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Ministry of Justice

LAW ON ORGANISATION OF COURTS

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LAW ON ORGANISATION OF COURTS

Chapter One

PRINCIPLES

Judicial Power

Article 1

Courts are autonomous and independent state bodies protecting the freedoms and rights of citizens, rights and interests of legal subjects stipulated by law, ensuring constitutionality and legality.

Courts adjudicate in accordance with the Constitution, laws and other general acts, where specified by law, generally accepted rules of international law and ratified international agreements.

Establishing of Courts

Article 2

Courts are established and abolished by law.

Provisional courts, *ad hoc* war courts or courts of special session may not be established.

Separate regulations shall govern the establishing of reconciliation councils, arbitration and other selected courts.

Independence of the Judicial Authority

Article 3

The judicial authority shall be vested in courts and shall be independent of the legislative and the executive authorities.

Judicial decisions shall be binding to all and may not be subject to extra-judicial examination.

Judicial decisions may be reviewed only by the court of competent jurisdiction in due proceedings laid down by law.

Everyone is obliged to comply with an enforceable judicial decision.

Judicial Competence

Article 4

Judicial competence is defined by the Constitution and law.

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

Designation of a Sitting Judge

Article 5

A sitting judge shall be designated irrespective of the parties involved and circumstances of the legal matter.

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

Prohibition of Influence on Courts

Article 6

Use of public office, the media and/or any public appearance that may unduly influence the course and outcome of court proceedings is prohibited.

Any other form of influence on the courts and/or pressure on the parties in the proceedings is also prohibited.

Transparency

Article 7

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

Right to Complaint

Article 8

A party or other participant in court proceedings have the right to complain against the work of the court when finding that the proceedings are dilatory, irregular or that there is any form of influence on the course and outcome.

Legal Assistance

Article 9

Courts are required to provide legal assistance to each other, whereas other government authorities and organisations shall provide legal assistance to courts and forward necessary data.

Courts may provide case-files and documents and/or copies thereof, necessary to conduct proceedings, to other government authorities only when this does not impede court proceedings.

Symbols of State Authority, Official Use of Language and Script

Article 10

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

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

The flag and the coat of arms of the Republic of Serbia shall be displayed also in the courtroom.

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

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

Chapter Two

EXTERNAL ORGANISATION OF COURTS

I. TYPES OF COURTS

Courts of the Republic of Serbia

Article 11

There is a single judicial power on the territory of the Republic of Serbia.

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

Courts of general jurisdiction are basic courts, higher courts, appellate courts and the Supreme Court of Cassation.

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

Supreme Court of Cassation

Article 12

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

The seat of the Supreme Court of Cassation is in Belgrade.

Other Republican Level Courts

Article 13

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

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

Basic, Higher, Appellate, Commercial and Misdemeanour Courts

Article 14

A basic court is established for the territory of a town, that is, one or several municipalities, and a higher court for the territory of one or several basic courts.

A commercial court is established for the territory of one or several towns, that is, several municipalities.

An appellate court is established for the territory of several higher courts.

A misdemeanour court is established for the territory of a town, that is, one or more municipalities.

The establishing, seats and territorial jurisdiction of basic, higher, appellate, commercial and misdemeanour courts are regulated by separate law.

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

Court of Immediately Higher Instance

Article 15

The Supreme Court of Cassation is the immediately higher instance court to the Commercial Appellate Court, the Higher Misdemeanour Court, the Administrative Court, and the Appellate Court.

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

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

II. THE EXTENT OF JURISDICTION AND COURT TENURE

1. The Extent of Jurisdiction of Court

Seat and Territorial Jurisdiction of Court

Article 16

The seat of the court is in the building wherein the court is situated.

The territorial jurisdiction of a court is the territory it extends over.

Venue of Undertaking Court Activities

Article 17

Court activities are undertaken within the seat of the court, and outside the seat only when so set forth by law.

A basic court, higher court and misdemeanour court may hold court days outside their seats.

Court Days

Article 18

During court days the court referred to in Article 17, paragraph 2 hereof, adjudicates and undertakes other court activities.

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

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

Department outside the Seat of Misdemeanour Courts and Court Units outside Seats of Basic and Commercial Courts

Article 19

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

A department outside the seat of a misdemeanour court is established for the territory of a town, that is, one or more municipalities under the court's territorial jurisdiction.

Basic and commercial courts may have court units outside their seats wherein they adjudicate and undertake other court activities.

A court unit outside the seats of basic and commercial courts is established for the territory of a town, that is, one or more municipalities under the court's territorial jurisdiction.

2. Court Tenure

Time for Undertaking Court Activities

Article 20

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

The Court Rules of Procedure shall define what court actions are undertaken on non-working days.

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

Compliance with Working Hours

Article 21

Judges and court staff are required to comply with working hours and rules of conduct in the court, in accordance with the Court Rules of Procedure.

A judge shall notify the court president of the reasons preventing him/her to work, as the case may be, within 24 hours of occurrence of the reasons.

The court staff shall notify their direct superior of the reasons preventing them to work, as the case may be, within 24 hours of occurrence of the reasons.

Chapter Three

JURISDICTION OF COURTS

1. Jurisdiction of Basic Courts

Article 22

Basic courts adjudicate in the first instance for criminal offences punishable, as the principal penalty, by a fine or imprisonment of up to ten years and/or 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 adjudicate in the first instance in civil litigations, unless some of these fall under the jurisdiction of another court, and shall conduct enforcement and non-litigious proceedings that are not under the jurisdiction of another court.

Basic courts 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 provide legal aid to citizens, extend mutual legal assistance and carry out other tasks specified by law.

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

2. Jurisdiction of Higher Courts

Article 23

A higher court in the first instance:

1. adjudicates for criminal offences punishable by imprisonment of more than ten years as the principal penalty;

2. adjudicates for criminal offences against the Army of Serbia; disclosure of state secret; incitement to change of constitutional order by use of force; provoking national, racial and religious hatred and intolerance, violation of territorial sovereignty; conspiracy for anti-constitutional activity; organising and incitement to genocide and war crimes; damaging the reputation of the Republic of Serbia; damaging the reputation of a foreign state or an international organisation; money laundering; disclosure of official secret; violation of law by a judge, public prosecutor and/or his/her deputy; endangerment of air traffic safety; provoked murder; rape;

3. adjudicates in juvenile criminal proceedings;

4. decides on petition to suspend security measures or legal consequences of the conviction for criminal offences under its jurisdiction;

5. decides on requests for rehabilitation;

6. decides on prohibition of distribution of press and dissemination of information through the media;

7. adjudicates in civil disputes where the value of the subject of the lawsuit allows review; in cases denying or proving paternity and maternity; copyright and other related rights, protection and use of inventions, designs, samples, hallmarks and signs of geographic origin unless under the jurisdiction of another court; in disputes in respect of publishing corrected versions of published information and responses to published information and compensation for damage with respect to the publishing of information;

8. adjudicates in lawsuits on strikes; collective agreements if the lawsuit is not resolved through arbitration; mandatory social security unless under the jurisdiction of another court; on official record books; appointment and dismissal of bodies of legal entities unless under the jurisdiction of another court;

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

1. on imposing measures to secure presence of defendants; in expedited criminal proceedings;
2. against decisions in civil disputes; judgements in cases of small value; in enforcement and non-litigious proceedings.

A higher court shall conduct proceedings for extradition of indicted and convicted persons, enforce a criminal judgement of a foreign court, decide on recognising and enforcement of foreign court and arbitration-related decisions unless under the jurisdiction of another court, decide on conflict of jurisdiction between basic courts from its territory and perform other tasks set forth by law.

3. Jurisdiction of Appellate Courts

Article 24

Appellate courts decide on appeals against:

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

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

4. Jurisdiction of Commercial Courts

Article 25

Commercial courts in the first instance adjudicate:

1. in disputes between domestic and foreign companies, enterprises, co-operatives and entrepreneurs and associations thereof (commercial entities), in disputes arising between commercial entities and other legal entities relating to 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.

2. in disputes on copyright and other related rights and protection and use of inventions, models, samples, hallmarks and signs of geographic origin when such disputes arise between the entities referred to under item 1 of this paragraph; in disputes relating to enforcement and securing of decisions of commercial courts, and in disputes relating to decisions of selected courts only when passed in the disputes referred to under item 1 of this paragraph;

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

4. in disputes relating to foreign investments; ships and aircraft, sailing on the sea and inland waters, and disputes involving maritime and aeronautical law, except for disputes relating to passenger transport; protection of a company name; entry into the court register; bankruptcy and liquidation.

Commercial courts in the first instance conduct proceedings for entry into the court register of legal entities and other subjects unless this is under the competence of another body; conduct bankruptcy and reorganisation proceedings; order and undertake enforcement based on valid documents when referred to the persons mentioned under item 1, paragraph 1 of this Article, rule on and conduct enforcement and securing of decisions of commercial courts, and decisions of selected courts only when passed in the disputes specified in item 1, paragraph 1 of this Article; order and implement enforcement and securing on ships and aircraft; conduct non-litigious proceedings deriving from the application of the Law on Companies.

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

Commercial courts perform also other tasks set forth by law.

5. Jurisdiction of the Commercial Appellate Court

Article 26

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

The Commercial Appellate Court decides on conflict of jurisdiction and transfer of jurisdiction of commercial courts, determines legal opinions for the purpose of a uniform application of law under the competence of commercial courts, and performs other tasks set forth by law.

6. Jurisdiction of Misdemeanour Courts

Article 27

Misdemeanour courts in the first instance adjudicate in minor offence cases unless under the competence of an administrative authority, decide on appeals against decisions passed by administrative authorities in misdemeanour proceedings, and perform other tasks set forth by law.

7. Jurisdiction of the Higher Misdemeanour Court

Article 28

The Higher Misdemeanour Court decides on appeals against decisions of misdemeanour courts, on conflict and transfer of territorial jurisdiction of misdemeanour courts, and performs other tasks set forth by law.

8. Jurisdiction of the Administrative Court

Article 29

The Administrative Court adjudicates in administrative disputes.

The Administrative Court also performs other tasks set forth by law.

9. Jurisdiction of the Supreme Court of Cassation

Trial Jurisdiction

Article 30

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

The Supreme Court of Cassation decides on conflict of jurisdiction between courts if this does not fall under the jurisdiction of any other court as well as on transfer of jurisdiction of courts to facilitate proceedings or for other important reasons.

Jurisdiction outside Trial

Article 31

The Supreme Court of Cassation determines general legal views in order to ensure a uniform application of law by courts; reviews the application of law and other regulations, and the work of courts; appoints judges of the Constitutional Court, gives an opinion on a candidate for the President of the Supreme Court of Cassation and exercises other competencies set forth by law.

Composition of the Panel

Article 32

If not otherwise specified by law, the Supreme Court of Cassation adjudicates on legal remedies in a three judges panel.

Publishing of Decisions of the Supreme Court of Cassation

Article 33

Decisions of the Supreme Court of Cassation relevant to case law, and all general legal views shall be published in a special collection.

All decisions passed by the Supreme Court of Cassation mentioned in Article 30, paragraph 1 of this Law shall be published on the Supreme Court of Cassation website.

Chapter Four

INTERNAL ORGANISATION OF COURTS

I. ANNUAL CALENDAR OF TASKS

Article 34

Following opinions obtained from judges, the president of the court shall set a calendar in writing for the coming year and announce it at the session of all judges by 1 December. The Annual Calendar of tasks shall be determined according to the area of law a judge proceeds in.

An objection raised to the Annual Calendar of Tasks may be submitted by a judge within three days from the day of the announcement at the session of all judges.

President of an immediately superior court decides on the objection raised by a judge, within eight days from the day of submission of the said objection.

Any objection raised by a judge to the Annual Calendar of Tasks in the Supreme Court of Cassation shall be decided upon by the General Session.

II. COURT DEPARTMENT AND SESSION OF ALL JUDGES

1. Court Department

Establishing and Management

Article 35

Court departments are established in courts where several panels or individual judges proceed in the same area of law.

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

Scope of Work

Article 36

The session of a court department shall review the work of the department, legal issues, manners to improve performance and professional skills of judges, judge's assistants and judge's trainees, and other issues relevant to the department.

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

Convening and Chairing the Session

Article 37

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

The court president may always take part in the work and decision making of the departmental session.

2. Case Law Department

Article 38

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

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

The Case Law Department is managed by a judge designated by the court president.

3. Special Departments in Higher, Appellate, Misdemeanour Courts and the Higher Misdemeanour Court

Article 39

Juvenile justice and labour disputes departments shall be established in higher courts and appellate courts.

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

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

4. Joint Session of Departments

Article 40

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

It is jointly convened by department presidents or the court president and chaired by the court president or the president of the department under whose scope of work the issue under deliberation is.

5. Session of All Judges

Article 41

The session of all judges takes under review reports on the work of judges and the court, decides on initiating proceedings for review of constitutionality of law and legality of regulations and other general acts, reviews the application of regulations governing the issues under the scope of work of courts, gives an opinion on candidates for judges and lay judges, and decides on other issues of relevance to the entire court.

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

III. INTERNAL ORGANISATION OF THE SUPREME COURT OF CASSATION

1. Departments in the Supreme Court of Cassation

Article 42

The Supreme Court of Cassation may have departments in compliance with the Rules of Procedure on Organisation and Operation of the Supreme Court of Cassation.

2. Session of Departments of the Supreme Court of Cassation

Article 43

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

The session of departments is convened also due to incoherence between some panels arising in respect of the application of regulations or if one panel departs from a legal opinion adopted by its case law or a legal opinion accepted by all panels.

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

3. General Session of the Supreme Court of Cassation

Scope of Work

Article 44

The General Session of the Supreme Court of Cassation adopts general legal views; reviews the application of laws and other regulations and the work of courts; appoints judges of the Constitutional Court; gives an opinion on a candidate for the President of the Supreme Court of Cassation; issues the Rules of Procedure on Organisation and Operation of the Supreme Court of Cassation and performs other tasks set forth by law and the Rules of Procedure on Organisation and Operation of the Supreme Court of Cassation.

The General Session also reviews other issues under the scope of work of the session of all judges.

Adoption of General Legal Views

Article 45

The General Session is also convened due to incoherence between panels from different departments or between different departments arising in respect of the application of regulations, where one department departs from a general legal view or where a legal view cannot be adopted by a departmental session.

A general legal view adopted at the General Session is binding to all panels and departments of the Supreme Court of Cassation and may be amended only at the General Session.

Composition and Decision Making

Article 46

The General Session comprises the President and judges of the Supreme Court of Cassation.

A quorum of the majority number of all judges is required for a legally valid decision making at the General Session.

Decisions are taken by majority vote of judges of the Supreme Court of Cassation who are present.

Convening and Chairing the Session

Article 47

The General Session is convened by the court president, as required, and/or at the motion of the court department or minimum one third of all judges.

The General Session is chaired by the President of the Supreme Court of Cassation.

4. Secretariat

Scope of Work

Article 48

The Supreme Court of Cassation shall have a Secretariat.

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

Secretary

Article 49

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

The Secretary of the Supreme Court of Cassation shall have the status of civil servant in power.

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

5. Rules of Procedure of the Supreme Court of Cassation

Article 50

The Supreme Court of Cassation has the Rules of Procedure that prescribe more specifically the internal organisation and operation of the court.

The Rules of Procedure on Organisation and Operation of the Supreme Court of Cassation is published in the “Official Gazette of the Republic of Serbia”.

IV. COURT ADMINISTRATION

Tasks Comprising Court Administration

Article 51

Court administration entails tasks that support the exercising of judicial power, in particular: the organising of the internal operation of the court; the summoning and assignment of lay judges; activities relating to standing expert witnesses and court interpreters; review of complaints and petitions; keeping statistics and drafting reports; enforcement of penal and minor offences sanctions; financial and material business of the court and certification of documents for use abroad.

Court administration is regulated in more detail by the Court Rules of Procedure.

Rights and Obligations of Court President

Article 52

The court president represents the court, manages court administration and is responsible for a proper and timely court operation.

The court president is required to ensure legality, order and accuracy in the court, order removal of irregularities and prevent procrastination in work, designate *ex officio* barristers in the alphabetical order from the list of barristers provided by a bar association, ensure safeguarding of independence of judges and the credibility of the court, and carry out other tasks set forth by law and the Court Rules of Procedure.

A court has one and/or several deputy court presidents to act on behalf of the court president in absence of the latter or when prevented.

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

Delegating Court Administration to Others

Article 53

The court president may delegate certain court administration tasks to the the deputy court president or to presidents of departments.

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

Empowerment of President of a Court of Immediately Higher Instance

Article 54

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

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

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

Complaints Procedure

Article 55

When a party or other participant in a proceeding files a complaint, the court president is required to take it under consideration and notify the complainant and the president of an immediately higher instance court on admissibility and any measures undertaken, within fifteen days from the receipt of the complaint.

If a complaint is filed through the Ministry competent for the judiciary, a higher court or through the High Judicial Council, the Minister, the president of an immediately higher instance court and the High Judicial Council shall be notified of admissibility of such complaint and undertaken measures.

Court Secretary

Article 56

A court shall have a court secretary.

The court secretary assists the court president in court administration and s/he is autonomous in performing tasks delegated to him/her by a decision of the court president, in compliance with the Court Rules of Procedure.

A court secretary is appointed by the court president.

Chapter Five

COURT STAFF

1. Composition and Number of Court Staff

Article 57

Court staff comprises judge's assistants, judge's trainees and civil servants, as well as general service employees on administrative, technical, accounting, IT and other ancillary jobs of relevance to the judicial branch.

The number of court staff is determined by the court president by the act on internal organisation and job classification in the court, in accordance with the human resources plan.

Criteria for determination of the number of court staff are set by the Minister competent for judicial affairs.

2. Judge's Assistant

Tasks of Judge's Assistant

Article 58

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

Titles of Judge's Assistants

Article 59

Judge's assistants are conferred the following titles: Judge's Associate, Senior Judge's Associate and Court Advisor.

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

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

Court Advisor

Article 60

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

The title of Court Advisor shall exist in Republican level courts.

The title of the Supreme Court of Cassation Advisor exists in the Supreme Court of Cassation, and is acquired in compliance with the Rules of Procedure on Organisation and Operation of the Supreme Court of Cassation.

3. Performance Evaluation of Judge's Assistant

Evaluation Periods

Article 61

Performance of a judge's assistant is evaluated once a year.

Performance of a judge's assistant who has worked less than six months during a calendar year is not evaluated for that particular year.

Competence for Evaluation

Article 62

The court president evaluates the performance of a judge's assistant following an opinion obtained from the session of the department where the judge's assistant is assigned to.

If a judge's assistant is not assigned to any court department, such opinion is obtained from the judge or the panel with whom the judge's assistant works.

Evaluation Grades

Article 63

Evaluation shall rate the scope and quality of performance, diligence, initiative and published professional and research papers.

Performance evaluation of judge's assistants is done on the basis of objective and uniform criteria set by the High Judicial Council.

Grades are: "unsatisfactory", "satisfactory", "good", "distinction" and "outstanding distinction".

A senior judge's associate whose work is evaluated as "outstanding distinction" at least in two consecutive years may be conferred the title of Court Advisor even if not meeting the requirements for a higher court judge.

Evaluation Grade Decision

Article 64

The court president issues the decision on the evaluation grade of a judge's assistant.

The judge's assistant may file an objection to the evaluation grade decision with the High Judicial Council working body within 15 days from the day of receiving the evaluation grade decision.

4. Judge's Trainee

Admission of a Judge's Trainee

Article 65

A person with a law degree who meets general requirements for employment in civil service may be admitted as a judge's trainee.

A judge's trainee is admitted to a basic, higher, commercial and/or misdemeanour court.

Precedence is afforded to candidates having graduated from law school with high average grade.

When admitting judge's trainees, the national composition of the population, appropriate representation of national minority members and knowledge of professional legal terminology in a national minority language officially used in the court will be particularly taken into account.

Employment of a Judge's Trainee

Article 66

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

A judge's trainee who passes the bar exam "with distinction" enters full time employment as Judge's Associate.

Volunteer

Article 67

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

5. Training

Article 68

The training curriculum for judge's trainees and judge's assistants is specified by the institution competent for judicial training, with consent of the High Judicial Council.

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

6. Other Rules on Court Staff

Article 69

Court staff is required to perform their duties with due diligence and impartially, and to safeguard the credibility of the court.

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

Chapter Six

JUDICIAL ADMINISTRATION

Tasks Comprising Judicial Administration

Article 70

Judicial administration ensures enforcement of laws and other regulations in relation to court organisation and operation.

Judicial administration tasks are carried out by the High Judicial Council and the Ministry competent for the judiciary.

Judicial administration-related duties performed by the High Judicial Council are: determination of general guidelines on the internal court organisation; maintaining personal records of judges, lay judges and court staff, the proposing of the part of the budget intended for operation of courts relating to overhead expenses, and allocation of these funds; control of authorised spending of budgetary funds and oversight of financial and material operations of courts.

Judicial administration tasks carried out by the Ministry competent for the judiciary are: monitoring of the work of courts; collecting statistics and other data; approval of court rules on internal organisation and job classification; supervision of proceeding in cases within statutory time limits and proceeding on complaints and petitions; the proposing of the part of the budget intended for investments, projects and other programmes for operation of judicial authorities; ensuring spatial requirements, equipment supply and security of courts; oversight of financial and material operations of courts and the High Judicial Council; organisation and development of the judicial IT system; organisation, development and maintenance of the database of legal enactments; development and implementation of capital projects and other programmes for judicial authorities; appointment and dismissal of expert witnesses and court interpreters.

Capital expenditure referred to in paragraph 4 of this Article shall be disbursed by the Ministry competent for the judiciary, that is, a judicial authority with consent of the Ministry competent for the judiciary.

Prohibition of Influence on the Autonomy and Independence of Courts and Judges

Article 71

Any single act of judicial administration interfering with autonomy and independence of courts and judges is null and void.

Nullity of the act referred to in paragraph 1 of this Article shall be determined by the Administrative Court.

Personal Record

Article 72

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

Data contained in the personal record is transmitted to the High Judicial Council by the court president who is also responsible for their accuracy, and by the person to whom the data relates if such person has provided the data.

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

Content of the Personal Record

Article 73

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

The personal record of a lay judge and a court employee shall contain the first name and family name, place and date of birth, residence address, level of education, title or occupation, performance evaluation, professional career, foreign languages skills and other data.

The bodies in possession of data that is entered in the personal record are required to submit it to the High Judicial Council.

The content in more detail and a form of personal records specified in paragraphs 1 and 2 of this Article are prescribed by the High Judicial Council.

Court Rules of Procedure

Article 74

The Court Rules of Procedure prescribe the court internal organisation and operation, in particular: organisation and work of departments and other internal court units; work of the joint session of the departments and the session of all judges; informing the public about the work of courts; the conducting of proceedings and the providing of decisions in the languages of national minorities;

providing legal aid and holding court days; extending mutual legal assistance; keeping records, summoning and assigning lay judges; determining the obligation of the court president regarding the submission of data necessary for keeping personal records; practice for trainees; treatment of court users by court staff; keeping registration and other supporting books; handling briefs; action on complaints and petitions; keeping statistics and drafting reports on work; collection of fines, costs of criminal proceedings and seized proceeds; procedure on court deposits; introducing joint services in places with several courts and other judicial authorities; dress code for judges, court staff, parties and other participants in court proceedings and all others who conduct their work in a court, as well as other court organisation and operation-related matters.

The Court Rules of Procedure are passed by the Minister competent for the judiciary, with prior opinion obtained from the President of the Supreme Court of Cassation.

Supervision over Implementation of the Court Rules of Procedure

Article 75

The Ministry competent for the judiciary exercises supervision over the implementation of the Court Rules of Procedure.

Only a person meeting the requirements for election to the court whose operation s/he supervises may act as a supervisor.

Effects of Supervision

Article 76

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

The president of an immediately higher instance court is required to notify the President of the Supreme Court of Cassation and the Minister competent for the judiciary on measures undertaken to eliminate identified deficiencies, time limits for eliminating such deficiencies, as well as on the reasons whereby the deficiencies and omissions have occurred.

The notification timeframe is defined in the Court Rules of Procedure.

Chapter Seven

COURT SECURITY

Court Guards

Article 77

Court guards are an armed and uniformed service ensuring security of persons and property, peace and order and unhindered conducting of official activities in judicial premises.

Powers of Court Guards

Article 78

A court guard is authorised to determine the proper identity and reasons for the presence of a person in the building housing a judicial body; to search the person and items where necessary, and prohibit entry into the building with weapons, dangerous instrumentality, under the influence of

alcohol or other intoxicating substances; to remove from the building any person disturbing peace and order, persons who are not appropriately dressed, that is, in a manner safeguarding the credibility and dignity of the court, as well as to protect persons and property in the court by other actions.

A court guard is authorised to use physical force and rubber baton, whereas firearms may be used only if otherwise unable to protect human life or repulse an attack on the building of the judicial body.

Organisation of Court Guards

Article 79

The Minister competent for the judiciary prescribes in more detail organisation of court guards, uniforms of members thereof, weapons and official ID.

Assistance to Court Guards and Security

Article 80

At the request of head of a judicial body, an internal affairs body extends assistance to court guards.

Head of a judicial organ is entitled to request from the Ministry competent for internal affairs to provide special protection to a judge, lay judge, public prosecutor, deputy public prosecutor, magistrate and their families or property.

Application of Regulations by Analogy

Article 81

Regulations governing employment relations of civil servants and general service employees shall apply to employment and rights, obligations, evaluation and accountability of court guards, unless otherwise provided for in this Law.

Chapter Eight

FUNDS FOR OPERATION OF COURTS

Basic Provision

Article 82

Funds for the work of courts are provided in the Republic of Serbia budget.

Funds must be of such scale and timing to sustain independence of judicial power and ensure proper operation of courts.

Budget Proposal and Budget Execution

Article 83

The High Judicial Council proposes the scale and structure of budgetary funds necessary for overhead expenses, with prior opinion obtained from the Ministry competent for the judiciary, and allocates these funds to courts.

Oversight of Budget Spending

Article 84.

Oversight of budgetary funds earmarked for court operations is conducted by the High Judicial Council, the Ministry competent for the judiciary and the Ministry competent for finances.

Oversight of financial and material business of the High Judicial Council, in the part relating to the budgetary funds referred to in Article 83 hereof, is conducted by the Ministry competent for the judiciary and the Ministry competent for finances.

Use of Funds and Own Revenue

Article 85

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

Levels and the purpose of funds under paragraph 1 of this Article are determined in the Budget Law.

Payment of Court Costs

Article 86

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

Chapter Nine

TRANSITIONAL AND FINAL PROVISIONS

TRANSITIONAL PROVISIONS

Continued Operation of Existing Courts

Article 87

The Supreme Court of Serbia and the Higher Commercial Court established by laws passed before shall continue to operate by 31 December 2009.

Continued Operation of Existing Misdemeanour Authorities

Article 88

Misdemeanour panels, municipal misdemeanour authorities, misdemeanour commission under the Ministry competent for financial affairs, panels for the second instance misdemeanour proceedings under the Ministry competent for financial affairs, the first and second instance tax-related misdemeanour authorities shall continue to operate in accordance with the Law on Minor Offences (“Official Gazette of the SRS”, No. 44/89 and the “Official Gazette of the RS”, Nos. 21/90, 11/92, 6/93, 20/93, 53/93, 67/93, 28/94, 16/97, 37/97, 36/98, 44/98, 62/01, 65/01 and 55/04), separate laws governing their jurisdiction, and the Decision on Establishment of Municipal Misdemeanour Authorities and on Determination of the Number of Judges within Misdemeanour Authorities (“Official Gazette of the RS”, Nos. 72/93, 9/94, 30/94, 5/95, 12/95, 50/95, 27/96, 47/96, 9/97, 3/98, 6/98, 17/98, 41/98, 91/02, 37/03, 76/03, 115/03, 97/05 and 91/07) by 31 December 2008.

***Commencement of Operation of the Supreme Court of Cassation, the
Commercial Appellate Court, the Administrative Court and the Higher
Misdemeanour Court***

Article 89.

The Supreme Court of Cassation, the Commercial Appellate Court, the Administrative Court and the Higher Misdemeanour Court shall begin to operate as of 1 January 2010.

Delegation of Cases of the Supreme Court of Serbia

Article 90

Cases in which a final decision is not taken by 31 December 2009 shall be delegated by the Supreme Court of Serbia to the Supreme Court of Cassation and/or the courts that have jurisdiction over these cases under this Law and the Law governing seats and territorial jurisdictions of courts.

If after 1 January 2010 the Supreme Court of Cassation, in ruling on legal remedy, reinstates a case, such case shall be delegated to the court having jurisdiction over it under this Law and the Law governing seats and territorial jurisdictions of courts.

Assumption of Cases

Article 91

Cases which are not completed before misdemeanour panels, panels for the second instance misdemeanour proceedings under the Ministry competent for financial affairs, and the second instance tax-related misdemeanour authorities by 31 December 2009 shall be assumed by the Higher Misdemeanour Court, in accordance with jurisdiction specified by this Law.

If after 1 January 2010 the Higher Misdemeanour Court, in ruling on legal remedy, reinstates a case, such case shall be assumed by the misdemeanour court having jurisdiction over it under the Law governing seats and territorial jurisdictions of courts.

Cases from the Higher Commercial Court shall be assumed by the Commercial Appellate Court as of 1 January 2010.

***Passing of Temporary Acts on Internal Organisation and Job Classification
in the Supreme Court of Cassation, the Commercial Appellate Court, the
Administrative Court, Appellate Courts and the Higher Misdemeanour Court***

Article 92.

Temporary acts on internal organisation and job classification in the Supreme Court of Cassation, the Commercial Appellate Court, the Administrative Court, appellate courts and the Higher Misdemeanour Court shall be passed by the Minister competent for the judiciary by 1 September 2009

Acts on internal organisation and job classification in the Supreme Court of Cassation, the Commercial Appellate Court, the Administrative Court, appellate courts and the Higher Misdemeanour Court shall be passed by their respective court presidents within a period of six months from the day of their respective election, in accordance with this Law.

Taking over of Means for Work, Equipment, Archives and Staff

Article 93

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

Minister competent for the judiciary shall set up a Commission to allocate the means for work, equipment and archives referred to in paragraph 1 of this Article.

The High Judicial Council shall set up a Commission to pass decisions on transfer of staff from the Supreme Court of Serbia to the Supreme Court of Cassation, the Administrative Court and appellate courts, in accordance with the temporary act on internal organisation and job classification.

The required means for work, equipment, archives and staff of existing misdemeanour panels, panels for the second instance misdemeanour proceedings under the Ministry competent for financial affairs, and the second instance tax-related misdemeanour authorities shall be taken over by the Higher Misdemeanour Court, in compliance with the competence specified by this Law.

Minister competent for the judiciary shall set up a Commission to allocate the means for work, equipment, and archives mentioned in paragraph 4 of this Article.

The High Judicial Council shall set up a Commission to assign the staff mentioned in paragraph 4 of this Article to tasks within the Higher Misdemeanour Court and appellate courts, in accordance with the temporary act on internal organisation and job classification.

Allocation of the means for work, equipment and archives, as well as transfer of staff from panels for the second instance misdemeanour proceedings under the Ministry competent for financial affairs, and the second instance tax-related misdemeanour authorities shall be implemented in collaboration with the Ministry competent for finance.

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

Rights of Employees from the Supreme Court of Serbia, the Higher Commercial Court and Misdemeanour Authorities

Article 94

In changing organisation of government authorities provisions of the Law governing the rights of civil servants and general service employees shall apply to the rights of employees from the the Supreme Court of Serbia, the Higher Commercial Court, misdemeanour panels, panels for the second instance misdemeanour proceedings under the Ministry competent for financial affairs, and the second instance tax-related misdemeanour authorities.

Competence of the High Judicial Council regarding Means for Work of Courts

Article 95

The competences of the High Judicial Council from Art. 83 and 84 of this Law shall be exercised by the Ministry competent for the judiciary by 1 January 2011.

Bylaws

Article 96

Bylaws the enactment of which is prescribed under this Law shall be passed within a period of six months from the day of entry into force of this Law.

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

FINAL PROVISIONS

Cessation of Validity of Laws

Article 97

On the day of commencement of the application of this Law, the Law on Organisation of Courts (“Official Gazette of the RS”, Nos. 63/01, 42/02, 27/03, 29/04, 101/05 and 46/06), and the provisions of Articles 12-20 of the Law on Courts (“Official Gazette of the Republic of Serbia”, No. 46/91, 60/91 - correction, 18/92 - correction, 71/92, 63/01, 42/02, 27/03 and 29/04) shall cease to apply.

Entry into Force and Commencement of Application

Article 98

This Law shall enter into force on the eighth day from the day of the publication in the “Official Gazette of the Republic of Serbia” and shall apply as of 1 January 2010.