants per delivered training			
					Serbia	WB Average	Serbia	WB Average		
<b>Total</b>	260	260	332	3 265	1,3	<	1,4	12,6	<	19,8
<b>Judges</b>	210	210	268	1 651	1,3	<	1,4	7,9	<	12,5
<b>Prosecutors</b>	190	190	245	947	1,3	<	1,5	5,0	<	11,8
<b>Non-judge staff</b>	70	70	82	281	1,2	<	1,3	4,0	<	24,7
<b>Non-prosecutor staff</b>	75	75	90	386	1,2	>	1,0	5,1	<	26,9

CEPEJ distinguish these types of trainings:  
 "A live" training shall be understood as a training conducted in real time. This means that both trainers and participants are physically present in one location or several locations assisted with information technology (digital tools).  
 "Internet-based" trainings are all trainings that take place over internet, irrespective of the format of the training (such as trainings via specifically designed LMS - Learning Management System platforms, webinars, podcasts and other forms of downloadable lectures and self-learning digital tools). The internet-based training shall be understood as e-training that is implemented according to participant own pace and time of training.

Key:	>	Higher than the WB Average
	=	Equal to the WB Average
	<	Lower than the WB Average

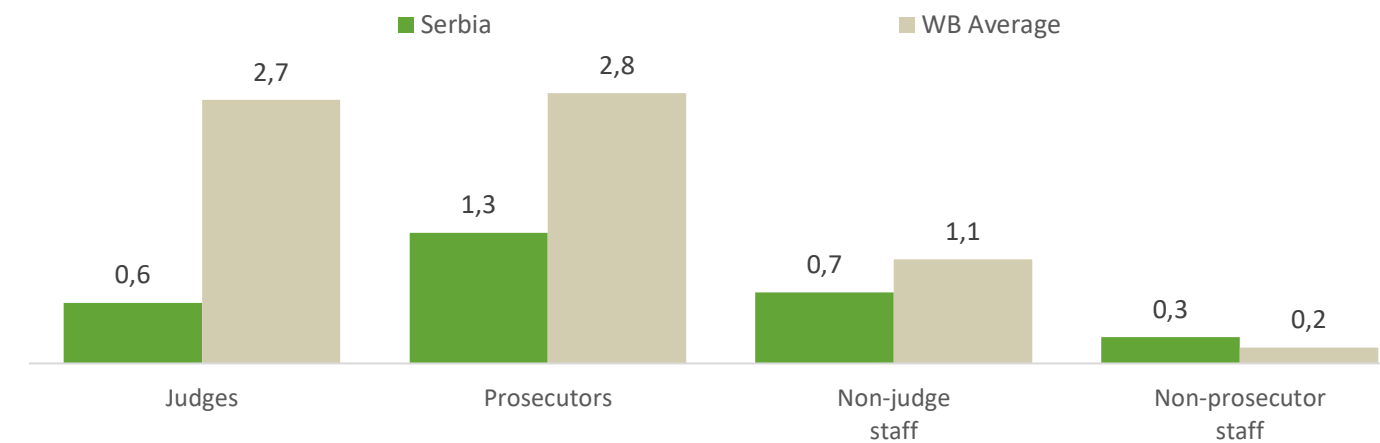
In 2022, the average duration of trainings of both judges and prosecutors in Serbia was 1,3 days (while the WB Average was 1,4 and 1,5 days, respectively).

In addition, According to the training institution, a large number of trainings includes few groups of stakeholders, such as police officers, lawyers, social workers, NGO representatives, tax administration officials and others, depending on the topic discussed of the specific training, and not only judges and prosecutors. Also, where possible and appropriate, Judicial Academy gathers judges, prosecutors, judicial and prosecutorial assistants and the users of the initial training of the Judicial Academy at the same trainings. For example, in 2022 Judicial Academy trained, together with judges and prosecutors, 1105 police officers and 643 lawyers.

### Indicators on training participation: Number of training participations per professional and unique participants

	Average number of live training participations per professional		Professionals attending at least one training (unique participants)		
	Serbia	WB Average	Number	% of total professionals by category	
				Serbia	WB Average
<b>Total</b>	0,2	<	0,9	NA	23,9%
<b>Judges</b>	0,6	<	2,7	NA	84,7%
<b>Prosecutors</b>	1,3	<	2,8	NA	98,5%
<b>Non-judge staff</b>	0,7	<	1,1	NA	-
<b>Non-prosecutor staff</b>	0,3	>	0,2	NA	-

### Average number of live training participations per professional in 2022



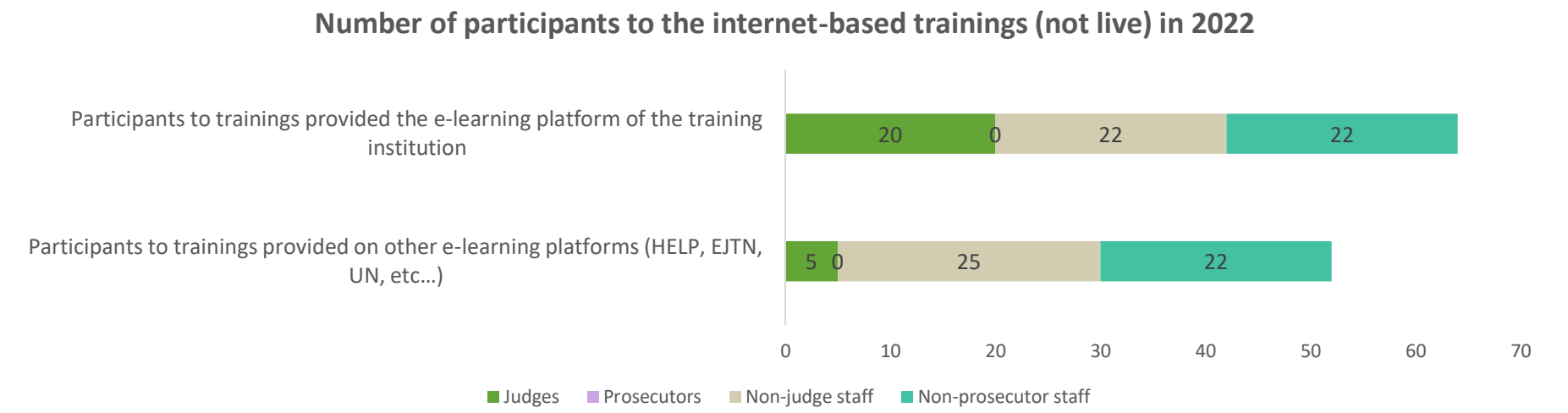
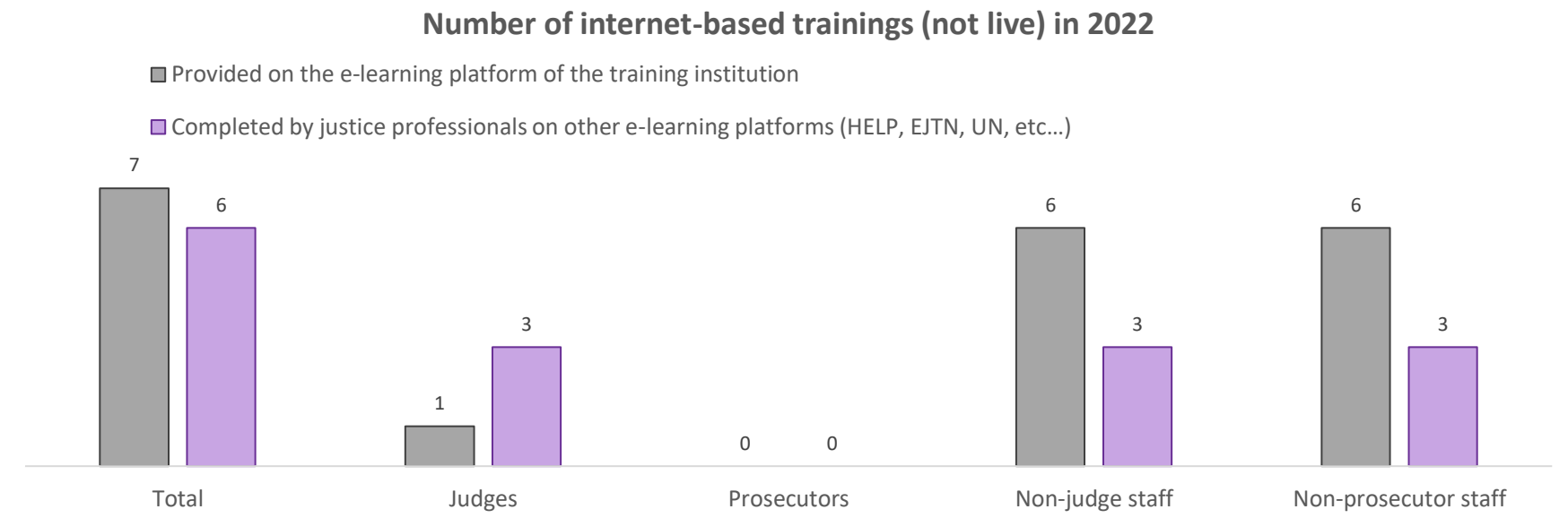
### Average number of live training participations per professional

This indicator is calculated as follows: the number of participants in live trainings is divided by the number of professionals for that category. For example, the WB Average for judges is 2,7. This means that, on average, each judge in the region participated to 2,7 live trainings. This indicator should also be analysed together with the indicator on percentage of professionals attending training, shown in the table as well. Indeed, this analysis allows to better understand how long a professional was trained on average and if all were trained.

Looking at the average participations on live trainings, the highest average was for prosecutors (1,3 live training participations per prosecutor).

• Number of in-service internet-based trainings and participants

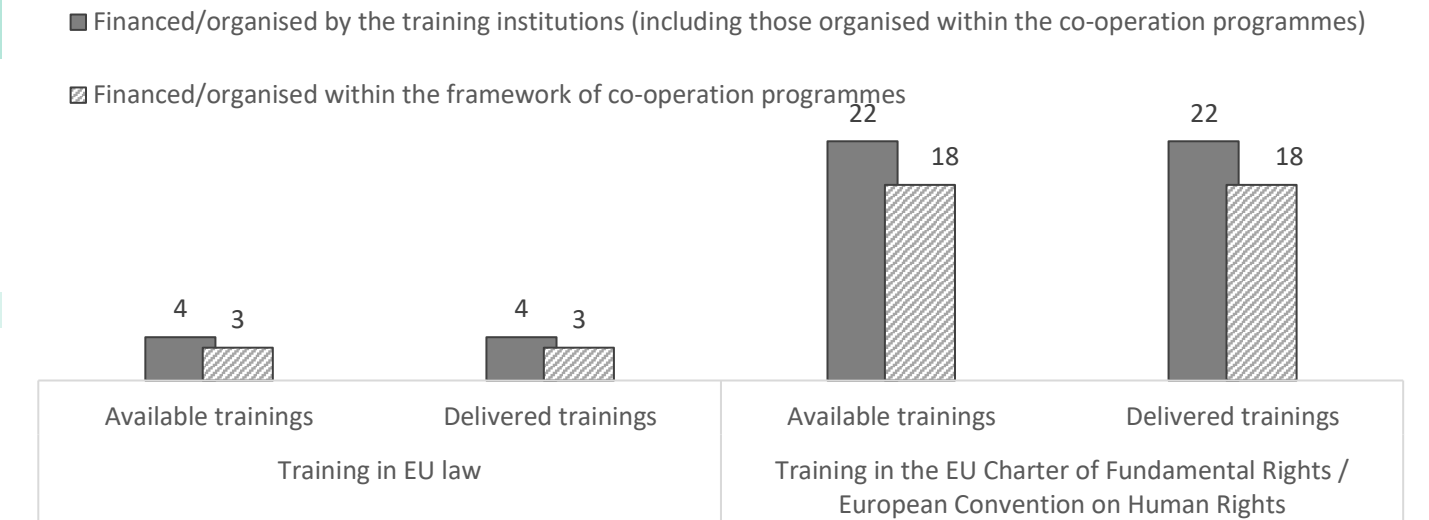
	Number of internet-based trainings (not live) in 2022			
	Provided on the e-learning platform of the training institution		Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	
	Number of trainings	Number of participants	Number of trainings	Number of participants
Total	7	64	6	52
Judges	1	20	3	5
Prosecutors	0	0	0	0
Non-judge staff	6	22	3	25
Non-prosecutor staff	6	22	3	22



• 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
<b>Live trainings (2022)</b>				
Number of available live trainings	4	3	22	18
Number of delivered live trainings	4	3	22	18
Number of delivered live training in days	7	5	27	23
<b>Internet-based trainings(2022)</b>				
Provided on the e-learning platform of the training institution (not live)	0	0	3	0
Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	2	2	4	4

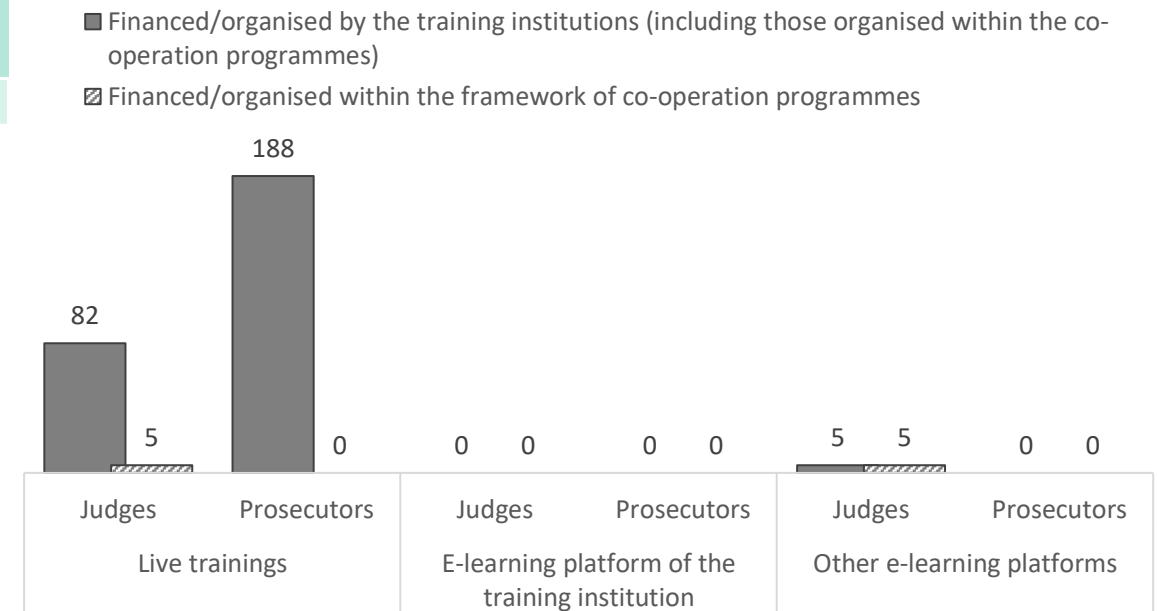
Number of live trainings in EU law and the EU Charter of Fundamental Rights / European Convention on Human Rights in 2022



In 2022, many trainings on EU Law and EU Charter of Fundamental Rights and the European Convention on Human Rights available or delivered in Serbia were co-organised or co-financed with International partners.

Training in EU law and EU Charter of Fundamental Rights / European Convention on Human Right organised/financed:	Live (in-person, hybrid, video conference) trainings				Internet-based trainings (not live)			
	Number		Unique participants		Provided on the e-learning platform of the training institution		Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	
	Judges	Prosecutors	Judges	Prosecutors	Judges	Prosecutors	Judges	Prosecutors
By the training institutions for judges and prosecutors	82	188	NA	NA	0	0	5	0
Within the framework of co-operation programmes	5	0	NA	NA	0	0	5	0

Number of participants to live trainings in EU law and the EU Charter of Fundamental Rights / European Convention on Human Rights in 2022



Participation shall be understood as one attendance of a person to a training.



## • Type and frequency of trainings

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

A Constitutional Court decision was passed regarding the Act on Judicial Academy (JA) provision related to election of the Academy candidates. Therefore, initial training is no longer compulsory prerequisite for election.

Beneficiaries of initial training, in accordance to the article 40 of the Law on Judicial Academy are employed for a fixed time of 30 months, in the Academy. The beneficiaries of initial training are paid 70% of elementary earnings of a basic court judge, during the fixed time employment in the Academy. Attendance to initial training is being considered as working experience in legal profession. The initial training is composed of practical and theoretical education, with knowledge and skill testing. Since 2012, when the first generation finished the Judicial Academy and until February 2019 (ending with VII generation that took exit test), 99 candidates were proposed for the first time election to a judicial or prosecutorial function.

Judges and prosecutors appointed for the first time who have not attended initial training (i.e. from the rank of judicial assistants, lawyers, and other jurists) must attend a mandatory special continuous training programme. According to the Law on Judges, Article 9, there is a possibility that the HJC assigns a judge to mandatory training as a result of the evaluation procedure; until present date, authorities reported that it never happened that someone came to training on this basis (the first regular 3-year evaluation took place only in 2018).

In 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. Currently, following laws require the mandatory trainings for judges dealing with specific kind of cases: Law on Determining the Origin of Property and the Special Tax, Law on Juvenile Offenders and Criminal Protection of Juveniles, Law on establishing facts about the status of new-born children suspected to have disappeared from maternity wards in the Republic of Serbia, Law on Prevention of Domestic Violence and Law on Organization and Jurisdiction of the State Bodies in Combating Organized Crime, Terrorism and Corruption.

In general, the continuous training of judges is performed based on the Continuous Training Program adopted by Managing Board of the Academy every year for the next year.

In 2022 training program 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.

In Serbia, no sanction is foreseen if judges and prosecutors do not attend the compulsory training sessions but, if a specialization course is compulsory, those judges and prosecutors who do not receive certificate on that specialization will not be able to take cases on the relevant subject, e.g. juvenile law cases.

As regards in service training dedicated to prevention of corruption and conflict of interests, they are not compulsory, but authorities reported that Judicial Academy devotes a lot of attention to this topic in its Annual program and every year a large number of judges and prosecutors attend trainings in this area organized by Judicial Academy. In 2022 Judicial Academy organized 23 trainings devoted to topics of ethics and integrity for judges and prosecutors. For example, Academy organized 4 trainings entitled Professional ethics for judges and prosecutors covering following subtopics:

- Competencies for recognizing and solving ethical dilemmas
- Prevention and resolution of risky situations for the emergence of corruption
- Corruption and anti-corruption tools
- Responsibility for ethical behavior

Furthermore, Judicial Academy organized 10 trainings "Protection against undue influence on judges" for the new elected judges of basic courts in the whole country. It covered the following subtopics:

- The notion of undue influence in the judiciary;
- Judicial independence and protection from undue influence on judges - international standards and national legal framework;
- Guide for judges - protection from unauthorized influence;
- Types of undue influence, mechanisms for protection against undue influence and examples from comparative and domestic practice.

Solely for prosecutors Academy organized 3 trainings for trainers coverings following topics:

- External illegal and inappropriate influence by public officials, politicians and other sources (economic, corruption, dissatisfied individuals, etc.)
- External illegal and inappropriate media influence.
- Internal illegal and inappropriate influence (within the prosecution).

According to the reply to Q153, prosecution offices have prosecutors specially trained in domestic violence and, also, specifically trained in dealing with cases when minor victims are involved.

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.

## • Minimum number of compulsory trainings

	Initial compulsory training		In-service compulsory trainings	
	Minimum number of trainings	Minimum number of days	Minimum number of trainings	Minimum number of days
Judges	6	NA	NAP	NAP
Prosecutors	6	NA	NAP	NAP

## • Quality of judicial training

### Serbia identifies (collects information about) future in-service training needs via:

Target audience itself		Relevant judicial institutions	
Previous participants in trainings		Ministry of Justice	
Trainers		Other	
Courts/prosecutor's offices			







Future in-service training needs are assessed annually.

The annual training needs assessment primarily consists of the collection of qualitative and quantitative data from the target group -users of the training programs, as well as a wide range of partners in the implementation of the educational activities. The methodology used includes surveys and focus groups. Quantitative data is collected using standardised questionnaires adapted to the job analysis and the educational characteristics of the target audience. Focus groups with relevant representatives of courts and prosecutor's offices (representatives of the judicial practice department, presidents of the departments, first deputies, and users of initial training) are organised for the purpose of checking the quality of data obtained through surveys, but also for the purpose of obtaining more complex information in order to improve the quality of training and better functionalisation of the curriculum. Taking into account the complexity of the role of judges and prosecutors, the Judicial Academy also conducts an analysis of all relevant strategic documents and legal regulations, when constructing instruments for training needs analysis. Before sending the questionnaire, Judicial Academy regularly communicates with all important judicial bodies involved in defining the criteria for assessing the work performance of judges and prosecutors, in order to more comprehensively analyse the educational needs and make the curriculum sufficiently adaptable to the general and specific needs of the target audience.

Based on Article 9 of the Law on the Judicial Academy and Article 10 of the Statute of the Judicial Academy Management Board adopted the Rulebook on the procedure for determining training needs and creating proposals for the annual continuous training program. Based on Article 4 of this Rulebook The Judicial Academy conducts an annual training needs analysis, because the obtained results are one of the main parameters for creating a plan and program of continuous training program for the next calendar year.

In Serbia, in-service trainings (seminars, workshops, round tables) are evaluated immediately and 3-6 months after the training has been delivered by using a combination Kirkpatrick and other training evaluation models

### The feedback of the training evaluation process is used:

To prepare a training evaluation report with recommendations		To suppress a training course	
To improve the training course which, according to the report, needed improvements		To introduce a new course	
To replace the trainers that failed to meet expected learning outcomes/were negatively evaluated		Other	

The annual plan for the implementation of monitoring and evaluation determines the activities, as well as the instruments that will be used to assess the quality of the implemented educational activities. The evaluation instruments are based on the following indicators: the quality of the training program, the quality of lecturers/trainers, the quality of the chosen methodology, the quality of the training content and the practical knowledge application. Quality and satisfaction with the continuous training program are measured by the following instruments: Standard evaluation questionnaire, Assessment of the impact of the training in the Judicial Academy on the performance of the respondents, evaluation of the Judicial Academy's educational activities with permanent participants, Participant's educational expectations from Judicial Academy, Participant's satisfaction with the educational aspects of the Judicial Academy, Monitoring reports, Structured tests (pre and post assessment of learning outcomes)

Assessment of satisfaction with some aspects of the training is carried out immediately after the training. Assessment of changes in knowledge is carried out using standardized pre and post tests. When the structure of the educational activity allows, the Judicial Academy evaluates the medium and long-term effects of the training. The medium-term effects are determined using a standardized questionnaire for assessing knowledge retention and the possibility of application in daily work. It is conducted two to three months after the training. The long-term effects of the training are carried out by a comparative analysis of the changes in the daily work of the participants also 6 months after the training.

The obtained results are the basis for improving the quality of future trainings. Combined with the monitoring reports, they serve as guidelines for the implementation of various interactive methods and more precise adaptation of the program in the domain of balance of theory and practice, difficulty of tasks and case studies. The obtained data is also a guideline for lecturers to improve their didactic skills, especially in encouraging and maintaining interaction, creating a good learning climate, maintaining group dynamics, adapting the content to the experience and specific needs of the participants, with a focus on applicability in daily work. As one of the questions in the questionnaire is assessment of the future training needs, the data is also used for enabling continuous professional development of judges and prosecutors.

*Kosovo is not included in the calculation of summary statistics*

## Alternative Dispute Resolution in Serbia in 2022 (Indicator 9)

Legal aid for court-related mediation or related mediation provided free of charge



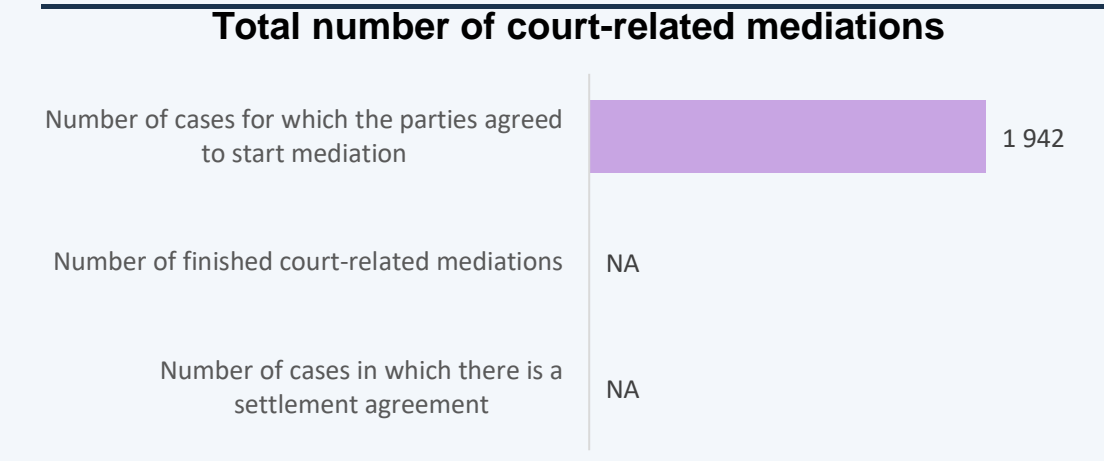
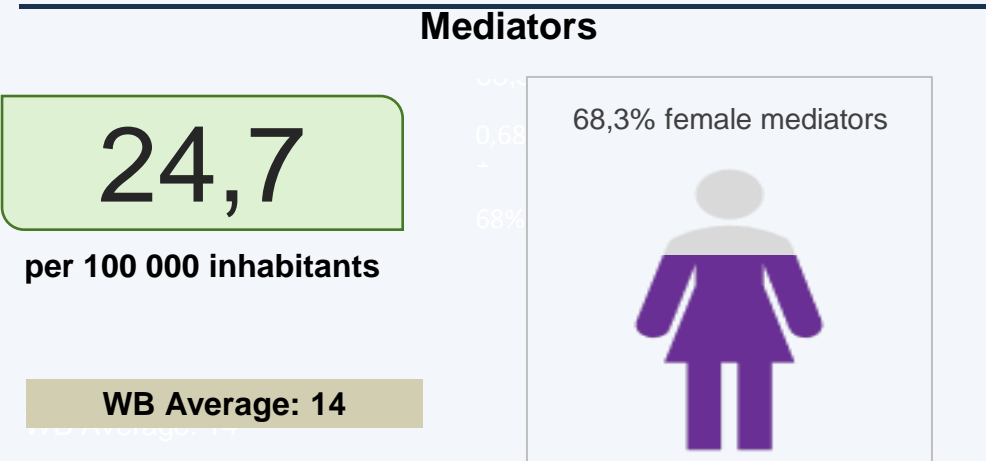
Court-related mediation procedures



Mandatory informative sessions with a mediator



Mandatory mediation with a mediator



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 does not provide for mandatory mediation. Also, there are no mandatory informative sessions with a mediator. In 2022, the number of mediators was 24,7 per 100 000 inhabitants, which was above the Western Balkans average (14 per 100 000 inhabitants). The majority of the mediators were women (68,3%). There were in total 1 942 cases for which the parties agreed to start mediation.

### • Court-related mediation procedures

*Court related mediation is the mediation which includes the intervention of a judge, a public prosecutor or other court staff who facilitates, directs, advises on or conducts the mediation process. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor (or a judge) can refer a case to a mediator or propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement). Such mediation may be mandatory either as a pre-requisite to proceedings or as a requirement of the court in the course of the proceedings.*

In Serbia judges are required to inform the parties of a possibility of mediation, but cannot order it (there are no mandatory mediation provisions). Indeed, the 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.

Having in mind the existing legal framework as well as the applicable best practice for the development of court-annexed / court-connected mediation, 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, <https://www.mpravde.gov.rs/tekst/16729/uputstvo-za-unapredjenje-medijacije-u-republici-srbiji-po-zakonu-o-posredovanju-u-resavanju-sporova.php>. 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. Likewise, in order to promote court-related mediation, it is provided that Mediation Weeks should be organised around the 25 October, i.e. marking the European Day of Justice.

The basic procedural framework for court-related mediation also encompasses the Criminal Procedure Code ("Official Gazette of RS", no 72/2011 and 101/2011), and 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). Other laws, such as the Law on Juvenile Crime Offenders and Criminal Protection of Juveniles ("Official Gazette of RS", no. 85/2005), Law on Prohibition of Discrimination ("Official Gazette of RS", no. 22/2009), Law on Bankruptcy Procedure ("Official Gazette of RS", no. 104/2009, 99/2011 – other law, 71/2012 – Decision of CC and 83/2014), Law on Prevention of Harassment at Work ("Official Gazette of RS", no. 36/2010), Law on the Protection of Whistle Blowers ("Official Gazette of RS", no. 128/2014), etc. also contain specific provisions on mediation.

The Serbian authorities reported that judges can only perform mediation outside of working hours and free of charge. Also, a judge who acts in the case concerning the disputed relationship cannot be a mediator. However, such judge can assist the parties to reach an amicable solution in civil procedure through judicial settlement.

The Law on Prevention of Harassment at Work ("Official Gazette of RS", no. 36/2010) provides that an employee who considers to be subjected to harassment at work („mobbed“) by a person other than the employer themselves, director or other responsible person within the company can submit directly to the director/employer a reasoned application for initiation of proceedings for protection from harassment. The employer is then obliged under the law to propose to the parties in the dispute within three days upon receipt of the application mediation as a resolution of the dispute. Mediation proceedings in these cases are urgent. The mediation proceeding is considered terminated within eight working days after the date of the determination or choice of the mediator: 1) By signing of a written agreement between the disputed parties; 2) By a decision of the mediator, after consultation with the parties, to terminate the proceedings because further proceedings are not justified; 3) By a withdrawal statement of a disputed party from further proceedings. Due to justified reasons, the deadline for the completion of the mediation process can be extended to a maximum of 30 days from the date of determination or choice of the mediator. Also, a mandatory attempt at peaceful dispute resolution before initiating civil proceedings is prescribed in some Serbian laws (but not mediation per se). The Law on Compulsory Traffic Insurance ("Official Gazette RS", no. 51/2009, 78/2011, 101/2011, 93/2012 and 7/2013 – CC decision) provides that a person entitled to a claim under third party motor liability insurance must file the claim directly to the insurance company - if the contract provides for this possibility and if this is in accordance with the business policy of the insurance company. In case the insurance company fails to submit a reasoned offer of compensation for damages within 90 days from the date of claim receipt, or in case the insurance company fails to pay the small claim within the deadline, the claimant may file a lawsuit against the company and notify the National Bank of Serbia of such proceedings. Therefore, in this specific situation, the lawsuit is considered to be filed prematurely, unless the claimant previously addresses the insurance company in an attempt at out-of-court settlement.

Further, under the provisions of the Criminal Procedure Code a person who intends to file a lawsuit for compensation for unlawful deprivation of liberty, or wrongful conviction, before the filing of the complaint, shall submit a request to the Ministry of Justice in order to agree on the existence of damage, the type and amount of compensation (Article 588, Paragraph 1 of the CPC). A Commission shall decide on the request, whose composition and method of work is regulated by the Minister of Justice (Article 588, Paragraph 2 of the CPC). A member of the Commission is also a Deputy SA. If the request is not granted or the Commission does not decide on the request within three months, a lawsuit may be filed against the Republic of Serbia (Article 589, Paragraph 1 of the CPC). If agreement is reached partially, related to the claim, the lawsuit may request the remaining part (Article 589, paragraph 2 of the CPC). During the duration of the procedure for reaching agreement, the statute of limitation is not running for the right to compensation under Article 591 (Article 589, paragraph 3 of the CPA). According to the Serbian authorities, the work and results of these commissions show that the way settlement procedure is devised should be fundamentally revised.



## Other ADR methods

Mediation other than court-related mediation ✓

Arbitration ✓

Conciliation (if different from mediation) ✓

Other ADR ✗

Various alternative dispute resolution methods are at parties' disposal within the legal framework of Serbia, including mediation (judicial and non-judicial), conciliation and arbitration. The Serbian authorities reported that, to date, they are however, all underutilized. Nonetheless, in the last two years, a steady increase of mediation proceedings has been noted, followed by a strong support of mediation by the Ministry of Justice and Supreme Court of Cassation, and positive activities are noted in the field of arbitration, with the establishment of a new independent arbitration centre. According to the authorities, coordinated, joint, continued multi-annual efforts must be made to establish a viable and sustainable alternative dispute resolution system.

Having the above in mind, a strategic approach to improving the use of mediation has been initiated since 2018, whereby the Ministry of Justice, recognising that increasing and improving mediation culture and mechanisms is not a task to be dealt with only by the judiciary and its respective Ministry, is addressing other line ministries and institutions, such as the National Bank of Serbia, Ministry of Trade and Ministry of Labour, so as to seek to together find best ways to improve the use and quality of mediation in the fields of their respective competences, and in that way, jointly to successfully answer to the benchmark given in that respect within Chapter 23.

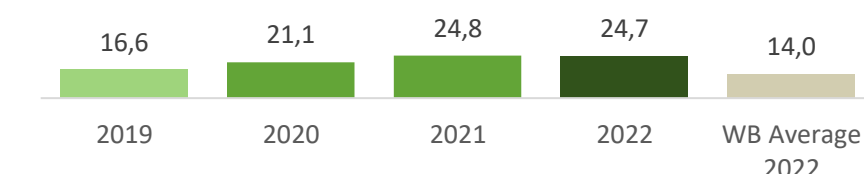
## Mediators and court-related mediations

### Requirements and procedure to become an accredited or registered mediator:

The conditions stipulated by the law for the performance of mediation activities are: legal capacity, citizenship of the Republic of Serbia, completed basic training, higher education, that the person has not been sentenced to an unconditional prison sentence for a criminal offense that makes him unfit to perform mediation activities, possession of a mediation license and enrollment in the Register of Mediators. The request is submitted to the Ministry of Justice, which issues licenses for mediation to persons who meet the conditions and registers them in the Registry of Mediators.

Accredited/registered mediators for court-related mediation			% Variation between 2019 and 2022
Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhabitants	
1 677	24,7	14,0	14,1%

Accredited/registered mediators for court-related mediation per 100 000

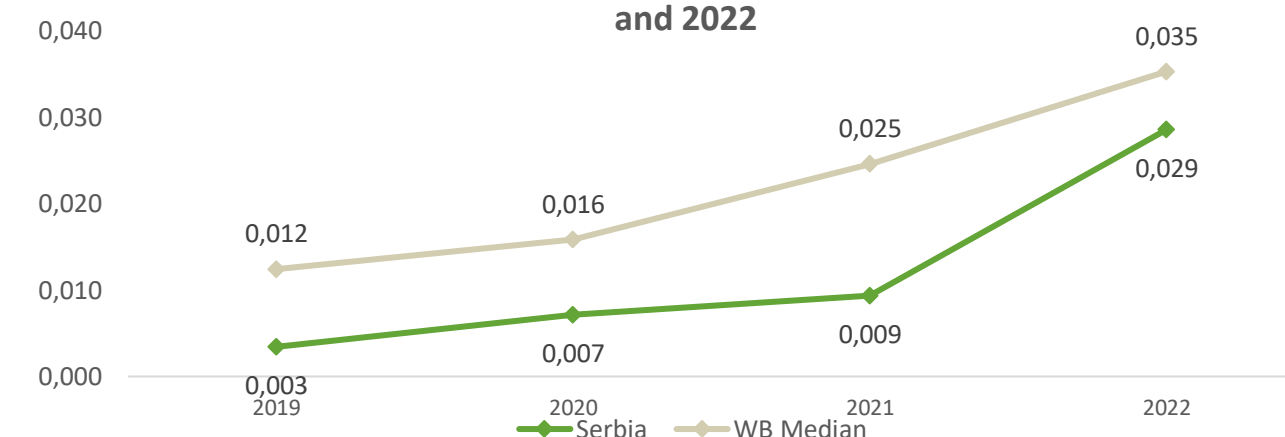


For reference only: the 2021 EU median is 16,2 mediators per 100 000 inhabitants.

In 2022, the total number of mediators in Serbia was 1 677, which is 14,1% more than in 2019. Also, the number of mediators per 100 000 inhabitants was considerably above the WB Average (24,7 vs 14).

	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
<b>Total (1 + 2 + 3 + 4 + 5+ 6)</b>	1 942	NA	NA				
1. Civil and commercial cases	541	NA	NA	✓	✓	✓	✗
2. Family cases	136	NA	NA	✓	✓	✓	✗
3. Administrative cases	3	NA	NA	✓	✓	✓	✗
4. Labour cases incl. employment dismissals	121	NA	NA	✓	✓	✓	✗
5. Criminal cases	15	NA	NA	✓	✗	✓	✗
6. Consumer cases	318	NA	NA	✓	✓	✓	✗
7. Other cases	808	NA	NA				

### Evolution of the number of court-related mediation for which parties agreed to start mediation per 100 inhabitants between 2019 and 2022



Court related mediations are provided by private mediators, public authorities (other than the court) and judges. In 2022, mediation was most used for Civil and commercial cases and Consumer cases (parties agreed to start mediation in 541 and 318 cases, respectively).

In Serbia, it is possible to receive legal aid for court-related mediation or receive these services free of charge.

The authorities reported that the 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). The procedural legal framework has been adopted in order to allow for certain elements of mediation in penal matters. Namely, pursuant to Article 505 of the Criminal Procedure Code ("Official Gazette of RS", no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 i 55/2014), before scheduling a trial in connection with criminal offences which are prosecutable by private prosecution, the judge shall summon the private prosecutor and the defendant to the court on a certain date to be informed about the possibility of being referred to a mediation procedure. The Criminal Code ("Official Gazette of RS", Nos. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014 i 94/2016)) also provides a possibility of settlement between the offender and the victim (Article 59). Namely, the court may remit from punishment the perpetrator of a criminal offence punishable by up to three years' imprisonment or a fine if the offender has fulfilled all his/her obligations from an agreement reached with the victim. Therefore, according to previously mentioned provisions, in these matters the only eligible public authority is the court (which can be explained by the very nature of the proceedings).

The Law on Consumer Protection ("Official Gazette of RS", no. 62/2014, 6/2016 and 44/2018) provides two manners of out-court settlement of consumer disputes: mediation (in accordance with the law that regulates mediation in Serbia) and arbitration. Parties in the consumer dispute may assign the resolution of the consumer dispute to one or more mediators chosen from the list of mediators, in accordance with the Law on Mediation.

Nota bene: In criminal cases with mediation only refers to property claims and claims for damages.

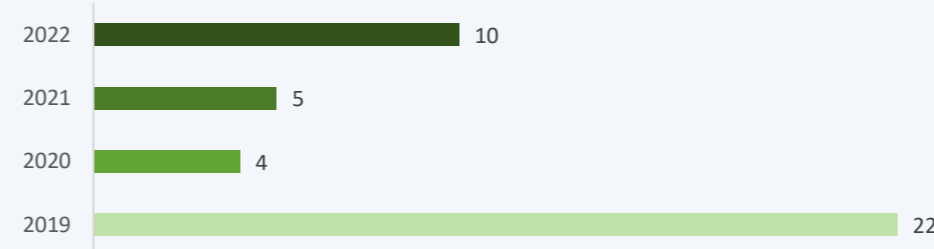
Kosovo is not included in the calculation of summary statistics

## European Convention on Human Rights in Serbia in 2022 (Indicator 10)

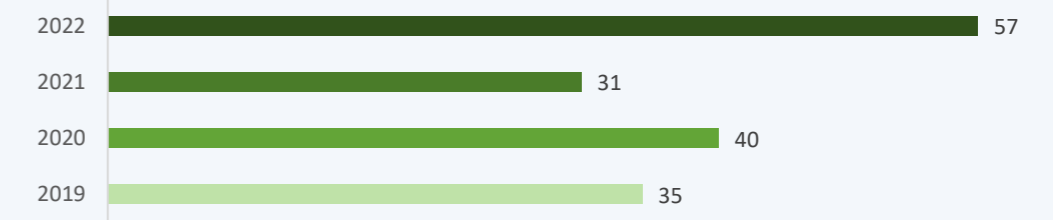
### European Convention on Human Rights – Article 6 – Right to a fair trial:

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.

Judgements finding at least one violation\*\*



Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process\*\*\*



### • ECHR

Following the delivery of judgments establishing violation of Article 6 of the Convention, the Agents office translate the judgment concerned and publishes it in the Official Journal, as well as informs domestic courts or other domestic authorities, whose acts or omissions led to the violation of the right about the Court's findings. The monitoring system is operated by the Agent's office and it is at the State level. There is no separate mechanism in the Republic of Serbia dedicated only to the monitoring of the violations related to Article 6 of the Convention.

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

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



The 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, the Law on Civil Procedure, the Criminal Procedure Code and the 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 (see Art. 426 Par. 1 Line 11 of the Civil Procedure Code; Art.485 Par.1 Line 3 of The Criminal Procedure Code; Art.485 Par.1 and 3 of the Criminal Procedure Code).

In 2022, the applications allocated to a judicial formation of the European Court on Human Rights decision body for Serbia were 3 289 (1 296 more than the previous year)\*\*. The judgements by the ECHR finding at least one violation for Serbia were 10 (while they were 5 in 2021). Half of these judgements concerned the non-enforcement of judicial decisions.

The number of cases considered as closed after a judgement of the ECHR and the execution of judgements process was 57 in 2022 (whereas they were 31 in 2021).

	2019	2020	2021	2022
Applications allocated to a judicial formation of the Court**	2 160	1 836	1 993	3 289
Judgements finding at least one violation**	22	4	5	10
Judgements finding at least one violation of the Article 6 of the ECHR				
Right to a fair trial (1)	0	0	0	0
Length of proceedings	10	0	2	0
Non-enforcement	7	2	2	5

\*\* Source: ECHR

(1) Figures in this line may include conditional violations.

	2019	2020	2021	2022
Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***	35	40	31	57

\*\*\* Source: Department for the Execution of Judgments of the ECHR

Kosovo is not included in the calculation of summary statistics



## Reforms in Serbia in 2022

	Yes (planned)	Yes (adopted)	Yes (implemented during 2023)	Comment
<b>(Comprehensive) reform plans</b>	✔	✘	✘	Set of Judicial laws aligned with Constitutional Amendments (2022) : the adoption is planned for beginning of 2023 - Law on Judges, Law on Public Prosecutor's Offices, Law on High Judicial Council, Law on High Prosecutorial Council and Law on the Organization on Courts
<b>Budget</b>	✘	✘	✘	-
<b>Courts and public prosecution services</b>	✔	✘	✘	Law on the Seats and Territorial Jurisdiction of Courts and Public Prosecutor's Office is to be amended in 2024.
<b>Access to justice and legal aid</b>	✘	✘	✘	-
<b>High Judicial Council and High Prosecutorial Council</b>	✔	✘	✘	Set of Judicial laws aligned with Constitutional Amendments (2022): the adoption is planned for beginning of 2023 - Law on Judges, Law on Public Prosecutor's Offices, Law on High Judicial Council, Law on High Prosecutorial Council and Law on the Organization on Courts
<b>Legal professionals</b>	✔	✘	✘	Law on the Judicial Academy is to be amended during 2024
<b>Gender equality</b>	✘	✘	✘	-
<b>Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities</b>	✔	✘	✘	Process of amending of the Civil Procedure Code, Criminal Procedure Code and Criminal Code is ongoing.
<b>Mediation and other ADR</b>	✘	✘	✘	-
<b>Fight against corruption and accountability mechanisms</b>	✔	✘	✘	Ministry of Justice is currently preparing new National Anti-Corruption Strategy (2023-2028) with accompanying Action plan
<b>Domestic violence</b>	✘	✘	✘	-
<b>New information and communication technologies</b>	✔	✘	✘	The implementation of the new centralized CMS in courts in Republic of Serbia is underway, it is planned to be completed by the end of 2024. Funds for the project were provided from IPA 2017 and the tender was conducted by the Delegation of the European Union in Serbia.

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

### HFIII:

### Towards a better evaluation of the results of judicial reform efforts in the Western Balkans – phase II

### “Dashboard Western Balkans II”

Data collection: 2022

### 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 43 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 organised by the HJC; however, 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. Before the election, a candidate has the right to view information and opinions (article 49 of the LoJ). 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. Transparency of the interview is ensured though minutes being taken, audio or video recording of the interview taken and a standardised questionnaire being used for all candidates.

A list of pre-selected candidates that are to be nominated for election is published on the HJC's website and reasoned. 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 constitutional appeal against the decision of the HJC in the pre-selection procedure. This right stems from article 170 of the Constitution according to which a constitutional complaint can be filed against individual acts or actions of state bodies or organizations entrusted with public powers, which violate or deny human or minority rights and freedoms guaranteed by the Constitution, if other legal means for their protection have been exhausted or are not provided for..

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 appointed 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 67, LoJ). Every decision related to the recruitment procedure (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](#)). In the Second Interim Compliance Report (see para. 25-29), the authorities reported on the amendments of the Constitution (adopted by Parliament on 30 November 2021, confirmed by referendum on 16 January 2022 and promulgated on 9 February 2022) which provide for the exclusion of the National Assembly from the process of recruitment of judges.

As already mentioned above, integrity of a candidate judge is checked in the pre-selection and the selection process via obtaining opinions on candidates (i.e. on the qualification, competence and moral character of a candidate) 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 (Article 49, LoJ).

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 57 to 68, LoJ). As mentioned above, judges are first elected to office for a three-year term and are then mandatorily appointed 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). As already said above, against a decision of the HJC on termination of office, a judge has the right to appeal to the Constitutional Court within 30 days from the date of the delivery of the decision. The Constitutional Court may reject the appeal or accept it and cancel the decision on termination of office. The decision is final (article 67 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 (article 82 LoJ) –, 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 (article 81 LoJ). 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 (article 84 LOJ). 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 (article 86 LoJ).

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 appointed 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 must meet general requirements for employment in state bodies, namely being an adult, has the Serbian citizenship, has prescribed professional qualifications and fulfil other requirements set in the law, his/her employment relationship was not earlier terminated due to grave breach of obligation from



the employment relationship, s/he was not convicted to a sentence of at least six months), they are required to be a law school graduates, have three years of professional experience in the legal profession following the bar exam and are worthy of the office of the public prosecutor. 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 appointed to a permanent office by the SPC within the prosecution service.

Public prosecutors who are heads of public prosecution offices 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. In [the Second Interim Compliance Report](#) (para. 25-29) GRECO noted that the amendments to the Constitution provide for the exclusion of the National Assembly from the process of recruitment of judges and abolish the first term recruitment period. Judges are now elected by the HJC for a permanent tenure. They indicate that, from a total of 159 courts, only 7 have appointed acting court presidents, the remaining courts having elected their presidents. The authorities underlined that the Rules of Procedure of the HJC provide the procedure for proposing candidates for the position of court presidents. Interviews with candidates conducted by the HJC can be followed by the interested persons, and the Commission publishes the list of candidates and their evaluations on its website. GRECO concluded recommendation to be implemented satisfactorily.

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 (articles 78 and 79 of the LPP).

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 (article 77 of the LPP).


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 (article 80 LPP). Before presenting its nominations, the SPC conducts interviews with the candidates. Transparency of the interview is ensured though minutes being taken, and a standardised point system being used to evaluate 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 constitutional appeal against the decision of the SPC on the ranking list in the selection procedure.. . This right stems from article 170 of the Constitution according to which a constitutional complaint can be filed against individual acts or actions of state bodies or organizations entrusted with public powers, which violate or deny human, or minority rights and freedoms guaranteed by the Constitution, if other legal means for their protection have been exhausted or are not provided for.

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. His/her criminal record is also 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 (article 92 of the LPP). 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 (article 98 of the LPP). 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 (Article 4). Especially the following criteria are taken into account: expertise (includes possession of theoretical and practical knowledge required to perform judicial function); 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 candidates 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 to an administrative court may be made against the HJC's decision.

A judge or a deputy public prosecutor who has not been elected for promotion by another court or a higher court/ a public prosecutor's office, can file a claim to the Administrative court and start administrative dispute against the decision of a Council (HJC or SPC).

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). In the GRECO Second Interim Compliance Report (see para. 30-36) noted information of the Serbian authorities on amendments of the Law on Judges by which the provision was deleted which prescribed that insufficiently successful performance of a judicial function was considered unprofessional if a judge receives the assessment “unsatisfactory” in accordance with the criteria and standards for evaluating the work of judges. Furthermore, the amendments of the law also introduced a new criterion of “case weighting formula” in the system of case distribution to judges, which will change the evaluation of judges' work. The revised Constitution now lists the reasons for dismissing judges and excludes the wording “incompetence” as a reason for dismissal, as that notion could be abused. The authorities also reported on measures to increase the transparency of the evaluation system within the judiciary and vis-à-vis the public (e.g., introduction of qualitative criteria into the evaluation system, HJC's judge-members' access to information on the structure of cases assigned to judges etc.). GRECO noted that legislative amendments and measures implemented thus strengthen the evaluation of judges on the basis of qualitative criteria, in particular through the practice developed by HJC and acknowledges that the transparency of the evaluation system has been enhanced both within the judiciary and vis-à-vis the public. GRECO also welcomes the recent amendment of the Constitution and of the Law on Judges which clarify that an unsatisfactory evaluation of judges does not systematically result in dismissal of the judge concerned. It concluded that the recommendation has been implemented satisfactorily.

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. If the candidate has not evaluation of his/her performance, an extraordinary evaluation is ordered by the SPC to be made by the prosecutor's office where the candidate performs his/her function.

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.


Interview aims to determine the candidate's communication skills, readiness to perform the public prosecutor's office and the professional integrity necessary for the position s/he applied for.

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). In case more candidates are ranked with the same score, the candidate with longer experience after passing the bar exam takes the priority over the others. The ranking list is published on the SPC's website and bulletin board. The same procedure as for the election then follows.

A judge or a deputy public prosecutor who has not been elected for promotion by another court or a higher court/ a public prosecutor's office, can file a claim to the Administrative court and start administrative dispute against the decision of a Council (HJC or SPC).

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). In [the GRECO Second Interim Compliance Report](#) (see para. 54-58), the authorities reported on constitutional amendments that abolished the first term recruitment period for prosecutors, who are elected immediately to permanent positions as well as abolished the rule that unsatisfactory evaluation results lead systematically to dismissal. However, since the system for appraising the performance of prosecutors is only being reviewed GRECO concluded that recommendation remains partly implemented.

## 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 (article 3) are: an objection 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. The party does not pay the court fee in proceedings in which the right to a trial within a reasonable time is protected. They are urgent and have priority in decision-making.

The party submits an objection to the court conducting the proceedings or to the court before which the proceedings are conducted if he believes that the public prosecutor has violated his right. The procedure for the objection is led by the president of the court, who decides on the objection. With the annual schedule of work, he can designate one judge or more judges to lead the proceedings alongside him and decide on objections. An oral hearing is not held, and the law governing non-litigation proceedings is applied accordingly to other issues. The president of the court is obliged to decide on the objection within two months from the day of receipt of the objection (article 7).

The party has the right to appeal if his objection is rejected or if the president of the court does not decide on it within two months from the day of receipt of the objection.

An appeal can also be filed if the objection was accepted, but the immediately superior public prosecutor did not issue a mandatory instruction within eight days from the date of receipt of the court president's decision, then if the court president or the immediately superior public prosecutor did not instruct the judge or the public prosecutor to take procedural actions that effectively speed up the procedure, or if the judge or public prosecutor has not taken the ordered procedural actions within the deadline set for him (article 14).

The types of just satisfaction are: 1) the right to payment of monetary compensation for non-property damage caused to the party by violation of the right to a trial within a reasonable time (hereinafter: monetary compensation); 2) the right to publish the written statement of the State Attorney's Office (hereinafter: Attorney's Office) establishing that the party's right to a trial within a reasonable time was violated; 3) the right to publish a judgment establishing that the party's right to a trial within a reasonable time was violated (article 23).

The responsibility of the Republic of Serbia for non-property damage caused by the violation of the right to trial within a reasonable time is objective. When deciding on just satisfaction, the Office of the Attorney General and the courts are bound by the decisions of the president of the courts, which established a violation of the party's right to a trial within a 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.

In 2022, based on the decision of the presidents of courts on objections for speeding up the proceedings which were found to be violations of the right to a trial within reasonable time before basic and higher courts of Serbia, 13.060 requests for compensation were received. Majority of these requests concern enforcement of legally binding court decisions. The exact number of court decisions not being executed is not available.

	2019			2020			2021		
	Number of requests for compensation	Number of compensation	Total amount (in €)	Number of requests for compensation	Number of compensation	Total amount (in €)	Number of requests for compensation	Number of compensation	Total amount (in €)
Total	1097	406	798.268	NA	NA	NA	NA	NA	NA
Excessive length of proceedings	145	30	330.611	NA	NA	NA	NA	NA	NA
Non-execution of court decisions	28	4	12.102	NA	NA	NA	NA	NA	NA
Wrongful arrest	NA	NA	NA	NA	NA	NA	NA	NA	NA
Wrongful conviction	NA	NA	NA	NA	NA	NA	NA	NA	NA
Other	157	164	379.471	NA	NA	NA	NA	NA	NA


	2022		
	Number of requests for compensation	Number of compensation	Total amount (in €)
Total	NA	NA	NA
Excessive length of proceedings	13.060	NA	37.247.234 €
Non-execution of court decisions	NA	NA	NA
Wrongful arrest	NA	NA	NA
Wrongful conviction	NA	NA	NA
Other	NA	NA	NA

Based on the Law on the Organisation of Courts (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.

There is a procedure in place to effectively challenge a judge in case a party considers the judge is not impartial. Parties may challenge the adjudicating judge only during court proceedings, as per procedural laws (Article 66, Civil Procedure Code; Article 37, Criminal Procedure Code). In case a judge requests for exemption from a court case, the president of the court decides on the request (Article 66, Civil Procedure Code; Article 39, Criminal Procedure Code). No appeal is allowed regarding the decision on the request for exemption from a case. No register of such cases is prescribed in the law. The authorities have not provided data on total number of initiated procedures and total number of recusals pronounced in 2022.

There is no law/regulation in place that prevents specific instructions to public prosecutors to prosecute or not in individual cases. The public prosecutors’ office in Serbia enjoys an independent status as a separate entity among state institutions (Article 155, Constitution). As per the Constitution and the LPP, any influence on the work of the public prosecution office and on the handling of cases by the executive and legislative authorities, by using a public position, means of public information or in any other way





that can threaten the independence in the work of the public prosecution office, is prohibited. The public prosecutor and the deputy public prosecutor are obliged to refuse any action that represents an influence on the independence of the work of the public prosecution.

However, as per LPP the directly higher public prosecutor can issue a mandatory instruction to a lower public prosecutor for handling certain cases when there is a doubt about the efficiency and legality of his action, the public prosecutor can issue mandatory instructions to his/her deputy and the Republic Public Prosecutor (General Prosecutor) to every public prosecutor..

The instruction may be either oral with written confirmation (in urgent matters when taking actions cannot be delayed, instructions are given orally and are then issued in writing within three days from being issued orally) or written. Instructions are binding and should be augmented.

Instructions of the General Prosecutor are issued to achieve legality, effectiveness and uniformity of actions within the public prosecution offices regarding certain area of criminality or certain criminal acts and to enhance the level of protection of certain vulnerable groups.

In practice, such instructions remain exceptional. In 2022, 38 such instructions have been issued.

In case that a public prosecutor believes that the mandatory instruction of the immediately higher public prosecutor is illegal and unfounded s/he may file an objection with the explanation to the General Prosecutor within eight days from the day of receiving the instruction. The objection is submitted through the public prosecutor who issued the mandatory instruction and who is obliged to review the mandatory instruction within three days of receiving the objection. In the meantime, the public prosecutor who filed the objection is obliged to act according to the instructions. The immediately higher public prosecutor, in the review procedure, may annul the mandatory instruction, and in that case the objection is not submitted to the General Prosecutor. The General Prosecutor is obliged to make a decision within 15 days from the day of receipt of the objection to the mandatory instruction. An objection against the mandatory instruction of the General Prosecutor is not allowed.

## 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 148, 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 155) 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 Rules of procedure of the State Prosecutorial Council, 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 161, 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.

Gifts rules and special training are specific measures to prevent corruption with regard to judges and prosecutors. There are optional in-service trainings regularly available to both prosecutors and judges. The training solely dedicated to prevention of corruption and conflict of interest is not compulsory but the Judicial Academy devotes a lot of attention to this topic in its annual program and every year a large number of judges and prosecutors attend trainings in this area organized by the Judicial Academy. In 2022 the Judicial Academy organized 23 trainings devoted to topics of ethics and integrity for judges and prosecutors. For example, Academy organized 4 trainings entitled

Professional ethics for judges and prosecutors covering following subtopics: - Competencies for recognizing and solving ethical dilemmas; -Prevention and resolution of risky situations for the emergence of corruption; - Corruption and anti-corruption tools;- Responsibility for ethical behavior.

Furthermore, the Judicial Academy organized 10 trainings "Protection against undue influence on judges" for the new elected judges of basic courts in the whole country. It covered the following subtopics: - The notion of undue influence in the judiciary; - Judicial independence and protection from undue influence on judges - international standards and national legal framework; - Guide for judges - protection from unauthorized influence; - Types of undue influence, mechanisms for protection against undue influence and examples from comparative and domestic practice.

Solely for prosecutors the Academy organized 3 trainings for trainers coverings following topics: - External illegal and inappropriate influence by public officials, politicians and other sources (economic, corruption, dissatisfied individuals, etc.); - External illegal and inappropriate media influence; Internal illegal and inappropriate influence (within the prosecution).


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 first Code of Ethics for Judges was adopted in 2010, inspired in particular, by the 2002 Bangalore Principles of Judicial Conduct. Judges were involved in its preparation through their representatives in the HJC. In June 2018, the Ethics Committee of the HJC decided to adopt a new code of ethics. The latter entered into force in 2020. It 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 and contains a set of rules on adherence to judicial values (independence, integrity, impartiality), judges' relationship with institution, citizens and users, judges' competence and continuing education, political activities, association membership and institutional positions and gifts. Serious violations of the Code of Ethics constitute disciplinary offences.

The code is published on the HJC's website. It is regularly updated, the last update being done on 28th December 2022.



The Board of Ethics is a permanent working body of the High Judicial Council, composed of 7 members (Rulebook of the High Judicial Council's Board of Ethics). It promotes ethical principles stipulated by the Code of Ethics for Judges and the Code of Ethics for the Members of the High Judicial Council and monitors their implementation to raise the awareness of the judges, the presidents of the courts and the members of the Council about the importance of ethical principles and rules of conduct in the performance of their duties, public engagement and private lives in order to raise the reputation of the judiciary and strengthen the citizen's trust in the work of judges and courts.

According to the Rulebook, the Board of Ethics issued general opinions on whether the judge's conduct is in accordance with the Judges' Code of Ethics, i.e. whether the behavior of a member of the Council is in accordance with the Code of Ethics of the members of the High Judicial Council. The Board of Ethics adopts decisions at its sessions. The sessions are convened when needed, but at least four times per year. In 2022 five sessions of the Board of Ethics were held.

During 2022, the Board of Ethics issued 12 general opinions that were published on the website of the High Judicial Council and are available to all judges.

The Ethics Commission appoints from among its members a confidential counsellor whom judges may consult in case of a dilemma on implementation of provisions of the Code of Ethics in specific situations in which they find themselves. His contact phone number and email address are published on the Council's website and are available to judges. In 2022, 16 such requests were submitted to the confidential counsellor (on judge's statement given to the media; relations between the judge and the attorneys of the parties in court proceedings; relations with the judge and colleagues and court staff; conduct of judges in public places; attitude of a judge vis-à-vis HJC). When providing an opinion, the confidential counsellor is guided by the Code of Ethics, the adopted positions of the Board of Ethics, while preserving the identity of the initiator of confidential counselling.

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 and contains a set of rules on adherence to judicial values (independence, integrity, impartiality), judges' relationship with institution, citizens and users, judges' competence and continuing education, extrajudicial and political activities, conflict of interest, information disclosure and relationship with press agencies, association membership and institutional positions and gifts. 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) who are elected by the SPC for a period of three years, with a possibility to be re-elected. According to the Code of Ethics, the Ethics Committee is tasked with development of standards of professional ethics for prosecutors, with interpreting particular provisions of the Code and giving individual advice to prosecutors. A yearly report of the Ethics Committee should be submitted to the SPC. The Code of Ethics is publicly available. and is regularly updated. 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). Furthermore, any natural or legal person may make a complaint to the Agency in which facts causing suspicion of corruption are presented. The identity of the complainant is protected as per the law. The Agency either reviews the complaint, rejects it as irregular (if containing faults that prevents the Agency from acting upon it), unclear and incomplete or refers it to the competent body. 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 entitled 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 based 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 (sick leave, vacation etc.), 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 are processed through the computerised automatic allocation of cases and have to be reasoned.



The table below shows number (absolute and per 100 judges/prosecutors) of criminal cases initiated and completed against judges and prosecutors as well as number of sanctions pronounced:

	2019				2020				2021			
	Judges		Prosecutors		Judges		Prosecutors		Judges		Prosecutors	
	Abs	Per 100	Abs	Per 100	Abs	Per 100	Abs	Per 100	Abs	Per 100	Abs	Per 100
Number of initiated cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Number of completed cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Number of sanctions pronounced	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

	2022			
	Judges		Prosecutors	
	Abs	Per 100	Abs	Per 100
Number of initiated cases	NA	NA	NA	NA
Number of completed cases	NA	NA	NA	NA
Number of sanctions pronounced	NA	NA	NA	NA

Level of implementation of GRECO recommendations in March 2022 (adoption of the GRECO Second Interim Compliance Report on Serbia):

	Judges	Prosecutors
Implemented	75%	25%
Partially Implemented	25%	75%
Not Implemented	0%	0%

## 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 21<sup>st</sup> May 2019 and has become fully applicable as of 1<sup>st</sup> September 2020. It applies to public officials, thus both to judges and public prosecutors.

As per Articles 68 (regular reporting) and 69 (extraordinary reporting) 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; cash, digital property and valuables, as well as other movable property value of which exceeds 5.000 EUR; all other data and evidence deemed by the official as relevant for the implementation of this Law (Article 71, LPC).

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 31<sup>st</sup> 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 assets and income in the manner and within the time limits provided by the law) constitute a misdemeanour which is punishable with fines (between 50 000 to 150 000 RSD/approximately 870 to 1 315 EUR) (Articles 103, LPC).

A reprimand and a public announcement of a recommendation for a dismissal from public office are other possible measures that may be pronounced with respect to public officials while a reprimand 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, public officials including judges and public prosecutors who fail to report assets and income to the Agency or provide false information about their assets and income, with the intention to conceal information on 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, 2020, 2021 and 2022:

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
<b>2019</b>	32	1,18	27	1,00	24	0,89	13	1,66	13	1,66	13	1,66
<b>2020</b>	14	0,53	14	0,53	15	0,57	NA	NA	NA	NA	NA	NA
<b>2021</b>	3	0,11	3	0,11	2	0,07	0	0,00	0	0,00	0	0,00
<b>2022</b>	70	2,63	58	2,18	58	2,18	12	1,69	7	0,99	7	0,99

In 2022, 70 proceedings were initiated against judges due to violations/discrepancies in their declaration of assets. 58 proceedings were completed in 2022 where the following sanctions were pronounced: 57 measures of reprimand and 1 fine imposed in the amount of 30.000 RSD. In respect of prosecutors, 12 proceedings were initiated in 2022, 7 proceedings were completed and 7 measures of reprimand were issued.



## 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 a public 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 1<sup>st</sup> 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.

Accessory activities of judges are regulated in Article 46, LCP.

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 (LPPPO), 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 LPPPO, 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. As per these provisions, the Agency aims to eliminate causes for corruption through procedures for resolving conflicts of interest, decumulation of public offenses and decisions on other legal violations. If a violation is determined, measures as per the law are applied. The measures are: public announcement of recommendation for dismissal from a public office, a decision which imposes termination of the second public office by force of law. The aim of these measures is to eliminate such violations as much as possible.

The rules on gifts which are set out in the LCP apply also to public prosecutors (articles 57 to 66).

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. If the Agency determines that the performance of such activities jeopardises the impartial discharge and reputation of the public office and/or that it represents a conflict of interests, the Agency sets a time limit within which the public official will be obliged to cease performing such activities. Except the activities enumerated above, at the request of a public official, the Agency may give consent for the performance of another work/activity. Along with the request, a public official must submit a positive opinion of the authority that had appointed/elected him/her to the public office. The Agency has to decide within 15 days. When deciding on an application for the permission of officials to carry out other work or operations, the Agency does not consider whether it is with or without compensation. Finally, the LCP provides for that another law could define other activities that are incompatible with the exercise of a public office.

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.

Absolute number of procedures for breaches of rules on conflict of interest for judges and prosecutors in 2019, 2020, 2021 and 2022:

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
2019	1	NA	1	0	1	NA
2020	1	NA	2	2	1	NA
2021	5	8	2	1	1	1
2022	2	2	2	1	0	0

In 2021, in respect of judges one reprimand was given and one decision issued which imposes termination of the second public office by force of the law. In 2022, two judges received a reprimand.



## 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 in the 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 inappropriate relations with the parties and their legal representatives, 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). The procedure is stipulated in the Rulebook on the procedure for determining the disciplinary responsibility of judges and presidents of courts.

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 within eight days 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 and is entered in the personal record of a judge (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 (e.g. if a court closes), 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 offences 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. The procedure is prescribed in more detail in the Rulebook on Disciplinary Procedure and Disciplinary Responsibility of Public Prosecutors and Deputy Public Prosecutors (Article 19).

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, and is entered in the personal record of a public prosecutor.

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				2021			
		Judges		Prosecutors		Judges		Prosecutors		Judges		Prosecutors	
		Abs	Per 100	Abs	Per 100	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	6	0,22	17	2,42
	1. Breach of professional ethics (including breach of integrity)	2	0,07	2	0,26	1	0,04	0	0,00	2	0,07	17	2,42
	2. Professional inadequacy	2	0,07	5*	0,64	0	0,00	0	0,00	4	0,15	0	0,00
	3. Corruption	0	0,00	0	0,00	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	0	0,00	0	0,00
	5. Other	3	0,11	0	0,00	9	0,34	0	0,00	0	0,00	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	0,04	17	2,42
	1. Breach of professional ethics (including breach of integrity)	2	0,07	0	0,00	3	0,11	1	0,13	0	0,00	17	2,42
	2. Professional inadequacy	9	0,33	4	0,51	0	0,00	5	0,64	0	0,00	0	0,00
	3. Corruption	0	0,00	0	0,00	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	0	0,00	0	0,00
	5. Other	0	0,00	0	0,00	8	0,30	0	0,00	0	0,00	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	0,04	17	2,42
	1. Reprimand	1	0,04	1	0,13	1	0,04	1	0,13	0	0,00	NA	NA
	2. Suspension	NAP	NAP	0	0,00	NAP	NAP	0	0,00	NAP	NAP	NAP	NAP
	3. Withdrawal from cases	NAP	NAP	0	0,00	NAP	NAP	0	0,00	NAP	NAP	NAP	NAP
	4. Fine	NAP	NAP	0	0,00	NAP	NAP	0	0,00	NAP	NAP	NAP	NAP
	5. Temporary reduction of salary	4	0,15	1	0,13	5	0,19	3	0,38	1	0,04	NA	NA
	6. Position downgrade	NAP	NAP	0	0,00	NAP	NAP	1	0,13	NAP	NAP	NAP	NAP
	7. Transfer to another geographical (court) location	NAP	NAP		NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
	8. Resignation	NAP	NAP	0	0,00	NAP	NAP	0	0,00	NAP	NAP	NAP	NAP
	9. Other	0	0,00	0	0,00	5	0,19	0**	0,00	0	0,00	NA**	NA
10. Dismissal	1	0,04	1	0,13	0	0,00	0	0,00	6	0,22	17	2,42	

		2022			
		Judges		Prosecutors	
		Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated	Total number (1 to 5)	18	0,68	1	0,14
	1. Breach of professional ethics (including breach of integrity)	4	0,15	0	0,00
	2. Professional inadequacy	12	0,45	1	0,14
	3. Corruption	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00
	5. Other	2****	0,08	0	0,00
Number of cases completed	Total number (1 to 5)	13	0,49	3	0,42
	1. Breach of professional ethics (including breach of integrity)	2	0,08	0	0,00
	2. Professional inadequacy	7	0,26	3	0,42
	3. Corruption	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00
	5. Other	4	0,15	0	0,00

Number of sanctions pronounced	Total number (total 1 to 10)	9	0,34	3	0,42
	1. Reprimand	7	0,26	0	0,00
	2. Suspension	NAP	NAP	NAP	NAP
	3. Withdrawal from cases	NAP	NAP	0	0,00
	4. Fine	NAP	NAP	NAP	NAP
	5. Temporary reduction of salary	1	0,04	2	0,28
	6. Position downgrade	NAP	NAP	NAP	NAP
	7. Transfer to another geographical (court) location	NAP	NAP	NAP	NAP
	8. Resignation	NAP	NAP	NAP	NAP
	9. Other	1	0,04	1***	0,14
	10. Dismissal	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.

With regard to judges, a professional inadequacy encompasses disciplinary offences such as: unjustifiable delays in the drafting of the decisions; frequent tardiness for hearings; unjustifiable prolonging of hearings; unjustifiable failure to notify the president of the court about cases with prolonged proceedings (Article 90, LoJ).

The category “other disciplinary proceedings” refers to proceedings for a violation of the principle of independence (Article 90, LoJ)

The category “other sanctions” refers to a ban on promotion in the period of three years.



## 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 elected judges hold a full-time position in the HJC, while *ex-officio* members do not.

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). In the [Second Interim Compliance Report](#) (see para. 19-24) the authorities reported on amendments to the Constitution

adopted on 30<sup>th</sup> November 2021 and promulgated on 9<sup>th</sup> February 2022 which envisage a new composition of the HJC with a majority of judges elected by their peers and exclude the *ex officio* membership of the Minister of Justice and the President of the authorise committee of the National Assembly GRECO considered this part of the recommendation as fully implemented. Furthermore, GRECO noted that the revised Constitution defined HJC as an independent body empowered to provide for and guarantee the independence of courts and judges. HJC's sessions are public, agendas of sessions and its minutes as well as working agenda and decisions are published on its website, decisions of the HJC also in the Official Gazette. HJC publishes its regular statements in the media related to its activities. GRECO noted these measures taken to guarantee the independence of the courts and judges which also strengthen effectively the transparency of the activity of HJC. However, since measures to ensure budgetary autonomy of HJC have not been taken, GRECO concluded this part of the recommendation as partly implemented and the overall compliance with this recommendation remains partly implemented.

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). In the [Second Interim Compliance Report](#) (see para. 43-48) the authorities reported on amendments to the Constitution adopted on 30<sup>th</sup> November 2021 and promulgated on 9<sup>th</sup> February 2022 which envisage a new composition of the SPC now composed of five prosecutors elected by their peers, four prominent lawyers elected by Parliament, the Supreme Public Prosecutor and the Minister of Justice. They stress that the Minister of Justice remains an *ex officio* member but is excluded from disciplinary procedures. They also report that on 23 December 2020, the National Assembly elected six members of the SPC among public prosecutors and deputy public prosecutors, and one member among law professors. GRECO considered this part of the recommendation still partly implemented since the National Assembly continues to be involved in the appointment of some members and the Minister of Justice remains an *ex officio* member.


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. In the [Second Interim Compliance Report](#) (see para. 43-48) the authorities reported that the SPC has further strengthened its role as a self-governing body that acts proactively and transparently. The vacancies at the position of public prosecutors are being decreased (63 positions are filled and 27 remain to be filled) and the number of 10 deputy public prosecutors has been increased to 805 (704 positions are currently filled) in the 90 public prosecutor's offices. On 19 April 2021, the SPC amended its Rules of Procedure and elected a new Commissioner for Autonomy on 23 April 2021, entrusted with the protection of prosecutors against undue influence. The Commissioner for Autonomy cooperates with the Ethics Committee and disciplinary bodies and submits to the SPC an annual report on illicit influence in respect of prosecutors. In 2021, the Commissioner acted in seven cases. Concerning the second part of the recommendation, GRECO acknowledges what was reported in previous reports and that the Rules of Procedure of the SPC have been amended so that the Commissioner for Autonomy can act on a formal basis to address undue influences against prosecutors. This part of the recommendation has been therefore considered as implemented satisfactorily.

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.

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). Rules of Procedure of the HJC (last amended in April 2021) prescribe the manner of work and decision-making of the HJC in cases of political and other influence on judges and the judiciary. 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 May 2021, the HJC appointed a judge competent to act in cases of undue influence on judges and the judiciary. S/he is authorised to: act upon requests of judges or protection against undue influence, examine the existence of undue influence expressed in public, through media, social networks, at public gatherings or otherwise; submits a reasoned proposal for convening a session of the HJC to decide on the existence of undue influence; presents the factual situation and gives a proposal for a decision at the session of the HJC; cooperates with the competent institutions in conducting training of judges on recognizing and reacting to undue influence ; proposes to the HJC measures to prevent undue influence, cooperates with the Ethics Committee and disciplinary bodies; keeps records of all cases of undue influence and submits to the HJC an annual report on the undue influence on judges and the judiciary.



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).