

## 1. Evaluation of the judicial systems (2016-2018 cycle)



Serbia

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**Reference data 2016 (01/01/2016 - 31/12/2016)**

**Start/end date of the data collection campaign : 01/06/2017 - 31/12/2017**

### **Objective :**

The CEPEJ decided, at its 28th plenary meeting, to launch the seventh evaluation cycle 2016 – 2018, focused on 2016 data. The CEPEJ wishes to use the methodology developed in the previous cycles to get, with the support of its national correspondents' network, a general evaluation of the judicial systems in the 47 member states of the Council of Europe as well as two observer states (Israel and Morocco). This will enable policy makers and judicial practitioners to take account of such unique information when carrying out their activities.

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

### **Instruction :**

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

- User manual
- Explanatory note

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

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

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## **1.General information**

### **1.1.Demographic and economic data**

#### **1.1.1.Inhabitants and economic general information**



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

[ 7040272 ]

Comments

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

	Amount
State or federal level	15385796652 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Regional / federal entity level (total for all regions / federal entities)	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

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

[ 4904 ]

Comments

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

[ 6169 ]

NA

Comments

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

[ 123.4723 ]

Allow decimals : 5

NAP

Comments

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

Sources: Sources and specific comments: Question no.1: The Statistical Office of the Republic of Serbia. The Office estimates the number of inhabitants on 01.01.2017 to be 7 040 272. The most recent census of population was conducted in 2011 <http://www.stat.gov.rs/WebSite/Public/PageView.aspx?pKey=2>; Question no. 2: Ministry of Finance: <http://www.mfin.gov.rs/pages/issue.php?id=3>; Questions no. 3 and 4: The Statistical Office of the Republic of Serbia; 4 Question no.5: National Bank of Serbia. The stated rate of exchange is applicable from 8 a.m. on 31/12/2016 until 8 a.m. on the day of setting the new rates; <http://www.nbs.rs/internet/cirilica/scripts/ondate.html>

**1.1.2. Budgetary data concerning judicial system**



**006. Annual (approved and implemented) public budget allocated to the functioning of all courts, in € (without the budget of the public prosecution services and without the budget of legal aid). If you cannot separate the budget allocated to the courts from the budgets of public prosecution**

services and/or legal aid, please go to question 7. If you are able to answer this question 6, please answer NAP to the question 7.

	Approved budget (in €)	Implemented budget (in €)
<b>TOTAL - Annual public budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Annual public budget allocated to (gross) salaries</b>	106145791 <input type="checkbox"/> NA <input type="checkbox"/> NAP	105116478 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Annual public budget allocated to computerisation (equipment, investments, maintenance)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.</b>	12967981 <input type="checkbox"/> NA <input type="checkbox"/> NAP	12967981 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Annual public budget allocated to court buildings (maintenance, operating costs)</b>	566929 <input type="checkbox"/> NA <input type="checkbox"/> NAP	566929 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>5. Annual public budget allocated to investments in new (court) buildings</b>	8398 <input type="checkbox"/> NA <input type="checkbox"/> NAP	8398 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>6. Annual public budget allocated to training</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>7. Other (please specify)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Please indicate any useful comment to explain the figures provided. If the annual public budget allocated to the functioning of all courts actually implemented is different from the approved annual public budget allocated to the functioning of all courts, please indicate the main differences: The budget system of RS provides for unified collection of court taxes, 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 Q6 also come from court taxes.

Data for 6.1 encompasses:

Approved budget:

Judges' salaries: 45,791,219 EUR (HJC data)

Salaries of court employees (civil servants and administrative, technical and other non-judicial engaged individuals: 57,528,485 EUR (MoJ data)

Total: 103,319,705 EUR

Implemented budget:

Judges' salaries: NA (HJC data);

Salaries of court employees (civil servants and administrative, technical and other non-judicial engaged individuals: 57,031,730 EUR (MoJ data);

Total: NA EUR.

Data for 6.2 covers: The funds spent by the administrative equipment, furniture that computerization of courts (MoJ data). This data cannot be separated from PPO data, which is why it is not stated: (566,929 EUR)

Data for 6.3 (implemented) is given for expenses of judicial experts and court interpreters in court proceedings (data provided by High Judicial Council - HJC). The approved budget is not available for this category as only the overall figures for the budget of the courts (the costs of criminal proceedings) are available: 42,163,290.99 euros (besides these two categories, includes expenses for lawyers (ex officio defence), lay judges (porotnici), proceedings in which the defendant has been acquitted.

Data for 6.4. Annual public budget allocated to court buildings (maintenance, operating costs) – The funds intended for investment, reconstruction and rental of existing courthouses from sources of budgetary funds, court fees, domestic and foreign loans.

Data for 6.6. Annual public budget allocated to training – Annual public budget allocated to training is given in the section addressing the Judicial Academy.

Data for 6.7. Approved budget cannot be differentiated because it is tied together with the PPO budget. MoJ Data for implemented budget: 9,502,961.09 - other funds related to compensation of expenses for civil servants and employees (ex. costs of travel), jubilee awards, improving the material position of employees (stimulation); Data of HJC not submitted.

The budget of the public prosecution services and the budget allocated to all courts cannot be entirely separated for items 6.2, 6.4, 6.7 (Annual public budget allocated to computerisation; Annual public budget allocated to court buildings; Annual public budget allocated to investments in buildings and buying of necessary equipment - 567 EUR and 2,753,654 Other - travelling costs, contributions and other expense for employees of courts and public prosecutors' offices, their social benefits and jubilee awards, penalties, etc.).

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

	Approved budget (in €)	Implemented budget (in €)
<b>Total annual public budget allocated to all courts and the public prosecution services together</b>	244883663 <input type="checkbox"/> NA <input type="checkbox"/> NAP	229223957 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Total annual public budget allocated to all courts and legal aid together</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Total annual public budget allocated to all courts, public prosecution services and legal aid together</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments: Data supplied by Ministry of Justice Sector for Material and Financial Affairs

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

	Litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction ?
<b>for criminal cases</b>	( X ) Yes ( ) No
<b>for other than criminal cases</b>	( X ) Yes ( ) No

Comments - If there are exceptions to the rule to pay a court tax or fee, could you please provide comments on those exceptions?

**008-1. Please briefly present the methodology of calculation of court taxes or fees:**

- Court fees are calculated in accordance with the Law on Court Fees. The employees at the court administrative office determine the

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

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

[ 141 ]

[ ] NA

[ ] NAP

Comments According to the Law on Court Fees, the lawsuit filed before the court of general jurisdiction is charged according to the value of the dispute. For the value of dispute of 3000 €, the fee would be 141 € (lump sum of 81 € + 2% of the value of the dispute; lawsuit filed on 01.01.2017; middle exchange rate of NBS on 01.01.2017).

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

[ 63715886 ]

[ ] NA

[ ] NAP

Comments A gradual drop in the annual income from court taxes/fees received by the state is noted (data from 2012) due to the introduction of the notary system on 1 September 2014, upon which courts lost competence for certifying real estate conveyance contracts, etc. and parallel competences for verification of transcripts, signatures have been introduced. The given data does not include the public revenue paid on the basis of the costs of criminal proceedings and the lump sum court tax in criminal procedure (2.448.524,89 EUR in 2016 – Ministry of Finance Treasury Administration data; these funds go in the general state budget). Pursuant to the provisions of Article 29 Para. 2 and 3 of the Law on Verification of Signatures, Manuscripts and Transcripts ("Official Gazette of RS", Nos. 93/14 and 22/15), in the cities or municipalities for which notaries have not been appointed by the date of entry into force of this Law, signatures, manuscripts and transcripts may be verified, as entrusted tasks, by the basic courts i.e. municipal administrations, until 1 March 2017 at the latest. In the cities or municipalities for which notaries have not been appointed, until the appointment of the notaries, the signatures, manuscripts and transcripts shall be verified, as entrusted tasks, by the basic courts, court units, as well as the registration offices of the basic courts and the municipal administration, in accordance with Article 13 Paragraphs 4 and 5 of the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutors Offices ("Official Gazette of RS", No. 101/13), until appointment of a notary. Therefore, from March 2nd onwards, most courts have been liberated from the duty to provide certification services, and may allocate employees who performed these tasks to new duties. By the end of 2016, there were only 12 courts left performing these tasks. Likewise, a gradual transfer of inheritance proceedings to notaries from courts was effected in 2016 (please see section on Notaries for more information), affecting the relevant fees paid to courts.

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

	TOTAL	Criminal cases	Other than criminal cases
<b>TOTAL - Annual approved public budget allocated to legal aid (12.1 + 12.2)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>12.1 for cases brought to court</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>12.2 for non-litigious cases or cases not brought to court (legal consultation, ADR, etc.)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

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

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

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

	TOTAL	Criminal cases	Other than criminal cases
<b>TOTAL - Annual implemented public budget allocated to legal aid (12-1.1 + 12-1.2)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>12-1.1 for cases brought to court</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>12-1.2 for non-litigious cases or cases not brought to court (legal consultation, ADR, etc.)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments - If the public budget actually implemented regarding legal aid is different from the annual approved public budget allocated to legal aid, please indicate the main differences: According to the State Prosecutorial Council (SPC) bookkeeping, as prescribed by the law, the costs of legal aid cannot be separated from other costs of investigation in the SPC annual report on budget of public prosecutor's offices, which are indirect budget users.

The figure supplied pertains to the paid costs for lawyers in criminal proceedings (not including costs of ex officio defence prior to initiating of court proceedings). Regarding the approved budget, as the Law on Free Legal Aid has not been enacted, we do not have data on the budget for legal aid, because that part of budget is not specifically accounted according to the Regulation on Standard Classified Framework and Plan of Accounts for Budgeting System.

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

	Approved budget (in €)	Implemented budget (in €)
<b>Total annual public budget allocated to the public prosecution services, in €</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Please indicate any useful comment to explain the figures provided. Moreover, if the annual public budget allocated to the public prosecution services actually implemented is different from the approved annual public budget allocated to the public prosecution services, please indicate the main differences: State Prosecutorial Council (SPC): Basic budget for 2016 is composed of budget received at the beginning of 2016, plus funds from budget reserve received during that year. Having in mind that in 2016 program budget process

started, the amount indicated by the SPC (24,681,621 EUR approved budget, 23,299,621 EUR implemented) pertains only for the jurisdiction that SPC has on program activities regarding public prosecutor offices indirect budget users (all prosecutor's offices, except for Republic Public Prosecutor's Office, War Crimes Prosecutor's Office and Organised Crime Prosecutor's Office). These amounts are supplied directly by the Republic Public Prosecutor's Office (3,728,616 EUR approved budget, 3,448,710 EUR implemented). MoJ cannot differentiate two categories from court budget: buying of supplies, computers, investments in existing buildings, and other spending, which is why the total is NA. The entire budget for "Investments and equipment for courts and pp offices approved in the budget for 2016 and implemented is 3,896,476 EUR. For salaries in the PPO's, MoJ indicated budget is: 8,253,907.96 EUR approved, 8,189,639.72 EUR implemented; For other expenses: NA approved, 1,380,360.89 EUR implemented.

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

	Preparation of the total court budget	Adoption/approval of the total court budget	Management and allocation of the budget among the courts	Evaluation of the use of the budget at a national level courts
<b>Ministry of Justice</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Other ministry</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
<b>Parliament</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Supreme Court</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
<b>High Judicial Council</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Courts</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
<b>Inspection body</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP
<b>Other</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

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

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

Sources: Ministry of Justice – Sector for Material and Financial Affairs; High Judicial Council; State Prosecutorial Council; Law on the Budget of the Republic of Serbia for 2016. Q9: Ministry of Finance – Treasury.

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

015-1. Annual (approved and implemented) public budget allocated to the whole justice system, in € (this global budget includes the court system as defined under question 6 and also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.).

	Approved budget (in €)	Implemented budget (in €)
Total annual public budget allocated to the whole justice system in €	302980053 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Please indicate any useful comment to explain the figures provided above and specify if a large portion of the budget allocated to the whole justice system comes from an international organisation. Moreover, if the annual public budget allocated to the whole justice system actually implemented is different from the approved annual public budget allocated to the whole justice system, please indicate the main differences: The Administration for the Enforcement of Criminal Sanctions has an approved budget of EUR 59,658,466 and implemented of EUR 59,756,418. The Administration uses a credit of the Council of Europe Development Bank, for the development of new prison facilities. High Court Council approved budget: EUR 3,870,763 and implemented budget: EUR 3,760,844 State Prosecutorial Council approved budget: EUR 1,130,893 and implemented budget: EUR 1,053,891 Ministry of Justice approved budget: EUR 6,324,358 The budget for State Attorney's Office: approved budget: EUR 9,008,644 and implemented EUR: 7,085,886 Constitutional Court: EUR 2,451,335 and implemented: EUR 2,162,134 This year, the total does not include legal aid budget.

015-2. (Modified question) Please indicate the budgetary elements that are included in the whole justice system by specifying on the one hand the elements of the judicial system budget (please check the consistency with questions 6, 12 and 13). (Note: NAP means that the element does not exist in your system):

	Included
Court (see question 6)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Legal aid (see question 12)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Public prosecution services (see question 13)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments:

015-3. (Modified question) On the other hand, please specify the other budgetary elements included in the whole justice system budget. (Note: NAP means that the element does not exist in your system):

Included



<b>Prison system</b>	( X ) Yes ( ) No <input type="checkbox"/> NAP
<b>Probation services</b>	( X ) Yes ( ) No <input type="checkbox"/> NAP
<b>Council of the judiciary</b>	( X ) Yes ( ) No <input type="checkbox"/> NAP
<b>Constitutional court</b>	( X ) Yes ( ) No <input type="checkbox"/> NAP
<b>Judicial management body</b>	( ) Yes ( ) No <input checked="" type="checkbox"/> NAP
<b>State advocacy</b>	( X ) Yes ( ) No <input type="checkbox"/> NAP
<b>Enforcement services</b>	( X ) Yes ( ) No <input type="checkbox"/> NAP
<b>Notariat</b>	( ) Yes ( X ) No <input type="checkbox"/> NAP
<b>Forensic services</b>	( ) Yes ( X ) No <input type="checkbox"/> NAP
<b>Judicial protection of juveniles</b>	( X ) Yes ( ) No <input type="checkbox"/> NAP
<b>Functioning of the Ministry of Justice</b>	( X ) Yes ( ) No <input type="checkbox"/> NAP
<b>Refugees and asylum seekers services</b>	( ) Yes ( X ) No <input type="checkbox"/> NAP
<b>Immigration Service</b>	( ) Yes ( X ) No <input type="checkbox"/> NAP
<b>Some police services (e.g. : transfer, investigation, prisoners' security)</b>	( ) Yes ( X ) No <input type="checkbox"/> NAP
<b>Other</b>	( ) Yes ( X ) No <input type="checkbox"/> NAP

Comments - If "other", please specify:

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

Sources: Ministry of Justice – Sector for Material and Financial Affairs; High Judicial Council; State Prosecutorial Council; Budget

## 2. Access to justice and all courts

### 2.1. Legal Aid

#### 2.1.1. Scope of legal aid

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

	Criminal cases	Other than criminal cases
Representation in court	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP
Legal advice	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

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

Yes

No

Comments - If yes, please specify:

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

Yes

No

Comments - If yes, please specify:

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

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

Comments - If yes, please specify: Pursuant to the provisions of Article 29 Para. 2 and 3 of the Law on Verification of Signatures, Manuscripts and Transcripts ("Official Gazette of RS", Nos. 93/14 and 22/15), in the cities or municipalities for which notaries have not been appointed by the date of entry into force of this Law, signatures, manuscripts and transcripts may be verified, as entrusted tasks, by the basic courts i.e. municipal administrations, until 1 March 2017 at the latest. In order not to burden citizens with additional fees having in mind the aforesaid transfer, the Minister of Justice enacted on March 2, 2017 amendments to the Notary Tariff („Official Gazette of RS”, 17/2017), as agreed with the Chamber of Notaries. The amendments provide exemptions from payment of rewards for the verification of signatures and photocopies and reduction of fees for the certification of transcripts and photocopies. Namely, the notary fee for the verification of signatures and photocopies fill from now on not be paid for the following acts:

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

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

The Minister of Justice has also enacted amendments to the Bylaw on Notary Office and Working Hours of Notaries (“Official Gazette of RS”, 31/2012, 87/2014, 15/2017), as agreed with the Chamber of Notaries, allowing for the possibility of the working hours of notaries to be extended to 19 h (7 pm) for verification of signatures, copies and fotocopies, without additional charges. The usual working hours of notaries are 9 am – 5 pm (bylaw is available in Serbian: <http://beleznik.org/images/pdf/zakon/pravilnik-o-jb-kancelariji-i-radnom-vremenu-jb-2017.pdf>).

Pursuant to the provisions of the Draft Law on Free Legal Aid, other costs will be covered as a form of free legal aid. The expenses of lawyers, notaries, mediators in a concrete case, are financed from the budget of the Republic of Serbia and the budget of local self-government unit.

## 2.1.2. Quantitative information on legal aid

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

	Cases brought to court	Cases not brought to court / non-litigious cases
<b>TOTAL</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>In criminal cases</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>In other than criminal cases</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Please specify when appropriate: NA by SPC. The Public prosecutor’s offices do not record this data in separate register. There is no available official database regarding legal aid provided by public prosecutor’s offices.

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

	Assisted by a free of charge lawyer
<b>Accused individuals</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<b>Victims</b>	( X ) Yes ( ) No
----------------	---------------------

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

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

**022. If yes, are individuals free to choose their lawyer within the framework of the legal aid system?**

- ( ) Yes  
( X ) No

Comments The defense counsel is appointed by a decision rendered by the president of the court before which the proceedings are being conducted, according to the order on the roster of attorneys provided by the competent bar association. The appointed defense counsel has the standing of a court appointed defense counsel (Art. 77 CPC). The lawyer is appointed by a decision of the president of the court from the ranks of lawyers according to the order on the roster of lawyers which is submitted to the court by a bar association competent for determining court appointed defense counsel (Art. 59 CPC).

**023. (Modified question) Does your country have an income and assets evaluation for granting (full or partial) legal aid to the applicant? The answer NAP means that there is no income and/or assets evaluation system for granting legal aid.**

	Annual income value (for one person), (in €)	Annual assets value (for one person), (in €)
<b>Full legal aid for criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Full legal aid for other than criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Partial legal aid for criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Partial legal aid for other than criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments - If yes, please indicate if any other criteria are taken into account for the granting of legal aid and any comment that could

explain the figures provided above: Reliable data is not available, given that the Draft Law on Free Legal Aid is not adopted yet. Draft Law on FLA stipulates income and assets evaluation for granting free legal aid, on the basis of the available criteria for determining the level of poverty. Hence, the Draft Law provides for two groups of eligible individuals on the basis of income and assets evaluation:

1. individuals who are already beneficiaries of social benefits
2. individuals who do not fit the criteria for social benefits, but who would be eligible for social benefits if they would cover the cost of legal aid.

**024. In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action or no chance of success)?**

- Yes  
 No

Comments - If yes, please explain the exact criteria for denying legal aid: The Civil Procedure Code provides that prior to the decision on exemption on cost of proceeding, the court shall “carefully consider all the circumstances”, in particular the value of the subject of litigation, the number of persons supported by a party as well as the earnings and property owned by the party and party’s family members. Under the Draft Law on Free Legal Aid, secondary free legal aid shall be rejected if it refers to:

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

**025. In other than criminal cases, is the decision to grant or refuse legal aid taken by (one option only):**

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

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

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

- Yes  
 No

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

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

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

in other than criminal cases

Yes

No

Comments

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

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

**2.2. Users of the courts and victims**

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

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

	<b>Yes, please indicate the internet adresse(es)</b>	<b>No</b>
<b>legal texts (e.g. codes, laws, regulations, etc.)</b>	<input checked="" type="checkbox"/> www.mpravde.gov.rs, www.vss.sud.rs, www.parlament.gov.rs, www.paragraf.rs, www.uzzpro.gov.rs/ http://www.pravno-informacioni-sistem.rs/	<input type="checkbox"/>

<p><b>case-law of the higher court/s</b></p>	<p>( X ) The Supreme Court of Cassation on its website, <a href="http://www.vk.sud.rs/sr/solr-search-page">http://www.vk.sud.rs/sr/solr-search-page</a>, has publicly made available a case law database comprised of approximately 9000 anonymized representative decisions of the Supreme Court of Serbia and Supreme Court of Cassation, but not decisions of Appellate courts. Based on the Google Analytics data in 2014 and 2015, at least 50% of traffic to the SCC website is directly related to searching and filtering case-law database. The Commercial Court of Appeal in Belgrade publishes in quarterly intervals the most recent case law in the Bulletin of Judicial Practice of Commercial Courts, in the “Commercial Advisor”, prepared by the Case Law Department of the Commercial Court of Appeal. The Supreme Court of Cassation also keeps a database of case law, the most important of which is posted on the website of the court, including legal opinions which it adopted with respect to harmonization of case law of appellate courts:  <a href="http://www.vk.sud.rs/sr/%D0%B1%D0%B0%D0%B7%D0%B0-%D1%81%D1%83%D0%B4%D1%81%D0%BA%D0%B5-%D0%BF%D1%80%D0%B0%D0%BA%D1%81%D0%B5-%D1%81%D1%83%D0%B4%D0%B0">http://www.vk.sud.rs/sr/%D0%B1%D0%B0%D0%B7%D0%B0-%D1%81%D1%83%D0%B4%D1%81%D0%BA%D0%B5-%D0%BF%D1%80%D0%B0%D0%BA%D1%81%D0%B5-%D1%81%D1%83%D0%B4%D0%B0</a>.</p>	<p>( )</p>
<p><b>other documents (e.g. downloadable forms, online registration)</b></p>	<p>( X ) ex. <a href="http://www.prvisud.rs/obraci">http://www.prvisud.rs/obraci</a></p>	<p>( )</p>

Comments - Please specify what documents and information the addresses for “other documents” include: Different types of motions, applications, complaint and appeal forms.

**029. (Modified question) Is there an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings?**

( X ) Yes, always

( ) No

( ) Yes, only in some specific situations

Comments - If yes, only in some specific situations, please specify:

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

( X ) Yes

( ) No

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

In all 25 Higher Public Prosecutor's Offices of the Republic of Serbia Victim and Witness Information Services were established and that way the network of the Services for support to the injured parties (victims) and witnesses in judicial institutions in the Republic of Serbia was established, having in mind already formed Services in high courts. Furthermore, these Services were also formed in Prosecution for Organized Crime and War Crime Prosecution. These Services undertake measures and activities with the goal to enable the victims and witnesses of crime efficient enforcement of right to receive information and right to access support services during the proceedings, in order to facilitate their participation in criminal proceedings, but also for purpose of greater efficiency of proceedings.

On 20 February 2015 the Republic Public Prosecution signed a Memorandum of Understanding and Cooperation with the Victimology Society of Serbia as the strongest and most influential civil society organization with regards to the cooperation between prosecution offices and network of civil society organizations under the umbrella of VSS in the field of providing trained and specialized support to the victims and witnesses of the crime.

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

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

Comments - If "other vulnerable person" and/or "other special arrangements", please specify:

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



Yes

No

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

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

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

No

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

**032-1. (New question) Is a court decision necessary in the framework of the compensation procedure?**

Yes

No

Comments

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

a public fund

damages and interests to be paid by the person responsible

a private fund

Comments

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

Yes

No

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

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

Yes

No

Comments - If yes, please specify: In addition to the regular role of the prosecutor in respect of the protection of the rights of victims,

there are additional possibilities for having a special role in respect to the victims, such as in the field of trafficking of human beings and in the field of domestic violence. In all basic public prosecutions, groups for cooperation and coordination in cases of domestic violence have been established. One of the tasks of these groups is development of individual plans for the protection and support of the victim. Pursuant to the Special protocol on the performance of judicial authorities in the protection of persons who are victims of human trafficking in the Republic of Serbia, public prosecutor should primarily build the trust relationship by providing the victim with full information about the procedure and not only about the rights and obligations, but also about all the challenges that the trial is carrying. If possible, victims should be provided with direct contact with the public prosecutor so that they can communicate with prosecutor if they remember some important information or if there are any questions about the criminal proceedings. Special attention has been exercised regarding the avoiding of the secondary victimisation. During conversation with the victim, it is necessary to evaluate whether he/she needs professional psychological, psychiatric or medical assistance. Also, it is necessary to inform the victim that there are organizations dealing with support to victims of trafficking in human beings. Victim and Witness Information and Support Services are already described in answer to question 30.

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

Yes

No

NAP

Comments - If necessary, please specify:

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

**037. (Modified question) Is there a system for compensating users in the following circumstances:**

	Number of requests for compensation	Number of condemnations	Total amount (in €)
<b>Total</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Excessive length of proceedings</b>	630 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Non-execution of court decisions</b>	51 <input type="checkbox"/> NA <input type="checkbox"/> NAP	11 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Wrongful arrest</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Wrongful conviction</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Other</b>	601 <input type="checkbox"/> NA <input type="checkbox"/> NAP	762 <input type="checkbox"/> NA <input type="checkbox"/> NAP	473978 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Where appropriate, please give details on the compensation procedure and the calculation method for the amount of the compensation (e.g. the amount per day for unjustified detentions or convictions): Excessive length of proceedings: Pursuant to the Law on Protection of Right to Trial within a Reasonable Time (2015) which entered into force on 1 January 2016, the State Attorney established

the Commission to make decisions on settlement proposals for just satisfaction when a violation was determined for a trial within reasonable time. Two settlements were concluded in 2016, in cases where the Administrative Court violated the right, but the damages arising from these two settlements were collected in enforcement procedure. The SAO does not have reliable data for 2016 on the number of lawsuits filed for compensation of damages as a new case management system began to work in 2017. In most cases the violation of the right to a trial within reasonable time was determined in enforcement or bankruptcy proceedings.

Constitutional appeal and Constitutional Court (CC): For excessive length of proceedings, 1047 CC decisions were made, for which MoJ paid 685229 EUR. For non-execution of court decisions 643 CC decisions were enacted and 2.286.603 EUR was paid by MoJ.

Unfounded conviction and unfounded deprivation of liberty, pursuant to the Crimilan Procedure Code: In 2016, a total of 940 claims for compensation for non-pecuniary damage due to unfounded conviction and unfounded deprivation of liberty were submitted to the MoJ Commission. The Commission decided on a total of 233 filed claims and proposed the amount of 455,838 EUR for unfounded convictions and unfounded deprivations of liberty. The total amount accepted and paid for the unfounded convictions and unfounded deprivations of liberty is 94,438 EUR. A total of 55 decisions were made on the payment of the aforementioned amount.

The data on the number of claims for compensation of damages, number of decisions and total amount for unfounded deprivation of liberty and for unfounded conviction can only be given jointly and as the SAO started using a new case management system in 2017, there is a high likelihood that the data is not precise.

SAO Representative before the European Court for Human Rights reports that during the year 2016, the SAO enforced 27 decisions (17 judgments and 10 decisions on friendly settlement) of the ECtHR issued against RS. The said decisions concerned 154 applicants. During the said period, RS made payments in total of EUR 1.106.541,49. Also, 4 more judgments were issued against RS in the year 2016 in which the ECtHR did not award the applicants any just satisfaction, for which reason these judgments were not included in the table.

Violation of the right to a trial within reasonable time: In all 27 decisions, violation of the right to a trial within reasonable time was established and consequently the applicants were awarded non-pecuniary damages. All 153 applicants received payments on account of non-pecuniary damages, which amounted to EUR 378.782,30, in total. Non-enforcement of domestic decisions: Despite the fact that all 27 decisions considered violation of the right to a trial within reasonable time, 11 of these decisions (7 judgments and 4 decisions on friendly settlement) established that Serbia failed to enforce subject domestic decisions. These 11 decisions concerned claims for pecuniary damages (in the amount specified in subject non-enforced domestic decision) of 51 applicants in total, which were all adopted by the ECtHR (or established in the form of friendly settlement). Consequently, all 51 applicants received payments on account of pecuniary damages specified in domestic decisions, concretely EUR 724.759,19, in total. Unlawful judgment: In one judgment issued in the year 2016, the ECtHR established that one applicant has been unlawfully convicted and consequently awarded the applicant EUR 3.000,00 on account of non-pecuniary damages. This amount was paid to the applicant.

In 2016, a total of 601 requests for rehabilitation compensation were submitted to the MoJ Commission. The Commission decided on a total of 762 requests for rehabilitation compensation and proposed an amount of 660,822 EUR in the name of rehabilitation compensation. The total amount accepted in the name of rehabilitation compensation is 395,945 EUR, while the total amount paid is 473,978 EUR. A total of 321 decisions were made on the payment of the aforementioned amount.

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

	National level	Court level
<b>1. (Satisfaction) surveys aimed at judges</b>	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
<b>2. (Satisfaction) surveys aimed at court staff</b>	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
<b>3. (Satisfaction) surveys aimed at public prosecutors</b>	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc

4. (Satisfaction) surveys aimed at lawyers	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
5. (Satisfaction) surveys aimed at the parties	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
6. (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
7. (Satisfaction) surveys aimed at victims	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
8. Other not mentioned	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc

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

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

Yes

No

Comments

**041. (Modified question) If yes, please specify certain aspects of this procedure:**

	Authority responsible for dealing with the complaint	Time limit for dealing with the complaint
<b>Court concerned</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Higher court</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Ministry of Justice</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Council of the Judiciary</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Other external bodies (e.g. Ombudsman)</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**041-1. (Modified question) Please specify further certain aspects of this procedure:**

	Number of complaints	Compensations amount granted to users
<b>Court concerned</b>	14098 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Higher court</b>	2206 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

<b>Ministry of Justice</b>	9961 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Council of the Judiciary</b>	1222 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Other external bodies (e.g. Ombudsman)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments - If possible, please give information concerning the efficiency of this complaint procedure and any useful comment:

Currently, there is no centralized electronic database of submitted complaints in the judicial system of the Republic of Serbia. The reasons for filing a complaint can be classified into two major groups: the party's dissatisfaction with a decision and the length of the proceeding. Article 8 of the Law on the Organization of Courts stipulates that the party and other participants in a court proceeding have the right to a complaint about the work of the court when they believe that the proceeding is being prolonged, that it is irregular, or that there is some unauthorized influence on its course and outcome. Article 55 prescribes that the president of the court must consider the complaint, forward it to the judge to whom it refers for opinion, and to inform the complainants, as well as the president of the immediately superior court, of its merits and measures taken, within 15 days from the date of receipt of the complaint. S/he may dismiss the complaint, in full or a certain part of it, if s/he finds that the complainant abused the right to a complaint (e.g. the complaint has an offensive content or if s/he files a complaint of the same or similar content that has been previously decided). If the complaint is filed through the ministry in charge of the judiciary, the immediate superior court, or the High Court Council, the president of the court will notify the body through which the complaint was filed about the merits of the complaint and the measures taken. The party or other participant in the procedure who has the right to file a complaint on the work of the court has not been denied the possibility to address the same complaint on the work of the same court regarding the same case to the court in which the complaint is in process, as well as to all higher courts, the ministry in charge of the judiciary, and the High Court Council. Accordingly, one complaint, as a statistical data, can occur several times. Therefore, the figure of 14,098 of the total number of complaints received by courts in 2016 and compiled by the Supreme Court of Cassation is not a realistic number of complaints. Of the total of 14,098 complaints received in all courts, 2,168 complaints referred specifically to the work of these courts, and 2,206 complaints referred to the work of lower-instance courts. In first-instance courts, a total of 9,310 complaints were received (basic courts, misdemeanor courts, commercial courts). The High Judicial Council and the MoJ, in accordance with their competencies prescribed by the Law on the High Judicial Council, act within the limits of its powers upon complaints. In 2016 the High Judicial Council received in total 1,222 new petitions i.e. complaints / submissions based on which new cases were established, and 1,114 supplements in total regarding the already established cases in the course of 2016, 2015 and 2014, so in 2016 there were 2,336 pending cases in total. In 2016 the High Judicial Council received in total 1,222 new petitions i.e. complaints / submissions based on which new cases were established, and 1,114 supplements in total regarding the already established cases in the course of 2016, 2015 and 2014, so in 2016 there were 2,336 pending cases in total.

The MFAK Norway initiated a programme titled “Improving the Delivery of Justice in Serbia” with the goal to improve access to justice, under which the „Complaint Procedure Working Group“ was established by the decision of the HJC. The terms of reference of the Group focused on the business process and legal framework improvements in order to enable more efficient handling of complaints and ensure better realisation and protection of citizens' rights in court proceedings. In the first phase of the working group activities, the focus was on exhaustive and critical assessment of existing legislation governing complaints and a detailed analysis of the problems and shortcomings encountered in current practice. In the second phase, attention was focused on future, improved complaints process, which should be automated by a software application and database repository – the Central Register of Complaints. The members of the working group proposed the establishment of a new, centralized complaints procedure, tailored for Serbian justice system, which should be significantly more efficient and cost effective. Finally, the Complaint process working group provided precise directions for amending the legal framework governing complaints process. [https://vss.sud.rs/sites/default/files/attachments/Radna%20grupa%20za%20pritzbe-Zavrzni%20izvestaj%20sa%20preporukama\\_1.pdf](https://vss.sud.rs/sites/default/files/attachments/Radna%20grupa%20za%20pritzbe-Zavrzni%20izvestaj%20sa%20preporukama_1.pdf).

## 3. Organisation of the court system

### 3.1. Courts

#### 3.1.1. Number of courts



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

	Number of courts
42.1 First instance courts of general jurisdiction (legal entities)	93 [ ] NA [ ] NAP
42.2 First instance specialised courts (legal entities)	62 [ ] NA [ ] NAP
42.3 All the courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	162 [ ] NA [ ] NAP

Comments

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

	Number of courts
Total (must be the same as the data given under question 42.2)	62 [ ] NA [ ] NAP
Commercial courts (excluded insolvency courts)	16 [ ] NA [ ] NAP
Insolvency courts	[ ] NA [X] NAP
Labour courts	[ ] NA [X] NAP
Family courts	[ ] NA [X] NAP
Rent and tenancies courts	[ ] NA [X] NAP
Enforcement of criminal sanctions courts	[ ] NA [X] NAP
Fight against terrorism, organised crime and corruption	[ ] NA [X] NAP
Internet related disputes	[ ] NA [X] NAP
Administrative courts	1 [ ] NA [ ] NAP

<b>Insurance and / or social welfare courts</b>	[ ] NA [X] NAP
<b>Military courts</b>	[ ] NA [X] NAP
<b>Other specialised 1st instance courts</b>	45 [ ] NA [ ] NAP

Comments - If "other specialised 1st instance courts", please specify:

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

( X ) Yes

( ) No

Comments - If yes, please specify: The Commission for the Implementation of the National Judicial Reform Strategy for the Period 2013-2018 adopted on 23 October 2015 a conclusion on the initiative for the abolition of four appellate courts and the establishment of a Court of Appeals for the whole of Serbia. In accordance with the above conclusion, the Ministry of Justice will establish a working group, in order to analyse the needs for the formation of a Court of Appeal and one Appellate Prosecutor's Office and to draft amendments to the Law on Seats and Territories of Courts and Public Prosecutors' Offices and the Law on Organisation of Courts.

Likewise, a change in the administrative dispute proceedings is envisaged, with the introduction of the second instance court (currently, there is only one Administrative Court).

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

	Number of courts
<b>a debt collection for small claims</b>	83 [ ] NA [ ] NAP
<b>a dismissal</b>	67 [ ] NA [ ] NAP
<b>a robbery</b>	93 [ ] NA [ ] NAP

Comments

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

( X ) Yes

( ) No, please give your definition for small claims: .....

Comments

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

[ 3000 ]

Comments

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

Sources: Ministry of Justice – Sector for Judiciary; High Court Council; Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices (“Official Gazette RS” no. 101/2013) and Law on Organisation of Courts (2008-2015).

### 3.2. Court staff

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

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

	Total	Males	Females
<b>Total number of professional judges (1 + 2 + 3)</b>	2707 [ ] NA [ ] NAP	800 [ ] NA [ ] NAP	1907 [ ] NA [ ] NAP
<b>1. Number of first instance professional judges</b>	2355 [ ] NA [ ] NAP	706 [ ] NA [ ] NAP	1649 [ ] NA [ ] NAP
<b>2. Number of second instance (court of appeal) professional judges</b>	316 [ ] NA [ ] NAP	79 [ ] NA [ ] NAP	237 [ ] NA [ ] NAP
<b>3. Number of supreme court professional judges</b>	36 [ ] NA [ ] NAP	15 [ ] NA [ ] NAP	21 [ ] NA [ ] NAP

Comment - Please provide any useful comment for interpreting the data above: Judges of the Administrative Court are considered as first instance judges, bearing in mind that the Administrative Court is a republic court of special jurisdiction, which at first instance resolves administrative disputes (currently, single instance procedure) and performs other duties determined by law.

047. Number of court presidents (professional judges). Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts

	Total	Males	Females
<b>Total number of court presidents (1 + 2 + 3)</b>	162 [ ] NA [ ] NAP	75 [ ] NA [ ] NAP	87 [ ] NA [ ] NAP
<b>1. Number of first instance court presidents</b>	155 [ ] NA [ ] NAP	71 [ ] NA [ ] NAP	84 [ ] NA [ ] NAP
<b>2. Number of second instance (court of appeal) court presidents</b>	6 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP



<b>3. Number of supreme court presidents</b>	1 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
--	------------------------	------------------------	------------------------

Comments

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

	Figure
<b>Gross figure</b>	[ ] NA [ X ] NAP
<b>In full-time equivalent</b>	[ ] NA [ X ] NAP

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

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

- ( ) Yes, please give specifications on the types of cases and an estimate in percentage. ....  
 ( X ) No

Comments

**049. (Modified question) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December of the reference year) (e.g. lay judges and “juges consulaires”, but not arbitrators and persons sitting in a jury):**

	Figure
<b>Gross figure</b>	2478 [ ] NA [ ] NAP
<b>In full time equivalent</b>	[ X ] NA [ ] NAP

Comments The High Court Council enacted a decision on 23 December 2014 on the appointment of lay judges (sudije porotnici) for a mandate period of the following 5 years, <https://vss.sud.rs/sr-lat/saop%C5%A1tenja/odluka-o-imenovanju-sudija-porotnika>. The number of lay judges appointed by the decision was 2564. However, due to various reasons, in 2016 the effective number was 2478.

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

	Yes	No	Echevinage
<b>in criminal law cases</b>	( X )	( )	( )
<b>- severe criminal cases</b>	( X )	( )	( )

- misdemeanour and/or minor criminal cases	( X )	( )	( )
in family law cases	( X )	( )	( )
in civil cases	( X )	( )	( )
in labour law cases	( X )	( )	( )
in social law cases	( )	( X )	( )
in commercial law cases	( X )	( )	( )
in insolvency cases	( )	( X )	( )
other	( )	( X )	( )

Comments - If "other", please specify:

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

( ) Yes

( X ) No

Comments

**050-1. (New question) If yes, for which type of case(s)? (Please, for severe criminal cases and misdemeanour cases refer to the CEPEJ definitions)**

[ ] Severe criminal cases

[ ] Misdemeanour cases

[ ] Other cases

Comments

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

[ ]

[ ] NA

[ X ] NAP

Comments

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

	Total	Males	Females
Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5)	9344 [ ] NA [ ] NAP	6555 [ ] NA [ ] NAP	2789 [ ] NA [ ] NAP

1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
2. Non-judge staff whose task is to assist the judges such as registrars (case file preparation, assistance during the hearing, court recording, helping to draft the decisions)	3916 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3542 <input type="checkbox"/> NA <input type="checkbox"/> NAP	374 <input type="checkbox"/> NA <input type="checkbox"/> NAP
3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)	3360 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2365 <input type="checkbox"/> NA <input type="checkbox"/> NAP	995 <input type="checkbox"/> NA <input type="checkbox"/> NAP
4. Technical staff	2068 <input type="checkbox"/> NA <input type="checkbox"/> NAP	648 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1420 <input type="checkbox"/> NA <input type="checkbox"/> NAP
5. Other non-judge staff	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

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

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

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

Comments - Please briefly describe their status and duties:

**054. Have the courts outsourced certain services, which fall within their powers, to private providers?**

- Yes
- No

Comments

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

- IT services
- Training of staff

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

Comments

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

Sources: Ministry of Justice; High Judicial Council.

## 3.3. Public prosecution

### 3.3.1. Public prosecutors and staff

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

	Total	Males	Females
<b>Total number of prosecutors (1 + 2 + 3)</b>	617 <input type="checkbox"/> NA <input type="checkbox"/> NAP	279 <input type="checkbox"/> NA <input type="checkbox"/> NAP	338 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Number of prosecutors at first instance level</b>	561 <input type="checkbox"/> NA <input type="checkbox"/> NAP	249 <input type="checkbox"/> NA <input type="checkbox"/> NAP	312 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Number of prosecutors at second instance (court of appeal) level</b>	44 <input type="checkbox"/> NA <input type="checkbox"/> NAP	23 <input type="checkbox"/> NA <input type="checkbox"/> NAP	21 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Number of prosecutors at supreme court level</b>	12 <input type="checkbox"/> NA <input type="checkbox"/> NAP	7 <input type="checkbox"/> NA <input type="checkbox"/> NAP	5 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Please indicate any useful comment for interpreting the data above: 1.1 Number of prosecutors at first instance level consists of: 382 Basic PPOs + 163 Higher PPOs + 16 PPOs of special jurisdiction. 1.2 Number of MALE public prosecutors at first instance level: 160 Basic PPO's + 76 Higher PPO's +13 PPOs of special jurisdiction

1.3 Number of FEMALE public prosecutors at first instance level: 222 Basic PPO's + 87 Higher PPO's + 3 PPOs of special jurisdiction

2.1 Number of prosecutors at second instance (court of appeal) level consists of: 44 Appellate PP's 2.2 Number of MALE public prosecutors at second instance (court of appeal) level: 23 Appellate PP's 2.3 Number of FEMALE public prosecutors at second instance (court of appeal) level: 21 Appellate PP's

The reason for the smaller number of Deputy Public Prosecutors in the Appellate Public Prosecutor's Offices is - a natural outflow - that is, retirement. Vacancies were not filled because, due to the change of procedural laws, part of the jurisdiction of the Appellate Public Prosecutor's Offices was transferred to the Higher Public Prosecutor's Offices.

As concerns the number of public prosecutors at Supreme Court level, the variations are due to a different composition in the Republic Public Prosecutor's Office - the retirement of a colleague and the election to the Constitutional Court of the other colleague, after which three colleagues were selected, two of them male colleagues and one female colleague.

**056. Number of heads of prosecution offices (on 31 December of the reference year). Please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions.**

	Total	Males	Females
<b>Total number of heads of prosecution offices (1 + 2 + 3)</b>	90 [ ] NA [ ] NAP	55 [ ] NA [ ] NAP	35 [ ] NA [ ] NAP
<b>1. Number of heads of prosecution offices at first instance level</b>	85 [ ] NA [ ] NAP	52 [ ] NA [ ] NAP	33 [ ] NA [ ] NAP
<b>2. Number of heads of prosecution offices at second instance (court of appeal) level</b>	4 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP
<b>3. Number of heads of prosecution offices at supreme court level</b>	1 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP

Please provide any useful comment for interpreting the data above: 1.1 Number of heads of prosecution offices at first instance level consists of: 58 Basic PPOs +25 Higher PPOs+ 2 PPOs of special jurisdiction;

1.2 Number of MALE heads of prosecution offices at first instance level consists of: 34 Basic PPOs + 17 Higher + 1 in special jurisdiction

1.3 Number of FEMALE heads of prosecution offices at first instance level consists of: 24 Basic PPO's + 8 Higher + 1 in special jurisdiction

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

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

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

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

( X ) Yes, please specify their number (in full-time equivalent):283

( ) No

Comments - If yes, please specify their title and functions: Public prosecutor assistants, employed for an indefinite period of time. In line with the Criminal Procedure Code, prosecutorial assistants can undertake specific procedural activities, authorized by a public prosecutor, i.e. deputy public prosecutor.

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

( ) Yes

( X ) No

Comments

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

( X ) Yes

( ) No

Comments Pursuant to the Mandatory Instruction of the Republic Public Prosecutor from May 20, 2015 rendered in order to strengthen the combating of the criminal acts against sexual freedom and crimes against marriage and family, in all higher and basic public

prosecutions in the Republic of Serbia a contact person was appointed who is in charge for work, monitoring and cooperation with other competent institutions and authorities regarding aforementioned criminal acts.

On the basis of the said Instruction, specialized departments for domestic violence and sexual freedom were established in First, Second and Third Basic Prosecutor`s Offices in Belgrade as the largest basic public prosecution offices in Serbia covering over a 60% of all criminal acts on that level across the country. All Deputy Public Prosecutors working in these departments are specialised for these criminal acts.

Also, in accordance with the Law on the Prevention of Domestic Violence ("Official Gazette of the Republic of Serbia", no. 94/2016), which came into force on June 1, 2017, liaison officers were appointed in all basic and higher public prosecutions – specialized prosecutors in domestic and sexual violence.

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

	Total	Males	Females
Number of staff (non-public prosecutors) attached to the public prosecution service	1246 [ ] NA	301 [ ] NA	945 [ ] NA

Comments

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

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

**3.4. Management of the court budget**

**3.4.1. Court budget**

**061. Who is entrusted with responsibilities related to the budget within the court?**

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

Other	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes
	<input type="checkbox"/> No	<input checked="" type="checkbox"/> No	<input type="checkbox"/> No	<input type="checkbox"/> No

Comments - If "other", please specify:

### 3.6.Performance and evaluation

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

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

Yes

No

Comments - If yes, please specify: The Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents ("Official Gazette of RS", Nos. 81/2014, 142/2014, 41/2015, 7/2016), provides that the purpose of evaluation of judges and court presidents' performance is to enhance efficiency of the judicial system, preserve and improve expertise, capacities and accountability of judges and court presidents, encourage judges and court presidents to achieve best possible work performance, maintain, strengthen public trust in the work of judges and courts, and career advancement.

**067. Do you have specialised court staff that is entrusted with these quality standards?**

Yes

No

Comments

**068. Is there a national system to evaluate the overall (smooth) functioning of courts on the basis of an evaluation plan agreed beforehand?**

Yes

No

Comments

**068-1. (New question) If yes, please specify the frequency of this evaluation:**

Annual

Less frequent

More frequent

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

**069. Is there a system for monitoring and evaluating the performance of the public prosecution service?**

Yes

No

Comments - If yes, please give further details: State Prosecutorial Council (SPC): Pursuant to the Law on SPC, the SPC adopted the Rulebook on criteria and measures for evaluation of work of public prosecutors and deputy public prosecutors. According to this Rulebook, the evaluation of work of deputy public prosecutors is being conducting by the heads of public prosecutor's offices, while the work of head of public prosecutors offices is being evaluated by the head of immediately superior public prosecutor office. The SPC decides on the appeals upon first instance decisions of work evaluation. According to the Law, the first three-year period regular

evaluation for deputy prosecutors elected to a permanent function and for public prosecutors/heads of public prosecutors offices, will be conducted in January 2018, while the work of deputies prosecutors elected for first time to three-year period is conducted every year.

### **3.6.2. Performance and evaluation of courts**



#### **070. Do you have, within the courts, a regular monitoring system of court activities concerning:**

- [ X ] number of incoming cases
- [ X ] number of decisions delivered
- [ X ] number of postponed cases
- [ X ] length of proceedings (timeframes)
- [ X ] age of cases
- [ X ] other (please specify):productivity of judges and judicial staff; court user satisfaction

Comments

#### **071. Do you monitor backlogs and cases that are not processed within a reasonable timeframe for:**

- [ X ] civil law cases
- [ X ] criminal law cases
- [ X ] administrative law cases

Comments

#### **072. Do you have an evaluation process to monitor waiting time during court procedures?**

- ( X ) Yes
- ( ) No

Comments - If yes, please specify:

#### **073. Do you have a system to evaluate regularly the activity (in terms of performance and output) of each court?**

- ( X ) Yes
- ( ) No

Comments According to the Court Rules of Procedure, courts quarterly, semi-annually, annually and in three-year period prepare reports on the work of the court. Those reports are done under prescribed, uniform methodology and are submitted directly to the Minister, to the higher court, the Supreme Court of Cassation and the High Judicial Council. Reports on the work are being made according to special forms and instructions prescribed by the Courts Rules of Procedure and are an integral part of it. The President is authorized in addition to these reports to draft independently and some other reports.

The Supreme Court of Cassation evaluates the work of courts also through the Uniform Backlog Reduction Program, its IT (CMS) system and its statisticians – monthly, quarterly, semi-annual and annual reports

#### **073-0. (New question) If yes, please specify the frequency:**

- ( ) Annual
- ( ) Less frequent
- ( X ) More frequent

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



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

Yes

No

Comments

**074. Are there performance targets defined at the level of the court?**

Yes

No

Comments

**075. (Modified question) Please specify the main targets applied to the courts:**

to increase efficiency / to shorten the length of proceedings

to improve quality

to improve cost efficiency / productivity

Other (please specify): independence, transparency, accountability.

Comments

**076. Who is responsible for setting the targets for the courts?**

Executive power (for example the Ministry of Justice)

Legislative power

Judicial power (for example High Judicial Council, Higher Court)

President of the court

Other (please specify): .....

Comments

**077. Concerning court activities, have you defined performance and quality indicators (if no, please skip to question 79)**

Yes

No

Comments

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

incoming cases

length of proceedings (timeframes)

closed cases

pending cases and backlogs

productivity of judges and court staff

percentage of cases that are processed by a single sitting judge

enforcement of penal decisions

satisfaction of court staff

- satisfaction of users (regarding the services delivered by the courts)
- judicial quality and organisational quality of the courts
- costs of the judicial procedures
- number of appeals
- other (please specify): .....

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

- High Council of judiciary
- Ministry of Justice
- Inspection authority
- Supreme Court
- External audit body
- Other (please specify): .....

Comments

**3.6.3. Court activity and administration**

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

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

- ( ) No

Comments

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

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

Comments <http://www.vk.sud.rs/sr/%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98-%D0%BE-%D1%80%D0%B0%D0%B4%D1%83-%D1%81%D1%83%D0%B4%D0%BE%D0%B2%D0%B0-%D0%B7%D0%B0-2017-%D0%B3%D0%BE%D0%B4%D0%B8%D0%BD%D1%83>

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

- ( X ) Yes
- ( ) No

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

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

Internet

Intranet (internal) website

Paper distribution

Comments

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

Annual

Less frequent

More frequent

Comments Backlog Reduction Program with its action plan, court visit plan (in all, except the first instance courts) annual schedule of work of judges and judicial assistants, etc.

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

Yes

No

Comments - If yes, please specify: At the initial, preparatory hearing, pursuant to the CPC.

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

Yes

No

Comments - If yes, please specify:

**3.6.4. Performance and evaluation of judges**

**083. Are there quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge?**

Yes

No

Comments Performance of judges with a standing tenure of office and court presidents' shall regularly be conducted once every three years, and in judges elected for the first time- once a year. Exceptionally, based on the Decision of the High Judicial Council performance of judges and court presidents may be evaluated extraordinarily (Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents ("Official Gazette of RS", Nos. 81/2014, 142/2014, 41/2015, 7/2016).

Criteria for evaluation of judges' performance are quality and quantity. Standards for evaluating quality of judges' performance shall be the percentage of repealed decisions and time for drafting decisions. Quality evaluation is performed by determining individual grade for each standard, and based on determined individual grades, final evaluation grade of judges' performance quality is determined. Individual

grades for quality standards are as follows: “outstandingly successful”, “successful” and “unsatisfactory”. Standard for quantity evaluation of judges’ performance is monthly caseload quota, and for judges not having sufficient number of pending cases, standard for quantity evaluation shall be the total number of closed cases against the total number of pending cases. Evaluation of judges’ quantity performance shall be conducted by evaluating the judges’ quantity standard by an individual p

Articles 17-26 of the Rules provide more detailed ruled on how quantity (efficiency) of judicial performance is evaluated. This is done based on the number of cases disposed by a judge over a period one month against the number of cases they should dispose- monthly caseload quota. The monthly caseload quota referred to in paragraph 1 hereof shall pertain to the cases adjudicated on merits, whereas three cases disposed of in some other manner shall be regarded as one case adjudicated on the merits. Derogating from paragraph 2 of this Article, in higher and appellate courts five closed cases in Kž and Kž2 subject matter shall be regarded as one case adjudicated on merits. In appellate court, five closed cases in Kžm2 subject matter shall be regarded as one case adjudicated on the merits. Three pending cases protecting the right to a trial within a reasonable time period decided on based on the objection to accelerate the procedure and appeals, shall be regarded as one case adjudicated on merits. Two cases closed by entering into mediation agreement shall be regarded as one case adjudicated on merits. If a judge is unable to achieve the monthly caseload quota due to insufficient number of pending cases, the Commission shall take into account the total number of closed cases against the total number of pending cases. If a judge has handled cases of different types, the quantity of his performance shall be established by adding together percentages for each case type and by comparing it against the monthly caseload quota for that matter, provided that Commissions shall assess all the types of disposed cases specified by the Rules of Court Procedure and the law, but not mentioned herein.

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

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

Comments Rulebook on the Criteria, Standards, Procedure and Bodies for evaluation of judges and court presidents' performance (“Official Gazette of RS”, No. 81/14, 142/14, 41/15, and 7/16), 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.

The amendments to the rulebook from 27 January 2016 relate to weighting of cases in higher and appellate courts and lay down the manner of weighting cases in the proceeding protecting the right to a trial in reasonable time and cases concluded by the mediation agreement. Implementing the criteria and standards laid down in the Rulebook on Evaluation of Judges and Court Presidents’ Performance, performance of judges elected for the first time to judicial office (27 judges) was conducted in 2016 and all of them were elected to permanent tenure of office.

Please see: Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents (“Official Gazette of RS”, Nos. 81/2014, 142/2014, 41/2015, 7/2016),

[https://vss.sud.rs/sites/default/files/attachments/ENG\\_PRAVILNIK%20O%20VREDNOVANJU%20RADA%20SUDIJA%20VSS.pdf](https://vss.sud.rs/sites/default/files/attachments/ENG_PRAVILNIK%20O%20VREDNOVANJU%20RADA%20SUDIJA%20VSS.pdf)

## **New node**

## **4.Fair trial**

## 4.1.Principles

### 4.1.1.Principles of fair trial

**084. Percentage of first instance criminal in absentia judgments (cases in which the suspect is not attending the hearing in person nor represented by a lawyer)?**

[            ]

[ X ] NA

[   ] NAP

Comments

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

( X ) Yes, number of successful challenges in a year NA

(   ) No

Comments - Please could you briefly specify:

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

	Monitoring system
For civil procedures (non-enforcement)	( X ) Yes (   ) No [   ] NAP
For civil procedures (timeframe)	( X ) Yes (   ) No [   ] NAP
For criminal procedures (timeframe)	( X ) Yes (   ) No [   ] NAP

Comments - Please, specify what are the terms and conditions of this monitoring system (information related to violations at the State/courts level; implementation of internal systems to remedy the established violation; implementation of internal systems to prevent other violations (that are similar) and if possible to measure an evolution of the established violations: A specific procedure exists for monitoring and reaction/compensation in for the purpose of protection of Right to Trial within a Reasonable Time, applicable from 1 January 2016 (Please see comment to answer 41). For all other infringements of Article 6, the right to a Constitutional Appeal exists before the Constitutional Court. According to Article 46 of the European Convention on Human Rights, Committee of Ministers of the Council of Europe monitors enforcement of judgments and decisions of the Court issued against the Republic of Serbia. Therefore, The Public Attorney's Office is obliged to submit reports on payments to the Committee of Ministers of the Council of Europe, whereas it should be noted that during the year 2016 regular submission of reports was conducted. Also, the Committee of Ministers of the Council of Europe prescribed a form for submission of these reports.

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

Sources: Supreme Court of Cassation; Representative of RS to the ECtHR; Law on Organisation of Courts and Law on Constitutional Court (from 1.1.2016 - Law on Protection of Right to Trial within a Reasonable Time).

## 4.2. Timeframe of proceedings

### 4.2.1. General information

#### 087. Are there specific procedures for urgent matters as regards:

- civil cases
- criminal cases
- administrative cases
- There is no specific procedure

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

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

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

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

Comments - If yes, please specify: According to the Law on Civil Procedure, in the process of low-value disputes, a complaint is not submitted to the defendant to answer. With the summons to the defendant a lawsuit will be sent to him/her. In these cases, preliminary hearing is not scheduled to be held. Also, a judgement does not have to have reasoning if the parties have waived their right to a legal remedy, unless specified otherwise by law.

According to the Criminal Proceedings Code, summary proceedings will be applied in proceedings for criminal offences for which a fine or a term of imprisonment of up to eight years or fine is prescribed as the principal penalty, in the actions taken with a private lawsuit, and in proceedings of hearing for the imposition of a criminal sanction in accordance with article 512-518 of the Criminal Proceedings Code, the plea agreement, deferring criminal prosecution.

Simplified procedures for administrative cases exist:

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

2. The rejection of a lawsuit due to other legal reasons (when the lawsuit has not been filed on time or it was filed prematurely; when the act which is challenged in the lawsuit is not an administrative act; if there are no evidence submitted with a lawsuit lodged due to silence of administration; when it is clear that the administrative act disputed in the lawsuit does not affect the rights of plaintiff or his direct

personal interests based on the law; when after filing a lawsuit, challenged act is annulled upon lawsuit of other party; when an appeal could have been filed against the administrative act challenged in the lawsuit, but it was not filed at all or on time, or an appellant gave up from the appeal in the second-instance procedure; when there is already a legally effective decision rendered in an administrative dispute on the same matter).

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

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

5. Withdrawal of the lawsuit by plaintiff.

### **088-1. (Modified question) For these simplified procedures, may judges deliver an oral judgement with a written order and dispense with a full reasoned judgement?**

civil cases

criminal cases

administrative cases

Comments - If yes, please specify: Article 429 of the Criminal Procedure Code stipulates that a judgement made written does not have to contain reasoning: 1. If the parties, the defence attorney, the injured party and the person whose assets have been confiscated immediately upon publishing of the judgement stated to waive the right the appeal; or

2. If the defendant has been sentenced to imprisonment in duration of up to three years, to a fine, to community service work, suspended drivers licence, conditional sentence or reprimand from the bench, and the sentence is grounded upon the full confession of the defendant, in which cases the parties, the defence attorney, the injured party and the person whose assets have been confiscated can demand upon point 2 paragraph 1 of the Article submitting of the judgement made in written containing reasoning, immediately after publishing of the judgement, while the judgement made in written shall be partially reasoned:

1. If the defendant had confessed to the crime – the reasoning shall be limited to specific facts and reasons, or

2. If a plea bargaining agreement has been accepted – the reasoning shall be limited to reasons governing the court when accepting the plea bargaining, or

3. If immediately after publishing of the judgement the parties and the defence attorney have stated to waive the right to appeal, and the injured party and the person whose assets have been confiscated have not waived the right – the reasoning of the judgement shall state the reasons for the decided property legal claim and for expenses of the criminal procedure, i.e. reasons for decision on confiscation of assets or property acquired by the crime or proceeds of crime.

In civil proceedings, only in the case of a decision due to absence of the claimant.

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

Yes

No

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

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

### **091. (Modified question) First instance courts: number of other than criminal law cases.**



	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court (Please insert NA for category 2)
<b>Total of other than criminal law cases (1+2+3+4)</b>	2188936 [ ] NA [ ] NAP	954612 [ ] NA [ ] NAP	1819462 [ ] NA [ ] NAP	1324086 [ ] NA [ ] NAP	860989 [ ] NA [ ] NAP
<b>1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)</b>	222391 [ ] NA [ ] NAP	297286 [ ] NA [ ] NAP	279019 [ ] NA [ ] NAP	240658 [ ] NA [ ] NAP	43678 [ ] NA [ ] NAP
<b>2. Non litigious cases (2.1+2.2+2.3)</b>	1935714 [ ] NA [ ] NAP	597330 [ ] NA [ ] NAP	1482478 [ ] NA [ ] NAP	1050566 [ ] NA [ ] NAP	814035 [ ] NA [ ] NAP
<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	1931022 [ ] NA [ ] NAP	576681 [ ] NA [ ] NAP	1459586 [ ] NA [ ] NAP	1048117 [ ] NA [ ] NAP	814034 [ ] NA [ ] NAP
<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	56 [ ] NA [ ] NAP	2624 [ ] NA [ ] NAP	2622 [ ] NA [ ] NAP	58 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>2.2.1. Non litigious land registry cases</b>	[ ] NA [X] NAP	[ ] NA [X] NAP	[ ] NA [X] NAP	[ ] NA [X] NAP	[ ] NA [X] NAP
<b>2.2.2 Non-litigious business registry cases</b>	[ ] NA [X] NAP	[ ] NA [X] NAP	[ ] NA [X] NAP	[ ] NA [X] NAP	[ ] NA [X] NAP
<b>2.2.3. Other registry cases</b>	56 [ ] NA [ ] NAP	2624 [ ] NA [ ] NAP	2622 [ ] NA [ ] NAP	58 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>2.3. Other non-litigious cases</b>	4636 [ ] NA [ ] NAP	18025 [ ] NA [ ] NAP	20270 [ ] NA [ ] NAP	2391 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP
<b>3. Administrative law cases</b>	25902 [ ] NA [ ] NAP	21323 [ ] NA [ ] NAP	19064 [ ] NA [ ] NAP	28161 [ ] NA [ ] NAP	2393 [ ] NA [ ] NAP
<b>4. Other cases</b>	4929 [ ] NA [ ] NAP	38673 [ ] NA [ ] NAP	38901 [ ] NA [ ] NAP	4701 [ ] NA [ ] NAP	883 [ ] NA [ ] NAP

Comments The answer to question 91. 1. includes litigious cases in higher courts (P, P1, P2, P3, P4, P-uz and R), basic courts (P, P1, P2,



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

A major change in the number of other non-litigious cases and, consequently, the total number of cases, is a result of the implementation of the new Law on Enforcement and Security from 1 July 2016 and the systemic measures defined in the special program for reduction of enforcement case backlog. Serbia has enabled a comprehensive disposition of enforcement case backlog (for more details please see Chapter 8: Enforcement of Court Decisions, especially Q. 184). The Supreme Court of Cassation, the Ministry of Justice and the High Court Council have jointly drafted and adopted the Instructions for the implementation of the new Law on Enforcement and Security, which, supported by the European Union through the IPA funded project "Judicial Efficiency" resulted in a drastic reduction of the number of enforcement cases, by 811.322 cases only in 2016 reducing the backlog from 1.855.129 to 981.865. Such an action results in extreme and unusual clearance rate for these cases but also for totals. In 2.3 the cases of trial within reasonable time in higher courts (R4 i, R4 k, R4 p) were transferred from category 4 where they were in previous cycle.

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

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

A significant drop in inheritance cases (O) is noted because of transfer of cases to private notaries.

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

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

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

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

. Included under 91.4 are the cases of the courts in which judges act, but which could not be placed in the other categories - ex. Various letters rogatory on taking of evidence and service of documents, in civil and commercial proceedings, etc. (POM, Pom Ug, Pom IgH1, Pom IgN, Pom UgN, Pom UGH1, Pom IgH2, etc.), higher courts (POM Ig). Also included in this category are cases of drafting and authentication of notary deeds and records on real estate transactions by judges in the eight courts on which territory notaries have not been appointed yet (a designated judge acts as a notary in these courts).

NOT INCLUDED: Apart of the cases included in the CEPEJ questionnaire, the courts handled 677,424 cases in 2016 which are not included in any category and they relate to: competences for certification of signatures in 2016, which existed in parallel to notaries' competences in 2016. Because of the transfer of jurisdiction in March 2017, we have chosen not to include the register "O- overa" in this category. Also not included: Authentication of documents in the sense of the Hague Convention, authentication of all documents

intended for use in the country and abroad, verification of documents relating to real estate transactions, etc. Issuance of various certificates on the conduct of criminal proceedings for natural persons and criminal records for legal entities and issuing certificates of deprivation of parental rights, deprivation of legal capacity, etc.;

#### 094. (Modified question) First instance courts: number of criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court
<b>Total of criminal law cases (1+2)</b>	402906 [ ] NA [ ] NAP	497418 [ ] NA [ ] NAP	514324 [ ] NA [ ] NAP	386000 [ ] NA [ ] NAP	18907 [ ] NA [ ] NAP
<b>1. Severe criminal cases</b>	39662 [ ] NA [ ] NAP	51527 [ ] NA [ ] NAP	58601 [ ] NA [ ] NAP	32588 [ ] NA [ ] NAP	8920 [ ] NA [ ] NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	363244 [ ] NA [ ] NAP	445891 [ ] NA [ ] NAP	455723 [ ] NA [ ] NAP	353412 [ ] NA [ ] NAP	9987 [ ] NA [ ] NAP

Comments - If you cannot make a distinction between misdemeanour criminal cases and severe criminal cases (according to the CEPEJ definitions), please indicate the categories of cases reported in the category "serious offences" and cases reported in the category "minor offences": The field 94.1 encompasses registries of high courts: (K, KIM, KM, K1, KI, Ki-Po1, Ki-Po2, KiPo3, K-Po1, K-Po2, Kpo3, SPK, SPK Po1, SPK Po2), Basic courts: (K, K1, Ki, Spk). The category under 94.1 includes all criminal cases because the Criminal Code of the Republic of Serbia does not make the distinction between crimes – i.e. “severe/minor offences” (their qualifications may also be changed until enacting of the decision and determining the sentence). Therefore, all first instance criminal cases of basic and higher courts are included (in higher courts - organized crime, war crimes, and high-tech crimes, according to urgency, etc.); investigations and investigative actions before basic and higher courts; preparatory proceedings and proceedings against minors; confession of criminal offenses and criminal cases without a main hearing.

Field 94. 2 encompasses the following cases: Commercial courts: Pk, Pki, Pkr, Misdemeanor courts: PR, PRM. In Commercial Courts, these cases relate to initiation of proceedings due to commercial offenses against natural and legal persons; preliminary procedure for commercial offenses; cases before misdemeanor courts: misdemeanors and misdemeanors perpetrated by minors.

Unlike previous cycles, the following cases are not included: Enforcement and complaints as regards enforcement decisions misdemeanor cases: 409,926 cases pending on 1 Jan 2016, 585,153 incoming cases, 592,783 resolved cases and 402,296 pending at the end of the year. 1,007,231 incoming and 994,580 resolved cases related to criminal and misdemeanor proceedings, handled by judges in courts but related to "cases as such" - ex. conditional release, pardons, cases of extradition of defendants and transfer of convicted persons, agreement on the testimony of a defendant and convicted person, legal aid cases between domestic courts in criminal matters, for assistance and support to victims and witnesses, enforcement of criminal sanctions up to one year, enforcement of criminal sanctions, enforcement of alternative sanctions, outgoing and incoming letters rogatory in the criminal matter.

#### 4.2.3. Case flow management – second instance

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

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court (Please insert NA for category 2)
<b>Total of other than criminal law cases (1+2+3+4)</b>	47097 [ ] NA [ ] NAP	121955 [ ] NA [ ] NAP	115512 [ ] NA [ ] NAP	53540 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)</b>	42756 [ ] NA [ ] NAP	115890 [ ] NA [ ] NAP	106155 [ ] NA [ ] NAP	52491 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Non litigious cases (2.1+2.2+2.3)</b>	4341 [ ] NA [ ] NAP	6065 [ ] NA [ ] NAP	9357 [ ] NA [ ] NAP	1049 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	309 [ ] NA [ ] NAP	2726 [ ] NA [ ] NAP	2752 [ ] NA [ ] NAP	283 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.1. Non litigious land registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.2 Non-litigious business registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.2.3. Other registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2.3. Other non-litigious cases</b>	4032 [ ] NA [ ] NAP	3339 [ ] NA [ ] NAP	6605 [ ] NA [ ] NAP	766 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>3. Administrative law cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>4. Other cases</b>	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments The answer to question 97.1. includes the following categories: for courts of appeal (Gž, Gž1, Gž2, Gž3, Gž-uz, Gž1-uz, Gž3,

Gž4, Gž rr, R, R1), higher courts (GŽ, GŽ1, GŽ2, Gž rr), the Commercial Court of Appeal (Pž, R), and the Misdemeanor Court of Appeal (Pž-uz). These are: cases before Appellate Courts in which decisions are made on appeals against decisions of first instance courts in civil disputes, in particular in labor, family, media, and copyright disputes, in connection with whistleblowing;

Before higher courts: litigious proceedings involving appeals (small appellation);

Before the Commercial Court of Appeal: second instance commercial proceedings involving appeals, conflict and delegation of jurisdiction between commercial courts;

Before the Misdemeanor Court of Appeal: proceedings involving appeals against first instance decisions of misdemeanor courts in cases related to whistleblowers and conflict and delegation of jurisdiction between misdemeanor courts (cases not misdemeanour as such).

Under 2.2, the following categories were included: for courts of appeal (Reh-ž, R3, R4), the Commercial Court of Appeal (Pvž).

Proceedings involving appeals (where allowed) pertaining to cases from question 91.2.1, second instance enforcement proceedings, Under 2.3, the following categories were included - "Cases pertaining to making decisions within a reasonable time in civil and criminal matters": for courts of appeal (R4 g, R4 k, R4 r, Rž k, Rž g, Rž r, Ržk Po1, Ržk Po2), higher courts (Rž k, Rž g, Rž r), the Commercial Court of Appeal (R4 p, R4 st, R4 i, R4 pp, R4 fi, R4 vr, Pž p, Pž st, Pž i, Pž pp, Pž fi, Pž vr), and the Misdemeanor Court of Appeal (R4 p (01, 02, 03), R4 op, Rž p (01, 02, 03), Rž op). Also included in this category are the cases of appeals to the first instance court decisions on complaints against the work of notaries (Gž-jb)(52 cases incoming in 2016). The column "Pending cases older than 2 years from the date the case came to the second instance court" shows only NA as it is possible to extract these cases for higher and commercial appellate court, while for appeals courts cases older than 9 months are calculated, in accordance with the Civil Procedure Code. The Misdemeanor Court of Appeal has no cases older than two years, in accordance with the Law on Misdemeanors. As we have excluded many cases from the "other cases" category in 91., for the included categories, for the second instance cases the answer is 0. As concerns the category "civil and commercial litigious cases", the increase in the number of incoming and pending on 31 December 2016 cases is explained by the fact that comparative data on incoming cases in all courts in the Republic of Serbia indicates a significant increase in influx in 2015 and 2016.

In respect of "civil and commercial litigious cases", comparative data on incoming cases in all courts in the Republic of Serbia (influx of new cases) indicates a significant increase in influx in 2015 and 2016.

With regard to "non-litigious cases", and more particularly "other non-litigious cases", it should be pointed out that amendments to the Law on the Court Organization and the new Law on Protection of the Right to a Trial within a Reasonable Time have shifted responsibility for protection of this right from the Constitutional Court to the courts of general and special jurisdiction. This has led to the filing of a large number of motions to that effect with all Serbian courts, including objections requesting acceleration of proceedings and claims for compensation for both tangible and intangible damage. The upward trend in new cases, first seen in 2015, continued into 2016, with a total of 35.815 such cases heard by all Serbian courts.

Concerning the category "other", cases in the proceedings for protection of right to a trial within a reasonable time have been transferred to 2.3.

## 098. (Modified question) Second instance courts (appeal): number of criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court
<b>Total of criminal law cases (1+2)</b>	3539 [ ] NA [ ] NAP	54948 [ ] NA [ ] NAP	55035 [ ] NA [ ] NAP	3452 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>1. Severe criminal cases</b>	1864 [ ] NA [ ] NAP	28131 [ ] NA [ ] NAP	28272 [ ] NA [ ] NAP	1723 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	1675 [ ] NA [ ] NAP	26817 [ ] NA [ ] NAP	26763 [ ] NA [ ] NAP	1729 [ ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments The number of cases presented is the number of cases from the Report of the SCC for 2016. The analysis of the work of the courts determined that in 2016 the number of criminal cases was reduced due to the application of the principle of opportunity, in accordance with the new Code of Criminal Procedure.

The answer to question 98 in field 1 includes the following categories: Before courts of appeal: criminal proceedings involving appeals on first instance and second instance verdicts and decisions (separated registers in second instance by special departments); criminal proceedings against minors involving appeals; Before higher courts: criminal proceedings involving appeals (small appeal).

98.2 includes the following categories: for the Commercial Court of Appeal (Pkž), and the Misdemeanor Court of Appeal (PRŽ, PRŽM, PRŽI, PRŽU). These are the second instance proceedings before the Commercial and the Misdemeanor Court of Appeal regarding cases of commercial and misdemeanor courts as defined in question 94.2.

Column "Pending cases older than 2 years from the date the case came to the second instance court" is marked as NA since the requested data is not in gathered (Criminal Procedure Code methodology differs).

In relation to the previous reporting period, the following changes have been made: Field 1 also shows new categories of cases in courts of appeal (ex. KŽ2-Po3-Spk).

Q94.2: in 2014, 9,879 additional cases were handled by the Misdemeanor Appellate Court in addition to ordinary work, due to transfer of jurisdiction on appeals to decisions of administrative bodies, from 1 March 2014. By 2016, these cases have been absorbed and handled by the system, but a backlog remains. Besides, unlike the previous cycle, "other cases" which relate to criminal (94.1)/misdemeanour (94.2) cases and which are not "cases per se" even if a judge is intervening, have not been taken into account (5 pending cases, 1,371 incoming cases, 1,366 resolved, 10 pending at the end of the year (ex. related to decisions on detaining accused, competence issues, etc.)).

#### 4.2.4. Case flow management – Supreme Court



**099. (Modified question) Highest instance courts (Supreme Court): number of “other than criminal law” cases.**

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the Supreme court (Please insert NA for category 2))
<b>Total of other than criminal law cases (1+2+3+4)</b>	5073 [ ] NA [ ] NAP	11149 [ ] NA [ ] NAP	10633 [ ] NA [ ] NAP	5589 [ ] NA [ ] NAP	3966 [ ] NA [ ] NAP
<b>1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)</b>	3559 [ ] NA [ ] NAP	7018 [ ] NA [ ] NAP	5893 [ ] NA [ ] NAP	4684 [ ] NA [ ] NAP	3966 [ ] NA [ ] NAP
<b>2. Non litigious cases (2.1+2.2+2.3)</b>	1297 [ ] NA [ ] NAP	3465 [ ] NA [ ] NAP	3991 [ ] NA [ ] NAP	771 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.1. Non litigious land registry cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.2 Non-litigious business registry cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.3. Other registry cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.3. Other non-litigious cases</b>	1297 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3465 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3991 <input type="checkbox"/> NA <input type="checkbox"/> NAP	771 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Administrative law cases</b>	217 <input type="checkbox"/> NA <input type="checkbox"/> NAP	666 <input type="checkbox"/> NA <input type="checkbox"/> NAP	749 <input type="checkbox"/> NA <input type="checkbox"/> NAP	134 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Other cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments The answer to question 99 in field 1 shows cases of the Civil Department without registers (SPP, SPP1, R1, R).

Field 2.3. shows registers (SPP, SPP1, R1, R) and cases of the Department for Trial within a reasonable period.

Field 3 shows cases of the Administrative Department.

Note:

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

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

In the period from 2012 to 2016, the Supreme Court of Cassation received twice as many cases than expected, not counting the cases delegated by the Higher Courts in Belgrade and Novi Sad in 2013 and 2015 (5. 000 + 7.000), as a consequence of changes in regulation on the jurisdiction of the Supreme Court of Cassation, reduction of the review threshold to 40.000 € in RSD equivalent, introduction of a special revision as a new extraordinary legal remedy, as well as the expansion of the jurisdiction of the highest court to decide on the revision, i.e. to decide on the new extraordinary legal remedies. The number of disposed cases was, in general, followed by an increased inflow, but the clearance rate was below 100%, so the Supreme Court of Cassation couldn't absorb the increased inflow and reduce its backlog, which is why the number of pending cases continued to grow every year, and the increase in the number of pending cases was especially pronounced in the period from 2014 to 2016. The busiest departments of the Supreme Court of Cassation were the Civil Department and the Department for protection of the right to trial within reasonable time. The largest increase in inflow occurred in the Civil Department, while a slight increase of inflow was also noticed in the Criminal Department. The Civil Department, with the existing number of judges (18) and judicial assistants that are assigned to this department, were not able to absorb the inflow of cases recorded in 2015 and 2016. The increased inflow of cases in the Civil Department is the result of the reduction of the revision threshold, new basis for revision and new legal remedies that the Supreme Court of Cassation decides on in this matter.

Amendments to the Law on the Court Organization and the new Law on Protection of the Right to a Trial within a Reasonable Time have shifted responsibility for protection of this right from the Constitutional Court to the courts of general and special jurisdiction. This has led to the filing of a large number of motions to that effect with all Serbian courts, including objections requesting acceleration of proceedings and claims for compensation for both tangible and intangible damage. The upward trend in new cases, first seen in 2015, continued into 2016, with a total of 35.815 such cases heard by all Serbian courts. Of these, 30.966 were disposed, whereas the number of pending cases fell from 9.961 at the beginning of the reporting period to 4.849 at year-end.

In respect of administrative law cases, it should be noticed that there were more incoming cases in 2015.

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

( X ) Yes, please indicate the number of cases closed by this procedure:NA

( ) No

Comments

**100. (Modified question) Highest instance courts (Supreme Court): number of criminal law cases.**

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the Supreme court
<b>Total of criminal law cases (1+2)</b>	242 [ ] NA [ ] NAP	1898 [ ] NA [ ] NAP	1824 [ ] NA [ ] NAP	316 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>1. Severe criminal cases</b>	238 [ ] NA [ ] NAP	1853 [ ] NA [ ] NAP	1781 [ ] NA [ ] NAP	310 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	4 [ ] NA [ ] NAP	45 [ ] NA [ ] NAP	43 [ ] NA [ ] NAP	6 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP

Comments Note:

The answer to question 100 in field 1 includes cases of the Criminal Department without registers (KZZP, KZZPR, KRRZ).

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

In the period from 2012 to 2016, the Supreme Court of Cassation received twice as many cases than expected, not counting the cases delegated by the Higher Courts in Belgrade and Novi Sad in 2013 and 2015 (5. 000 + 7.000), as a consequence of changes in regulation on the jurisdiction of the Supreme Court of Cassation, reduction of the review threshold to 40.000 € in RSD equivalent, introduction of a special revision as a new extraordinary legal remedy, as well as the expansion of the jurisdiction of the highest court to decide on the revision, i.e. to decide on the new extraordinary legal remedies. The number of disposed cases was, in general, followed by an increased inflow, but the clearance rate was below 100%, so the Supreme Court of Cassation couldn't absorb the increased inflow and reduce its backlog, which is why the number of pending cases continued to grow every year, and the increase in the number of pending cases was especially pronounced in the period from 2014 to 2016. The busiest departments of the Supreme Court of Cassation were the Civil Department and the Department for protection of the right to trial within reasonable time. The largest increase in inflow occurred in the Civil Department, while a slight increase of inflow was also noticed in the Criminal Department.

**4.2.5. Case flow management – specific cases**

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

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec ref. year
<b>Litigious divorce cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Employment dismissal cases</b>	38639 [ ] NA [ ] NAP	33389 [ ] NA [ ] NAP	38309 [ ] NA [ ] NAP	33719 [ ] NA [ ] NAP
<b>Insolvency</b>	2010 [ ] NA [ ] NAP	832 [ ] NA [ ] NAP	806 [ ] NA [ ] NAP	2036 [ ] NA [ ] NAP

<b>Robbery case</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Intentional homicide</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Cases relating to asylum seekers (refugee status under the 1951 Geneva Convention)</b>	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP	24 <input type="checkbox"/> NA <input type="checkbox"/> NAP	9 <input type="checkbox"/> NA <input type="checkbox"/> NAP	18 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Cases relating to the right of entry and stay for aliens</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments The answer to question 101 in criterion "Cases of labor disputes " shows register (P1) of basic and higher courts. Bankruptcy proceeding - register (St) of commercial courts.

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

. Protection of refugees in the Republic of Serbia is regulated by the Law on Asylum ("Official Gazette of RS", no. 109/2007). With respect to asylum applications and the cessation of the right to asylum, the competent organizational unit of the Ministry of the Interior, the Asylum Office, conducts the procedure and takes all decisions in the first instance (Art. 19), while the Asylum Commission, as a second instance, decides on complaints lodged against the decisions brought by the Asylum Office (Art. 20). Against the negative decision of the Asylum Commission, an asylum seeker is entitled to a lawsuit with suspensive effect which may be lodged to the Administrative Court. The judgement of the Administrative Court is final. The asylum seeker is entitled to file extraordinary legal remedies and constitutional appeal, which do not have a suspensive effect.

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

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



	% of decisions subject to appeal	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)	% of cases pending for more than 3 years for all instances
<b>Litigious divorce case</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Employment dismissal case</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	321 <input type="checkbox"/> NA <input type="checkbox"/> NAP	117 <input type="checkbox"/> NA <input type="checkbox"/> NAP	325 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Insolvency</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	922 <input type="checkbox"/> NA <input type="checkbox"/> NAP	30 <input type="checkbox"/> NA <input type="checkbox"/> NAP	121 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Robbery case</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Intentional homicide</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

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

. Please see general comments.

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

. In order to calculate the average length of the court proceedings in days for the first and second instance, both for the Employment dismissal case and insolvency categories, the following formula was used: pending / resolved \* 365

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



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

- to conduct or supervise police investigation
- to conduct investigations
- when necessary, to request investigation measures from the judge
- to charge
- to present the case in court

to propose a sentence to the judge

to appeal

to supervise the enforcement procedure

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

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

other significant powers (please specify): A plea agreement may be concluded by the public prosecutor and the defendant from the moment of issuance of an order to conduct an investigation until the defendant states his position in relation to the charges at trial.

Comments Category: "To end the case by imposing or negotiating a penalty or measure without requiring a judicial decision" refers to deferring criminal prosecution (opportunity principle).

"Other": a plea agreement may be concluded by the public prosecutor and the defendant from the moment of issuance of an order to conduct an investigation until the defendant states his position in relation to the charges at trial.

**106. (Modified question) Does the public prosecutor also have a role in:**

civil cases

administrative cases

insolvency cases

Comments - If yes, please specify:

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

	Received during the reference year	Discontinued during the reference year (see Q108 below)	Concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases brought to court
<b>Total number of first instance cases processed by the public prosecutor</b>	113191 <input type="checkbox"/> NA <input type="checkbox"/> NAP	67000 <input type="checkbox"/> NA <input type="checkbox"/> NAP	25224 <input type="checkbox"/> NA <input type="checkbox"/> NAP	41547 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments In the 2014 cycle we supplied data for both cases received in the reference year and the ones received in the previous years but handled by the public prosecutors during the ref. year, as this number gives a realistic picture of the amount of cases handled in the year. We have given in this cycle data on only new cases, as the question requires. For information, in 2014, there were 113194 newly received cases by the public prosecutor. As concerns cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor: greater use of opportunity and other simplified procedural forms pursuant to the National Judicial Reform Strategy, Strategic guideline no. 5.3.1.: wider implementation of the simplified procedural forms and institutes such as plea bargaining, implementation of the principle of opportunity in criminal prosecution and directing parties towards alternative dispute resolution methods (such as mediation) whenever allowed by legislative framework (activity: Broader application of actions based on the opportunity of criminal prosecution)

**107-1. (Modified question) If the guilty plea procedures exist, how many cases were brought to court by the prosecutor through this procedure?**

	Number of guilty plea procedures
<b>Total</b>	4934 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Before the court case</b>	664 <input type="checkbox"/> NA <input type="checkbox"/> NAP

**During the court case**

4270

NA

NAP

Comments During 2016, proposals of the Public Prosecutor or the defendant and his defense attorney to conclude the guilty plea agreement were made regarding 3447 defendants before the indictment was filed, and regarding 1548 defendants after the filing of the indictment. Out of the total number of proposals (4995), plea agreements were signed with 4934 defendants (not all proposals were accepted). (Republic Public Prosecution Office data). The RPPO does not differentiate between the filed proposals before the court procedure/during the court procedure.

The SCC supplied the number of cases during the court cases by calculating the total received cases in "SPC- sporazum o priznanju krivice – plea bargaining" registries for Basic and Higher Courts.

Variations between 2014 and 2016: the new Criminal Procedure Code, whose implementation started on 1.10.2013 for prosecutors' offices of general jurisdiction, provides the possibility of signing the plea agreement for any criminal offense, regardless of stipulated sentence, which enabled signing of plea agreements in more cases. Furthermore, a plea agreement according to the new Code may be concluded by the public prosecutor and the defendant from the moment of issuance of an order to conduct an investigation until the end of trial, which also provides more opportunity for conclusion of plea agreements. During 2014, proposal of the Public Prosecutor or the defendant and his defence attorney to conclude this agreement was made regarding 1559 defendants before the indictment was filed, and regarding 955 defendants after the filing of the indictment. Out of that number of proposals (regarding 2514 defendants), plea agreements were concluded with 2054 defendants.

### 108. Total cases which were discontinued by the public prosecutor:

	Number of cases
<b>Total cases which were discontinued by the public prosecutor (1+2+3)</b>	67000 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Discontinued by the public prosecutor because the offender could not be identified</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation</b>	46710 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Discontinued by the public prosecutor for reasons of opportunity</b>	20290 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments Discontinuation by the public prosecutor is not possible because the offender could not be identified (not a basis for discontinuation)

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

Yes

No

Comments

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

Sources: Q's: 91, 94, 97, 98, 99, 100, 101, 102 - Supreme Court of Cassation;  
Q's: 107, 107.1, 108 – Republic Public Prosecutor's Office;  
Q 101.1: Law on Asylum ("Official Gazette of RS", no. 109/2007)  
Law on Foreigners ("Official Gazette of RS", no. 97/2008)

## 5. Career of judges and public prosecutors

### 5.1. Recruitment and promotion

#### 5.1.1. Recruitment and promotion of judges

##### 110. (Modified question) How are judges recruited?

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

Comments Judges and deputy-prosecutors in Serbia are elected for the first time for a three-year term of office by the National Assembly among one or more candidates nominated respectively by the High Judicial Council (further HJC) or the State Prosecutorial Council (further SPC). After three years of service and upon high evaluation the judges and deputy-prosecutors are appointed to a permanent office respectively by the HJC and SPC.

According to the initial text of the Law (Article 40, paragraphs 8, 9 and 11) the HJC and SPC were obliged to select with priority the graduates of the Judicial Academy when proposing candidates for election. They could propose other candidates only if there were no JA graduates applying. By decision of the Constitutional Court as of 6 February 2014 (case No 497/2011) those provisions were declared unconstitutional.

Currently there exist two parallel ways of access to the career of a judge or a prosecutor:

-As a judicial or prosecutorial assistant

-As a graduate of the Judicial Academy Most of the candidates for appointment to the office of a judge or a prosecutor are judicial or prosecutorial assistants, which is the traditional (and still the principal in term of number of appointments) way of access to the judicial career.

The legal status and the functions of judicial and prosecutorial assistants are regulated by the Law on Organisation of Courts (Articles 57-64), respectively by the Law on Public Prosecution (Articles 117-121) and are generally identical.

Their number is determined by each court president or head of Public Prosecution Office (further PPO) for his/her court, respectively PPO.

Selection and appointment is made by the court president, respectively the head of the PPO, usually among the judicial and prosecutorial interns. The law gives the latter the privilege of being permanently employed as judicial or prosecutorial assistants in case they pass the bar exam "with distinction".

On the other hand, the HJC and SPC approve the number of "beneficiaries of initial training" to be admitted every year for initial training at the Academy (Article 26). The entrance exams and the graduation criteria are vaguely regulated by the Law. The Academy establishes its own procedures and criteria for admission of candidates (Article 31, paragraph 3) as well as for the final examination (Article 37, paragraph 4). The Selection Committee is appointed by the Program Council of the Academy (Article 32). During the initial training the trainees are assessed by the trainers and the mentors (Article 36) who are also appointed by the Academy.

The trainees are employed by the Academy for a period of 30 months during which they receive a salary amounting to 70 % of the basic salary of a basic court judge.

Recruitment and promotion reform remains one of the main reform areas within the Action Plan for Chapter 23: judicial independence, which calls upon adoption of a legal and institutional framework in accordance with European standards (ex. See activities 1.1.3.1, 1.1.3.2), and that the Councils make decisions on election, promotion and dismissal of holders of judicial offices, according to the new criteria. Please see: <https://www.mpravde.gov.rs/files/Report%20no.%204-2017%20on%20implementation%20of%20Action%20plan%20for%20Chapter%2023.pdf>.

The National Assembly passed the Law on Amendments to the Law on Judges, which was published in the Official Gazette of RS, No. 40 on 7 May 2015. By means of modifications and amendments to the Law on Judges rules have been prescribed on the basis of which the High Judicial Council would particularly evaluate the completed initial training at the Judicial Academy and determine the candidates' competence and training for the first appointment to the judicial post in basic court and misdemeanor court verified in an exam organized by the High Judicial Council. The candidates who completed initial training with the Judicial Academy are exempted from the obligatory exam and the criteria for competence and qualification evaluation for judicial position is the final exam grade achieved in the basic training at the Academy. The rules also prescribe the time frame for the High Judicial Council approval of the programme and the method of passing of the exam provided by the law.

### **110-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting judges?**

Yes

No

Comments - If yes, please specify: Article 46 of the Law on Judges stipulates that when electing a judge and proposing the election of a judge, discrimination on any grounds is prohibited. Also, the Rulebook on Criteria and Standards for the Evaluation of Expertise, Competence and Worthiness of Candidates for Judges who are Being Elected for the First Time (enacted by the HJC on 15th November 2016) prescribes that in the process of proposing a candidate for a judge who are being elected for the first time, discrimination on any grounds is prohibited.

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

an authority made up of judges only

an authority made up of non-judges only

an authority made up of judges and non-judges

Comments - Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of judges. If there are several authorities, please describe their respective roles: The Rulebook on Criteria and Standards for Evaluation of Expertise, Competence and Worthiness of Candidates for Judges who are being Elected for the First Time, enacted by the HJC on 15th November 2016, additionally establishes the program and manner of taking the exam which assesses the expertise and competence of candidates for judges, the authorities responsible for organizing and conducting the examination, manner of scoring and evaluation of the candidate, the manner of determining the final ranking of candidates, as well as other issues of importance for the proposal of candidates for judges who are being elected for the first time. The purpose of the Rulebook is to establish objective criteria and standards for assessing the expertise and competence of the candidates that are used in the procedure of proposing candidates for the judges who are being elected for the first time.

The High Judicial Council announces the open call for election for judges in the "Official Gazette of the RS" and the daily magazine "Politika", in order to fill vacant judicial positions in courts in the Republic of Serbia. The authorities competent for carrying out the examination based on which the expertise and competence of candidates for judges who are being elected for the first time are assessed are the Examination Committee and the Committee in charge of the complaints, appointed by the Council for each announced election. It should be noted, however, that at a session held on December 27, 2017, High Judicial Council decided to withdraw the proposal from October 24th and December 20th, 2017, of a decision to elect judges who were elected for the first time in Commercial Court in Belgrade, the Commercial Court in Zrenjanin, the Commercial Court in Leskovac, the Commercial Court in Kragujevac and in Administrative Court, bearing in mind the Decision of the Constitutional Court number: I Uo-215/2017. from December 26th 2017 -initiation the procedure for establishing the illegality of the the Rulebook on criteria and standards for the evaluation of expertise, competence and worthiness of candidates for judges who are being elected for the first time, and ordered to suspend the execution of the individual acts and actions taken according this Rulebook.

Following the Decision of the Constitutional Court, a new HCC Rulebook on the Program and the Exam Procedure on Assessment of the Competence and Capabilities of Candidates for Judges for the First-time Judges was enacted in order to harmonise the procedure according to the legal reasoning of the decision ("Official Gazette of RS" no. 7/2018 from 26 January 2018).

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

Yes

No

Comments The High Court Council

### 112-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting judges?

Yes

No

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

## 113. What is the procedure for judges to be promoted? (multiple answers possible)

Competitive test / Exam

Other procedure (interview or other)

No special procedure

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

Work of all judges and presidents of the courts is subject to regular evaluation. Performance evaluation involves all aspects of a judge's work and/or work of a president of the court, and represents the basis for the election, mandatory training of judges, and dismissal. Evaluation is conducted based on publicised, objective and uniform criteria and standards, in a single procedure ensuring the participation of the judge and/or president of the court whose performance is being evaluated. The criteria, standards, and procedure for the performance evaluation of judges and/or president of the courts are pursuant to the Law on Judges and Law on HJC set by the High Judicial Council through a bylaw enacted in July 2014, applicable as of 1 July 2015.

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

Years of experience

Professional skills (and/or qualitative performance)

Performance (quantitative)

Assessment results

Subjective criteria (e.g. integrity, reputation)

Other

No criteria

Comments - Please specify any useful comment regarding the criteria (especially if you have checked the box "performance" or "other"): In accordance with the Law on Judges, after passing of the bar exam, work experience in legal profession is required:

- two years for a judge of a misdemeanor court;

- three years for a judge of a basic court;

- six years for a judge of a higher court, a commercial court, and the Misdemeanor Court of Appeal;

- ten years for a judge of a court of appeal, the Commercial Court of Appeal, and the Administrative Court;
- twelve years for a judge of the Supreme Court of Cassation.

The High Judicial Council on a session held on 02.07.2009 passed the Decision on criteria and standards for assessing the qualifications, competence and worthiness of judges and court presidents. Considering that High Judicial Council on a session held on 08.05.2015 adopted amendments on Rulebook on the criteria, standards and procedure for the performance evaluation of judges and/or court presidents, it formed a working group to establish new criteria and standards for judges' election, having in mind provisions adopted in the Rulebook. 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 was enacted on 15th November 2016 by the High Court Council. The provision of Article 4 of the Rulebook envisages the following criteria and standards: expertise, which implies possession of theoretical and practical knowledge necessary to perform the judicial function, competence which includes skills that enable the efficient application of specific juridical knowledge in solving cases, whereas the standard for assessing the expertise and the competence for the election of judges with permanent tenure to another or higher court is performance evaluation grade (results of work), in the last three years. Worthiness shall mean ethical qualities a judge should possess and behavior in accordance with those qualities, and it shall be assumed.

#### **114. (Modified question) Is there a system of qualitative individual assessment of the judges' work?**

Yes

No

Comments According to the Law on Judges, performance evaluation of judges and court presidents is evaluated by commissions of the High Judicial Council. The commissions are composed of three members, whereby judges of higher instance evaluate the work of judges and court presidents at lower instance. Objections to evaluation are decided on by the commission composed of three members appointed by the Council from among judges of the Supreme Court of Cassation (article 33). Performance of judges with tenure of office and court presidents is regularly evaluated once in three years and of judges elected for the first time once a year. The Council adopted a Rulebook for the evaluation of the work of judges and court presidents, which is being applied as of 1st July 2015.

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

Annual

Less frequent

More frequent

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

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

statutory independent

under the authority of the Minister of justice or another central authority

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

Comments - When appropriate, please specify the objective guarantees of this independence (transfer, appointment...). Constitutional and Law definition is "autonomous". It's rightfully stated that on some occasion's legal framework is using word "independence". Yet,

framework is using “autonomous” in the first place. Difference lays in the meaning of the subject matter. Namely, Public Prosecutors and Deputies are independent towards everyone outside of Prosecution service, while they are autonomous inside of it, since higher ranked Prosecutor, in accordance with the Law, can issue mandatory instruction for case management. This kind of instructions is not possible in the Court system, thus the difference.

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

Yes

No

Comments - If yes, please specify:

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

mainly through a competitive exam (open competition)

mainly through a recruitment procedure for experienced legal professionals (for example experienced lawyers)

a combination of both (competitive exam and working experience)

other (please specify): .....

Comments In accordance with the Law on Public Prosecution, a citizen of the Republic of Serbia may be elected as a public prosecutor and deputy public prosecutor if he/she fulfils the general requirements for employment in government authorities, is a law school graduate with a passed Bar Exam, and is worthy of the office of a public prosecutor. In addition to general requirements, the person must have experience in the legal profession after passing the Bar Exam, as follows: - 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 prosecutors and deputy public prosecutor with special jurisdiction; - twelve years for the Republic Prosecutor and eleven years for Deputy of Republic Prosecutor. In the process of proposing candidates for the election of deputy public prosecutors for the first time, the SPC applied the Rulebook on criteria and standards for evaluation of qualification, competence and worthiness of candidates when proposing deputy public prosecutors elected for the first time (“Official Gazette of the Republic of Serbia”, No. 80/16. Furthermore, at the session of the State Prosecutorial Council held on 7th of September 2017 the new 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 was adopted (“Official Gazette of the Republic of Serbia”, No. 82/2017, from 8th of September 2017). Provisions of the new Rulebook define program and rules for taking the anonymous exam, as well as criteria for assessment of qualification and competencies of a candidate. The Rulebook is in line with Article 77a of the Law on Public Prosecution Office, and it stipulates that candidates who passed initial education at the Judicial Academy do not need to take the exam, conducted by the examination commission of the State Prosecutorial Council. The Rulebook foresees transparency of the election procedure also by setting the obligation to post the exam results at the Council web page. According to Law on Public Prosecution Office, SPC has a competence to elect first-time deputy prosecutors to a permanent function, after a three-years period.

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

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

an authority composed of public prosecutors only

an authority composed of non-public prosecutors only

an authority composed of public prosecutors and non-public prosecutors

Comments - Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of public



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

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

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

**117-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting prosecutors?**

Yes

No

Comments - If yes, please specify:

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

Yes

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

Comments

**119. What is the procedure for prosecutors to be promoted? (multiple answers possible)**

Competitive test / exam

Other procedure (interview or other)

No special procedure

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

**119-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting prosecutors?**

Yes

No

Comments - If yes, please specify:

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

Years of experience

Professional skills (and/or qualitative performance)

Performance (quantitative)

Assessment results

Subjective criteria (e.g. integrity, reputation)

Other

No criteria

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

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

Yes

No

Comments

### 5.1.3.Mandate and retirement of judges and prosecutors

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

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

No

Comments - If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify: 65 years of age / 67 for judges of the Supreme Court of Cassation

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

For disciplinary reasons

For organisational reasons

For other reasons (please specify modalities and safeguards): .....

No

Comments The High Judicial Council, in 2016 passed 14 decisions on the transfer of judges, as follows: 12 decisions on the transfer of basic court judges, one decision on the transfer of misdemeanor court judge, and one decision on the transfer of commercial court judge. The High Judicial Council passed six decisions on the assignment of a judge to another court. Pursuant to Article 13 paragraph 5 of the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Severe Criminal Offences, the High Judicial Council assigned one judge to the Special Department of the Higher Court in Belgrade to a period of one year.

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

Yes, duration of the probation period (in years):3

No

NAP

Comments

## 123. Are public prosecutors appointed to office for an undetermined period (i.e. "for life" = until

the official age of retirement)?

( ) Yes, please indicate the compulsory retirement age: .....

( X ) No

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

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

( X ) Yes, duration of the probation period (in years):3

( ) No

Comments

**125. If the mandate for judges is not for an undetermined period (see question 121), what is the length of the mandate (in years)? Is it renewable?**

( ) Yes, what is the length of the mandate (in years)? .....

( X ) No

Comments

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

( X ) Yes, what is the length of the mandate (in years)?6 years (public prosecutors)

( ) No, what is the length of the mandate (in years)? .....

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

## 5.2.Training

### 5.2.1.Training of judges

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

	Compulsory	Optional	No training proposed
<b>Initial training (e.g. attend a judicial school, traineeship in the court)</b>	( ) Yes ( X ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
<b>General in-service training</b>	( ) Yes ( X ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
<b>In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)</b>	( X ) Yes ( ) No	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>In-service training for management functions of the court (e.g. court president)</b>	( ) Yes ( X ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
<b>In-service training for the use of computer facilities in courts</b>	( ) Yes ( X ) No	( ) Yes ( X ) No	( X ) Yes ( ) No

Comments Please see comment to Q110 for more information on initial training.

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

	Frequency of the judges training
General in-service training	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	<input type="checkbox"/> Regularly (for example every year) <input checked="" type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for management functions of the court (e.g. court president)	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for the use of computer facilities in courts	<input type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input checked="" type="checkbox"/> No training proposed

Comments - Please indicate any information on the periodicity of the continuous training of judges:

## 5.2.2. Training of prosecutors

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

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

Comments In-service training for management functions of the court - Previously this training was designed and offered while there was support by the SPP USAID project, and subsequently was not proposed for heads of prosecution offices.

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

Frequency of the in-service training
--------------------------------------

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

Comments - Please indicate any information on the periodicity of the in-service training of prosecutors: Training is organised on a needs basis, also depending on whether project support exists in certain areas (ex. for management functions, IT).

In-service training for specialised functions - When new competences are introduced by new legislation or when requested by the RPPO or the specialized prosecution office itself, the Academy is providing training.

In-service training for management functions of the court (Previously this training was designed and offered while there was support by the SPP USAID project, and after that was not proposed for heads of prosecution offices.

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

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

Comments

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

	Budget of the institution for the reference year, in €
<b>One institution for judges</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>One institution for prosecutors</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>One single institution for both judges and prosecutors</b>	2272696 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments The stated budget includes state budgetary resources (RSD 246,736,000) and foreign donations (RSD 33,879,000).

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

. Currently, there exist two parallel ways of access to the career of a judge or a prosecutor: as a judicial or prosecutorial assistant (or any other candidate who fulfils the condition prescribed by Law) or as a Judicial Academy (JA) graduate. The Judicial Academy has initial training, for candidates who can apply to calls for election of judges and public prosecutors. In addition to the Academy, candidates who successfully concluded initial training, judicial assistants who successfully pass tests organized by the State Prosecutorial Council and the High Court Council are also eligible for the elections.

Judges and prosecutors appointed for the first time who have not attended initial training must attend a mandatory special continuing programme. Since recently there is a possibility to assign a judge or a prosecutor to mandatory training as a result of the evaluation procedure; however until now there was no such case as the regular 3-year evaluation will take place only in 2018.

The candidates who successfully pass the admission exam to the JA become the users of the initial training which lasts for 30 months. The initial training is composed of practical and theoretical education, with knowledge and skill testing. In the past three years (2014-2016), 196 judges and deputy-prosecutors were appointed (elected) at first instance level, out of which only 21 (10.7 %) have graduated the Judicial Academy. The remaining 175 (89.3 %) were selected among the judicial and prosecutorial assistants. Those 175 appointments represent 9.7 % of the total number of judicial and prosecutorial assistants. On the other hand, 76% of the JA graduates from the past three years have not been appointed (elected) yet (Assessment Report on Judicial Training, drafted as part of the TAIEX Peer Review Mission conducted in the period 7-9 June 2017).

On the other hand, the continuous training is prepared and conducted for judges and prosecutors, judicial and prosecutorial staff and other legal professionals. Therefore, even though the initial training is not obligatory, judges and prosecutors who are already in the functions are trained through the continuous training organized by the Judicial Academy. The training is voluntary in principle although training on some topics may become mandatory if requested by law or by decision of the HJC or SPC. There is neither a required nor a guaranteed minimum of training per year. Participation in continuing training is neither considered by the law as a criterion for the evaluation of judges and prosecutors by the HJC or SPC nor does the JA have a role in it.

The Rulebook on the Criteria, Standards and Procedure for Evaluation of Judicial Assistants' Performance, has been enacted by the High Judicial Council on 29 March 2016 and effective as of 1 June 2016 with the aim to objectively and impartially determine the work performance of judicial assistants, advancement, maintenance and enhancement of expertise and capabilities of judicial assistants, stimulate judicial assistants in achieving best possible work results, and enhance efficiency of courts. Performance of a judicial assistant shall be evaluated once a year, whereas the results achieved in executing tasks and work objectives shall be evaluated on a semi-annual basis. Opinion on the judicial assistant performance together with the proposed grade shall be issued by the session of the department which the judicial assistant has been assigned to, or judge or council judicial assistant has been working with, unless they have been assigned to the court department- grade proponent. Judicial assistant's performance shall be evaluated by the court president, after obtaining the opinion of the grade proponent.

**5.3.Practice of the profession**

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



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

	Gross annual salary, in €	Net annual salary, in €	Gross annual salary, in local currency	Net annual salary, in local currency
First instance professional judge at the beginning of his/her career	14923 [ ] NA [ ] NAP	8873 [ ] NA [ ] NAP	1842626 [ ] NA [ ] NAP	1095573 [ ] NA [ ] NAP

<b>Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)</b>	34870 [ ] NA [ ] NAP	20733 [ ] NA [ ] NAP	4305482 [ ] NA [ ] NAP	2559918 [ ] NA [ ] NAP
<b>Public prosecutor at the beginning of his/her career</b>	13907 [ ] NA [ ] NAP	8875 [ ] NA [ ] NAP	1717134 [ ] NA [ ] NAP	1093607 [ ] NA [ ] NAP
<b>Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Attorney General).</b>	30313 [ ] NA [ ] NAP	21576 [ ] NA [ ] NAP	3742800 [ ] NA [ ] NAP	2664000 [ ] NA [ ] NAP

Comments Judges' salary is determined by the Law on Judges, the net salary is the product of the grade level (dependent on the type of court) and the base determined by the Law on the Budget of the Republic of Serbia. The data provided relates to: Gross amount, pertaining to the taxes and contributions falling on both the employee and the employer. For judges, instead of giving only the basic salary, the actual salary received by judge in the first instance basic court (5 years' experience) is given and in the Supreme Court of Cassation experienced judge with 25 year's work experience and increase of the basic salary by 30%, is provided.

For prosecutors the average salary for a basic public prosecutor was given and the average salary for the deputy State Prosecutors, who also receive an increase of the basic salary of 30%.

Remuneration of the Republic Public Prosecutor (Supreme Court level): the indicated amounts had a 10% reduction compared to 2014. Gross annual salary of public prosecutors at the beginning of career: the discrepancy between 2014 and 2016 is due to the reduction of salaries in the public sector by 10%, as well as the limit on the additional pay for preparedness and overtime work, which was introduced in 2015 due to budget constraints.

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

	Judges	Public prosecutors
<b>Reduced taxation</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Special pension</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Housing</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Other financial benefit</b>	( ) Yes ( X ) No	( ) Yes ( X ) No

Comments

### 134. If "other financial benefit", please specify:

[ X ] NAP

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

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

Comments - If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If “other function”, please specify. Under the Law on Mediation in Dispute Resolution (“Official Gazette of RS” No. 55/2014), which has become applicable on 1 January 2015, Serbian judges may mediate outside of working hours of the court but may not be paid for their services as mediators. Instead, pursuant to the amendments and supplements to the Rulebook on the Criteria, Standards, Procedures and Authorities for Evaluating the Work of Judges and Court Presidents (“Official Gazette of RS”, no. 81/2014, 142/2014, 41/2015 and 7/2016) which are applicable from 15 July 2015, new criteria in evaluating judges’ quantity of work have been introduced: two cases which are concluded with an agreement on resolving the dispute through mediation are counted as one case solved on the merits. As a limited number of judges (10) have by 2016 showed initiative to register as mediators, the provisions of this rulebook are being reconsidered to allow for greater incentives to perform mediation by judges.

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

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



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

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

- Yes
- No

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

**5.4. Disciplinary procedures**

**5.4.1. Authorities responsible for disciplinary procedures and sanctions**

**140. Who is authorised to initiate disciplinary proceedings against judges (multiple options possible)?**

- Court users
- Relevant Court or hierarchical superior
- High Court / Supreme Court
- High Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power (please specify): .....

Other (please specify): Anyone may file a complaint based on which disciplinary proceedings are formally initiated by the HJC disciplinary prosecutor.

- This is not possible

Comments Anyone may file a complaint based on which disciplinary proceedings are formally initiated by the HJC disciplinary prosecutor.

A judge is dismissed when s/he is convicted of a criminal offense for which s/he is sentenced to unconditional imprisonment of at least six months or of a punishable offense rendering him/her unworthy of judicial office, in the case of unprofessional performance of judicial function, or for committing a serious disciplinary offense.

**141. Who is authorised to initiate disciplinary proceedings against public prosecutors: (multiple options possible):**

- Citizens
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body
- Ombudsman
- Professional body
- Executive power (please specify): .....
- Other (please specify): Anyone may file a complaint/disciplinary charges based on which disciplinary proceedings can be formally initiated by the SPC Disciplinary Prosecutor before the Disciplinary Commission.
- This is not possible

Comments Anyone may file a complaint/disciplinary charges based on which disciplinary proceedings can be formally initiated by the SPC Disciplinary Prosecutor before the Disciplinary Commission.

**142. Which authority has disciplinary power over judges? (multiple options possible)**

- Court
- Higher Court / Supreme Court
- Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power (please specify): .....
- Other (please specify): .....

Comments

**143. Which authority has disciplinary power over public prosecutors? (multiple options possible):**

- Supreme Court
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body
- Ombudsman

Professional body

Executive power (please specify): .....

Other (please specify): .....

Comments A Disciplinary Prosecutor initiates the proceedings before the Disciplinary Commission

### 5.4.2. Number of disciplinary procedures and sanctions

**144. Number of disciplinary proceedings initiated during the reference year against judges and public prosecutors. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)**

	Judges	Prosecutors
<b>Total number (1+2+3+4)</b>	19 <input type="checkbox"/> NA <input type="checkbox"/> NAP	4 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Breach of professional ethics</b>	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Professional inadequacy</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Criminal offence</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Other</b>	18 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If "other", please specify: Judges -"Other": Disciplinary offenses in accordance with Article 90 of the Law on Judges: Paragraph 3 - undue delay in drafting decisions, Paragraph 7 - undue delay of proceedings, Paragraph 10 - disregard of working hours.

**145. Number of sanctions pronounced during the reference year against judges and public prosecutors:**

	Judges	Prosecutors
<b>Total number (total 1 to 9)</b>	10 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Reprimand</b>	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Suspension</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Withdrawal from cases</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Fine</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP

<b>5. Temporary reduction of salary</b>	4 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>6. Position downgrade</b>	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>7. Transfer to another geographical (court) location</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>8. Resignation</b>	2 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>9. Other</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If “other”, please specify. If a significant difference exists between the number of disciplinary proceedings and the number of sanctions, please indicate the reasons. Public prosecutors - "Other": public warning

### E3. Please indicate the sources for answering questions 144 and 145:

Sources: Annual Report of Disciplinary Prosecutor;  
- High Judicial Council; Annual Report of High Judicial Council for 2016, <https://vss.sud.rs/en/reports>; - “The Case Law and Practice in Disciplinary Responsibility of Judges in Serbia” <https://www.osce.org/mission-to-serbia/263891> - Law on Judges (Official Gazette of RS, No. 116/08, 58/09 - Decision of the CCS, 104/09, 101/10, 8/12 - Decision of the CCS, 121/12, 124/12 - Decision of the CCS, 101/13, 111/14 - Decision of the CCS 117/14, 40/15, 63/15 – Decision of the CCS, 106/15, 63/16 Decision of the CCS and 47/17) - Law on the Judicial Council (Official Gazette of RS, No. 116/08, 101/10, 88/11 and 106/15)  
- The by-law of the High Judicial Council (hereinafter HJC) – the Rulebook governing the proceedings for determination of disciplinary accountability of judges and courts presidents (“Official Gazette of RS”, No. 116/08, 101/10, 88/11 and 106/15).

## 6.Lawyers

### 6.1.Profession of lawyer

#### 6.1.1.Status of the profession of lawyers

#### 146. Total number of lawyers practising in your country:

[ 9053 ]

NA

NAP

Comments The total number of lawyers in the Republic of Serbia on 30 January 2017 pursuant to Registry of Lawyers of the Bar Association of Serbia (Serbian lawyers are members of their local/regional bar and the national bar association).

#### 147. Does this figure include “legal advisors” who cannot represent their clients in court (for example, some solicitors or in-house counsellors)?

Yes ( )

No ( X )

Comments

**148. Number of legal advisors who cannot represent their clients in court:**

[            ]

[ ] NA

[ X ] NAP

Comments

**149. (Modified question) Do lawyers have a monopoly on legal representation in (multiple options are possible):**

	First instance	Second instance	Highest instance court (Supreme Court)
Civil cases	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP
Dismissal cases	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
Criminal cases - Defendant	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP
Criminal cases - Victim	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP
Administrative cases	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP
There is no monopoly	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP

Comments - Please, indicate any useful clarifications regarding the content of lawyers' monopoly:

**149-0. (New question) If there is no monopoly, please specify the organisations or persons that may represent a client before a court:**

	First instance	Second instance	Highest instance court (Supreme Court)
Civil society organisation	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
Family member	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
Self-representation	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP

<b>Trade union</b>	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
<b>Other</b>	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP

Comments - If "other", please specify. In addition, please specify for the categories mentioned, the types of cases concerned by this/these representation(s):

**149-1. In addition to the functions of legal representation and legal advice, can a lawyer exercise other activities?**

- Notarial activity
- Arbitration / mediation
- Proxy / representation
- Property manager
- Real estate agent
- Other law activities (please specify): .....

Comments

**149-2. What are the statuses for exercising the legal profession in court?**

- Self-employed lawyer
- Staff lawyer
- In-house lawyer

Comments

**150. Is the lawyer profession organised through:**

- a national bar association
- a regional bar association
- a local bar association

Comments

**151. Is there a specific initial training and/or exam to enter the profession of lawyer?**

- Yes
- No

Comments - If not, please indicate if there are other specific requirements as regards diplomas or university degrees:

**152. Is there a mandatory general system for lawyers requiring in-service professional training?**

- Yes
- No

Comments

**153. Is the specialisation in some legal fields linked to specific training, levels of qualification,**

## specific diploma or specific authorisations?

Yes

No

Comments - If yes, please specify:

### F1. Please indicate the sources for answering questions 146 and 148:

Sources: Q146: Registry of Lawyers of the Bar Association of Serbia (Serbian lawyers are members of their local/regional bar and the national bar association), on 30 January 2017;  
Constitution of the Republic of Serbia, Law on Lawyers ('Official Gazette of the RS', no.: 31/2011 and 24/2012 - CC decision), Law on Bar Examination ('Official Gazette of the RS', no.: 6/97), Statute of the Bar Association of Serbia ('Official Gazette of RS', 85/2011, 78/2012 and 86/2013) (BAS autonomous act), Code of Professional Ethics of Lawyers ('Official Gazette of RS', 27/2012), Law on Civil Procedure, Criminal Procedure Code, and other relevant legislation.

## 6.1.2. Practicing the profession

### 154. Can court users establish easily what the lawyers' fees will be (i.e. a prior information on the foreseeable amount of fees)?

Yes

No

Comments

### 155. Are lawyers' fees freely negotiated?

Yes

No

Comments

### 156. Do laws or bar association standards provide any rules on lawyers' fees (including those freely negotiated)?

Yes laws provide rules

Yes standards of the bar association provide rules

No neither laws nor bar association standards provide rules

Comments

## 6.1.3. Quality standards and disciplinary procedures

### 157. Have quality standards been determined for lawyers?

Yes

No

Comments - If yes, what are the quality criteria used?

**158. If yes, who is responsible for formulating these quality standards:**

- the bar association
- the Parliament
- other (please specify): .....

Comments

**159. Is it possible to file a complaint about:**

- the performance of lawyers
- the amount of fees

Comments - Please specify:

**160. Which authority is responsible for disciplinary procedures?**

- the judge
- the Ministry of Justice
- a professional authority
- other (please specify): .....

Comments

**161. Disciplinary proceedings initiated against lawyers. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)**

	Number of disciplinary proceedings
<b>Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)</b>	342 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Breach of professional ethics</b>	342 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Professional inadequacy</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Criminal offence</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Other</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If "other", please specify: Disciplinary Prosecutor's Office of the Bar Association of Serbia:

- from the 342 filed disciplinary complaints, only 36 disciplinary indictments were filed (the rest were manifestly unfounded);
- 79 disciplinary applications were rejected and the decision on rejection was final by the expiration of the deadline for the objection, since objections were not filed;
- In 2 cases, the applicants withdrew their applications.

During 2014 and 2015, there was a lawyers' protest which lasted for almost 6 months. During this period, lawyers did not work, in accordance with the decision of the Bar Association. Thus, there was no possibility of filing disciplinary proceedings at this time, which is why the number of submitted applications in 2014 is lower. On the other hand, during the protest, the Bar Associations informed citizens, through media, of basic professional principles, including disciplinary accountability. Citizens use this right, despite the fact that their



applications are manifestly unfounded, which is why there is a big difference between the number of filed complaints, initiated procedures and imposed sanctions.

## 162. Sanctions pronounced against lawyers.

	Number of sanctions
<b>Total number of sanctions (1 + 2 + 3 + 4 + 5)</b>	11 [ ] NA [ ] NAP
<b>1. Reprimand</b>	0 [ ] NA [ ] NAP
<b>2. Suspension</b>	0 [ ] NA [ ] NAP
<b>3. Withdrawal from cases</b>	0 [ ] NA [ ] NAP
<b>4. Fine</b>	10 [ ] NA [ ] NAP
<b>5. Other</b>	1 [ ] NA [ ] NAP

Comments - If "other", please specify. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons. Under the term "other" the sanction of disbarment is considered. Disciplinary Court of the Bar Association of Serbia:

- in 11 cases, disciplinary convictions were issued;
- in 10 cases, lawyers were released of disciplinary liability;
- in 2 cases - the registered lawyer was deleted from the directory of lawyers upon a personal request and the disciplinary procedure was suspended.

## 7. Alternative dispute resolutions

### 7.1. Mediation

#### 7.1.1. Details on mediation procedures and other ADR

**163. Does the judicial system provide for judicial mediation procedures? If this is not the case you will go directly to question 168.**

( X ) Yes

( ) No

Comments 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 judicial mediation, the Ministry of Justice, together with two basic courts and the IPA 2015 Judicial Efficiency Project organised a pilot activity, the Mediation Week, whereby free mediation services were provided to willing parties with cases before the two basic courts (pilot courts). The Mediation Week was organised around the 25 October 2017, i.e. marking the European Day of Justice, and will be done so continuously in the following years, with a wider reach, pursuant to the Guidelines.

### 163-1. In some fields, does the judicial system provide for mandatory mediation procedures?

Before going to court

Ordered by a judge in the course of a judicial proceeding

Comments - If there are mandatory mediation procedures, please specify which fields are concerned: The Law on Juvenile Crime Offenders and Criminal Protection of Juveniles (Juvenile Justice Law) (“Official Gazette of RS”, no. 85/2005) has introduced diversionary measures which aim to provide support to the juvenile to take responsibility for his/her actions and prevent re-offending. The purpose of a diversionary measure is to avoid instituting criminal proceedings against a juvenile or to suspend proceedings and/or influence proper development of a juvenile, enhance his/her personal responsibility in order to avoid a relapse into crime in future. Mediation is a possible diversionary measure, ordered when a judge/pp sees fit, and under the conditions provided in the law. Certain successful mediation programmes have been established, but their availability has not been expanded by information, training and supervision.

A mandatory attempt at a peaceful dispute resolution before initiating civil proceedings is prescribed in some Serbian laws (but not mediation per se). Thus, 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). The work and results of these commissions show that the way settlement procedure is devised should be fundamentally revised.

### 164. Please specify, by type of cases, the organisation of judicial mediation:

	Court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
<b>Civil and commercial cases</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Family law cases (ex. divorce)</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Administrative cases</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Employment dismissals</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Criminal cases</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments 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 informative hearing for mediation, in accordance with the law, 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 performed through 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). Moreover, in accordance with Article 9 Paragraph 2 of the Law on Mediation in Dispute Resolution, the court is obliged to provide all necessary information to the parties in dispute about the possibilities of mediation, which can also be done by referring the parties to the mediator.

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 psychosocial 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. The Law on Peaceful Settlement of Labour Disputes ("Official Gazette of RS", no. 125/04, 104/09) provides that the competences of the Republic Agency for Peaceful Settlement of Labour Disputes in individual disputes are, among other, issues of termination of employment contract. However, in individual disputes, the Agency offers arbitration, not mediation.

In respect of "employment dismissal cases", the reply concerning "court annexed mediation" was NO for 2014, while it is YES for 2016 due to the start of the implementation of the Law on Mediation in Dispute Resolution in 1.1.2015. Mediators have reported handling 24 employment cases in 2016, out of which some might have been related to employment dismissal and referred to them by the court (however, no accurate data exists). As for "criminal cases", the discrepancies with previous replies (concerning "public authority" and "public prosecutor" the discrepancy is a result of the fact that in the previous cycles, Law on Juvenile Crime Offenders and Criminal Protection of Juveniles (Juvenile Justice Law) ("Official Gazette of RS", no. 85/2005) which had introduced diversionary measures and mediation as a possible diversionary measure was not included in the reply.

### **165. Is there a possibility to receive legal aid for judicial mediation procedures?**

Yes

No

Comments - If yes, please specify: The Law on Mediation in Dispute Resolution provides for certain monetary incentives in case of reaching an agreement to resolve the dispute through mediation after the judicial or other proceedings have been initiated and before the conclusion of the first hearing for the main trial, such as that the parties may be exempt from court or administrative fees, in accordance with the law which regulates court and administrative fees (Article 31). However, the Law on Court Tax must be amended to give effect to these provisions. Regarding general exemption from court fees please see comment to Q17.

Under the Draft Free Legal Aid Law, expenses of mediators, lawyers, etc. are a form of secondary legal aid and may be financed from the budget of the Republic of Serbia, pursuant to the provisions of the Draft FLA Law.

### **166. Number of accredited or registered mediators who practice judicial mediation:**

[ 419 ]

[ ] NA

[ ] NAP

Comments On 12 December 2016 a total of 419 mediators have been registered in the public register of the Ministry of Justice. However, please note that mediators are registered for all types of mediation (not only judicial mediation). Moreover, only 80 mediators have reported to the Ministry of Justice that they have in fact mediated in 2016. Mediator's reports to the Ministry of Justice for 2016 are not

reliable as the information given may be verified only upon the request of renewal of licence of the mediator.

## 167. Number of judicial mediation procedures.

	Number of judicial mediation procedures
<b>Total number of mediation cases (total 1 + 2 + 3 + 4 + 5)</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Civil and commercial cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Family cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Administrative cases</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Employment dismissal cases</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>5. Criminal cases</b>	307 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Please indicate the source: Courts do have general statistics on judicial mediation, which is currently not divided into subcategories with respect to the type of dispute at hand. The Supreme Court of Cassation has gathered the following data which includes cases of all first instance courts of general and specialized jurisdiction and second instance courts of general and specialized jurisdiction registered in CMSs which these courts use (AVP and SAPS) (as reported in the interim benchmark table submitted to the European Commission): 30 cases have been referred for mediation while 21 cases have been resolved through mediation. Successful and reliable reporting will not be possible without the further development of case management systems and reporting mechanisms for both mediators to the MoJ, for cases which have not been initiated before the court, as well as reporting on court cases referred to mediation, and their success rate. Currently, these court statistics are not kept electronically in the automated case management system, making this data unreliable. Moreover, interpretations of what a mediated case is are different, and should be harmonised. Likewise, annual mediator reporting mechanism allows for submitting of unreliable data. Also, the reporting and analytics are currently conducted manually. Nonetheless, below are some tentative statistics, based on mediators' reports. 167.1: Based on annual mediator's reports submitted to the Ministry of Justice by registered mediators (obligation from 2015 under the Law on Mediation in Dispute Resolution), in 2016 there were 196 civil and commercial mediations. 167.2: Based on annual mediator's reports submitted to the Ministry of Justice by registered mediators, in 2016 there were 45 reported family mediations, conducted by 21 mediators. However, an additional reservation must be made. The statistics do not reflect the cases of conciliation and settlement under Family Law as courts do not gather/note this data in the case management systems, and centralised statistics are not available currently.

167.3: For 2016, only one case of mediation in an administrative matter was notified to the Ministry of Justice by a mediator.

167.4.: Based on annual mediator's reports submitted to the Ministry of Justice by registered mediators, in 2016 there were 24 reported family mediations, conducted by 13 mediators. Statistics do not exist on employment dismissal cases.

167.5: Based on statistics of the Statistical Office of the Republic of Serbia in 2016, 307 diversionary measures for juvenile offenders - settlement with victims (mediation) have been ordered. These statistics are reliable and ordered by judges/pp's, which is why we have indicated them. Additionally, based on mediator's reports for 2016, 28 penal mediation cases from only two jurisdictions (courts in Kragujevac and Belgrade) and seven mediators are recorded in 2016.

## 168. Does the legal system provide for the following alternative dispute resolutions (ADR):

mediation other than judicial mediation

arbitration

conciliation

other ADR (please specify): .....

Comments The Law on Arbitration (“Official Gazette of RS”, no. 46/2006) regulates arbitral resolution of disputes without a foreign element (“domestic arbitration”) and disputes with a foreign element (“international arbitration”). The new Law on Chambers of Commerce (“Official Gazette of RS” no. 112/2015), in its Article 31, provides for a formation of a single arbitration institution within the Chamber of Commerce and Industry of Serbia, which shall be competent to decide, reconcile and mediate in commercial disputes between domestic and/or foreign business entities, if its jurisdiction has been agreed on by the parties. As of 30 June 2016, in lieu of two independent arbitration institutions that existed at the Chamber of Commerce and Industry of Serbia: the Foreign Trade Court of Arbitration and the Permanent Court of Arbitration, the Permanent Arbitration at the Chamber of Commerce and Industry of Serbia became a single institution. It is an open arbitration institution of general type, competent to resolve all types of disputes arising out of both international and purely “domestic” business relations, provided that the parties have agreed upon its jurisdiction. Its jurisdiction may be agreed by all business entities, irrespective of their nationality or membership in the Chamber of Commerce of and Industry. Rules of the Foreign Trade Court of Arbitration (“Official Gazette of the RS” No. 2 / 2014) served as a foundation of the first Rules of Permanent Arbitration (“Official Gazette of RS” No. 58/2016). Since these Rules have been recently enacted, many solutions of modern arbitration practice have been incorporated within. These Rules also encompass certain new solutions arising out of a slightly different character of permanent arbitration, as well as solutions aimed at improvement of its efficiency.

The Belgrade Arbitration Center was established in 2013 by the Arbitration Association as a permanent arbitral institution that administers domestic and foreign disputes in accordance with the BAC Rules, assists in technical and administrative aspects of ad hoc arbitral proceedings under UNCITRAL or other rules, organizes and conducts mediation sessions and provides for other services closely related to dispute settlement. The Law on Peaceful Settlement of Labour Disputes (“Official Gazette of RS”, no. 125/04, 104/09), established the Republic Agency for Peaceful Settlement of Labour Disputes as the first institutionalised service dealing with peaceful settlement of individual and collective labour disputes through arbitration and conciliation, respectively. The Agency is the only specialized institution that deals with labour law (<http://www.ramrrs.gov.rs/en/>).

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

On 26 October 2017, the Government of the Republic of Serbia, based on the proposal of the Republic Agency for Peaceful Settlement of Labour Disputes, adopted Conclusion recommending the possibility of participation of conciliators in collective negotiation when concluding collective agreements in accordance with the law regulating the field of peaceful settlement of labour disputes (“Official Gazette of the Republic of Serbia” No. 96/2017, 27 October 2017). The Recommendation refers to statutory authorities, the autonomous province and local self-government units, other authorities and organizations established by the Republic of Serbia, the autonomous province or a local self-government unit, public agencies and organizations subject to the regulations on public agencies, public services financed from the budget of the Republic of Serbia, the autonomous province and the local self-government units, i.e. from contributions for compulsory social insurance, as well as public enterprises and for-profit corporations founded by the Republic of Serbia, the autonomous province or the local self-government unit and the for-profit corporations whose founder is a public company.

Also, the Government recommended that the authorized representatives of the aforementioned institutions inform their representatives in collective negotiation about the possibility of entering a clause into collective agreements to resolve labour disputes in accordance with the law regulating the field of peaceful settlement of labour disputes.

The main reason for drawing this conclusion is the need to refer the recommendation to state authorities, to use the possibility of the participation of conciliators in collective negotiation when concluding collective agreements in accordance with the Law on Peaceful Settlement of Labour Disputes, which would result in savings of budget funds by preventing collective labour disputes and reducing the number of these disputes before the courts.

A large number of collective agreements were concluded for three years in the period from July 2014 to January 2015. The agreement period is currently expiring, and collective negotiations are and will be conducted with the aim of concluding collective agreements with a new period of validity.

The Republic Agency for Peaceful Settlement of Labour Disputes pursuant to Article 16 of the Law on the Peaceful Settlement of Labour Disputes may provide participation of a conciliator in collective negotiating, which participates in the process of negotiating, indicates to participants proposals that are not in accordance with the law and other regulations and provides participants with professional and other assistance, which contributes to the quality of the text of collective agreements. Also, collective agreements contain provisions on ways of

resolving labour disputes, where it often happens that the possibility of settling labour disputes in accordance with the law regulating the field of peaceful settlement of disputes is not recognized and consequently arranged, which often results in expensive court procedures, and most often burdens the budget of the Republic of Serbia. With this recommendation, the courts will be relieved, and the budgetary resources of the Republic of Serbia will be saved.

Conciliation as an alternative dispute resolution mechanism is highly present in regulating domestic relations, pursuant to the Family Law Family Law (“Official Gazette of RS”, no. 18/2005, 72/2011 - Other Law and 6/2015), which apart from providing for situations of referral to family counselling and institutions specialized in mediation in family relations provides for a procedure which, pursuant to Article 229 of the Family Law, includes the procedure for attempt at reconciliation (hereinafter: conciliation) and the procedure for attempt at consensual dispute resolution (hereinafter: settlement). For more information, please see answers to Q 103.

## **G1. Please indicate the source for answering question 166:**

Source: Ministry of Justice – Sector for Judiciary – Department for Judicial Professions. The Law on Mediation in Dispute Resolution became applicable on 1 January 2015.  
Ministry of Justice Website: <http://www.mpravde.gov.rs/intermediaries.php>.

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## **8.Enforcement of court decisions**

### **8.1.Execution of decisions in civil matters**

#### **8.1.1.Functioning**

#### **169. Do you have enforcement agents in your judicial system?**

Yes

No

Comments oint instructions were issued on 5 April 2016 by MoJ, HJC and SCC for the purpose of preparation for implementation of the new LoES and addressing contentious questions relating to transitional and final provisions of the LoES, which are accessible online, on the website of the MoJ, HJC and the SCC.

#### **170. Number of enforcement agents**

[ 234 ]

[ ] NA

[ ] NAP

Comments The Bylaw on Determining the Required Number of Enforcement Agents foresees appointing of 308 enforcement officers. On 14 December 2016, the total number of enforcement agents on the territory of the Republic Serbia is 234, while the number of deputy enforcement agents on the territory of the Republic of Serbia is 29.

#### **171. Are enforcement agents (multiple options are possible):**

judges

bailiffs practising as private professionals under the authority (control) of public authorities

bailiffs working in a public institution

other

Comments - Please specify their status and powers: The Law on Enforcement and Security (adopted in 2011; hereinafter: “LoES”) has

from May 2012 introduced a mixed system of enforcement consisting of the previously existing court enforcement system and a new legal profession – the enforcement agent as an independent professional (entrepreneur/member of an enforcement agent partnership), appointed by the Ministry of Justice, with entrusted public powers. The aim of the reform was to lead to a more efficient and more effective enforcement system.

Court enforcement is initiated before the courts of the Republic of Serbia, and implemented before a court enforcement officer or private enforcement officer (“parallelism in the carrying out of enforcement”). Until July 2016, the enforcement creditor had the option of choosing between the two systems of implementation of enforcement, except in cases of exclusive competence of courts i.e. judges - for conducting the enforcement of decisions concerning family matters and enforcement in reinstatement of employee to work, or in utility and similar cases, in which enforcement agents have exclusive jurisdiction.

From 1 July 2016, with the implementation of the new Law on Enforcement and Security (“Official Gazette of the RS”, no.: 106/2015, 106/2016 - authentic interpretation and 113/2017 - authentic interpretation), the competences (jurisdiction) of private professional enforcement agents have been broadened whereby they now have exclusivity in carrying out (implementation) of enforcement for all new cases, while court bailiffs retain competences for cases which are still implemented by the court.

The Law on Organisation of Courts provides that basic and commercial courts have jurisdiction in enforcement cases, respectfully, while the new LoES introduces also jurisdiction of higher courts and Commercial Court of Appeal for appeals. The number of courts which have jurisdiction in first instance: 67 Basic Courts and 16 Commercial Courts (total of: 83). The first instance courts have special departments, competent for enforcement. The territorial jurisdiction of the courts in enforcement cases is prescribed in the Law on Enforcement and Security, depending on the nature of the attachment. Most simply put, the following categories of enforcement agents exist:

1. Judges (basic and commercial court judges; higher court and commercial appellate court judges are second instance judges) – make decisions on enforcement, except in utilities and similar cases; exclusively conduct the enforcement of decisions concerning family matters (ex. child custody, etc.) and enforcement in reinstatement of employee to work;
2. Bailiffs employed in courts (basic and commercial courts) – implement enforcement except when judges or enforcement agents have exclusive jurisdiction for implementation;
3. (Self-employed) enforcement agents (234) – exclusive jurisdiction for making decisions and implementing enforcement in utility and similar cases.

### **171-1. Do enforcement agents have the monopoly in exercising their profession?**

Yes

No

Comments - Please indicate any useful clarifications regarding the content of the enforcement agents’ monopoly or on the opposite regarding the competition they have to deal with: The enforcement proceedings consist of two separate stages: deciding on the motions to enforce based on enforceable or authentic documents and carrying out of enforcement. The first stage involves “permission/motion to enforce”, while the second stage involves undertaking a series of actions used to carry out specific enforcement. The new LoES keeps the existing situation regarding deciding on motions to enforce based on enforceable or authentic documents and regarding the motion to secure. The court remains exclusively competent for ordering (permitting) enforcement while from 1 July 2016, carrying out of enforcement is under the exclusive jurisdiction of (private professional) enforcement agents in cases initiated from that dates (Art.4 LoES), including the enforcement of the ruling ordering a preliminary or interim measure, enforcement of the ruling imposing court penalties, etc. Exceptions are laid out below.

Jurisdiction of the court has expanded to a certain extent by LoES (2015) - the court now has exclusive jurisdiction to carry out enforcement of joint sale of immovable and moveable property (new institute), while they have retained jurisdiction for the enforcement of enforceable documents ordering the enforcement debtor to act, refrain from action or suffer an action, and enforceable documents related to family relations and reinstatement of employees to work. The enforcement agents have retained the exclusive jurisdiction to render rulings on motions to enforce based on authentic documents originating from provided utility and related services (they can dismiss or reject a motion or grant it by rendering an enforcement ruling based on an authentic document originating from the utility and related services) (Articles 392 – 397 of the Law on Enforcement and Security (“Official Gazette” No.106/2015)). Serbia’s strategic documents concerning the judiciary envisage the strengthening of the powers of enforcement agents. Therefore, in the domain of carrying out of enforcement, the new Law abolishes parallelism of competences. It should be noted also that from 2014, uniform distribution of cases to enforcement agents in utilities and similar claim cases was introduced, in order to improve the efficiency of the enforcement procedure - the enforcement creditor is obliged to address the Chamber of Enforcement Agents prior to submitting a proposal for enforcement, which

will allocate an enforcement agent for the case, taking into account of the equitable distribution of cases.

**171-2. Can the enforcement agent carry out the following civil enforcement proceedings:**

	Option
<b>Seizure of movable tangible properties</b>	<input type="checkbox"/> Yes with monopole <input checked="" type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Seizure of immovable properties</b>	<input type="checkbox"/> Yes with monopole <input checked="" type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Seizure from a third party of the debtor claims regarding a sum of money</b>	<input type="checkbox"/> Yes with monopole <input checked="" type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Seizure of remunerations</b>	<input type="checkbox"/> Yes with monopole <input checked="" type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Seizure of motorised vehicles</b>	<input type="checkbox"/> Yes with monopole <input checked="" type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Eviction measures</b>	<input type="checkbox"/> Yes with monopole <input checked="" type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Enforced sale by public tender of seized properties</b>	<input type="checkbox"/> Yes with monopole <input checked="" type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Other</b>	<input type="checkbox"/> Yes with monopole <input checked="" type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP

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

**171-3. Apart of the enforcement of court decisions, what are the other activities that can be carried out by enforcement agents?**

- Service of judicial and extrajudicial documents
- Debt recovery
- Voluntary sale of moveable or immoveable property at public auction
- Seizure of goods
- Recording and reporting of evidence
- Court hearings service



- Provision of legal advice
- Bankruptcy procedures
- Performing tasks assigned by judges
- Representing parties in courts
- Drawing up private deeds and documents
- Building manager
- Other

Comments All the above stated can be carried out within the enforcement or security proceedings. Other - members in bodies of the Chamber for Enforcement Agents, etc.; mediators

## **172. Is there a specific initial training or exam to become an enforcement agent?**

- Yes
- No

Comments Beside passing the enforcement agent examination conducted by the Ministry of Justice, which was mandatory requirement from 2012, the new Law on Enforcement and Security (2015) has introduced obligatory initial training (both theoretical and practical) for all newly appointed enforcement agents and deputies, from 1 July 2016. Likewise, it has introduced mandatory condition of passing the judicial state exam by 1 January 2018, for all enforcement agents.

### **172-1. Is there a system of mandatory general continuous training for enforcement agents?**

- Yes
- No

Comments Continuous training is obligatory and is organised by the Chamber of Enforcement Agents and Judicial Academy. However, a comprehensive bylaw on continuous training program has been drafted by the Chamber of EA's but is yet to be adopted and implemented.

## **173. Is the profession of enforcement agents organised by (the answer NAP means that the profession is not organised):**

- a national body
- a regional body
- a local body
- NAP

Comments Chamber of Enforcements - <http://www.komoraizvrstelja.rs/>

## **174. Are enforcement fees easily established and transparent for the court users?**

- Yes
- No

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

## **175. Are enforcement fees freely negotiated?**

- Yes
- No

Comments

## 176. Do laws provide any rules on enforcement fees (including those freely negotiated)?

Yes

No

Comments The new Enforcement Agent Tariff, a bylaw of the Minister of Justice ("Official Gazette of RS", No. 59 of 28 June 2016, <https://www.mpravde.gov.rs/tekst/13174/javnoizvrsteljaska-tarifa-.php>), has been enacted and has become applicable on 1 July 2016, concurrently with the new law. The new tariff introduces a new method of calculating fees, which is more transparent, precise and allows the creditor and the enforcement debtor to more easily identify the costs of enforcement proceedings. This completes the reform with respect to the costs of enforcement proceedings, which began in 2015 with the enacting of the Law on Amendments to the Law on Court Taxes ("Official Gazette of RS", no. 106/2015) in order to harmonise the system of collection of court taxes with the Law on Enforcement and Security, reduce the amount of court fees charged by the court in cases where enforcement is implemented by the enforcement agent and abolish the payment of court fees for the enforcement ruling of the court regarding the motion to enforce on the basis of an enforceable or authentic document. Thereby, a significant regulatory improvement with respect to costs of these proceedings has been made, which has put an end to the "duplication" of fees charged by the court and enforcement agent, which existed since the introduction of this new legal profession in the judicial system in 2012. Additionally, in order to gain benefits from the system of enforcement agents, the competences for enforcing of taxes has been transferred to this legal profession, while parties are exempted from payment in the cases of entrusting of certain court proceedings or actions to notaries.

## H0. Please indicate the sources for answering question 170

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

### 8.1.2. Efficiency of enforcement services

## 177. Is there a body entrusted with supervising and monitoring the enforcement agents' activity?

Yes

No

Comments Both the Chamber of Enforcement Agents and the Ministry of Justice Department for Judicial Professions supervise and monitor the enforcement agents' activity. Likewise, the courts supervise the enforcement agents' work within the enforcement proceedings. A novelty of the Law on Enforcement and Security from 2015 is the introduction of the Disciplinary Prosecutors of both the Chamber and the Ministry, who initiate disciplinary proceedings. On 24 March 2016, the Minister of Justice adopted the Rulebook on Monitoring over the Work of Enforcement Agents and the Rulebook on Disciplinary Proceedings Against Enforcement Agents ("Official Gazette of RS" No. 32/2016). These Rulebooks are applicable from 1 July 2016. The Rulebook on the Recordkeeping of Enforcement and Security Proceedings and Financial Operations of Enforcement Agents, the Manner of Reporting, the Content of the Report on the Work of the Enforcement Agents and on Archiving has also been adopted ("Official Gazette of RS" No. 37/2016).

## 178. Which authority is responsible for supervising and monitoring enforcement agents?

a professional body

the judge

the Ministry of Justice

the public prosecutor

other (please specify): .....

Comments The Chamber of Enforcement Agents has a special Supervision Commission, as a permanent body of the Chamber for supervision, for the territory of each organizational unit of the Chamber. The Ministry of Justice Department for Judicial Professions also

supervises and is developing a system for electronic case management oversight, complementary to the on-site oversight. The Rulebook on the Disciplinary Proceedings against Enforcement Agents was adopted (“Official Gazette of RS”, No. 32 of 30 March 2016) and is applicable from 1 July 2016. On the basis of the Rulebook, the Commission of the MoJ that conducts the disciplinary proceedings against enforcement agents has five members, three of which are appointed by the Minister of Justice from among judges with experience in the enforcement field and the process of securing; two members are appointed by the Chamber of Enforcement Agents among enforcement agents.

**179. Have quality standards been determined for enforcement agents?**

Yes

No

Comments - If yes, what are the quality criteria used? The quality standards which are set by the Law on Enforcement and Security (2015) for self-employed enforcement agents are reflected through their qualifications i.e. requirements for appointment – the individual has to be a law school graduate with a passed (state) enforcement agent exam, and successfully passed Judicial Examination, with at least two years of working experience in legal professions (after passing Judicial Examination), with the full legal capacity and moral credibility to perform duties of an enforcement agent, including not being subject of related criminal proceedings. Additionally, LoES introduces obligatory initial training as a condition for entering the profession, and more stringent rules on continuous training as well as passed state judicial (bar) exam. Quality criteria are also provided in the Code of Ethics of Enforcement Agents, which is adopted by the Chamber of Enforcement Agents and in the Standards of Professional Conduct of Enforcement Agents, a novelty of the new LoES, which will be adopted by the Minister of Justice.

**180. If yes, who is responsible for establishing these quality standards?**

a professional body

the judge

the Ministry of Justice

other (please specify): .....

Comments

**181. Is there a specific mechanism for executing court decisions rendered against public authorities, including supervising such execution?**

Yes

No

Comments - If yes, please specify: Enforcement of judgments and decisions of the European Court for Human Rights: The Law on Public Attorney’s Office („Official Gazette of RS“, no. 55/14) in its article 13 para. 1-4 regulates representation of the Republic of Serbia before the European Court of Human Rights. Paragraph 5 of the same article provides that payment of the sum specified by the friendly settlement or in the Court’s judgment is conducted from the accounts of the public authorities which caused the violation. The procedure for enforcement of judgments and decisions is not further regulated by the above-mentioned Law. Consequently, domestic authorities adopted the following practise: non-pecuniary damages are being paid from the accounts of High Court’s Council; pecuniary damages (which represent sums awarded by non-enforced domestic judgments) are being paid from the accounts of Public Attorney’s Office. Therefore, according to the Law on Budget of the Republic of Serbia for the year 2016 („Official Gazette“, no. 103/15), awarded non-pecuniary damages were to be paid from the accounts of the High Court’s Council and awarded pecuniary damages were to be paid from the accounts of Public Attorney’s Office.

**182. Is there a system for monitoring how the enforcement procedure is conducted by the enforcement agent?**

Yes

No

Comments - If yes, please specify: The court (i.e. judges) performs oversight over the work of enforcement agents within the judicial proceedings, i.e. upon a filed objection or request for elimination of irregularities.

On the other hand, forms of supervision outside of the enforcement or security proceedings exist if they are of non-procedural nature and are performed by the Ministry of Justice and the Chamber of Enforcement Agents. The principle is that the Ministry of Justice is authorised to primarily supervise the legality of the work of enforcement agents in the enforcement or security proceedings - the procedural aspect of the activities of enforcement agents and the Chamber is authorized to supervise these as well as other aspects of the activities of enforcement agents. The LoES 2015 stipulates that a civil servant who performed supervision is obliged to forward the record of supervision and evidence to the disciplinary prosecutor of the Ministry, as well as the disciplinary prosecutor of the Chamber, so that they might review the record and evidence, and possibly initiate disciplinary proceedings against the enforcement agent. The same applies mutatis mutandis when the supervision is conducted by the Chamber.

**183. What are the main complaints made by users concerning the enforcement procedure? Please indicate a maximum of 3.**

- no execution at all
- non execution of court decisions against public authorities
- lack of information
- excessive length
- unlawful practices
- insufficient supervision
- excessive cost
- other (please specify): .....

Comments Under “unlawful practices” or “other” may be classified as the frequent complaint regarding the service of documents, and the mistaken identity of enforcement debtor.

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

- Yes
- No

Comments - If yes, please specify: In the period from 2014-2016, Serbia implemented a comprehensive reform of the legal framework for enforcement. The new Law on Enforcement and Security (“Official Gazette of the RS”, no.: 106/2015, 106/2016 - authentic interpretation and 113/2017 - authentic interpretation) was adopted on 18 December 2015, and has fully entered into force on 1 July 2016. The main novelties of the new LoES are: broadening of the competence of enforcement agents; transferal of backlogged utility cases into the competence of enforcement officers, by which the expenses and fees in those proceedings are also regulated; more stringent requirements for enforcement agents and candidates, such as mandatory initial training and a basis for a more efficient monitoring and control and disciplinary system; precise procedural provisions that should eliminate present ambiguities causing excessive delay in proceedings; detailed and unambiguous provisions on enforcement of pecuniary claims against real property as most valuable assets; reaching a compromise between the speed of the enforcement proceedings (primarily embodied in the acting of enforcement agents) and the harmonisation of case law (by way of reintroduction of the right of appeal - jurisdiction of higher courts).

Most notably, the new LoES has given a basis is given for transferal of backlogged utility cases into the competence of enforcement officers, by which the expenses and fees in those proceedings are also regulated. Namely, enforcement creditors in whose favour an enforcement ruling based on an enforceable or authentic document, or a security ruling, was rendered before enforcement agents began operating in the Republic of Serbia, related to which enforcement or security proceedings were still being conducted on 1 May 2016, had to declare, during the period lasting from 1 May 2016 to 1 July 2016, whether they wanted the court or an enforcement agent to implement enforcement. If the enforcement creditor failed to provide said declaration within the specified period of time, enforcement proceedings were discontinued.

The application of the Law has steadily resulted in a decrease of enforcement cases in courts, i.e. the reduction of the backlog of enforcement cases in Serbia.

Through the implementation of systemic measures defined in the special program for reduction of backlog enforcement cases, with the adoption of the new Law on Enforcement and Security, the Republic of Serbia has enabled a comprehensive disposition of backlog cases in the enforcement matter, since previously, the cases in this matter prevented the normal functioning of the judiciary. The Supreme Court of Cassation, the Ministry of Justice and the High Court Council have jointly drafted and adopted the Instructions for the implementation of the new Law on Enforcement and Security which contain measures that determine the jurisdiction of courts and public bailiffs in enforcement and security proceedings and stipulate the obligations of enforcement creditors, courts, the Chamber of Enforcement Agents (EA's) and EA's in enforcement cases where there is a change of jurisdiction pursuant to this new Law, sanction the failure of mandatory action of enforcement creditors and action in individual enforcement cases pursuant to the new Law, as well as in ongoing cases. Implementation of the Instructions in basic courts was supported by the European Union through the IPA funded project "Judicial Efficiency". The implementation of these measures and with this support, great results have been achieved and the number of enforcement cases was reduced by 811.322 cases only in 2016. Pending at the beginning of 2015: 1.939.807; Total incoming in 2015: 234.008; Total disposed in 2015: 380.628; Pending at the end of 2015: 1.793.787. Pending at the beginning of 2016: 1.855.129; Total incoming in 2016: 352.207; Total disposed in 2016: 1.225.471; Pending at the end of 2016: 981.865. (SCC data, annual report for 2016). By the end of 2017, most of the backlogged cases have been resolved or transferred to enforcement agents. Joint instructions were issued on 5 April 2016 by MoJ, HJC and SCC for the purpose of preparation for implementation of the new LoES and addressing contentious questions relating to transitional and final provisions of the LoES, which are accessible online, on the website of the MoJ, HJC and the SCC. Apart from the comprehensive and systemic regulatory reforms of the enforcement system in Serbia (enacting of LoES in 2015 and continuous reforms thereto related), it should be noted the Supreme Court of Cassation adopted the Uniform Backlog Reduction Program in the Republic of Serbia, and accompanying Action Plan for the Improvement of the Judicial System of Enforcement. In 2016, the Ministry of Justice has enacted the necessary by-laws and regulations necessary for the implementation of the LoES, in particular for establishing clearly defined professional standards and reporting criteria, professional ethics, disciplinary proceedings, and an efficient system of monitoring and control of enforcement agents, for a functional and transparent system of accountability of enforcement officers, as well as for conducting initial and continuous training programs.

Promotion of mediation is also aimed at decreasing the number of court decisions which require enforcement. The Supreme Court of Cassation, the High Judicial Council and the Ministry of Justice jointly enacted on 28 June 2017 the Joint Guidelines for the Improvement of Mediation in the Republic of Serbia, intended to reduce the number of old cases and to prevent their occurrence (<https://www.mpravde.gov.rs/tekst/16729/uputstvo-za-unapredjenje-medijacije-u-republici-srbiji-po-zakonu-o-posredovanju-u-resavanju-sporova.php>).

In the following period, the Public Attorney's Office will be supported in improving capacities and way of dealing with enforcement of court decisions as regards decisions against public authorities.

Enforcement of judgments and decisions of the European Court of Human Rights:

The largest number of judgments issued by the European Court of Human Rights related to Serbia refers to violation of the right to a fair trial due to the length of the procedure and to the non-enforcement of domestic judgments. Enforcement cases are the prevalent culprit of Serbia's judicial system backlog problem, with cases related to unpaid utility bills making up the majority of the enforcement caseload. The largest number of friendly/amicable settlements are also concluded because of inefficient enforcement procedure. This has contributed to the fact that the Court submitted a large number of applications in which the applicants complained about the non-enforcement of judgments rendered against companies with a majority of social capital. As the ECtHR declared these cases its well-established case-law (WECL), in 2013 and 2014 the state was delivered 2000 petitions with the proposal of the Court to conclude an amicable settlement. This was reflected in the number of concluded amicable settlements in this field as well as on the increase of number of judgments relating to ineffective enforcement.

### 185. Is there a system measuring the length of enforcement procedures:

	Existence of the system
for civil cases	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
for administrative cases	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments The CMS used by basic and commercial courts (AVP) currently does not provide the possibility to generate the required information automatically. For the purpose of reporting on the implementation of the new Law on Enforcement and Security, both the Chamber of Enforcement Agents and the Supreme Court of Cassation have devised formulas for calculating the average length before courts and enforcement agent, respectively. However, a comprehensive system for measuring the length of enforcement procedures is yet to be implemented.

**186. As regards a decision on debt collection, please estimate the average timeframe to notify the decision to the parties who live in the city where the court sits (one option only):**

- between 1 and 5 days
- between 6 and 10 days
- between 11 and 30 days
- more (please specify): .....

Comments Enforcement agents serve documents pursuant to the provisions of the Law on Enforcement and Security. After receipt of the document, the enforcement agent makes an attempt to deliver the document to the debtor on the following day. It is possible that the debtor receives the court document on the same day as the service/delivery was made. If, however, the debtor is not found at the address, the enforcement agent leaves them a notice to come and receive the court document at the competent court within the following five days. In these cases, the delivery shall be completed in 6 days maximum.

If it is necessary to undertake service/delivery through the court bulletin board, a longer period of time is required for delivery. This is because the practice is to first check the address of debtors through the Office of Population Register of the Ministry of the Interior, and after that placing the document on the notice board of the court. The Report of the Ministry of the Interior, in larger cities, can be expected upon an average up to three months. After submitting data of debtor address, data is placed on the notice board of the competent court. This is also the phase that further slows down the process of delivery, because of the refusal of the courts to place documents on the notice board of the court in proceedings which enforcement agents conduct.

In short: when the service is not done through the court bulletin board, it may be carried out within 6-10 days; if the service is done through the court notice board, it often requires a period longer than 30 days.

**187. Number of disciplinary proceedings initiated against enforcement agents. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)**

	Number of disciplinary proceedings initiated
<b>Total number of initiated disciplinary proceedings (1+2+3+4)</b>	10 [ ] NA [ ] NAP
<b>1. For breach of professional ethics</b>	1 [ ] NA [ ] NAP
<b>2. For professional inadequacy</b>	10 [ ] NA [ ] NAP
<b>3. For criminal offence</b>	0 [ ] NA [ ] NAP
<b>4. Other</b>	0 [ ] NA [ ] NAP

Comments - If "other", please specify:

## 188. Number of sanctions pronounced against enforcement agents:

	Number of sanctions pronounced
<b>Total number of sanctions (1+2+3+4+5)</b>	10 [ ] NA [ ] NAP
<b>1. Reprimand</b>	2 [ ] NA [ ] NAP
<b>2. Suspension</b>	3 [ ] NA [ ] NAP
<b>3. Withdrawal from cases</b>	0 [ ] NA [ ] NAP
<b>4. Fine</b>	5 [ ] NA [ ] NAP
<b>5. Other</b>	0 [ ] NA [ ] NAP

Comments - If “other”, please specify. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons: During 2016, the previous Enforcement Agent Disciplinary Commission, established by the Minister of Justice on 14 October 2014 and which started to work in March 2015, acted in 10 cases. One procedure was initiated by the Ministry of Justice, five by the Chamber of Enforcement Agents and four were initiated both by Ministry of Justice and Chamber of Enforcement Agents.

The Commission brought the following disciplinary measures: - 3 disciplinary measures - permanent ban on performing activity; - 5 disciplinary measures- a fine (money penalty); - 2 disciplinary measures- warnings. The Rulebook on the Disciplinary Proceedings against Enforcement Agents was adopted (“Official Gazette of RS”, No. 32 of 30 March 2016) and was applicable from 1 July 2016. On the basis of the Rulebook, the Commission of the MoJ that conducts the disciplinary proceedings against enforcement agents has five members, three of which are appointed by the Minister of Justice from among judges with experience in the enforcement field and the process of securing; two members are appointed by the Chamber of Enforcement Agents among enforcement agents. The newly formed disciplinary commission was established at the inaugural session at 10.11.2016. Between 10th of November 2016 and 31th of December 2016 there were no initiated disciplinary proceedings by Disciplinary Prosecutor of Ministry of Justice or Disciplinary Prosecutor of Chamber of Public Enforcement Agents.

### H1. Please indicate the sources for answering questions 186, 187 and 188:

Source: Q 186: Chamber of Enforcement Agents; Q’s 187-188: Ministry of Justice; Enforcement Agent Disciplinary Commission; Chamber of Enforcement Agents

## 8.2. Execution of decisions in criminal matters

### 8.2.1. Functioning of execution in criminal matters

189. Which authority is in charge of the enforcement of judgments in criminal matters? (multiple options possible)

Judge

Public prosecutor

Prison and Probation Services

Other authority (please specify): please see below.

Comments - Please specify his/her functions and duties (e.g. initiative or monitoring functions). - The Administration for the Enforcement of Penal Sanctions organises, implements and monitors the enforcement of a prison sentence, juvenile imprisonment, community service sanctions, probation with protective supervision, security measures of compulsory psychiatric treatment and confinement in a medical institution, compulsory treatment of drug addicts and mandatory treatment of alcoholics and educational measures of committal to a correctional home and supervises individuals on probation if the court decision orders the convict to fulfill an obligation;

- The court (judge) which rendered the first instance sentence is responsible for enforcement of fines and the security measures of confiscation of items and has supervisory powers over the execution of security measures of compulsory psychiatric treatment and confinement in a medical institution, compulsory psychiatric treatment without confinement, compulsory treatment of drug addicts and of alcoholics, educational measures, probation with protective supervision and community service sanctions;

- The court which rendered the decision on probation shall supervise the fulfilment of the obligations that are specified by the decision on conditional release (probation);

- A public prosecutor for juveniles has supervisory powers over the implementation of corrective measures;

- The police enforce the penalty of seizure of driving license and safety measures of ban on driving a motor vehicle and expulsion of foreigners from the country;

- The measure of compulsory psychiatric treatment without confiscation shall be executed in a health care institution designated by the court that imposed the measure;

- When performing a profession, activity or duty is tied with approval of competent authority, the security measure of prohibition of performing a profession, activity or duty shall be enforced by the competent inspection;

- The security measure of publication of the judgment is implemented by the media determined by the court of first instance; - Safeguard measures imposed for misdemeanour offenses and economic offenses are enforced in the manner provided for security measures imposed for a criminal offense; - The guardianship/custodial authority is authorised to carry out the corrective measures, except of prison sentences; - Educational measures of referral to an educational institution and referral to a special institution for treatment and training are carried out in the appropriate institutions.

## 190. Are the effective recovery rates of fines decided by a criminal court evaluated by studies?

Yes

No

Comments

### 191. If yes, what is the recovery rate?

80-100%

50-79%

less than 50%

Comments - Please indicate the source for answering this question:

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## 9. Notaries

### 9.1. Profession of notary

#### 9.1.1. Number and status of notaries

192. Number and type of notaries in your country. If you do not have notaries skip to question





	Number of notaries
<b>TOTAL</b>	154 [ ] NA [ ] NAP
<b>Private professionals (without control from public authorities)</b>	[ ] NA [ X ] NAP
<b>Private professionals under the authority (control) of public authorities</b>	154 [ ] NA [ ] NAP
<b>Public agents</b>	[ ] NA [ X ] NAP
<b>Other</b>	[ ] NA [ X ] NAP

Comments - If "other", please specify the status: Action Plan for Ch23 (EU Integrations) provides for activity no. 1.3.6.22. "Conducting of notary state exam and appointment of additional number of notaries, in accordance with the Law on the Notariat and rulebook on the number of notaries' positions and the official seats of notaries". Therefore, one of the strategic activities of RS in the period were the gradual increase of the number of notaries.

### 192-1. What are the access conditions to the profession of notary:

- diploma
- payment of a fee (e.g. purchasing office)
- co-opting of peers
- other

Comments For the purpose of the registration into the register of Notaries of the Chamber the fee has been determined in the amount of 1.000,00 euros (in Serbian dinars counter value).

### 192-2. (Modified question) What is the duration of appointment of a notary?

- Limited duration, please indicate it in years: .....
- Unlimited duration

Comments Since the introduction of the profession (1 September 2014- April 2017), the engagement of a total of 10 notaries was terminated (2 died, 7 were dismissed at their own request, 1 was dismissed after disciplinary proceedings).

### 194. Do notaries have duties (multiple options possible):

- within the framework of civil procedure
- in the field of legal advice
- to certify the authenticity of legal deeds and certificates
- in the field of mediation

other (please specify): Deposit operations such as depositing money by the parties for keeping, depositing securities, documents, works of art and other valuables, for which the parties receive a Notary Confirmation of Deposit; Conducting legal proceedings and undertaking actions as a trustee of the court (ex. inheritance proceedings); certification of signatures; The statement on recognition of

paternity may be given before a notary; notarial last will and testament, etc.

Comments The most important legal services which are performed by the notary may be classified into three main groups: 1. The drafting, certifying and issuing of authentic documents on legal transactions, statements and facts on which certain rights are based and certify private documents; 2. Deposit operations for documents, money, securities, and other objects; 3. Conducting legal proceedings and undertaking actions as a trustee of the court. Notaries, as a new legal profession, have been introduced with the aim of reducing the courts' workload made up of non-adjudicatory cases, with the aim of improving judicial efficiency and ensuring legal certainty. The delegation of non-contentious proceedings to notaries represents one important instrument for the reduction of courts' workload and for ensuring trials within a reasonable time.

For the purpose of implementation of provisions of the competences of notaries to act as a trustee of the court, the Ministry of Justice, Supreme Court of Cassation and High Judicial Council enacted on 13 May 2016 "Instructions for the Implementation of Provisions of Arts. 30a and 110a of the Law on Non-Contentious Procedure and Art. 98 of the Law on Notary System", enabling the extension of notary competences to inheritance proceedings, thereby alleviating courts of this non-contentious judicial workload. The Minister of Justice enacted the tariff on 12 February 2016. Based on an analysis of the application of the Notarial Tariff, conducted by the Notary Chamber of Serbia, amendments to the Notary Tariff have been enacted by the Minister of Justice ("Official Gazette of RS", 12/2016) on 12 February 2016 and have entered into force on 20 February 2016. Many of the changes follow the amendments of the law, rationalising the costs of proceedings before notaries, for the purpose of increasing legal certainty (e.g., it is now provided that a solemnisation of a preliminary contract costs 50% of the price of the main contract, and, if concluded before the same notary, this price paid is calculated into the price of the main contract). Upon obtaining the opinion of the Notary Chamber, the Minister of Justice has also established the Tariff for Notaries as Court Commissioners in Inheritance Proceedings ("Official Gazette of RS", no. 12/2016), also effective as of 20 February 2016. These legislative amendments enable the smooth transition of competences in conducting inheritance proceedings from courts to notaries, respecting that no additional burden is thereby created for parties involved. The statistical data regarding the number of probate proceedings entrusted to notaries in 2016 is: No. of cases entrusted for the purpose of making death certificates: 20,713; Inventory and appraisal of the estate: 501; No. of cases entrusted for the purpose of conducting proceedings: 13,900.

What the notaries have demonstrated so far, considering that they have been handling probate proceedings since May 2016, is that proceedings are sometimes completed within a month, with their average duration being two months, which is significantly less than it used to be when they were handled by the courts. "Other": Deposit operations such as depositing money by the parties for keeping, depositing securities, documents, works of art and other valuables, for which the parties receive a Notary Confirmation of Deposit; Conducting legal proceedings and undertaking actions as a trustee of the court (ex. inheritance proceedings); certification of signatures; The statement on recognition of paternity may be given before a notary; notarial last will and testament, etc.

### **194-1. Do notaries have the monopoly when exercising their profession:**

in civil procedure

in the field of legal advice

to authenticate deeds/certificates

in the field of mediation

other

Comments - Please indicate any useful clarifications regarding the content of the notaries' monopoly or on the opposite regarding the competition they have to deal with: Civil-law notaries have been introduced in 2014 in the real estate conveyance procedure, as guarantors of legality and mechanism for increasing legal security. Important legislative amendments were enacted on 21 January 2015, amending provisions of the Law on Notarial System, as well as the set of accompanying laws – Law on Non-Contentious Procedure, Law on Real Estate Transfer, Family Law and Inheritance Law. The Law on Amendments and Supplements to the Law on Notary System was adopted on 18 December 2015 ("Official Gazette of RS" no. 106/2015), applicable from 29 December 2015, ensure uniform and efficient application of notarial real estate conveyance, achieving greater legal security but simplifying procedures and improving their efficiency. Since the amendments of the Law on Notariat in January 2015, the valid form for transfer of immovable property is a private written form (drafted by an attorney or the party/parties) which has to be solemnized by a notary. The compulsory form of the notarial authentic deed is limited to only few exceptions (persons who lack legal capability, minors). The Law on Verification of Signatures, Manuscripts and Transcripts, which came into force in 2014, regulates the issue of notarial verification. At the time when the notarial profession was introduced, this Law envisioned that the subject-matter competence for the verification of signatures, transcripts and manuscripts in the territory of the Republic of Serbia belongs to notaries. Due to gradual introduction of notarial profession, the basic courts and local

municipalities have retained these competences until 1 March 2017, when the verification of signatures, manuscripts and transcripts will become an exclusive competence of notaries, with only two exceptions: - In the cities or municipalities for which notaries have not been appointed, until the appointment of the notaries, the signatures, manuscripts and transcripts shall be verified, as entrusted tasks, by the basic courts, court units, as well as the registration offices of the basic courts and the municipal administration, until appointment of a notary (in 2016 only 12 such territories of courts remain). The transcript of an official document may also be verified by its issuer.

**194-2. As well as these activities, what are the other ones that can be carried out by notaries?**

- Real estate transaction
- Settlement of estates
- Legality control of gambling activities
- Authentication of documents
- Translations
- Signatures
- Other

Comments

**195. Is there an authority entrusted with supervising and monitoring the notaries' work?**

- Yes
- No

Comments

**196. If yes, which authority is responsible for supervising and monitoring notaries?**

- a professional body
- the judge
- the Ministry of Justice
- the public prosecutor
- the Ministry of Interior
- other (please specify): .....

Comments The latest amendments to the Law on Notary System from 18 December 2015 have improved the provisions on monitoring and control by the Ministry of Justice and the Notary Chamber, and have made the competences more precise. The Rulebook on the Composition, Method of Work and Decision-Making of the Commission of the Ministry of Justice Which Decides on Appeals against decisions of the Disciplinary Committee of the Notary Chamber has been adopted ("Official Gazette of RS", No. 16 of 26 February 2016). On the basis of this bylaw, the Commission of the Ministry has three members - a notary, an employee of the Ministry of Justice and prominent lawyers with at least ten years of experience in the legal profession. The President and members of the Commission have been appointed by the Minister of Justice.

The Chamber enacted the Rulebook on the Method of Supervision over the Work of Notaries which came into force on 29 July 2017, after having obtained the approval from the Ministry of Justice,

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

**196-1. Is there a system of general continuous training mandatory for all notaries?**

- Yes
- No

Comments The Chamber administers the professional training of notaries, notarial assistants, associates and interns. To that end, with the

support and exchange of experiences with colleagues from the chambers of France, Germany, Austria, Macedonia, Republic of Srpska, Montenegro, and Croatia, workshops for newly appointed notaries have been organized since the very beginning, with the aim of sharing experiences necessary for the notarial profession. Newly appointed notaries always go through initial training at notary offices, where they learn about the main principles of operation of a notary office through a series of practical examples. In addition to organizing initial trainings for new notaries and special trainings for Non-Contentious proceedings, for two years in a row the Chamber has been organizing regular lectures in cooperation with the High Council of French Notariat, where French guests have been sharing their long-term experience with their Serbian colleagues. The Expert Council of the Serbian Chamber of Notaries, composed of judges, university professors, notaries and other leading experts in the relevant fields of law, was established in order to harmonize the notarial practice, and to create a strong basis for future generations of notaries. The first symposium of notaries, organized by the Chamber, was held in Niš on November 26-27, 2016, and it was dedicated to the harmonization of the notarial practice, particularly in delegated activities.

## **I1. Please indicate the sources for answering question 192:**

Sources: The Notary Chamber of Serbia, which keeps the register of notaries. In December 2016 the number of notaries was 154. The list of notaries and their contacts, with an interactive map, is available on the website of the Notarial Chamber of Serbia, <http://beleznik.org/index.php/sr/pronadi-svog-javnog-beleznika/spisak-javnih-beleznika-i-kontakti> . In addition, on the day 17.03.2017.g. the notary offices engaged 273 interns and 21 notary assistants

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## **10.Court interpreters**

### **10.1.Details on profession of court interpreter**

#### **10.1.1.Status of court interpreters**

#### **197. Is the title of court interpreters protected?**

Yes

No

Comments Bylaw on Court Interpreters ('Official Gazette of the RS', no.: 35/2010, 80/2016 and 7/2017) proscribes rules on selection and work of court interpreters and translators. Based on the bylaws, appointed court interpreters and translators have the right to call themselves by this name and to make a court interpreter/translator seal, a sample of which they deposit with the court president, and with which they certify written translations and interpretations. Please see:

<https://www.mpravde.gov.rs/files/%D0%BF%D1%80%D0%B0%D0%B2%D0%B8%D0%BB%D0%BD%D0%B8%D0%BA%20%D0%BE%20%D1%81%D1%82%D0%B0%D0%BB%D0%BD%D0%B8%D0%BC%20%20%D1%81%D1%83%D0%B4%D1%81%D0%BA%D0%B8%D0%BC%20%D1%82%D1%83%D0%BC%D0%B0%D1%87%D0%B8%D0%BC%D0%B0.pdf>.

#### **198. Is the function of court interpreters regulated by legal norms?**

Yes

No

Comments The Law on Organisation of Courts ('Official Gazette of the RS', no.: 116/2008, 104/2009, 101/2010, 31/2011 – other law, 78/2011 – other law, 101/2011, 101/2013, 106/2015, 40/2015 – other law, 13/2016, 108/2016 and 113/2017), Bylaw on Court Interpreters ('Official Gazette of the RS', no.: 35/2010, 80/2016 and 7/2017) and Rulebook on Remuneration for Expenses in Judicial Proceedings ('Official Gazette of RS No. 9 of 5 February 2016 and no. 62 of 13 July 2016) regulate the function of court interpreters. Criminal Procedure Code likewise proscribes relevant provisions (ex. regarding professional secrecy) as well as the Law on Notarial System, which regulates the role of court translators and interpreters within notarial procedure.

## 199. Number of accredited or registered court interpreters:

[            ]

[ X ] NA

[ ] NAP

Comments According to the Bylaw on Court Interpreters (enacted on the basis of the Law on Organisation of Courts), the Ministry of Justice keeps records on court interpreters. Electronic records of permanent court translators and interpreters can be found on the following link: <https://www.mpravde.gov.rs/tekst/13857/elektronska-evidencija-stalnih-sudskih-prevodilaca-i-tumaca.php>. However, the electronic records are not fully updated and the number of court translators and interpreters is not fully accurate. Relevant data will be available when the new law and an improved electronic registry becomes applicable. In order to update the electronic records of permanent court interpreters and translators, all in accordance with Article 9 of the Rulebook on Permanent interpreters ("Official Gazette of RS" no. 35/10 and 80/16) the Ministry of Justice has on 08 October 2016 published a public call for the submission of data necessary for the update of the electronic records of permanent court interpreters and translators.

On 17 December 2016, the total number of permanent court translators and interpreters in the Records of Ministry of Justice is 714. In addition to this, the total number of court interpreters and translators in the Registry of the Secretariat of AP Vojvodina (which has transferred jurisdiction in this matter on the territory of the autonomous province) is 706 while 619 of them are active.

It is important to note that the Ministry of Justice appointed 17 permanent court interpreters for sign language for deaf people, which is the first appointment of these court interpreters after almost a decade. Decisions on the appointment of permanent court interpreters were published in the "Official Gazette of the Republic of Serbia" No. 24 of March 17, 2017. An interpreter for sign language for deaf, blind and silent people can be a person who has completed at least a secondary education of four years - the fourth degree (changes from 2017).

## 200. Are there binding provisions regarding the quality of court interpretation within judicial proceedings?

( X ) Yes

(   ) No

Comments - If yes, please specify:

## 201. Are the courts responsible for selecting court interpreters?

[   ] Yes, for recruitment and/or appointment for a specific term of office

[   ] Yes, for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

[ X ] No, please specify which authority selects court interpreters Ministry of Justice

Comments

## J1. Please indicate the sources for answering question 199

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

## 11. Judicial experts

### 11.1. Profession of judicial expert

#### 11.1.1. Status of judicial experts

**202. In your system, what type of experts can be requested to participate in judicial procedures (multiple choice possible):**

- "expert witnesses", who are requested by the parties to bring their expertise to support their argumentation,
- "technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal,
- "legal experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision).
- Other (please specify): .....

Comments

**202-1. Are there lists or databases of technical experts registered?**

- Yes
- No

Comments - Please, indicate any useful comment regarding these lists of experts if they do exist (e.g. : who decide of the registration on the list ? Is the registration limited in time ? does the expert take the oath ? how is his/her skill evaluated ? by whom ?)

**203. Is the title of judicial experts protected?**

- Yes
- No

Comments - If appropriate, please explain the meaning of this protection:

**203-1. Does the expert have an obligation of training?**

	Obligation of training
<b>Initial training</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Continuous training</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments

**203-2. If yes, does this training concern:**

- the proceeding
- the profession of expert
- other

Comments

**204. Is the function of judicial experts regulated by legal norms?**

- Yes
- No

Comments The Law on Expert Witnesses ("Official Gazette of RS", no. 44/2010), Criminal Procedure Code, Civil Procedure Code, Court Rules of Procedure, Rulebook on Remuneration for Expenses in Judicial Proceedings ("Official Gazette of RS No. 9 of 5 February 2016 and no. 62 of 13 July 2016)

**204-1. On the occasion of a mission entrusted to him/her, does the expert have to report any potential conflicts of interest?**

Yes

No

Comments

**205. Number of accredited or registered judicial / technical experts:**

6882 ]

NA

NAP

Comments Governmental bodies which are competent for performing expertise, as well as scientific and professional institutes are not included in the register and do not undergo a system of certification. On 20 November 2016, the profession numbers 6,882 in total natural persons while 92 limited liability companies and joint-stock companies are registered, enlisted on a rolling basis, without a public call.

**205-1. Who sets the expert remuneration?**

- The amount and manner of compensation of costs and remuneration is determined in accordance with the regulation governing the reimbursement of costs in legal proceedings – a Ministry of Justice bylaw, Rulebook on Remuneration for Expenses in Judicial Proceedings ("Official Gazette of RS No. 9 of 5 February 2016 and no. 62 of 13 July 2016), which can be found at the following link: <https://www.mpravde.gov.rs/tekst/18081/pravilnik-o-naknadi-troskova-u-sudskim-postupcima-.php>.

**206. Are there binding provisions regarding the exercise of the function of judicial expert within judicial proceedings?**

Yes

No

Comments - If yes, please specify, in particular the given time to provide a technical report to the judge:

**207. Are the courts responsible for selecting judicial experts?**

Yes, for recruitment and/or appointment for a specific term of office

Yes, for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

No, please specify which authority selects judicial experts For appointment - MoJ; for selection in a particular case - parties /court or the authority that conducts the procedure

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

**207-1. Does the judge control the progress of investigations?**

Yes

No

Comments

## K1. Please indicate the sources for answering question 205

Sources: Ministry of Justice Department for Judicial Professions. The register of expert witnesses is available on the website of the Ministry of Justice, <http://www.mpravde.gov.rs/tekst/740/sudski-vestaci.php>. A register of legal entities is also kept by the Ministry of Justice and publicly available on the website of the Ministry: <http://www.mpravde.gov.rs/registar.php?id=3998>.

## 12.Reforms in judiciary

### 12.1.Foreseen reforms

#### 12.1.1.Reforms

**208. Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? Please inform whether these reforms are under preparation or have only been envisaged at this stage. Have innovative projects been implemented? If possible, please observe the following categories:**

1. (Comprehensive) reform plans A revision of the Action Plan for Chapter 23 is planned for 2018, as well as the conducting of a new Judicial Functional analysis and, thereafter, a new national strategic framework. The National Judicial Reform Strategy for the period 2013-2018 envisages independence, impartiality, competence, accountability and efficiency of the judiciary, as basic principles and defined priorities, strategic objectives and strategic guidelines of reform measures. The National Judicial Reform Strategy for the period 2013-2018 has identified the need of amending the Constitution in order to strengthen the independence of the judiciary, through changes of the process of appointment and dismissal of judges, court presidents, public prosecutors and deputy public prosecutors as well as changes in the composition of High Judicial Council and State Prosecutorial Council. The High Judicial Council and State Prosecutorial Council, in accordance with the strategic objectives, should become the key institutions of the judiciary with full capacity of their competencies and with precisely defined system of transparency and accountability. A series of roundtables was organised throughout 2017 consider proposals of key stakeholders and discuss the most important topics related to the future amendments („The Competence of the Holders of the Judicial Functions: The Position and the Role of the Judicial Academy in the Appointment Process, The Continuous Training and the Appraisal of the Competence“, „The Composition of the High Judicial Council and the State Prosecutorial Council“, „Competences of the High Judicial Council and the State Prosecutorial Council“, „Sources of Law and Harmonization of Case-law“, „Appointment of Judges and Public Prosecutors“). Currently, the Ministry of Justice is working on a draft of the Constitutional amendments and all received proposals that stand in line with European standards are taken into consideration. After the preparation of the draft of the Constitution the public debate will be organized, and the draft will be submitted to the Venice Commission for opinion. The Commission for the Implementation of the National Judicial Reform Strategy for the period 2013-2018 has adopted the decision for the establishment of the working group for drafting a midterm Strategy on Human Resources in the Judiciary, addressing the needs and the workload in courts and prosecutor's offices. The Action Plan for the Implementation of the National Judicial Reform Strategy for the Period 2013-2018 envisages development of a normative framework for the introduction of a two-tier administrative judiciary through amendments to the Law on the Organization of Courts and Law on Administrative Disputes.

2. Budget Action Plan for Chapter 23 which will be revised during the second quarter of 2018 provides for certain activities with



respect to reform of the budget.

3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings) Concerning the Public Prosecution in Serbia, most important debate now is the one about Constitutional changes envisaged by the Action Plan for the Chapter 23 of the Accession Process of the Republic of Serbia to the European Union. Ongoing debate is concentrated on the issues of the position, role and elections in the Public Prosecution of Serbia. Most important questions are aimed towards the composition of the State Prosecutorial Council, process of the election of the Public Prosecutors as the chiefs of the offices and some other prosecution institutional questions.

Following close cooperation with DEU and DG ELARG and DG Justice, two major IPA projects are envisaged with regards to the strengthening of the technical capabilities of the Prosecution, namely IPA 2015 and IPA 2017. First IPA is aimed towards the rolling out of the Prosecution Case Management System named "SAPO" to all 90 Public Prosecution Offices in Serbia, while the second is aimed towards strengthening of overall technical capabilities of specialized unit within MoI and Special Prosecution Office for High-Tech Crime of Serbia.

As one of the results of the IPA 2012 Judicial Efficiency Project, a model of Prosecution Office has been adopted and it should be implemented through the next domestic and EU projects, like IPA 2018. On basis of this project, several Prosecution Offices have been reconstructed and put to use during reporting period.

Renovations and construction of new buildings for the judiciary, i.e. improving working conditions, remain a priority, as set out in the Action Plan for Chapter 23.

3.1. Access to justice and legal aid The Republic of Serbia is implementing a set of reforms to improve access to justice. Provision of free legal aid is partially available in civil administrative and criminal proceedings, as explained above. However, there is a need to establish a unified system of free legal aid, enabling transparency of the providers, availability of information for the citizens and the quality control of the provided legal aid. Given the ongoing disagreement between the Bar associations and civil society organizations about the circle of the providers, the Draft Law on FLA has not been adopted yet.

In addition, the Action Plan for Chapter 23 stipulates that Criminal Procedure Code will be amended to align with the new EU acquis on procedural safeguards, including:

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

Finally, access to justice is planned to be improved for victims and witnesses in line with the Action Plan for Chapter 23 (more info under 12. 208)

4. High Judicial Council SPC, together with HCC in the period from 2015-2017 implemented EU IPA 2013 project “Strengthening capacity of HCC and SPC”, which focused on improving strategic planning, communication, project management, budget and administrative capacity of the SPC and HCC, as well as the capacity for elections and promotions of prosecutors and judges and capacity for disciplinary proceedings and ethics.

Furthermore, the SPC cooperated with the World Bank on projects strengthening its analytical capacity regarding budget and strategic planning, software for human resources and budget management, as well as Functional Analysis of public prosecutorial system.

5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education and training, etc. Reform of the Judicial Academy remains a priority. With respect to notaries, in the following period, the legal framework will be improved in order to refine the competences of notaries, in accordance with the EU acquis and best practices, as well as to introduce electronic archiving and interoperability, in order to increase the efficiency and quality of their services. Improvements to the notary tariff are planned. Likewise, relevant institutions are working closely together in order to improve the real estate conveyance procedures and introduce electronic interoperability between notaries, on the one hand, which are to be the point of single contact for real estate transactions, and the Republic Geodetic Authority, Tax Authority, etc., on the other, in order to improve legal security and enhance efficiency.

The National Judicial Reform Strategy for the period 2013-2018 and relevant action plans provide for the enacting of the Law on Amendments to the Law on Expert Witnesses in terms of changing the criteria for the appointment of expert witnesses by placing particular emphasis on their expertise and competence and changing the procedures for dismissal of expert witnesses, in 2018. The action plans also provide the same deadline for the enacting of the Law on Court Interpreters in order to create an adequate normative framework for the systemic approach to training of permanent court interpreters and translators as well as with a view to improving oversight of the work of court interpreters.

6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities Pursuant to the envisioned activities in the EU Integration Action Plan for Chapter 23, the working group for drafting of amendments to the Civil Procedure Code has been established on April 2017. It is expected the Law on Amendments and Supplements to the Law on Civil Procedure will be adopted by the end of 2018. The main amendments to the Civil Procedure Code will be related to alternative dispute resolution, procedural discipline, recording of the hearings and service of documents.

In 2016 the Republic of Serbia signed with Kazakhstan three agreements: the Agreement on Legal Assistance in Criminal Matters, the Agreement on Extradition and the Agreement on the Transfer of Convicted Persons. In 2017 the Republic of Serbia signed with the Republic of Italy: the Agreement on Facilitation of the Application of the European Convention on Extradition of 13 December 1957 and the Agreement on Facilitating the implementation of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959. These agreements will be ratified in 2018. Republic of Serbia is planning in 2018 to sign with United Arab Emirates: Agreement on Legal Assistance in civil matters, Agreement on Legal Assistance in criminal matters, Agreement on Extradition and Agreement on the transfer of Convicted Persons. Also in 2018 Republic of Serbia plans to sign Agreement on the transfer of Convicted Persons with Kingdom of Norway.

7. Enforcement of court decisions Implementation of the Law on Enforcement and Security is being closely monitored and further improvements to the Law are planned in order to address the needs of improving practice. Further increasing of the quality standards

of work of enforcement agents are envisioned through the enacting of the Bylaw on Professional Standards, implementation of the electronical case management monitoring system which will alert the Chamber and Ministry of relevant irregularities, using of ICT to increase efficiency, including through interoperability and electronic data exchange (please see below section: ICT), etc. and amendments to the Tariff.

8. Mediation and other ADR In the interim benchmarks given in the Common Position on Judiciary and Fundamental Rights from 2016, the European Union stresses the need to further explore and promote the use of various alternative dispute resolution mechanisms, which remains one of the strategic priorities of Serbia. Serbia has made notable improvements in 2017 with respect to encouraging courts to direct their attention to the organization of work in support of mediation, by enacting and overseeing the implementation of Joint Guidelines issued by the Supreme Court of Cassation, the High Judicial Council, and the Ministry of Justice for the promotion of mediation in the Republic of Serbia. However, to achieve sustainable development of mediation and a balanced relationship between ADR and litigation, a separate strategic framework and action plan will be set out in the following period, addressing at least five necessary interventions, in parallel: 1)Amendments to the normative framework (the Law on Mediation in Dispute Resolution and its bylaws, the Civil Procedure Code and the Law on Court Fees, the Court Rules of Procedure, and other relevant regulations within the specific areas of mediation (the Law on Peaceful Settlement of Labor Disputes, the Family Law, etc.); 2)Establishment and improvement of the work of mediation centers; 3)Establishment and development of support services for mediation within basic, commercial, and higher courts, including training of the judicial staff and the establishment of procedures in the courts for management of cases referred to mediation („mediation case-management“); 4)Training and improved standards in the implementation of mediation, pursuant to CEPEJ and international standards; 5)Promotion; 6)Improvement of the administrative capacities of the Ministry of Justice (personnel and technical capacities – a centralized statistics of courts, mediation centers and mediators, relevant registers developed and improved, etc.).

9. Fight against crime The fight against organized crime and corruption implies a quick and effective criminal procedure. In order to create a more efficient legal framework, the Ministry of Justice has prepared a set of draft laws that will be in the upcoming period in the legislative procedure. A draft of the new Law on Anti-Corruption Agency is prepared and public debate is currently ongoing. The new Law on the Anti-Corruption Agency will expand the jurisdiction of this institution with the aim of strengthening the capacity and preventive role of the Agency in the fight against corruption, extending the circle of persons obliged to submit to the Agency a disclosure report concerning their property, etc. Amendments to the Criminal Procedure Code are being drafted, in order to further regulate the procedure in the part referring to the service of documents, recording of trial and procedural discipline, having in mind the EU standards, the practice of the ECtHR and the Constitutional Court, harmonization with Directive 2013/48 / EU, Directive 2010/64 / EU, Directive 2012/13/EU, etc. as well as . amendments relating to the application of minimum standards on the rights, support and protection of victims of crime / injured parties in order to comply with Directive 2012/29 /EU. On 23 November 2016, the National Assembly adopted a new Law on Organization and Jurisdiction of State Authorities in the Fight Against Organized Crime, Terrorism and Corruption, which addresses issues of normative-organizational character necessary for an efficient fight against corruption, organized, financial, economic and crime against official duty. In order to increase effectiveness, the organizational structure of public prosecutor's offices, courts and police is redefined, an effective cooperation between the police, prosecutors, courts and other state agencies through liaison officers is established; resolving of particularly complex cases is improved; the 367 capacities of judicial office holders and members of the police in the field of financial investigations are strengthened; continuous training of judges, judicial officials and police officers in the field of financial investigations is provided. Therefore, the basis for the systematic organization of special investigative teams is provided. The Law will be applicable as of 1 March 2018. The Action Plan for Chapter

23 foresees development of the Draft Prosecutorial Strategy for the Investigation and Prosecution of War Crimes in Serbia, in the light of the Completion Strategy of the ICTY and Draft National Strategy for Investigation and Prosecution of War Crimes, with the involvement and support of the ICTY, MICT, ICC, regional prosecutors and NGOs.

9.1. Prison system The main challenges in the work of the Administration for the Enforcement of Penal Sanctions and priority activities in 12 areas of development of the system of enforcement of criminal sanctions are defined by the “Strategy of Development of the Criminal Justice System in the RS until 2020”. The Administration will implement measures in order to achieve the following priorities: tackling the problem of overburdening accommodation capacities in institutions, improving material conditions in prisons and the position of convicted persons, respecting human rights, health care, establishing new treatment programs, training and professional training for convicted persons, special programs for particularly vulnerable categories, introduction of modern information and security systems, more efficient post-penal acceptance, execution of alternative measures and sanctions on a larger scale, the development of training and professional training of employees, as well as the improvement of the work of internal control over the work of the institution.

The Strategy for reduction of overcrowding of accommodation capacities in institutions for execution of criminal sanctions in the Republic of Serbia until 2020 with the Action Plan lays out priority measures which will improve the accommodation conditions and increase accommodation capacities in prisons, such as:

- 1) implementation of measures to ensure the presence of the defendant;
- 2) more efficient implementation of treatment programs in order to progress in treatment;
- 3) further development of the system of alternative sanctions and measures and trust services;
- 4) conditional release;
- 5) increase of accommodation capacities and improvement of conditions in institutions.

Further development of the system of alternative sanctions and measures and trust services affects the reduction of short prison sentences that are completely ineffective. Activities are also being realized in order to develop a post-penal acceptance system for convicted persons, and measures are being implemented aimed at strengthening cooperation between the Office for Enforcement of Alternative Sanctions with local self-governments. A draft proposal for the Strategy for Social Reintegration and Acceptance of Sentenced Persons was prepared.

Reducing the prison population will also contribute to a more effective conditional release and precise provisions in the Criminal Code that regulate conditional release in fulfilling obligations (the Law on Amendments to the Criminal Code has been adopted, which is applicable from 1 June 2017).

9.2 Child friendly justice Child friendly justice plays an important role in several national strategic documents. Action plan for Chapter 23 within EU accession process contains a section with the aim at improvement of the protection and enforcement of rights of the child, including by strengthening the relevant institutions, ensuring better cooperation between the judiciary and the social sector and by fully implementing legislation on juvenile justice in line with EU standards. Also two strategies on criminal sanctions enforcement (Strategy for Development of the System of Execution of Criminal Sanctions in the Republic of Serbia from 2013 to 2020 and Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions) contain important measures for juvenile offenders as one of the vulnerable groups and envisages activities aimed at improvement of treatment programs, training and professional development of employees to ensure they have suitable knowledge, qualifications and motivation to implement the necessary reforms and enhancement of accommodation capacities for juveniles. Regarding implementation of innovative projects, “Strengthening the justice and social welfare systems to advance the protection of children in Serbia”, implemented by UNICEF and supported by European Union through IPA 2013 was implemented in 2015-2017. The project had two pillars, each focusing on its respective objective. These are:

- 1.The justice system applies adopted regulations/policies that secure the application of the “best interests of the child” principle;
- 2.The social welfare system favours family-based solutions in supporting children at risk.

9.3.Violence against partners The Action Plan for Chapter 23 provided for the conducting of a detailed analysis of the alignment of criminal justice legislation with Council of Europe Convention on preventing and combating Violence against women and domestic violence (Istanbul Convention), which is fully implemented. Also, the Working group for amendments to the CC identified during its work that there is lack of alignment of certain provisions with the Istanbul Convention, determined the necessary changes and developed the Draft amendments and supplements to the CC in order to align with the Istanbul Convention.

The Action Plan provided for the adopting of a special law governing prevention of violence against women in the family and partner relationships, which is fully implemented. The Ministry of Justice prepared the Draft law, organized the public debate, as well as a number of consultations with CSOs. On 23 November 2016, the National Assembly adopted the Law on the Prevention of Domestic Violence (“Official Gazette of the Republic of Serbia” No 94/16). By adopting this Law, the Republic of Serbia took the necessary legislative measures to establish an instrument for effective multi-sectoral cooperation, introduced risk assessment of direct danger of domestic violence, and enforcement of urgent measures against the perpetrator of domestic violence, which is provided for in some provisions of the of the Istanbul Convention. The Law stipulates a special procedure for the prevention of domestic violence, which is one of the most important novelties and an essential application of some of the most important provisions of the Istanbul Convention. Concurrently, the Ministry of Justice initiated a public campaign “Off violence”, aimed at prevention of violence against women in the family and partner relationships.

The activity which prescribes to conduct training of judges, public prosecutors and deputy public prosecutors focused on acting in the cases of violence against women in the family, partner relationships and gender based violence has also been implemented successfully. Training aimed at improvement of prosecution and protection of victims of violence against women in family, partner relationships and gender-based violence was organized in 2015. for more than 120 judges.

For more information, please see Report 4/2017 on the Implementation of the Action Plan for Chapter 23.

10. New information and communication technologies With respect to judicial ICT reform and innovative projects, SIPRIS, „eSud / (eCourt)”, Luris and Jurisprudence portal projects should be mentioned. SIPRIS is a case management software system for commercial courts. It is a centralized system in sense that is enables administrating, software developing (adding new court registers, functionalities, etc.), case status search among different courts, etc. from one access point. Key new functionalities compared with AVP which all commercial courts used since 2008 are barcode technology for registering filings to court cases which enables speeding up scanning process and routing filings to court case. Linking first instance decisions with decision by appellate is automatic. SIPRIS comprises case law of commercial courts with universal descriptors and it is prepared for data exchange with court practise portal. It contains a calendar with automatic and customised notifications and can generate predefined but customised reports. It is linked with registers of other institutions for data exchange and prepared for connecting with address register and delivery tracking. Its special feature is that is prepared for errors and other incidents during work to be reported with screenshot directly to software developer instead of ticketing system via special links outside of application. SIPRIS records logging and using of software by all users and all roles in the system. Phase of implementing SIPRIS in commercial courts in Serbia starts in 2018.

The „eSud / (eCourt)” is electronic filing system for filing and service of documents within the administrative disputes and connected processes (execution of administrative disputes decisions) for Administrative court. It is connected to SAPS information system for routing documents. Benefits for judiciary are faster document filing and retrieval, eradication of the misplacement of case files, concurrent access to view the same case filed by different parties, etc. Within the courts, the „eSud” allows electronic documents to be automatically routed to the appropriate registry staff for processing. This enables realizations of improvements in efficiency by minimizing paper flow to shorten case processing time. The whole process is fast, convenient and efficient. The plan for 2018 is

promoting usage and widening range for using „eSud” with other type of cases (more Administrative court registers) and gathering feedback for judges in work for preparing similar solutions for communication between courts and parties in another type of court. Information system LURIS is used by the Department for International Legal Aid of Ministries of Justice in the matter of requests for mutual legal assistance or letters rogatory. LURIS is based on the platform for content management (Enterprise Content Management), where a very similar way to digitize documents and data with the possibility of easy integration with other systems within the of Justice Sector. Project for reform is expanding LURIS with new functionalities (or forming as a new informational system), firstly, with Register of Commissions of MoJ (EOK - Evidencija Obrazovanih Komisija), for different working groups and special task and ad hoc bodies of MoJ and, gradually, for every other department of MoJ. EOK was planned to be finished by the end of 2017 and the work on the CMS for MoJ departments will start in 2018 with goal to be produced by the end of the year. Also, connecting MoJ Department for Judicial Professions via informational system “eZUP” is planned in 2018 in order to enable electronic data exchange with data important for decisions regarding licenses for court experts, mediators and other administrative procedures within MoJ. The Jurisprudence portal gathers selected decisions of courts of general jurisdiction. It is planned to be enriched with jurisprudence of commercial courts (from SIPRIS) and Misdemeanour courts (from SIPRES). It is instrument for improving public access to judiciary since decisions (with automatic anonymization of personal data ) are available from every desktop. Furthermore, the judge as a user role enables access to integral decisions and special functionality for keeping draft decisions in Jurisprudence storage. Possible criteria for searching decisions data base are type of court registers, descriptors of dispute, laws and acts or judge. The application automatically tracks back reversed or annulled decisions of a lower court and makes visible notification concerning this relation between decisions.

Central statistics (Business Intelligence) represents business intelligence tool for statistics and reporting regarding work of courts of general jurisdiction. It gathers data from decentralized databases of basic and higher courts. From October 2017, it is in operation and enables big data concerning courts, research and analytics for most of the basic courts. Primary users are statistics analysts in Ministry of justice, Supreme Court of Cassation, High Court council. Furthermore, it is the instrument for control of compulsory reporting by courts. On the one hand, predefined reports by criteria of number of cases by court registers are available and on the other hand, this platform contains modern tools for creating customized reports by every possible function, criteria and filters, enriched with high variability of graphic data visualization. By the second half of 2018, it is planned to be fully operable, but there is no plan for formal integration of usage of this tool in procedures of Ministry of justice, Supreme Court of Cassation, High Court council.

Electronic data exchange between Judiciary (courts, public prosecutor offices, civil enforcement officers, public notaries) and Ministry of Justice registers and records, Ministry of the Interior, Ministry of state administration and local self-government, Central register of obligatory social insurance, Agency of commercial subjects, Republic Geodetic Authority and other institutions via ESB (enterprise service bus) will improve work, average time for case and lower costs of post services by enabling data which is now collected via paper acts and fillings to be available on Judicial Informational System. Application for notaries for the procedure of verifying the real estate transfers agreements between contracting parties by the court will be connected with Republic of Serbia Geodetic Authority by this service also.

11. Other The Action Plan for Chapter 23 foresees the drafting of a new Law on Personal Data Protection, harmonized with the EU regulatory framework . The Working Group of the Ministry of Justice has prepared the Draft Law on Personal Data Protection and has submitted it to a EUROJUST expert in order to assess the level of compliance with EU acquis, including Regulation 2016/679 and the Directive 2016/680.