



Strasbourg, 10 October 2022

CDL-REF(2022)041

Opinion No. 1088 / 2022

Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

SERBIA

DRAFT LAW

ON THE ORGANISATION OF THE COURTS

DRAFT**LAW
ON ORGANISATION OF COURTS****I. GENERAL PROVISIONS**

Subject of the Law

Article 1

This Law governs the establishment, abolition, types, scope and actual jurisdiction of courts, interior organisation of courts, court administration, court staff, judicial administration, court security and the funds for the operation of courts.

Judicial authority

Article 2

Judicial authority shall be vested in courts.

The courts protect the legal order in the Republic of Serbia, the freedoms and rights of citizens, the rights and interests of the legal subjects as stipulated by the law, ensure constitutionality and lawfulness, the uniform application of the law and equal protection before the law for all.

Establishment and organisation of courts

Article 3

This law governs the establishment, abolishing, types, jurisdiction, seats and territories of courts, composition of the court and procedures before the courts.

The establishment of court martial, temporary or extraordinary courts is forbidden.

The mediation in dispute settlement, arbitration and other selected courts are regulated by special regulations.

Independence of the Judicial Authority

Article 4

The judicial authority is independent from legislative and executive authorities. Judicial decisions may only be reviewed by competent courts in due proceedings established by the law, as well as by the Constitutional court in proceedings initiated by a constitutional appeal.

All persons are obliged to comply with final and enforceable judicial decisions. By presidential pardon or amnesty, the penalty imposed may be discharged in full or partially without a judicial decision.

Judicial Jurisdiction

Article 5

The judicial jurisdiction is determined by the law.

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

Adoption of judicial decisions

Article 6

The judicial decisions are made in the name of the people.

A judge is independent, and adjudicates and renders judgements on the basis of the Constitution, generally accepted rules of international law, ratified international treaties, laws, and other general acts adopted in accordance with the law.

Allocation of Cases to Judges

Article 7

The judge who adjudicates is determined independently of the parties in the proceeding and the subject of adjudication.

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

Prohibition of undue influence

Article 8

In order to maintain the authority and impartiality of the judiciary, any undue influence on the judge in the performance of his/her function is forbidden, in particular any form of threats and coercion towards a judge, use of public position, the media and public appearances that influence the course and outcome of the court proceeding. Any other form of undue influence on the court shall also be forbidden, as well as pressure on the participants in a court proceeding.

Publicity

Article 9

Hearings before the court are public.

The public may be excluded from the proceeding based on law for the reasons provided for by the Constitution.

Right to Complaint

Article 10

A party and other participants in court proceedings are entitled to complain about the work of the court when finding that is irregular, that the proceeding is delayed or that there is any form of undue influence on the course and outcome.

Cooperation between the courts and other bodies

Article 11

The courts are under the obligation to provide mutual legal assistance and cooperation.

The bodies of the Republic of Serbia, the autonomous province, units of local self-government, public authority holders, legal and natural persons are under the obligation to provide the courts with the necessary data free of charge.

The courts may provide the entities referred to in paragraph 2 of this Article with the documents and files, i.e. the copies thereof, as required for the proceedings, in accordance with special regulations, only when such actions do not interfere with the court proceedings.

The use of state and court features

Article 12

The name and the seat of the court, the name, the coat of arms and the flag of the Republic of Serbia shall be displayed in a visible place in the courthouse.

The flag and the coat of arms of the Republic of Serbia shall also be displayed in the courtroom. The use of any other features in the courtroom is forbidden.

The court shall have a seal bearing the name and the seat thereof, and the name and the coat of arms of the Republic of Serbia, in accordance with separate laws.

Official use of language and script

Article 13

The Serbian language and the Cyrillic script are in official use in courts in the Republic of Serbia.

In courts, departments outside the seats of courts and in court units, other languages and scripts shall also be in official use, in accordance with the law.

II. EXTERNAL ORGANISATION OF COURTS

Judicial authority in the Republic of Serbia

Article 14

The judicial authority is unique on the territory of the Republic of Serbia.

Judicial authority in the Republic of Serbia is vested in courts of general and special jurisdiction.

The courts of general jurisdiction are basic courts, high courts, appellate courts and the Supreme Court.

Courts of special jurisdiction are commercial courts, the Commercial Appellate Court, misdemeanour courts, the Misdemeanour Appellate Court, and the Administrative Court.

The Supreme Court

Article 15

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

The seat of the Supreme Court is in Belgrade.

Other Courts at the Level of the Republic

Article 16

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

The Misdemeanour Appellate Court and the Administrative Court may have departments outside their seats, in accordance with the law, where they adjudicate permanently and undertake other court activities.

Basic, High, Appellate, Commercial and Misdemeanour Courts

Article 17

A basic court shall be established for the territory of a town, or one or several municipalities or city municipalities.

High court shall be established for the territory of one or several basic courts.

A commercial court shall be established for the territory of one or several towns or several municipalities.

An appellate court shall be established for the territory of several high courts.

A misdemeanour court shall be established for the territory of a town, or one or several municipalities or city municipalities.

The establishment, seats and territorial jurisdiction of basic, high, appellate, commercial and misdemeanour courts are regulated by a separate law.

Departments of misdemeanour courts and court units of basic and commercial courts are regulated by a separate law.

Court of Immediately Higher Instance

Article 18

The Supreme Court shall be the immediately higher instance court to the Commercial Appellate Court, the Misdemeanour Appellate Court, the Administrative Court, and the Appellate Court.

The Appellate Court shall be the immediately higher instance court to high courts and basic courts; the Commercial Appellate Court shall be the immediately higher instance court to commercial courts, whereas the Misdemeanour Appellate Court shall be the immediately higher instance court to misdemeanour courts.

High courts shall be immediately higher instance courts to basic courts, where so specified by this Law, as well as for issues of internal court organisation and the application of the Law on Judges.

Seat and Territorial Jurisdiction of the Court

Article 19

The seat of the court shall be in the building where the court is situated.

The territorial jurisdiction of a court shall be the territory it covers.

Venue of Undertaking Court Activities

Article 20

Court activities shall be undertaken within the seat of the court, and outside the seat only when so provided by law.

A basic court, high court and misdemeanour court may hold court days outside their seats. 5
Court Days

Article 21

During court days, the court referred to in Article 20 paragraph 2 hereof adjudicates and undertakes other court activities.

The venue, date and time of holding court days shall be determined by the court president, in accordance with the Court Rules of Procedure.

Court days shall be announced at the place where they will be held.

Departments and units of the court outside the seat of the court

Article 22

A misdemeanour court may have its department outside the seat where it adjudicates and undertakes other court activities.

A department outside the seat of a misdemeanour court shall be established for the territory of a town or one or more municipalities or city municipalities under the court's territorial jurisdiction.

A basic and commercial court may have their court units outside the seat where they adjudicate and undertake other court activities, in accordance with the annual schedule of activities in the court.

Time for Undertaking Court Activities

Article 23

Court activities shall be undertaken every working day, and actions that do not tolerate deferral also during non-working days and hours.

The Court Rules of Procedure shall define the court activities that may be undertaken during non-working days and hours.

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

III. JURISDICTION OF COURTS

1. Courts of General Jurisdiction

Jurisdiction of Basic Courts

Article 24

Basic courts shall adjudicate in the first instance in connection with criminal offences punishable, as the principal penalty, by a fine or imprisonment of up to ten years and ten years, unless some of these offences fall under the jurisdiction of another court, and shall decide on requests to suspend a security measure or legal consequences of the conviction for criminal offences under its competence.

Basic courts shall adjudicate in the first instance in civil litigation, unless some fall under the jurisdiction of another court, and shall conduct enforcement and non-litigious proceedings, if the law doesn't stipulated other wise.

Basic courts shall adjudicate in the first instance in 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 relating to satisfying housing needs on the basis of work.

The basic court shall provide citizens with legal assistance, international legal assistance, unless under the jurisdiction of another court, and shall perform other competencies and activities determined by the law.

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

Jurisdiction of High Courts

Article 25

A high court in the first instance:

1) adjudicates in connection with criminal offences punishable by imprisonment of more than ten years as the principal penalty;

2) adjudicates in connection with criminal offences: against humanity and other goods protected by international law, against the Army of Serbia; disclosure of state secrets; disclosure of official secrets; a criminal offence prescribed by the law regulating data secrecy; incitement to change the constitutional order by use of force; causing national, racial and religious hatred and intolerance; violation of territorial sovereignty; association for unconstitutional activity; damage to the reputation of the Republic of Serbia; damage to the reputation of a foreign country or international organisation; money laundering; violation of the law by the judge, public prosecutor and his/her deputy; jeopardising air traffic safety; murder in the heat of passion; rape; statutory rape of a helpless person; statutory rape by abuse of power; kidnapping; trafficking of minors for adoption; violent behaviour at sports events and public gatherings; receiving bribes; abuse of power of a responsible person (Article 227, paragraph 3 of the Criminal code); abuse in relation to public procurements (Article 228,

paragraph 3 of the Criminal Code); and criminal offences falling within the competence of a high court under a separate law;

- 3) adjudicates in juvenile criminal proceedings;
- 4) decides on a petition to suspend security measures or legal consequences of convictions for criminal offences under its jurisdiction;
- 5) decides on requests for rehabilitation;
- 6) decides on prohibition of distribution of press and dissemination of information through the public information media;
- 7) adjudicates in civil disputes, where the value of the subject of the lawsuit allows review; in disputes about copyright and related rights and the protection and use of inventions, industrial designs, models, samples, trademarks, designations of geographical origin, topography of semiconductor products and breeders of plant varieties, unless another court has jurisdiction; in disputes about disputing or establishing paternity and maternity; in disputes for the protection against discrimination and abuse at work; in disputes about publication of information corrections and responses to information due to violation of the prohibition of hate speech, protection of the right to private life, i.e. the right to personal records, failure to publish information and compensation for damages related to the publication of information;
- 8) adjudicates in lawsuits on strikes; collective agreements if the lawsuit is not resolved through arbitration; mandatory social security, unless under the jurisdiction of another court; on 7 official record books; appointment and dismissal of bodies of legal entities, unless under the jurisdiction of another court.

A high court shall decide in the second instance on appeals against decisions taken by basic courts:

- 1) about the measures to secure the presence of the accused and unhindered course of criminal proceedings;
- 2) for the criminal offences punishable by fine and imprisonment of up to five years;
- 3) against decisions in civil disputes; against judgements in cases of small value; in enforcement proceedings and proceedings to secure the claim; in non-litigious proceedings.

A high court shall conduct proceedings for extradition of accused or convicted persons, provide international legal assistance in proceedings for criminal offences under its jurisdiction, enforce criminal judgements of foreign courts, decide on recognising and enforcement of foreign court and arbitration-related decisions, if the law doesn't stipulated other wise, decide on conflicts of jurisdiction between basic courts from its territory, ensure and provide assistance and support to witnesses and damaged parties, and perform other tasks and jurisdictions set forth by law.

It may be provided for by law that only certain high courts may proceed in particular legal matters.

Jurisdiction of Appellate Court

Article 26

Appellate courts decide on appeals against:

- 1) decisions of high courts;

2) decisions of basic courts in criminal proceedings, unless under the jurisdiction of a high court to decide on the appeal concerned;

3) judgements of basic courts in civil disputes, unless under the jurisdiction of a high court to decide on the appeal concerned.

Appellate courts decide on conflicts of jurisdiction between lower instance courts under their territorial jurisdiction, unless under the jurisdiction of a high court, on the transfer of jurisdiction of basic and high courts, when prevented or unable to proceed in a legal matter, and perform other jurisdictions and tasks set forth by law.

Appellate courts shall hold joint sessions and notify the Supreme Court about disputable issues of significance for the work of the courts in the Republic of Serbia, and the harmonisation of case law.

2. Courts of Special Jurisdiction

Jurisdiction of Commercial Courts

Article 27

Commercial courts shall adjudicate in the first instance:

1) in disputes between domestic and foreign companies, enterprises, co-operatives and entrepreneurs and associations thereof (commercial entities), in disputes arising between commercial entities and other legal entities relating to the conduct of business activities of commercial entities, even where one of the parties in the aforementioned disputes is a natural person, if a substantial intervener in the case; 8

2) in disputes about copyright and related rights, and the protection and use of inventions, industrial designs, models, samples, trademarks, designations of geographical origin, topography of semiconductor products and breeders of plant varieties between the parties referred in item 1) of this paragraph; in disputes about the enforcement and securing of decisions of commercial courts, and in disputes relating to arbitral decisions, only when passed in the disputes referred to item 1) of this paragraph;

3) in disputes resulting from the application of the Law on Companies or application of other regulations on the organisation and status of commercial entities, as well as in disputes on the application of regulations on privatisation and securities;

4) in disputes relating to foreign investments; ships and aircraft, sailing at sea and inland waters, and disputes involving maritime and aeronautical law, except for disputes relating to passenger transport; protection of a company name; entry into the court registers; reorganisation, court ordered and voluntary bankruptcy and liquidation, except for disputes relating to the existence of establishment and termination of employment initiated before the bankruptcy procedure.

Commercial courts conduct in the first instance proceedings for entry into the court register of legal entities and other subjects, unless this is under the competence of another authority; conduct bankruptcy and reorganisation proceedings; rule on and conduct enforcement based on enforcement and credible documents pertaining to the persons referred to in paragraph 1, item 1 of this Article if the law doesn't stipulated other wise; rule on and conduct enforcement and securing of decisions of commercial courts, if the law doesn't stipulated other wise, and decisions of selected courts, only when passed in the disputes referred to in paragraph 1, item 1 of this Article if the law doesn't stipulated other wise; rule on the recognition and enforcement of foreign court and arbitral decisions passed in the disputes referred to in paragraph 1, item 1 of this Article if the law doesn't stipulated other wise; rule on and implement the enforcement and securing on ships and aircraft; conduct non-litigious proceedings deriving from the application of the Law on Companies.

Commercial courts shall decide in the first instance on commercial offences and relative thereto on termination of a security measure or a legal consequence of the conviction.

The commercial court shall provide international legal assistance for the issues under its jurisdiction, and shall perform other competencies and activities determined by the law.

It may be provided for by law that only certain commercial courts may proceed in particular legal matters.

Jurisdiction of the Commercial Appellate Court

Article 28

The Commercial Appellate Court decides on appeals against the decisions of commercial courts and other bodies in accordance with the law.

The Commercial Appellate Court shall adjudicate on conflicts of jurisdiction and the transfer of local jurisdiction of commercial courts, determine legal opinion for the purpose of a uniform application of the law under the competence of commercial courts, and perform other jurisdictions and tasks set forth by law.

The legal opinion referred to in Paragraph 2 of this Article shall be published at the Commercial Appellate Court website.

Jurisdiction of Misdemeanour Courts

Article 29

The misdemeanour court shall adjudicate in the first instance in misdemeanour cases, unless under the competence of an administrative authority, provide international legal assistance for the issues under its jurisdiction, and shall perform other jurisdictions and activities determined by the law.

Jurisdiction of the Misdemeanour Appellate Court

Article 30

The misdemeanour appellate court shall adjudicate on appeals against the decisions of misdemeanour courts, on appeals against the decisions reached by the administrative bodies in misdemeanour procedures, on conflict and the transfer of local jurisdiction of misdemeanour courts, and perform other jurisdictions and activities determined by law.

Jurisdiction of the Administrative Court

Article 31

The Administrative Court shall adjudicate in administrative disputes.

The administrative court shall provide international legal assistance for the issues under its jurisdiction, and shall perform other jurisdictions and activities determined by the law.

3. Jurisdiction of the Supreme Court

Article 32

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

The Supreme Court shall decide on conflicts of jurisdiction between courts, if this doesn't fall under the jurisdiction of any other court, as well as on the transfer of jurisdiction of courts to facilitate proceedings or for other important reasons.

The Supreme Court ensures unique judicial application of the law, and the equality of parties in court proceedings; reviews the application of laws and other regulations and the work of courts; appoints judges to the Constitutional Court; provides opinions about the candidate for the president and judge of the Supreme Court in cases prescribed by law; adopts the Rules

of Procedure of the Supreme Court, and performs other jurisdictions and activities prescribed by law.

Composition of the Chamber

Article 33

If not otherwise specified by law, the Supreme Court adjudicates on legal remedies in a five-judge chamber.

Publication of decisions of the Supreme Court

Article 34

The decisions of the Supreme Court referred to in Article 32, paragraph 1 of this Law shall be published on the website of the Supreme Court.

IV. INTERNAL ORGANISATION OF COURTS

1. Calendar of court activities

Annual schedule of activities

Article 35

The annual schedule of court activities shall be adopted by the president of the court.

The annual schedule of activities of judges shall be determined according to the area of law a judge proceeds in.

The annual schedule of court activities may change during the year, if necessary, to achieve more efficient work of the court, and especially due to the longer absence of the judge, the significantly increased or decreased inflow of cases during the year in certain legal areas, or the vacant judge's position.

The procedure for the adoption of the annual schedule of activities

Article 36

The president of the court determines the schedule of court activities in writing for the following year, after obtaining the opinions of the judges, and announces it at a session of all judges by 1 November of the current year.

A judge can file an objection to the annual schedule of activities and changes to the annual schedule to the High Judicial Council, within three days from the day the schedule is announced at a session of all judges.

The objection is submitted through the president of the court, who can, in accordance with the submitted objection, change the annual schedule of tasks. If the president of the court does not accept the objection, he/she shall be obliged to submit the objection, with a reasoning of the schedule of activities, to the High Judicial Council within three days from the day of receipt of the objection.

The High Judicial Council he/she shall be obliged to decide on the objection within 15 days from the date of submission of the objection.

2. Court department and session of all judges

Establishment of a court department

Article 37

Court departments shall be established in courts where several chambers or individual judges proceed in the same area of law.

A court department shall be managed by the president of the department, who shall be appointed by the president of the court following an opinion obtained from the department's judges.

Scope of work of a court department

Article 38

The session of a court department shall review the work of the department, legal issues, means of improving performance and professional skills of judges, judicial assistants and judicial trainees, and other issues relevant to the department.

Departments of appellate courts, the Commercial Appellate Court and the Misdemeanour Appellate Court also review the issues relevant to the work of courts on their respective jurisdictional territory.

Convening and Chairing the Session of the court department

Article 39

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

The session of a court department may also be convened at the request of one-third of the judges from the department.

The president of the court may always take part in the work and decision-making of the departmental session in accordance with the Court Rules of Proceedings.

Case Law Department

Article 40

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

The Case Law Department follows and studies case law of courts and international court authorities, and informs the judges, judicial assistants and judicial trainees on the interpretation of law by courts.

The Case Law Department shall be managed by a judge designated by the court president. Special units at high, appellate, misdemeanour courts and the Misdemeanour Appellate Court

Article 41

Juvenile justice and labour disputes departments may be established in high courts and appellate courts.

Departments for criminal offences against the Army of Serbia, organised crime, corruption, war crimes and cybercrime may be established in certain high and appellate courts, in accordance with the law.

Departments for conducting misdemeanour proceedings for misdemeanours relating to public revenue, customs, foreign trade and foreign currency-related commercial operations may be established within misdemeanour courts and the Misdemeanour Appellate Court, in accordance with the Court Rules of Procedure.

Joint Session of Departments

Article 42

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

The joint session shall be jointly convened by departmental presidents or the court president, and chaired by the court president or the president of the department under whose scope of work the issue under deliberation is.

Session of All Judges

Article 43

The session of all judges shall review reports on the performance of judges and the court, decide on initiating proceedings for review of constitutionality of law and legality of regulations and other general acts, review the application of regulations governing the issues under the scope of work of courts, provide opinions on candidates for judges and lay judges, and decide on other issues of relevance to the entire court.

The session of all judges shall be chaired by the court president and convened as required, or at the motion of a court department or a minimum of one third of the number of all the judges.

3. Internal Organisation of the Supreme Court

Departments

Article 44

The Supreme Court may have departments, in accordance with the Rules of Procedure of the Supreme Court.

Session of Departments

Article 45

The session of departments of the Supreme Court deliberates on issues from the scope of work of the court departments.

The session of departments shall also be convened due to incompatibilities between some chambers, arising in respect of the application of regulations, or if one chamber departs from a legal opinion adopted by its case law or a legal opinion accepted by all chambers.

A legal opinion adopted at the session of departments is binding for all chambers comprising the departments.

The legal opinion referred to in Paragraph 3 of this Article shall be published at the Supreme Court website.

Scope of Work of the General Session of Supreme Court

Article 46

The general session of the Supreme Court considers the application of laws and other regulations and the work of the courts; appoints five judges of the Constitutional Court from among ten candidates proposed by the High Judicial Council and the High Prosecutorial Council at a joint session; gives an opinion to the High Judicial Council on the candidate for the president of the Supreme Court; adopts the Rules of Procedure of the Supreme Court, and performs other tasks determined by law and the Rules of Procedure of the Supreme Court. The General Session also reviews other issues under the scope of work of the session of all judges.

Composition and Decision-Making of the General Session

Article 47

The General Session is made up of the President and judges of the Supreme Court.

A quorum made up of a majority of all judges is required to make a legally valid decision at the General Session.

Decisions are made by the majority of votes of the judges of the Supreme Court present, with the exception of the decision on the appointment of judges of the Constitutional Court, which is made by a majority vote of the total number of judges.

Convening and managing the General Session

Article 48

The General Session shall be convened by the court president, as required, or at the motion of the court department or a minimum of one third of all the judges. The General Session shall be chaired by the President of the Supreme Court.

Secretariat of Supreme Court

Article 49

The Supreme Court has its Secretariat.

The Secretariat assists the court president in court administration, carries out administrative tasks for the General Session, and performs other tasks assigned under its purview according to the Rules of Procedure of the Supreme Court.

Secretary of Supreme Court

Article 50

The Secretariat shall be managed by the Secretary of the Supreme Court, who is appointed by the General Session at the proposal of the court president.

The secretary of the Supreme Court has the status of a civil servant in office.

The Secretary of the Supreme Court must meet the requirements for election a judge of an appellate court.

Rules of Procedure of the Supreme Court

Article 51

The Supreme Court shall adopt the Rules of Procedure of the Supreme Court, regulating in more detail the internal organisation and work of the court. 14

The Rules of Procedure of the Supreme Court shall be published in the "Official Gazette of the Republic of Serbia."

4. Judicial Administration

Tasks Comprising Court Administration

Article 52

Court administration entails tasks that serve the exercise of judicial authority and other jobs important for the work of the court, in particular: organising the work and operations of the court; summoning and assigning lay judges; activities relating to permanent expert witnesses and court interpreters; review of complaints and petitions; keeping statistics and reports, as well as the preparation of analyses about the performance of judges and courts; enforcement of penal and misdemeanour sanctions; financial and material operation of the court; certification of documents intended for use abroad; tasks pertaining to the functioning of the court's information system; tasks pertaining to ensuring the publicity of court's work, notifying the public about the work of the court and providing information of public importance; professional tasks in relation to the exercise of rights, obligations and responsibilities of judges and court staff at the court; adoption of general and individual acts pertaining to systematisation, internal organisation, employment relations, and other general acts that regulate the relationships within the court; tasks pertaining to professional training and education of judges and court staff; tasks pertaining to the management of courthouses and real estate assigned to the court for use; tasks pertaining to the collection of court fees; other tasks pertaining to the internal organisation and operations of the court, when so prescribed by the law or other general act.

Rights and Obligations of Court President

Article 53

The court president shall organise the work of the court, represent the court, manage the court administration, ensure the implementation of the Court Rules of Procedure, and shall be responsible for the proper and timely operation of the court.

The court president is required to ensure legality, order and accuracy in the court, order removal of irregularities and prevent excessive delays in work, designate *ex officio* lawyers, ensure the safeguarding of the independence of judges and the reputation of the court, and perform other tasks set forth by law and the Court Rules of Procedure. A court has one or several deputy court presidents to act on behalf of the court president in absence of the latter, or when prevented.

The court president shall designate one deputy president to act on his/her behalf, where a court has several deputies.

Delegating court administration tasks

Article 54

The court president may delegate certain court administration tasks to the deputy court president, the presidents of departments and the court administrator.

The court president may not delegate tasks relating to decision-making on employment rights of judges, the determining of the Annual Calendar of Tasks, the decision-making on employment relations of court staff, where so specified by law, and on the suspension of a judge or a lay judge from duty.

Empowerment of the President of a Court of Immediately Higher Instance

Article 55

The President of a court of immediately higher instance is entitled to supervise the court administration of a lower instance court, and, in case of failure of the president of a lower court to act, to issue acts from his/her purview.

The President of a court of immediately higher instance may request information from the lower instance court regarding the application of regulations, the course of proceedings, as well as all operation-related data.

The President of a court of immediately higher instance may order the direct inspection of work of the lower instance court, and shall prepare a written report thereon.

Complaints Procedure

Article 56

When a party or other participant in a proceedings submits a complaint, the court president is required to take it under consideration, send it to the judge to whom it pertains for comments, and notify the complainant, the relevant judge and the president of an immediately higher instance court on its admissibility and any measures undertaken, within 15 days from the receipt of the complaint.

The president of the court may reject the complaint, in full or in part, if he/she determines that the applicant is abusing the right to complain.

It will be considered that the complainant is abusing the right to complain if the complaint has offensive content, or if he/she submits a complaint with the same or similar content as previously decided.

If the complaint is incomprehensible, the president of the court shall order the complainant to edit it within eight days from the day of receiving the order, and if the complainant fails to do so, he/she shall reject the complaint.

If a complaint is submitted through the Ministry responsible for the judiciary, an immediately higher court, or through the High Judicial Council, the body through which the complaint was submitted shall be notified of the admissibility of such a complaint and the measures undertaken.

Court administrator

Article 57

A court at the level of the Republic, an appellate court, and a court with 30 or more judges shall have a court administrator.

If the seat of several courts that do not meet the conditions from paragraph 1 of this Article is located in one place, such courts shall have a common court administrator who is assigned to the court of general jurisdiction of the highest level in that place.

By way of derogation from paragraph 1 of this Article, if several courts are located in the same building, they may have a common court administrator, who shall be determined in accordance with the agreement of the presidents of such courts.

16 The president of the court entrusts the court administrator with the performance of financial, organisational and technical tasks.

The court administrator's duties are regulated in more detail by the Court Rules of Procedure. The court administrator reports to the president of the court for the tasks entrusted to him/her.

Court Secretary

Article 58

A court shall have a court secretary.

The secretary of the court assists the president of the court in the affairs of court administration, in accordance with the Court Rules of Procedure.

If the court does not have a court administrator, the president of the court may entrust the court secretary with organisational and technical tasks.

V. COURT STAFF

1. Composition and Number of Court Staff

Article 59

The court staff consist of judicial assistants, judicial trainees, as well as other civil servants, i.e. deputies employed in administrative, technical, accounting, information and other supporting services important for the work of the courts.

The number of court staff is determined by the court president by the act on internal organisation and job classification in the court, in accordance with the human resources plan. The president of the court submits the act on the internal organisation and systematisation of jobs in the court for the opinion of the High Judicial Council, before submitting the act to the ministry responsible for the judiciary for approval.

The criteria for determining the number of court staff shall be determined by the minister responsible for the judiciary, after obtaining the opinion of the High Judicial Council.

The courts keep personal files on the court staff.

2. Judicial Assistant

Tasks of Judicial Assistants

Article 60

A judicial assistant assists a judge, prepares draft court decisions, studies legal issues, case law and legal literature, prepares draft legal opinions, prepares adopted legal views for publication, and autonomously or under the supervision and guidance of a judge carries out tasks set forth by law and the Court Rules of Procedure.

The procedure for hiring judicial assistants is regulated in more detail by an act of the minister responsible for justice, after obtaining an opinion of the High Judicial Council..

Titles of Judicial Assistants

Article 61

Judicial assistants are conferred the following grades: Judicial Associate, Senior Judicial Associate and Court Advisor.

The grade of Judicial Associate may be conferred upon a person who has passed the bar exam, and the grade of Senior Judicial Associate on a person with a minimum two years of experience in the legal profession following the bar exam.

The grade of Court Advisor may be conferred on a person meeting the requirements for a high court judge.

Court Advisor

Article 62

A court advisor performs professional tasks relevant to a court department or the entire court.

The grade of Court Advisor shall exist in courts at republic level and in appellate courts. In the Supreme Court, there is the title of advisor of the Supreme Court, which can be obtained by a judicial assistant with the title of judicial advisor, who after passing the bar exam has at least nine years of work experience in the legal profession, of which at least six years in the judiciary.

Performance Evaluation of Judicial Assistants

Article 63

The performance of a judicial assistant shall be evaluated once a year.

The performance of a judicial assistant who has worked less than six months during a calendar year is not evaluated for that particular year.

Competence for Evaluation

Article 64

The court president evaluates the performance of a judicial assistant following an opinion obtained from the session of the department to which the judicial assistant is assigned.

If a judicial assistant is not assigned to any court department, such an opinion is obtained from the judge or the chamber with whom the judicial assistant works.

Evaluation Grades

Article 65

Evaluation shall rate the scope and quality of performance, diligence, and initiative. Performance evaluation of judicial assistants shall be performed on the basis of objective and uniform criteria and standards.

Grades are: “unsatisfactory”, “satisfactory”, “good”, “outstanding” and “particularly outstanding”.

A senior judicial associate whose work is evaluated as “particularly outstanding” in at least two consecutive years may be conferred the grade of Court Advisor, even if they don’t meet the requirements for a high court judge.

The criteria, standards and procedure for the evaluation of work of judicial associates shall be regulated by an act issued by the High Judicial Council.

Evaluation Grade Decision

Article 66

The court president issues the decision on the evaluation grade of a judicial assistant. The judicial assistant may file an objection to the evaluation grade decision with a working body of the High Judicial Council within 15 days from the day of receiving the evaluation grade decision.

3. Judicial Trainees

Admission of Judicial Trainees

Article 67

A person who has graduated from law school and meets the general requirements for working in state bodies may be accepted as a judicial trainee.

A judicial trainee may be admitted to a basic, high, commercial or misdemeanour court.

The number of judicial trainees shall be determined separately for each court by an act of the minister responsible for justice, after obtaining an opinion of the High Judicial Council.

When admitting judicial trainees, particular attention is paid to the national composition of the population, the appropriate representation of members of national minorities and the knowledge of professional legal terminology in the language of the national minority, which is in official use in the court.

The procedure for hiring judicial trainees is regulated in more detail by an act of the minister responsible for justice, after obtaining an opinion of the High Judicial Council.

Employment of Judicial Trainees

Article 68

A judicial trainee shall be employed for a three-year period.

A judicial trainee who passes the bar exam “with distinction” shall be permanently employed as a Judicial Associate.

Volunteer

Article 69

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

19 4. Other Rules on Court Staff

Training of judicial assistants and judicial trainees

Article 70

The training programme for judicial assistants and judicial trainees is prescribed by the Judicial Academy, with the approval of the High Judicial Council.

A judicial assistant and judicial trainee may be assigned for training to another court, a government authority or a body of a local self-government unit for a certain period of time.

Personal files of the staff

Article 71

The court maintains a personal file for the court staff working in the court.

The personal file shall contain the name and surname, unique citizen number, place and date of birth, place of residence, level of education, title or occupation, evaluation of work, career progress, published papers, participation in professional development programmes, knowledge of foreign languages, property status, housing status and other data.

The form and manner of keeping the personal files referred to in paragraph 1 of this Article shall be prescribed by the High Judicial Council.

Implementation of other regulations

Article 72

Court staff are required to perform their duties with due diligence and impartially, and to protect the reputation of the court.

Regulations governing employment relations of civil servants and general service employees shall apply to employment and to the rights, duties, professional training, evaluation and accountability of the court staff, unless otherwise provided for by this Law.

VI. JUDICIAL ADMINISTRATION

Judicial Administration Tasks

Article 73

Judicial administration entails the tasks of ensuring the enforcement of laws and other regulations related to the organisation and operation of courts.

The judicial administration tasks are carried out by the High Judicial Council and the Ministry responsible for the judiciary.

The tasks of the judicial administration performed by the High Judicial Council are: supervision of the implementation of the Court Rules of Procedure; determination of general guidelines for the internal organisation of courts; issuance of instructions on the preparation of reports on the work of the courts; monitoring the work of the courts based on collected statistical data and work reports and statistical and analytical processing of data on the work of the courts, in order to increase the quality and efficiency of the work of the judiciary; adoption of by-laws from its jurisdiction; cooperation in the drafting of by-laws on the organisation and work of courts and other judicial bodies under the jurisdiction of the ministry responsible for the judiciary; providing 20 opinions on the rulebook on the internal organisation and systematisation of jobs in the court; ensuring the provision of truthful, timely and complete information to the public about the work of the courts and the functioning of the judicial system; maintaining the personal files of judges and lay judges, and other tasks determined by law.

The tasks of the judicial administration performed by the ministry responsible for the judiciary are: supervision of the implementation of the Court Rules of Procedure; statistical and analytical processing of data on the work of the courts in order to monitor the application of regulations in the areas regulated by the ministry, i.e. the drafting of regulations, strategic, planning and programme acts; giving consent to the rulebook on the internal organisation and systematisation of jobs in the court; arrangement, development and maintenance of the judicial information system; taking care of accommodation conditions, equipment and security of courts; development and implementation of capital projects and other programmes for

judicial authorities; appointing and dismissing court experts and interpreters, and other tasks determined by law.

Every single act of judicial administration that threatens the independence of judges and courts can be annulled in an administrative dispute.

Personal file of a judge

Article 74

The High Judicial Council shall keep a personal file on every judge and lay judge. Data contained in the personal file shall be transmitted to the High Judicial Council by the court president who is also responsible for their accuracy, and by the data subject if the person has provided the data.

The data in the personal file may only be processed and used for the purposes of implementation of this Law and the laws governing the status of judges, in accordance with regulations governing personal data protection.

Content of the personal file

Article 75

The personal file of a judge shall contain the first name and family name, parent's name, place and full date of birth, place of residence, the law school degree, achievements in studies, training period, bar exam, professional career, date of fulfilment of years of service, performance evaluation, assignment to another court, suspension from duty, disciplinary measures, conducted criminal proceedings, termination of office, published professional and research papers, foreign languages skills, financial status, housing situation and other data relating to operations and the status of a judge.

The personal file of a lay judge contains the first and last name, parents' name, place, day, month and year of birth, place of residence, level of education, title or occupation, work evaluation, professional career and knowledge of foreign languages.

Authorities that have data to be entered in the personal file are obliged to submit it at the request of the High Judicial Council.

Judges and lay judges have the right to review their personal file, and the right to complain to the High Judicial Council about its content.

The manner of keeping records and the personal file form referred to in paragraphs 1 and 2 of this Article shall be prescribed by the High Judicial Council. 21

Court Rules of Procedure

Article 76

The Court Rules of Procedure prescribe the internal organisation and operation of the court, in particular:

- 1) organisation and work of departments and other internal court units;
- 2) work of the joint session of the departments and the session of all judges;
- 3) informing the public about the work of courts;
- 4) the conduct of proceedings and the provision of decisions in the languages of national minorities;
- 5) providing legal assistance and holding court days;
- 6) providing international legal assistance;
- 7) keeping records, summoning and assigning lay judges;
- 8) practice for trainees;
- 9) treatment of court users by court staff;
- 10) case management system;

- 11) handling documents;
- 12) handling cases within statutory time limits and acting on complaints and petitions;
- 13) keeping statistics and drafting reports on work;
- 14) collection of fines, costs of criminal proceedings and seized proceeds;
- 15) handling court deposits;
- 16) introducing joint services in places with several courts and other judicial authorities;
- 17) clothing of judges, court staff, parties, other participants in court proceedings, and all those who perform their duties in court.

The Court Rules of Procedure shall be issued by the Minister responsible for the judiciary, with a prior opinion obtained from the High Judicial Council and the President of the Supreme Court.

Supervision over the Implementation of the Court Rules of Procedure Article 77 The implementation of the Court Rules of Procedure is supervised by the High Judicial Council and the Ministry responsible for the judiciary.

The High Judicial Council supervises the implementation of the Court Rules of Procedure in relation to the tasks referred to in Article 76, paragraph 1, items 1) - 9), 14), 15) and 17) of this law, and the ministry responsible for the judiciary, in connection with the tasks referred to in Article 76, paragraph 1, items 10) and 16) of this Law.

The High Judicial Council and the Ministry responsible for the judiciary jointly supervise the implementation of the Court Rules of Procedure in relation to the tasks prescribed in Article 77, paragraph 1, items 11) – 13) of this Law.

In the event that the supervision is carried out on the basis of a submitted complaint, the competence of the authority to carry out the supervision shall be determined depending on the violation of the Court Rules of Procedure indicated by the complainant.

The complaint form represents an integral part of the Court Rules of Procedure. Only a person meeting the requirements for election of a judge whose work he or she supervises may act as a supervisor. 22

Types of supervision

Article 78

Supervision is carried out in accordance with the annual supervision plan adopted by the High Judicial Council, i.e. the minister responsible for the judiciary by the end of the calendar year for the following year (regular supervision).

The annual supervision plan lists the courts in which, according to the outcome of the supervision conducted during the calendar year, it is necessary to repeat the supervision in order to determine the implementation of the prescribed measures (control supervision).

En extraordinary supervision is carried out at the proposal of the president of the Supreme Court, the president of the immediately higher court, the president of the High Judicial Council or the minister responsible for the judiciary.

Mode of supervision

Article 79

Field supervision is carried out by the direct inspection of court cases, registers, documentation, data, conditions and modes of work of the supervised court.

The president of the supervised court shall be obliged to facilitate the smooth execution of supervision by providing appropriate work space and technical devices to the person performing the supervision, as well as by providing access to court cases, registers, acts, documents and data that are the subject of supervision.

During field supervision, statements may be taken from the president of the court and court staff.

Office supervision shall be carried out by reviewing the acts, data and documents submitted by the supervised court, and by inspecting the system for automatic case management. The person performing field or office supervision must be able to have unhindered access to the automatic case management system.

Record of the performed supervision

Article 80

After the supervision, a report is drawn up and submitted to the president of the supervised court, the president of the immediately higher court, the president of the Supreme Court and the High Judicial Council.

The record shall contain the factual situation determined during the supervision, the measures proposed to eliminate the observed deficiencies and irregularities, and the deadlines for the implementation of such measures.

The record form represents an integral part of the Court Rules of Procedure.

The president of the supervised court shall be obliged to declare in writing about the content of the record, no later than 15 days from the day of receipt of the record.

The president of the immediately higher court shall be obliged to inform the president of the Supreme Court and the body performing the supervision within 30 days about the measures taken to eliminate the observed deficiencies, the deadlines for eliminating the deficiencies, as well as the reasons for the occurrence of the deficiencies and omissions.

If the deficiencies are not eliminated within the set deadlines, the supervising authority shall file a disciplinary complaint against the president of the supervised court. 23

VII. COURT SECURITY

Court Guards

Article 81

Court guards shall be an armed and uniformed service consisting of civil servants, and shall ensure the security of persons and property, law and order and the unhindered conduct of official activities in judicial premises.

Powers of Court Guards

Article 82

The court guard shall be authorised to verify the identity and reasons for the person's arrival at the building of the judicial body; if necessary, to search the person and things, and prohibit entry into the building with weapons, dangerous tools, under the influence of alcohol or other intoxicating agents; to remove from the building any person disturbing law and order, persons who are not appropriately dressed, or in a manner protecting the reputation and dignity of the court, as well as to protect persons and property in the court by other actions.

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

Organisation of the Court Guards

Article 83

The Minister responsible for the judiciary shall determine in more detail the organisation of the court guards, uniforms of members thereof, weapons and official IDs.

Assistance to Court Guards and Security

Article 84

At the request of head of a judicial authority, an internal affairs authority shall extend assistance to court guards.

The head of the judicial authority has the right to request from the ministry responsible for internal affairs that the judge, lay judge, chief public prosecutor, public prosecutor and their families or property be given special protection.

Application of Regulations by Analogy

Article 85

Regulations governing the employment relations of civil servants shall apply to employment and to the rights, duties, evaluation and accountability of court guards, unless otherwise provided for by this Law. 24

VIII. FUNDS FOR THE WORK OF COURTS

Basic provision

Article 86

Funds for the work of courts are provided from the budget of the Republic of Serbia. The size and flow of funds must be capable of sustaining the independence of judicial authority and ensure the proper operation of courts.

Budget Proposal and Budget Execution

Article 87

The size and structure of budget funds for the work of the courts are proposed by the High Judicial Council and the ministry responsible for the judiciary.

The High Judicial Council proposes the size and structure of the budget funds necessary for the current expenses of the courts, except for the expenses for court staff, in accordance with the Law on the High Judicial Council and distributes such funds to the courts.

The Ministry responsible for judiciary proposes the scope and structure of budget funds necessary for the current expenses for court staff, maintenance of equipment and courthouses, expenses for investments and capital investments in courts, organisation and development of the judicial IT system, and organises the distribution of such funds.

Oversight of Budget Spending

Article 88

Oversight of budgetary funds earmarked for court operations shall be conducted by the High Judicial Council and the Ministry responsible for the judiciary, within their budgetary powers, as well as the Ministry responsible for finance, in accordance with the law.

Use of Funds and Own Revenue

Article 89

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

The size and purpose of the funds referred to in paragraph 1 of this Article shall be determined in the Law on the Budget.

Payment of Court Costs

Article 90

The minister responsible for the judiciary prescribes more detailed requirements, levels and manner of reimbursement of amounts that parties and other participants in proceedings pay to settle costs incurred in court proceedings. 25

X. TRANSITIONAL AND FINAL PROVISIONS

Continuation of work of the courts

Article 91

Courts and special departments of courts formed, i.e. established in accordance with the Law on the Organisation of Courts ("Official Gazette of the RS", no. 116/08, 104/09, 101/10, 31/11 - other law, 78/11 - other law, 101/11, 101/13, 40/15 - other law, 106/15, 13/16, 108/16, 113/17, 65/18 - Constitutional Court, 87/18 and 88/18 - Constitutional Court), the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices ("Official Gazette of the RS", No. 101/13), the Law on the Organisation and Competence of State Authorities in Suppression of Organised Crime, Terrorism and Corruption ("Official Gazette of the RS", No. 94/16 and 87/18 - other law), the Law on the Organisation and Competence of Government Authorities in War Crimes Proceedings ("Official Gazette of RS", No. 67/03, 135/04, 61/05, 101/07, 104/09, 101/11 - other law and 6/15) and the Law on the Organisation and Competence of Government Authorities Responsible for Combating High Technology Crime ("Official Gazette of the RS", no. 61/05 and 104/09), from the day of the constitution of the High Judicial Council, shall continue to operate in accordance with this law and the laws by which they were formed, i.e. established.

Continuation of the work of the Supreme Court of Cassation

Article 92

Notwithstanding the provisions of Article 91 of this Law, as from the date of constitution of the High Judicial Council, the Supreme Court of Cassation shall continue its work as a Supreme Court in accordance with this Law.

As from the date of constitution of the High Judicial Council, the Supreme Court shall take over the employees of the Supreme Court of Cassation, as well as the rights, obligations, cases, equipment, means of work and archives.

Finalisation of the commenced proceedings

Article 93

The proceedings initiated in line with the provisions of the Law on Organisation of Courts ("Official Gazette of the RS" no. 116/08, 104/09, 101/10, 31/11 – other law, 78/11 – other law, 101/11, 101/13, 40/15 – other law, 106/15, 13/16, 108/16, 113/17, 65/18 – Constitutional Court, 87/18 and 88/18 – Constitutional Court) which were not completed until the date of constituting of the High Judicial Council, shall be finalised in line with the provisions of this law.

Deadline for passing of by-laws

Article 94

By-laws prescribed by this law are adopted within one year from the date of constitution of the High Judicial Council.

The by-laws adopted in accordance with the Law on Organisation of Courts ("Official Gazette of the RS" no. 116/08, 104/09, 101/10, 31/11 – other law, 78/11 – other law, 101/11, 101/13, 40/15 – other law, 106/15, 13/16, 108/16, 113/17, 65/18 – Constitutional Court, 87/18 and 26

88/18 – Constitutional Court) shall apply until the adoption of the acts referred to in paragraph 1 of this Article, unless they are contrary to this law.

Termination of validity of the Law on Organisation of Courts

Article 95

As from the date of constituting the High Judicial Council, the Law on Organisation of Courts shall cease to apply (“Official Gazette of the RS” no. 116/08, 104/09, 101/10, 31/11 – other law, 78/11 – other law, 101/11, 101/13, 40/15 – other law, 106/15, 13/16, 108/16, 113/17, 65/18 – Constitutional Court, 87/18 and 88/18 – Constitutional Court).

Final provision

Article 96

This law shall be published in the “Official Gazette of the Republic of Serbia” and enter into force on the day of the constitution of the High Judicial Council, with the exception of the provisions of Articles 92 through 96, which enter into force on the day of publication in the “Official Gazette of the Republic of Serbia”.