

Desk Review of Analytic Work on Justice Reform in Serbia

Background and Scope

The Desk Review of Analytic Work on Justice Reform in Serbia is conducted as a part of the Serbia Judicial Functional Review (JFR) under the umbrella of the Multi-Donor Trust Fund for Justice Sector Support administered by the World Bank. The Desk Review Report is a deliverable of the JFR under Component 2: Performance and Justice Service Delivery: Baseline and Challenges in the Serbian Judicial System.

As the integral part of the JFR the Desk Review Report (DRR) shares the same objective, focus and scope as the JFR as identified and outlined in the JFR Concept Note. Therefore, the conducted review of analytic work on justice in Serbia does not provide entire review of all analytical works related to justice Serbian judiciary. The DRR rather focuses on the information such work provides on the activity of the Serbian institutions and how the performance of such institutions supports the delivery of justice services by the courts and impacts the reform efforts. Where a question arises as to whether a certain analytical work would be examined under the desk review, the test to be applied will be *'whether issues analyzed in a specific analytical work relate to the delivery of justice services by the courts in Serbia'*. The DRR focuses on information the specific work provides regarding the three areas of performance in terms of justice service delivery: efficiency of service delivery; quality of services delivered, and; access to these services. Special focus is given to any recommendations on future reform activities indicated in the reviewed analytical works.

The DRR focuses only on recent work i.e. work which provides information relevant for the current efforts to reform the Serbian judiciary (a tentative timeframe is works produced in the last three years, since 2010). In summarizing and outlining information provided in the relevant work the DRR follows the analytical structure set for the JFR.

In terms of the type of documents reviewed the DRR is to primarily focus on the existing analytical work but, to a lesser extent and only where so is relevant for the JFR: survey findings, reports of relevant judicial institutions, strategies, articles. The DRR includes a reference list of documents which are not in the focus of the DRR but are in content related to it. The documents listed in this reference list could be used as reference for further research in the specific area of interest. Laws, bylaws, treaties and other legislation is not reviewed under the DRR.

While the DRR is produced as a deliverable and an integral part of the JFR DRR is also meant to be used as a standalone document. The DRR will be disclosed to the general public and it may be used by all interested stakeholders. It is to serve as reference to existing and relevant analytical work that has recently been undertaken in relation to justice sector performance and related challenges, with a focus on the delivery of justice services by the courts. Consequently, the DRR identifies as many analytical works as possible and available at the time of drafting, catalogues and stores them taking stock of existing challenges, success stories and lessons learned from each. List of abbreviations and acronyms

used throughout the DRR is attached as Annex 1; List of analytical works included in the DRR is attached as Annex 2.

The analytical works reviewed in the DRR have been produced by different international and local institutions and not the World Bank. The DRR purpose is only to summarize the analytical works and not to opine or further analyze them. The fact that these documents were chosen and reviewed under the DRR does not mean that the World Bank or the team preparing JFR shares the opinions, views or recommendations expressed therein nor does it imply that the World Bank certifies or confirms that the facts expressed therein are true and accurate.

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Analytical Work

The DRR includes analytical work which has been produced both by international and national institutions and which contain information on how the performance of such institutions in Serbia supports the delivery of justice services by the courts and impacts the Serbian judicial reform efforts. A tentative timeframe is analytical works produced in the last three years, since 2010. The analytical works are systemized by institution which has facilitated their development/publication and where possible or applicable by legal area they cover.

Analytical Work Produced in the EU Accession Process

1. Commission Staff Working Document, Serbia, 2013 Progress Report, Brussels, October 2013

Report covers the period Oct 2012/Sept 2013; briefly describes the relations between Serbia and the EU, analyses the situation in Serbia in terms of the political and economic criteria for EU membership and reviews Serbia's capacity to take on the *acquis*.

Highlights: The Report rates the overall legal predictability and enforcement of court decisions as weak. It identifies backlog and length of proceeding as the most critical concerns and provides data on case disposal for Constitutional and Administrative courts where these issues are most pressing. Lack of free legal aid system and the new general adversarial system are considered important obstacles for access to justice. Other identified deficiencies of the judicial system include: judges' and prosecutors' lack of capacity to deal with complex legal issues; weak application of disciplinary measures and of ethic standards to judges and prosecutors; corruption; inconsistency in *case-law*. Notable reported developments in the judicial sector for the covered period include introduction of a new judicial strategy and its action plan, reappointment of judges and prosecutors by a decision of the Constitutional Court (approx. 1/3 of total number); development of a new court network; postponing of introduction of notaries for 2014 and low number of bailiffs with their uneven geographical coverage.

Guide to relevant information

- p. 9 ¶ 5 review of the Serbian judicial system (exe. summary)
- p. 11 ¶ 8 domestic processing of war crimes (exe. summary) ¶
- p. 18 ¶ 2 assessment of implementation of laws (exe. summary)
- pp. 38-48 detailed assessment on achievements regarding Ch. 23
- pp. 50 ¶ 5 judicial cooperation in civil and criminal matters with international partners
- p. 51 ¶ 1 police cooperation and fight against organized crime

2. Commission Staff Working Document, Serbia, 2012 Progress Report, Brussels, October 2012

Report covers the period Oct 2011/Sept 2012; briefly describes the relations between Serbia and the EU, analyses the situation in Serbia in terms of the political and economic criteria for EU membership and reviews Serbia's capacity to take on the *acquis*.

Highlights: The Report rates the overall legal predictability and enforcement of court decisions as weak. Backlog remains a pressing concern. In 2011, the courts received 2.23 million new cases, resolved 2.65 million and were left with a backlog of 3.34 million cases. Imbalances persist in the courts' workload. The quality of statistics needs to be improved. On independence of the judiciary, HJC and the SPC took over the administration of the budget of courts and prosecution services. MoJ remains in charge of IT and capital expenditures in the court system and funding of the courts' administrative staff. The HJC and the SPC have not yet adopted rules on regular evaluation of the work and performance of serving judges and prosecutors. The legal framework still leaves room for undue political influence over the judiciary, in particular Parliament's power to appoint judges and prosecutors. The re-appointment procedure carried out for judges and prosecutors in 2009/2010 was overturned by the Constitutional Court as not meeting the required standards.

The impartiality of judges continues to be broadly ensured thanks to automated allocation of court cases introduced in all commercial courts and courts of general jurisdiction. On accountability, a first set of Rules on Disciplinary Procedure and Liability were introduced which needs to be further aligned with EU standards. The HJC has started to investigate and impose penalties in disciplinary proceedings. The higher courts and the MoJ continued internal inspections on technical and administrative matters in the courts, identifying shortcomings in registering and handling of court cases. A proper merit-based career system for judges and prosecutors remains to be fully developed. It is still possible to enter the judicial profession, in particular at higher levels, on the basis of unclear criteria without having passed through the JA.

A number of laws came into force aimed at improving the efficiency of the judiciary and at applying international standards. The JA provided a variety of in-service training which still need to be systematized. The judicial budget for 2012 remained stable at some EUR 213 million (around 0.65% of GDP). The first private bailiffs were sworn in while entry into force of the Law on Public Notaries was postponed for 2013. The new Criminal Procedure Code gives the prosecution the lead role in collecting evidence and presenting it before the court which aim is to shorten the investigative phase of criminal proceedings. The prosecution service still has to demonstrate its ability to obtain convictions in high-level cases against well-funded defense teams. On access to justice the fully adversarial system raises questions on the ability of poorer defendants to finance an effective defense, while constitutional guarantees on access to justice are in place. Legislation and funding for an effective system of free legal aid still need to be developed.

Serbia remains moderately advanced in the areas of judicial cooperation in civil and criminal matters. Serbia is actively involved in international police and judicial cooperation and law enforcement agencies generally have sufficient capacity to carry out standard investigations. Additional efforts are needed to increase capacities to carry out complex investigations and to strengthen coordination between law enforcement agencies and the judiciary. A track record of proactive investigations and final convictions in organized crime cases needs to be built up.

Guide to relevant information

pp. 9-11 review of the Serbian judicial system and developments in the reported period (exe. summary)

pp. 12 ¶ 4 judicial activity in anticorruption (exe. summary)

p. 13 ¶ 5 prisons

pp. 14 ¶ 1 access to justice

pp. 49-52 - detailed assessment on achievements regarding Ch. 23

pp. 53 ¶ 5 judicial cooperation in civil and criminal matters with international partners

pp. 54 ¶ 1 police cooperation and fight against organized crime

3. Commission Staff Working Document, Serbia, 2010 Progress Report, Brussels, November 2010

Report covers the period mid Sept 2009 /early Oct 2010; briefly describes the relations between Serbia and the EU, analyses the situation in Serbia in terms of the political and economic criteria for EU membership and reviews Serbia's capacity to take on the *acquis*.

Highlights: The Report states that Serbia made little progress towards further bringing its judicial system into line with European standards. It concludes that overall Serbia's judicial system only partially meets its priorities and emphasizes that serious concerns exist over the way recent reforms were implemented, in particular the reappointment of judges and prosecutors.

New Court Rules of Procedure were adopted in December 2009. They regulate the work of courts and the internal organization of the new court network. The reappointment procedure for all judges and prosecutors was carried out under the lead of the MoJ in the second half of 2009 and took effect as of January 2010. The overall number of judges and prosecutors was reduced by 20–25%. A new structure of the court network was implemented as of January 2010. The organization of the prosecution service was changed accordingly. However, major aspects of the recent reforms are a matter of serious concern. The reappointment procedure for judges and prosecutors was carried out in a non-transparent way, putting at risk the principle of the independence of the judiciary. Objective criteria for reappointment, which had been developed in close cooperation with the Council of Europe's Venice Commission, were not applied. Judges and prosecutors were not heard during the procedure and did not receive adequate explanations for the decisions. First-time candidates (876 judges and 88 deputy prosecutors) were appointed without conducting interviews or applying merit-based criteria. The overall number of judges and prosecutors was not calculated in a reliable way on a proper needs assessment basis and it was adjusted several times after the reappointment had already been carried out. The large backlog of pending cases remains a matter of concern. A uniform system for organizing the work of the court seats and the new court units has not been established. Case registration and the IT system connecting all courts and court units and allowing access to files are not fully operational. While the JA has been established as the body responsible for the vocational training and continued professional development of judges the setting up of the Judicial Academy still is at an early stage and vocational trainings have not yet started.

Access to justice is overall ensured, but there has been no further progress as legislation and funding for a more effective system of free legal aid is still missing. Serbia made little progress in the reform of its

prison system. Overcrowding in prisons is a concern. Decisive action is needed to develop an efficient probation system and to introduce alternative sanctions on a broader scale.

Analytical Work Produced by the CEPEJ and Data Submitted by the Ministry of Justice

4. European Judicial Systems Edition 2012 (2010 data), Efficiency and Quality of Justice

The publication synthesizes data provided by European Commission for Efficiency of Justice (CEPEJ) member states in the individual country reports and gives a comparative analysis of European judicial systems. The publication is based on data collected in 2010. Data on Serbia used in the publication is provided in the Serbian Country Report which report is described below (please see point 5 of the DRR).

Highlights: The publication indicates that Serbia is one of 13 (out of 36) states which has decreased its judicial budget in the period 2008-2010 (in Serbia the decrease of the budget is for 17%). For a majority of European states including Serbia the court taxes and fees constitute significant financial resources. Serbia has the third highest share of court fees in the budget allocated for courts (after Malta and Austria) standing at 43% (while average for the reported countries is 22.3%). Serbia is listed as one of seven countries which uses only user survey's to evaluate its justice system. Serbia as well as majority of European countries has between 1 and 2 courts per 100,000 inhabitants (1.8 courts). Among European states Serbia (together with other former Yugoslav countries) has a very high number of professional judges sitting in courts per 100,000 inhabitants. Serbia has a clearance rate of 85.4% for non litigious and 91.6% for civil litigious cases. Serbia has 8.5 public prosecutors per 100,000 inhabitants which is close to the European average. Timeframe for notification of a court decision on debt recovery to a person living in the city where the court is sitting is for Serbia between 11 and 30 days this rates Serbia as one of the slowest in Europe.

5. Serbia Country Report to CEPEJ on Efficiency and Quality of Justice, data 2011

The document is a country report submitted by the Serbian Ministry of Justice (MoJ) in preparation for the publication of CEPEJ on European Judicial Systems Edition 2014. The document is prepared in the standard scheme for evaluation of European judicial systems provided by CEPEJ submitted by all participating CEPEJ countries. The scheme lists a number of yes/no questions and questions on statistical data to which the Serbian MoJ has provided answers covering 2010. The information provided does not include Kosovo.

The following areas are reviewed by the report:

Section 1: Demographic and Economic Data. General information on Serbia and budgetary data concerning Serbian judicial system. This section covers data on budget for courts (EUR 111,016,635), public prosecution and legal aid (budget for courts, prosecution and legal aid is EUR 183,772,1110) and information on judicial fees (income from fees is EUR 85,137,114).

Section 2: Access to Justice and to all courts. Covers information on: (i) possibilities and use of legal aid (indicating that legal aid exists and can exempt payment of court fees. No data is available on the costing of legal aid); (ii) rights of the users and victims; (iii) information on confidence of citizens in their justice system (indicating that only occasional surveys of parties have been conducted).

Section 3: Organization of a court system. Covers information on: (i) functioning of the courts, judges and staff, prosecutors and staff, court budget and new technologies (data provided include no. of courts

129; no. of judges 2455, no. of non judicial court staff 11040, no. of prosecutors 611 and prosecutor's staff 1061); (ii) performance and evaluation (the report indicates that system for monitoring case disposal is in place). It indicates that four main performance and quality indicators used in Serbia are (1) length of proceedings, (2) closed cases, (3) productivity of judges and court staff, (4) judicial quality and organizational quality of the courts.

Section 4: Fair Trial. Covers information on timeframes of proceedings - Caseflow management and timeframes of judicial proceedings (providing data on no. of pending / disposed cases per area of law litigation, misdemeanor, non criminal and criminal cases).

Section 5: Career of judges and public prosecutors. Covers information on recruitment and promotion, training, practice of the profession, disciplinary procedures. The report explains that prosecutors and judges are selected initially for a 3 year probation period after which they are selected on a permanent basis. Training for judges is annual and compulsory save for in-service training for the use of computer facilities in courts. Data on judicial salaries (net annual beginning of career salary is EUR 9600), no data is available on disciplinary actions against judges as the disciplinary procedures have been set up only in 2010.

Section 6: Lawyers. Covers information on status of the profession and training, practicing the profession, quality standards and disciplinary proceedings (total no. of lawyers 7883, no information is available for disciplinary proceedings).

Section 7: ADR. Information on mediation provided however no statistical data is available.

Section 8: Enforcement of court decisions. Covers information on: (i) execution of decisions in civil matters (no. of enforcement agents 413), (ii) efficiency in enforcement services, (iii) execution of decisions in criminal matters.

Section 9: Notaries (no data available as notaries are not yet introduced).

Section 10: Court interpreters - no. of accredited court interpreters is 2100.

Section 11: Judicial Experts - no. of accredited judicial experts is 5351.

Section 12: Foreseen Reforms. MoJ reports nine new anticipated reform activities including new Civil Procedure Code, Criminal Procedure Law, Administrative procedure Law, Mediation Law, introduction of notaries and further introduction of bailiffs.

Guide to relevant information

pp. 5-7 Section 1 demographic and economic data (budget of the judiciary)
pp. 7-11 Section 2 Access to justice and to all courts
pp. 11-20 Section 3 Organization of a court system
pp. 20-27 Section 4 Fair Trail
pp. 27-35 Section 5 Career of judges and public prosecutors
pp. 35-38 Section 6 Lawyers
pp. 39-40 Section 7 ADR
pp. 40-44 Section 8 Enforcement of court decisions
pp. 44-45 Section 9 Notaries
pp. 45-46 Section 10 Court interpreter's
pp. 46-47 Section 11 Judicial experts
p. 47 Section 12 Foreseen reforms

6. Serbia Country Report to CEPEJ on Efficiency and Quality of Justice, data 2009

This document is a country report submitted by the Serbian MoJ in preparation for the publication of CEPEJ on European Judicial Systems Edition 2012. The document is prepared in the standard scheme for evaluation of European judicial systems provided by CEPEJ by all participating countries. The scheme lists a number of yes/no questions and questions on statistical data to which the Serbian MoJ has provided answers covering 2008. Information provided does not include Kosovo.

Highlights: The following areas are covered by the report:

Section 1: Demographic and Economic Data. General information on Serbia and budgetary data concerning Serbian judicial system. Data include budget for courts (EUR 195,863,391), income from judicial fees (EUR 83,533,573).

Section 2: Access to Justice and to all courts covering: (i) possibilities and use of legal aid (indicating that legal aid exists however no data is provided on the costing); (ii) rights of the users and victims (iii) confidence of citizens in their justice system (indicating that only occasional surveys of judges, prosecutors and citizens are conducted).

Section 3: Organization of a court system covering information on (i) functioning of the courts, judges and staff, prosecutors and staff, court budget and new technologies (providing data such as no. of courts 138; no. of judges 2506, no. of non judicial court staff 9602, no. of prosecutors 689 and prosecutor's staff 950) (ii) performance and evaluation (the section indicates that monitoring of case disposal is in place). It indicates that four main performance and quality indicators used in Serbia are (1) incoming cases (2) closed cases (3) pending cases and backlogs).

Section 4: Fair Trail covers information on caseload management and timeframes of judicial proceedings (provides information on the manner of case management).

Section 5: Career of judges and public prosecutors. Covers information on recruitment, nomination and promotion, training, practice of the profession, disciplinary procedures (among other explaining that judges are elected by the Parliament at the proposal of the HCJ, data on judicial salaries (net annual beginning of career salary EUR 10393).

Section 6: Lawyers - Covers information on status of the profession and training, practicing the profession, quality standards and disciplinary proceedings.

Section 7: ADR. Information on mediation (total number of 423 cases were resolved in the mediation centre since 1 March 2007).

Section 8: Enforcement of court decisions. Covers information on (i) execution of decision in civil matters (no bailiffs have been introduced); (ii) efficiency in enforcement services (among other information the key identified issues in enforcement are: no execution at all, excessive length and insufficient supervision); (iii) Execution of decisions in criminal matters.

Section 9: Notaries (Serbian judicial system does not include notaries).

Section 12: Foreseen Reforms. MoJ provides a detailed information and explanation on reform efforts conducted in the reported period. It notes that it has carried out a thorough research and a number of analyses of the current situation and problems in the judiciary. As a result of this MoJ has proposed 28 new draft laws 22 of which were endorsed by the Parliament. A part of legislative package are laws on judiciary reorganizing the entire judicial system including the system of courts its seats and areas of jurisdiction.

Guide to relevant information

pp. 3-7 Section 1 demographic and economic data (budget of the judiciary)

pp. 7-11 Section 2 Access to Justice and to all courts

pp. 13-21 Section 3 Organization of a court system

pp. 21-27 Section 4 Fair Trial

pp. 27-34 Section 5 Career of judges and public prosecutors

pp. 34-37 Section 6 Lawyers

pp. 38-40 Section 7 ADR

pp. 40-45 Section 8 Enforcement of court decisions

pp. 45-46 Section 9 Notaries

p. 47 Section 10 Court interpreter's

pp. 48-52 Section 11 Functioning of justice

Analytical Work Analyzing Enforcement Processes¹

7. Civil Enforcement in the Western Balkans, An overview of the present situation and future developments in the various legal systems in the Western Balkans, Jos Uitdehaag, Eric Vincken, Albania Tirana 2011

The publication reviews the enforcement systems of the Western Balkan jurisdictions (Serbia, Bosnia and Herzegovina, Albania, Montenegro, Croatia, FYROM, Kosovo) and shows the state of play regarding enforcement as of December 2010.

¹Please see also Enforcement in the Western Balkans and its Compatibility with the Human Rights Standards of the Council of Europe, J. Uitdehaag reviewed under point 8 of the DRR

The publication highlights that all the surveyed countries include a common historical background - socialist based economy and the similar political context - the accession to the EU (requiring alignment with the *aquis* and EU directives regulating enforcement processes). Given the commonalities all countries encounter the same problems: (a) legal framework based on social principles of enforcement which protects and favors the debtor enabling the debtor to frustrate and delay the enforcement proceedings; (b) enforcement is organized within first instance courts with staff working on enforcement not adequately recognized in the court system, (c) existing culture of not paying bills with creditors that have not developed any system of collection but lean on the courts to perform all activities; (d) weak service provided by the registries and postal service hindering servicing of documents (e) lack of cross border cooperation in enforcement (need for multilateral agreements on recognizing court awards).

The publication reviews the cases heard by the ECtHR against the Western Balkan countries in the area of enforcement (in *Hornsby v. Greece* ECtHR has confirmed that Article 6 also applies to enforcement). Based on ECtHR rulings deficiency in enforcement could breach Article 6 in terms of the length of proceedings but also in terms of the right to protection of property. Before the ECtHR several cases against Serbia were heard. Part of the cases dealt with whether all remedies under Serbian law were exhausted (see case *ETV company v Serbia, Felbab v Serbia* - described in 8 of the DRR). In these cases ECtHR ruled that the claimant is obligated to exhaust only effective remedies within the Serbian legal system and not all remedies available as suggested by the defendant (Serbia). Another bulk of cases before ECtHR deal with delay in enforcement (*Krivošev v. Serbia* in which it was ruled that “*Irrespective of whether enforcement is to be carried out against private or a State actor, it is up to the State to take all necessary steps to execute the final court judgment as well as to, in doing so, ensure the effective participation of its entire apparatus, failing which it will fall short of the requirements of Article 6*”). Further, ECtHR dealt with the issue of excessive number of legal remedies in the Serbian legal system (please see *Bulović v Serbia* described under DRR point X). Backlog not being an excuse for delay was the court's ruling in *Illić v Serbia* (please see *Illić v Serbia* described under DRR point 8). Finally, in cases regarding collection over state controlled debtors *Kacapor and others v. Serbia*, and *Grišević and others v. Serbia* the court ruled that state is responsible for the debts of companies that are predominately state owned.

The publication surveys the state of enforcement in Serbia as at December 2010 which was the time when the currently applicable Enforcement Act was in draft form and its adoption by the Parliament was expected in 2011. At the time of publishing the 2004 Enforcement Act was in force and the publication gives a detailed overview of the enforcement rules and processes as set by the 2004 Enforcement Act.² The publication rates the enforcement processes conducted by the NBS as the most efficient. The NBS conducts enforcement over bank accounts by transferring the amounts from all the debtor's accounts to the creditor and by freezing the all debtor accounts for any payment if the judgment based on which the enforcement is processed has not been exhausted. The system is highly automated and IT supported

² Given that this DRR was drafted at the time the 2004 Enforcement Act was no longer in force the report will refrain from summarizing the description of the 2004 Enforcement Act.

and allows for additional services to be provided to the parties in question (e.g. issuance of certificates). The downside of this system is that it is used only with commercial entities.

Backlog in the courts including backlog of enforcement cases is a pressing concern. Judges have a key role in the enforcement processes and are involved in every phase of the process (the publication questions whether such high involvement is absolutely necessary). The publication goes further to outline the main novelties introduced by the then draft Enforcement Act (Enforcement Act of 2011). These are introduction of private enforcement officers and changes in the appeal process where appeals are reviewed by the same first instance court (and not a higher instance court as per 2004 Enforcement Act). The latter was included in the new draft law as the right to appeal was the most common right misused by debtors for the purpose of delaying the enforcement proceedings. The publication notes that training is further needed especially for court clerks working on enforcement and gives detail on the issues with monitoring ethic and disciplinary standards. Finally, it summarizes the findings of the USAID BES project which surveyed enforcement agents in eight commercial courts in Serbia. The findings of the survey are highlighted as key concerns which should be addressed in the reform of enforcement in Serbia. The findings include the following information: most enforcement agents have suggested that their success rate in enforcement was normally between 10% and 20%. One respondent noted that three enforcement attempts would be ideal but that there are at least 10 with no successful enforcement at the end. No enforcement agents have said that enforcement could be conducted in one attempt. Backlogs are a concern, at some courts in Belgrade agents receive up to 300 new cases that require actual enforcement activities per month per officer. All these enforcement activities have to be dealt with minimum infrastructure (no assistants, lack of vehicles, computers, phones and low salaries).

Guide to relevant information

pp. 45-49 Serbia and the ECtHR

pp. 233-259 Serbia Chapter

8. Enforcement in the Western Balkans and its Compatibility with the Human Rights Standards of the Council of Europe, J. Uitdehaag

This is a chapter of the Enforcement and Enforceability Tradition and Reform, C.H. van Rhee and A. Uzelac (eds) Antwerp: Intersentia, 2010 describes a number of ECtHR cases arising from the countries in Western Balkans. The analyzed cases relate to the excessive length of enforcement and violate the right to a fair trial within a reasonable time and the right to have a judgment enforced. The Chapter analysis three ECtHR cases on Serbia: (1) In *EVT Company v. Serbia* applicant was informed that the enforcement proceedings were hindered by the debtors' discontented employees and the police (the police refused to assist the court bailiffs). The ECtHR ruled that it was up to the State to take all necessary steps to insure enforcement of a final court award and ensure effective participation of its entire apparatus (including police). (2) *Felbab v. Serbia*: ECtHR ruled in favor of the applicant which claimed that there was no effective remedy under the domestic law for non enforcement of a final access order in a child related matter. (3) In *Bulovic v. Serbia* numerous appeals in the enforcement procedure, ill scheduled hearing and suspension of the proceedings delayed the enforcement so much that finally the applicants withdraw its claim as the debtor has fully compensated her. The ECtHR noted that the decision

favorable to the applicant is not in principle sufficient to deprive him or her of the status of a victim. The ECtHR ruled that Government failed to provide with any compensation for the delay t. Further, ECtHR ruled that a chronic backlog of cases is not a valid explanation for excessive delay. The States are obligated to organize their judicial system so that their courts can meet their requirements including hearing cases in a reasonable time.

The Chapter concludes that in all the analyzed countries the following inefficiencies of the judicial system are similar and should be addressed: (i) difficulties in enforcing legislation that is outdated, incomprehensible or inappropriate; (ii) difficulties in finding an appropriate balance between the interests of the debtor and the creditor; (iii) excessive number of legal remedies leading to successive remittals; (iv) lack of efficiency and effectiveness of the organization of the enforcement system; (v) insufficient budget of the enforcement system; (vi) lack of professionalism, infrastructure and trained staff; (vii) preferential treatment of the State or State entities which makes enforcement difficult against such debtors.

SIGMA Reports

9. SIGMA, Priorities, Serbia, May 2013 and SIGMA, Assessment, Serbia, April 2013

The report proposes priority country reform targets which should be achieved by 2020 and relevant sub-targets while it sequences priority activities in 1-2, 3-5 and 5+ year time perspectives.

Highlights: SIGMA report identifies five priority targets which should be achieved by 2020 among which reform of the judiciary is looked at as a related objective of public administration reform. To insure that sound administrative procedures are applied in most areas, offering legal certainty to citizens and businesses the new Law on General Administrative Procedure (LGAP) in accordance with EU principles and good practice should be adopted within 1 to 2 years. MoJPA is in this timeframe to prepare a targeted implementation action plans that will enable the smooth implementation of the LGAP in the administration and judiciary. Target for 3 to 5 years is to align the judicial control of administrative acts with EU principles and practices, by amending the Law on Administrative Disputes.

Analytical Works produced by IMG

10. Analysis of Diversion Orders and Alternative Sanctions Application Practices in Serbia, Mapping Resources of Local Communities for Implementation of Diversion Orders and Alternative Sanctions, Nadezda Sataric, and Dragan Obradovic , Belgrade, May 2011

The purpose of the study was to identify human resources for development of procedures and standards for implementation of diversion orders and alternative sanctions as well as to gather information on, mechanisms, experiences, obstacles and examples of good practices that will serve as foundation for proper implementation. The study was developed through desk review, research of good practices and by interviews with representatives of institutions within judicial and social protection systems in 10 towns/municipalities.

Highlights: Desk review was carried out to identify the courts and public prosecutor's offices that have so far applied diversions and alternative sanctions. Through the review a great discrepancy in data was

identified including direct incomparability of data. In addition statistic in both sectors – judiciary and social protection – are not in line with applicable laws.

The analysis showed that members of judiciary did not have any have specific trainings on application of diversions and alternative sanctions while representatives of the Center for Social Welfare and Civil society organization did not have a unified training on diversions and alternative sanctions implementation. Representatives of public utility service and public institutions where diversions/alternative sanctions were implemented did not have any training on juvenile justice. Most of the offered training did not include all representatives of key systems in juvenile justice at local level. The report includes examples of unclear role of Centers for Social Welfare case manager and different practices in different phases of diversions/alternative sanctions implementation. Competences of different bodies in diversions implementation cause confusion in cooperation among professionals from. This issue is additionally complicated since there are no agreements at local level among the judiciary, Centers for Social Welfare and organizations implementing diversions/alternative sanctions. Diversion implementation is limited. In practice, most frequently used measure is compensation of damage and participation, without remuneration, in the work of humanitarian organizations or performing the community work of social, local or environmental character. Alcohol/drug treatment and individual or group counselling cannot be applied because there are no agreements between justice and health system. In addition, issue of funding is a problem - costs of criminal sanctions should be covered from the central budget. However, as diversions is not a criminal sanctions, it remains unclear how will it be financed.

Guide to relevant information

pp. 7-15 desk review/analysis for 2008 – 2009

pp. 15-31 report on meetings with representatives of judiciary

pp. 31-40 report on meetings with representatives of Centers for Social Welfare

pp. 40-45 report on meetings with representatives of the civil society organizations and public institutions (gerontology centers and one public utility service)

Core Judicial Strategy

The National Strategy for Reform of Justice and its implementing action plan have been reviewed under the DRR. Other strategies which are related to the judicial reform efforts but are non-core have been included in the reference list below.

11. National Strategy for Reform of Justice for the Period 2013 – 2018, 1 July 2013, Serbia

The objective of the Strategy is to increase the quality and efficiency of justice and to strengthen judicial independence and accountability in order to strengthen the rule of law, democracy, legal certainty, improve access to justice and restore the citizens' confidence in the judicial system. The Strategy bases the reform agenda on the following principles: independence, impartiality and quality of justice,

professionalism, accountability, efficiency. It in detail defines the directions in which the reforms are to be take place to achieve the set out principles.

Below is a summarized review of strategic directions / specific goals set to achieve the principles outlined in the Strategy. Each strategic direction / specific goal is further worked into measures and actions defined in the Action Plan (described under point 12 of the DRR.)

Independence is to be achieved by activities aimed at strengthening the HJC and SPC. This is to be done by precisely defining HJC, SPC competences, improvement of their internal processes and by preparing the needed constitutional changes. Budget management should be fully transferred to the judiciary. The HJC and the SPC capacity to take on the judicial budget management should be strengthened while a clear separation of budgeting responsibilities between HJC, MoJ and SPC is needed. The JA is to become the point of entry to the judicial profession, while carrier and HR management is to be improved by setting out a clear grading system. The position of the misdemeanor courts should be improved.

Impartiality and quality of justice is to be improved by developing and monitoring the implementation of ethical codes and integrity plans and by enabling the court users to report wrongdoings. Laws dealing with conflict of interest should be enhanced. The reform efforts should focus on strengthening the capacity of the institutions in charge of protection of property rights of the Republic of Serbia. In terms of access to justice the legal framework regulating free legal aid should be adequately defined. To enable targeted aid specific criteria to identify the poor are needed. Greater use of ADR should be encouraged. Awareness of court user's right to a court interpreter should be raised. Consistent case law, further improvements and amendments of the legal framework are needed to align with *acquis* and international standards. These changes should not, however, create a need for the framework to be further frequently changed. Public access to databases of legislation, case law, judicial records and proceedings is to be provided (at the same time insuring confidentiality of appropriate files). Greater and proactive interaction with citizens with a set up of services for help to victims and witnesses is needed.

Professionalism is to be enhanced by providing continuous training at the JA and making the training mandatory. The JA should be an entry point for positions in the judiciary while the initial training and evaluation mechanisms at the JA have to be improved. Judicial staff - judicial assistants and associates administrative staff in the courts and prosecutor offices should receive adequate training. A system of training for bailiffs, notaries and mediators should be established. Processes for appointment of expert court witnesses and judicial interpreters have to be reexamined and revised. Reform of the law school and of the bar exam should commence. The capacity of the JA should be strengthened.

Accountability should be strengthened by implementing clear standards for evaluation of judges in terms of work performance and ethics. Civil liability and internal disciplinary processes should exist and be implemented in case of wrongdoings. The rules insuring responsibility should apply to all including members of the HJC, SCP as well as bailiffs, notaries, expert court witnesses, court interpreters, mediators and administrative staff. To enable evaluating work performance a system of data collection and processing should be set. A unified system for collection and review of citizens' complains should be organized while the existing mechanisms are to be strengthened with a clear and transparent definition of disciplinary liability.

To improve efficiency of the judiciary a system an even number of cases per judge should be established and reintegration of reappointed judges completed. This will make even out the workload of judges and prosecutors. The legal framework should allow for a possibility to horizontally transfer the judges between courts with adequate stimulation and based on the Constitution. The network of courts is to be aligned with the Brussels Agreement. Periodic analysis of the efficiency of the new court network should be conducted to enable gradual adjustment to the service demand. Further enhancement of judicial administration is needed. Infrastructure investment planning based on degree of priority is needed. An ITC body for governing E-justice should be organized while the judiciary should be provided with a continuous IT support, IT capacity and infrastructure should be development. Judicial services should be available online to general public with few exceptions based on strong justifications. Further significant efforts are needed for reduction of backlog. A program for backlog reduction based on priority of cases should be set. Use of simplified procedural forms (such as ADR) whenever legal possible should be encouraged. Legal framework should be changed to shorten trial time. Investments into infrastructure are needed to resolve the lack of courtrooms and lack of prosecutorial offices and enable more trails per court. Liability in case of misuse of trail rights to intentionally prolong trial time should be insured. Notaries should be introduced into the legal system. Enforcement should be enhanced by greater use of bailiffs. A separate strategy is prepared in the area of enforcement of criminal sanctions. The Strategy evaluates the achievements of the previous judicial reform strategy and provides a comprehensive overview of the previous and current reform efforts and status of each activity. The Strategy recognizes the following issues as the most urgent and pressing concerns of the Serbian judiciary: (i) reintegration of the judges and prosecutors into the Serbia justice system ³ and reexamining the judicial network; (ii) reduction of backlog; (iii) resolution of cases within a reasonable timeframe; (iv) improvement of the status of the HJC and the SPC and legislative amendments which would insure accountability and competences of the two bodies; (v) consistency of case law; (vi) establishing a unified system of e-Justice.

Guide to relevant information

p. 2 Goal of the Strategy

pp. 2-5 Key principles and priorities

p. 5 Action plan

pp. 5-8 Reform efforts

pp. 8-25 Review of results of the judicial reform to-date in comparison to weaknesses and reform activities set out by the 2006 Strategy

pp. 25-43 Organization of the Strategy

p. 43 MoJ and the Strategy

pp. 44-48 Standard of the activity results

³This refers to judges and prosecutors which were not reappointed to their position after the 2009/2010 re-election process but which were reinstated to their positions by the Constitutional Court decision in 2012.

12. Action plan for the implementation of the National Strategy for Reform of Justice for the Period 2013 - 2018

The Action plan covers the period from 2013 to 2018 and was developed to facilitate implementation of the National Strategy for Reform of Justice (described under point 11 of this DRR). The Action Plan is to be revisited and revised every year based on the progress made. The Action Plan outlines the reform activities in the following manner: It sets our strategic principles which are further worked out in → strategic goals → strategic directions → measures, activities, deadlines, responsible units, source of financing. For each strategic goal it sets out indicators and methods to verify whether such indicators have been met. Below is a summarized outline of activities which should be conducted under each strategic principle:

Independence of the judiciary is to be improved by: (i) revising and drafting new laws and bylaws, including preparatory activities for the change of the Constitution. The following legislation should be revised/drafted: Constitution, HJC Act, SPC Act, Law on Judges, Law on Public Prosecutors, Rulebooks on HJC and SPC procedure, bylaws on criteria for evaluation and promotion of judges and prosecutors; (ii) enabling that judicial budget is managed by the judiciary - HJC and SPC. HJC and SPC should participate in preparation of 2014 budget, HJC and SPC capacity on budget management should be strengthened (especially on financial planning and methodologies); (iii) insuring that all other judicial issues are managed by the judiciary. In particular change in laws is needed to insure that HJC monitors the implementation of a Court I Rulebook while SPC monitors the implementation of a Public Prosecutor's Administrative Rulebook. Further, HJC and SPC should manage the courts and prosecutors property and infrastructure issues. HJC and SPC should strengthen and/or create departments for: strategic planning and analysis, for supervision of the work of courts/ prosecutors, for evaluation and promotion; (iv) other activities and needed to insure independence of judiciary such as: creation of working groups to monitor the impact of change of laws, promotion of judicial profession in laws schools, improving / clarifying of the status of non-professional judges (jurors) as well as of associate public prosecutors and associate judges, misdemeanor judges.

On improving impartiality and quality of justice: (i) new laws and bylaws should be introduced or amended in the following areas: on monitoring of plans of integrity – Law on Anticorruption Agency should be amended, action plan, a plan of integrity and a questionnaire should be drafted; new code of professional ethics for the judiciary developed; on conflict of interest - Law on Judges, Law on Public Prosecutors, Criminal Procedure Act, Law on Anticorruption Agency, Law on Public Servants should be amended; on representing the property interests of the Republic of Serbia the law and bylaw on the public attorney should be drafted; on the right to a *natural judge* amending the Law on Judges and the Court Rulebook; on the legal aid - drafting the laws and bylaws on legal aid, amending the Criminal Procedure Code and Law on Mediation reviewing other legislation regulating access to justice for marginalized groups; on aligning the Serbian judicial laws with the *acquis communautaire* and the international standards - analysis of the existing legal framework and amending the Law on Judges, Law on Network of Courts and Prosecutor' Offices, Law on Public Prosecutors, Civil Procedure Law, Criminal Procedure Law, Law on Notaries, Law on Organization of Courts, Criminal Code, Law on Mediation, Law on Probation, Law on Enforcement of Criminal Sanctions, Law on Misdemeanors, Law on Legal Aid, Law on International Cooperation in Criminal Matters, Law on Offences in Commerce, Law on Bar Exam, Law on Judicial Academy, Law on Non Contentious Procedure, Law on Protection of Personal Data, Law on

Confidentiality of Data, Law on HJC, Law on SPC, Civil Code, International Private Law, Law on the Public Attorney, Law on Property, Law on Official Use of Language, Law on Confiscation of Property Obtained through Criminal Acts; on consistency of case law - amending the Law on Organization of Courts and Court Rulebook and review of the procedural laws; on developing state bodies for support of victims and witnesses - amending the Law on Organization of Courts, Court Rulebook, Law on Public Prosecutors; (ii) capacity should be improved: by motivating the best students to work in the judiciary (through organization of volunteer work and offering of higher salaries), by regulating status of judicial and prosecutor's associates and trainees, by improving of the status of jurors and misdemeanor judges, by introducing training on ethic standards; (iii) integrity should be strengthened by developing and monitoring integrity standards, enabling the court users to report misuse, clearly defining what matters are closed for public, providing internet public access to data which is not confidential; surveys, etc.

Activities on improving professionalism include: (i) introducing evaluation criteria for evaluating judges and prosecutors (through amendments of the Law on Judges and Law on Public Prosecutors and relevant bylaws); (ii) strengthening the initial and continuous training. This requires amending the Law on Judges, Law on Public Prosecutors to make initial training a mandatory requirement for entering legal profession and to make regular continuous training mandatory. Training curricula should be improved to introduce courses on practical skills, courses on legal writing, ethics, uniform case law, EU law etc, special classes should be provided for court managers, ToTs organized; (iii) capacity of judges' and prosecutors' associates, trainees, volunteers, assistants and administrative staff should be strengthened by initial evaluation, developing programs for their training, thigh monitoring of their work and by setting up evaluation standards; (iv) initial and continuous training programs for bailiffs, notaries public, mediators should be set up; (v) the appointment process for court interpreters and court expert witnesses should be improved; (vi) the capacity of the law faculties should be strengthened by intensifying cooperation with the bar, courts, public prosecutor office, review of their curricula, revisiting the content of the bar exam.

Accountability should be strengthened by: (i) setting up clear standards for evaluation of judges and public prosecutors and conducting such evaluation on regular and extraordinary basis, organizing regular reporting on performance and establishing a centralized database of such reports; (ii) introducing disciplinary responsibility of judges, prosecutors and deputy prosecutors. This will require changes in law (Law on Judges, Law on Public Prosecutors introducing appropriate bylaws and ethical codes), training of disciplinary bodies, strict implementation of disciplinary processes with regular review of results and their analysis; (iii) introducing civil responsibility of judges and prosecutors through changes in Law on Judges and Law on Public Prosecutors; (iv) introducing, strengthening and improving mechanisms which insure accountability of the following professionals: members of HJC and SPC (through changes in Law on HJC, Law on SPC, development of ethical codes), bailiffs (by rendering relevant bylaws, establishing departments which will monitor and impose disciplinary responsibility), notary public (by developing ethical codes, strengthening capacity of the MoJ, empowering the public notary bar with relevant competences), expert court witnesses, court interpreters, mediators, judicial and prosecutors' associates and trainees, administrative and other court staff; (v) developing a unified system of collection and processing of complains which regard the work of the judiciary and other improvements in the mechanisms insuring accountability of the judiciary

To improve efficiency of the judiciary (i) a new court network should be established. This would require drafting of a new Law on the Court Network, analysis of the allocation of judge in the court network and developing a system for grading cases which would even the number of cases per judge, introducing a two instance administrative courts (through an amendment of the Law on Administrative Disputes), revising the processes at the MoJ, strengthening the court administration through examining the judiciary needs, and developing an investment plan (a database on investment needs should be required with regular reporting requirements); (ii) a system of E-justice should be developed (activities are to be defiled in an ITC strategy); (iii) resolution of backlog and shortening trial time. This will require greater use of simplified procedural forms by raising public awareness on their use and by training of judges, change of laws to shorten trial time (Criminal Procedure Act, Civil Procedure Act, etc.), reallocating workload from judges to administrative staff (analysis of existing tasks, training of administrative staff), reviewing the needs and investing into courtrooms and prosecutor's offices to enable more trails per court, analysis of existing the legal framework to minimize the possibility of misuse of trail rights to intentionally prolong trial time; (iv) introducing a public notary system through amending the Law on Notaries and rendering relevant bylaws, establishing a public notary bar, changing appropriate laws to enable enforceability of notarized documents; (v) insuring that court awards are enforceable by introducing a judge for enforcement of penalties, delineating the competences of the MoJ and Courts bailiffs, improving the jail infrastructure to enhance treatment and respect of human rights, increase of use of alternative sanctions etc; (vi) further enhancement of international cooperation.

Guide to relevant information

pp. 1-6 Activities on strategic principle Independence
pp. 6-17 Activities on strategic principle Impartiality and quality of justice
pp. 17-24 Activities on strategic principle Professionalism
pp. 24-31 Activities on strategic principle Accountability
pp. 31-42 Activities on strategic principle efficiency

Annual Reports

The DRR includes descriptions of available annual reports produced by institutions relevant for the JFR, namely, the annual reports of the: Supreme Court of Cassation, State Prosecution Office, High Judicial Counsel and Omdurman Office.

Annual Reports of the Supreme Court of Cassation

13. Annual Report on Courts' Activity in 2012, Supreme Court of Cassation

Annual Report on Court's Activity covers the period from January 1, 2012 to December 31, 2013. It provides detailed statistical data on the activity of the courts separately for the: (i) Supreme Cassation Court including: overall SCC data, data per each SCC department (civil, criminal, administrative), information and data on other SCC activities (training, workshops, conferences and knowledge sharing events organized by and for judges and court staff, reports from the general meeting, justice administration - processing of complains regarding the functioning of the courts, international

cooperation, processing requests for access to public information; (ii) Appellate Court overall data, data per each area of law ; (iii) Higher Courts overall data, data per each area of law ; (iv) Basic Courts' overall data, data per each area of law (civil litigation, labor law, enforcement, inheritance, criminal law); (iv) Administrative Court; (v) Appellate Commercial Court; (vi) Commercial Courts overall data, data on commercial misdemeanors, litigation, non-contentious matters, insolvency, payment requests; (vii) High Misdemeanor Court (viii) Misdemeanor Courts.

The overall statistics shows that the courts were able to work on current cases but also clear some of the backlog. In 2012 there were 5,315,547 cases in processing out of which 1,969,270 cases were received, 2,156,958 resolved, leaving the backlog of 3.158.400 cases. However, given the number of incoming cases it appears that the courts were less efficient in 2012 in comparison to 2011. This could be accounted to the increase of a non case related workload such as intensified supervision of lower instance courts and intensive participation in working groups for drafting new laws.

The number of old unresolved cases has increased in 2012 in comparison to the same number in 2011 for approx. 18%. The volume of these cases is the highest in the Basic Courts and while for some of the Basic Courts programs for reduction of backlog has been developed it can be assessed that these programs were not effective. Uneven allocation of cases per judge is still a pressing concern, average number of incoming cases per judge ranges from 31.11 to 178.19. First and Second Basic Courts in Belgrade have the highest number of incoming cases amounting to 30,8% of all incoming cases in the country. Appellate Court in Belgrade is the appeals court with the highest volume of cases. Although they are the fastest courts to dispose of cases at the same time they are the least efficient given the work volume, number of citizens and territory they cover. It is recommended that new courts and judges are introduced in this territory so that the citizens are adequately serviced. Overall the statistical data indicates that the court network should be adequately revised.

Guide to relevant information

p. 1 Overall Data
pp. 1-21 SCC data
pp. 21-26 Appellate Court`
pp. 26-31 High Courts
pp. 31-39 First Instance Courts
pp. 39-41 Administrative Courts
pp. 41-42 Commercial Appellate Court
pp. 42-46 Commercial Courts
pp. 46-48 High Misdemeanor Court
pp. 48-55 Misdemeanor Courts
pp. 55-57 Conclusion of the Report

14. Annual Report on Courts' Activity in 2011, Supreme Court of Cassation

The Annual Report on Court's Activity provides detailed statistical data on the activity of the courts separately for the: (i) Supreme Court of Cassation including: overall SCC data, data per SCC department (civil, criminal), information and data on other SCC activities (training, workshops, conferences and

knowledge sharing events organized by and for judges and court staff, participation in working groups on drafting of laws, reports from the general meeting, justice administration – internal meetings, meetings with representatives from lower instance courts, processing of complains regarding the functioning of the courts, analysis of the minutes on supervision of the lower courts, cooperation with other institutions, international cooperation, processing requests for access to public information, communication with the general public); (ii) Appellate Courts overall data, data per each area of law; (iii) Higher Courts' overall data, data per each area of law ; (iv) Basic Courts' overall data, data per each area of law (general civil, labor law, enforcement, inheritance, land registry applications, criminal law); (v) Administrative Court; (vi) Appellate Commercial Court; (vii) Commercial Courts overall data, data on commercial misdemeanors, litigation, non contentious matters, insolvency, enforcement; (viii) High Misdemeanor Court (ix) Misdemeanor Courts.

The overall statistics shows that the courts were able to work on current cases and were also able to clear some of the backlog. In 2011 there were 5,994,945 cases in processing out of which 2,653,347 cases were received, 2,653,347 resolved while the backlog stands at 3,341,598. This indicates that the courts have been able to clear 44.26% of all cases. The number of old unresolved cases stands at around 1,5 million making the number of old cases approx. 25% of the entire number of cases. The Basic Courts have the largest share of the old cases (32.9%) 4% of which are more than 10 years old. Uneven allocation of cases per judge is a pressing concern - average number of incoming cases per judge ranges from 25.34 to 210.67. First and Second Basic Courts in Belgrade have the highest number of incoming cases. It is recommended that new courts and judges are introduced in this territory so that this territory is adequately serviced. At the same time some courts and court units have very low income of cases imposing a question whether existence of these cases is justified. The recommendations for further reform of justice an adequate revision of the court network, strengthening the efficiency of the court through affirmation and greater use of the ADR, introduction of notaries and bailiffs. Work on automation of processing of cases and use of IT has intensified (SAPS data management in Administrative SCC and appeals courts) and should be strengthened going forward.

Guide to relevant information

p. 1 Overall Data

pp. 1-27 SCC data

pp. 27-32 Appellate Court data

pp. 32-37 High Courts data

pp. 37-43 First Instance Courts data

pp. 43-45 Administrative Courts data

p. 45 Commercial Appellate Court

pp. 45-48 Commercial Courts data

pp. 48-50 High Misdemeanor Court data

pp. 50-55 Misdemeanor Courts data

pp. 56-65 Conclusion of the Report providing additional comparative data

15. Annual Report on Courts' Activity in 2010, Supreme Court of Cassation

The Annual Report on Court's Activity provides detailed statistical data on the activity of the courts separately for the: (i) Supreme Court of Cassation including: overall SCC data, data per SCC department, information and data on other SCC activities (training, workshops, conferences and knowledge sharing events organized by and for judges and court staff, participation in working groups on drafting of laws, reports from the general meeting, justice administration – internal bylaws, meetings with representatives from lower instance courts, processing of complains regarding the functioning of the courts, cooperation with other institutions, international cooperation, processing requests for access to public information, communication with the general public); (ii) Appellate Court overall data, data per each court, data per court and area of law, data per court and judge, number of overturned decisions; (iii) Higher Courts' overall data, data per each court, data per each court and area of law, data per each court and judges, number of overturned decisions, detailed comparative statistics ranking the Higher Courts based on different criteria (average case per judge, number of received cases, etc.), statistic for special Higher Court units on organized crime and war crimes; (iv) Basic Courts' data per each court, data per each court and area of law, data per each court and per judges, number of overturned decisions, detailed comparative statistics - ranking the courts based on different criteria (average case per judge, number of received cases etc.), statistics for court units together with information on court unit costs and issues; (v) Commercial Courts overall data, data per court, data per court, data per court per area of law, data per court per judge (on commercial misdemeanors, litigation, non contentious matters, insolvency, enforcement), ranking of commercial courts based on different criteria (number of disposed cases per judge per area of law etc); (vi) Appellate Commercial Court; (vii) High Misdemeanor Court overall data, data per court unit, data per area of law; (viii) Misdemeanor Courts overall data, data per area of law, data per court, data per court and judge; (ix) Administrative Court.

Statistical data indicates that the new network of courts was unable to resolve the issue of uneven allocation of cases per judge. In the current court network judge dealing with the highest number of cases has 8 times more incoming cases in comparison to the judge dealing with the lowest number of cases. First and Second Basic Courts in Belgrade are courts with the highest number of cases under any criteria. It is critical that new courts and judges are introduced in this territory so that this territory is adequately serviced. At the same time some court units have very low income of cases and it should be further examined whether their existence is justified and cost effective. Recommendations for further reform are: an adequate revision of the court network, adequate training for judges provided at the JA with adequate revision of JA curricula, introduction of mechanism for evaluation of judges. Work on automation of processing of cases and use of IT is needed especially in misdemeanor courts.

Guide to relevant information

pp. 3-4 Overall Data
pp. 6-15 SCC data
pp. 15-26 Appellate Court data
pp. 26-116 High Courts data
pp. 116-246 First Instance Courts data
pp. 246-258 Commercial Courts data
pp. 258-260 Commercial Appellate Court data
pp. 261-263 High Misdemeanor Court data
pp. 264-277 Misdemeanor Courts data
pp. 277-279 Administrative Court data
pp. 280-282 Conclusion of the Report data

Annual Reports of the State Prosecution Office

16. Work of Public Prosecution Offices on Fighting Crime and Protection of Law and Constitution in 2011, State Prosecution Office, Belgrade, March 2012

The publication is an annual report of the State Prosecution Office reporting on the activities of the prosecutors for 2011. It provides information on the level of crime in Serbia as well as information regarding prosecution of criminal acts, commercial offences and misdemeanors. The report is a combined report of individual reports submitted by the State Prosecution Office, Appellate Prosecution Office, Higher Prosecution Offices and specialized prosecutorial departments (please see below the Guide on Relevant Information for details on issues covered by the report).

Highlights: The report gives detailed statistical data with important aggregate figures on the work of the prosecution⁴ in Serbia. Number of all incoming cases for 2011 is 308,810 out of which cases regarding prosecution of criminal acts [*krivičnih dela*] is the highest - 241,340. Number of all reports of crimes [*krivičnih prijava*] for 2011 was 145,679 out of which known perpetrators were reported in 111,812 instances. The most frequent crimes are crimes against property accounting for 19,474 cases.

Overall the report highlights a number of novelties which have been or are to be introduced during the reported period. Some of the most important are: expected introduction of prosecutorial investigation under the new Criminal Code; establishment of the new Unit for Crimes Against Corruption, establishment of this unit represents a requirement under GRECO; increase in the enforcement of the Law on Confiscation of Property Acquired through Criminal Acts, the property confiscated was in value over several hundred million euro, implementation of the new legal forms such as plea bargaining and criminal liability of legal entities.

⁴ Aggregate number for the State Prosecution Office, Appellate Prosecution office, Higher Prosecutions Offices and the Office Prosecuting Organized Crime and Office Prosecuting of War Crimes

Report indicates that there is a demand for stricter policies in the fight against crime. It comments that at the moment most of the judgments rendered impose only probation instead of actual jail sentence. In rare cases where imprisonment is sentenced duration of this sanction is usually set at the legal minimum. In 2011 there has been an increase in the total number of verdicts in criminal matters (for 24.38%) and an increase of the number of jail sentences (for around 19%). This data shows a trend of stricter policies in sanctioning crime however general conclusion is that these changes are not significant.

Guide to relevant information

- pp. 1- 8 Overall Information on the Levels of Crime and work of the Prosecution, general issues
- pp. 8 -11 Work of the Department against High Technology Crime
- pp. 12-14 Work on the Crimes against Constitution and Homeland Security and Crimes against Humanity
- pp. 16-19 Work on the Crimes against Life and Body
- pp. 19-21 Crimes with elements of Violence
- pp. 22-29 Status of business crime and work of the Department for Fight against Corruption
- pp. 31-36 Juvenile Delinquency
- pp. 36-39 Work of the State Prosecutor on Crimes against the State Armed Forces
- pp. 39-42 Work of the Public Prosecution on business crime
- pp. 42-46 Analysis of the Activity regarding individual Business Crime Cases
- p. 47 Work of the State Public Prosecution on Misdemeanors
- p. 47 Liability of Legal Entities for Criminal Acts
- pp. 49-54 Sanctions as a factor in the fight against crime
- pp. 54-62 Simplified Procedural forms and their use
- pp. 62-68 Activities of the State Prosecutor on Confiscation of property obtained through criminal acts
- pp. 68-84 Activity of the State Public Prosecutor in International cooperation and legal aid in 2011
- pp. 84-99 Work of the Public Prosecutor for Organized Crime
- pp. 99-179 Statistical Report

Surveys

17. Global Corruption Barometer National Report – Serbia, Transparency International, data for 2013

The Global Corruption Barometer is a worldwide public opinion survey on views and experiences of corruption. It captures how corruption is viewed at the national level. It also provides a measure of people’s experience of corruption for a specified year

Type of Index	Score	Rank	Explanation
Corruption Perceptions Index (2013)	42	72	Index ranks countries/territories based on how corrupt a country’s public sector is perceived to be. Scores range from 0

			(highly corrupt) to 100 (very clean).
Control of corruption (2010)	-0.213269704	52%	Control of corruption reflects perceptions of the extent to which public power is exercised for private gain. Point estimates range from about -2.5 to 2.5. Higher values correspond to better governance outcomes.
Judicial independence (2011-2012)	2.4	128	Judicial Independence Index measures the perceived extent in which the judiciary of the country is independent from influences of members of government, citizens, or firms. Scores range from 1 (heavily influenced) to 7 (entirely independent).
Rule of Law (2010)	-0.388995987	43%	This dimension captures perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence. Point estimates range from about -2.5 to 2.5. Higher values correspond to better governance outcomes.

In addition to the information above the Barometer indicates that:

- 17% people reported paying a bribe in 2010;
- 61% of people feel their government's efforts to fight corruption are ineffective;
- 49% of people feel that from 2007-2010 the level of corruption in the country has increased;
- Institutions perceived to be most affected by corruption are political parties;
- Judiciary is perceived to be 3.9 points affected by corruption where 5 is extremely corrupt and 1 is not corrupt at all.

Reference List

The following list of documentation through the work on the JFR has been indicated as relevant for the Serbian justice sector reform efforts but did not by its form fall fully within the scope of the DRR.

1. Relevant non – core strategies

- ICT Strategy for MoJPA, July 2013
- National Plan for Adoption of the Acquis (2013-2016), February
- National Anti-Corruption Strategy for period 2013-2018, July 1 2013

2. Reviews of Laws, rulebooks and other legislation

- OSCE, Comments to the Rules on Criteria, Indicators and Evaluation Procedure to Performance Evaluation of Judges and Court Presidents
- OSCE, Comments on the draft Rulebook on the Manner of Measuring Performance of the Public Prosecutors and Deputy Public Prosecutors
- [list will be expanded based on further findings]

Annex 1 Acronyms and Abbreviations

Acronyms and Abbreviations	
¶	Paragraph
ADB	Asian Development Bank
ADR	Alternative dispute resolution
approx.	Approximately
BEEPS	Business Environment and Enterprise Performance Survey
CCJE	Consultative Council of European Judges
CCPE	Consultative Council of European Prosecutors
CEPEJ	The European Commission for the Efficiency of Justice
Ch	Chapter
EBRD	European Bank for Reconstruction and Development
ECA	Europe and Central Asia
ECHR	European Convention on Human Rights
ECTHR	European Court of Human Rights
EU	European Union
EUR	EURO
exe	Executive
FY	Fiscal Year
FYROM	Former Yugoslavian Republic of Macedonia
GDP	Gross Domestic Product
HJC	High Judicial Council
ICT	Information and Communication Technology
ICTY	International Criminal Tribunal for the former Yugoslavia
IDF	Institutional Development Fund
IFMIS	Integrated Financial Management Information System

IMF	International Monetary Fund
IMG	International Management Group
ISM	Ipsos Strategic Marketing
IT	Information Technologies
JA	Judicial Academy
JAS	Judges Association of Serbia
JFR	Serbia Judicial Functional Review
LSA	Law and Society Association
MDTF-JSS	Multi Donor Trust Fund for Justice Sector Support
MoJPA	Ministry of Justice and Public Administration
NBS	National Bank of Serbia
NJRS	National Judicial Reform Strategy
no.	Number
Oct	October
OSCE	Organization for Security and Co-operation in Europe
p.	page
PEFA	Public Expenditure and Financial Accountability
pp.	pages
RCLS	Research Committee on Sociology of Law
RSD	Serbian Dinar
SAA	Stabilization and Association Agreement
SCC	Supreme Cassation Court
Sept	September
SPC	State Prosecutorial Council
UMIC	Upper Middle Income Countries
US\$	United States Dollars

Annex 2 Reviewed Analytical Works

1. Commission Staff Working Document, Serbia, 2013 Progress Report, Brussels, October 2013
2. Commission Staff Working Document, Serbia 2012 Progress Report, Brussels, October 2012
3. Commission Staff Working Document, Serbia 2010 Progress Report, Brussels, November 2010
4. CEPEJ, European Judicial Systems Edition 2012 (2010 data), Efficiency and Quality of Justice
5. Serbia Country Report to CEPEJ on Efficiency and Quality of Justice data 2011
6. Serbia Country Report to CEPEJ on Efficiency and Quality of Justice data 2009
7. Civil Enforcement in the Western Balkans, An overview of the present situation and future developments in the various legal systems in the Western Balkans, Jos Uitdehaag, Eric Vincken, Albania Tirana 2011
8. SIGMA, Priorities, Serbia, May 2013 and SIGMA, Assessment, Serbia, April 2013
9. Analysis of Diversion Orders and Alternative Sanctions Application Practices in Serbia, Mapping Resources of Local Communities for Implementation of Diversion Orders and Alternative Sanctions, Nadezda Sataric, and Dragan Obradovic , Belgrade, May 2011
10. National Strategy for Reform of Justice, 1 July 2013
11. Action plan for the implementation of the National Strategy for Reform of Justice for the Period 2013 - 2018
12. Annual Report on Court Activity in 2012, Supreme Court of Cassation
13. Annual Report on Court Activity in 2011, Supreme Court of Cassation
14. Annual Report on Court Activity in 2010, Supreme Court of Cassation
15. Work of Public Prosecution Offices on Fighting Crime and Protection of Law and Constitution in 2011, State Prosecution Office, Belgrade, March 2012
16. Enforcement in the Western Balkans and its Compatibility with the Human Rights Standards of the Council of Europe, J. Uitdehaag
17. Global Corruption Barometer National Report – Serbia, Transparency International, data for 2013