



Strasbourg, 25 February 2008

CDL(2008)015
Engl. only

Opinion no. 464 / 2008

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW
ON ORGANISATION OF COURTS
OF SERBIA

Chapter One PRINCIPLES

Judicial Power

Article 1

Judicial power is vested with the courts.

Courts are autonomous and independent state bodies protecting the freedoms and rights of citizens, rights and interests of legal subjects stipulated by law and ensure constitutionality and legality.

Courts adjudicate on basis of the Constitution, laws and other general acts, generally accepted rules of international law and ratified international agreements.

Establishing of Courts

Article 2

Courts are established and abolished by law.

Temporary courts, courts marshal or courts of not of record may not be established.

Separate regulations shall govern conciliation councils, arbitration and other elected courts.

Independence of the Judicial Branch

Article 3

The judicial branch is independent of the legislative and the executive.

Judicial decision are binding to all and may not be subject to extra-judicial examination.

Judicial decision may be reviewed only by the court of competent jurisdiction in due process of law.

Everyone is obliged, and particularly the executive, to comply with judicial decision.

Judicial Competence

Article 4

Judicial competence is defined by the Constitution and law.

A court may not refuse to act and adjudicate in matters under its competence.

Appointment of a Sitting Judge

Article 5

A sitting judge shall be appointed independent of the parties involved and circumstances of the legal matter.

Only the judicial branch may allocate cases to judges, in accordance with pre-determined rules.

Prohibition of Influence on Courts

Article 6

Use of public office, public media and any public appearance that may influence the course and outcome of judicial proceedings is prohibited.

Any other form of influence on the courts is also prohibited.

Publicity

Article 7

Hearings before the court are public and may be restricted only by law.

Right to Complaint

Article 8

A party or other participant in court proceedings have the right to complain against the work of the court when considering that the proceedings are dilatory, irregular or that there is any influence on its course and outcome.

Legal Assistance

Article 9

Courts are required to provide legal assistance to each other, and other government authorities and organisations shall provide legal assistance to courts and forward necessary data.

Courts may provide files and documents necessary to conduct proceedings to government authorities only when this does not impede judicial proceedings.

Symbols of State Authority

Article 10.

The court shall have a seal bearing the name and seat of the court and the coat of arms of the Republic of Serbia.

The name and seat of court, the seal and flag of the Republic of Serbia are displayed in visible place in the court building.

The flag and seal of the Republic of Serbia are displayed also in the courtroom.

Chapter Two

EXTERNAL ORGANISATION OF COURTS

I. TYPES OF COURTS

Courts of the Republic of Serbia

Article 11

There is a single judicial power on the territory of the Republic of Serbia.

Judicial power in the Republic of Serbia belongs to courts of general and special jurisdiction.

Courts of general jurisdiction are municipal courts, district courts, Appellate Courts and the Supreme Court of Cassation.

Courts of special jurisdiction are commercial courts, the High Commercial Court, the High Magistrates Court and the Administrative Court.

Supreme Court of Cassation

Article 12

The Supreme Court of Cassation is the highest court in the Republic of Serbia.

The seat of the Supreme Court of Cassation is in Belgrade.

Other Republican Level Courts

Article 13

The High Commercial Court, the High Magistrates Court and the Administrative Court are established for the territory of the Republic of Serbia with seats in Belgrade.

Appellate Courts shall have seats in Belgrade, Novi Sad, Nis and Kragujevac.

The Administrative Court and the High Magistrates Court may have departments outside the seat in accordance with law.

Municipal, District, Commercial and Magistrates Courts

Article 14

A municipal court is established for the territory of one or more municipalities and a district court for the territory of several municipalities.

A commercial court is established for the territory of several municipalities.

A magistrates court is established for the territory of one or more municipalities.

Establishing, seats and territorial jurisdiction of municipal, district, commercial and magistrates courts and departments of municipal and magistrates courts is regulated by separate law.

Court of directly higher instance

Article 15

The Supreme Court of Cassation is the directly higher instance court to the Appellate Court, the High Commercial Court, the High Magistrates Court and the Administrative Court.

The Appellate Court is the directly higher instance court to the district court and the municipal court, the High Commercial Court is the directly higher instance court to the commercial court and the High Magistrates Court is the directly higher instance court to the magistrates courts.

The district court is the directly higher instance court to the municipal court when so set forth under this Law, as well as for issues of internal court organisation and application of the Law on Judges.

II. TERRITORIAL JURISDICTION AND PERMANENCY OF COURT

1. Territorial Jurisdiction of Court

Seat and territory of Court

Article 16

The seat of the court is in the building wherein is the court.

The territory of a court is the area whereupon it exercises jurisdiction.

Venue of Court Activities

Article 17

Court activities are undertaken in the seat of the court and outside the seat – only when so set forth by law.

A municipal court may hold court days outside its seat.

Court Days

Article 18

During court days a municipal court adjudicates and extends legal aid to citizens.

Venue, date and time of holding court days is set by the president of the Municipal Court.

Court days are announced in the place of their holding.

Departments outside the seat of municipal court

Article 19

A municipal and magistrates court may have department outside their seat wherein they permanently adjudicate and carry out other court activities.

A department outside the seat of a municipal or magistrates court is established for the territory of one or more municipalities under the court's territorial jurisdiction.

2. Permanency of Court

When Court Activities are Undertaken Article 20

Court activities are carried out throughout the year, every working day, and actions that do not tolerate postponement also during non-working days.

The Court Rules define what actions are undertaken on non-working days.

Provisions of paragraphs 1 and 2 of this Article appropriately apply to court and administrative staff.

Compliance with Working Hours Article 21

Judges and court and administrative staff are required to comply with working hours and rules of conduct in court.

A judge shall notify the court president of the reasons preventing him to work within 24 hours of occurrence of the reasons.

The court and administrative staff shall notify their direct superior of the reasons preventing them to work within 24 hours of occurrence of the reasons.

Chapter Three JURISDICTION OF COURTS

1. Jurisdiction of Municipal Court

Article 22

A municipal court adjudicates in first instance for criminal offences carrying as the main penalty a fine or imprisonment up to ten years unless some of these offences fall under the jurisdiction of another court and shall decide on appeals to suspend a security measure or legal effects of conviction for a criminal offence under its competence.

A municipal court adjudicates in first instance in civil actions, unless some of these fall under the jurisdiction of another court, and shall conduct enforcement procedure and non-contentious procedures that are not under jurisdiction of another court.

A municipal court adjudicates in first instance for housing disputes; disputes on commencement, existence and termination of employment; rights, obligations and responsibilities pursuant to employment; compensation for the damage suffered by an employee during work or related to work; disputes related to satisfying housing needs on basis of work.

A municipal court decides in first instance on ban to disseminate newspapers and disseminating information through public media; decides on applications for rehabilitation.

A municipal court extends legal aid to citizens, provides international legal assistance and carries out other tasks provided under law.

It may be provided by law that only certain municipal courts from the territory of the same district court act in particular legal matters.

2. Jurisdiction of District Court

Article 23

A district court shall in first instance:

1. adjudicate criminal offences carrying as the main penalty a term of imprisonment exceeding ten years or higher penalty;

2. adjudicate criminal offences against the Army of Serbia; disclosing of state secret; incitement to violent change of constitutional order; provoking national, racial and religious

hatred, violation of territorial sovereignty; conspiracy for anti-constitutional activity; organising and incitement to perform genocide and war crimes; damaging the reputation of the Republic of Serbia; damaging the reputation of a foreign state or international organisation; disclosing of official secret; violation of law by a judge, public prosecutor and his deputy; endangerment of air traffic safety; provoked murder; rape;

3. adjudicate in juvenile criminal proceedings;

4. decide on appeal to suspend security measure or legal effects of conviction for criminal offences under its jurisdiction;

5. adjudicate in civil actions where the value of the subject of the lawsuit allows review; paternity or maternity lawsuits; copyright and other related rights, protection and use of inventions, models, samples, hallmarks and designations of geographic origin unless under jurisdiction of another court;

6. adjudicates in lawsuits on strikes; collective agreements if the lawsuit is not resolved through arbitration; mandatory social insurance unless under the competence of another court; on registry records; appointment and dismissal of bodies of legal entities unless under the jurisdiction of another court;

A district court conducts proceedings for extradition of indicted and convicted persons, enforces criminal sentence of a foreign court, decides on recognising and enforcement of foreign court and arbitration decisions unless under the jurisdiction of another court and performs other tasks set forth under law.

3. Jurisdiction of Appellate Court

Article 24

The Appellate Court decides on appeal against decisions of municipal and district courts.

The Appellate Court decides on conflict of jurisdiction between lower instance courts on its territory, on transfer of jurisdiction of municipal and district courts when prevented or unable to proceed in a legal matter and performs other tasks set forth by law.

4. Jurisdiction of Commercial Court

Article 25

A commercial court adjudicates in first instance:

1. in lawsuits between domestic and foreign commercial companies, enterprises, co-operatives and entrepreneurs and associations thereof (economic entities), in lawsuits between economic entities and other legal entities relating to conduct of business activities of economic entities, even when one of the parties in above lawsuit is a natural person if there is a substantive joinder of parties;

2. in lawsuits on copyright and other related rights and protection and use of inventions, models, samples, hallmarks and designation of geographic origin when such lawsuits occur between entities referred under item 1 of this paragraph; in lawsuits relating to enforcement and securing of decisions of commercial courts, and in lawsuits relating to decisions of chosen courts only when passed in lawsuits referred in item 1 of this Article;

3. in lawsuits resulting from application of the Law on Companies or application of other regulations on organisation and status of economic entities, as well as in lawsuits on application of regulations on privatisation;

4. in lawsuits relating to foreign investment; ships and aircraft, sailing at sea and inland waters and lawsuits involving maritime and aeronautical law, except for lawsuits relating to passenger transport; protection of company name; registration in the court register; bankruptcy and liquidation.

A commercial court in first instance conducts proceedings for recordation in the court register of legal entities and other subjects unless this is under the competence of another body; conducts bankruptcy and reorganisation proceedings; rules on and conducts enforcement and securing of decisions of commercial courts, and decisions of chosen courts only when issued in lawsuits specified in item 1), paragraph 1 of this Article; orders and

implements enforcement and securing on ships and aircraft; conducts non-contentious procedures deriving from application of the Law on Companies.

A commercial court in first instance decides on economic offences and relative thereto on termination of security measure or legal effect of conviction.

A commercial court performs also other tasks set forth by law.

5. Jurisdiction of the High Commercial Court

Article 26

The High Commercial Court decides on appeal against decision decisions of commercial courts and other bodies, in accordance with law.

The High Commercial Court decides on conflict of jurisdiction and on transfer of jurisdiction of commercial courts, sets legal opinions aimed at uniform application of law under the competence of commercial courts and performs other tasks set forth by law.

6. Jurisdiction of Magistrates Court

Article 27

A magistrates court in first instance adjudicates minor offences unless an administrative body has competence and performs other tasks set forth by law.

7. Jurisdiction of the High Magistrates Court

Article 28

The High Magistrates Court decides on appeal against the decisions of magistrates courts, on appeal against the decisions of administrative bodies taken in proceedings for minor offences, on conflict and transfer of jurisdiction *ratione loci* and performs other tasks set forth by law.

8. Jurisdiction of the Administrative Court

Article 29

The Administrative Court adjudicates in administrative actions.

The Administrative Court also performs other tasks set forth by law.

The decision of the Administrative Court is final except in cases provided by law.

9. Jurisdiction of the Supreme Court of Cassation

Trial Jurisdiction

Article 30

The Supreme Court of Cassation decides on extraordinary legal remedies filed against decisions of courts of the Republic of Serbia and in other matters set forth by law.

The Supreme Court of Cassation decides on conflict of jurisdiction between courts and on transfer of jurisdiction of courts to facilitate proceedings or for other important reasons.

Jurisdiction outside trial

Article 31

The Supreme Court of Cassation determines general legal views in order to ensure uniform application of law by courts; gives opinions on draft laws and other regulations governing issues of relevance for the judicial branch, reviews application of law and other regulations and the work of courts; appoints judges of the Constitutional Court, gives opinion on the candidate for the president of the Supreme Court of Cassation and exercises other competencies set forth by law.

Adjudication by Panel**Article 32**

The Supreme Court of Cassation adjudicates on legal remedies in panel.

Publishing of Decisions of the Supreme Court of Cassation**Article 33**

Decisions of the Supreme Court of Cassation relevant for case law and all general legal views shall be published in a special collection.

Chapter Four**INTERNAL ORGANISATION OF COURTS****I. ANNUAL CALENDER OF TASKS****Article 34**

Following opinions obtained from judges the administrative-judicial panel sets the calendar in writing for the coming year and announces it at the session of all judges by 1 December.

An objection on the annual calendar of judges' tasks may be filed within three days from the day of announcement at the session of all judges.

The administrative-judicial panel of the directly superior court decides on the objection of a judge, within eight days from the day of filing of objection.

Objection of a judge to the Annual Calendar of Tasks in the Supreme Court of Cassation is decided by the General Session.

II. COURT DEPARTMENT AND SESSION OF ALL JUDGES**1. Court Department****Establishing and Management****Article 35**

Court departments are established in courts where a number of panels or judges sitting alone proceed in the same field of law.

A court department is managed by the president of the department who is appointed by the administrative-judicial panel following opinion obtained from the department's judges.

Purview**Article 36**

The session of a court department shall review the work of department, legal issues, potential for improving operation and expertise of judges, judges' assistants and judge's trainees and other issues relevant for the department.

Departments of the Appellate Court, the High Commercial Court and the High Magistrates Court review also issues relevant for the work of courts on their respective territory.

Convening and Chairing the Session**Article 37**

The president of the department or the court president may convene the session of a department.

The court president may always take part in the work and decision taking of the departmental session.

2. Case Law Department

Article 38

A court with a higher number of judges shall have a Case Law Department, in accordance with Court Rules.

The Case Law Department follows and studies case law and informs judges, judges' assistants and judge's trainees on interpretation of law by courts.

The Case Law Department is managed by a judge appointed by the administrative-judicial panel.

3. Special Departments in District Courts and the Appellate Court

Article 39

Juvenile justice and labour disputes departments shall be established in district courts and the Appellate Court.

Departments for criminal offences against the Army of Serbia, for organised crime criminal offences, for war crimes and high-tech crime may be established in some district courts and the Appellate Court, in accordance with law.

The Appellate Court shall have a department for urgent procedure in cases where the law prescribes that procedure on appeal is urgent.

4. Joint Session of Departments

Article 40

A joint session of departments shall be convened when collaboration of at least two departments is required to review a legal issue.

It is jointly convened by department presidents or the court president and is chaired by the court president or the president of the department in whose purview is the issue under deliberation.

5. Session of All Judges

Article 41

The session of all judges takes under review the reports on the work of judges and the court, takes decision to initiate proceedings for assessment of constitutionality of law and legality of regulations and other general act, reviews application of regulations governing the issues under the purview of courts, gives opinion on candidates for judges and lay judges and decides on other issues if relevance for the whole court.

The session of all judges is chaired by the court president and is convened as required and/or at the motion of a court department or minimum one quarter of the number of all judges.

III. INTERNAL ORGANISATION OF THE SUPREME COURT OF CASSATION

1. Departments in the Supreme Court of Cassation

Article 42

The Supreme Court of cassation of Serbia may have departments in compliance with Rules.

2. Session of Departments of the Supreme Court

Article 43

The session of departments of the Supreme Court of Cassation deliberates issues from the purview of court departments.

The session of departments is convened also due to incoherence between departments in application of regulations or if one department diverges from legal opinion adopted by its case law or legal opinion accepted by all departments.

A legal opinion adopted at the session of department is binding for all panels comprising the department.

3. General Session of the Supreme Court of Cassation

Purview Article 44

The general session of the Supreme Court of Cassation adopts general legal views; gives opinions on draft laws and other regulations governing issues of relevance for the judicial branch; reviews application of laws and other regulations and the work of courts; appoints judges of the Constitutional Court; gives opinion on the candidate for president of the Supreme Court of Cassation; issues Rules on Organisation and Operation of the Supreme Court of Cassation and performs other tasks set forth by law and the Rules on Organisation and Operation of the Supreme Court of Cassation.

The general session also reviews other issues under the purview of the session of all judges.

Adoption of General Legal Views Article 45

The general session is also convened due to incoherence between panels from different departments or different department in application of regulations, if one department diverges from general legal view or when a legal view cannot be adopted by a departmental session.

General legal view adopted at the General Session is binding to all panels and departments of the Supreme Court of Cassation and may be amended only by the General Session.

Composition and Decision Taking Article 45

The General Session comprises the president and judges of the Supreme Court of Cassation.

A quorum of the majority number of all judges is required for legally valid decision taking at the General Session.

Decision are taken by majority vote of present judges of the Supreme Court of Cassation.

Convening and Chairing the Session Article 47

The General Session is convened by the court president, as required, and/or at the motion of court department or minimum one quarter of all judges.

The General Session is chaired by the president of the Supreme Court of Cassation.

4. Secretariat

Purview Article 48

The Supreme Court of Cassation shall have a Secretariat.

The Secretariat assists the court president in court administration, carries out administrative tasks for the administrative-judicial panel and the General Session and performs other tasks allocated under its purview by the Rules on Organisation and Operation of the Supreme Court of Cassation.

The Secretary
Article 49

The Secretariat is managed by the Secretary of the Court who is appointed by the general Session at the proposal of the court president.

The Secretary of the Supreme Court of cassation may only be a person who meets the requirements for judge of the Appellate Court.

5. Rules of Procedure of the Supreme Court of Cassation

Article 50

The Supreme Court of Cassation has Rules of Procedure that more specifically prescribe internal organisation and operation of the court.

The Rules on Organisation and Operation of the Supreme Court of Cassation is published in the "Official Gazette of the Republic of Serbia".

IV. COURT ADMINISTRATION

Tasks comprising court administration

Article 51

Court administration comprises tasks supporting the exercising of judicial power, primarily: organising internal operation of the court; summoning and assignment of lay judges; activities related to court expert witnesses and court interpreters; review of complaints and grievance; keeping statistics and drawing up reports; enforcement of criminal and minor offences sanctions; financial and material business of the court and certification of documents for use abroad.

Court administration is regulated in more detail by the Court Rules.

Rights and Obligation of President of Court

Article 52

The court president represents the court, manages court administration and is responsible for proper and timely court operation.

The court president is required to demand legality, order and accuracy in the court, eliminate irregularities and procrastination in work, ensures maintaining of independence of judges and the dignity of the court and carries out other tasks set forth by law and Court Rules.

In his absence or when prevented the court president is replaced by the judge assigned by the annual calendar of tasks.

V. ADMINISTRATIVE-JUDICIAL PANEL

Article 53

An administrative-judicial panel shall be established in courts to carry out certain court administration tasks defined under this Law.

The administrative-judicial panel comprises five judges, four of whom are elected by secret ballot at the session of all judges to a period of four years.

The court president is by virtue of office also the president of the administrative-judicial panel.

In courts with under five judges the tasks of the administrative-judicial panel are performed by all judges.

Delegating Court Administration to Others

Article 54

A court president may delegate certain court administration tasks to the administrative-judicial panel, presidents of departments or other judges.

A court president may not delegate authority to decide on employment rights of judges, labour relations of court staff and on suspension of a judge or lay judge from duty.

Authority of the president of a higher court

Article 55

The president of the higher court is entitled to oversee court administration of a lower court, actions on complaints and in case of non-feasance of the president of a lower court to issue acts from his purview.

The president of a higher court may request information from the lower court regarding application of regulations, course of proceedings as well as all data on court operation.

The president of a higher court may order direct inspection of work of a lower court, and shall prepare a written report thereof.

Complaints Procedure

Article 56

When a party or other participant in a proceeding files a complaint, the court president is required to take it under consideration and notify the complainant on admissibility and the measures undertaken within fifteen days from the receipt of the complaint.

If the complaint is filed through the ministry with competence for the judiciary, a higher court or the High Court Council, the minister, the president of the higher court or the High Court are notified of admissibility and undertaken measures.

Court Secretary

Article 57

The Appellate Court, the High Commercial Court, the High Magistrates Court and the Administrative Court shall have a Secretary of the Court.

A court with more than twenty judges may have a Secretary.

The Court Secretary assist the court president in court administration and is autonomous in performing tasks delegated to him.

A Court Secretary is appointed by the court president from the ranks of judges' assistants.

Chapter Five COURT STAFF

1. Categories and Number of Staff

Article 58

Court staff comprises judges' assistants, judges' trainees and civil servants and appointed officials employed on administrative, technical, accounting, IT and other ancillary jobs of relevance for the judicial branch.

The number of court staff is determined by the court president by the act on internal organisation and job classification in the court.

Criteria for determination of the number of court staff is set by the minister with competence for judicial affairs.

2. Judge's Assistant

Tasks of Judge's Assistant

Article 59

A judge's assistant assist the judge, draws up draft judicial decisions, studies legal issues, case law and legal literature, draws up drafts of legal opinions, prepares adopted legal views for publication and autonomously or under supervision and direction of a judge carries out tasks set forth by law and Court Rules.

Titles of Judge's Assistants

Article 60

Judge's assistants acquire the following titles: judge's assistant, senior judge's assistant and court advisor.

The title of judge's assistant may be acquired by a person with bar exam, and the title of senior judge's assistant by a person with minimum two years experience in the legal profession following the bar exam.

The title of court advisor may be acquired by a person meeting the requirements for district court judge.

Court Advisor

Article 61

A court advisor performs professional tasks relevant for a court department or the whole court.

The post of court advisor shall exist in Republican level courts.

2. Advisor to the Supreme Court of Cassation of Serbia

Article 62

The highest court shall have the post of advisor to the Supreme Court of Cassation that is attained by decision of the General Session of the Supreme Court of Cassation.

3. Performance Evaluation of Judge's Assistant

Evaluation Periods

Article 63

Performance of a judge's assistant is evaluated once a year.

Performance of a judge's assistant who during a calendar year has worked under six month is not evaluated for that year.

Evaluation Authority

Article 64

The court president evaluates the performance of a judge's assistant following the opinion obtained from the session of the department wherein the judge's assistant is assigned.

If a judge's assistant is not assigned to a department, the opinion is obtained from the judge or panel with whom the judge's assistant works.

Evaluation Grades

Article 65

Evaluation shall rate the scope and quality of performance, diligence, initiative and published professional and research papers.

Performance evaluation of judge's assistants is done on basis of publicised, objective and single criteria set by the High Court Council.

Grades are: "fails to meet requirements", "satisfactory", "good", "exceeds requirements" and "constantly exceeds requirements".

A senior judge's assistant whose work is evaluated "constantly exceeds requirements" at least in two consecutive years may acquire the title of court advisor even if not meeting the requirements for district court judge.

Evaluation Grade Decision

Article 66

The court president issues the decision on the evaluation grade of a judge's assistant.

The judge's assistant may file objection to the evaluation grade decision with the High Court Council within 15 days from the day of receiving the evaluation grade decision.

4. Judge's Trainee

Admission of a Judge's Trainee

Article 67

A person with law degree and who meets the requirements for employment in government service may be admitted as a judge's trainee.

A judge's trainee is admitted to a municipal, district, commercial and magistrates court.

Precedence is afforded to candidates graduating from law school with high average grade.

Employment of a Judge's Trainee

Article 68

A judge's trainee is employed for a three-year period.

A judge's trainee who passes the bar exam "with distinction" enters full time employment at the post of judge's associate.

Volunteer

Article 69

A person with law degree may be accepted for training in the court without employment status (volunteer) in order to fulfil requirements for sitting for the bar exam.

Training

Article 70

The training program for judge's trainee and judge's assistants is defined by the High Court Council.

A judge's intern and judge's assistant may be assigned for training over a certain period of time to another court, government body or body of local self-government.

5. Other regulations on Court Staff

Article 71

Court staff is required to perform their duties scrupulously and impartially and preserve the dignity of the court.

Regulations governing employment relations of civil servants and appointed officials shall apply to employment and to rights, duties, professional training, evaluation and accountability of court staff unless otherwise provided under this Law.

Chapter Six

JUDICIAL ADMINISTRATION

Tasks Comprising Judicial Administration

Article 72

Judicial administration ensures enforcement of laws and other regulations related to court organisation and operation.

Judicial administration is discharged by the High Court Council, the ministry with competence for the judiciary and the Commission for Implementing the National Judicial Reform Strategy.

Judicial Administration tasks discharged by the High Court Council are: determination of general guidelines for internal court organisation, monitoring implementation of the National Judicial Reform Strategy in collaboration with the ministry with competence for the judiciary; maintaining personal files for judges, lay judges and court staff, allocation of the court budget, control of authorised spending of budget funds and oversight of financial and material operations of courts.

Judicial Administration tasks discharged by the ministry with competence for the judiciary are: monitoring the work of courts; issuing approval for court rules on internal organisation and job classification; developing the judicial system; oversight of action in cases within statutory timeframes and on complaints and grievances; ensuring material, spatial and other requirements for operation of courts; oversight of financial and material operations of courts; regulation and developing judicial IT system; *regulation, development and maintenance of the data base of legal enactments*; appointing and dismissal of court experts, interpreters and public notaries; collating statistical and other data.

Judicial Administration tasks discharged by the Commission for implementing the National Judicial Reform Strategy are: monitoring the National Judicial Reform Strategy, implementing National Judicial Reform Strategy, proposing amendments to the National Judicial Reform Strategy.

Commission for implementing the National Judicial Reform Strategy Article 73

The Commission for implementing the National Judicial Reform Strategy comprises the representatives of the ministry with competence for the judiciary, the Supreme Court of Cassation, the Judicial and Administration Committee of the National Assembly, the Republic Public Prosecution, Judges' Association, Prosecutors' Association, Bar Association, judicial training institutions, the Law Faculty of the University of Belgrade and the ministry with competence for finances.

The minister with competence for the judiciary convenes and manages the work of the Commission under paragraph 1 of this Article.

The Government appoints the Commission for implementing the National Judicial Reform Strategy.

The minister with competence for the judiciary issues the act on the work of the Commission.

Prohibition of Influence on the Autonomy and Independence of the Court and Judges

Article 74

Any act of judicial administration that interferes with autonomy and independence of the court and judges is null and void.

Nullity is determined by the General Session of the Supreme Court of Cassation at the motion of the president of the competent court.

Personal Record

Article 75

The High Court Council keeps a personal record for every judge, lay judge and court employee.

Data for the personal record are conveyed to the High Court Council by the court president who is also responsible for their accuracy, and by the person to whom the data relates if such person provides the data.

The data in the personal record are classified and may be used only for the purpose of implementing of this Law and laws governing the status of judges.

Content of the Personal Record

Article 76

The personal record of a judge shall contain the first name and family name, father's name, place and date of birth, residence address, completed law faculty, achievement in studies, training period, bar exam, professional career, date of fulfilment of years of service, performance evaluations, assignment to another court, suspension from duty, disciplinary measures, conducted criminal proceedings, termination of duty, published professional and research papers, foreign languages, property status, housing situation and other data.

The personal record of a lay judge and court staff member shall contain the first name and family name, place and date of birth, residence, education, title or occupation, performance evaluation, career, foreign languages and other data.

The bodies in possession of data that is entered in the personal record are required to submit it to the High Court Council.

The content of personal records specified in paragraphs 1 and 2 of this Article is prescribed by the High Court Council.

Court Rules of Procedure

Article 77

The Court Rules of Procedure prescribe court internal organisation and operation, particularly: organisation and work of departments and other organisational units of the court; work of the joint session of the departments and the session of all judges; informing the public about the work of court; conducting proceedings and providing the decisions in the languages of national minorities; extending legal aid and holding court days; extending international legal assistance; keeping records, summoning and assigning lay judges; determining the content of personal record for lay judges and court staff, and determining the obligation of the president of court regarding the submission of data necessary for keeping personal records; trainee periods; attitude of court staff to parties; keeping court registries and other official books; document management; action on complaints and grievances; keeping statistics and drafting reports on work; collection of fines, costs of criminal proceedings and seized criminal assets; procedure with court deposits; introducing joint services in places with several courts and other judicial authorities; dress code for judges, court staff, parties and other participants in the court proceedings and all others who conduct their work in court, as well as other court organisation and operation matters.

The Court Rules of Procedure are passed by the minister with competence for the judiciary, with prior opinion obtained from the president of the Supreme Court of Cassation.

Supervision over Implementation of the Court Rules of Procedure

Article 78

The ministry with competence for the judiciary exercises oversight over implementation of the Court Rules of Procedure.

Only a person meeting the requirement for election to the court whose operation he oversees may act as supervisor.

Effects of Supervision

Article 79

A record shall be made of conducted supervision and forwarded to the president of the court wherein supervision was conducted, the president of the directly higher court and the president of the Supreme Court of Cassation.

The president of the directly higher court is required to notify the president of the Supreme Court of Cassation and the minister with competence for the judiciary of the measures undertaken to eliminate the noted deficiencies, timeframes for eliminating the deficiencies, as well as of the reasons whereby deficiencies and omissions have occurred.

The notification timeframe is defined in the Court Rules.

Chapter Seven COURT SECURITY

Court Guards

Article 80

Court Guards are an armed and uniformed service that ensures security of persons and property, peace and order and unhindered conducting of official activities in judicial premises.

Powers of the Court Guards

Article 81

A court guard is authorised to determine the identity and reason for the presence of a person in the building housing judicial bodies; to, when necessary, search the person and items and prohibit entry to the building with weapons, dangerous implement, under the influence of alcohol or other intoxicating substances; to remove from the building any person disturbing peace and order, persons who are not appropriately dressed in a manner safeguarding the dignity and reputation of the court, as well as to protect persons and property in the court by other actions.

A court guard is authorised to use physical force and rubber baton, and firearms – only if otherwise unable to protect human life or repulse an attack on the building of the judicial body.

Organisation of the Court Guards

Article 82

The minister with competence for the judiciary prescribes the regulations of the court guards, uniforms of its members, weapons and official ID.

Assistance to Court Guards and Security

Article 83

At request of the head of the judicial organ, the internal affairs organ extends assistance to court guards.

The head of the judicial organ is entitled to request from the Ministry of Internal Affairs to extend special protection to a judge, lay judge, public prosecutor, deputy public prosecutor, magistrate and their families or property.

Article 84

Regulations governing employment relations of civil servants and appointed officials shall apply to employment and rights, obligations, evaluation and responsibilities of the court guards, unless otherwise provided under this Law.

Chapter Eight FUNDS FOR THE WORK OF COURTS

Basic Provision

Article 85

Funds for the work of courts are provided in the Republic of Serbia budget.

Funds must be of such volume and timing to sustain independence of judicial power and at any given time ensure proper operation of courts.

Article 86

The High Court Council proposes to the Government the volume and structure of budgetary funds necessary for operation of the courts, with prior opinion obtained from the ministry with competence for the judiciary and the ministry with competence for finance.

The High Court Council, the ministry with competence for the judiciary and the ministry with competence for finance exercise control over budget funds allocated for operation of courts.

Use of funds and own incomes

Article 87

Revenues from work of courts are separately set out in the Republic of Serbia budget and allocated for upgrading operation of the courts.

The amount and purpose of funds under paragraph 1 of this Article is determined in the Budget Law.

Payment of Court Costs

Article 88

The minister with competence for the judiciary prescribes more detailed requirements, amount and manner of reimbursement of amounts that parties and participants in proceedings pay in settlement of costs in court proceedings.

Chapter Nine

THE RIGHT TO TRIAL IN REASONABLE TIME

Article 89

Due to the need to close open cases in which a decision has not been passed in extent of two years the court president may engage a retired judge.

The person referred to in paragraph 1 of this Article may be engaged on tasks of drafting judicial decision and autonomous conducting of certain actions in proceedings under authorisation of the sitting judge and/or court president.

Compensation for the work of the persons referred in paragraph 1 of this Article is determined by decision of the High Court Council.

Engagement of person referred to in paragraph 1 of this Article is more specifically regulated by Court Rules.

Chapter ten

V. TRANSITIONAL AND FINAL PROVISIONS

TRANSITIONAL PROVISIONS

Continued Operation of Existing Courts

Article 90

Courts established by the Law on Organisation of Courts ("Official Gazette of the RS", Nos. 21/90, 11/92, 6/93, 20/93, 53/93, 67/93, 28/94, 16/97, 37/97, 36/98, 44/98, 62/01, 65/01 and 55/04) that commenced work prior to coming into force of this Law shall continue operation.

The Supreme Court of Cassation, Appellate, Administrative and the High Magistrates Courts and magistrates courts shall commence to operate on 1 January 2009.

Continued Operation of Current Misdemeanour Organs

Article 91

Misdemeanour panels and municipal misdemeanour organs shall continue to operate in accordance with the Minor Offences Act ("Official Gazette of the SRS", no. 44/89 and the "Official Gazette of the RS", Nos. 21/90, 11/92, 6/93, 20/93, 53/93, 67/93, 28/94, 16/97, 37/97,

36/98, 44/98, 62/01, 65/01 and 55/04) and the Decision on establishing Municipal Misdemeanour Bodies and determination of the number of judges in misdemeanour organs ("Official Gazette of the RS", Nos. 72/93, 9/94, 30/94, 5/95, 12/95, 50/95, 27/96, 47/96, 9/97, 3/98, 6/98, 17/98, 41/98, 91/02, 37/03, 76/03, 115/03 and 97/05) until 31 December 2008.

Transfer of Cases

Article 92

Cases in which a first instance decision is not taken by 31 December 2008 are transferred by the Supreme Court of Serbia, municipal, district and commercial courts to courts under that have jurisdiction for these cases under this Law.

If after 31 December 2008 a higher instance court in ruling on legal remedy refers the case for retrial, the case shall be transferred to the court with jurisdiction under this Law.

Taking over of Cases

Article

Cases that under this Law transfer under the jurisdiction of magistrates courts in which a first instance decision is not passed by 31 December 2008 shall be taken over by competent magistrates courts from the misdemeanour organs with jurisdiction to that date.

Jurisdiction of magistrates courts to take over cases referred in paragraph 1 of this Article is determined in compliance with the law governing seats and territories of courts and public prosecution offices.

Cases in which proceedings are not concluded before the Misdemeanour Panels by 31 December 2008 shall be taken over by the High Magistrates Court.

If after 1 January 2009 the High Magistrates Court in ruling on legal remedy refers the case for retrial, the case shall be taken over by the magistrates court with jurisdiction under the law governing seats and territories of courts and public prosecution offices .

Taking over of means for work, equipment, archives and staff

Article 94

The required means for work, equipment, archives and staff of current municipal misdemeanour organs and Misdemeanour Panels shall be taken over by magistrates courts and the High Magistrates Court in compliance with the law governing seats and territories of courts and public prosecution offices.

By-laws

Article 95

Bylaws whose enactment is provided under this Law shall be enacted by 1 October 2008.

Until the enactment of bylaws referred in paragraph 1 of this Article, provisions of regulations enacted on basis of the Law on Organisation of Courts shall apply, unless incoherent with this Law.

FINAL PROVISIONS

Expiry of Validity of Statutes

Article 96

On the day of commencement of application of this Law the Law on Organisation of Courts ("Official Gazette of the RS", Nos. 63/01, 42/02, 27/03, 29/04, 101/05 and 46/06), the Minor Offences Act ("Official Gazette of the SRS", No. 44/89 and the "Official Gazette of the RS", Nos. 21/90, 11/92, 6/93, 20/93, 53/93, 67/93, 28/94, 16/97, 37/97, 36/98, 44/98, 62/01, 65/01 and 55/04) and provisions of Articles 12-20 of the Law on Courts ("Official Gazette of the Republic of Serbia", No. 46/91, 60/91 - correction, 18/92 - correction, 71/92, 63/01, 42/02, 27/03 and 29/04).

Coming into force and commencement of application

Article 97

This Law shall come into force on the eight day of publication in the "Official Gazette of the Republic of Serbia" and shall apply as of 1 January 2009.