EU-SERBIA STABILISATION AND ASSOCIATION AGREEMENT
Tenth SUB-COMMITTEE
ON JUSTICE, FREEDOM AND SECURITY

12-13 March 2024 Belgrade

Horizontal issues

On civil society:

- **Please summarise the legal framework for registration and dissolution of CSOs.**

Ministry of Human and Minority Rights and Social Dialogue

A citizens' association, according to Article 2 of the ***Law on Associations*** *("Official Gazette of the RS", No. 51/09 and 99/11 – other law and 44/18 – other law)*, shall be a voluntary and non-governmental non-profit organization based on the freedom of association of several natural persons or legal entities, established in order to pursue and promote a particular shared or general goal and interest which are not prohibited by the Constitution or the law.

According to Article 3 of the same Law, an association shall be established and organized freely and shall be independent in pursuit of its goals, which may not be aimed at violent overthrow of the constitutional order, breach of the Republic of Serbia's territorial integrity, violation of the guaranteed human or minority rights, or incitement and instigation of inequalities, hatred and intolerance, based on racial, national, religious or other affiliation or commitment, as well as gender, sex, physical, mental or other characteristics and abilities.

The Law on Associations shall govern the establishment and legal status of associations, their entry and deletion from the Register, association membership and bodies, associations' status changes and termination, as well as any other issues of importance for their activities, including the status and operation of foreign associations. Entry into the Register of the Associations shall be made on a voluntary, and the association shall acquire the status of a legal entity, with all rights and obligations applicable to a legal entity. The register shall be kept by the Agency for Business Registers, as an entrusted activity.

The special ***Law on the Procedure of Registration with the Business Registers Agency*** *("Official Gazette of RS", No. 51/09, 99/11, 83/14, 31/2019 and 105/2021)*, shall govern the procedure of registration, recording and publication of data and documents kept by the Business Registers Agency.

At the same time, we point out that the procedure of registration in the Register of the Associations, as a way of guaranteed freedom of association in the Republic of Serbia, is also regulated by other by-laws, namely: *Rulebook on the content, method of registration and keeping of the Register of the Associations ("Official Gazette of the RS", number 80/09);*

Rulebook on the content, method of registration and keeping of the Register of Foreign Associations ("Official Gazette of RS", number 80/09).

A special type of harmonization of the Law on Associations with the *aquis* of the European Union is carried out by the Ministry of Human and Minority Rights and Social Dialogue, which, in accordance with the competence prescribed by law, also performs the activities of the public administration regarding the exercise of freedom of association.

The Law on Associations is in accordance with the highest European standards and principles contained in international legal acts, namely: the Treaty on the Establishment of the European Union, the Charter of Fundamental Rights in the European Union, the International Covenant on Civil and Political Rights ("Official Gazette of the SFRY", number 7 /71 and "Official Gazette of the FRY - International Treaties", No. 4/01), the European Convention for the Protection of Human Rights and Fundamental Freedoms ("Official Gazette of the SCG - International Treaties", No. 9/03 and 5/05) and the Convention of the United Nation on the Rights of the Child ("Official Gazette of the SFRY" - International Treaties, No. 15/90, "Official Gazette of the FRY" - International Treaties, No. 4/96, 2/97).

Based on the importance of associations from the aspect of the interests of citizens and society as a whole, the Ministry for Human and Minority Rights and Social Dialogue indicates that as of 6 March 2024, according to the data published on the official website of the Business Registers Agency, a total of 37,690 associations, federations and representative offices and other organizations of foreign or international non-governmental non-profit associations with headquarters on the territory of the Republic of Serbia were registered in the Register of the Associations in the following registrant status: active, in bankruptcy, in liquidation. Compared to the previous period, there is a tendency to increase in the number of registrations of associations in the Register.

The Law on Associations (Chapter VII Dissolution of Associations, from Articles 49 to 58) prescribes the conditions and manner of deleting associations from the Register.

Pursuant to Article 49, with the deletion of the association from the Register, it loses the status of a legal entity. Deletion is carried out only if: 1) the number of the association's members has fallen below the number of founders required for the establishment of an association, and the competent body of the association has not made a decision on the acceptance of new members within 30 days; 2) the period for which the association was established expires, when the association was established for a certain period of time; 3) the competent body of the association makes a decision on termination of operation; 4) a status change has been made which, in accordance with this law, results in the termination of the association; 5) it is determined that the association does not carry out activities to achieve the statutory goals, that is, it has not been organized in accordance with the statute for more than two years continuously, or if twice the time necessary for a regular meeting of the assembly to be held has elapsed, without the meeting having been held; 6) the association is prohibited from operating; 7) bankruptcy.

Anyone can inform the Registrar about the existence of reasons for deleting an association from the Register established by Article 49, paragraph 2, point 5 of the Law, which the Registrar defines by decision. In the cases referred to in Article 49, paragraph 2, point 1), 2), 3), 5) and 6), the deletion from the Register is carried out after the liquidation procedure of the association has been carried out, unless otherwise specified by the law. A note is entered in the register about the implementation of the liquidation procedure.

Deletion from the Register of Associations is carried out without liquidation or bankruptcy proceedings being carried out only due to: status changes and shortened liquidation proceedings.

The Constitutional Court makes decisions on banning the operation of associations/confederations of associations (Article 50) whose goals and actions are aimed at the violent overthrow of the constitutional order and the breach of the Republic of Serbia's territorial integrity, the violation of guaranteed human or minority rights, or the incitement and instigation of inequalities, hatred and intolerance, based on racial, national, religious or other affiliation or commitment, as well as gender, sex, physical, mental or other characteristics and abilities.

The Constitutional Court can also ban the operation of an association if the association joins an international organization or association whose goals are prohibited according to this Law, or if it joins a secret or paramilitary international organization or association. The ban decision can be based on the actions of the members of the association if there is a connection between those actions and the activities of the association or its goals, if the actions are based on the organized will of the members and if, according to the circumstances of the case, it can be considered that the association tolerated the actions of its members. The ban of the operation of the association also applies to those associations in its membership that were expressly included in the ban procedure.

According to Article 51 of the Law, the procedure for banning the operation of an association/union of associations is initiated at the proposal of the Government, the Republic Public Prosecutor, the ministry responsible for administrative affairs, the ministry responsible for the area in which the goals of the association are realized or the Registrar. The procedure for banning the operation of an association can be initiated and conducted in relation to associations that do not have the status of a legal entity. A note is entered in the Register about the initiation of proceedings for banning the operation of the association.

The entry of a note of the initiation of the procedure for banning the operation of an association/union of associations in the Register is initiated by submitting an application for entry of a change (note) and prescribed documentation. The entry of a note of the Decision of the Constitutional Court prohibiting the operation of a registered association/union of associations is initiated by submitting an application for entry of the note and prescribed documentation.

The registrar may submit a proposal to ban the operation of an association that has submitted an application for entry into the Register, if he considers that it is a secret or paramilitary association/union of associations, i.e. an association/union of associations the goals and actions of which are aimed at the violent overthrow of the constitutional order and breach of the Republic of Serbia's territorial integrity, violation of guaranteed human or minority rights or incitement and instigation of inequalities, hatred and intolerance based on racial, national, religious or other affiliation or commitment, as well as sex, gender, physical, mental or other characteristics and abilities. In that case, the registrar terminates the procedure of entry in the Register with a conclusion and submits a proposal to the Constitutional Court for banning the operation of the association. Upon receiving the decision of the Constitutional Court, the registrar will, depending on the content of the decision: reject the application by decision - if the association/union of associations has been banned, or continue with the registration procedure - if the proposal to ban the association/union of associations has been rejected.

Since it is within the exclusive jurisdiction of the Constitutional Court to ban the operation of associations/unions of associations, freedom of association is fully guaranteed and cases of banning the operation of associations/unions of associations are extremely rare.

Serbian Business Registers Agency (SBRA)

The following **civil society organizations (CSOs)** shall be registered with the **Serbian Business Registers Agency (SBRA)**:

1. associations and representative offices of foreign associations;
2. endowments and foundations, and representative offices of foreign endowments and foundations;
3. associations, societies, and federations in the field of sport; and
4. contractual chambers of commerce and representative offices of foreign chambers of commerce.

The **procedural regulations** applicable to the procedure of registration of the formation and dissolution of the CSOs listed above are:

- The Law on the Procedure of Registration with the Serbian Business Registers Agency (Official Gazette of the RS, Nos. 55/04, 111/09, 99/11 and 105/21);
- The Law on General Administrative Procedure (Official Gazette of the RS, Nos. 18/16 and 95/18 - authentic interpretation), which shall apply to any issues not specifically regulated by the Law on the Procedure of Registration with the Serbian Business Registers Agency;
- The Regulation on Classification of Activities (Official Gazette of the RS, number 54/10); and
- The Decision on Fees for Registration and Other Services Provided by the Serbian Business Registers Agency (Official Gazette of the RS, number 131/22).

The **substantive regulations** applicable to the registration procedure are:

1. For **associations and representative offices of foreign associations**:
   - The Law on Associations (Official Gazette of the RS, Nos. 51/09, 99/11 – other laws and 44/18 – other law);
   - The Company Law (Official Gazette of the RS, Nos. 36/11, 99/11, 83/14 – other law, 5/15, 44/18, 95/18, 91/19 and 109/21), which shall apply in the manner prescribed by the Law on Associations;
   - The Rulebook on the Content, the Procedure of Registration and Administration of the Register of Associations (Official Gazette of the RS, number 80/09); and
   - The Rulebook on the Content, the Procedure of Registration and Administration of the Register of Foreign Associations (Official Gazette of the RS, number 80/09).
2. For **endowments and foundations**, as well as for **representative offices of foreign endowments and foundations**:
   - The Law on Endowments and Foundations (Official Gazette of the RS, Nos. 88/10, 99/11 – other law and 44/18 – other law);

- The Law on Associations, which shall apply in respect of issues not regulated by the Law on Endowments and Foundations;
- The Company Law, in the manner prescribed by the Law on Endowments and Foundations;
- The Rulebook on the Detailed Content and the Manner of Administration of the Register of Endowments and Foundations (Official Gazette of the RS, number 16/11); and
- The Rulebook on the Content and the Manner of Administration of the Register of Representative Offices of Foreign Endowments and Foundations (Official Gazette of the RS, number 16/11).

3. For **associations, societies, and federations in the field of sport**:
   - The Law on Sport (Official Gazette of the RS, number 10/16);
   - The Law on Sport, which shall apply in respect of issues not regulated by the Law on Sport;
   - The Company Law, which shall apply in the manner prescribed by the Law on Sport; and
   - The Rulebook on the Content and the Manner of Administration of the Register of Associations, Societies and Federations in the Field of Sport (Official Gazette of the RS, number 16/11).
4. For **contractual chambers of commerce, and representative offices of foreign chambers of commerce**:
   - The Law on Chambers of Commerce (Official Gazette of the RS, number 112/15);
   - The Law on Associations, which shall apply in respect of issues not regulated by the Law on Chambers of Commerce;
   - The Company Law, which shall apply in the manner prescribed by the Law on Chambers of Commerce; and
   - The Rulebook on the Content and the Manner of Administration of the Register of Chambers of Commerce and the Register of Representative Offices of Foreign Chambers of Commerce Official Gazette of the RS, number 15/19).

- **What rules and practices are in place to ensure the effective operation and safety of CSOs and human rights defenders? This encompasses protection measures against various forms of attacks, intimidation, legal threats such as SLAPPs, negative narratives or smear campaigns, and efforts to monitor threats or attacks, along with dedicated support services.**

Ministry of Human and Minority Rights and Social Dialogue

Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia for the period from 2022 to 2030 ("Official Gazette of the RS", number 23/22), recognises the need to improve the position of civil society organizations (CSOs) through the provision of effective legal protection for members of civil society organizations and defenders of human rights in accordance with the Guidelines for EU Civil Society Support 2021-2027.

The need for improvement in this area is operationalized in the corresponding two-year *Action Plan for the period 2022-2023*, within measure 4.4. Improving the position of CSOs through the provision of effective legal protection for CSO members and human rights defenders, within which a series of activities planned in partnership with the Ministry of Justice and the Commissioner for Protection of Equality aim to reduce the number of threats/attacks on CSO members and human rights defenders.

In 2023, the competent authorities, in accordance with the planned activities, held round tables and consultative meetings with civil society organizations primarily related to changes in judicial laws, as well as negotiation chapters 23 and 24. Also, the Commissioner for the Protection of Equality held four training for civil society organizations in 2023, in order to raise the capacity to initiate procedures for protection against discrimination.

It is worth mentioning that the successful implementation of the Law on Associations, which, as stated above, is in accordance with the highest European standards and principles contained in international legal acts, and which, in addition to the Serbian Constitution guaranteeing the right and freedom of association and the right to remains outside any association, regulates freedom of association and registration of associations, but also the possibility of association without mandatory registration.

As previously reported, in accordance with the strategic document for the creation of an enabling environment for the development of civil society in the Republic of Serbia, on the proposal of the Ministry of Human and Minority Rights and Social Dialogue, the Government of the Republic of Serbia established the Council for the Creation of an Enabling Environment for the Development of Civil Society on 28 September 2023. The Council's mandate includes monitoring and analysing the situation and making proposals for improvement, related to several key areas, among which freedom of association and assembly and freedom of expression are in the first place.

- **Please provide updated information on the financial support to CSOs and human rights defenders, including the frameworks ensuring access to funding, financial viability, taxation/incentive/donation systems, and measures to ensure fair distribution of funding. On all these matters, please inform on both the current system and the future improvements planned by the 'Strategy for creating an enabling environment for the development of civil society'**.

Ministry of Human and Minority Rights and Social Dialogue

The system of financing CSOs from budget funds by public administration bodies at the national, provincial, and local levels in Serbia is a decentralized system of financing, which means that competent authorities finance programmes and projects of public interest in accordance with priority goals and areas recognized in sector strategies and regulations. Thus, the planning of budget funds for CSOs is performed by each body for itself in accordance with its own priority goals, and their allocation is carried out through several different procedures, of which the dominant procedure is the public call procedure.

Association financing is regulated by numerous regulations and is provided by all levels of government. At the level of the authorities of the autonomous province of Vojvodina, CSO support is provided at the level of provincial secretariats and administrations. All local self-government units have designated funds in the budget for financing programmes and projects implemented by CSOs.

The key regulation for the financing of associations is the *Law on Associations*, which stipulates in Article 38 that funds for encouraging programmes implemented by associations, which are of public interest, are provided in the budget of the Republic of Serbia. This article provides a long list of activities of public interest without closing it, i.e. giving space for the introduction of other activities that state authorities recognize as activities of public interest, and by which the association responds to public needs. The *Law on Endowments and Foundations*[1], when it comes to financing of endowments and foundations, instructs that the financing of programmes realized by endowments and foundations established to achieve a "general purpose" is done in accordance with Article 38 of the Law on Associations.

The Law on Associations also regulates the allocation of funds through a public competition of state administration bodies, as well as the allocation of funds that is made from the budget of autonomous provinces and local self-government units, while autonomous provinces and local self-government units have the obligation to regulate the process more closely with their own acts.

The Law on Accounting[2] obliges CSOs to prepare regular annual financial statements that are submitted to the Business Registers Agency. This obligation, among other things, should ensure transparency in the work of CSOs.

It is important to note that the financing of CSOs that operate in certain areas is regulated by special sector regulations, so certain state bodies, whose regulations regulate the financing of CSOs in areas under their jurisdiction, regulate the issue of CSO financing with by-laws from their jurisdiction. The most significant thing is that the majority of these regulations recognize public competition as a way of allocating funds, and certain laws such as the *Law on Endowments and Foundations* and the *Law on Volunteer Firefighting* directly refer to the provisions of the Law on Associations when it comes to the allocation of funds for financing programmes of public interest. Among the sectoral regulations that regulate financing through public calls, the following can be singled out: the *Law on Sports*, the *Law on Youth*, the *Law on Culture* and many others, while other laws regulate the financing of CSOs operating in the relevant sector through other award procedures: public procurement, directly on basis of their annual programmes (e.g. the Law on Social Protection, the Law on the Red Cross).

The provisions of the Law on Associations, which prescribe the financing of the activities of associations that are of public interest, are more closely regulated by the Regulation on funds for encouraging programmes or the missing part of funds for financing programmes of public interest implemented by associations.[3]

The key principle which makes the basis of the Regulation is the principle of transparency, which ensures the transparency of the entire competition process, with the acceptance of European standards in the financing of the association's operation using budget funds. On the other hand, this by-law respects the basic principles and European standards in the inclusion of civil society organizations in decision-making processes, respecting the principles of timely access to information and the partnership of CSOs with state authorities, but equally recognizes the obligations of the associations themselves when applying for budget funds.

The underlying principle of the new Regulation is reflected in increasing the transparency of the process of awarding the funds in all stages of the awarding process. Transparency was

[1] "Official Gazette of the Republic of Serbia", number 88/10, 99/11 – other law and 44/18 – other law
2 "Official Gazette of the Republic of Serbia", number 62/2013, 30/2018 and 73/2019 – other law
[3] "Official Gazette of the Republic of Serbia", number 16/2018

introduced already from the stage of planning the allocation of funds, in the sense of the introduction of the obligation to publish the plan for announcing public calls – Public Calls Calendar, at the beginning of the year, so that associations would be informed in a timely manner about the planned public calls of public administration bodies and have the opportunity to prepare proposals for projects and programs on time. On the other hand, from the point of view of public administration bodies, this way increases the visibility of public calls for financing projects and programmes of civil society organizations, i.e. budget support for associations and other CSOs, as well as an increase in the number of potential beneficiaries of financial resources allocated from the budget of the Republic of Serbia. In this sense, as stated in the previous report, the Ministry has begun the development of a new app of the Calendar of Public Calls, which will include the possibility of greater visibility of data on CSO financing from budget funds.

Given that the Action Plan for the implementation of the Strategy plans to collect data on public financing of CSOs and to ensure the high-quality preparation and regular publication of annual summary reports on the expenditure of funds planned and approved for associations and other civil society organizations from the budget of the RS, with recommendations, the app will also contain a segment which will collect data on the implementation of prescribed procedures for the allocation of funds and the amounts of the allocated funds, as well as numerous other data that will be the basis for the preparation of planned reports.

The new app also aims to ensure the sustainability of the process of collecting data from public administration bodies on planned and implemented public calls, and to ensure an overview of the amount of planned and approved support for CSOs.

We emphasize that, in accordance with the mandate, it is planned that the Council for the Creation of an Enabling Environment for the Development of Civil Society will consider the Annual Summary Report on the expenditure of funds which, as support for programme activities, have been provided and transferred to associations and other civil society organizations from the budget of the Republic of Serbia

The preparation of a new two-year *Action Plan for the period 2024-2025* is underway, which will provide for the continuation of activities related to monitoring the financing of CSOs in accordance with established standards and regulations, especially with regard to the publication of reports on the allocated funds, then the preparation of analyses and proposals for improving regulations in this area, especially the possibility of reclassifying budget line 481, so that grants to associations, endowments and foundations are clearly separated from grants to political parties, religious communities, ethnic communities and everyone whose financing is regulated by special regulations, then drafting guidelines and criteria for awarding non-financial support in this area in order to improve the awarding process of this type of support and ensure the possibility of awarding it to a wider circle of CSOs.

The previous report lists the activities of raising the capacity of public administration bodies for planned and transparent allocation, monitoring, and evaluation of the allocation of budget funds intended for programmes and projects of CSOs, and the achievement of set goals. Bearing in mind the achieved results and the needs of employees in public administration bodies for the continuation of this type of training, expressed in the training evaluations, the

plan is to continue this type of support here as well. Equally recognized is the need for continued support of CSOs in raising the capacity of CSOs for transparent management of allocated budget funds.

It is important to point out that the *Action Plan for the implementation of the initiative Partnership for Open Administration in the Republic of Serbia for the period 2023-2027*[4] plans the activity that entails the implementation of a relevant analysis of the effects of the previous application of the Regulation on funds to encourage programmes or the missing part of funds for financing programmes of public interest implemented by associations ("Official Gazette of the RS", number 2016/18), with the aim of adequately assessing all the shortcomings of the normative framework and its practical application. The plan is to have an ex-post analysis of the effects in a broad consultative process with all interested parties and target groups (public administration bodies and civil society organizations) and to include, in addition to the analysis of the Regulation itself and domestic practice, an overview of relevant comparative practice in the region and the provisions of the EU Directive in the part related to the financing of civil society organizations from budget funds. Based on the findings of the conducted analysis and given recommendations, further steps would be taken in the direction of amendments or the adoption of a new Regulation.

On the process for preparing and enacting laws:

- **What are the rules governing the use of fast-track and emergency procedures, and what proportion of decisions are typically adopted through these procedures compared to the total number of decisions adopted?**

National Assembly

A law may be passed under urgent procedure, pursuant to Article 167 of the NARS Rules of Procedure. This Article lays down that an urgent procedure may be applied for adoption of laws regulating issues and relations that have arisen under unforeseeable circumstances, where failure to pass such a law under urgent procedure could have adverse consequences for human lives and health, state's security and functioning of institutions and organisations, as well as for the purpose of fulfilling international commitments and alignment of legislation with the EU acquis. The law proposer has to specify reasons for passing a law under urgent procedure.

Article 168 of the NARS Rules of Procedure lays down that the law proposal for the adoption of which an urgent procedure is proposed, may be put on the agenda of a National Assembly session if it was submitted no later than 24 hours before the scheduled start of the session.A law proposal regulating defence and security issues, for the adoption of which an urgent procedure is requested, may be put on the NARS session's agenda even if submitted on the day of holding the session, two hours before the scheduled start of the sitting, and where the proposer is the Government, a law proposal may be put on the agenda even if submitted during

[4] "Official Gazette of the Republic of Serbia", number 119/23.

the National Assembly's session, provided that a majority of the total number of MPs are present at the session.

By exception, during a National Assembly' session the following proposals may be put on the agenda, under urgent procedure: nominations, appointments and dismissals and termination of office, a motion of no confidence in the Government or a specific Government member, on the reasoned proposal by an authorised proposer, provided that a majority of the total number of MPs are present at the session. The Speaker of the National Assembly schedules a date for the vote of no confidence in the Government or any of its members, immediately upon the conclusion of the debate on that item, without waiting for the conclusion of debates on other items on the agenda.

During the procedure of establishing the agenda, or during a session, immediately upon receipt of the proposal, the National Assembly decides on every proposal for putting acts on the agenda under urgent procedure, without a debate, provided that a majority of the total number of MPs are present at the session.

The Speaker of the National Assembly communicates to MPs and the Government the law proposal for the adoption of which an urgent procedure is requested, if the Government is not the law proposer, immediately upon receiving it.

In the previous parliamentary term, which lasted from 2022 to 6th February 2024, a total of 197 laws were passed, 30 of which were passed under urgent procedure. In addition, 109 other acts were adopted, 42 of which were adopted under urgent procedure.

Among these, in 2023, 161 laws were passed, 18 of which were passed under urgent procedure, and 58 other acts were also passed, 25 of which were passed under urgent procedure.

- **How are states of emergency, or similar regimes, regulated and applied, including provisions for judicial review and parliamentary oversight?**

National Assembly

The state of emergency regime is regulated by the Constitution of the RS, and by Articles 243-245 of the NARS Rules of Procedure:

Art. 200 of the Serbian Constitution lays down that when the survival of the state or its citizens is threatened by a public danger, the National Assembly declares a state of emergency. The decision on the state of emergency is effective for no more than 90 days. Upon expiry of this time limit, the National Assembly may extend the time limit for the state of emergency for 90 more days, by majority votes of all MPs. During the state of emergency, the National Assembly convenes without any special convocation and it may not be dissolved. Declaration of a state of emergency enables the National Assembly to impose measures derogating from human and minority rights guaranteed by the Constitution. When the National Assembly is not in a position to convene, the decision declaring a state of emergency is made jointly by the President of the Republic, the Speaker of the National Assembly and the Prime Minister, under the same terms as the National Assembly. When the National Assembly is not in a position to convene, the

measures derogating from human and minority rights may be imposed by a Government's decree, with the President of the Republic as a co-signatory to the decree. The measures derogating from human and minority rights imposed by the National Assembly or the Government are effective for no longer than 90 days, and this time limit may be extended under the same terms. When the decision on the state of emergency has not been made by the National Assembly, the National Assembly needs to approve it within 48 hours from its adoption, that is, as soon as it is in a position to convene. If the National Assembly does not approve this decision, it ceases to be effective upon the end of the first session of the National Assembly held after declaring a state of emergency. In cases when the measures derogating from human and minority rights are not imposed by the National Assembly, the Government must submit the decree on measures derogating from human and minority rights to the National Assembly for approval within 48 hours from its adoption, that is, as soon as the National Assembly is in a position to convene. Otherwise, the derogating measures cease to be effective 24 hours after the start of the first National Assembly session held after declaring a state of emergency.

Article 202 of the Constitution of the RS lays down that upon declaring a state of emergency or war, derogations from human and minority rights guaranteed by the Constitution are allowed only to the extent deemed necessary. Measures providing for the derogations must not bring about differences based on race, sex, language, religion, national affiliation or social origin. Measures derogating from human and minority rights cease to be effective upon termination of the state of emergency or war. The derogating measures are by no means allowed with regard to the rights guaranteed by Articles 23, 24, 25, 26, 28, 32, 34, 37, 38, 43, 45, 47, 49, 62, 63, 64 and 78 of the Constitution.

Under Article 243 the Rules of Procedure, provisions of the Rules of Procedure of the NARS apply to the work of the National Assembly in case of a state of war or a state of emergency, unless otherwise stipulated by these Rules of Procedure and other general acts of the National Assembly.

Article 244 of the Rules of Procedure lays down that in case of a state of war or a state of emergency, the Speaker of the National Assembly:

- determines the time and location of National Assembly sittings,
- decides on the manner and time-limits for delivery of materials necessary for the sittings,
- may, where necessary, establish a particular manner of taking, issuing and keeping shorthand notes and minutes of National Assembly and its committee sittings,
- may decide that proposals of laws and other general acts and other materials are not made available to the media, unless otherwise decided by the National Assembly,
- notifies the President of the Republic and the Prime Minister that the National Assembly is not able to convene,
- decides on the mode of operation of and manner of discharging duties by the National Assembly Service.

Article 245 of the Rules of Procedure lays down that in case of a state of war or a state of emergency, MPs must notify the Secretary General of the National Assembly of any change of their temporary or permanent residence.

Procedure for conducting oversight over the work of public authorities, organizations and bodies is laid down in Articles 237-241 of the NARS Rules of Procedure:

Article 237 lays down that the reports submitted to the National Assembly by public authorities, organizations and bodies are to be communicated by the Speaker of the National Assembly to the National Assembly, MPs and the competent committee, in accordance with the Law.

The competent committee considers the report referred to in paragraph 1 of this Article within 30 days from the day of submitting the report to the National Assembly.

A representative of the public authority, organization or body whose report is being considered will be invited to the sitting of the competent committee.

Upon consideration of the report referred to in paragraph 1, the competent committee submits its report on it to the National Assembly, together with its draft conclusions or recommendations attached to it.

Through the draft conclusions or recommendations referred to in paragraph 4 of this Article, unless otherwise stipulated by the Law, the competent committee may recommend to the National Assembly:

- to approve the report of the public authority, organization or body, if it considers that the report is formally and substantially complete and that the public authority, organization or body has acted in accordance with the Law,
- to oblige the Government or other public authorities to take appropriate measures or activities within their purviews,
- to request the public authority, organization or body to amend its report,
- to take appropriate measures in accordance with the Law.

Article 238 lays down that the reports submitted to the National Assembly, in accordance with the law, by an independent state authority in charge of: protecting citizens' rights and monitoring the work of public administration bodies, the work of the authority in charge of legal protection of property rights and interests of the Republic of Serbia, as well as of other authorities and organisations, companies and institutions vested with public powers; protecting the right to access to information of public importance and to protection of personal data; protecting equality of citizens; auditing of public accounts, as well as the national authority in charge of the fight against corruption, are to be considered by a competent parliamentary committee.

Upon consideration of the report referred to in paragraph 1 of this Article, the competent committee submits a report to the National Assembly together with its conclusions or recommendations for improvement of the situation in the fields concerned.

A representative of the independent public authority whose report is being considered participates in the sittings of the competent committee and the National Assembly.

The National Assembly considers reports of independent public authorities and reports of competent committees, together with their draft conclusions or recommendations.

Upon the conclusion of the debate at its sitting attended by a majority of MPs, the National Assembly approves, by a majority vote, the draft conclusions or recommendations with the measures for improvement of the situation in the fields concerned.

Article 239 lays down that the National Assembly considers reports referred to in Art. 237, para. 1 and 4 of the Rules of Procedure and draft conclusions or recommendations submitted by the competent committees, at its first next session.

A representative of the public authority, organization or body whose report is being considered is invited to the National Assembly sitting.

The National Assembly, upon concluding the discussion at the sitting attended by majority of MPs, adopts a conclusion or a recommendation by a majority vote.

Article 240 lays down that when a public authority, organization or body fails to submit the report to the National Assembly within the statutory time limits, or upon a request of the competent committee, the competent committee notifies the National Assembly thereof so that it could take measures within its purview aimed at holding accountable the office holder in this public authority, organization or body.
The competent committee may establish that the office holder of this public authority, organization or body appointed by the National Assembly does not abide by the law in discharging his/her duties and notifies the National Assembly thereof so that it could take measures envisaged by the Law.

Article 241 lays down that in order to perform tasks within its scope of work, the competent committee may request information and data from a public authority, organization or body supervised by the National Assembly, falling within their purviews.

Articles 276 and 277 regulate the confidence-in-Government issue:
The Government may ask the National Assembly, in writing, to vote on its confidence in the Government and is entitled to give reasons for its request.
The request referred to in paragraph 1 of this Article is submitted on behalf of the Government by the Prime Minister.
The procedure for the vote of no confidence in the Government initiated by the Government is subject to provisions of these Rules of Procedure relating to the procedure for the motion of no confidence in the Government or a Government member.

If the National Assembly does not vote in favour of the motion of no confidence in the Government, the Speaker of the National Assembly immediately notifies the President of the Republic thereof.

Ministry of Justice

The states of emergency and similar regimes, provisions for judicial review and parliamentary oversight are regulated by articles of Constitution of the Republic of Serbia and Rules of Procedure of National Assembly.

1) The Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", No. 98/06 and 16/22)

State of Emergency

Article 200

When the survival of the state or its citizens is threatened by a public danger, the National Assembly shall proclaim the state of emergency.

The decision on the state of emergency shall be effective 90 days at the most. Upon expiry of this period, the National Assembly may extend the decision on the state of emergency for another 90 days, by the majority votes of the total number of deputies.

During the state of emergency, the National Assembly shall convene without any special call for assembly and it may not be dismissed.

When proclaiming the state of emergency, the National Assembly may prescribe the measures which shall provide for derogation from human and minority rights guaranteed by the Constitution.

When the National Assembly is not in a position to convene, the decision proclaiming the state of emergency shall be adopted by the President of the Republic together with the President of the National Assembly and the Prime Minister, under the same terms as by the National Assembly.

When the National Assembly is not in a position to convene, the measures which provide for derogation from human and minority rights may be prescribed by the Government, in a decree, with the President of the Republic as a co-signatory.

Measures providing for derogation from human and minority rights prescribed by the National Assembly or Government shall be effective 90 days at the most, and upon expiry of that period may be extended under the same terms.

When the decision on the state of emergency has not been passed by the National Assembly, the National Assembly shall verify it within 48 hours from its passing, that is, as soon as it is in a position to convene. If the National Assembly does not verify this decision, it shall cease to be effective upon the end of the first session of the National Assembly held after the proclamation of the state of emergency.

In cases when the measures providing for derogation from human and minority rights have not been prescribed by the National Assembly, the Government shall be obliged to submit the decree on measures providing for derogation from human and minority rights to be verified by the National Assembly within 48 hours from its passing, that is, as soon as the National Assembly is in a position to convene. In other respects, the measures providing for derogation shall cease to be effective 24 hours prior to the beginning of the first session of the National Assembly held after the proclamation of the state of emergency.

Article 202

Upon proclamation of the state of emergency or war, derogations from human and minority rights guaranteed by the Constitution shall be permitted only to the extent deemed necessary.

Measures providing for derogation shall not bring about differences based on race, sex, language, religion, national affiliation or social origin.

Measures providing for derogation from human and minority rights shall cease to be effective upon ending of the state of emergency or war.

Measures providing for derogation shall by no means be permitted in terms of the rights guaranteed pursuant to Articles 23, 24, 25, 26, 28, 32, 34, 37, 38, 43, 45, 47, 49, 62 , 63, 64 and 78 of the Constitution.

2) Rules of Procedure of National Assembly ("Official Gazette of the Republic of Serbia No. 98/2006 and 115/2021)

Article 243

Provisions of these Rules of Procedure shall be applied to the work of the National Assembly in case of a state of war or a state of emergency, unless otherwise stipulated by these Rules of Procedure and other general acts of the National Assembly.

Article 244

In the case of a state of war or a state of emergency, the Speaker of the National Assembly shall:

- determine the time and location of sittings of the National Assembly,
- decide on the manner and time-limits for delivery of materials necessary for the sittings,
- may, if needed, decide on a particular manner of taking, issuing and keeping shorthand notes and minutes at sittings of the National Assembly and its committees,
- may decide that Bills and proposals of other general acts and other materials are not placed at the disposal of the public media, unless otherwise decided by the National Assembly,
- notify the President of the Republic and the Prime Minister that the National Assembly is not able to convene,
- decide on the mode of operation and execution of the tasks of the National Assembly Service.

Article 245

In case of a state of war or a state of emergency, MPs shall notify the Secretary General of the National Assembly of every change of their temporary or permanent residence.

The Ministry of Justice issued on March 17 2020 Recommendations Regarding the Work of Courts and Public Prosecutors' Offices during the State of Emergency that was declared on March 15, 2020 (MoJ Recommendations regarding the Work of Courts and Public Prosecutor Offices during the State of Emergency, no. 2020112-01-557/2020-05 from March 17th https://www.mpravde.gov.rs/vest/29159/preporuke-za-rad-sudova-i-javnih-tuzilastava-za-vreme-vanrednog-stanja.php; https://www.mpravde.gov.rs/sekcija/29166/konkretna-uputstva-za-rad-pojedinacnih-pravosudnih-organa-kao-i-javnih-beleznika-i-javnih-izvrsitelja-a-na-osnovu-preporuka-ministarstva-pravde-za-rad-za-vreme-vanrednog-stanja.php).

On March 18, the High Judicial Council adopted Conclusion (High Judicial Council Conclusion no. 119-05-132/2020-01 from March 18th 2020, further amended by decision of March 19th 2020), binding for all courts, adjourning hearings starting from March 19, 2020 until the state of emergency is terminated, except in the priority cases, as follows:

1. criminal law matters:

- hearing regarding a pre-trial detention;
- Concerning the pandemic related crimes of "Illegal Trade", "Failure to Act Pursuant to Health Regulations During an Epidemic" and "Transmitting Contagious Disease" (Articles 235, 248 and 249 of the Criminal Code);
- Against juvenile offenders, or where the injured party is a juvenile under Chapter 18 of the Serbian Criminal Code – Sexual Offences;
- Hearing domestic violence cases;
- Where there is a risk of expiration of statute of limitations;

- regarding crimes committed during the state of emergency and in connection with the state of emergency; and

2. In civil law matters:

- Hearings regarding interim measures applications (including respective decisions, as well as their extension or cancellation);
- Hearings regarding claims related to domestic violence protection measures;
- Hearings regarding claims related to media limitation orders (Articles 59-67 of the Law on public information and media).
- Hearings regarding applications for detention in neuropsychiatric healthcare institutions and
- regarding the enforcement orders in family law matters.

On April 1, 2020 the Government adopted the Decree on Defendant Participation in the Main Hearing in Criminal Proceedings during the State of Emergency declared March 15, 2020 (www.paragraf.rs/propisi/uredba-o-nacinu-ucesca-optuzenog-u-krivicnom-postupku-vanredno-stanje.html). The Decree provided that in criminal proceedings before a court of first instance, when a presiding or other panel judge finds that securing the presence of defendant (being in custody) to the main hearing involves certain risks of spreading the COVID-19, s/he may decide the main hearing to be conducted by using technical means for transmission of sound and image, when possible regarding the technical preconditions of the court in question.

- **What is the regime for constitutional review of laws within the legal framework?**

Constitutional Court

The Constitutional Court is the state body whose primary jurisdiction is the protection of constitutionality and legality of the general acts, confirmed in Article 166 of the Constitution. It implies control of constitutionality of laws and all other general legal acts in the legal order of the Republic of Serbia, and then the control of the legality of all the general acts lower than laws.

The constitutional system of Serbia has a mixed system of control of the constitutionality of laws, in which there is control a posteriori as a rule while control a priori is limited to the evaluation of the constitutionality of laws.

According to the Constitution from 2006, “all laws and other general acts adopted in the Republic of Serbia shall be in accordance with the Constitution” and “shall not be in conflict with the ratified international treaties and generally accepted rules of international law.” “Ratified international treaties and generally accepted rules of international law are an integral part of the legal order of the Republic of Serbia and shall apply directly”, and “ratified international treaties shall be in accordance with the Constitution”, and/or “ratified international treaties shall not contradict the Constitution”.

When the Constitutional Court finds that the law, a statute of an autonomous province or a local self-government unit, another general act of a collective agreement is not in accordance with the Constitution, the generally accepted rules of international law and a ratified international treaty, that law, the statute of an autonomous province or a local self-government

unit, other general act of a collective agreement ceases to apply on the date of publication of the Constitutional Court decision in the "Official Gazette of the RS".

The provisions of the ratified international treaty, found by the decision of the Constitutional Court to be inconsistent with the Constitution, cease to apply in the manner provided by that international treaty and the generally accepted rules of international law. When the Constitutional Court finds that ta general act or a collective agreement is not in accordance with the law, that general act or collective agreement ceases on the date of publication of the Constitutional Court decision in the "Official Gazette of the RS".

When normative control is in question, it most often concerns subsequent review of constitutionality of laws. Proceedings for an assessment of constitutionality or legality of a general act are instituted on a proposal of an authorised proposer. Also, proceedings for an assessment of constitutionality or legality may be instituted by the Constitutional Court, of its own motion, based on a decision reached by two-thirds of votes of all judges. The right to institute proceedings belongs only to the constitutionality designated subjects (authorised proposers), while the right to initiative belongs to any legal or natural person.

The Law on the Constitutional Court specifies also the obligatory elements of the proposal, i.e. the initiative for an assessment of constitutionality or legality of a general act, so that it has to include: name of the general act, designation of the provision, name and number of the official paper in which it has been published, grounds of the proposal, proposal or request concerning the outcome of the decision-making process, as well as other data of relevance for the assessment of constitutionality or legality. Absence of some of the stated elements renders the proposal incomplete and therefore inadequate for the Court's proceeding, and in case the proposer has not removed the deficiencies within a specified time, the proposal is dismissed. In case that the general act the constitutionality of which is disputed has not been published in the official gazette, a verified copy of this act is submitted with the proposal. Proceedings are considered instituted the moment the proposal is submitted to the Court, i.e. on the day when the ruling on the institution of the proceedings is made.

In proceedings for an assessment of constitutionality or legality, the Constitutional Court is not limited to the request of an authorised proposer, i.e. initiator. This means that the Constitutional Court, also in cases when an authorised proposer, i.e. initiator has given up its proposal, i.e. initiative, may continue the proceedings for an assessment of constitutionality or legality, if it finds that there are grounds for a continuation of proceedings.

In the course of proceedings, and at a request of the framer of the disputed general act, the Constitutional Court may, before the decision on its constitutionality and legality is made, suspend the proceedings and give an opportunity to the framer of the disputed general act to remove, within a specified time, the noticed unconstitutional or illegal elements. If within the specified time the unconstitutionality and illegality are not removed, the Constitutional Court will continue the proceedings.

If the framer of the disputed act adopts an act which changes or puts out of force the act disputed before the Constitutional Court, the Court shall request the authorised proposer, i.e. the initiator to, within a specified time, declare its position concerning whether its proposal, i.e. the initiative, still stands. If the proposer declares that its proposal will be withdrawn, i.e. that it gives up the initiative, or it does not declare its position within the specified time-frame, the

Constitutional Court shall terminate the proceedings, unless it has found the grounds to continue the proceedings on its own.

In the course of proceedings for an assessment of constitutionality or legality of general acts, the Constitutional Court may, until the final decision is reached, suspend enforcement of an individual act or action based on the general act the constitutionality or legality of which is being assessed, if this enforcement could cause irreparably detrimental consequences. This measure can last until the proceedings are finished at the longest, and can be shorter, if during the proceedings, the Constitutional Court makes an assessment that the reasons for its application (suspension), due to the changed circumstances, have ceased to exist; in that case, the Constitutional Court shall cancel the measure of suspension of enforcement of the individual act, i.e. action. The request for suspension of enforcement of an individual act, i.e. action shall be dismissed by the Constitutional Court when making the final decision.

The Constitutional Court shall suspend proceedings for an assessment of constitutionality or legality of general acts in the following instances: 1) when, in the course of proceedings, the general acts have been brought into conformity with the Constitution or law, and the Constitutional Court has not made an assessment that due to the consequences of unconstitutionality or illegality a decision should be made because the consequences of unconstitutionality or illegality have not been removed; 2) when, in the course of proceedings, procedural presuppositions for conducting the proceedings have ceased to exist.

After the Constitutional Court has made a decision on the matter of constitutional dispute, the decision (obligatorily), i.e. ruling (only in certain instances) is published in the „Official Gazette of the RS“, and the decision’s legal consequences take effect the moment it is published. Namely, when the Constitutional Court finds that a law, statute of an autonomous province or a local self-government unit, other general act or a collective contract is not compatible with the Constitution, generally recognized rules of international law and ratified international contracts, this law, statute of an autonomous province or a local self-government unit, other legal act or collective contract ceases to be in force with the date of publication of the Constitutional Court's decision in „RS Official Gazette“. The stated rule refers also to any other general act or collective contract which has been found incompatible with law, with an exception referring to a ratified international contract. A confirming decision may refer both to a general act as a whole and to its individual provisions. A Constitutional Court decision has the character of res iudicata and produces legal consequences in relation to all. Also, a confirming decision is not retroactive, but is applicable from its publication on.

When an assessment of constitutionality of individual provisions of a ratified international contract is in question, the Law confirms the rule according to which the provisions of a ratified international contract, which have been, by a Constitutional Court decision, found unconstitutional, cease to exist in the manner envisaged by said international contract and generally recognized rules of international law.

Laws and other general acts which have been found by a Constitutional Court decision not to be in conformity with the Constitution, generally recognized rules of international law, ratified international contracts or law, may not be applied to the relationships that had come to exist before the date the Constitutional Court's decision is published, if before that date they have not been resolved by a final decision. Further, general acts adopted for the purpose of law-enforcement and other general acts which have been found, by a Constitutional Court decision,

not to be in conformity with the Constitution, generally recognized rules of international law, ratified international contracts or law, shall not be implemented from the date the Constitutional Court's decision is published, if it follows from the decision that these general acts are incompatible with the Constitution, generally recognized rules of international law, recognized international contracts or law.

Everyone whose right has been violated by a final individual act, adopted based on law or other general act, which has been found in a Constitutional Court's decision not to be compatible with the Constitution, recognized rules of international law, ratified international contracts or law, is entitled to request the competent body to change this individual act. A proposal for change may be submitted within six months from the date of the decision's publication in the „Official Gazette of the RS", if from the service of the individual act to the submission of the proposal for institution of proceedings no longer than two years passed. The stated deadlines are objective in nature and established for the purpose of securing the principle of legal certainty.

If it is found that by changing an individual act it is not possible to remove the consequences that have arisen due to the application of a general act which has been, in a Constitutional Court's decision, found not to be in conformity with the Constitution, recognized rules of international law, ratified international contracts or law, the Constitutional Court may order that these consequences be removed by reverting to the previous situation, by compensating damage, or in another way. Here it should be mentioned that the Constitutional Court determines only the manner of the removal of consequences, without concretizing it.

In a situation in which, in proceedings before a court of general or special jurisdiction, the question of conformity with the Constitution of a law or other general act, recognized rules of international law, ratified international contracts or law is raised, the court will suspend the proceedings and, as an authorised proposer, institute proceedings for an assessment of constitutionality or legality of this act before the Constitutional Court.

When in the course of proceedings a general act has ceased to be in force or has been brought in conformity with the Constitution, the Constitutional Court shall, as a rule, discontinue the proceedings. However, if it finds that the consequences of unconstitutionality and illegality of the general act made invalid have not been removed, the Constitutional Court may establish, in its decision, that the general act was not in conformity with the Constitution, recognized rules of international law, ratified international contracts or law; this decision of the Constitutional Court has the same legal force as the decision which confirms that a general legal act (therefore, one which is in force, which exists within the legal order) is not in conformity with the Constitution, recognized rules of international law, ratified international contracts or law.

The previously stated rules of proceedings for an assessment of constitutionality and legal effect of Constitutional Court decisions, shall apply in proceedings for deciding in respect of conformity of laws and other general acts with generally recognized rules of international law and ratified international contracts.

Ministry of Justice

The Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", No. 98/06 and 16/22) stipulates that the Constitutional Court is an autonomous and independent state body that safeguards constitutionality and legality and human and minority rights and freedoms. Decisions of the Constitutional Court are final, enforceable and generally binding (Article 166).

According to **Article 167** of the Constitution of the Republic of Serbia, among other things, that the Constitutional Court decides on:

1. compliance of laws and other general acts with the Constitution, generally accepted rules of the international law and ratified international treaties,
2. compliance of ratified international treaties with the Constitution,
3. compliance of other general acts with the Law,
4. compliance of the Statute and general acts of autonomous provinces and local self-government units with the Constitution and the Law,
5. compliance of general acts of organisations with delegated public powers, political parties, trade unions, civic associations and collective agreements with the Constitution and the Law.

Article 168 of the Constitution prescribes:

"A proceeding of assessing the constitutionality may be initiated by state bodies, bodies of territorial autonomy or local self-government, as well as at least 25 MPs.

The procedure may also be initiated by the Constitutional Court. Any legal or natural person shall have the right to an initiative to start a proceeding of assessing the constitutionality and legality.

The Law or other general acts which is not in compliance with the Constitution or the Law shall cease to be effective on the day of publication of the Constitutional Court decision in the official journal. Before passing the final decision and under the terms specified by the Law, the Constitutional Court may suspend the enforcement of an individual general act or action undertaken on the grounds of the Law or other general act whose constitutionality or legality it assesses.

The Constitutional Court may assess the compliance of the Law and other general acts with the Constitution, compliance of general acts with the Law, even when they ceased to be effective, if the proceedings of assessing the constitutionality has been initiated within no more than six months since they ceased to be effective."

Article 169 of the Constitution prescribes:

"At the request of at least one third of MPs, the Constitutional Court shall be obliged within seven days to assess constitutionality of the law which has been passed, but has still not been promulgated by a decree.

If a law is promulgated prior to adopting the decision on constitutionality, the Constitutional Court shall proceed with the proceedings as requested, according to the regular proceedings of assessing the constitutionality of a law.

If the Constitutional Court passes a decision on non-constitutionality of a law prior to its promulgation, that decision shall entry into force on the day of promulgation of the law.

The proceedings of assessing constitutionality may not be instituted against the law whose compliance with the Constitution was established prior to its entry into force."

The Law on the Constitutional Court ("Official Gazette of the Republic of Serbia", No. 109/07, 99/11, 18/13 - decision of the US, 103/15, 40/15 - other Laws, 10/23 and 92/23) stipulates that the organization of the Constitutional Court, the procedure before the Constitutional Court and the legal effect of the decisions of the Constitutional Court are regulated by this law (Article 1). The Constitutional Court decides on issues within its jurisdiction set up by the Constitution of the Republic of Serbia and performs other duties defined by the Constitution and the law (Article 2).

- **How is the framework for impact assessments and evidence-based policy-making established, and what is the policy on their utilisation? Additionally, how are stakeholders and the public consulted? How are the judiciary and other pertinent stakeholders consulted regarding judicial reforms? Lastly, what measures ensure transparency and quality throughout the legislative process, from preparation to parliamentary phases?**

Ministry of Justice

According to the Government's Rules of Procedure ("Official Gazette of the Republic of Serbia", no. 61/06 - revised text, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14, 8/19. - dr. ordinance), provisions regarding public discussion are prescribed in article 41**.** This article stipulates that it is mandatory to conduct a public discussion during the legislative process, especially when systemic laws are being adopted, new laws are being introduced, or existing ones are significantly amended. The public discussion lasts for at least 20 days, and the report on the public discussion must be submitted within 15 days after its conclusion. During the public discussion, comments and suggestions on the draft law are collected and considered before sending the draft law to the government for adoption.

In addition, measures that ensure transparency and quality in legislation are prescribed by the Republic Law on the Planning System of the of Serbia ("Official Gazette of the Republic of Serbia", number 30/18**).** Article 36. stipulates the obligation of the proponent to conduct a public debate on the public policy document before it is submitted for consideration and adoption. After the public debate, a report should be prepared, listing the participants, their suggestions, whether these suggestions have been incorporated into the draft document, with an explanation if they have not. The report should be attached to the proposal document. The competent proponent should publish the report on their website or on the e-Government portal if it is a state administration body, no later than 15 days after the end of the public debate. The government specifies the details of conducting the public debate, its duration, cases when it is not conducted, and the form of the report on it.

Also, according to the Law on State Administration ("Official Gazette of the Republic of Serbia", No. 79/05, 101/07, 95/10, 99/14, 47/18 and 30/18), Article 77. public participation in the preparation of draft laws, other regulations and acts is prescribed.

The Ministry responsible for public administration, in cooperation with the state administration body responsible for public policies, prepares and adopts a regulation governing guidelines for good practice in involving the public in the preparation of draft laws, other acts, and regulations. The provisions of this article are applied mutatis mutandis in the preparation of development strategies, action plans, and other public policy documents, unless otherwise regulated by a special law. In the preparation of a development strategy, a public debate is mandatory, in accordance with the Government's Rules of Procedure.

In accordance with the provisions of the Constitutional Law implementing the Act amending the Constitution of Serbia the in order to align the secondary legislation with the adopted Constitutional amendments, on April 15, 2022, the Minister of Justice established the working groups for drafting the set of judicial laws. During the work on the set of judicial laws, the Ministry of Justice continuously communicated with the Venice Commission (online meeting with the Venice Commission was organized on July 25th 2022).

The laws were sent to the Venice Commission for opinion on September 12th, 2022, in order for the Venice Commission to prepare and adopt an opinion on the set of judicial laws at the plenary session. Following this, the Ministry of Justice has sent the first working texts of judicial laws to all courts, prosecutor's offices, professional associations, the National Convention on the EU (with the request to forward it to all its members), the Delegation of the European Union to the Republic of Serbia and other international partners and organized presentations of the working versions of the set of judicial laws in the seat of all four appellate courts as well as the separate presentation for the representatives of the civil society organizations (20th – 27th of September 2022) where all relevant institutions (judges and public prosecutors, professional associations of judges and public prosecutors, law faculties, the Bar Association of Serbia and its regional bar associations, the Delegation of the European Union to the Republic of Serbia, the Council of Europe, OSCE, GIZ, UN, USAID) were invited.

At the plenary session of the Venice Commission, held on October 21, 2022, the Venice Commission issued a positive opinion regarding the Law on the Organization of Courts, the Law on the High Judiciary Council and the Law on Judges.

Furthermore, representatives of the Venice Commission visited the Republic of Serbia in the period from 23-24th November 2022 with the aim of consultations in relation with the Law on Public Prosecution Office and the Law on the High Prosecutorial Council, and on that occasion discussed with representatives of the Ministry of Justice, the Republic Public Prosecutor's Office, the State Prosecutorial Council, the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia and parliamentary position and the opposition.

Plenary session of the Venice Commission where the positive opinion regarding the Law on Public Prosecution Office and the Law on High Prosecutorial Council was adopted was held in December 15-17th 2022. At the same session, the Venice Commission also adopted a follow-up Opinion on the Law on the Organization of Courts, the Law on the High Judiciary Council and the Law on Judges.

As part of the public discussion process in relation with the adoption of the set of new judicial laws, a round table was held on January 10, 2023, where civil society organizations were presented with the working versions of the aforementioned set of laws.

The set of judicial laws was adopted by the National Assembly on February 9th 2023.

On March 14th 2023, the Venice Commission adopted the Information to the Follow-up on three previous opinions on Judiciary (opinion and follow-up opinion regarding the Law on the Organization of Courts, the Law on the High Judicial Council and the Law on Judges and opinion regarding the Law on Public Prosecution Office and the Law on High Prosecutorial Council).

Ministry of Human and Minority Rights and Social Dialogue

For quality legal solutions, especially their successful application and desired results in practice, it is essential to provide the opportunity to all interested actors to get involved in the process of their creation from the earliest stage. In accordance with the entrusted mandate, the Ministry strives to promote, encourage, and ensure the participation of civil society organizations in the process of preparation, adoption, and monitoring of the implementation of regulations and public policy documents.

One of the ways of supporting state bodies in the process of engaging representatives of civil society in the legislative process and the key mechanism of including civil society organizations in the drafting of public policy documents and regulations is based on the procedure regulated by the Conclusion on the Adoption of *Guidelines for the Inclusion of Civil Society Organizations in Working Groups for Drafting Proposals of Public Policy Documents and Drafts, i.e. Proposals for Regulations ("Official Gazette of RS", no. 8/20 and 107/21)* (hereinafter: Guidelines) which implies a transparent process based on clear and published criteria for the selection of representatives of civil society organisations, giving the opportunity to all interested CSOs to take part. According to the above guidelines, the Ministry is in charge of implementing the procedure provided for in these guidelines in cooperation with the competent state administration bodies which decide to include representatives of civil society organizations.

The purpose of the Guidelines is to direct the work of state administration bodies with the aim of participation of CSOs in drafting, adoption, and monitoring of the application of regulations, to ensure their effective and efficient application. The main goals of the Guidelines are to further improve the participation of CSOs in the processes of preparation, adoption, and monitoring of the implementation of regulations and public policy documents.

In cooperation with other state administration bodies, the Ministry launched 15 Public Calls in 2023 for CSOs to participate in various working groups for drafting public policy documents and regulations and in advisory bodies.

Within all 15 public calls, a total of 100 CSO representatives nominated as members and 90 CSO representatives nominated as deputy members from 62 different CSOs were proposed for inclusion in working groups/advisory bodies (certain public calls aimed only to elect a member, not a deputy member). With regard to the relationship between CSOs that submitted an application and showed interest in participating in the working group/advisory body, about 70% of the interested organizations were proposed for appointment in the working groups/advisory bodies. The statistics of the number of realized public calls by year indicate a steady trend in terms of the number of public calls announced with years, as well as an increase in the number of CSOs involved in the process of adopting regulations and public policy documents.

Due to the need to ensure the inclusion of CSOs in other ways as well, the Ministry, in accordance with its scope, sent a letter to the state administration bodies, with a request for the delivery of data on the total number of CSOs that are involved in the work of temporary working bodies (temporary working bodies whose terms is in the course of 2023) which are established by the decision of the Government of the Republic of Serbia (council, working group, expert group, etc.) on the proposal of the line state administration body.

In accordance with the submitted reports, the total number of state administration bodies that sent a proposal to the Government of the Republic of Serbia in 2023 for the establishment of a temporary work body with the participation of CSOs is 9, while a total of 21 temporary work bodies were established by the Decision of the Government of the Republic of Serbia, on the proposal of the competent state body. The total number of CSOs that took part in the work of

temporary working bodies, and which were founded in 2023 by the decision of the Government of the Republic of Serbia is 65. Regarding the number of representatives of CSOs, 116 members and 33 deputy members took part in the work of temporary bodies.

Please note that the mandate of the Council for the Creation of an Enabling Environment for the Development of Civil Society, includes the monitoring of the involvement of civil society organizations in the process of creating public policies by reviewing reports on consultations carried out by state administration bodies and making recommendations for improving the standards and practices of the consultation process with stakeholders.

By organizing and conducting social dialogues, since 2021, the Ministry has established an additional institutional mechanism for encouraging the democratic process of communication among interested social entities on all issues of general or social interest. At the session held on 26 October 2023, the Government of the Republic of Serbia adopted the *Conclusion on the adoption of the Guidelines for organizing social dialogue* (05 Number: 021-9898/2023-1). The guidelines regulate the organization and flow of the social dialogue, reaching an agreement of all participants and publishing documents on the outcome of the social dialogue - Agreements on actions, monitoring activities from the Agreement on actions, informing the public about the implemented social dialogue, as well as other issues of importance for the realization of the goals of the social dialogue, in accordance with the law. By conducting social dialogue, conditions are created for a better understanding of the needs and ways of participation of civil society organizations and other interested social entities in decision-making processes by state administration bodies, and other issues of participatory democracy. So far, 53 social dialogues have been held with over 3,000 participants, which fulfilled the ultimate goal of this mechanism, which is related to improving relations and encouraging a more active role of civil society organizations in public life.

Public Policy Secretariat

Law on the Planning System of Serbia („Official Gazette of the Republic of Serbia", number: 30/18), prescribes the obligation of conduction of ex-ante impact assessment for public policy documents (article 31). Exceptions to this rule are public policy documents without significant effects for society, and/or that do not have a high priority, public policy documents which mitigating or eliminating the consequences of catastrophes, natural or other disasters, and emergency situations, public policy documents at the national level of importance for the defence and security of the Republic of Serbia and its citizens, and action plan implementing a planning document adopted within 90 days as of the date of adoption of the given public policy document (article 6 of the **Regulation on the methodology of public policy management, analysis of the effects of public policies and regulations, and the content of individual public policy documents („Official Gazette of the Republic of Serbia", number 8/19).**

This law also prescribes the obligation of monitoring of implementation of public policy documents, conduction of ex-post impact assessment (article 40), and reporting on results of the implementation of public policy document (article 43).

The transparency of the consultation process during the drafting and adoption of regulations and public policy documents has been prescribed in the following legislations:

Law on the Planning System of Serbia, prescribes the obligation for all state administration authorities to conduct consultations in all stages of drafting public policy documents. In addition, information on the most important details of the consultation process (duration, methods used, participants in the consultation, proposals discussed, etc.) should be visible in the report on the conducted consultations and published on the institution's official website and on the e-Consultation Portal (article 34).

Law on State Administration („Official Gazette of the Republic of Serbia", number: 79/05, 101/07, 95/10, 99/14, 30/18 (other laws), and 47/18), article 77: The information on the beginning of the drafting of the law, also contains basic information on legal solutions. If the law significantly changes the legal regime in one area, a document that contains a description of the problems in a certain area and their causes, the goals and expected effects of the adoption of the law, as well as the basic principles for regulating social relations in that area, including the rights and obligations of the subjects to which to which the law relates is also published.

Regulation on the methodology of public policy management, analysis of the effects of public policies and regulations, and the content of individual public policy documents, articles 36. and 37: Public policy secretariat is in charge of checking the compliance of individual draft proposals with the requirements for public consultation. The proposer of the draft regulations or public policy document is obliged to submit information about the conducted consultations for a specific document. This information, which is an integral part of the RIA report is a necessary part of the material submitted to the General Secretariat of the Government in the process of adoption.

The Rulebook on Good Practice Guidelines for Realizing Public Participation in the Preparation of Bills and Other Regulations and Acts is a sub-legal act that elaborates in more detail the provisions of Article 77. of the Law on State Administration.

The Decision on the establishment of the e-Consultation Portal, ("Official Gazette of the Republic of Serbia", number 62/21), establishes the e-Consultation Portal, which enables the interested public to electronically submit their comments on regulations and public policy documents.

<u>Freedom of expression and media freedom</u>

- **What measures are in place to ensure the fair and transparent allocation of state advertising, including any regulatory rules governing the process? In this regard, please provide an update on the implementation of the media strategy objective regarding the transparency of public procurement in the media sector (Measure 2.3.3). For example, we saw reports in January 2024 that Radio Television Serbia**

(RTS) awarded in 2023 advertisement services in a negotiated procedure without publishing a public invitation (as allowed by the public procurement legislation under certain conditions). Is there the intention to render this type of procedure more competitive in future?

Ministry of Information and Telecommunication

Under the IPA Project that was approved by EC to the Ministry and that will be conducted by the OSCE Mission to Serbia starting in the 3rd quarter of 2024, the issue of the transparency of public procurement in the media sector (2.3.3) will be tackled within activity **2.2.1. Defined measurable criteria for the definition of allowable media concentration thresholds and risks to media pluralism**.

The Project will support the analyses of the relevant media market at national, regional, and local levels and establish the functionality, conditions, and status of competition in the media market and related markets (media content distribution market, advertising market, etc.), and of media pluralism in the country.

The Media Strategy noted the need to promote the development of the media market, with a level playing field for all actors competing in it. This is a necessary condition for media to run sustainable businesses based on the quality of their work and to be able to inform the public in an accurate and timely manner. As the MS noted, the state still exercises considerable influence on the market, with funding originating from a range of public authorities. These included central government, authorities of the territorial autonomy and local self-government, public enterprises, companies organized as joint stock companies, limited liability companies owned by the state, institutions and other public agencies, etc. Financial support can be deployed through state aid mechanisms (project-based co-financing), public procurement, contracts on business co-operation with the public sector and media (publishers), non-transparent and unclear crediting of tax or other liabilities that media (publishers) have towards the public sector, and other types of indirect and direct financing of media. As there is no comprehensive data on the media market in the country, nor on media pluralism, the Project will support the analysis of the media market and media pluralism, to enable fact-based decision-making and policy development.

Public Procurement Office

According to Article 152a of the Law on Public Procurement ("Official Gazette of RS" Nos. 91/19 and 92/23, hereinafter: PPL), which has been in force since January 1, 2024, the contracting authorities are obliged to publish on the Public Procurement Portal information about all contracts concluded after the public procurement procedure has been carried out, about all amendments to contracts based on articles 156–161. of PPL, as well as data on contracts/purchasing orders concluded or issued in accordance with Article 27 of the PPL and their amendments. The above data are the part of the contract database and are available on the Public Procurement Portal to all interested parties, without restrictions. The aforementioned amendment to the PPL enables significantly higher transparency of all public procurement procedures, as well as procurements carried out by the contracting authorities pursuant to Article 27 of the PPL (procurements below the thresholds for the application of the PPL), which also include procurement procedures in the field of media services.

Regarding to the negotiation procedure without publication of contract notice, which the contracting authority can carry out if the PPL conditions are met, transparency and competitiveness in the mentioned procedure is ensured by the obligation of the contracting authority to publish a notice on the implementation of the negotiation procedure on the Public Procurement Portal, which contains all data from Annex 4. Part G. of PPL, and which data are visible to all interested economic operators on the market. Besides, interested parties can challenge the justification of this type of public procurement procedure by submitting a request for the protection of rights within the deadlines prescribed by law. Please note that the largest number of public procurements of advertising services is carried out in an open procedure.

- **Could you please summarise the rules on defamation (both civil and criminal) and the prevalence of such cases filed against journalists? Have any measures been adopted to counter manifestly unfounded and abusive lawsuits (also known as SLAPPs)?**

Supreme Court

The Constitution of the Republic of Serbia, in the provision of Article 46, guarantees freedom of opinion and expression within the first paragraph of that provision, while the second paragraph prescribes that freedom of expression can be limited by law, if it is necessary to protect the rights and reputation of others, preserve the authority and impartiality of the court, and protect public health and moral of democratic society and national security of the Republic of Serbia.

The criminal offense of defamation has been decriminalized. Namely, in the Criminal Code ("Official Gazette of RS", no. 85/2005, 88/2005-ispr., 107/2005-ispr., 72/2009, 111/2009, 121/2012) , until the amendments in 2012, there was a criminal offense of defamation - in the chapter that referred to the violation of honour and reputation. Criminal proceedings were initiated by a private lawsuit and only fines were prescribed.

By the current provisions of the Crimanl Code the crimanl act of *Insult* is prescribed (art. 170)

In paragraph 1 of this Article it is prescribed that *whoever insults another person, shall be punished with a fine ranging from twenty to one hundred daily amounts or a fine ranging from forty thousand to two hundred thousand dinars.* (2) *If the offence specified in paragraph 1 of this Article is committed through the press, radio, television or other media or at a public gathering, the offender shall be punished with a fine ranging from eighty to two hundred and forty daily amounts or a fine ranging from one hundred and fifty to four hundred and fifty thousand dinars. (3) If the insulted person returns the insult, the court may punish or remit punishment of both parties or one party. (4) There shall be no punishment of the perpetrator for offences specified in paragraphs 1 through 3 of this Article if the statement is given within the framework of serious critique in a scientific, literary or art work, in discharge of official duty, journalist tasks, political activity, in defence of a right or defence of justifiable interests, if it is evident from the manner of expression or other circumstances that it was not done with intent to disparage.*

In principle, the protection of honour and reputation can be sought in civil proceedings based on Article 200 of the Law on Obligations. In addition, the provisions of the Law on Public Information and Media contains the rules concerning exercising freedom of expression and the rights and obligations of the media and producers of media content. *Pursuant to Article 79,*

paragraphs 1 and 2 of the Law on Public Information and Media, the personal dignity (honor, reputation, or piety) of the person to whom the information relates is legally protected. Publication of information that harms honour, reputation or piety, i.e. portrays a person in a false light by attributing characteristics that he/she does not have, or by renouncing the characteristics of the individual, should not be allowed if the interest in publishing the information does not prevail the interest of protecting dignity and the right to authenticity, especially if it does not contribute to the public debate about the phenomenon, event or person to which the information refers (Judgment of the Supreme Court of Cassation No. Rev 4599/2020).

Further, according to this Law, protection is provided if published information violates the presumption of innocence (Article 84), contains information related to criminal proceedings (Article 85), if it contains the hate speech (Article 86), or personal information without consent are published (Article 90 and 91) etc.

The notion of "slap lawsuits" has not been envisaged in the legislation of the Republic of Serbia. This notion relates to so-called "chilling effect", alleged way to discourage or deter journalists and the media from active public engagement (similarly in Croatia, Italy, Poland...).

However, this does not mean by itself that it is not possible to obtain protection before the court, relying on the provisions of the Law on Public Information and Media and other applicable legislation including provisions of the European Convention of Human Rights. With regard to this, we refer to the judgment of the Higher Court in Belgrade (P3 127/22 upheld by the judgment of the Appellate Court Gž3 387/22 of 16 November 2023) in the proceedings initiated by A.S, member of the political party ("Srpska napredna stranka") claiming the that the defendant (association "Eutopija", and journalists V.M and M.V) should be obliged to pay the plaintiff because of the alleged violation of his honour and reputation jointly the amount of RSD 500,000 with statutory interest.

In the reasoning of the judgment of the Appellate Courts', it is indicated that in accordance with Articles 5, 8, 9, 73, 79, 112, 113, 114, 115 and 120 of the Law on Public Information and Media, then articles 46, 50 i 51 of the Constitution, as well as the Article 10 of the European Convention for the Protection of Human Rights and International Covenant on Civil and Political Rights, the claim should be dismissed. It is noted that the disputed text contains criticisms with regards of the work of the plaintiff as a member of the municipal council of the Municipality of Rača (who was also a former Member of Parliament), and that the topic of the text was spending of budget funds for the construction of wastewater processing facility, as well as that there is a legitimate interest of the public to be informed about the specific topic. In this case the first-instance court concluded that interference in journalists' freedom of expression can be justified only by a pressing social need when it's necessary in a democratic society, which wasn't the case here. The article didn't contain information that could harm the honor and reputation of the plaintiff, rather, it represents the journalists' guaranteed right to investigate all circumstances and facts about events that are of interest of the public and to inform the public about those facts as well. The court concludes that there was no basis for the defendants' accountability in terms of Article 113 and 114 of the Law on Public Information and Media, so the claim was dismissed.

- **Please inform on how you are following up on alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists.**

The Ministry of Information and Telecommunications

The Ministry of Information and Telecommunications is taking notice of alerts lodged with the Council of Europe's Platform to promote the protection of journalism and the safety of journalists. Proceedings in these cases are under the jurisdiction of other institutions such as the Ministry of Internal Affairs and the Ministry of Justice (prosecution and court proceedings).

- **Regarding access to documents of public importance, we are aware of the annual statistics issued by the Commissioner for Personal Data Protection and Information of Public Importance as regards the total number of requests and decisions issued by the Commissioner to public entities and their follow-up. Do disaggregated data exist for requests submitted by media outlets?**

Commissioner for Information of Public Importance and Personal Data Protection

Journalists and media representatives filed 261 complaints to the Commissioner in 2023 (or 1.56% of the total number of filed complaints in 2023). The largest number of these complaints, 128 were filed because of the so-called "administrative silence". In 2023, 101 complaints from journalists and media representatives were resolved (complaints that were transferred as unresolved from 2022 were also resolved).

Based on the submitted annual reports on actions by the Law on Free Access to Information of Public Importance, which the authorities submit to the Commissioner every January, the following was determined:

- The number of submitted reports for 2023 is 5,238;

- A total of 42,080 requests for access to information were recorded, of which 2,929 requests were submitted by the media, which is 7% of the total number of requests submitted.

Judiciary

Independence and accountability

- **In the context of the recent constitutional amendments, could you please outline the organisation of the justice system and the prosecution system in Serbia (number of basic courts, special courts, highest courts and jurisdiction, number of prosecution offices and structure of prosecution service)?**

Ministry of Justice

As we mentioned earlier, since in the process of drafting the new Law on the Organization of Courts and the Law on Public Prosecutions, it was concluded that there is no need to change

the jurisdiction of courts and public prosecution offices, nor to establish some new specialized courts and public prosecution offices, nor to change territorial jurisdiction of the judicial authorities, we are of the opinion that it is not necessary to make any interventions in the Law on Seats and Areas of Courts and Public Prosecutors' Offices for the reason that it is a Law of a technical nature that exclusively regulates the territorial jurisdiction of courts and public prosecutors' offices. Nevertheless, an overview of the number of judicial authorities in accordance with the positive normative framework is as following:

- Law on Organisation of Courts (Official Gazette of the RS, n. 10/2023),
- Law on Seats and Areas of Courts and Public Prosecutor's Offices (Official Gazette of the RS, n. 101/2013),
- Law on the organization and competence of state bodies in combating organized crime, terrorism and corruption (Official Gazette of the RS, n. 94/2016, 87/2018 and 10/2023),
- Law on Organisation and Jurisdiction of State Authorities for War Crimes Proceedings (Official Gazette of the RS, n. 67/2003, 135/2004, 61/2005, 101/2007, 104/2009, 101/2011, 6/2015 and 10/2023),
- Law on Organisation and Jurisdiction of State Authorities for Combating Cybercrime (Official Gazette of the RS, n. 61/2005, 104/2009 10/2023 and 10/2023),
- Law on Administrative Court (Official Gazette of the RS, n. 111/2009).

According to the Law on Organisation of Courts, judicial power in the Republic of Serbia is vested in courts of general and special jurisdiction. Courts of general jurisdiction are basic courts, higher 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 (Art.14.). The Supreme Court is the court of highest instance in the Republic of Serbia.

The Law on Seats and Territorial Jurisdiction of Courts and Public Prosecutors Offices establishes misdemeanour, basic, higher, commercial and appellate courts (Art.1.). There are:

- 44 misdemeanour courts (Art.2.),
- 66 basic courts (Art.3.),
- 25 higher courts (Art.4.),
- 16 commercial courts (Art.5.) and
- 4 appellate courts (Art.6.).

The Law on Organisation and Jurisdiction of State Authorities in Supression of Organised Crime, Terrorism and Corruption stipulates in Art. 7. that the Higher Court in Belgrade, as the first instance, has jurisdiction over the territory of the Republic of Serbia for dealing with cases of criminal offenses from Art. 3. of this Law. This jurisdiction is exercised by the Special Department of the Higher Court in Belgrade for Organized Crime. The Appellate Court in Belgrade, for the territory of the Republic of Serbia, is competent for deciding in the second instance in cases of criminal offenses from Art. 3. of this Law. This competence is exercised by the Special Department of the Appellate Court in Belgrade for organized crime. Regarding suppression of corruption, according to Article 18 of this Law in Higher Courts in Belgrade, Kraljevo, Niš and Novi Sad, special departments were established for the purpose of acting in criminal cases referred to in Article 13 of this Law.

The Law on Organisation and Jurisdiction of State Authorities for War Crimes Proceedings stipulates in Art. 9. that the Higher Court in Belgrade, as the first instance, is competent for dealing with cases of criminal offenses from Art. 2. of this Law. According to Art.10. of the

Law, the Department for War Crimes is established in the Higher Court in Belgrade to deal with cases of criminal offenses from Art. 2. of this Law. The Appellate Court in Belgrade is competent for deciding in the second instance.

The Law on Organisation and Jurisdiction of State Authorities for Combating Cybercrime stipulates in Art. 10. that the Higher Court in Belgrade, for the territory of the Republic of Serbia, is competent for dealing with cases of criminal offenses from Art. 3. of this Law. The Appellate Court in Belgrade is competent for deciding in the second instance.

An overview of the number of public prosecutor's offices in accordance with the positive normative framework is as following:

- Law on Public Prosecution (Official Gazette of the RS, n. 10/2023),
- Law on Seats and Areas of Courts and Public Prosecutor's Offices,
- Law on the organization and competence of state bodies in combating organized crime, terrorism and corruption,
- Law on Organisation and Jurisdiction of State Authorities for War Crimes Proceedings,
- Law on Organisation and Jurisdiction of State Authorities for Combating Cybercrime.

According to the Law on Public Prosecution, prosecutorial power in the Republic of Serbia is vested in prosecutions of general and special jurisdiction. Public Prosecutions of general jurisdiction are Basic Prosecutors' Offices, Higher Prosecutors' Offices, Appellate Prosecutors' Offices and the Supreme Public Prosecutors Office. Public Prosecutions of special jurisdiction are Public Prosecutors Office for Organized Crime and Public Prosecutors Office for War Crimes.

The Supreme Public Prosecutors Office is the public prosecutor's office of highest instance in the Republic of Serbia.

The Law on Public Prosecution establishes basic, higher, appellate courts and Supreme Public Prosecutors Office.

There are:

- 58 Basic Prosecutors' Offices,
- 25 Higher Prosecutors' Offices,
- 4 Appellate Prosecutors' Offices,
- Supreme Public Prosecutors Office,
- Public Prosecutors Office for Organized Crime,
- Public Prosecutors Office for War Crimes.

The Law on Organisation and Jurisdiction of State Authorities in Suppression of Organised Crime, Terrorism and Corruption stipulates in Art. 5 that the Public Prosecutors Office for Organized Crime has jurisdiction over the territory of the Republic of Serbia for dealing with cases of criminal offenses from Art. 3 of this Law.

According to the Law on Public Prosecution Art. 13 within the Supreme Public Prosecutors Office it is organized the anti-corruption department, which monitors and directs the work of public prosecutors' offices, especially the Special Departments for Suppression of Corruption in higher public prosecutor's offices in Belgrade, Novi Sad, Niš and Kraljevo, in dealing with cases of criminal offenses of corruption and economic crime, including criminal offenses money laundering, as well as confiscation of property resulting from a criminal offense.

The Law on Organisation and Jurisdiction of State Authorities for War Crimes Proceedings stipulates in Art. 4 that the Public Prosecutors Office for War Crimes is competent for dealing with cases of criminal offenses from Art. 2 of this Law.

The Law on Organisation and Jurisdiction of State Authorities for Combating Cybercrime stipulates in Art. 4 that the Special Public Prosecutor for Cybercrime at Higher Prosecutors' Office, for the territory of the Republic of Serbia, is competent for dealing with cases of criminal offenses from Art. 3. of this Law.

High Judicial Council

In Serbia, after the recent Constitutional amendments, there are 159 courts of general and special jurisdiction.

The Courts of general jurisdiction are:

- 66 Basic Courts,
- 25 Higher Courts,
- 4 Appellate Courts
- 1 Supreme Court

The Courts of special jurisdiction are:

- 44 Misdemeanour Courts,
- 1 Higher Misdemeanour Court for the territory of the Republic of Serbia, with seats in Belgrade with 3 Departments outside the seats
- 16 Commercial Courts,
- 1 Commercial Appellate Court for the territory of the Republic of Serbia and
- 1 Administrative Court for the territory of the Republic of Serbia, with seats in Belgrade with 3 Departments outside the seats.

The Supreme Court is the highest court in the Republic of Serbia, immediately superior to the Commercial Appellate Court, the Misdemeanour Appellate Court, the Administrative Court and the appellate courts. The appellate courts are immediately superior to the higher courts and the basic courts. The Commercial Appellate Court is immediately superior to the commercial courts, and the Misdemeanour Appellate Court is immediately superior to the misdemeanour courts. The higher courts are immediately superior to the basic courts when so stipulated in the Law on Organization of Courts.

Jurisdiction of Basic Courts:

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 also shall adjudicate in the first instance in civil litigation, unless some falls under the jurisdiction of another Court, and shall conduct enforcement and non-litigious proceedings that are not under the jurisdiction of another Court. Furthermore, 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. Basic Courts shall provide legal aid to citizens, provides international legal assistance, unless it falls under the jurisdiction of another Court and conduct other tasks specified by law. It may be provided for by law that only certain basic Courts from the territory of the same high Court proceed in particular legal matters.

Jurisdiction of Higher Courts:

At first instance a High Court:

- adjudicates in connection with criminal offence punishable by imprisonment of more than ten years as the principal penalty;
- 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 state or international organization; money laundering; violation of the law by the judge, public prosecutor and his/her deputy; jeopardizing air traffic safety; murder in the heat of passion; rape; sexual intercourse with a helpless person; sexual coercion by abuse of power; abduction; 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;
- adjudicates in criminal proceedings against a juvenile criminal offender,
- decides on a petition to suspend security measures or legal consequences of convictions for criminal offences under its jurisdiction;
- decides on requests for rehabilitation;
- decides on prohibition of distribution of press and dissemination of information through the public information media;
- adjudicates in civil disputes where the value of the subject of the lawsuit allows review; in cases concerning copyright and other related rights, protection and use of inventions, industrial design, trademarks, designations of geographical origin, topography of semiconductor products and the rights of breeders of plant varieties unless if it falls under the jurisdiction of another court; in cases concerning denying 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
- 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 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:

- on imposing measures to secure presence of the accused and unhindered course of criminal proceedings;

- or the criminal offences punishable by fine and imprisonment of up to five years;
- against rulings 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 in the second instance decides on the appeal against the decision of the public bailiff or public notary in accordance with the law.

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 recognizing and enforcement of foreign court and arbitration-related decisions, if the law doesn't stipulated otherwise, decide on conflicts of jurisdiction between basic courts from its territory, ensure and provide assistance and support to witnesses and victim, 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 Courts:
Appellate courts decide on appeals against:

- decisions of high courts;
- decisions of basic courts in criminal proceedings, unless under the jurisdiction of a higher court is to decide on the appeal concerned;
- judgements of basic courts in civil disputes unless under the jurisdiction of a higher court is to decide on the appeal concerned.

Appellate courts decide on conflicts of jurisdiction between lower instance from its territory, unless its falls under the jurisdiction of higher court, on transferring the jurisdiction of the basic and higher courts, from its territory, if there are justified reasons and performs other jurisdictions and tasks specified by law.

Appellate courts 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 harmonization of case law.

Jurisdiction of Commercial Court
Commercial courts shall adjudicate in the first instance:

- 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;
- in disputes about copyright and related rights, and the protection and use of inventions, industrial designs, 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;

- 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;
- 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; 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 Article 27 of the Law on Organisation of the Courts if the law doesn't stipulate otherwise; rule on and conduct enforcement and securing of decisions of commercial courts, if the law doesn't stipulate otherwise, and decisions of selected courts, only when passed in the disputes referred to in paragraph 1, item 1 of Article 27 of the Law on Organisation of the Courts if the law doesn't stipulate otherwise; rule on the recognition and enforcement of foreign court and arbitral decisions passed in the disputes referred to in paragraph 1, item 1 of Article 27 of the Law on Organisation of the Courts if the law doesn't stipulate otherwise; 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
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 in the second instance decides on the appeal against the decision of the public bailiff or public notary 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.

Jurisdiction of Misdemeanour Courts
A misdemeanour court shall adjudicate in the first instance in misdemeanour cases, 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
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
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.

Jurisdiction of the Supreme Court
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 in a case of existence of reasons prescribed by law.

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.

Special Departments for Suppression of Organised Crime, Terrorism and Corruption, Department for a War Crimes and jurisdiction for criminal offences of cybercrime

Additionally, it is important to mention that the Higher Court in Belgrade has the jurisdiction of the first instance court of the territory of the Republic of Serbia for acting in the subject matters of criminal offences of organised crime and terrorism, while the Appellate Court in Belgrade has jurisdiction of the second instance court in these cases. For that purpose, special departments are established in both of these courts.

For suppression of corruption, the Higher courts in Belgrade, Kraljevo, Niš and Novi Sad are competent as first instance ones to act in the subject matters of the criminal offences of corruption. All of these courts have also established special departments for suppression of corruption.

The Higher Court in Belgrade shall have the competent jurisdiction to proceed in cases involving criminal offences of war crimes, as a court of first instance. The Appellate Court in Belgrade shall have the competent jurisdiction to proceed in the second instance. Both of the courts established a War Crimes Department for that purpose.

The Higher Court in Belgrade has competent jurisdiction to proceed the cases involving criminal offences of cyber crime as the court of first instance, while the Appellate Court in Belgrade has the competent jurisdiction to proceed in the second instance.

High Prosecutorial Council

The system of Public Prosecution system in Serbia contains as follows: One Supreme Prosecutor's Office (on the top of hierarchy), 4 Appellate Prosecutor's Offices, 25 Higher Prosecutor's Offices, 58 Basic Prosecutor's Offices.

Apart from these are 2 public prosecutions offices with special jurisdiction: Public Prosecutor's Office for Organized Crime and Public Prosecutor's Office for War Crimes.

The Constitutional Amendments did not change the organizational structure of the public prosecution in Serbia.

In 2023 and 2024 so far there was only one permanent transfer of a public prosecutor, and it was with consent of the prosecutor in question.

- **Could you please update us on the number of transfers of judges (possibly also for prosecutors) with and without consent?**

High Judicial Council

In the context of the issue of transfer (according to the established criteria and criteria in accordance with the provisions of Article 19 of the Law on Judges) and the issue of referral (according to the established criteria and criteria in accordance with the provisions of Article 20 and Article 21 of the Law on Judges), in the period from January 1, 2023 to December 31, 2023, the High Judicial Council made a decision on the transfer of two judges and on the referral of seven judges.

From January 1, 2024 to March 3, 2024, the High Judicial Council made a decision on the transfer of one judge.

All transfers and referrals were done with the consent of judges.

High Prosecutorial Council

In 2023 and 2024 so far there was only one permanent transfer of a public prosecutor, and it was with consent of the prosecutor in question.

- **Could you please describe the dismissal and retirement regime for judges, court presidents and prosecutors (incl. judicial review and recent statistics)?**

High Judicial Council

The dismissal and retirement regimes for judges are regulated in the Law of Judges ("Official Gazette of the RS", No. 10/23). The provision of Article 64 of the Law on Judges stipulates that judicial function shall terminate at the request of a judge, when a judge has reached his working life, due to a permanent loss of working ability for judicial function, if his/her citizenship of the Republic of Serbia ceases or if he/she is dismissed. The following provisions of the Law of judges specify the conditions of the stated reasons for termination of a judicial office, namely: termination of judicial function at the request of a judge (Article 65), end of a

working career (Article 66), permanent loss of the ability to perform the judicial function (Article 67), as well as the dismissal of a judge (68-71).

Speaking of the retirement regime, the function of the judge ends when the judge reaches the end of his/her working career by force of law. According to this Law, the working career of a judge ends at the age of 65 years, except for a judge of the Supreme court who may perform judicial functions until the age of 67.

During the 2023, 136 judges were retired, while from January 1, 2024 to March 4, 2023, 19 judges were retired.

On the other hand, in accordance with the new legal solutions, a judge is dismissed if he/she has been convicted by final judgement for a criminal offense to imprisonment of at least six months or if it has been established in disciplinary proceedings that he/she has committed a serious disciplinary offense which, in the assessment of the High Judicial Council, seriously damages the reputation of the judicial function or public trust in the Courts.

The procedure for establishing the reasons for dismissal of a judge due to a final conviction for a criminal offence to imprisonment of at least six months is initiated and conducted by the High Judicial Council ex officio, but it can also be initiated at the proposal of a president of a court in which the judge performs a judicial function.

The High Judicial Council determines the facts on whether a serious disciplinary offence of a judge, determined by a final decision, is such that it seriously damages the reputation of the judicial office or the public trust in the courts. This procedure, like the previous one, is also initiated ex officio by the High Judicial Council or at the proposal of the Disciplinary Commission. In this case, the High Judicial Council is obliged to conduct the procedure and make a decision within 90 days from the date of initiation of the procedure for establishing the reasons for the dismissal of a judge. The decision of the High Judicial must be reasoned. In this procedure, the judge has the right to be informed immediately about the reasons for initiating the procedure, to become familiar with the case, the accompanying documentation and the course of the procedure, and to provide explanations and evidence for their allegations either directly or through an attorney. A judge also has the right to present his/her allegations in person before the High Judicial Council. This procedure is urgent and closed to the public, carried out by applying all guarantees of fair hearing, unless the judge against whom the proceeding is initiated requests that the proceeding is open to the public.

Article 72 of Law of Judges stipulates that the decision on the termination of a judge's office is made by the High Judicial Council, after the procedure in which it determines the reasons for the termination of office. This procedure shall be initiated and conducted by the High Judicial Council ex officio. The judicial function shall cease on the day specified by the High Judicial Council in its decision, except in the case referred to in Article 65, paragraph 3 (if the request of a judge for the termination of the office is not decided within 30 days, it is considered that the judge's office has ended after the expiration of the period of 30 days from the date of submission of the request) and Article 66 of this Law (the end of working career). The decision on termination of judicial office must be reasoned about and published in the "Official Gazette of the Republic of Serbia" and on the website of the High Judicial Council.

When it comes to the legal remedies, a judge has the right to lodge an appeal against the decision of the High Judicial Council on the termination of judicial office with the

Constitutional Court, within 30 days from the day of receipt of the decision, which excludes the right to submit a constitutional complaint. By its decision, the Constitutional Court can reject the appeal or adopt the appeal and cancel the decision on the termination of judicial function. The decision of the Constitutional Court is final and is published in the "Official Gazette of the Republic of Serbia".

On the other hand, the termination of the office of the president is prescribed by Article 79 of the Law of Judges. The function of the president of the court ends due to the termination of a judicial function, his/her election as a judge of another court, upon personal request, due to the termination of a court, at the end of the term of office, and due to dismissal from the position of the president of the court. The High Judicial Council decides on the termination of the office of the president of the court.

The president of the court shall be dismissed in the case of major violation of obligations set out by the provisions governing the court administration, violation of the principle of independence of judges, violation of rules on the allocation of cases, departure from the rules that regulate the Annual Calendar of Judges, due to a serious disciplinary offence committed while performing the function of the president of the court or due to incompetence. The president of the court is deemed incompetent to act as a president of the court if his/her performance is evaluated as „performing the function of the court president unsatisfactorily", based on the criteria and standards for the evaluation of the president of the court.

The proceedings for establishing the reasons for dismissal of the president of the court are initiated and conducted by the High Judicial Council ex officio, but the proposal for the initiation of the proceedings for establishing the reasons for dismissal of the president of the court may also be initiated upon the proposal of the president of the immediately superior court, the session of all judges whose president is concerned, the body responsible for performance evaluation of the president of the court, and the Disciplinary Commission.

The High Judicial Council decides on the dismissal of the president of the court, after conducting a procedure to determine the reasons for such a dismissal. The President of the court has the right to be informed immediately about the reasons for initiating the procedure, to become familiar with the case, the accompanying documentation and the course of the procedure, and to provide explanations and evidence for their allegations either directly or through an attorney. A president of the court has the right to present his/her allegations in person before the High Judicial Council. A president of the court also has the right to lodge an appeal against the decision of the High Judicial Council on the dismissal with the Constitutional Court within 30 days from the day of receipt of the decision, which excludes the right to submit a constitutional complaint.

The president of the court who is dismissed shall continue to carry out his/her judicial function he/she performed prior to such an appointment.

During 2023, one judge was dismissed.

High Prosecutorial Council

The decision on the termination of the public prosecutor's office for the public prosecutor and the chief public prosecutor is made by the HPC, after the procedure in which it determines the reason for the termination of the public prosecutor's office.

The reasons for the termination of the function may be: retirement, loss of citizenship, loss of capacity to perform public prosecutor's function, dissmissal or personal request.

The holder of the public prosecutor's office shall be dismissed if he or she is sentenced for a criminal offense to a prison sentence of at least six months, or if in the procedure for determining the reason for his/her dismissal it is established that he/she committed a serious disciplinary offense which, according to the HPC, seriously damages the reputation of the public prosecutor's office and public trust in the public prosecutor's office.

In 2023 there were 29 terminations of public prosecutor's function altogether. Out of that number 22 were retirements, 6 were termination of the function on personal request and one was the case of dismissal.

- **Could you please provide a description of the legal framework on judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)?**

Ministry of Justice

The legal framework for judicial immunity, criminal/civil liability of judges and judicial review are based on articles of the following legislation:

1) The Constitution of the Republic of Serbia ("Official Gazette the Republic of Serbia", No. 98/06 and 16/22)

Immunity and Incompatibility is regulated by Article 148 of the Constitution of the Republic of Serbia.

Article 148

"A judge may not be held responsible for his/her opinion expressed in relation to performance of judicial function or voting on the occasion of passing of a court decision, unless if he/she has committed a criminal offence of violation of the law by a judge or a public prosecutor.

A judge may not be deprived of liberty in the legal proceedings initiated for a criminal offence committed while performing the judicial function without the approval of the High Judicial Council.

The law shall regulate the functions, actions or the private interests which are incompatible with the judicial function and function of a lay judge.

A judge shall be prohibited to engage in political actions."

2) The Law on Judges ("Official Gazette of Republic of Serbia", No. 10/23)

Immunity is prescribed by Article 6 of the Law on Judges.

Article 6

“A judge may not be held accountable for an opinion expressed in relation to performing of judicial office or for voting when adjudicating, except where he/she has committed a criminal offence of breaching the law by a judge or a public prosecutor.

A judge may not be deprived of liberty without approval of the High Court Council in a proceedings initiated due to a criminal offence committed in performing his/her duty.

Liability for damage is foreseen by Article 7 of the Law on Judges.”

Article 7

“The Republic of Serbia shall be liable for any damage incurred by a judge through unlawful or improper work.

If the Republic of Serbia has paid the damage referred to in paragraph 1 of this Article based on a final judicial decision and/or settlement concluded before a court, it may demand compensation for the amount paid from the judge, if the damage has been caused intentionally.

If it is determined by a decision of the Constitutional Court or another court in the Republic of Serbia, European Court of Human Rights or another international court, that there has been a violation of human rights and basic freedoms in the course of a judicial proceedings and that the judgement is based on such violation or that there has been any defaulting in passing judgement due to a violation of the right to trial within reasonable time, the Republic of Serbia may demand compensation for the amount paid from the judge, if the damage has been caused intentionally.

At the request of the Minister in charge of judiciary, the State Attorney's Office shall be obliged to initiate a civil proceeding before the court of relevant jurisdiction for compensation for the amount paid referred to in paragraphs 2 and 3 of this Article, upon prior obtaining of an opinion from the High Court Council. The High Court Council shall provide the opinion within 30 days from the date of submission of the application for obtaining the opinion.”

- **Could you please update us on allocation of cases, for which courts is this still not being done automatically based on objective rules and what is the reason for it?**

Ministry of Justice

The Ministry of Justice has implemented an improved formula for assigning cases to judges (case weight), which was adopted by a special Working Group formed by the High Judicial Council and it was implemented in all basic, higher and commercial courts in Serbia.

The working group for amending the Court Rules of Procedure was formed by the Ministry of Justice (which also includes authorized representatives of the High Judicial Council) and has already begun work on amending the Court Rules of Procedure, which also includes the issue of specifying the rules on automatic (random) distribution of cases. One of the criteria for the distribution of cases will be the complexity of the case. This sub-legal act, in accordance with the provisions of Article 94, paragraph 1 of the Law on the Organization of Courts ("Official Gazette of the RS", number 10/23), will be adopted within one year from the date of constitution of the High Judicial Council (9th May 2024).

- **What are the safeguards in place to ensure prosecutorial autonomy?**

Ministry of Justice

The Constitution of the Republic of Serbia ("Official Gazette of the RS", No. 98/06, 115/21 and 16/22) foresees safeguards to ensure prosecutorial autonomy.

According to **Article 155** it is foreseen that:

"The Public Prosecutor's Office shall be a single and autonomous state body that shall prosecute perpetrators of criminal and other criminal acts, and performs other competencies that protect the public interest determined by law.

The Public Prosecutor's Office shall exercise its competencies on the basis of the Constitution, ratified international treaties, laws, generally accepted rules of international law and other general acts, adopted in accordance with the law.

No one outside the public prosecutor's office can influence the public prosecutor's office and the holders of the public prosecutor's function in conducting and deciding in a particular case.

The establishment, abolition, organization and competence of the public prosecutor's office shall be regulated by law.

The highest public prosecutor's office in the Republic of Serbia shall be the Supreme Public Prosecutor's Office, which is headed by the Supreme Public Prosecutor.

The function of the Public Prosecutor's Office shall be performed by the Supreme Public Prosecutor, Chief Public Prosecutors and Public Prosecutors.

The Supreme Public Prosecutor and the Chief Public Prosecutor shall have hierarchical powers in the management of public prosecutor's offices in relation to the actions of chief public prosecutors and public prosecutors in a specific case.

Hierarchical powers and legal remedies against them shall be regulated in more detail by law."

Article 158 prescribes:

"The Supreme Public Prosecutor shall be elected by the National Assembly, for a term of six years, at the proposal of the High Prosecutorial Council after a public competition, by the votes of three-fifths of all MPs, in accordance with the law.

The High Prosecutorial Council shall propose to the National Assembly one candidate for the Supreme Public Prosecutor.

If the National Assembly fails to elect the Supreme Public Prosecutor within the time limit, after expiry of the next ten days, he shall be elected by the commission consisting of the Speaker of the National Assembly, the President of the Constitutional Court, the President of the Supreme Court, the Supreme Public Prosecutor and the Protector of Citizens, from among all eligible candidates, by a majority of votes.

The same person cannot be re-elected as the Supreme Public Prosecutor.

The Chief Public Prosecutor shall be elected by the High Prosecutorial Council, for a term of six years.

Before the expiration of the term for which the Supreme Public Prosecutor and the Chief Public Prosecutor were elected, their function shall cease: if they so request, if the Public Prosecutor's Office is abolished, if they permanently lose their ability to perform the function of Chief Public Prosecutor, if their citizenship of the Republic of Serbia ceases, or if they are dismissed.

The Supreme Public Prosecutor and the Chief Public Prosecutor shall be dismissed if they are convicted to a criminal offense and sentenced to imprisonment of at least six months or if any of the statutory grounds for dismissal occur.

The Chief Public Prosecutor shall have the right to appeal against the decision of the High Prosecutorial Council on termination of office to the Constitutional Court, which shall exclude the right to a constitutional appeal.

The Supreme Public Prosecutor and the Chief Public Prosecutor whose function of public prosecutor terminates shall remain in the position of Public Prosecutor, in accordance with the law."

Permanence of Public Prosecutor's Function is foreseen in Article 160.

Article 160

"The function of the public prosecutor shall be permanent.

The function of the public prosecutor shall end prior to the end of his working age: if he so requests, if he permanently loses the working capacity to perform the function, if his citizenship of the Republic of Serbia ends or if he is dismissed.

A public prosecutor shall be dismissed if he is sentenced for a criminal offence to at least six months of imprisonment or if a disciplinary procedure determines that he has committed a serious disciplinary offense which, according to the High Prosecutorial Council, seriously damages the reputation of the public prosecutor's office or confidence of the general public in the office of the public prosecutor.

The decision on the termination of the function of the public prosecutor shall be made by the High Prosecutorial Council.

Against the decision of the High Prosecutorial Council on the termination of function, the public prosecutor shall have the right to appeal to the Constitutional Court, which excludes the right to a constitutional appeal."

Immunity and Incompatibility is regulated by Article 161.

Article 161

"The Supreme Public Prosecutor, the Chief Public Prosecutor and the Public Prosecutor may not be held liable for an opinion given or a decision made in the exercise of office, unless they commit the criminal offence of violating the law by a judge or public prosecutor.

The Supreme Public Prosecutor, the Chief Public Prosecutor and the Public Prosecutor may not be deprived of their liberty in the proceedings initiated for a criminal offense committed in connection with the performance of their function without the approval of the High Prosecutorial Council.

The law shall regulate which functions, jobs or private interests are incompatible with the functions of the Supreme Public Prosecutor, the Chief Public Prosecutor and the Public Prosecutor."

2) The Law on the Public Prosecutors Office ("Official Gazette of the Republic of Serbia", No. 10/23) also foresees safeguards to ensure prosecutorial autonomy.

Autonomy of the public prosecution is regulated by Article 5.

Article 5

“The Public Prosecutor's Office is autonomous in exercising its jurisdiction.

No one outside the public prosecutor's office can influence the public prosecutor's office and the holder of the public prosecutor's office in handling and deciding on a particular case.”

Prohibition of undue influence id proscribed by Article 6**.**

Article 6

“In order to preserve the authority and impartiality of the public prosecutor's office, inappropriate influence on the holder of the public prosecutor's office in the performance of the public prosecutor's office is prohibited, especially any form of threat and coercion against the holder of the public prosecutor's office, the use of public positions, the media and public speaking, which influence the actions of the public prosecutor's office. Any other inappropriate influence on the public prosecutor's office, as well as pressure on the participant in the proceedings before the public prosecutor's office, is prohibited.

The use of legally prescribed rights of participants in the proceedings, reporting on the work of the public prosecution in accordance with the regulations governing public information, as well as expert analysis of the actions of the public prosecution, cannot be considered under undue influence from paragraph 1 of this article.

The Supreme Public Prosecutor, the Chief Public Prosecutor and the Public Prosecutor are obliged to reject any action that represents an undue influence on the independence of the Public Prosecutor's Office, as well as to report such influence to the High Prosecutorial Council.

The holder of the office of public prosecutor may submit a request for protection against undue influence to the High Prosecutorial Council.

The method of submission and the procedure for the request for protection against undue influence is prescribed by the act of the High Prosecutorial Council.”

Autonomy is stipulated by Article 50.

Article 50

“The holder of the public prosecutor's office is autonomous in the performance of the public prosecutor's office from the executive and legislative authorities.

The holder of the office of public prosecutor is obliged to maintain confidence in his independence in his work.”

Code of ethics is stipulated by Article 52.

Article 52

“The holder of the public prosecutor's office acts in accordance with the Code of Ethics, which is adopted by the High Prosecutorial Council, in order to improve the dignity of the public prosecutor's office and the reputation of the holders of the public prosecutor's function and the public prosecution.

The Ethics Committee ensures compliance with the Code of Ethics.

The Code of Ethics regulates the principles of legality, independence, impartiality, proportionality, responsibility, dedication and dignity. All public authorities and public officials are obliged to maintain trust in the autonomous and impartiality of the holder of the public prosecutor's function and the public prosecution by their actions and behaviour."

Prohibition of political activity is stipulated by Article 54.

Article 54

"The holder of the office of public prosecutor cannot be a member of a political party.

The holder of the office of public prosecutor is obliged to refrain from public expression of political views and participation in public debates of a political nature, unless it concerns issues concerning public prosecution, constitutionality and legality, human rights and fundamental freedoms.

The holder of the office of public prosecutor is obliged to refrain from participating in the political activities of political subjects."

Material position is regulated by Article 55.

Article 55

"The holder of the public prosecutor's office has the right to a salary and pension in accordance with the dignity of the public prosecutor's office and the responsibility of the holder of the public prosecutor's office.

The holder of the office of public prosecutor has the right to a salary and pension sufficient to ensure his autonomy and financial security.

The salary of the holder of the office of public prosecutor is regulated by this law."

Immunity is stipulated by Article 57.

Article 57

"The holder of the public prosecutor's office cannot be held accountable for the opinion given or the decision made in connection with the exercise of the public prosecutor's office, unless he commits a criminal act of violation of the law by a judge or public prosecutor.

The holder of the public prosecutor's office cannot be deprived of his liberty in proceedings initiated due to a criminal offense committed in connection with the performance of the public prosecutor's office, without the approval of the High Prosecutorial Council."

Duration of the public prosecutor's office is foreseen by Article 61.

Article 61

"The public prosecutor function of the public prosecutor is permanent and ends for the reasons prescribed by the Constitution and this law**."**

High Prosecutorial Council

Prosecutorial autonomy is protected in the first place by the Constitution and the set of public prosecutorial laws. The Law on Public Prosecutor's Office predicts that in order to preserve the authority and impartiality of the public prosecutor's office, inappropriate influence on the holder of the public prosecutor's office in the performance of the public prosecutor's office is prohibited, especially any form of threat and coercion against the holder of the public prosecutor's office, the use of public positions, media and public speaking, which influence the actions of the public prosecutor's office. Any other inappropriate influence on the public prosecutor's office, as well as pressure on the participant in the proceedings before the public prosecutor's office, is prohibited.

The Commissioner for Independence of the High Prosecutorial Council addresses cases of alleged undue influence. Undue internal influence (within the hierarchy) is additionally protected by the newly introduced legal remedy – an objection to the mandatory instruction of the higher public prosecutorial office that is decided upon by the independent Commission of the HPC.

- **What are the rules in place to ensure the independence of the Bar?**

Ministry of Justice

Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", No. 98/06 and 16/22) provides right to legal assistance in Article 67.

Article 67

"Everyone shall be guaranteed right to legal assistance under conditions stipulated by the law. Legal assistance shall be provided by legal professionals, as an independent and autonomous service, and legal assistance offices established in the units of local self-government in accordance with the law. The law shall stipulate conditions for providing free legal assistance."

Also, the independence of the Bar is based on the articles of the Law on legal profession ("Official Gazette of the Republic of Serbia", No. 31/11 and 24/12). The article 2 provides the independence, autonomy, and public importance of the legal profession as following:

Article 2

"The legal profession is an independent and autonomous service providing legal assistance to individuals and legal entities.

Independence and autonomy of the legal profession are achieved through:

1) independent and autonomous practice of law;
2) the right of the client to freely choose an attorney of law;
3) organizing lawyers in the Bar Association of Serbia and bar chambers within its structure, as independent and autonomous organizations of an attorney of law;
4) issuing general acts by the bar associations;
5) deciding on admission to the legal profession and on the cessation of the right to practice law."

Additionally, other provisions of this Law confirm the independence of the legal profession (art. 17, 21, 44, 63, 86)

- **What system is in place to defend justice professionals against physical attacks and reputational attacks in the media? Have there been instances of such attacks in the last year and how have they been handled?**

High Judicial Council

In April 2021, with the amendments and additions to the Rules of Procedure of the High Judicial Council, the necessity for the High Judicial Council to promptly and effectively respond on behalf of judges and protect judges when a judge is contested or attacked in the media or when this is done through the media by political or other social actors was recognized. The adopted amendments created the normative preconditions, not only for the Council to act promptly and provide protection in cases of undue influence on an individual judge, but to also monitor these phenomena continuously, report on them to the public regularly and take action on their suppression.

Law on the Organization of Courts ("Official Gazette of the Republic of Serbia", no. 10/23) in provision of Article 8 clearly defines the definition of inappropriate influence. In paragraph 1 it is stipulated that 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. However, in paragraph 2, it is stipulated that the exercise of legally prescribed rights of participants in court proceedings, reporting on the work of the court and commenting on ongoing court proceedings or court decisions, in accordance with the regulations governing public information, as well as expertise, not analysing court proceedings and court decisions cannot be considered under undue influence.

Article 30 of Law of Judges stipulates that a judge may submit a request for the protection from the undue influence and that the manner of submission of the request and the procedure for protection against undue influence shall be prescribed by an act of the High Council of the Judiciary.

In accordance with these changes the High Judicial Council in December 2023 adopted the Rulebook on the protection of Judges and Courts from Undue Influence ("Official Gazette of RS" No. 110/2023) which regulates the appointment and manner of work of a judge competent to act upon a request for protection from undue influence, as well as the decision-making procedure of the High Council of the Judiciary on the existence of undue influence on the work of the judge and the court. Article 27đ of the aforementioned Rulebook stipulates that if, during the session, it determines the existence of impermissible influence on the judge or the judiciary, the Council can issue a press release, call a press conference, and address: to the head of the state body, which employs a civil servant who exerted illicit influence; to the competent bar association if the illegal influence was exerted by the lawyer; to the Press Council, the media association and the editor-in-chief of the media whose journalist exerted illegal influence; Chamber of Commerce whose member exerted illegal influence; as well as managers of other bodies, organizations, institutions, institutions and associations and that the Council can also recommend measures to prevent future unauthorized influence.

Furthermore, within the framework of the annual work report, the Council informs the public about cases of unauthorized influence on the work of judges and the judiciary. Publication of

the regular annual report on undue influence has a purpose of informing the public about these phenomena which, by endangering autonomy, impartiality and reputation of individual judges and the judiciary as a whole, violate the basic premises of a democratic society, the rule of law and principles of the separation of powers. Acquainting the public and raising awareness of the negative influence of undue influence contributes to achieving social and political consensus about the need for public condemnation and prevention of such behaviour. The purpose of reporting is also to acquaint the other two branches of power with cases of undue political influence in order to encourage them to adopt effective measures for prevention of any future such behaviour. Therefore, it is necessary for the other two branches of power to undertake publicly visible activities and measures so that this type of behaviour is condemned and prevented. The number and decisions concerning undue influence are described in discussion point no 4.1.

In order to prevent physical attacks, the top-ranking judicial office holders and other state officials may have personal security depending on the threat assessment and recommendation made by the Coordination Bureau for Security Services, according to the Decree on the assignment of jobs for the security protection of particular persons and facilities ("Official Gazette of the RS", No.72/2010, No. 64/2013).

Also, the Criminal Code provides more severe sanctions for punishing the Aggravated Murder of a judge and Endangerment of the Safety of a judge.

In a previous year there were no physical attacks on justice professionals.

High Prosecutorial Council

Criminal Code of Serbia is stipulating certain criminal acts which are envisaged to protect the Public Prosecutors and Judges from intimidation, threats, and physical attacks. Such actions are not frequent but still occasionally present. If it is needed, we can provide statistics about it. However, reputational attacks in the media are more frequent from all sides of the media and political spectrum. The High Prosecution Council responded directly to them in certain cases, while in others local competent Prosecution Offices had media reactions. Still, outcomes of such reactions are not clear since these attacks are continuing in accordance with political agenda of political and biased civil society organizations.

Professionalism, competence and quality

- **Are there any other bonuses available for judges and prosecutors apart from their normal salary? Have there been any observed changes (significant and targeted increase or decrease over the past year) concerning the remuneration/bonuses/rewards for judges and prosecutors?**

High Judicial Council

According to Article 46, paragraph 1 of the Law of Judges which provides that the basic salary of a judge performing function in a court where more than 10% of the judge's positions are unfilled or in which the scope of work is significantly increased, can be raised by 10% to 50%, proportionally to the number of unfilled positions and/or the scope of work increase, the salaries are currently raised in specific departments of the courts with increased scope of work.

The salaries of the judges who handle criminal cases with an element of organised crime and war crimes, are as well raised up to 100% by applying the provisions of Article 46, paragraph 2 of the Law of Judges.

Besides, from January 1, 2024, by the decision of Government the salaries are raised by 10% in the public sector, including the salaries of judges.

High Prosecutorial Council

Besides increases in the salaries in the Public Sector of the Serbian economy, aimed to suppress the inflation pressure, which included Courts and Prosecution as well, no other specific or significant salary increases occurred.

Prosecutors who are on on-call duty or have overtime working hours are receiving compensation in accordance with the law.
Article 78 of the new Law on Public Prosecution has been implemented only once so far due to the State Budget limits. Council is working diligently for resolution of this issue with the Ministry of Finance.

- **Could you please update us on the human, financial and material resources for the judiciary including on infrastructure and IT systems?**

Ministry of Justice

Human resources

In 2023, the Ministry of Justice approved 88 Act on the internal organization and systematization of jobs in the judiciary (51 for courts and 37 for prosecutor's offices)
The Commission of the Government of the RS for new employment gave approval for the filling of 208 executors. The Government Commission gave consent for new employment for 139 executors in courts and 69 in public prosecutor's offices.

Financial resources

Law on the Organization of Courts defines proposal and execution of budget funds in Article 87.

Article 87

"The scope 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 scope and structure of the budget funds necessary for the current expenses of the courts, except for the expenses for court personnel, in accordance with the Law on the High Judicial Council and distributes these funds to the courts.

The Ministry responsible for justice proposes the scope and structure of budget funds necessary for current expenditures for court personnel, maintenance of court equipment and facilities, expenditures for investment and capital investments for courts, arrangement and development of the judicial information system, and distributes these funds."

Law on Public Prosecution defines proposal and execution of budget funds in Article 142.

Article 142

"The scope and structure of budget resources for the work of the public prosecution are proposed by the High Prosecutorial Council and the Ministry responsible for justice.

The High Prosecutorial Council proposes the scope and structure of budget funds necessary for the current expenses of the Public Prosecutor's Office, except for staff expenses in the Public Prosecutor's Office, in accordance with the Law on the High Prosecutorial Council and distributes these funds to public prosecutors' offices.

The Ministry responsible for justice proposes the scope and structure of budget funds necessary for current expenditures for personnel in the public prosecution, maintenance of equipment and facilities of public prosecutions, expenditures for investment and capital investments for public prosecutions, arrangement and development of the judicial information system and distributes these funds."

Total approved funds for 2023 under the jurisdiction of the Ministry of Justice for courts is 15,028,766,000 RSD and for public prosecutions is 2,639,643,000 RSD.

Material Resources

The Department for Investments, within the Ministry of Justice, as in previous periods, undertook the necessary activities to improve the accommodation and material and technical working conditions of judicial authorities within the framework of the available funds provided by the Laws on the Budget of the Republic of Serbia for the corresponding years. The funds for investments and procurement of equipment for judicial authorities were provided for the most part from the budget funds (source 01).

The distribution of the allocated funds was carried out in accordance with the financial plans for the corresponding years and the priorities for investment maintenance and equipment. In this sense, the funds were planned and realized both for the start of new and for the continuation of the previously initiated investments in the capital maintenance of facilities (item 511 - Buildings and Construction Facilities) with the aim of improving the accommodation conditions of judicial authorities and creating the necessary conditions for the efficient functioning of the new network of courts and prosecutor's offices.

Based on the requests submitted by judicial authorities, monitoring and comparison of the existing equipment, the necessary computer, security, office and other equipment was procured in order to improve the technical working conditions.

The implementation of the modernization of computer systems and equipment of judicial authorities was continuously monitored, and in this sense the necessary equipment (item 512 - Machines and Equipment) was procured in the facilities of courts and prosecutor's offices.

- January 1, 2023 – December 31, 2023

  In the aforementioned period, the following funds were transferred to judicial authorities in accordance with the requirements and needs for the following budgetary classification:
  425 - ongoing maintenance of facilities and equipment ..... RSD 125,825,000.00
  511 - buildings and construction facilities..... RSD 34,356,000.00
  512 – machines and equipment ..... RSD 98,286,000.00

  In addition, the following capital projects were implemented:

- Project 5006 – procurement of necessary equipment for the functioning of judicial authorities

  Within this project, various procurements related to computer equipment were planned in order to improve and digitalize the judicial system (a detailed report is available at the ICT Group), as well as to facilitate the process of archiving and procurement of necessary furniture for the facilities of judicial authorities.

- Project 5009 – Management of accommodation and technical working conditions of the judicial authorities in Niš

  Reconstruction of the former "Filip Kljajić" barracks (number of floors B+GF+2, gross area=12,612m2) for the needs of the judicial authorities in Niš - The works are planned in 2 phases.

  In the previous period, the works of Phase 1 were completed (reconstruction of the south wing GF=2500 m^2 and connection of that part to the city heating) with the total value of RSD 107,483,235.80 (including VAT).

  The works of Phase 2 - reconstruction and adaptation of the eastern and northern wings of the building, with an area of approximately 10,000 m^2, as well as the complete facade and roof of the building, are currently underway. The contracted value of the works amounts to RSD 662,590,816.00 (including VAT), expert supervision services (value RSD 11,700,000) and design supervision services (value RSD 7,140,000). Construction of a power substation with installations (value of the works RSD 77,915,184.00). In addition to the works, the procurement of necessary equipment (furniture, computers, archive shelves, security equipment, etc.) is also planned.

  It is also planned to carry out works on the exterior decoration, under the project which is ongoing.

- Project 5010 – Improvement of accommodation and technical working conditions of judicial authorities

  Within this project in 2023, it is planned to carry out the following works:
  1. Reconstruction and adaptation of the existing building of the Basic Court in Ub (gross area 1815$м^2$)

  The contracted value amounts to RSD 134,549,850.22 (including VAT), as well as expert supervision service (value RSD 2,500,000). The dynamic of the works progress is slightly slower due to the weather conditions and the unforeseen works encountered during the reconstruction, as well as the contracting procedures preceding the works. The contractor

started the work on December 22, 2022. The planned timeline is 12 months (end of the year).

2. Works on the reconstruction and adaptation of the existing facade of the building of the Higher Court in Valjevo were completed. The value of the works amounts to RSD 47,449,129, including VAT.
3. Implementation of the contracts related to the financing of the construction of the judicial authorities building in Novi Sad is in progress (design supervision, construction of the connection to the ED system, as well as procurement of furniture and necessary equipment).

- Project 5030 – Reconstruction of the building of the third basic court in Belgrade

  Reconstruction and adaptation of the existing building of the Third Basic Court in Belgrade (gross area 5907 m^2 + 1463,45 m^2 = 7,370.45 m^2; estimated value of the project amounts to RSD 1,057,337,299.61).

  The technical documentation is completed, the construction permit is obtained and the public procurement procedure for the execution of the works is underway.

- Project 5032 – Commercial court in Sombor.

  Reconstruction and adaptation of the existing building of the Commercial Court in Sombor - „Kronić Palace“ (gross area 1750.54 m^2).

  Estimated value of the project amounts to RSD 226,616,333.00, including VAT.

  Status: The technical documentation is completed, the construction permit is obtained and the tendering for the selection of the Contractor is in progress.

Table of project implementation during 2023

project	title	budget classification	total in 2023
5006	**Procurement of necessary equipment for the functioning of judicial authorities**	512	179,498,000
5009	**Management of accommodation and technical working conditions of the judicial authorities in Niš**	511	299,000,000
		512	12,000,000
5010	**Improvement of accommodation and technical working conditions of judicial authorities**	511	164,000,000
5030	**Reconstruction of the building of the third basic court in Belgrade**	511	1,072,000
5032	**Commercial court in Sombor**	511	4,673,000

total		**RSD**	**660,243,000**

As regards access for persons with disabilities, our legal obligation is to ensure access for persons with disabilities in all newly built (or reconstructed) facilities, which we respect, thus at the Judicial Authorities Buildings in Niš, Ub and Novi Sad (which are in the final phase), the access-ramps were constructed, and also in the planned reconstructions of the buildings of the Third Basic Court in Belgrade and the Commercial Court in Sombor, the access-ramps for persons with disabilities were designed.

IT Systems

The procurement of peripheral hardware equipment and licenses necessary for the smooth operation of judicial bodies in the value of 63 million dinars was carried out. Maintenance of server equipment in data centres of courts and public prosecutor's offices and software for access to judicial systems and relocation of server equipment worth about 100 million dinars. Extension of antivirus protection for judicial authorities in the value of 46 million dinars. Procurement of hardware and client equipment for judicial authorities in the value of 108 million dinars. The services provided are maintenance and improvement of the system for keeping registers in the judiciary, maintenance and improvement of the privileged access control system, maintenance and improvement of the privileged access control system, maintenance and improvement of the privileged access control system, maintenance and improvement of the process automation system, maintenance and development information system for monitoring the work of judicial professions, maintenance and sustainable development of the eCourt system, eTable, repository and bus for data exchange.

High Judicial Council

The High Council of the Judiciary, as one of the institutions responsible for the implementation and supervision of the Strategy of Human Resources in the Judiciary for the period from 2022-2026 (along with the accompanying Action Plan), responds in an orderly and timely manner to the calls of the Ministry of Justice, which, has the function of coordinator for the implementation of this measure, whereby the authorized representatives of the Council actively participate in the implementation of the relevant strategic document and give their contribution to the preparation of annual reporting on its application, but in accordance with the plan and dynamics of the Ministry of Justice.

- **Could you please update us on the accessibility of courts (e.g. court/legal fees, legal aid, language) if there have been any legislative and/or policy developments? What is the state of play with regard to legal aid and how is it used?**

Ministry of Justice

Another aspect of the enhancements of standard of access to justice is the free legal aid. Local self-governments have improved the quality of providing free legal aid in such a way that 61 local self-governments have registered more providers of free legal aid. Out of 174 local self-governments, only 1 does not yet have a registered provider of free legal aid.

The Ministry of Justice is in daily contact with staff in local self-government units who decide on free legal aid applications. Training for additional staff in LSG to be authorized to decide on FLA applications was organized in April 2021, due to stuff turnover in LSGs. Given the situation with COVID 19, the trainings needed to include only few persons per training session. On February 23, 2022, the first part of the training was held for 30 employees of LSGs. On April 14, 2022, the second part of training was held for 30 employees of LSGs. the Ministry of State Administration and Local Self-Government, three rounds of training were held on October 13, November 30 and December 6, 2022, attended by employed providers of free legal aid in local self -government units on the topic "The importance of mutual coordination of participants in the process of registration of birth in cases of children whose mother does not have personal documents. The "Flexible Facility for CH23" project provides support to the Ministry of Justice in the trainings in this area, thus in the second quarter of 2023, trainings for relevant subjects were held in Kragujevac and Subotica during May and in Niš during June 2023. On October 5, 2023 the first (theoretical) part of training was held for 87 employees of local self-governments. The second (practical) part of the training was held on November 7, 2023 in the City of Vranje, on November 20, 2023 in the City of Belgrade, on November 28, 2023 in the City of Novi Sad, on December 5, 2023 in the City of Užice.

The total number of submitted requests for free legal aid was 6,883 in 2020, 4,601 in 2021 and 4,944 in 2022, while the number of approved requests was 5,367 in 2020, 4,345 in 2021 and 4,805 in 2022. The data indicate that about 80% of requests were approved in 2020, 90% in 2021 and 95% in 2022. Therefore, in 2022 the number of approved requests for free legal aid increased by 15% compared to 2020. The municipal free legal aid service provided the necessary free legal aid to most users, while in 2020 the number of beneficiaries who were referred to lawyers was 954, in 2021 the number was 602, and in 2022 it was 576. In the period from 1 January 2020 to 31 December 2020 the amount of RSD 344.000 (approximately EUR 2,935) was paid based on requests for the return of funds paid by the local self-government units for free legal aid. In the period from 1 January 2021 to 31 December 2021 the amount of RSD 1.321.000 (approximately EUR 11,273) was paid based on requests for the return of funds paid by the local self-government units for free legal aid (123 requests). In the period from 1 January 2021 to 31 December 2022 the amount of RSD 5.120.985 (approximately EUR 43,699) was paid based on requests for the return of funds paid by the local self-government units for free legal aid.

According to Art. 10 of the Law on Court Fees, the Republic of Serbia, state authorities and special organizations, authorities of autonomous provinces and authorities of local self-government units, Red Cross organizations, as well as eligible dependents in proceedings related to financial support and persons demanding payment of minimum wage are exempted from paying court fees. The fee for submissions and actions shall not be paid by persons who donate their property to the Republic of Serbia, social-humanitarian, scientific or cultural organizations, institutions or foundations or who, for their benefit, waive property rights on immovable property or assign other real rights on immovable property to them free of charge. A foreign country is exempt from paying court fees if it is stipulated by an international agreement or under the condition of reciprocity. A party in a non-litigation proceedings is exempt from paying court fees for actions or procedures entrusted by the court to a public notary. Parties are exempted from paying court fees if the litigation is concluded by the day of the conclusion of the first hearing for the main hearing through mediation, court settlement, recognition of the claim or waiver of the claim.

Article 10 of the Law stipulates that the court may exempt a person from paying court fees if, taking into account the amount of funds from which the payer and members of his/her household support themselves, by paying the fees, those funds would be reduced to such an extent that their financial security would be threatened.

A foreign citizen shall be exempted from paying court fees if it is stipulated by an international agreement or under the condition of reciprocity. (Art. 12)

The guardian of an absent person whose place of residence is unknown, the guardian of property whose owner is unknown, the temporary guardian of the party appointed by the court in the proceedings and the ex officio defense attorney are not required to pay court fees for the person they represent. (Art. 17)

As regards access for persons with disabilities, our legal obligation is to ensure access for persons with disabilities in all newly built (or reconstructed) facilities, which we respect, thus at the Judicial Authorities Buildings in Niš, Ub and Novi Sad (which are in the final phase), the access-ramps were constructed, and also in the planned reconstructions of the buildings of the Third Basic Court in Belgrade and the Commercial Court in Sombor, the access-ramps for persons with disabilities were designed.

Efficiency

- **Have any measures been taken to enhance transparency and strategic communication of the judicial system (e.g. unified online access to court data)?**

High Judicial Council

On 24 February 2022, the High Judicial Council adopted Strategic Plan for the Period from 2022 until 2025, which provides increased transparency and visibility of the Council and of the entire judiciary as one of the strategic priorities in the said period. Fulfilment of this goal includes activities directed towards increased availability of information to the public such as increased communication with the media and harmonization of websites of all courts with the purpose of more available access to data. In 2022 the Council contributed to organising a series of workshops for journalists regarding reporting on court cases aimed at strengthening perception of the separation of powers and the judicial independence. To further contribute to the transparency of the judiciary to the public, the joint Council of Europe and the European Union’s project provided a workshop for court spokespersons.

Furthermore, according to the current Rules of Procedure of the High Judicial Council it is prescribed as a rule that the sessions of the Council are public. As an exception, it is provided that Council sessions may be closed to the public. The Council can decide to work in a session closed to the public, in whole or in part, if the interests of public order dictate it, the protection of data confidentiality or the privacy of the judge or the person whose status, right or obligation is being decided. The agenda of the session and minutes of the session - anonymized with regard to personal data and voting data - are published on the Council's website. Also, all

decisions of the Council are reasoned and published in the "Official Gazette of the RS" and on the Council's website, as well as the other acts of the Council and the Council's working bodies, if this is not contrary to the law;

Additionally, the annual report on the work of the Council and the annual reports on the work of the Council's working bodies are being regularly published on the Council's website, starting from 2010. Also, the Council's three-year program and annual work plans are published on the Council's website.

The strategic plan of the Council envisages a series of activities aimed at increasing the transparency and visibility of the Council and cooperation with the media. They include: formation of a working group that will be in charge of improving transparency and visibility, hiring a person in charge of improving and maintaining public relations, changes to the Code of Ethics for Council members in the part related to making statements and comments in public, holding press conferences, guest appearances in the media and the issuing of press releases, as well as other activities that will contribute to the Council strengthening its presence in the public and thereby bringing its work closer to the citizens. These activities in terms of increasing transparency will also coincide with the taking over of the greater competences of the Council resulting from the Amendment to the Constitution and corresponding legal solutions.

The High Judicial Council also had communication strategy for the period 2018-2022, after that the analysis of strategy implementation was carried out and the report of the Council was made. In following period, the adoption of the new communication strategy is expected, which is already included and foreseen in Strategic plan of High Judicial Council for the period 2022-2025.

Along with the above, according to the Rules of procedure of High Judicial Council the publicity of the work of the Council is guaranteed by issuing announcements through the means of public information (public announcements) and holding press conferences;

Ministry of Justice

Implementing centralized case management system is mail goal in our effort to provide online access to court data.

Implementation QR code in the electronic issuance of the certificate (certificate on non-conduct of criminal proceedings), via the eGovernment portal will enable the verification of the certificate itself via a publicly available website. Development is ongoing.

In 2023, a plan to expand electronic Register of Wills and Power of attorney to embassies and consulates of Republic of Serbia for Serbian citizens aboard. Those Registers were introduces in Serbian judicial system with the support the project from EU donor funds "Strengthening the Capacities of the Ministry of Justice in line with the Requirements of the EU Accession Negotiation Process".

These projects enable greater transparency and shortening of the procedure through the availability of online searches of the power of attorney database, the storage of wills (court

wills, notarial wills), as well as the recording of the existence of wills that have been deposited for safekeeping in the court or with a notary public, as well as enabling tendering by the authorities responsible for implementation of the probate procedure, which will provide them with information on whether the testator has a will and insight into the will (except for the deposited form), in a secure way.

Final phase of development eCourt electronic portal, legal entities, natural persons and lawyers will be able to submit an electronic proposal for enforcement and all submissions to the commercial court or public bailiff (public enforcement agents). The platform enables the enforcement procedure in the economy to be carried out entirely electronically, from the submission of the proposal for enforcement to the conclusion of the conclusion, which ends the enforcement procedure itself.

The process of procurement of network protection services, which will improve information security in the judiciary, has been carried out. Also, the service of maintenance and establishment of services from the applications of courts, public prosecutor's offices and other judicial authorities is provided, which enables the digitization of procedures for issuing certificates. Procedures for the maintenance and development of the information system for the supervision of the work of the judicial professions, the maintenance and sustainable development of the eCourt system, eTable, repository and data exchange were carried out.

During December 2023. Tendered public procurements have been published for the 20 new loactio of video conference system and maintenance existing 5 locations in the judiciary, maintenance and improvement of the privileged access control system that will improve the information security of ICT systems in the judiciary, extension of antivirus protection for judicial authorities, procurement of new computer (hardware and client equipment) for judicial authorities. As for the software the implementation of the procurement procedure for the maintenance and development of the Register of Powers of Attorney and the Register of Wills, which provide citizens with this type of electronic services, is also underway, as well as the development of a platform for judicial websites that serves to optimize the management of websites by the courts.

A public procurement for the maintenance and improvement of the process automation system has been called and published, within the framework of which the project will use robotic technology to optimize manual processes, primarily cleaning data in the judiciary, displaying scanned letters on electronic bulletin boards.

High Prosecutorial Council

The HPC is striving for the full transparency in its work by enabling the live stream of its sessions, possibility of live attendance, on-line access to all previously held sessions, and more.

Also, records, decisions, by-laws, and other data stemming from the High Prosecutorial Council activities, are at disposal to the public on the internet web site at www.vst.jt.rs.

Regarding Public Prosecution activities, all Offices have internet web sites with necessary information about their work. Supreme Public Prosecution web site also has access to the Prosecution Case Law Library divided in two parts: one accessible to the public, and one for the professionals (www.rjt.gov.rs).

Public Prosecutions are encouraged to communicate their work and decisions to the public through media.

- **We observe that there was a surge in the number of incoming administrative cases in 2022 leading to a stark increase in the disposition time of 1529 days (in comparison to 754 days in 2020), coupled with a concerning low clearance rate of 39 % in first instance courts and the pending cases at first instance increased by 59,3% in 2022 compared to 2021 (see Dashboard data). What is the reason for this trend and which measures are planned to address this?**

Supreme Court

Data quoted from the Report „*HFIII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans – phase II Dashboard Western Balkans II"* do not provide a picture of the complete work efficiency of the Administrative Court. The analysis of statistical data of the work of the Court for 2020, 2021 and 2022[5], showed the enormous growth in the inflow of cases in the Administrative Court: in 2020 a total of 32.968 cases; in 2021 a total of 38.927 cases; and in 2022 a total of 63.534 cases. The growth in the number of received cases, consequently influenced the number of pending cases in the Administrative Court: in 2020 total of 71,747 pending cases; in 2021 a total of 86,940 pending cases; and in 2022 a total of 128,376 pending cases. In 2023 this trend continued with 181,220 cases in total before the Administrative Court.

On the other hand, a total number of resolved cases in the Administrative Court in given years is in constant rise: in 2020, a total of 23.736 cases were resolved; in 2021, a total of 22.104 cases were resolved; in 2022, a total of 25.178 cases were resolved, while in 2023 the number of resolved cases was 27,683.

The average disposition time of cases, according to the data from the Standardized Software Application for the Serbian Judiciary (SAPS), which is used in the work of the Administrative Court, and which calculates disposition time from the date of receipt of the initial act until the expedition of the decision of the Administrative Court, are as follows: in 2020, the average disposition time was 624,7 days; in 2021, the average disposition time was 606,3 days; and in 2022, the average disposition time was 711,1 days. [6]

Data on the average disposition time of cases in the Administrative Court, according to the CEPEJ formula, are provided in the Annual Report on the Work of All Courts in the Republic of Serbia for 2020[4], the Annual Report on the Work of All Courts in the Republic of Serbia for 2021[5] and in the Annual Report on the Work of All Courts in the Republic of Serbia for 2022[6]: in 2020 – 738 days; in 2021 – 1.071 days; and in 2022 – 1.496 days. [7]

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[5] Source: Annual Report on the Work of the Administrative Court for 2020, available in Serbian on: https://www.up.sud.rs/uploads/useruploads/Izvestaji-o-radu-suda/GODIŠNJI-IZVEŠTAJ-2020.pdf
Source: Annual Report on the Work of the Administrative Court for 2021, available in Serbian on: https://www.up.sud.rs/uploads/useruploads/Izvestaji-o-radu-suda/GODIŠNJI-IZVEŠTAJ-2021.pdf
Source: Annual Report on the Work of the Administrative Court for 2022, available in Serbian on: https://www.up.sud.rs/uploads/useruploads/Izvestaji-o-radu-suda/GODIŠNJI-IZVEŠTAJ-2022.pdf
Source: Annual Report of the Supreme Cassation Court on the Work of All Courts in the Republic of Serbia for 2020, available in English on: Annual Report for 2020_ENG FINAL.pdf (sud.rs)
Source: Annual Report of the Supreme Cassation Court on the Work of All Courts in the Republic of Serbia for 2021, available in English on: Publilacija eng_0_0.pdf (sud.rs)

[6] It should be noted that the current case management system in courts does not enable automatic calculation of duration of proceedings in accordance with the CEPEJ criteria.

[7] Annual Report on the Work of the Administrative Court for 2020, available in Serbian on: https://www.up.sud.rs/uploads/useruploads/Izvestaji-o-radu-suda/GODIŠNJI-IZVEŠTAJ-2020.pdf

Within the reporting years, approximately similar number of judges were effectively working in the Administrative Court, including: in 2020, 45 judges and the President of the Court were in active service; in 2021, 46 judges and the President of the Court were in active service; while in 2022, 50 judges and the President of the Court were in active service.

Bearing in mind the above-mentioned data, it may be concluded that due to enormous inflow of cases in the Administrative Court, a constant spreading of jurisdiction of the Administrative Court, as well as an insufficient number of judges who were in active service in the given years, the clearing rate is lower, while the actual situation is indicating that the number of resolved cases is higher.

Administrative Court

Data quoted from the Report „*HFIII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans – phase II Dashboard Western Balkans II"* do not provide a picture of the real work efficiency of the Administrative Court. The analysis of statistical data of the work of the Court for 2020[8], 2021[9] and 2022[10], showed the enormous growth in the inflow of cases in the Administrative Court: in 2020 a total of 32.968 cases; in 2021 a total of 38.927 cases; and in 2022 a total of 63.534 cases. The growth in the number of received cases, consequently influenced the number of pending cases in the Administrative Court: in 2020 a total of 71.747 pending cases; in 2021 a total of 86.940 pending cases; and in 2022 a total of 128.376 pending cases.

On the other hand, a total number of resolved cases in the Administrative Court in given years is in constant rise: in 2020, a total of 23.736 cases were resolved; in 2021, a total of 22.104 cases were resolved; and in 2022, a total of 25.178 cases were resolved.

The average disposition time of cases, according to the data from the Standardized Software Application for the Serbian Judiciary (SAPS), which is used in the work of the Administrative Court, and which calculates disposition time from the date of receipt of the initial act until the expedition of the decision of the Administrative Court, are as follows: in 2020, the average disposition time was 624,7 days; in 2021, the average disposition time was 606,3 days; and in 2022, the average disposition time was 711,1 days.

Annual Report on the Work of the Administrative Court for 2021, available in Serbian on: https://www.up.sud.rs/uploads/useruploads/Izvestaji-o-radu-suda/GODIŠNJI-IZVEŠTAJ-2021.pdf

Annual Report on the Work of the Administrative Court for 2022, available in Serbian on: https://www.up.sud.rs/uploads/useruploads/Izvestaji-o-radu-suda/GODIŠNJI-IZVEŠTAJ-2022.pdf

Annual Report of the Supreme Cassation Court on the Work of All Courts in the Republic of Serbia for 2020, available in English on: Annual Report for 2020_ENG FINAL.pdf (sud.rs)

Annual Report of the Supreme Cassation Court on the Work of All Courts in the Republic of Serbia for 2021, available in English on: Publilacija eng_0_0.pdf (sud.rs)

Annual Report of the Supreme Court on the Work of All Courts in the Republic of Serbia for 2020, available in English on: Microsoft Word - Godisnji izvestaj za 2022-Konacna verzija_ENG FINAL AMMENDED.docx (sud.rs)

[8]Source: Annual Report on the Work of the Administrative Court for 2020, available in Serbian on: https://www.up.sud.rs/uploads/useruploads/Izvestaji-o-radu-suda/GODIŠNJI-IZVEŠTAJ-2020.pdf

[9]Source: Annual Report on the Work of the Administrative Court for 2021, available in Serbian on: https://www.up.sud.rs/uploads/useruploads/Izvestaji-o-radu-suda/GODIŠNJI-IZVEŠTAJ-2021.pdf

[10]Source: Annual Report on the Work of the Administrative Court for 2022, available in Serbian on: https://www.up.sud.rs/uploads/useruploads/Izvestaji-o-radu-suda/GODIŠNJI-IZVEŠTAJ-2022.pdf

Data on the average disposition time of cases in the Administrative Court, according to the CEPEJ formula, are provided in the Annual Report on the Work of All Courts in the Republic of Serbia for 2020[11], the Annual Report on the Work of All Courts in the Republic of Serbia for 2021[12] and in the Annual Report on the Work of All Courts in the Republic of Serbia for 2022[13]: in 2020 – 738 days; in 2021 – 1.071 days; and in 2022 – 1.496 days.

Within the reporting years, approximately similar number of judges were effectively working in the Administrative Court, including: in 2020, 45 judges and the President of the Court were in active service; in 2021, 46 judges and the President of the Court were in active service; while in 2022, 50 judges and the President of the Court were in active service.

Bearing in mind the above-mentioned data, it may be concluded that due to enormous inflow of cases in the Administrative Court, a constant spreading of jurisdiction of the Administrative Court, as well as an insufficient number of judges who were in active service in the given years, the clearing rate is lower, while the actual situation is indicating that the number of resolved cases is higher.

We are noting that the Administrative Court cannot influence the inflow of cases, nor does it limit the right of a party to file a claim to initiate the administrative dispute before the Administrative Court.

- **Please update us on the steps taken to enable the case management systems for courts, prosecutions' offices and prisons, e.g. revision of relevant legislation, changes in systematisation, data/cyber security, etc.**

Supreme Public Prosecution Office

A previously noted, implementation of the SAPO case management system in public prosecutions has not yet begun, since the selected contractor didn't fulfill the contractual obligations, even though the last extension of this project expired on July 1, 2023.

During 2023 and 2024 work on the development of SAPO software continued, with the aim of necessary improvements of the developed and creation of the missing functionalities necessary for the work of public prosecutions. Public Prosecution dedicated prosecutors, registry office and IT personnel from Supreme, Appellate, Higher and Basic Prosecutions to assist the contractor in the development of this software from the begining of project.

In relation to revision of relevant legislation, current Rulebook on Administration in Public Prosecution Offices envisages that information and communication technologies are used in the work of public prosecution offices, as a rule and that all data entered through information

[11]Source: Annual Report of the Supreme Cassation Court on the Work of All Courts in the Republic of Serbia for 2020, available in English on: Annual Report for 2020_ENG FINAL.pdf (sud.rs)

[12]Source: Annual Report of the Supreme Cassation Court on the Work of All Courts in the Republic of Serbia for 2021, available in English on: Publilacija eng_0_0.pdf (sud.rs)

[13]Source: Annual Report of the Supreme Court on the Work of All Courts in the Republic of Serbia for 2020, available in English on: Microsoft Word - Godisnji izvestaj za 2022-Konacna verzija_ENG FINAL AMMENDED.docx (sud.rs)

and communication technologies are provided in an appropriate manner, in line with the regulations in this area.

However, the Ministry of Justice has more relevant information abaout rendering of the new Rulebook on Administration in Public Prosecution Offices.

Furthermore, public prosecution offices can use the internal computer network, exchange data with other judicial bodies within the judicial information system of the Republic of Serbia, as well as by using information and communication technologies, exchange data with other state bodies, taking into account the protection of data confidentiality.

When introducing information and communication technologies in the work of the public prosecution office, the procedure is in accordance with the Ministry of justice guidelines on the introduction and development of the judicial information system of the Republic of Serbia.

However, in order to comply with the amendments to the constitution, working group for drafting new Rulebook on Administration in Public Prosecution Offices was established and their work is in the final stage.

Additionaly, in June 2022, the Republic (now Supreme) Public Prosecution Office submitted a request to the Ministry of Justice to provide an adequate number of IT specialists in all public prosecution offices in order to ensure the smooth operation of public prosecution offices that will start using the new SAPO program. Namely, a request for consent for the Rulebook on Internal Organization and Systematization of Workplaces to provide position of an IT specialist in each Public Prosecution Office of general jurisdiction, by providing 1 IT specialist for every 25 employees in the Public Prosecution Office, 2 IT specialists for every 50 employees, etc. We are still waiting for the Ministry of Justice reply.

Ministry of Justice

SAPA software for institutions for the execution of criminal sanctions has passed the final acceptance and is currently in use. Trainings were held for 450 users of the SAPA system and new users are continuously being trained in the institutions. The Administration for the Execution of Criminal Sanctions itself adopted an Act on information security with 28 procedures and listed information assets, and this act applies to the infrastructure on which SAPA works.

By changing the Internal systematization Act in December 2023 (in line with the Strategic Framework of the Ministry of Justice, i.e. the Action Plan for Chapter 23, the Judicial Development Strategy, the Human Resources strategy in Judiciary and the ICT development strategy in Judiciary.), it is foreseen that within 4 workplaces support to SAPA software:

1. Job position for coordinator of safety and information systems
2. Job position Head of the Informatics group
3. Two job positions for the administration of security of SAPA information systems within the Administration for the Execution of Criminal Sanctions

In the description, it was added that they monitor the operation of the SAPA software. Additionally, with the recent changes capacities of the Department are improved by increasing number of employees.

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new users are continuously being trained in the institutions. The Administration for the Execution of Criminal Sanctions itself adopted an act on information security with 28 procedures and listed information assets, and this act applies to the infrastructure on which SAPA works.

The SAPO software for public prosecutions has been extended several times since 2021, and in agile work with users, failures in the analysis of business processes that this software should digitize have been overcome. The next step is the final testing of all functionalities, in which the Ministry of Justice will also participate. As for the infrastructure on which this program will work, work is being done on strengthening the network capacity and using the capacity of the State Data Centre in Kragujevac.

- **With regard to the backlog reduction programme, there is also a serious backlog problem in the Administrative Court. Does the Administrative Court plan to introduce measures aimed at reducing the duration of the preparatory procedure, which is currently 480 days?**

Supreme Court

As all courts in the Republic of Serbia the Administrative Court, annually, adopts the Program for the Resolution of the Backlog Cases.[14] However the number of backlog cases in the Administrative court has increased due to the continues large influx of new cases to thi Court, as further explained.

All cases in the Administrative Court are allocated to all the judges, according to the astronomic calculation of the time of receipt by the method of random assignment of judges to cases, in accordance with applicable laws.[15] There is no normatively prescribed possibility, in the organizational manner, to allocate a certain number of judges by the Annual Calendar of Tasks, exclusively to the preparatory procedure. Bearing in mind that the case management, from registering the claim until the expedition of the decision from the Court (in terms of the software application), is related to judges to whom cases are allocated, the Standardized Software Application for the Serbian Judiciary (SAPS) does not provide the possibility to calculate an average duration of the preparatory procedure in the Administrative Court, due to which the Court does not hold this data, so it's not clear based on which parameters is determined that the average duration of the preparatory procedure is 480 days.

Administrative Court

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[14] The Annual Calendar of Tasks for 2023, available in Serbian at: https://www.up.sud.rs/uploads/useruploads/godisnji-raspored/GODISNJI--RASPORED-POSLOVA--2023.pdf

[15] he Annual Calendar of Tasks for 2024, available in Serbian at: https://www.up.sud.rs/uploads/useruploads/godisnji-raspored/Godišnji-raspored-poslova-Upravnog-suda-za-2024-godinu.pdf

[16] Program of the Resolution of the Backlog cases in the Administrative Court for 2024, available in Serbian on https://www.up.sud.rs/uploads/pages/1705923910~~Program%20rešavanja%20starih%20predmeta%20u%20Upravnom%20sudu%20za%202024%20godinu%20Su%20I-2%2013-24-1.pdf

organizational manner, to allocate a certain number of judges by the Annual Calendar of Tasks, exclusively to the preparatory procedure. Bearing in mind that the case management, from registering the claim until the expedition of the decision from the Court (in terms of the software application), is related to judges to whom cases are allocated, the Standardized Software Application for the Serbian Judiciary (SAPS) does not provide the possibility to calculate an average duration of the preparatory procedure in the Administrative Court, due to which the Court does not hold this data, so it's not clear based on which parameters is determined that the average duration of the preparatory procedure is 480 days.

- **Is there a plan to address the large influx of "administrative silence" cases that constitute the overwhelming majority of the work of the Administrative Court (60 000 cases out of a total of 78 000 in 2023) (and which has also affected the Commissioner for Personal Data Protection and Information of Public Importance) largely due to a change in the legal practice of the Administrative Court?**

Administrative Court

The administrative dispute is initiated by the claim. There is no mechanism for limiting the right of a party to file a claim in the administrative dispute.

Because of the observed tendency of the growth in the inflow of cases upon the claims for "silence of administration" in 2022, the Court took organizational measures, within its jurisdiction, in order to follow up and analyze the inflow of these cases. A special register ("Ućу") was established, from 1st January 2023, in which all cases upon claims for silence of administration are registered. In order to provide an equal load of all judges within the Court, in accordance with the Annual Calendar of Tasks in the Administrative Court for 2023[17] the Annual Calendar of Tasks in the Administrative Court for 2024[18], cases from the "Ućу" register are equally distributed to all the judges, in the Court Seat and Court Units in Kragujevac, Nis and Novi Sad, regardless of the area of residency, or the seat of the person filing the initial act. In addition to the above mentioned, every moth, the Court analyses the indicators of the inflow growth for these cases and undertakes measures within its jurisdiction.

In relation to that, within the analysis of the annual results of the work of the Administrative Court, it was determined that the largest number of "silence of administration" claims are filed against 5 public administration bodies: The Pension and Disability Fund of the Republic of Serbia – 48.567 claims; Ministry of Agriculture, Forestry and Water Management – 3.549 claims; Republic Geodetic Authority – 3.432 claims; Ministry of Finance – 2.645 claims; Commissioner f**or Information of Public Importance** a**nd Personal Data Protection –** 1.906 claims.[19]

[17]The Annual Calendar of Tasks for 2023, available in Serbian at: https://www.up.sud.rs/uploads/useruploads/godisnji-raspored/GODISNJI--RASPORED-POSLOVA--2023.pdf

[18]The Annual Calendar of Tasks for 2024, available in Serbian at: https://www.up.sud.rs/uploads/useruploads/godisnji-raspored/Godišnji-raspored-poslova-Upravnog-suda-za-2024-godinu.pdf

[19]Source: Annual Report on the Work of the Administrative Court for 2023, available in Serbian language https://www.up.sud.rs/uploads/useruploads/Izvestaji-o-radu-suda/GODIŠNJI-IZVEŠTAJ--za-2023.pdf

In regard to the Commissioner f**or Information of Public Importance and Personal Data Protection, as the respondent authority, and the allegations on the change of the legal standing (legal practice)** of the Administrative Court, it may be assumed that this issue is related to the compensation of costs for the representation of the plaintiffs by the lawyers in the proceedings upon appeal before the Commissioner f**or Information of Public Importance and Personal Data Protection**.

The Administrative Court did not take a legal standing upon this issue. Change of the case-law regarding the decision-making on the costs of proceedings upon an appeal is based on the applications of the current Law on General Administrative Proceeding ("The Official Gazette of the RS" Nos. 18/16,95/18 and 2/23), which in the provision of the Article 85 para. 6. strictly prescribes that if the appeal is dismissed or rejected or the appellant drops the appeal, the costs of the second-instance proceeding are paid by the appellant; if the appeal is adopted, the costs of the second-instance proceeding are paid by the authority which decided in the first-instance proceeding. We emphasize that the Law on General Administrative Proceeding ("The Official Journal of the SRJ" Nos. 33/97 and 31/01 and "The Official Gazette of the RS" No. 30/10), which was in force until 1st June 2017, regulated the costs of the proceeding in a different manner and it did not contain a strict provision on costs, like the stated Article 85 para. 6 of the current Law on General Administrative Proceeding, due to which the case-law of the Administrative Court was different and in line with the applicable laws, at that time.

- **Is there a plan to have specialised judges according to the areas under the jurisdiction of the Administrative Court, given the very low number of decisions on merits compared to the total number of decisions?**

Administrative Court

Bearing in mind a broad jurisdiction of the Administrative Court, an enormous inflow of cases, allocation of cases by the method of random assignment of judges to cases in all legal areas where judicial protection in administrative dispute is provided, and insufficient number of judges in the Administrative Court, specialization of judges is not possible, at the moment.

Ministry of Justice/Judicial Academy

When the precise direction of the reform of the administrative judiciary is set up, it will be possible to consider the eventual introduction of specialised judges. The training on the specialization will be conducted by the Judicial Academy, but the decision in this matter has to be made by the competent authorities. According to the current solution, there is a random and proportionate distribution of cases, and a small number of judges, therefore the introduction of specialization would not be appropriate.

- **Please provide a short update on the transparency of administrative decisions and sanctions, including their publication and rules regarding the collection of related data.**

Administrative Court

On its website (УПРАВНИ СУД :: Судска пракса Управног суда (sud.rs)) and in the Case-Law Database of the Supreme Court (http://sudskeodluke.sud.rs/), the Administrative Court made available to the public around 30.760 anonymized decisions of the Administrative Court (updated data from 6th March 2024). Decisions of the Administrative Court are published and anonymized in accordance with the Rulebook on Replacement and Omission (pseudonymization and anonymization) of Data in the Court Decisions (available at the Administrative Court's website). This Rulebook regulates the manner of replacement and omission of the data in the court decisions, which are published or made available to the public, in accordance with the law which regulates personal data protection.

Criteria upon the selection of decisions which will be published on the website of the Administrative Court are the following: (1) Whether the selected decisions express the legal standings and opinions of the Administrative Court adopted at the Sessions of all judges; (2) Whether the decisions are of public interest in respect of current social events (migration, protection of competition and other); (3) Decisions in administrative matters in which the claims are most commonly filed before the Administrative Court and for which there is need to, at least in certain level of certainty, predict the outcome of the administrative dispute.

- **What is the general regime for the judicial review of administrative decisions, including details such as the competent court, scope, suspensive effect, interim measures, and any specific rules or exceptions from the general regime?**

Administrative Court

The Administrative Court is a single-instance court of special jurisdiction. An appeal cannot be filed against the judgements of the Administrative Court (final judgement).

Article 49 of the Law on the Administrative Disputes ("The Official Gazette of the RS" No. 111/09) prescribes that against a final decision of the Administrative Court, a party or the competent public prosecutor may file to the Supreme Court a request to review a court decision (in further text: "request").

The request may be filed:

1) when it is prescribed by the Law;
2) in cases where the Court decided in full jurisdiction;
3) in matters in which the appeal was excluded within the administrative proceeding.

The request may be filed due to infringement of the law, other regulation or general act or against the infringement of the rules of the proceeding which could influence on resolution of the matter. The request to review a court decision does not have a suspensive effect.

The suspensive effect of the claim in the administrative dispute is regulated by the Article 23 of the Law on Administrative Disputes ("The Official Gazette of the RS" No. 111/09). In special laws, the claim has the suspensive effect (example: Article 96 of the Law on Asylum and Temporary Protection ("The Official Gazette of the RS" No. 24/18)), while in other cases, the

claim does not have the suspensive effect (example: Article 9 para. 5 of the Law on the Banks ("The Official Gazette of the RS" Nos. 107/05, 91/10 and 14/15)).

Supreme Court

Judicial review of administrative decisions is carried out in administrative disputes. Administrative Court as a state-level court adjudicates in administrative disputes as a single-instance court of special jurisdiction. An appeal cannot be filed against the judgements of the Administrative Court. Extraordinary legal remedies can be filed to the Supreme Court in accordance with the Law on Administrative Disputes.

Article 49 of the Law on the Administrative Disputes ("The Official Gazette of the RS" No. 111/09) prescribes that against a final decision of the Administrative Court, a party or the competent public prosecutor may file to the Supreme Court a request to review a court decision (in further text: "request").

The request may be filed: 1) when it is prescribed by the Law; 2) in cases where the Court decided in full jurisdiction; 3) in matters in which the appeal was excluded within the administrative proceedings.

The request may be filed due to infringement of the law, other regulation or general act or against the infringement of the rules of the proceeding which could influence on resolution of the matter. The request to review a court decision does not have a suspensive effect.

In an administrative dispute, Administrative court decides on legality of final administrative acts as well as other final acts pertaining to the rights and legal interest of individuals in respect of which the law does not provide other way of judicial protection. It also decides on legality of the administrative silence.

Parties in an administrative dispute are plaintiff, defendant (public authority) and the interested party who would be directly harmed by the annulment of the contested administrative act (decision). An action in administrative dispute can be filed if the law or regulation is not applied in a proper manner, if the act was passed by an incompetent authority or if the contested act was adopted in breach of procedural requirements, or in case of incorrect or incompletely established facts.

The dispute is resolved by court judgement dismissing or upholding the claim. If the claim is upheld, the contested act is annulled. In administrative silence lawsuits the public authority is obliged to pass the appropriate act. In cases specified by law, the Administrative Court may decide in full jurisdiction namely, by issuing the decision which supercedes previous decision of the competent administrative authority.

The administrative dispute, as a rule, does not suspend the enforcement of the binding decision of the public authority, against which the administrative dispute has been initiated (Article 23 of the Law on Administrative Disputes). However, at the request of the plaintiff, Administrative court can postpone the execution of the contested decision until the end of the dispute, if the legal preconditions are met - if the enforecement would cause damage to the plaintiff that would be difficult to compensate, and if the postponement is not contrary to the public interest and it cannot cause significant damage to the opposing or to the interested party

(Article 23, par.2). Exceptionally, a party can submit request to the court to postpone the execution of the public authority decision even before initiating the administrative dispute in case of urgency and when the lodged appeal does not have suspensive effect (Art. 23, par. 3).

By special laws in certain type of cases the suspensive effect of the administrative dispute is envisaged (example: Article 96 of the Law on Asylum and Temporary Protection ("The Official Gazette of the RS" No. 24/18)), while in other cases, the claim does not have the suspensive effect (example: Article 9 para. 5 of the Law on the Banks ("The Official Gazette of the RS" Nos. 107/05, 91/10 and 14/15)).

The interim measures are not envisaged in the administrative disputes.

- **Is there a specific mechanism in place to monitor and/or ensure the follow-up by public authorities to final court decisions concerning them (and if yes, could you elaborate on its functioning)?**

Administrative Court

There is no specific mechanism in order to monitor and/or ensure the follow-up by the public authorities to final court decisions concerning them.

When it comes to the implementation and enforcement of the decisions of the Administrative Court, by the public authorities, in concrete cases, the Law on Administrative Disputes ***("The Official Gazette of the RS" No. 111/09)*** prescribes legal consequences due to active and passive failure to act upon judgement of the Administrative Court. This mechanism is initiated by the request/claim of the plaintiff before the Court. Article 69 para. 2 of the Law on Administrative Disputes prescribes: "If, according to the nature of the matter, which was the subject of the dispute, it is necessary to pass another administrative act in place of the one that has been annulled, the competent body shall pass it without delay, no later than 30 days after the day the judgement is served, and in doing so it shall be bound by the legal opinion of the court and the comments of the court in relation to the proceedings".

Article 70 para. 1 of the Law on Administrative Disputes prescribes:

„If the competent body, after annulling the administrative act, passes an administrative act contrary to the legal opinion of the court, or contrary to the comments made by the court in relation to the proceedings, and the plaintiff files another claim, the court shall annul the challenged act and as a rule resolve the matter itself by a judgement, unless that is not possible due to the nature of the matter or due to the exclusion of the full jurisdiction by the law".

Paragraph 4 of the same Article of the Law on Administrative Disputes prescribes:

"The court shall notify the body responsible for supervision of the work of the body about the case referred to in paragraph 1 of this Article".

Article 71 of the Law on Administrative Disputes prescribes:

„If the competent body, following the annulment of the administrative act does not pass a new administrative act immediately or within no more than 30 days, or pass an act on the

enforcement of the judgement pursuant to Article 43 of this law, the party may by means of a separate filing request such an act to be passed.

If the competent body does not pass the act referred to in paragraph 1 of this Article even after seven days from this request, the party may by means of a separate filing request the court which rendered the judgement to pass this act.

Upon the request by the party referred to in paragraph 2 of this Article, the court shall request the competent body to inform it of the reasons why it did not pass the administrative act. The competent body shall provide this information immediately, within no more than seven days. If it fails to do so, or if the information given, in the opinion of the court, does not justify the failure to enforce the court judgement, the court shall render a ruling which shall replace the act by the competent body in its entirety, if the nature of matter allows it.

The court shall serve the ruling referred to in paragraph 3 of this Article on the body competent for enforcement, and at the same time inform the body responsible for supervision. The body responsible for enforcement shall execute this ruling without delay."

Additionally, Article 75 para. 2 of the Law on Administrative Disputes prescribes fines for the manager of the public authority in cases when he/she did not act upon the judgement of the Administrative Court.

Constitutional Court

The legal effect of decisions of the Constitutional Court is closely related to publishing of the decisions.

Any decision of the Constitutional Court establishing inconsistency of a general legal act or individual provisions of the general legal act with the Constitution, generally accepted rules of international law, ratified international agreements or a law, is published in the «Official Gazette of the Republic of Serbia». As of the date of publishing, the said general legal act, as well as the acts enacted to enforce the same (if their inconsistency has also been established by the decision of the Constitutional Court) shall become null and void.

If a general legal act is related to the provisions of any ratified international agreement, it shall cease to be valid in the manner provided for by such agreement or generally accepted rules of international law.

Any general legal act, the inconsistency of which has been established by the decision of the Court, cannot apply to any relations occurred prior to the date of publishing the decision of the Court, if not finally settled by that point, and any individual finally binding legal act passed on the basis of such general legal act cannot be further applied or implemented. If previously initiated, the enforcement of such act shall be discontinued.

Everyone whose right has been violated by an absolute or final individual act, adopted on the basis of a general act the inconsistency of which has been established by the decision of the Court, is entitled to demand from the competent authority a revision of that individual act, by submitting a proposal within six months from the date of publishing the decision of the Court

in the «Official Gazette of the Republic of Serbia», provided that between the delivery of the individual act and the submission of the proposal or initiative has not passed more than one year. If it is established that no revision of an individual act can rectify the consequences resulting from the application of the general act determined as inconsistent, the Constitutional Court may order the rectification of consequences by reinstatement, indemnification, or otherwise.

Fight against corruption

- **Have there been any changes in relevant authorities responsible for the prevention, detection, investigation, and prosecution of corruption? If so, please specify these changes and outline the resources allocated to each authority, including human, financial, legal, and technical resources. Additionally, how is cooperation facilitated among domestic and foreign authorities?**

Ministry of Interior

The Department for the fight against corruption is an independent organizational unit within the Criminal Police Directorate, which acts in the detection and proof of corrupt criminal acts that are in competence of the Higher Public Prosecutors Office, Special Departments Special Department for Suppression of Corruption in Belgrade, Nis, Kragujevac and Novi Sad.

The Department has 8 territorial operational departments and the Department for Coordination and Planning.

Each Department has a certain number of offices *(offices opened in cities that gravitate to the Department headquarters).* The department is operationally present in 29 locations - cities and uses about 3,000 m2 of space, according to needs, so that the network of offices covers all major cities in Serbia.

Technical equipment
All departments are equipped with a satisfactory level of equipment and access to public and internal networks (intranet and other applications)

Staff
The department has systematized 233 workplaces, of which 214 workplaces are currently filled out, 193 operational workplaces and 21 non-operative workplaces (managerial and administrative workplaces - 92% occupancy).Currently, 17 work positions are filled (competitions, permanent transfers), which increases the occupancy to 99%.
The number of workplaces has been constantly increased, since the establishment of the Department, in March 2018[20]:

- In 2018, there were a total of 100 workplaces

[20] Following the Rulebook of Internal Organization and Systematization of the Workplaces in the Ministry of the Interior

- In 2019, there were a total of 114 workplaces
- In 2020, the were a total of 133 workplaces
- In 2021, there were a total of 178 workplaces
- In 2022, there were a total of 178 workplaces
- In 2023, there were a total of 233 workplaces

Capacities building

Four (4) police officers are currently on the master study program of the Faculty of Economics, University of Belgrade, on major Accounting Forensics.[21]

Supreme Public Prosecution Office

Special Departments for Suppression of Corruption have increased their human capacities since the beginning of their work, so in 2018, a total of 52 public prosecutors, 20 assistant prosecutors and 39 employees in administrative and technical jobs were systematized. At the end of 2023, positions were systematized for 70 public prosecutors, 31 assistant prosecutors and 51 employees in administrative and technical jobs. All Special Departments for suppression of corruption are technically fully equipped.

Ministry of Justice

In terms of the legislative and institutional framework regarding relevant authorities responsible for the prevention, detection, investigation, and prosecution of corruption, there have been no changes.

Agency for Prevention of Corruption

There have been no significant changes to the scope and jurisdiction of the Agency for the Prevention of Corruption.

- **What safeguards are in place to ensure the functional independence of authorities responsible for preventing and detecting corruption?**

Agency for Prevention of Corruption

The Agency has several safeguards of independence in place, including transparent procedures for the appointment of the director and five members of the APC's council. The National Assembly (NA) appoints the director and members of the council from candidates who have achieved at least 80 out of 100 points in a public competition conducted by the Judicial Academy. In specifically defined cases, the NA also has the authority to dismiss the director before the expiry of his or her mandate (maximum two terms of five years). The director of the APC submits the agency's proposed budget to the Ministry of Finance and the law contains general guarantees of funding and financial independence: the APC has autonomous control over its funds, and the government may not suspend, delay, or limit the allocated funds without the director's consent.

[21] Currently, a total of 7 police officers of the Ministry of the Interior are on this master program major.

Law on the prevention of corruption (implementation) and other legislation (Law on access to public information; Law on financing of political activities; Law on whistle-blower protection)

- **Please provide further information on the effectiveness of practical measures already taken to enhance the transparency of the decision-making process in practice (lobby registers, legislative footprints), including level of sanctions applied.**

Agency for Prevention of Corruption

All of the registries that the Agency for Prevention of Corruption maintains within the terms of the Law on Prevention of Corruption are publicly available

- The Registry of Public Officials
- The Registry of Assets and Income of Public Officials
- The Registry of Lobbyists
- The Registry of Gifts
- The Register of legal persons in which public officials or their family members have stakes or shares of more than 20%, that are participating in public procurement, privatization or other procedures whose outcome is the conclusion of a contract with a public authority-budget user or another legal person in which more than 20% of the capital is owned by the Republic of Serbia, the autonomous province, a local self-government unit and a city municipality; are publicly available

According to the provisions of the Law on Prevention of Corruption in Chapter 8, there is a precisely regulated procedure to decide on the existence of violation of this law.

The Agency is determining on infractions of this law.

- **Regarding whistleblowing, please provide details on how the system works in practice, including which public bodies have reporting channels, how many reports on corruption cases are received, followed-up to, sent to the competent law enforcement authorities, overall value of whistle-blower reports for the detection of corruption; numbers of protection statuses granted.**

Ministry of Justice

Implementation of the Law on Protection of whistle-blowers is regularly monitored through the preparation of the Ministry of Justice annual reports. The Ministry of Justice compiles regular annual reports for whistle-blowers (in June for the previous year), which it publishes on its website. All Reports on the implementation of the Law on Protection of whistle-blowers are available on the official website of the Ministry of Justice:

https://www.mpravde.gov.rs/tekst/14518/izvestaji-o-primeni-zakona-o-zastiti-uzbunjivaca.php

Court cases related to whistleblowing

From a methodological point of view, the research on court cases related to whistleblowing was conducted in accordance with the methodology of the regular annual record of court work on the number and progress of cases related to whistleblowing.

Total number of cases received for 2022 is 69 according to the data of the Supreme Court (formerly the Supreme Court of Cassation), as of December 31, 2022. A total of 71 cases (including from previous years) were resolved before the courts in the Republic of Serbia, while a total number of unsolved cases is 39 in 2022. Currently, there is no data available on the numbers of protection statuses granted.

Internal whistle-blowing within ministries

The collection of data on internal whistleblowing was realized by the ministries filling out previously prepared questionnaires (which were also used for previous research).

A total of 39 cases of internal whistleblowing were recorded in 2022, which represents a slight decrease compared to 2021, when a total of 41 cases of internal whistleblowing were recorded, but on average it is about a similar number of cases from previous years. In relation to the period since the beginning of the implementation of the Law on protection of whistle-blowers, the trend of a slight increase has been maintained, i.e. the cases of internal whistleblowing are at approximately the same level as in previous years.

Administrative statistics regarding whistleblowing

Supervision over the implementation of the Law on Protection of Whistle-blowers is carried out by the Administrative Inspectorate and the Labour Inspectorate in accordance with the laws governing their competences. The collection of data on the supervision of the implementation of the Law on the Protection of Whistle-blowers has been carried out by sending special questionnaires to the Administrative Inspectorate and the Labour Inspectorate, considering their competence to supervise the implementation of the Law. It should be pointed out that the data obtained from the Labour Inspectorate and the Administrative Inspectorate refer precisely to external whistleblowing, as stated in the completed questionnaires submitted to the Ministry of Justice. The number of conducted inspections has decreased compared to the previous reporting period when it comes to the Administrative Inspectorate, and increased in the scope of the Labour Inspectorate.

During 2022, the Administrative Inspectorate conducted three inspections. The number of inspections performed in relation to other reporting periods during 2022 was on average the same or slightly decreased.

The Labour Inspectorate conducted a total of 3,715 inspections in 2022.

The Report for Whistle-blowers in 2023 is being prepared and will be published in June 2024.

- **How transparent is public decision-making, including rules on lobbying, enforcement of those rules, asset disclosure requirements and enforcement, gifts policies, auditing of public institutions' finance, and transparency of political party financing (including information on electoral campaigns)?**

Agency for Prevention of Corruption

The Law on Prevention of Corruption's article 6 regulates the Agency's jurisdiction and extent of work, while the transparency in the Agency's work is ensured by making the registries and

final decisions publicly available on the Agency's website. The registries were mentioned in a prior question.

Among numerous competencies of the Agency, the Agency supervises the implementation of strategic documents, submits to the National Assembly a report on their implementation along with recommendations to be acted upon, provides responsible entities with recommendations on how to eliminate shortcomings in the implementation of strategic documents and initiates amendments and supplements to strategic documents.

The Agency prepares the Annual Report on the implementation of the Revised Action plan for Chapter 23 – Subchapter Fight against Corruption and it's publicly available on the Agency website.

Every year, the Agency prepares the Annual Work Report, which contains comprehensive data on all of the Agency's work competencies and is made available to the public on the Agency's website.

Additionally, the Agency initiates adoption or amendment of regulations, provides opinions on the assessment of the risk of corruption in draft laws in the fields that are particularly susceptible to the risk of corruption and opinions on draft laws governing issues covered by ratified international agreements in the field of preventing and combating corruption.

Furthermore, the Law on Financing Political Activities from 2022 established a new requirement for political subjects to submit preliminary reports to the Agency in an effort to promote openness and transparency. These reports ought to be posted on the Agency's website and turned in prior to election day.

This Law also introduced an obligation for the Agency which refers to publishing on its website:

- the plan for the control of annual and campaign reports of the political entities,
- the Agency has obligation to finish control of campaign costs within the 120 days from the date of expiry of the deadline for submission of final reports for the political subjects
- the results of the annual reports control, no later than February 1 of the current year for the previous year.

In addition, the Agency publishes on its website all reports submitted by political entities.

The Agency submitted the initiative to the Ministry of Justice to amend the Law on Prevention of Corruption. Namely, the Law will be amended to require the Agency for the Prevention of Corruption to promptly make public its decisions on violations of the Law on Prevention of Corruption during the election campaigns, within 24 hours.

State of play regarding (a) conflict of interest cases, (b) asset declaration and verification system, (c) political activity financing, (d) access to information of public importance, (e) code of conduct for civil servants

- **Please inform about the rules (law/soft law) and practice relating to conflict-of-interest, revolving doors and asset declaration and verification, including on personal scope, statistics, monitoring of compliance/verification and sanctions, including as applied in practice. Please provide information as concerns both civil servants and elected officials.**

Agency for Prevention of Corruption

The Law on Corruption Prevention, the Law on Lobbying, and the Law on Financing Political Activities, as well as the bylaws published on the Agency's website, serve as the foundation for Agency work and operations. Bylaws are related to public officials and public authorities, lobbying, complaints and political financing.

Minisitry of Public Administration and Local Self-Government

The Law on Civil Servants ("Official Gazette of the Republic of Serbia," No. 79/05, 81/05 - corr., 83/05 - corr., 64/07, 67/07 - corr., 116/08, 104/09, 99/14, 94/17, 95/18, 157/20, and 142/22) contains significant provisions outlining the obligations of state administration bodies and civil servants regarding the management of conflicts of interest, monitoring the implementation of the Code of Conduct for Civil Servants, and improving the rules of their ethical conduct. The Law on Civil Servants establishes rules on the concept of conflicts of interest, prohibits the acceptance of gifts except for modest gifts of lesser value, regulates additional work, prohibits the establishment of commercial companies and public services, or engagement in entrepreneurship, restricts membership in the bodies of legal entities, requires the disclosure of interests related to the decisions of the authority, and addresses conflict of interest management.

A conflict of interest, according to this law, is a situation in which a civil servant has a private interest that affects, may affect, or appears to affect their actions in the performance of their job, in a manner that jeopardizes the public interest. A private interest of a civil servant includes any benefit or advantage for the civil servant or any related person. A civil servant is obligated to take all possible measures to avoid any situation of conflict of interest. If such a situation cannot be avoided, the provisions of this law on conflict of interest management apply. A civil servant must immediately, upon becoming aware, and no later than the next working day, report in writing to their immediate supervisor the existence of a private interest related to the performance of certain tasks, or a relationship of dependence in connection with the performance of certain tasks with an association in whose body the civil servant is a member. The civil servant must refrain from further activities that could jeopardize the public interest until the supervisor designates another civil servant to perform those tasks.

Laws and other regulations governing the prevention of conflicts of interest in the performance of public functions, as well as the provisions of this law on additional work and the prohibition of establishing a business company, public service and entrepreneurship, apply to senior civil servants.

In determining the circle of related persons, within the meaning of the provisions of this law on preventing conflicts of interest, regulations governing the prevention of conflicts of interest in the exercise of public functions are applied.

Violation of the rules concerning the prevention of conflicts of interest of civil servants constitutes a more serious breach of duty from the employment relationship.

The law stipulates that the High Civil Service Council is responsible for adopting the Code of Conduct for Civil Servants, which regulates the rules of ethical behavior for civil servants and the monitoring of its implementation. On the other hand, state administration bodies and Government services are obligated to provide the High Civil Service Council with the necessary data and information required for monitoring the implementation of the Code of Conduct for Civil Servants and improving the rules of ethical conduct for civil servants.

Regarding the issue of "revolving doors", the Law on Civil Servants does not contain such provisions regarding civil servants, while for senior civil servants, laws and other regulations governing the prevention of conflicts of interest in the performance of public functions are applied.

- **Please provide further information on the trends relating to conflict-of-interest cases and asset declaration and verification cases between 2023 and 2022.**

Agency for Prevention of Corruption

Asset declaration and verification system in 2023 and the first two months of 2024

During 2023, and the first two months of the current year, the Agency pursued verification of asset and income declarations of public officials in line with the annual verification plan for 2023 and previous years, as well as upon complaints and ex officio.

As per the annual verification plan for 2023 the Agency pursued verification for 270 public officials, whereas in total for 358 public officials. The annual verification plan for 2024 is still not adopted.

Ten (10) public officials were subject to extraordinary verification related to suspicion that public officials had not declared complete and accurate data on assets and incomes in 2023. In 2024, until now there has not been extraordinary verifications.

The verification has been finalized for 227 public officials in 2023, and for these two months of 2024, the verification has been finalized for 31 public officials.

The Agency initiated 175 proceedings due to determining violation of the Law on Corruption Prevention, Articles 68 and 69. The number of initiated proceedings due to determining violation of the Law on Corruption Prevention in 2024 till now is 11.

The Agency also issued 178 measures of admonition and eight measures of public announcement of decision on violation of the Law. In January and February of this year, the Agency issued 30 measures of admonition and one public announcement of decision on violation of the Law.

The Agency also filed 14 requests for initiation of misdemeanor proceedings to the competent court due to failure to declare assets and incomes or notification within the prescribed deadline, i.e., submission of incorrect or incomplete declaration. In 2024, till now, the Agency filed 17 requests for initiation of misdemeanor proceedings to the competent court due to failure to declare assets and incomes or notification within the prescribed deadline.

Out of total number of requests for initiation of misdemeanor proceedings (including previous years) the Agency received 22 decisions of misdemeanor courts out of which: 22 convictions; zero (0) decisions on suspension/termination of proceedings and zero (0) acquittals. In 2024 (January and February) out of total number of requests for initiation of misdemeanor proceedings (including previous years) the Agency received 35 decisions of misdemeanor courts.

In 2023 the Agency submitted two criminal charges/reports due to grounded suspicion on criminal offence stipulated by the Article 101 of the Law on Corruption Prevention (Failure to declare assets and incomes or providing false information on assets and incomes). In these two months there was none.

In terms of criminal charges/reports submitted in the previous years, competent courts and prosecutor's offices rendered the following decisions: one conditional conviction; two indictments; evidence collection underway in 8 cases; two rejected criminal charge with the principle of opportunity; three rejected criminal charges; zero (0) confirmed acquittals and zero (0) suspension of criminal proceedings. In February of this year, there was one (1) rejected criminal charge.

In the reporting period the Agency submitted two reports to other state bodies, i.e., two to Administration for Prevention of Money Laundering due to suspicion of commission of punishable offence stipulated by other regulations, i.e., offence within the purview of the respective state body in 2023.

Conflict of interest cases 2023 and the first two months of 2024

Out of 107 measures and decisions issued by the Agency, 19 were issued to public officials in conflict of interest and nepotism related situations as per the Law on Corruption Prevention (implemented as of September 1, 2020). In 2024, till now, out of 14 measures and decisions issued by the Agency, two were issued to public officials in conflict of interest and nepotism related situations.

After corresponding proceedings, the Agency has also given 32 opinions upon notification of the public officials on suspicion of conflict-of-interest existence. In 2024, this number is seven.

Furthermore, the Agency issued 46 decisions on rejecting request for granting approval for discharging another public office, i.e., discharging other job or activity, out of which in one case the Agency determined incompatibility of discharging public office and other job or activity.

In 2024, the Agency issued 12 decisions on rejecting request for granting approval for discharging another public office i.e., discharging other job or activity, out of which in one case the Agency determined incompatibility of discharging public office and other job or activity.

A total of five initiatives for dismissal of public officials were filed, based on enforceable measures of public announcement of recommendation for dismissal, which had been issued in 2022, and one in 2020. Based on initiatives filed in the reporting period in three cases competent authority notified the Agency that it would not comply with its initiative, in one case it complied with the initiative, with the public official being dismissed, in one proceeding deadline for acting upon initiative has still not elapsed. Till now in 2024 it has been submitted and received zero (0).

The Agency initiated 267 proceedings for determining violation of the Law, and in first two months of 2024, 14 proceedings.

The Agency finalized 1,208 proceedings in 2023, and 123 in January and February of this year. In both cases, most of them were related to granting approval for discharging other public office or other job or activity, membership in bodies of associations, employment, or business cooperation after termination of public office; decisions determining violation of the Law and issuing a warning measure, measure of public announcement of recommendation for dismissal, etc.

The Agency also filed 4 requests for initiation of misdemeanor proceedings, most of which pertain to the officials in conflict-of-interest situations. In 2024 till now, the Agency filed one request for initiation of misdemeanor proceedings.

Upon requests to initiate misdemeanor proceedings submitted in the previous period (3 from 2021, 11 from 2022) misdemeanor courts rendered 14 first instance decisions in 2023, and one till now in 2024.

Four warnings and seven fines were issued (one in the amount of 40,000 dinars, two in the amount of 30,000 dinars each, three in the amount of 20,000 dinars and one in the amount of 300,000 dinars). One warning has been issued this year till now.

There were four decisions of the misdemeanor appellate court on appeal - second-instance decisions - in two cases the verdict was confirmed (one proceeding from 2021, one from 2022), in two cases the first-instance decision was changed (both from 2022). (None in 2024 till now)

In connection with the trends related to cases of declaration and income control, in 2023, the largest number of requests for initiation of misdemeanor proceedings (143), and 17 till now in this year, were submitted due to the failure to submit assets and income reports within the deadline.

In the course of 2023 and the first two months of 2024, the competent courts issued 65 (13 in 2024) warnings and 67 (18 in 2024) fines in the average amount of 27,000 dinars. Four (2 in 2024) agreements on recognition of misdemeanors were also concluded with an average amount of 20,000 dinars. Nine criminal charges (none in 2024) were filed due to the failure to submit income and asset reports, out of which two criminal charges refer to judges.

When it comes to trends related to conflict of interest, the competent courts issued four warnings and seven fines in the average amount of 65,700 dinars. Two agreements on the recognition of misdemeanors were also concluded with an average amount of 15,000 dinars.

Political party financing 2023 and the first two months of 2024

In 2023, the Agency initiated 10 proceedings due to determining violation of the Law on Financing of Political Activities in regular work (0 in 2024) and issued 11 (0 in 2024) reprimand measures (cases from 2023 and previous years) for violation of the Law.

In 2023, the Agency also initiated 57 proceedings due to determining violation of the Law on Financing of Political Activities regarding election campaign and issued eight reprimand measures in 2023 and nine in these two months in 2024.

The Agency, in 2023, issued 62 decisions on the loss of the right to receive funds from public sources intended for financing regular work of a political entity in the following year, based on final judgments imposing fines. None of the decisions on the loss of the right to receive funds from public sources for financing regular work of a political entity in these two months of 2024 were issued.

In 2023, the Agency filed 88 requests for initiation of misdemeanor proceedings due to the violation of the Law on Financing of Political Activities (In 2024, till now, this number is 27) . Upon previously filed requests for initiation of the misdemeanor proceedings, the Agency received 114 final judgments (14 in 2024), out of which 87 (10 in 2024) are fines, 21 admonitions (four in 2024) and six acquittals.

The control of 21 annual reports on the financing of the political entities for 2022 and 10 annual reports for 2021 was finalized in accordance with the Plan of control. The Report on the results of the control will be published on the Agency's website.

As per the Revised Action Plan for Chapter 23- Subchapter Fight against Corruption, in 2023 the Agency also developed the online training module on the financing of political activities with the support of the International Foundation for Electoral Systems (IFES). It is expedited to be made available by the middle of February 2024.

Regarding the election campaign in 2023, out of 416 political entities that had the obligation to submit a preliminary report, 312 of them fulfilled their obligation and submitted preliminary reports to the Agency, while 104 political entities did not fulfill their obligation within the legally stipulated deadline. In these two months of 2024, 36 political entities more submitted preliminary reports regarding the election campaign in 2023.

It is also important to note that during the election campaign for the elections held on December 17, 2023, the Agency received 48 reports against political entities due to suspicion of violations of the Law on Financing of Political Activities. All reports were resolved within the legal deadline, and the decisions were published on the Agency's official website. During the aforementioned election campaign, the Agency had also initiated nine ex officio proceedings.

During the election campaign for the parliamentary and local elections held on December 17, 2023, a total of 28 reports were submitted to the Agency for the Prevention of Corruption, due to the suspicion of a violation of the provisions of Art. 50 of the Law on the Prevention of Corruption. Out of which, in 18 cases the Agency, in accordance with the provisions of Art. 81 paragraph 3 of the Law on the Prevention of Corruption, informed the claimant that there was no basis for proceeding to decide on the existence of a violation of that law, while in ten cases a violation of the law was determined, and warning measures were issued.

With the aim of control of the election campaign expenditures in 2023, the Agency engaged 144 field observers, whose task was to directly, by observing in the field, collect data and

information on all activities of political subjects during election campaigns. For monitoring and control of the observers' performance in the field, 10 central coordinators from the Agency were engaged.

Anti-corruption measures in vulnerable areas (focus on the area of public procurements)

- **Which sectors are identified as having high risks of corruption, and what measures have been taken or planned to monitor and prevent corruption and conflicts of interest in public procurement? Additionally, could you list other sectors with high risks of corruption and the relevant measures taken or planned to prevent and address corruption in those sectors, such as healthcare, citizen/residence investor schemes, urban planning, disbursement of EU funds, and measures to combat corruption committed by organized crime groups infiltrating the public sector?**

Ministry of Justice

With the aim of a systematic approach in the implementation of activities related to the fight against corruption, the Ministry of Justice has established a Working Group for the drafting of the National Anti-corruption Strategy for the period 2023-2028 and the accompanying Action Plan. After the training held by the Agency for the Prevention of Corruption on the application of the Methodology for assessing the risk of corruption for members of the working groups for the development of the new National Anti-corruption Strategy and its Action Plan for the period 2024 - 2028, a risk assessment was carried out in the following 12 areas in areas of prevention: Education, Health, Taxes, Customs, Local Self-Government, Public Sector Management, Public Enterprises, Police, Privatization, Construction and Infrastructure Planning, Financing of Political Parties and Public Procurement. The areas of Whistle-blower Protection, Lobbying and Transparency of work will be represented in the entire strategy within all the mentioned areas. In addition, a special working subgroup was in charge of optimization and formulation of recommendations for improvement in the area of repression. In the period from the end of March to the beginning of July 2023, a total of 48 meetings of working subgroups were held, and the results of their work are reports on the assessment of the risk of corruption in the areas that are the subject of the National Strategy. Based on the aforementioned reports and with the support of the European Union, an ex-ante analysis was prepared in July of this year. The first draft of the National Strategy for the fight against corruption for the period 2024-2028 and the accompanying Action Plan for the period 2024-2025 was prepared and a public discussion was held in the period from August 16 to September 5, 2023. As part of the public debate on August 22, a round table was organized with representatives of the EU Delegation in the Republic of Serbia, civil society organizations, representatives of EU member states and other international partners. The draft strategy and Action plan were sent to the European Commission for comments in October 2023. Consultations with the European Commission on the final text of the Strategy and action plan lasted two months. The Ministry of Justice acted on all the comments of the European Commission, which mainly related to the fulfilment of transitional criteria from Chapter 23 and GRECO recommendations from the fifth round of evaluation. The final text of the National Anti-corruption Strategy for the period 2024-2028 and the accompanying Action Plan for the period 2024-2025 was sent to the competent authorities of Serbia for their opinion on February 13, 2024.

Public Procurement Office

The Law on the Organization and Competence of State Bodies in the Suppression of Organized Crime, Terrorism and Corruption ("Official Gazette of the RS", Nos. 94/16, 87/18- other law and 10/23), defines the competences of state bodies in order to cooperate in suppression of organized crime, terrorism and corruption, i.e. with the aim to detect and prosecute the perpetrators of the crimes listed in the provisions of the aforementioned law.

In accordance with the above, with the aim to detect and prosecute perpetrators of crimes against official duty, receiving and giving bribes, as well as a group of crimes against the economy (Article 228 of the Criminal Code - abuse related to public procurement), the competent prosecutor's offices regularly cooperate with Public Procurement Office (hereinafter: PPO) and require monitoring of public procurement procedures included in the criminal charges that the competent prosecutor's offices acted on. Among other things, the special departments of higher public prosecutor's offices for the suppression of corruption, as well as the Ministry of Internal Affairs - the organizational unit responsible for the suppression of corruption, are responsible for the suppression of cases of the aforementioned criminal acts.

In accordance with the aforementioned Law on the Organization and Competence of State Bodies in the Suppression of Organized Crime, Terrorism and Corruption, the PPO has appointed two liaison officers. Namely, in order to achieve cooperation and more efficient delivery of data to the Prosecutor's Office for Organized Crime and special departments of the Public Prosecutor's Office for Combating Corruption, the PPO, besides the regular activities on monitoring the procedures required, provides expert assistance and delivers specific data to the Prosecutor's Office for organized crime and special departments of higher public prosecutor's offices for the suppression of corruption through appointed liaison officers, all with the aim of achieving cooperation and more efficient provision of necessary data in the fight against corruption and prosecution of perpetrators of criminal acts.

In order to strengthen mutual cooperation, to improve the exchange of information between the competent public prosecution offices for proceeding in criminal cases of organized crime, corruption and money laundering and the PPO, the Cooperation Agreement between the PPO and the Republic Public Prosecutor's Office was concluded. The aforementioned Agreement regulates the manner of cooperation, the means and rules of communication, i.e. the exchange of information and data between the signatory parties in order to increase efficiency in terms of detection, prosecution and trial for criminal offenses to which the Law on the Organization and Competence of State Bodies in the Suppression of Organized Crime, Terrorism and Corruption applies. In accordance with the concluded Cooperation Agreement, the PPO submits all copies of requests for initiation of misdemeanor proceedings to the Republic Public Prosecutor's Office.

Besides the cooperation with the competent prosecutor's offices, the PPO regularly cooperates with the Ministry of Internal Affairs, the Agency for the Prevention of Corruption, and the Commission for the Protection of Competition within its competences.

In 2023, representatives of the PPO, together with representatives of public prosecutors' offices and the police, participated in a workshop on challenges in the detection and prosecution of criminal offenses related to public procurement. The aforementioned workshop was organized as part of the Project for the Improvement of Public Procurement of the United States Agency for International Development (USAID), together with the Bureau for International Combating Narcotics and Law Enforcement of the Embassy of the United States of America (INL) and in

cooperation with the Supreme Public Prosecutor's Office of the Republic of Serbia. The workshop was realized in an interactive way through a discussion on the application of special evidentiary actions in the detection and collection of evidence for criminal offenses related to public procurement and the possibility of applying the methodology of "red flags" to detect illegal activities in the field of public procurement.

During 2024, the PPO plans to organize at least two advanced trainings for representatives of special departments of higher public prosecutor's offices for combating corruption and the Ministry of Internal Affairs.

The Action plan for the implementation of the Public Procurement Development Program (2019-2023) for the year 2023, within the measure „Strengthening administrative capacities and education“, as one of the activities, which implementation is ongoing, foresees the drafting of a Guide for public procurement officers in the area of strengthening integrity, preventing conflicts of interest and corruption in public procurement procedures.

It is a document intended for persons who have knowledge in the field of public procurement, i.e. who have obtained a certificate for a public procurement officer, with the fact that in this particular case the emphasis is placed on the area of strengthening integrity, preventing conflicts of interest and corruption in public procurement procedures. In connection with the above, the PPO plans to hold trainings for public procurement officers on this topic in the upcoming period.

Further, in 2024 the PPO plans to hold workshops with key institutions (Agency for the Prevention of Corruption, Higher Public Prosecutor's Office, Commission for the Protection of Competition) regarding the implementation of monitoring of public procurement procedures, as well as the protection of competition in public procurement procedures.

On November 4th, 2023, the Law on Amendments to the Law on Public Procurement („Official Gazette of the RS“, no. 92/93, hereinafter: the Law on Amendments to the Law) entered into force and it is applicable from 1st January 2024. One of the novelties prescribed by the Law on Amendments to the Law is the creation of a database on the Public Procurement Portal, which, besides the information on all contracts concluded after the public procurement procedure and all amendments thereof, also contains data on contracts/purchase orders concluded or issued in accordance with Article 27 of the Public Procurement Law, which prescribes the thresholds up to which the provisions of this law are not applied and their amendments.

Such a solution will enable significantly greater transparency in terms of data on amendments to contracts, data on awarded contracts/issued purchase orders for procurement which value is below the thresholds for the application of the Public Procurement Law, which will make it much easier for the authorities responsible for controlling the legality of spending public funds to view data important for performance of work within their competence, but also to the interested public.

Ministry of Health

The Law on Medicinal Products and Medical Devices (“Official Gazette of the RS” no. 30/10, 107/12, 105/17 - other law and 113/17 - other law) and by-laws adopted based on this Law contain anti-corruption provisions in certain articles, but there are areas that are not satisfactorily legally regulated from the aspect of corruption.

The area containing a certain risk of corruption is the promotion or advertising of medicinal products to persons qualified to prescribe or supply medicinal products (to the professional public). The promotion or advertising of medicinal products to the professional public is a

contribution of the pharmaceutical industry to any healthcare system and an important part of the education and information of healthcare workers.

Article 28 of the Rulebook on advertising medicinal products and medical devices ("Official Gazette of the RS", no. 79/10 and 102/18 - other law) stipulates that professional associates of advertisers, promoting a medicinal product, shall only offer a gift to the members of the professional public that is inexpensive and/or of symbolic value, and relevant to medical, dental or pharmaceutical practice or the activities of the employer where the professional public is employed (e.g. pen, notebook, calendar, and other similar low-value items), which is not considered advertising in terms of the Law.

According to Article 29, par. 1, item 1) of the mentioned Rulebook, in the process of promoting a medicinal product, it is not allowed to encourage the professional public to prescribe, dispense, purchase, or recommend the use or purchase of the medicinal product, by offering or supplying a monetary reward, gift, or providing and enabling any other material and non-material benefits, and/or promising or giving any privilege or reward.

We believe that it is necessary to prescribe by law that persons qualified to prescribe or dispense medicinal products shall not be given, offered, or promised gifts, monetary rewards, or other material benefits unless they are inexpensive and relevant to medical, dental, or pharmaceutical practice. Persons qualified to prescribe or dispense medicinal products shall not solicit or accept any material or non-material gift as an incentive for prescribing, dispensing, purchasing, or consumption of medicinal products.

In accordance with the regulations governing corruption, the existing solution prescribed by the by-law should be transferred to the legal provisions, in order to prescribe the corresponding penal policy.

In addition, Article 168, paragraph 5 of the Law on Medicinal Products and Medical Devices prescribes that sponsorship of scientific and promotional meetings worth more than necessary costs, or providing greater financial, material, or other benefits, is forbidden.

We believe that it is necessary to specify by law that the sponsorship of professional meetings must not be conditioned by the demand for or the provision of, any consideration in money or in kind by the professional public organizing the professional meeting, or by the advertiser.

The field of clinical drug trials is not adequately regulated by the Law on Medicinal Products and Medical Devices. With the entry into force of the Law on Health Care ("Official Gazette of the RS" no. 25/19), the competencies of the health institutions ethics committees regarding clinical drug trials were accordingly transferred to the Ethics Committee of Serbia, and the competences, composition, conditions and procedure of the Ethics Committee of Serbia are prescribed by the Law on Medical Devices ("Official Gazette of the RS" no. 105/17).

The new Law on Medicinal Products will include the field of clinical trials, which will also contain certain anti-corruption provisions.

In addition to the existing anti-corruption provisions related to this area, we believe that the law governing the area of medicinal products should stipulate that, in the process of giving an opinion on a clinical drug trial, only those members of the Ethics Committee of Serbia who are not researchers in the clinical trial on which a decision is being made, and who are independent of the sponsor and have signed a statement on the absence of conflict of private and public interest, may vote and/or give their opinion in accordance with the law.

In addition, the law must regulate that the experts whose opinion is requested by the Ethics Committee of Serbia, and who are not members of the Ethics Committee, shall be exempted from giving an opinion in a procedure in which they, as well as their direct relatives, regardless

of the degree of kinship, collateral relatives up to the second degree of kinship, adoptive parents or adoptees, spouses and in-laws up to the first degree of kinship, directly or through a third legal or natural party and/or an individual, participate as share owners, shareholders, employees, participate in management bodies or perform tasks according to the contract, perform consultancy tasks, representation and the like with a legal or natural person performing the activity of production, distribution and testing of medicinal products and/or medical devices, as well as with the manufacturer and/or the manufacturer's authorized representative, or they perform this activity as natural persons, about which they shall sign a statement in order to prevent conflicts of private and public interest.

The Law on Medical Devices ("Official Gazette of the RS", no. 105/17), which has been in force since December 2, 2018, includes anti-corruption provisions regarding the relationship between industry and the health profession, as well as provisions on preventing conflicts of public and private interest concerning the employees of the Medicines and Medical Devices Agency of Serbia and the Ministry of Health.

Drafting of the Law on Medicinal Products is underway and the same provisions will be included in this text.

Horizontal matter

Criminal justice chain

Implementation of the law on the organisation and jurisdiction of state authorities in suppression of organised crime, terrorism and corruption

- **Please inform us of any steps being taken and the timeline for the amendments to the legislation including the Criminal code, the Criminal procedure code and the Law on the mandate and authorities of state institutions tasked with suppression of organised crime, corruption and terrorism financing. When will the working group to revise the Law on the mandate and authorities of state institutions tasked with suppression of organised crime, corruption and terrorism financing be established? Please provide more details on how the EU Peer review recommendations on organised crime and corruption will be taken into consideration in those amendments.**

Ministry of Justice

Please see the statement above.

Organised crime and corruption

Fight against serious and organised crime and corruption, in particular high-level corruption, including pro-active investigations and prosecutions, freezing and confiscation of criminal assets, role and practices of security services in the investigation of serious and organised crime cases

- **What are the laws and sanctions in place for criminalizing corruption and related offenses, including foreign bribery? Please inform about the level of enforcement against foreign bribery in law and in practice.**

Public Prosecution Office for Organized Crime

Public Prosecutor's Office for Organized Crime so far did not have cases which included foreign bribery.

Supreme Public Prosecution Office

In the Special Departments for Suppression of Corruption, there were no reports filed for bribery of foreign public officials or officials of international organizations.

Ministry of Justice

Criminal Code ("Official Gazette of the Republic of Serbia", No. 85/05, 88/05, 107/05, 72/09, 111/09, 121/12, 104/13, 108/14, 94/16 and 35/19) prescribes following criminal offenses:

Trading in Influence

Article 366

"(1) Whoever solicits or accepts, directly or through the third party, for himself/herself or another a gift or other benefit to, by using his/her official or social position or his/her actual or assumed influence to intercede in performance or omission of an official action, shall be punished with imprisonment of six months to five years.

(2) Whoever promises, offers or gives, directly or through the third party, a gift or other benefit to another to intercede by using his/her official or social position or his/her actual or assumed influence in performance or omission of an official action, shall be punished with imprisonment of up to three years.

(3) Whoever by using his/her official or social position or his/her actual or assumed influence intercedes in performance of an official action that should not be performed or in omission of an official act that should have been performed, shall be punished with imprisonment of one to eight years.

(4) Whoever promises, offers or gives, directly or through the third party, a gift or other benefit to another to intercede by using his/her official or social position or his/her actual or assumed influence in performance of an official action that should not be performed or in omission of an official action that should be performed, shall be punished with imprisonment of six months to five years.

(5) If for intercepting specified in paragraph 3 of this Article, any solicited or received gift or any other benefit has been received, the offender shall be punished with imprisonment of two to ten years.

(6) A foreign official who commits the offence specified in paragraphs 1 through 4 of this Article shall be punished with the penalty prescribed for that offence.

(7) The gift and material gain shall be seized."

Soliciting and Accepting Bribes

Article 367

"(1) An official who, directly or indirectly, solicits or accepts a gift or other benefit, or promise of a gift or other benefit for himself or another to perform an official act within his competence or in relation to his competence that should not be performed or not to perform an official act that should be performed, shall be punished with imprisonment of two to twelve years.

(2) An official who, directly or indirectly, solicits or accepts a gift or other benefit or a promise of a gift or benefit for himself or another to perform an official act within his competence or in relation to his competence that he is obliged to perform or not to perform an official act that should not be performed, shall be punished with imprisonment of two to eight years.

(3) An official who commits the offence specified in paragraphs 1 and 2 of this Article in respect of uncovering of a criminal offence, instigating or conducting criminal proceedings, pronouncement or enforcement of criminal sanction, shall be punished with imprisonment of three to fifteen years.

(4) An official who after performing or failure to perform an official act specified in paragraphs 1, 2 and 3 of this Article solicits or accepts a gift or other benefit in relation thereto, shall be punished with imprisonment of three months to three years.

(5) A foreign official who commits the offence specified in paragraphs 1 through 4 of this Article shall be punished with the penalty prescribed for that offence.

(6) A responsible officer in an institution or other entity not involved in pursuit of an economic activity, and who commits the offence specified in paragraphs 1, 2 and 4 of this Article shall be punished with penalty prescribed for that offence.

(7) The received gift or material gain shall be seized."

Bribery

Article 368

"(1) Whoever makes or offers a gift or other benefit to an official or another person, to within his/her official competence or in relation to his/her competence perform an official act that should not be performed or not to perform an official act that should be performed, or who acts as intermediary in such bribing of an official, shall be punished with imprisonment of six months to five years.

(2) Whoever makes or offers a gift or other benefit to an official or another person to, within his official competence or in relation to his competence, perform an official act that he/she is obliged to perform or not to perform an official act that he/she may not perform or who acts as intermediary in such bribing of an official, shall be punished with imprisonment of up to three years.

(3) Provisions of paragraphs 1 and 2 of this Article shall apply also when a bribe is given, offered or promised to a foreign official.

(4) The offender specified in paragraphs 1 through 3 of this Article who reports the offence before becoming aware that it has been detected, may be remitted from punishment.

(5) Provisions of paragraphs 1, 2 and 4 of this Article shall apply also when a bribe is given, offered or promised to a responsible officer in an institution or other entity not involved in pursuit of an economic activity."

Regarding foreign bribery, **article 112** of the Criminal Code prescribes a definition of foreign official:

"(4) A foreign official is a person who is a member, officer or civil servant of legislative, executive or judicial authority of a foreign state, a person who is a judge, juror, a member, official or officer of a court of a foreign state, a person who is a member, official or officer of an international organisations or bodies thereof, and a person who is the arbitrator in a foreign or international arbitration."

- **What potential obstacles exist to investigating and prosecuting high-level and complex corruption cases, such as regulations on political immunity, procedural rules, statute of limitations, cross-border cooperation, and pardoning?**

Public Prosecution Office for Organized Crime

In the Public Prosecutor's Office for Organized Crime there were no case in which the suspect immunity prevented the initiation of investigations of corruption allegations, nor did the statute of limitations for criminal prosecution applied in our cases during phase of investigation and indicting, and all of them ended up in court with the raising of indictments.

As for cross-border cooperation in connection with corruption cases, Public Prosecutor's Office for Organized Crime did not have it in its cases, considering that the criminal acts with elements of corruption were committed by domestic citizens in the domestic jurisdiction. However, when tracing the proceeds from crime in so-called extended confiscation proceeding, the POOC cooperated with Montenegro, where the immovable property of one of defendants was identified. These assets were frozen with the purpose of confiscation. Court granted request for confiscation of this Office in first instance, but the decision have not become final yet.

Supreme Court

Regarding this question, Supreme Court will refer to the question of parliamentary immunity as an obstacle to the criminal prosecution as well as procedural rules governing termination of criminal proceedings for procedural reasons.

In this regard we refer to the Law on the National Assembly, Article 38 which stipulates:

A member of Parliament shall enjoy immunity in accordance with the Constitution and the Law.

A Member of Parliament shall not be held criminally or in any other way liable in respect of opinions expressed orally or in writing or votes cast by him/her in the performance of his/her duties.

A Member of Parliament invoking his/her immunity shall not be detained, nor subject to any criminal or other legal proceeding in which prison sentence may be pronounced, without prior approval of the National Assembly.

By majority vote of all MPs, the National Assembly shall decide on waiving the immunity of an MP invoking it, whereby the approval of the National Assembly referred to in paragraph 3 of this Article shall be granted.

Member of Parliament who has not invoked his/her immunity, without previous approval of the National Assembly, may be charged in criminal or other proceedings in which prison sentence may be pronounced.

The body conducting proceedings against an MP who has not invoked the immunity shall inform the National Assembly on initiation of the proceedings.

By majority vote of all MPs, the National Assembly may establish immunity to an MP who waived it.

An MP found in the act of committing the criminal offense with a stipulated sentence of at least 5 years of imprisonment, may be detained without prior approval of the National Assembly.

There shall be no statutes of limitations stipulated for the criminal or other proceedings in which the immunity is established.

In terms of paragraphs 4 and 7 of this Article decision shall be passed by the National Assembly, upon proposal of the competent committee of the National Assembly, in accordance with the Rules of Procedure.

Based on abovementioned Article, it can be concluded that in case of serious criminal offenses of the Member of Parliament found in the act of committing a criminal offense with a sentence of imprisonment of at least 5 years, may be detained without prior approval of the National Assembly. Furthermore, if the Member of Parliament has not invoke his immunity, proceedings may be initiated against him and prison sentence pronounced, without previous approval of the National Assembly. National Assembly can decide to waive an immunity of an Member of Parliament invoking immunity, whereby the approval of the National Assembly shall be granted according to paragraph 3 of this Article.

It is important to have in mind that statute of limitation presccribed in the criminal or other proceedings (in respect of which the immunity is established), will not be applied, which consequently prevents the criminal prosecution to become time-barred.

Also, Article 37 of the Law on the Local Self-Government stipulates that councillor shall not be criminally liable, detained or punished in respect of opinions expressed orally or in writing or votes cast by him at a session of the Assembly and its Working Bodies.

Procedural rules – Criminal Procedure Code, statute of limitation and grounds for dismissal a charge and suspension of prosecution

In terms of **statute of limitation** as an obstacle to conducting criminal proceedings, we refer to the relevant provisions of the Criminal Procedure Code.

It follows from provisions of the Criminal Procedure Code that public prosecutor shall dismiss a criminal complaint, inter alia, because the statute of limitations has expired or the offence is encompassed by an amnesty or a pardon, or due to existence of other circumstances which permanently exclude prosecution; (Article 284, paragraph 1, p. 2.).

President of the (court) chamber shall discontinue criminal proceedings by ruling if, among others, he/she determines that the defendant has been relieved from prosecution by an act of amnesty or pardon, or criminal prosecution cannot be undertaken due to expiry of the statute of limitations or other circumstances permanently excluding it. (Article 352, paragraphs 1, p. 3).

The court shall dismiss the proceedings if, inter alia, the defendant has been released from criminal prosecution by an act of amnesty or a pardon, or prosecution cannot be undertaken due to an expiry of the statute of limitations or due to other circumstances permanently excluding prosecution (Article 422, paragraph 1, p. 3).

A substantive violation of the provisions of criminal procedure exists if: the statute of limitations on criminal prosecution has expired, or prosecution is excluded due to an amnesty or pardon, or the matter has already been finally adjudicated, or due to other circumstances permanently excluding criminal prosecution; (Article 438, paragraph 1, p. 3).

From the abovementioned provisions can be concluded that the Law precisely prescribes the grounds on which the statute of limitations of criminal prosecution may lead to the suspension of criminal proceedings or to the judgment on dismissal.

When it comes to criminal prosecution, the problem of statute of limitations may possibly arise if the pre-trial proceedings took a long time, upon which the court proceeding followed which often due to the volume of evidence that should be examined in such cases, but also due to the possibility of abuse of procedural rights by the participants in the proceedings (defendant, defense counsel, witnesses, etc.), as a rule, take a long time. Due to the passage of time, the statute of limitation of the criminal prosecution may expire and consequently the suspension of the proceedings may occur. It should be emphasized that the statute of limitations for criminal prosecution is linked to the criminal sanction provided for by law (Articles 103 and 104 of the Criminal Code), and in the cases of serious crimes and "high-level and complex corruption cases" these periods are relatively long, so it cannot be concluded that are frequent cases in which charges are dismissed due to such circumstances that preclude criminal prosecution.

- **How effective are non-criminal measures and sanctions, such as recovery measures and administrative sanctions, in addressing corruption by both public and private offenders?**

Tax Administration, Ministry of Finance

In the Tax Administration, there is a **Department for Internal Control**, which performs direct and indirect control of legality, timeliness, responsibility, professionalism and efficiency in the work and behavior of employees in the organizational units of the Tax Administration by order of the Director of the Tax Administration and according to complaints about the work of employees; initiation of procedures for determining the responsibility of employees; tasks of planning and implementation of internal control according to the dynamic plan of internal control and according to petitions and objections to the work of the organizational parts of the Tax Administration. Within the department, the Department for determining disciplinary and material responsibility of tax officials and officials was formed.

The Department for determining disciplinary and material responsibility organizes and performs work in the field of disciplinary responsibility and responsibility for damage (material responsibility) of employees in the Tax Administration; initiating, conducting disciplinary proceedings and deciding on disciplinary responsibility, monitoring the execution of the decisions made, compiling work reports, implementing the procedure for determining the existence of damage, its amount, responsibility for the damage caused and the method of payment of damage.

Current regulations, i.e. the Law on Tax Procedure and Tax Administration, the Law on General Administrative Procedure and the Law on Civil Servants, prescribe that violations of duties from the employment relationship can be minor or serious.

After the authorized persons, i.e. the Disciplinary Commission, determine at an oral and public hearing that the employee is disciplinary responsible for an act committed at work or in connection with work, they will determine a disciplinary penalty. Disciplinary punishment can be lighter or heavier.

A warning or a fine of up to 20% of the full-time salary, employee's basic salary for the month in which the fine was imposed, may be imposed for minor violations of the duties of the employment relationship.

For more serious violations of duties from the employment relationship, the following can be imposed:

1. a fine of 20% to 30% of employee's basic salary, for the month in which the fine was imposed, for a duration of up to six months;
2. determination of the immediately lower salary grade;
3. four-year promotion ban;
4. transfer to a workplace in an immediately lower position with determination of the coefficient in accordance with the law regulating salaries in state bodies;
5. termination of employment.

The fine is always enforced administratively.

A civil servant who has been sentenced to a disciplinary penalty of termination of employment shall have his employment terminated on the day of finality of the decision by which the disciplinary penalty was imposed.

When choosing and measuring disciplinary punishment, the degree of responsibility of the civil servant, the severity of the consequences of the breach of duty and the subjective and objective circumstances under which the breach of duty was committed are taken into account.

In the course of 2023, 8 employees were fined, there were 2 terminations of employment for 2 employees due to violation of work duties.

In accordance with the Action Plan and the National Strategy for the fight against corruption, as a clear priority of the Government of the Republic of Serbia, the Tax Administration of the Republic of Serbia is fighting against all forms of corruption with its daily efforts, permanently and long-term, with zero tolerance.

The Tax Administration of the Republic of Serbia, while continuing to cooperate with all state authorities in the fight against all types of abuse of office, will not tolerate any type of corruption among tax officials in the future.

The competences and powers of our **Tax Police Sector** in the detection of tax crimes and their perpetrators are prescribed by Art. 135 of the Law on Tax Procedure and Tax Administration as well as Art. 286 of the Criminal Procedure Act.

Tax crimes are crimes established by the Law on Tax Procedure and Tax Administration and the Criminal Code, in which case the Tax Police submits a criminal complaint to the prosecutor who further manages the investigation, in accordance with the CPA.

In the **Sector for determining the origin of property and special tax**, activities are carried out in order to identify natural persons who in one, and at most in three consecutive calendar

years, have an increase in the value of the property at their disposal in a value greater than 150,000 euros in relation to the reported income.

If, after the tax control procedure, the existence of a tax base for a natural person is determined (tax base = increase in property value - declared income), a tax rate of 75% is applied to that base and the amount of a special tax is determined.

Conducting these procedures by the Tax Administration represents an efficient and modern approach regarding the potential suppression and fight against illegally acquired property (in all forms) by natural persons, including property that natural persons may have acquired through corruption.

- **Could you provide information, if available since 2022 or the latest available data, on indictments, first instance convictions, first instance acquittals, final convictions, final acquittals, other outcomes excluding convictions and acquittals, cases adjudicated, imprisonment or custodial sentences through final convictions, suspended custodial sentences through final convictions, and pending cases at the end of the reference year? Kindly provide the information on these statistical data in the usual method that you have provided it until now (statistical excel tables).**

Public Prosecution Office for Organized Crime

Track record tables with statistics related to 2023 were provided to Ministry of Justice (Chapter 23 – TRT on corruption in vulnerable areas) and Ministry of Interior (Chapter 24 – TRT on serious and organized crime).

Supreme Public Prosecution Office

Statistical excel tables attached.

Please note that data on number of criminal complaints for criminal act Giving and Accepting Bribes in connection with Voting under Article 156 CC within Special Departments for the Suppression of Corruption is corrected. After the in-depth analysis of every criminal complaint and report filed in relation to potential breach of elections rights, some data which was not presented in previosly sent TRT table on corruption for 2023, due to prosecutorial methodology for statistical reporting, are now presented.

Supreme Court

Statistical excel tables for 2023 are provided.