

# Code: 335

## Recommendations for improvement of efficiency of judicial system

Numbers are here to testify about the inefficiency of Serbian judiciary (3,32 million of old cases in the courts of general jurisdiction; 54.706 of cases in the courts of special jurisdiction; circa 100.000 of cases are subject to a statute of limitations). The above mentioned facts testify to a necessity of implementing judicial reforms, due to which my article is based on the analysis of legal institutions which can contribute to a bigger efficiency of judicial system.

### Recommendation 1:

The biggest problem of our justice system, from the aspect of efficiency, is a huge backlog of old cases. Starting from the experience of other countries, establishment of special court departments to deal with the mentioned problem could be a good starting point. Court employees who should work in these special departments should be those from clerk's office, judicial assistants and judges. The first two categories would deal with the issues of technical nature (special marking and classification; separation of statute-barred cases and making the summaries of procedures). Their work would considerably facilitate the work of appointed judges.

### Recommendation 2:

It is necessary to implement specialization of judicial organs. Within criminal justice system certain judges and prosecutors would only be in charge of related crimes from the same chapter of Criminal Code; while within civil procedures the judges would be strictly specialized for litigation, non-contentious or executive procedures.

### Recommendation 3:

Alternative modes of settling cases need to be promoted. A campaign needs to be conducted and citizens need to be informed in detail about the very institutes, powers and results of mediation, arbitration and plea agreement. According to the European countries' statistics, this proposition might relieve the courts for even up to 40 %.

### Recommendation 4:

Extensive connection between systemic corruption and inefficiency of judiciary is apparent. The solution should be sought in the Hong Kong model, which implies awarding investigative powers to corruption-fighting bodies. This model has reduced corruption by more than 50%, which had a positive impact on all society subsystems, especially judiciary.

Recommendation 5:

The delivery system needs to be upgraded. Pleadings should be delivered by e-mail, but their direct exchange between parties should also be enabled. This contributes to process efficiency greatly.

Recommendation 6:

Competitiveness between courts needs to be stimulated and upgraded. The Swedish system of “prizes and benefits“ for the court voted the best, has stimulated efficiency in Swedish judiciary by some 15%.

Recommendation 7:

Each clerk’s office employee should be assigned cases of specific judges only. This would greatly facilitate and speed up the work.

Recommendation 8:

The idea promoted in Ireland implies that the prosecution and the defense have a mandatory meeting before each hearing. These meetings would include exchange of necessary information and documents, which would result in more rapid finalization of processes.

Recommendation 9:

Broader application of examination via video link practice is necessary, which would prevent common delay of hearings.

Recommendation 10:

As of May this year, citizens will be given the opportunity to appeal to a higher court if they believe that their right to a trial within a reasonable time had been violated. Then higher court would stipulate a deadline for completing a case. Although this practice does contribute to efficiency at first glance, we must not forget that the European Court of Human Rights interprets efficiency of judiciary (in addition to the idea of a reasonable time) also as wide-ranging discussion and making quality judicial decisions. The reform demands seeing the big picture. If focus is placed on one element only (efficiency), disregarding the others, it may result in re-collapse of the system.