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DRAFT LAW AMENDING
LAW ON ORGANISATION OF COURTS
OF SERBIA

December 25, 2012

DRAFT LAW AMENDING LAW
ON ORGANIZATION OF COURTS

Chapter one

PRINCIPLES

Judicial Power

Article 1.

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.

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

~~ARTICLE 2A IS DELETED, SINCE THAT ISSUE SHOULD BE SOLVED WITH THE LAW ON THE SEATS AND TERRITORIAL JURISDICTIONS OF COURTS AND PUBLIC PROSECUTOR'S OFFICES OR WITH THE LAW ON HIGH JUDICIAL COUNCIL.¹~~

Independence of the Judicial Branch

Article 3.

The judicial branch is vested in courts and it is independent of the legislative and the executive power.

Judicial decisions 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, ESTABLISHED BY THIS LAW, in due process of law.

Everyone is obliged to comply with executive judicial decision

¹ Change introduced by the Secretariat of the Venice Commission after meetings with the Working Group on the Draft Law on the Organisation of Courts in Belgrade on 1 February 2013.

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 predetermined rules.

Prohibition of Influence on Courts¹
Article 6.

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

USE OF PUBLIC OFFICE, PUBLIC MEDIA AND INDECENT PUBLIC APPEARANCE THAT MAY INFLUENCE THE COURSE AND OUTCOME OF JUDICIAL PROCEEDINGS IS PROHIBITED IN ORDER TO MAINTAIN AUTHORITY AND IMPARTIALITY OF COURTS.

Any other form of influence on the courts is also prohibited as well as pressure on participants in a procedure.

Publicity
Article 7.

Hearings before the court are public and may be restricted only by law, in accordance with the Constitution.

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 prohibited influence on its course and outcome.

¹ See opinion of the Venice Commission no. 464/2007 from 19.03.2008, on the Draft Law on Organization of Courts from 19.03.2008, item 91-93.

PROTECTION OF THE RIGHT TO TRIAL IN REASONABLE TIME

ARTICLE 8A

A PARTY IN COURT PROCEEDINGS CONSIDERING THAT IT'S RIGHT TO TRIAL IN REASONABLE TIME IS VIOLATED, MAY SUBMIT TO DIRECTLY HIGHER COURT THE REQUEST FOR PROTECTION OF THE RIGHT TO TRIAL IN REASONABLE TIME.

THE REQUEST FROM PARAGRAPH 1 OF THIS ARTICLE MAY ALSO SOUGHT COMPENSATION FOR VIOLATION OF THE RIGHT TO TRIAL IN REASONABLE TIME.

IF THE REQUEST IS RELATED TO PROCEEDING THAT IS CONDUCTED IN THE COMMERCIAL APPELLATE COURT, MISDEMEANOR APPELLATE COURT OR ADMINISTRATIVE COURT, THE SUPREME COURT OF CASSATION SHALL MAKE DECISION ABOUT THE REQUEST.

THE PROCEDURE OF MAKING OF DECISION ON THE REQUEST FROM PARAGRAPH 1 OF THIS ARTICLE IS URGENT.

DECISION MADE UPON THE REQUEST FOR PROTECTION OF THE RIGHT TO TRIAL IN REASONABLE TIME

ARTICLE 8B

IF THE DIRECTLY SUPERIOR COURT ESTABLISHES THAT THE REQUEST OF THE APPLICANT IS GROUNDED, IT WILL DEFINE THE PERIOD TO THE COURT WHERE THE PROCEEDING IS CONDUCTED TO MAKE DECISION ABOUT THE REQUEST AND IT MAY DEFINE APPROPRIATE INDEMNITY FOR VIOLATION OF THE RIGHT TO TRIAL IN REASONABLE TIME.

THE INDEMNITY FROM PARAGRAPH 1 OF THIS ARTICLE IS PAID FROM BUDGET FUNDS OF THE REPUBLIC OF SERBIA WITHIN THREE MONTHS FROM THE DAY WHEN THE PARTY HAS SUBMITTED THE REQUEST FOR PAYMENT.

COMPLAINT AGAINST THE DECISION RELATED TO THE REQUEST FOR PROTECTION OF THE RIGHT TO TRIAL IN REASONABLE TIME MAY BE SUBMITTED TO THE SUPREME CASSATION COURT WITHIN 15 DAYS.

APPROPRIATE IMPLEMENTATION OF THE LAW ON NON-CONTENTIOUS PROCEEDINGS

ARTICLE 8C

PROVISIONS OF THE LAW REGULATING NON-CONTENTIOUS PROCEEDINGS ARE IMPLEMENTED ACCORDINGLY ON THE PROCEDURE FOR PROTECTION OF THE RIGHT TO TRIAL IN REASONABLE TIME AND INDEMNITY FOR VIOLATION OF THE RIGHT TO TRIAL IN REASONABLE TIME.

Legal Assistance COOPERATION OF COURTS AND OTHER AUTHORITIES

Article 9.

Courts are required to COOPERATE AND ASSIST ~~provide legal assistance to~~ with each other, and other government authorities and organizations shall provide legal assistance to courts and forward necessary data.

Courts may provide files and documents, or its copies, necessary to conduct proceedings, IN ACCORDANCE WITH SPECIAL REGULATIONS, to government authorities only when this does not impede judicial proceedings.

Symbols of State Authority, Official Use of Language and Letters
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, in accordance with special laws.

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.

In the courts in the Republic of Serbia, Serbian language and Cyrillic letter are officially used.

In courts, branches outside of seats of courts and court units, other languages and letters are also officially used, in accordance with the law.

Chapter Two

EXTERNAL ORGANIZATION 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 Basic courts, High courts, Appellate Courts and the Supreme Court of Cassation.

Courts of special jurisdiction are commercial courts, the Commercial Appellate Court, magistrate courts, ~~the High Magistrate Court~~, THE MAGISTRATE APPELLATE 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 Courts of Republican Level
Article 13.

The Commercial Appellate Court, ~~the High Magistrate Court~~ THE MAGISTRATE APPELLATE COURT and the Administrative Court are established for the territory of the Republic of Serbia with seats in Belgrade.

~~The High Magistrate Court~~ THE MAGISTRATE APPELLATE COURT and the Administrative Court may have departments outside the seat, in accordance with law, where they permanently judge and take other court actions.

Basic, High, Appellate, Commercial and Magistrate Court
Article 14.

Basic court is established for the territory of a city, or one or several municipalities, and High court for the territory of one or several Basic courts.

Commercial court is established for the territory of one or more cities, or several municipalities.

Appellate court is established for the territory of several High courts.

Magistrate court is established for the territory of a city, or one or several municipalities.

Establishing, seats and territories of basic, high, appellate, commercial and magistrate courts are regulated by special law.

~~Departments of magistrate courts and court units of basic and commercial courts are regulated by special law.~~

Court of directly higher instance
Article 15.

The Supreme Court of Cassation is the directly higher instance court to the Commercial Appellate Court, ~~High Magistrate Court~~ MAGISTRATE APPELLATE COURT, Administration Court, and Appellate Court.

The Appellate Court is the directly higher instance court to the High Court and Basic Court, the Commercial Appellate Court is the directly higher instance court to the commercial court, and ~~the High Magistrates Court~~ THE MAGISTRATE APPELLATE COURT is the directly higher instance court to the magistrate courts.

The High court is the directly higher instance court to the Basic court when so set forth under this Law, as well as for issues of internal court organization 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.

Basic, High, COMMERCIAL, and Magistrate court may hold court days outside its seat.

Court Days

Article 18.

During court days, court from article 17, paragraph 2 of the law, adjudicates and takes other judicial actions.

Venue, date and time of holding court days is set by the president of the court, in accordance with the Rules of Court.

Court days are announced in the place of their holding.

~~Departments outside the seat of magistrate court, or court units outside the seat of basic and commercial court~~

Article 19.

~~A magistrates court may have a department outside it's seat wherein it permanently adjudicates and carries out other court activities.~~

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

~~Basic and commercial court may have a court unit outside its seat wherein it permanently adjudicates and carries out other court activities.~~

~~Court unit outside the seat of basic and commercial court is established for territory of a city, or one or several municipalities from territory of the court.~~

COURT UNITS

ARTICLE 19

THE BASIC, COMMERCIAL AND MAGISTRATE COURT MAY HAVE COURT UNITS OUTSIDE ITS SEATS WHEREIN IT ADJUDICATE AND CARRY OUT OTHER COURT ACTIVITIES.

A COURT UNIT IS AN ORGANIZATIONAL PART OF THE COURT AND IT IS ESTABLISHED FOR TERRITORY OF ONE OR SEVERAL MUNICIPALITIES FROM TERRITORY OF THE COURT.

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.

The Court Rules define what actions are undertaken in court units outside the seat of basic and commercial courts.

~~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 Basic court

Article 22.

A basic court adjudicates in first instance for criminal offences carrying as the main penalty a fine or imprisonment up to ten and 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 basic court adjudicates in first instance in civil actions, unless some of these falls under the jurisdiction of another court, and shall conduct enforcement procedure and extra judicial proceedings that are not under jurisdiction of another court.

A basic 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 basic court extends legal aid to citizens, provides international legal assistance, if not falling under competence of another court, and carries out other tasks provided under law.

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

2. Jurisdiction of High Court

Article 23.

A high court shall in first instance:

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

2. Adjudicate criminal offences against HUMANITY AND OTHER GOODS PROTECTED BY INTERNATIONAL LAW; the Army of Serbia; disclosing of state secret; DISCLOSING OF OFFICIAL SECRET; CRIMINAL OFFENCE PROVIDED IN THE LAW THAT REGULATES SECRECY OF INFORMATION; incitement to violent change of constitutional order; provoking of national, racial and religious hatred; violation of territorial sovereignty; conspiracy for anti-constitutional activity; organizing 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 organization; money laundering;; violation of law by a judge, public prosecutor and his deputy; endangerment of air traffic safety; provoked murder; rape; sexual intercourse with a helpless person; sexual intercourse through abuse of position; abduction; trafficking of minors for purpose of adoption; violate behaviour at sports event AND PUBLIC GATHERING; taking of bribe; ABUSE OF OFFICE BY RESPONSIBLE OFFICIAL; ABUSE OF OFFICE; ABUSE IN PUBLIC PROCUREMENTS;

3. Adjudicate in ~~juvenile~~ criminal proceedings against JUVENILE PERPETRATORS OF CRIMINAL OFFENCES;

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

5. Decide on requests for rehabilitation.

6. Decide on prohibition of distribution of printed media and dissemination of information through mass media.

7. Adjudicate in ~~civil actions where the value of the subject of the lawsuit allows review~~; in disputes on denying or establishing of paternity and maternity; IN DISPUTES FOR PROTECTION FROM DISCRIMINATION AND HARRESMENT AT WORK, on copyrights

and similar rights, protection and use of inventions, INDUSTRIAL DESIGN, models, brands and markings of geographical origin, INTEGRATED CIRCLE TOPOGRAPHY² (TOPOGRAPHY OF SEMI-CONDUCT PRODUCTS³) AND RIGHTS OF BREEDERS OF PLANT VARIETIES if it does not fall under jurisdiction of another court; in disputes on publishing of correction of an information or respond to information due to violation of prohibition of the hate speech; protection of the right to private life; or the right on personal record; omission to publish information and compensation of damage related to publishing of information;

8. 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;

The High court decides in the second degree on appeals against decisions of basic courts:

1. On measures for securing of presence of the accused.
2. FOR CRIMINAL OFFENCES FOR WHICH FINE AND IMPRISONMENT UP TO FIVE AND FIVE YEARS IS STIPULATED.
3. On decisions in civil disputes; in judgments in disputes with small value and in non-contentious proceedings.

__3. Jurisdiction of Appellate Court ***Article 24.***

The Appellate Court decides on appeals:

1. against decisions of high courts;
2. on decisions of basic courts in criminal proceedings, if the high court is not competent to make decision on a complaint;
3. on decisions of basic courts in civil procedures, if the high court is not competent to make decision on a complaint.

² Legal term.

³ Term from EU Directive

A high court conducts proceedings for extradition of indicted and convicted persons, provides international legal assistance in procedures for criminal offences from its jurisdiction, enforces criminal sentence of a foreign court, decides on recognizing and enforcement of foreign court and arbitration decisions unless under the jurisdiction of another court, decides on conflicts of competence of basic courts from its territory, PROVIDES AND RENDERS ASSISTANCE AND SUPPORT TO WITNESSES AND DAMAGED PARTIES and performs other tasks set forth under law.

The Appellate Court decides on conflict of jurisdiction between lower instance courts on its territory, , if the high court is not competent to make decision, on transfer of jurisdiction of basic and high courts when prevented or unable to proceed in a legal matter and performs other tasks set forth by law.

APPELLATE COURTS HOLD JOINT MEETINGS AND NOTIFY THE SUPREME COURT OF CASSATION ABOUT THE NEED TO ESTABLISH OR CHANGE OF LEGAL UNDERSTANDING, OR DICUSSING ON DISPUTABLE ISSUES RELEVANT FOR FUNCTIONING OF COURTS IN THE REPUBLIC OF SERBIA AND UNIFICATION OF COURT PRACTICE.

4. Jurisdiction of Commercial Court **Article 25.**

A commercial court adjudicates in first instance:

1. in lawsuits between domestic and foreign commercial companies, enterprises, cooperatives 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, INDUSTRIAL DESIGN, models, samples, hallmarks, and designation of geographic origin, INTEGRATED CIRCUIT TOPOGRAPHY (SEMI-CONDUCT PRODUCTS TOPOGRAPHY) AND BREEDERS OF PLANT VARIETIES 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 organization and status of economic entities, as well as in lawsuits on application of regulations on privatization and SECURITIES.

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; related to REORGANIZATION, COURT AND VOLUNTARY bankruptcy and liquidation EXCEPT DIPSUTES FOR DETERMINING OF EXISTANCE OF BEGINNING AND ENDING OF EMPLOYMENT THAT ARE INITIATED BEFORE THE OPENING OF BANKRUPTCY.

A commercial court in first instance conducts proceedings for registration in the court register of legal entities and other subjects unless this is under the competence of another authority; conducts bankruptcy and reorganization proceedings; orders and conducts enforcement in accordance with authentic documents when related to persons from item 1, paragraph 1 of this Article; 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; decides on 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 RENDERS INTERNATIONAL LEGAL ASSISTANCE AND performs also other tasks set forth by law.

5. Jurisdiction of the Commercial Appellate Court ***Article 26.***

The Commercial Appellate Court decides on appeal against decisions of commercial courts ~~and other bodies~~, in accordance with law

The Commercial Appellate 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 magistrate court in first instance adjudicates minor offences unless an administrative body has competence, ~~decides on complaints on decisions made on minor offences by administrative bodies~~, RENDERS INTERNATIONAL LEGAL ASSISTANCE WITHIN ITS JURISDICTION and performs other tasks set forth by law.

7. Jurisdiction of High Magistrate Court APPELLATE MAGISTRATE COURT ***Article 28.***

~~The High Magistrates Court~~ APPELLATE MAGISTRATE COURT decides on appeals against the decisions of magistrate courts, ~~decides~~ ON APPEALS AGAINST THE DECISIONS OF ADMINISTRATIVE BODIES TAKEN IN PROCEEDINGS FOR MINOR OFFENCES, on conflict and transfer of jurisdiction of magistrate courts 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 RENDERS INTERNATIONAL LEGAL ASSISTANCE WITHIN ITS JURISDICTION AND performs other tasks set forth 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, if another court is not competent for making of decision, 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.

Composition of the Panel
Article 32.

If not otherwise stipulated by the law, the Supreme Court of Cassation decides on legal remedies in the Panel composed from ~~three~~ FIVE judges.

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.

All decisions of the Supreme Court of Cassation from Article 30, paragraph 1 of this law are published at the web-site of the Supreme Court of Cassation.

Chapter Four

INTERNAL ORGANIZATION OF COURTS

I ANNUAL SCHEDULE OF TASKS

Article 34.

Following opinions obtained from judges the President of the Court sets the schedule of tasks for the coming year and announces it at the session of all judges by 1st of December. Annual schedule of tasks of judges is established in accordance with legal area where judge is acting.

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

The President of the directly superior court decides on the objection of a judge, within eight days from the day of filing of objection

⁴ Regulate with procedural laws in equal manner the decisions on legal remedies in three members' panel.

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 single judges proceed in the same field of law.

A court department is managed by the president of the department who is appointed by the President of the Court 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 Appellate Commercial Court and the High Magistrates Court APPELLATE MAGISTRATE COURT reviews 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.

SESSION OF A COURT DEPARTMENT IS CONVENED UPON REQUEST OF ONE THIRD OF JUDGES OF THAT 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 court president.

3. Special Departments in High, Appellate, Magistrate courts and High Magistrate Court

MAGISTRATE APPELLATE COURT

Article 39.

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

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

Magistrate courts and ~~High Magistrate Court~~ APPELLATE MAGISTRATE COURT may form departments for conduct of proceedings for minor offences from area of public revenue, customs, foreign trade, and foreign exchange issues, in accordance with the court rules.

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 third of the number of all judges.

III. INTERNAL ORGANIZATION 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 the Rules on regulation and work of the Supreme Court of Cassation.

2. Session of Departments of the Supreme Court of Cassation

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; 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 Organization and Operation of the Supreme Court of Cassation and performs other tasks set forth by law and the Rules on Organization 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 46.

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.

Decisions 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 third 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 General Session and performs other tasks allocated under its purview by the Rules on Organization 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 enjoys the status of the state official in office.

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 organization and operation of the court.

The Rules on Organization and Operation of the Supreme Court of Cassation is published in the "Official Herald 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: organizing 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; PROVIDING AND RENDERING OF ASSISTANCE AND SUPPORT TO WITNESSES AND DAMAGES PARTIES; enforcement of criminal and minor offences sanctions; financial and material business of the court and certification of documents for use abroad.

SERVICE FOR RENDERING OF ASSISTANCE AND SUPPORT TO WITNESSES AND DAMAGED PARTIES MAY BE ORGANIZED IN THE COURT ADMINISTRATION OF HIGH COURTS, AND OTHER COURTS DEFINED BY THE HIGH JUDICIAL COUNCIL.

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, appoints ex officio defenders in alphabetical order from the list of lawyers submitted by the Chamber of lawyers, ensures maintaining of independence of judges and the dignity of the court and carries out other tasks set forth by law and Court Rules.

A court has one or several deputies of the court president, who shall replace the court president in case of absence.

When a court has more than one deputy of the court president, the court president shall appoint the one to replace him.

Delegating Court Administration to Others
Article 53.

A court president may delegate certain court administration tasks to the deputy of the court president, or presidents of departments and COURT MANAGER.

A court president may not delegate authority to decide on employment rights of judges, establishing of annual schedule of tasks, deciding on labour relations of court staff in case when it is provided so by the law, and on suspension of a judge or lay judge from duty.

Authorities of the President of a higher court
Article 54.

The president of the higher court is entitled to oversee court administration of a lower court, and in case of non-acting 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 55.

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, as well as the president of the higher court, on admissibility and the measures undertaken, within fifteen days from the receipt of the complaint.

THE COURT PRESIDENT MAY REJECT THE COMPLAINT, COMPLETELY OR IN A CERTAIN PART, IF HE/SHE ESTABLISH THAT THE APPLICANT MISUSES THE RIGHT TO COMPLAIN.

IT SHALL BE DEEMED THAT THE APPLICANT MISUSES THE RIGHT TO COMPLAIN IF THE COMPLAINT HAS PREDOMINANTLY INSULTING CONTENT OR IF HE/SHE RE-SUBMITS THE COMPLAINT OF THE SAME OR SIMILAR CONTENT THAT HAS BEEN ALREADY DECIDED UPON.

IF THE COMPLAINT IS NOT UNDERSTANDABLE THE COURT PRESIDENT SHALL ORDER TO THE APPLICANT TO REGULATE IT WITHIN EIGHT DAYS FROM THE DAY OF RECEPTION OF THE ORDER, AND IF THE APPLICANT FAILS TO DO SO, THE COURT PRESIDENT SHALL REJECT THE COMPLAINT.

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

PROVISIONS OF PARAGRAPHS 2, 3, AND 4 OF THIS ARTICLE SHALL BE APPLIED ACCORDINGLY ALSO IN CASES WHEN AUTHORITIES AND BODIES FROM PARAGRAPH 5 OF THIS ARTICLE ARE ACTING UPON COMPLAINTS.

COURT MANAGER

Article 55-a

COURT OF REPUBLIC LEVEL AND COURT DEALING WITH MATERIAL AND FINANCIAL AND ORGANIZATIONAL ACTIVITIES FOR 30 AND MORE JUDGES HAS THE COURT MANAGER, AND OTHER COURTS MAY HAVE A COURT MANAGER.

PRESIDENT OF THE COURT ENTRUSTS PERFORMING OF MATERIAL-FINANCIAL AND ORGANIZATIONAL-TECHNICAL TASKS TO THE COURT MANAGER.

ACTIVITIES OF THE COURT MANAGER ARE MORE DETAIL REGULATED BY THE COURT RULES OF PROCEDURE.

COURT MANAGER IS RESPONSIBLE FOR THE TASKS ENTRUSTED TO HIM TO THE COURT PRESIDENT.

Court Secretary
Article 56.

The Court has a Secretary of the Court.

The Court Secretary assists the court president in court administration and is autonomous in performing tasks delegated to him, by decision of the court president, in accordance with the court Rules

A Court Secretary is appointed by the court president.

COURT SECRETARY

Article 56.

THE COURT HAS A SECRETARY OF THE COURT.

THE COURT SECRETARY ASSISTS THE COURT PRESIDENT IN COURT ADMINISTRATION, IN ACCORDANCE WITH THE COURT RULES.

IF A COURT DOES NOT HAVE THE MANAGER, TASKS RELATED TO ORGANIZATIONAL AND TECHNICAL ACTIVITIES OF THE COURT MAY BE ENTRUSTED BY THE COURT PRESIDENT TO THE COURT SECRETARY.

Chapter Five

COURT STAFF

1. Composition and Number of Staff

Article 57.

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 organization and job classification in the court, in accordance with the plan.

Criteria for determination of the REQUIRED number of court staff is set by the ~~minister with competence for judicial affairs~~ HIGH JUDICIAL COUNCIL.

2. Judge's Assistant

Tasks of Judge's Assistant

Article 58.

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 59.

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 high court judge.

Court Advisor
Article 60.

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 AND APPELLATE COURTS.

The Supreme Court of Cassation shall have the post of Advisor to the Supreme Court of Cassation that is attained in accordance with Rules on regulation and work of the Supreme Court of Cassation.

3. Performance Evaluation of Judge's Assistant

Evaluation Periods
Article 61.

Performance of a judge's assistant is evaluated once in 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 62.

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 63.

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 objective and single criteria set by the High Judicial 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 high court judge.

Evaluation Grade Decision
Article 64.

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 Judicial Council within 15 days from the day of receiving the evaluation grade decision.

4. Judge’s Trainee

Admission of a Judge’s Trainee
Article 65.

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 basic, high, commercial and magistrates court.

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

During the admission of judge's trainee special attention is paid to national composition of population, adequate representation of members of national minorities and knowledge of professional legal terms in language of a national minority in official use in the court.

THE PROCEDURE FOR ADMSSION OF JUDGE'S TRAINEES IS REGULATED CLOSER BY THE ACT OF MINISTER WITH COMPETENCE IN JUDICIARY.

Employment of a Judge’s Trainee
Article 66.

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

A judge’s trainee who passes the bar exam “with excellence” enters full time employment at the post of judge’s associate.

Volunteer
Article 67.

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

5. Training

Article 68.

The training program for judge's trainee and judge's assistants is defined by institution competent for training in judiciary, with consent of the High Judicial Council.

A judge's trainee 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.

6. Other regulations on Court Staff

Article 69.

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 70.

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

Judicial administration is discharged by the High Judicial Council and the Ministry with competence for the judiciary.

Judicial Administration tasks discharged by the High Judicial Council are: ISSUING OF INSTRUCTIONS FOR PREPARATION OF REPORTS ON PERFORMANCE OF COURTS; determination of general guidelines for internal court organization; maintaining of personal files for judges, lay judges and court staff; proposing of part of budget for work of courts for current expenses, except expenses for court staff and maintenance of equipment and facilities, as well as allocation of the court budget, control of authorized 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; collecting of statistical and other data ON PERFORMANCE OF COURTS; issuing approval for court rules on internal organization and job classification in courts; supervision over actions in cases within stipulated deadlines and acting upon complaints; proposing of part of budget for expenses for court staff AND FOR MAINTENANCE OF EQUIPMENT AND FACILITIES as well as allocation of those funds; proposing of budget part for investments, projects and other programs for work of judicial authorities; taking care of accommodation facilities, equipment and security of courts; oversight of financial and material operations of courts and the High Judicial Council; regulation and developing of judicial IT system; regulation, development and maintenance of

the data base of legal enactments; developing and enforcement of capital projects and other programs for judicial authorities; appointing and dismissal of court experts and interpreters.

Capital expenses from paragraph 4 of this Article are enforced by the ministry competent for judiciary, or judicial authority with approval of by the ministry competent for judiciary.

**Prohibition of Influence on the Autonomy and Independence
of the Court and Judges**
Article 71.

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

Nullity of act from paragraph 1 of this Article is determined by the Administrative Court.

⁵ Delete only if the Minister of Justice shall not issue the Rules of Court Procedure in the future. See opinion of the Venice Commission no.464/2007 from 19.03.2008, on the Law on Organization of Courts from 19.03.2008, item 117.

Personal Record
Article 72.

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

Data for the personal record are conveyed to the High Judicial 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, in accordance with regulations for protection of data on persons.

Content of the Personal Record
Article 73.

The personal record of a judge shall contain the first name and family name, name of a parent, 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 related to performance and status of judge.

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 Judicial Council.

A JUDGE IS ENTITLED TO ACCESS TO HIS/HER PERSONAL RECORD AND TO OBJECTION TO THE HIGH JUDICIAL COUNCIL ON ITS CONTENT.

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

Court Rules of Procedure
Article 74.

The Court Rules of Procedure prescribe court internal organization and operation, particularly: organization and work of departments and other organizational 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~~⁶; 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 organization and operation matters, FOR WHICH IT IS STIPULATED BY THE LAW TO BE REGULATED WITH THE COURT RULES OF PROCEDURE.

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 75.

The ~~ministry with competence for the judiciary~~ SUPREME COURT OF CASSATION 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.

Alternative for Article 75 paragraph 1:

Implementation of the Court Rules of Procedure is supervised by THE HIGH JUDICIAL COUNCIL.

Effects of Supervision
Article 76.

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

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 77.

Court Guards are an armed and uniformed service that ensures security of persons and property, peace and order and undisturbed conducting of official activities ~~in judicial premises~~, IN ACCORDANCE WITH SPECIAL LAW⁷.

Powers of the Court Guards

Article 78.

A court guard is authorized 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 authorized 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.

Organization of the Court Guards

Article 79.

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

⁷ See comments of the Venice Commission no.464/2007 and the Draft Law on Organization of Courts from 19.03.2008, item 119.

Assistance to Court Guards and Security
Article 80.

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

The head of the judicial authority 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.

Appropriate Application of Regulations
Article 81.

Regulations governing employment relations of state officials and servants are applied on establishing of employment and on rights, duties, evaluation and responsibility of court guards, if not otherwise provided by this law.

Chapter Eight

FUNDS FOR THE WORK OF COURTS

Basic Provision
Article 82.

Funds for the work of courts are provided FROM THE BUDGET of the Republic of Serbia AND COLLECTED COURT FEES⁸.

Funds for the work of courts ~~should be~~ with its volume and timing to ~~sustain~~/ REFLECT independence of judicial power and ensure proper operation of courts

Proposing and Spending of Budget Funds
Article 83.

The High Judicial Council proposes the volume and structure of budgetary funds necessary for SALARIES AND INDEMNITIES TO JUDGES AND COURT STAFF and current expenses, except for expenses for court staff, ~~with prior opinion obtained from the ministry with competence for the judiciary,~~ and allocates these funds to courts.

⁸ Revision of Article 51 of the Law on Court Fees should be prepared (regarding the percentage of unpaid fees that belong to the High Judicial Council – 100%)

THE MINISTRY WITH COMPETENCE IN JUDICIARY PROPOSES THE VOLUME AND STRUCTURE OF FUNDS NECESSARY FOR INVESTMENTS, PROJECTS AND OTHER PROGRAMS FOR THE WORK OF COURTS, FOR ACCOMMODATION, EQUIPMENT AND SECURITY OF COURTS, REGULATION, DEVELOPMENT AND MAINTENANCE OF COURT IT SYSTEM, REGULATION, DEVELOPMENT AND MAINTENANCE OF DATA BASE OF LEGAL ENACTMENTS⁹, AND MAKES ALLOCATION OF THESE FUNDS TO COURTS.

Supervision over Spending of Budgetary Funds
Article 84.

Supervision over spending of budgetary funds allocated for the work of courts is conducted by the High Judicial Council, the ministry competent for judiciary, and the ministry competent for finance.

Use of funds and own incomes
Article 85.

Revenues from work of courts are separately set out in the Republic of Serbia budget and are allocated for regular operation of the judicial authorities COURTS, in accordance with the law.

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

Payment of Court Costs
Article 86.

~~The minister with competence for the judiciary~~ THE HIGH JUDICIAL COUNCIL 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

TRANSITIONAL AND FINAL PROVISIONS

TRANSITIONAL PROVISIONS

Continued Operation of Existing Courts
Article 87.

The Supreme Court of Serbia and the High Commercial Court, that were established by previous laws, shall continue to operate until 31 December 2009.

⁹ Consider is it an obligation of funding by the Government of RS (Data base of regulations)

Continued Operation of Current Misdemeanour Authorities
Article 88.

Misdemeanour panels, municipal authorities for misdemeanour, commission for misdemeanours in the ministry competent for financial issues, panels for second instance misdemeanour procedure in the ministry competent for financial issues, first instance and second instance authorities for tax offences, continues to operate in accordance with the law on misdemeanours ("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), special laws that regulate its jurisdiction and the Decision on establishing Municipal

Misdemeanour Bodies and determination of the number of judges in misdemeanour authorities ("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, 97/05 and 91/07) until 31 December 2009.

Commencing of Work of the Supreme Court of Cassation, Commercial Appellate Court, Administrative Court and High Magistrate Court APPELLATE MAGISTRATE COURT
Article 89.

The Supreme Court of Cassation, Commercial Appellate Court, Administrative Court and High Magistrate Court COMMENCE TO WORK ON 1. January 2010.

Transfer of Cases of the Supreme Court of Serbia
Article 90.

Cases in which a final decision is not taken by 31 December 2009 are transferred by the Supreme Court of Serbia to the Supreme Court of Cassation, or to courts that have jurisdiction for these cases under this Law and the Law on Regulation of Seats and Territories of Courts.

If after 1 January 2010, the Supreme Court of Cassation, in ruling on legal remedy, returns a case for retrial, the case shall be transferred to the court with jurisdiction under this Law and the Law on Regulation of Seats and Territories of Courts.

Taking over of Cases
Article 91.

Cases where the procedure in the misdemeanour panels, panels for second instance misdemeanour procedure in the ministry competent for financial affairs and second instance tax offences authorities, is not completed until 31. December 2009, shall be taken over by the High Magistrate Court, in accordance with jurisdiction defined by this Law.

If after 1 January 2010 the High Magistrates Court in ruling on legal remedy refers the case for retrial, the case shall be taken over by the magistrate court with jurisdiction under the law governing seats and territories of courts and public prosecution offices.

Cases of the High Commercial Court shall be taken over by the Appellate Commercial Court on 1 January 2010.

Enactment of provisional acts on internal organization and jobs classification in the Supreme Court of Cassation, Commercial Appellate Court, Administrative Court, appellate courts and High Misdemeanour Court
Article 92.

Provisional acts on internal organization and jobs classification in the Supreme Court of Cassation, Commercial Appellate Court, Administrative Court, appellate courts and High Misdemeanour Court shall be brought by the minister with competence in judiciary until 1 September 2009.

Acts on internal organization and jobs classification in the Supreme Court of Cassation, Commercial Appellate Court, Administrative Court, appellate courts and High Misdemeanour Court shall be brought by presidents of these courts within six months from the day of their respective election, in accordance with this law.

Taking over of means for work, equipment, archives and staff
Article 93.

The required means for work, equipment, archives and staff of the Supreme Court of Serbia shall be taken over by the Supreme Court of Cassation, Administrative Court and appellate courts, in compliance with jurisdiction defined by this law.

The minister with competence in judiciary shall form the commission that shall allocate means for work, equipment and archives from paragraph 1 of this Article.

The High Judicial Council shall form the commission that shall bring decisions about allocation of staff from the Supreme Court of Serbia to the Supreme Court of Cassation, Administrative Court and appellate courts, in accordance with the provisional act on internal organization and job classification.

The required means for work, equipment, archives and staff of the existing misdemeanour panels, panels for second instance misdemeanour procedure in the ministry competent for financial affairs and second instance tax offence authorities, shall be taken over by the High Misdemeanour Court, in accordance with jurisdiction defined by this law.

The minister with competence in judiciary shall form the commission that shall allocate means for work, equipment and archives from paragraph 4 of this Article.

The High Judicial Council shall form the commission that shall bring decisions about allocation of staff from paragraph 4 of this Article to jobs in the High Misdemeanour Court and misdemeanour courts, in accordance with the provisional act on internal organization and job classification.

Allocation of means for work, equipment, and archives, as well as allocation of staff from panels for second instance misdemeanour procedure in the ministry competent for financial affairs and second instance tax offence authorities, shall be conducted in cooperation with the ministry competent for financial affairs.

The required means for work, equipment, archives and staff of the High Commercial Court shall be taken over by the Appellate Commercial Court.

Rights of employees from the Supreme Court of Serbia, High Commercial Court and misdemeanour authorities
Article 94.

Provisions of the law that regulates the rights of state officials and servants during change in organization of state authorities shall be applied on rights of employees from the Supreme Court of Serbia, High Commercial Court, misdemeanour panels, panels for second instance misdemeanour procedure in the ministry competent for financial affairs and second instance tax offence authorities.

Jurisdiction of the High Judicial Council related to means for operation of courts
Article 95.

CEASES TO BE VALID - with 78/2011 – the Law on Amendments and Additions on the Law on Budget of the Republic of Serbia for 2011.

By-laws
Article 96.

Bylaws whose enactment is provided under this Law shall be enacted within six months from the day of its coming to force.

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

FINAL PROVISIONS

Expiry of Validity of Statutes
Article 97.

On the day of commencement of application of this Law, the Law on Organization of Courts ("Official Gazette of the RS", Nos. 63/01, 42/02, 27/03, 29/04, 101/05 and 46/06), 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) cease to apply.

Coming into force and commencement of application
Article 98.

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 2010.

SPECIAL PROVISIONS
ARTICLE A

HIGH COURTS ADJUDICATE IN THE FIRST INSTANCE IN ALL CASES RECEIVED UNTIL COMMING TO FORCE OF THIS LAW. IF THE FIRST INSTANCE DECISION IN SUCH CASES SHALL BE ABOLISHED, THE PROCEEDING SHALL CONTINUE IN THE COMPETENT BASIC COURT.

APPELLATE COURTS ADJUDICATE IN THE SECOND INSTANCE IN ALL CASES RECEIVED UNTIL COMMING TO FORCE OF THIS LAW. IF THE FIRST INSTANCE DECISION IN SUCH CASES SHALL BE ABOLISHED, THE PROCEEDING SHALL CONTINUE IN THE COMPETENT HIGH COURT

ARTICLE B

PROVISIONS OF ARTICLE 57 PARAGRAPH 3, ARTICLE 70, PARAGRAPHS 3 AND 4, AS WELL AS ARTICLE 83, RELATED TO CRITERIA FOR DEFINING OF NUMBER OF COURT STAFF, PREPARATION, ALLOCATION AND SUPERVISION OF FUNDS FOR THE COURT

STAFF, AS WELL AS GRANTING OF APPROVAL ON THE RULES OF INTERNAL ORGANIZATION AND JOBS CLASSIFICATION IN COURT, ARE COMMING TO FORCE BY COMMING TO FORCE OF THIS LAW, AND SHALL START TO BE IMPLEMENTED BY BEGINNING OF THE BUDGETARY CYCLE FOR 2014 AND ONWARD.¹⁰

ARTICLE C

PROVISIONS OF ARTICLES 74 AND 75 OF THIS LAW SHALL BE IMPLEMENTED AS OF 1ST JANUARY 2014.

¹⁰ The Budget plan for 2013 is already sent to the Ministry of Finance, and upon adoption of the budget it shall be implemented until the end of 2013. However, preparation of budgetary activities and plans for the next budget cycle (2014), in accordance with the Law on Budget System, starts by the beginning of each year, therefore it is necessary that the proposed revisions of the Law on Organization of Courts include funds for court staff within activities and planning of the High Judicial Council, and not of the Ministry of Justice.