



**Republic of Serbia**  
**SUPREME COURT OF CASSATION**

I Su 1 116/16

10.08.2016

Belgrade

Pursuant to Measure 5.3.6.1 contained in the Action Plan for the implementation of the National Judicial Reform Strategy for the period 2013- 2018 (“Official Gazette of RS”, No. 71/13), and the activities defined under point 4 regarding implementation of the said measure, and in view of the fact that the Supreme Court of Cassation has been identified as the implementer of the said measure, and point 1.3.6.5. under the Action Plan concerning Chapter 23 - “Judiciary and Fundamental Rights” within the pre-accession negotiations of the Republic of Serbia with the European Union, the President of the Supreme Court of Cassation hereby passes the following

**AMENDED UNIFIED BACKLOG  
REDUCTION PROGRAMME IN THE REPUBLIC OF SERBIA  
FOR THE PERIOD 2016- 2020**

(measures, recommendations, implementation and monitoring)

**I**

**1. Introductory Remarks**

The Unified Backlog Reduction Programme in the Republic of Serbia I – 1 384/13-49 dated 25 December 2013 and the Special Programme on Resolving Enforcement Cases Backlog in the Courts in Serbia for the period 2015-2018 I Su – 1 256/2014 dated 18 November 2014 performed analysis of the current situation in the judicial system in the Republic at that time aimed to assess its functioning, with its core components being quality, efficiency and independence.

An efficient judicial system is to ensure equal civil legal protection in the legally conducted proceedings, carried out in accordance with the principle of equity of the proceeding within a reasonable time, human and minority rights and freedoms, with the efficient management and rational use of resources representing prerequisites for achieving an effective judicial system.

Efficiency indicators refer to the number of pending cases, the duration of court proceedings, the cost of the judiciary, and the level of respect for human rights.

The high number of pending cases in the courts in the Republic of Serbia, and in particular the high number of pending backlog cases, required comprehensive and long-term measures to be undertaken at the national level in order to increase the level of efficiency, reduce the number of backlog cases, reduce the length of court proceedings, and increase the level of public trust in the judiciary.

President of the Supreme Court of Cassation has, pursuant to point 5 of the Unified Programme, established a Working Group comprising of judges of the Supreme Court of Cassation, Administrative Court, Commercial Appellate Court, Misdemeanor Appellate Court, appellate, higher and basic courts in the Republic of Serbia, to monitor implementation of the Unified Programme, dynamics of solving backlog cases and proposing measures necessary to improve the backlog reduction process in courts.

The Programme sets forth the general strategic goal- to reduce the number of all backlog cases in the courts in the Republic (including enforcement cases) by 2018 by **80%**- so as for their number to amount to **355,000** out of 1,773,475 recorded at the end of 2013. The Programme sets forth the dynamic of solving backlog cases, while giving priority to urgent handling of cases pending for more than ten years in civil matters, i.e. more than five years in criminal matters.

In addition to four main elements, the Unified Backlog Reduction Programme, also contains specific implementation-related measures and activities, referring to: 1) introduction of internal organizational measures in order to identify the actual number of backlog cases and reduce their number (backlog reduction teams, marking of backlog cases, re-organisation of work in the court registry offices, e-justice, and more efficient scheduling of hearings); 2) implementation of procedural authorisations in civil and criminal proceedings at the level of the first instance courts in order to reduce the duration of court proceedings and prevent the occurrence of an increasing number of backlog cases; 3) improved cooperation between the courts and undertaking external measures to foster cooperation between the courts, other public authorities, and in particular, the police, the public prosecutor's offices, social services, local governments, attorneys; 4) increased level of public trust and confidence in the judiciary as a result of positive effects of this national plan for backlog reduction.

The measures concerning the enforcement backlog cases reduction were singled out, with an emphasis on the so called utility enforcement cases (Iv). These are systemic measures to be implemented by all three branches of power within their respective jurisdictions having in mind the number of enforcement backlog cases in courts in the Republic of Serbia, and especially by the Ministry of Justice, the High Judicial Council, the Supreme Court of Cassation, all basic and commercial courts in the Republic, and in particular those in the territory of the City of Belgrade. The objective to be reached based on these strategic documents is the reduction of the total number of enforcement backlog cases, along with the enforcement cases "Iv" by 2018 - to **324,000** out of 1,615,830 in 2013 in basic courts, i.e. 5,800 in commercial courts, out of 29,872 backlog enforcement cases.

Pursuant to point 1.3.6.5. contained in the Action Plan concerning Chapter 23 - "Judiciary and Fundamental Rights" within the pre-accession negotiations between the Republic of Serbia and the European Union, the deadline for amending the Unified Backlog Reduction Programme is the second quarter of 2016. The Unified Backlog Reduction Programme is considered to be a dynamic document and that is why is necessary to "amend (...) and improve it in line with the initial results of the implementation and based on the conclusions of the regular meetings of the Working Group on the implementation of the Unified Backlog Reduction Programme".

Prior to amending the Programme, the Working Group and the Supreme Court of Cassation have concluded as necessary to:

- Assess quality of individual court backlog reduction programmes, adequacy of individually undertaken internal and external measures,
- Assess actions upon orders of the President of the Supreme Court of Cassation regarding closing of the oldest cases (first instance civil cases older than ten years and first instance criminal cases older than five years),
- Determine statistical data regarding solving of the backlog cases by courts and case type,
- Assess workload of judges by matters and burden by backlog cases by courts in individual matters and compare it with an average number of cases solved per judge and based on that assess the adequacy of annual schedules of judges' tasks in courts by matters,
- Assess the effects of undertaken systemic measures, especially in relation to enforcement backlog cases,
- Analyse the effect of the new court network on the backlog reduction,
- Assess the effects of improperly executed "migration" of cases in AVP system and reliability of statistical data of basic and higher courts,
- Analyse the impact of discontinued work of attorneys in 2014 and 2015 on the dynamics of backlog reduction,
- Assess the impact of staff number reduction in courts on the performance of tasks under the jurisdiction of courts and on the increase in caseload due to constant extension of jurisdiction of courts by means of special laws,
- Assess the effects of systemic solutions undertaken by the executive power to resolve disputes (for example: between the beneficiaries of military pensions or employees of the Ministry of Internal Affairs etc.) on the course of court proceedings (delaying cases awaiting for new legislative solutions, interventions of the executive authorities on the course of the proceeding, resolving constitutional appeals before the Constitutional Court) or case law harmonisation,
- Adopt a conclusion on the justification of introduction of a new standard case management application in all courts in the Republic,

in order to allow the Supreme Court of Cassation and the Working Group implementing the Unified Backlog Reduction Programme to render the conclusion on the scope and orientation of amendments to the Unified Backlog Reduction Programme following the conducted analyses.

Bearing in mind all listed criteria, it may be concluded that the effects of the new courts network established under the Law on the Seats and Territories of Courts and Public Prosecutor's Offices ("Official Gazette of RS", No. 101/2013) in effect as of 1 January 2014 will be visible at the end of 2016 given that the allocation of cases between the First, Second and Third Basic Courts in Belgrade has not yet been undertaken, both due to the large number of cases and improperly performed electronic migration of cases, and due to the expected effects of systemic solutions- under the new Law on Enforcement and Security, starting as of 1 July 2016, which is why no action has been taken in almost a million of enforcement backlog cases.

The implementation of the Unified Backlog Reduction Programme and of the accompanying Special Programme on Resolving Enforcement Cases Backlog in the Courts in Serbia for the period 2015- 2018 was close to impossible in the second half of 2014 and at the beginning of 2015 due to discontinuance of the work of attorneys, members of the Serbian Bar Association. The first discontinuance occurred in June 2014 and lasted for about a month, while

the second one started on 17 September 2014 and lasted until 28 January 2015. During this period the first instance hearings and preparatory hearings for main hearing had almost not taken place at all, despite the fact that during this period, based on the order of the President of the Supreme Court of Cassation courts were obliged to act urgently in particular in cases older than five years, calculating as of the day of the initial act in criminal matter, i.e. in cases where the proceeding lasted over ten years in civil matter. For example, according to the data of the High Judicial Council from November 2014, 99,927 hearings and trials were postponed in basic courts, 7,589 in higher courts, 10,717 in commercial courts, and 2,153 in misdemeanor courts in the period from 17 September 2014 to 31 October 2014<sup>1</sup>.

Judicial system in the Republic of Serbia is burdened by numerous problems stemming from multiple factors, especially from the failed 2010 judiciary reform, which all led to a long-lasting and in-depth disturbance in the functioning of the judiciary power branch. The courts were not the generators of this social crisis. The quality of justice primarily depends on the quality of legislative solutions, harmonised with international standards, proper training of implementers of judicial power, but also on the appropriate territorial organisation of courts, division of their actual jurisdiction and required number of judges and court staff in the courts.

Uneven workload of courts and judges failed to be alleviated even by the 2010 judiciary reform but instead without an adequate analysis, the number of courts was reduced, by establishing them as court units in scope of the larger basic courts, with simultaneous actual reduction in the number of judges in the courts of general and special jurisdiction, introduction of misdemeanor authorities in the regular judicial system, dismissal of experienced judges and election of new unexperienced judges to a three-year term of office, and decrease in court staff<sup>2</sup>, with the number of unsolved cases remaining practically the same, or even higher in certain matters. These deep systemic disturbances could not have been eliminated by the modified court network of 1 January 2014 and the new procedural legislative solutions, but have only mitigated the consequences of this failed experiment.

All listed circumstances will adversely affect the implementation of the Unified Programme in the future as well.

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<sup>1</sup> Information delivered to the Anti-Corruption Council on 12 December 2014.

<sup>2</sup> Just for the purpose of comparison, in 2008 (given that the 2009 report had not been compiled) there were 16,500 staff in court administration, with the number of pending cases amounting to 2,395,669. In 2015 there were in total 4,973,951 pending cases (backlog from previous years and newly received cases), with 11,288 staff handling them. On 30 June 2016, there were 2,801 judges and 11,271 staff in Serbian courts. The Law on the Maximum Number of Employees in the Public Sector envisaged further reduction by 1,300 people in court administration.

The Supreme Court of Cassation demanded the executive branch to single out the court staff from the public administration system and to exempt them from the limitation imposed by this law. General evaluation of the expert public was that due to reduction in the number of judges and court staff, courts would be unable to efficiently perform their function.

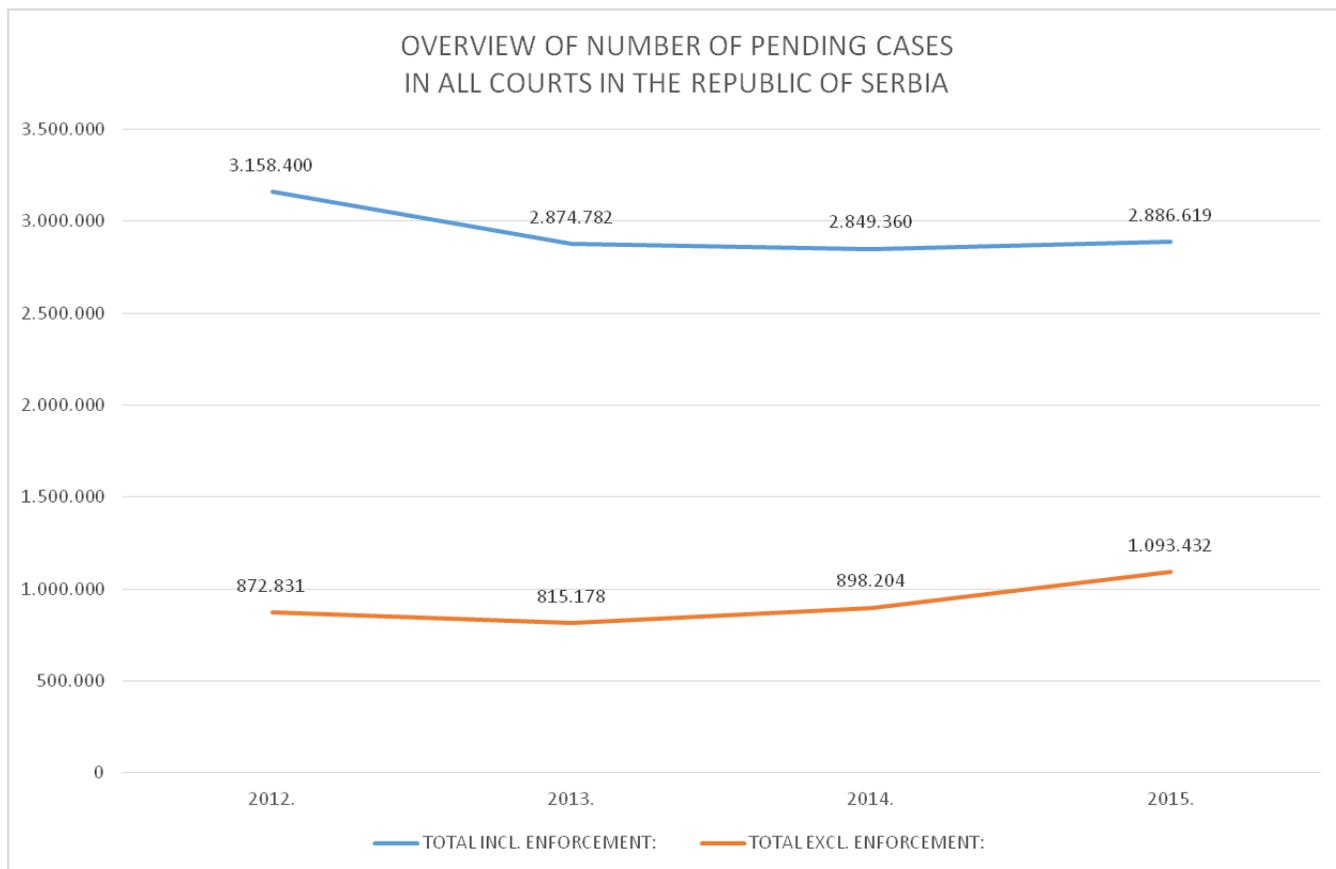
## 2. Analysis of efficiency

In the courts in the Republic of Serbia, in 2012 2,380 judges were effectively presiding over cases, whereas in 2013, together with the reinstated priorly unelected judges, 2,652 judges were presiding over cases, however in 2014 and in 2015 the number of judges had decreased, therefore in 2015 there were 2,522 active judges. According to the data of the High Judicial Council as of 30 June 2016 out of the determined necessary number of judges in the courts in the Republic of Serbia (2,976), 2,801 judges were elected. In the first six months of this year, 2,604 judges were active.

The total number of pending cases in all courts in the Republic in 2012 amounted to **3,158,400** cases including enforcement cases. Without the enforcement cases, this figure totals to 872,831. According to the data from the 2015 annual report there were **2,886,619** pending cases together with enforcement cases. Excluding the enforcement cases, total number of pending cases was **1,093,432**. This is an increase in the total number of pending cases, primarily due to the increased inflow of cases (by 415,849 excluding enforcement cases compared to 2014), but also due to other reasons (see Table No. 15 and Graph No. 11).

	2012		2013		2014		2015	
<b>OVERVIEW OF NUMBER OF UNRESOLVED CASES IN ALL COURTS IN THE REPUBLIC OF SERBIA</b>								
	No. of judges	Total unresolved cases at the end of reporting period	No. of judges	Total unresolved cases at the end of reporting period	No. of judges	Total unresolved cases at the end of reporting period	No. of judges	Total unresolved cases at the end of reporting period
<b>*TOTAL INCL ENFORCEMENT:</b>	2.380	3.158.400	2.652	2.874.782	2.595	2.849.360	2.522	2.886.619
<b>*TOTAL EXCL. ENFORCEMENT:</b>	2.165	872.831*	2.365	815.178	2.331	898.204	2.256	1.093.432

Table No. 1



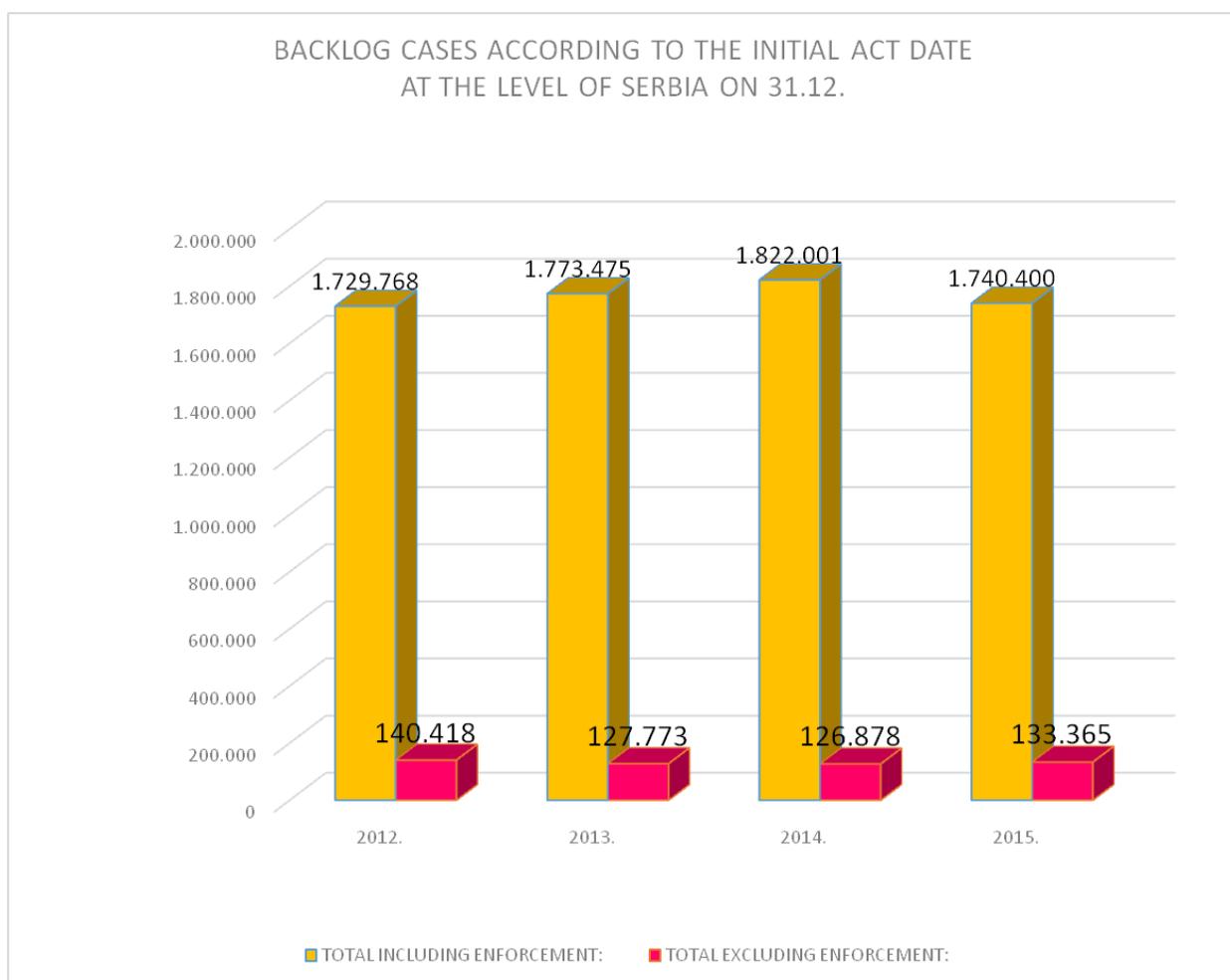
*Graph No. 1*

In 2012 the number of backlog cases<sup>3</sup> amounted to **1,729,768** including enforcement cases, and without them - **140,418**. The total number of pending backlog cases at the end of 2015 was **1,740,400** including enforcement cases, and without them - **133,365**. These data show a decrease in the number of backlog cases in trial matters without enforcement.

<b>REPORT ON PENDING BACKLOG CASES ON 31.12. - ACCORDING TO THE INITIAL ACT DATE</b>								
	No. of judges	TOTAL PENDING BACKLOG CASES on 31.12.2012.	No. of judges	TOTAL PENDING BACKLOG CASES on 31.12.2013.	No. of judges	TOTAL PENDING BACKLOG CASES on 31.12.2014.	No. of judges	TOTAL PENDING BACKLOG CASES on 31.12.2015.
	2012		2013		2014		2015	
<b>TOTAL AT THE LEVEL OF SERBIA INCL. ENFORCEMENT:</b>	2.380	1.729.768	2.652	1.773.475	2.595	1.822.001	2.522	1.740.400
<b>TOTAL AT THE LEVEL OF SERBIA EXCL. ENFORCEMENT:</b>	2.165	140.418	2.365	127.773	2.331	126.878	2.256	133.365

*Table No. 2*

<sup>3</sup> The Book of Court Rules defines backlog cases as cases pending for more than two years, while special regulations set forth a shorter deadline for handling certain priority cases (for example nine months for second-instance cases in civil matter).



Graph No. 2

According to the data on the backlog cases for the courts of general and special jurisdiction by types of courts, without enforcement cases, basic courts have reduced the number of backlog cases from **88,012** backlog cases in 2012 (when 1,102 judges presided over cases), to **77,960** cases in 2015 (when 1,194 judges presided over cases).

The total number of all pending cases in basic courts has also been slightly reduced compared to 2012 (from 1,654,591 to 1,652,815).<sup>4</sup>

The number of pending cases in criminal matter in the first instance (“K”) before higher courts was reduced from **1,676** cases in 2012 (when 90 judges presided over cases), to **1,246** cases in 2015 (when 107 judges presided over cases). In the basic courts in the first instance criminal matter (“K”) 279 judges presided over cases in 2012, with **18,206** backlog cases resolved. In 2015, 326 judges presided over cases, with **11,957** backlog cases resolved. This reduction amounts to around 35%. If this trend is to be continued, and considering the increased number of judges in the matter, the strategic goal defined in the Unified Backlog Reduction Programme could be achieved.

However, in civil matters, the number of backlog cases (“P”, “P1”“P2”) in higher courts was increased from 1,142 in 2012 to 1,843 in 2015, despite the increased number of judges

<sup>4</sup> See Table No. 5 and Table No. 6 in *Addendum 1*

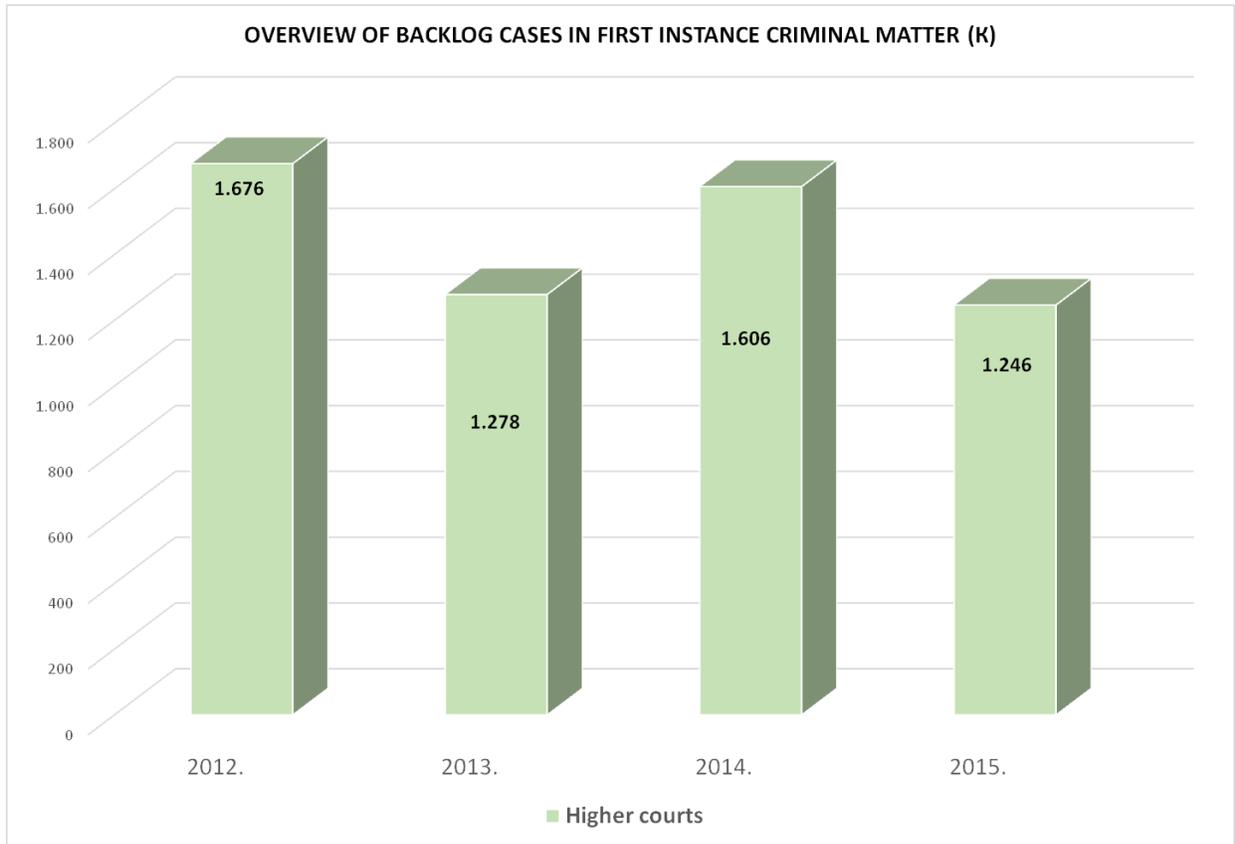
presiding in this first instance matter. This is, primarily, the consequence of the changed legal jurisdiction, higher number of urgent and particularly urgent cases being handled as a priority, same as of the increased inflow of cases.<sup>5</sup>. The same applies to basic courts. In 2012 there were 41,604 pending backlog civil cases in the first instance, with 983 presiding judges. In 2015 there were 1,086 presiding judges, but still the number of unsolved backlog cases rose to 48,134 cases. However, it is to be noted that after 2013 when there were 1,179 civil judges - the number of judges was decreased. Such a tendency is not typical for the criminal matter where the number of judges was increased, with the simultaneous decrease in the number of solved backlog cases. All this refers to the obligation of the court presidents for each of them to re-examine in their own basic court the reasons for the higher number of backlog cases in civil matters, to amend individual backlog reduction programmes and to ensure that cases are handled following the order in which they have been filed, in order to avoid that newly filed cases or newly received typical cases are handled, with no priority being given to backlog cases.

The data for the first six months of 2016 demonstrate a tendency of reduction in the number of backlog cases in trial-related matters, regardless of the reduction in the total number of judges presiding over criminal cases. Due to the modified jurisdiction, in higher courts the number of backlog civil cases was slightly increased, while in basic courts the number of judges was increased by 50, with the total number of backlog cases being reduced to 42,071.

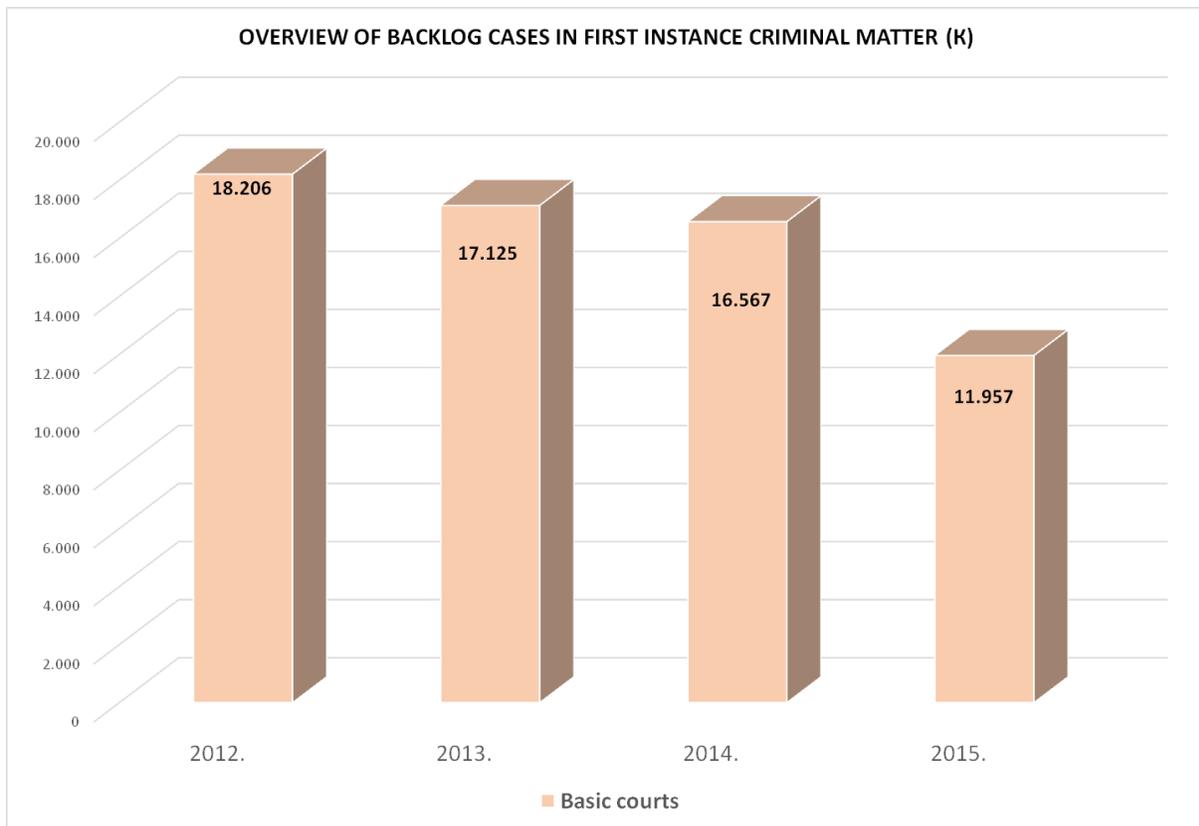
OVERVIEW OF BACKLOG CASES IN FIRST INSTANCE <b>CRIMINAL MATTER</b>											
CRIMINAL MATTER	MATTERS	2012		2013		2014		2015		01.01. - 30.06.2016.	
		No. of judges	No. of cases	No. of judges	No. of cases						
Higher courts	K	90	1.676	103	1.278	105	1.606	107	1.246	93	1.123
Basic courts	K	279	18.206	320	17.125	372	16.567	326	11.957	300	8.761
<b>TOTAL:</b>		369	19.882	423	18.403	477	18.173	433	13.203	393	9.884
OVERVIEW OF BACKLOG CASES IN FIRST INSTANCE <b>CIVIL MATTER</b>											
CIVIL MATTER	MATTERS	2012		2013		2014		2015		01.01. - 30.06.2016.	
		No. of judges	No. of cases	No. of judges	No. of cases						
Higher courts	P	77	1.085	91	1.162	87	1.400	87	1.490	96	1.575
	P1	51	34	57	26	78	246	81	319	81	333
	P2	64	23	68	22	71	36	75	34	73	29
<b>TOTAL:</b>		192	1.142	216	1.210	236	1.682	243	1.843	250	1.937
Basic courts	P	480	31.251	574	31.121	544	34.593	515	37.901	564	32.789
	P1	286	9.514	345	10.140	307	10.465	305	9.423	305	8.623
	P2	217	839	260	720	262	697	266	810	275	659
<b>TOTAL:</b>		983	41.604	1.179	41.981	1.113	45.755	1.086	48.134	1.144	42.071
<b>TOTAL BC+HC:</b>	P	557	32.336	665	32.283	631	35.993	602	39.391	660	34.364
	P1	337	9.548	402	10.166	385	10.711	386	9.742	386	8.956
	P2	281	862	328	742	333	733	341	844	348	688
<b>TOTAL P+P1+P2 (BC+HC):</b>		1.175	42.746	1.395	43.191	1.349	47.437	1.329	49.977	1.394	44.008

Table No. 3

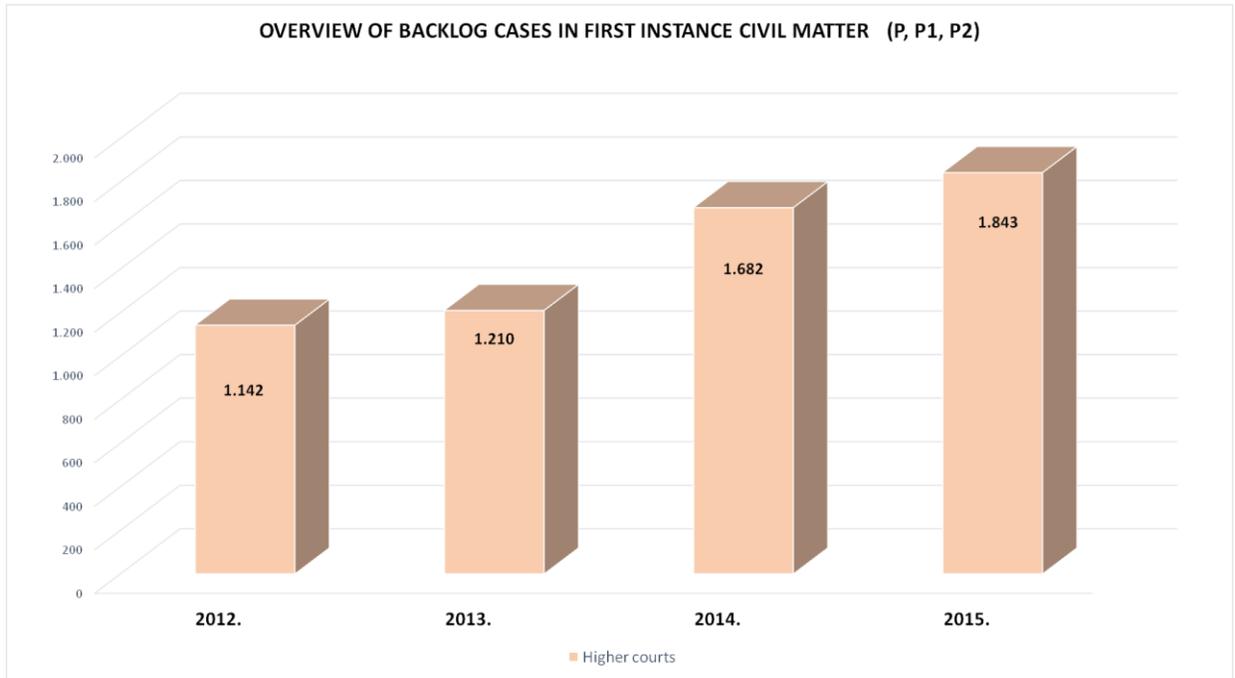
<sup>5</sup> See Table No. 15 and Graph No. 11 in *Addendum 1*



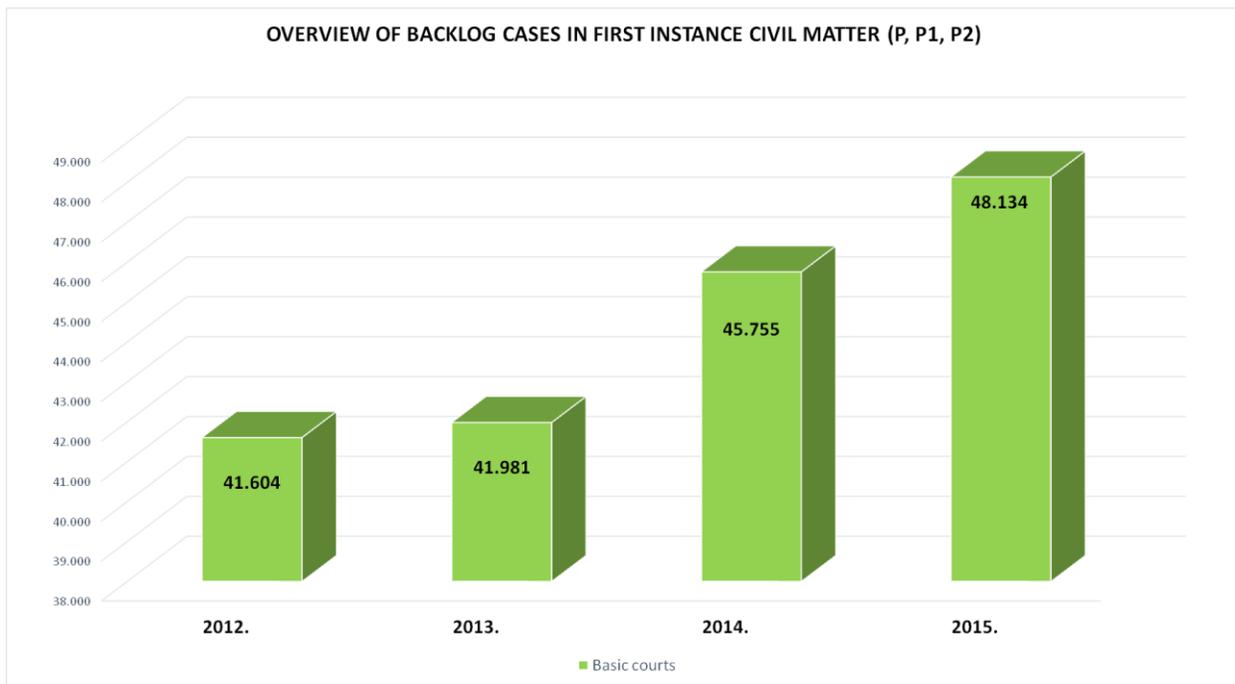
*Graph No. 3*



*Graph No. 4*



*Graph No. 5*



*Graph No. 6*

The structure of unsolved backlog cases in basic courts, excluding enforcement cases, shows that in these courts there were 108,734 of such cases at the end of 2015: with the proceeding lasting over five years in 13,642 cases, and over ten years in 2,559 cases.

In the first instance criminal matter (“K”) in higher courts at the end of 2015 there were 1,246 pending backlog cases, with the proceeding lasting over five years in 328 cases, and over

ten years in 64 cases. At the end of 2015, in the first instance criminal matter in basic courts there were 11,957 pending backlog cases, out of which the proceeding lasted over five years in 1,860 cases, and over ten years in 519 cases.

In the first instance civil matter ("P", "P1""P2") in higher courts at the end of 2015 there were 1,843 pending backlog cases, with the proceeding lasting over five years in 559 cases, and over ten years in 122 cases. At the end of 2015, in the first instance civil matter in basic courts there were 48,134 pending backlog cases, out of which the proceeding lasted over five years in 9,843 cases, and over ten years in 1,493 cases.<sup>6</sup>

REPORT ON PENDING BACKLOG CASES ON 31.12.2015 - ACCORDING TO THE INITIAL ACT DATE												
No.	Matter	No. of judges	TOTAL PENDING CASES (total pending initially + total received ) as of 31.12.2015	TOTAL PENDING BACKLOG CASES as of 31.12.2015.	DURATION OF BACKLOG CASES						% OF BACKLOG CASES AGAINST THE TOTAL PENDING	AVERAGE PENDING BACKLOG CASES PER JUDGE
					FROM 9 MONTHS TO 1 YEAR (FOR KI MATTER ONLY)	FROM 1 TO 2 YEARS (FOR KI MATTER ONLY)	FROM 2 TO 3	FROM 3 TO 5	FROM 5 TO 10	OVER 10		
1	GŽ	102	67.041	14.118			7.523	3.816	2.286	493	21,06	138,41
2	GŽ1	91	3.314	372			88	99	134	51	11,23	4,09
3	GŽ2	70	1.011	26			11	9	5	1	2,57	0,37
4	K	107	5.910	1.246			360	494	328	64	21,08	11,64
5	KŽ1	52	6.443	307			121	127	59	0	4,76	5,90
6	KIM	43	4.443	25			11	10	1	0	0,56	0,58
7	KM	41	2.961	14			9	4	0	1	0,47	0,34
TOTAL FOR PREDOMINANTLY TRIAL-RELATED MATTERS		269	91.123	16.108			8.123	4.559	2.813	610	17,68	59,88
8	P	87	7.155	1.490			386	459	528	117	20,82	17,13
9	P1	81	1.845	319			154	133	30	2	17,29	3,94
10	P2	75	1.075	34			16	14	1	3	3,16	0,45
TOTAL 8-10			10.075	1.843	0	0	556	606	559	122		
TOTAL FOR ALL MATTERS		319	164.403	19.142	9	24	9.288	5.533	3.527	761	11,64	60,01

\* In higher courts reasonable time cases were excluded for 2015

Table No. 4

<sup>6</sup> See Table No. 12 and Table No. 13 in *Addendum 1*

BASIC COURTS												
REPORT ON PENDING BACKLOG CASES ON 31.12.2015 - ACCORDING TO THE INITIAL ACT DATE												
No.	Matter	No. of judges	TOTAL PENDING CASES (total pending initially + total received ) as of 31.12.2015	TOTAL PENDING BACKLOG CASES as of 31.12.2015.	DURATION OF BACKLOG CASES						% OF BACKLOG CASES AGAINST THE TOTAL PENDING	AVERAGE PENDING BACKLOG CASES PER JUDGE
					FROM 9 MONTHS TO 1 YEAR (FOR KI MATTER ONLY)	FROM 1 TO 2 YEARS (FOR KI MATTER ONLY)	FROM 2 TO 3	FROM 3 TO 5	FROM 5 TO 10	OVER 10		
1	P	515	308.201	37.901			17.216	11.596	7.808	1.281	12,30	73,59
2	P1	305	79.740	9.423			3.796	3.415	2.001	211	11,82	30,90
3	P2	266	53.492	810			562	213	34	1	1,51	3,05
4	K	326	84.869	11.957			4.924	4.654	1.860	519	14,09	36,68
TOTAL FROM 1-4		952	526.302	60.091			26.498	19.878	11.703	2.012	11,42	63,12
5	Iv	194	1.675.490	1.450.609			24.126	331.134	811.610	283.739	86,58	7.477,37
6	I	187	387.527	124.246			36.518	37.899	40.298	9.531	32,06	664,42
TOTAL 5+6		201	2.063.017	1.574.855			60.644	369.033	851.908	293.270	76,34	7.835,10
ALL ENFORCEMENT		451	2.246.793	1.584.532			68.114	370.713	852.311	293.394	70,52	3.513,37
TOTAL FROM 1-44		1.194	3.195.440	1.652.815	5	9	98.150	393.272	865.550	295.829	51,72	1.384,27

Table No. 5

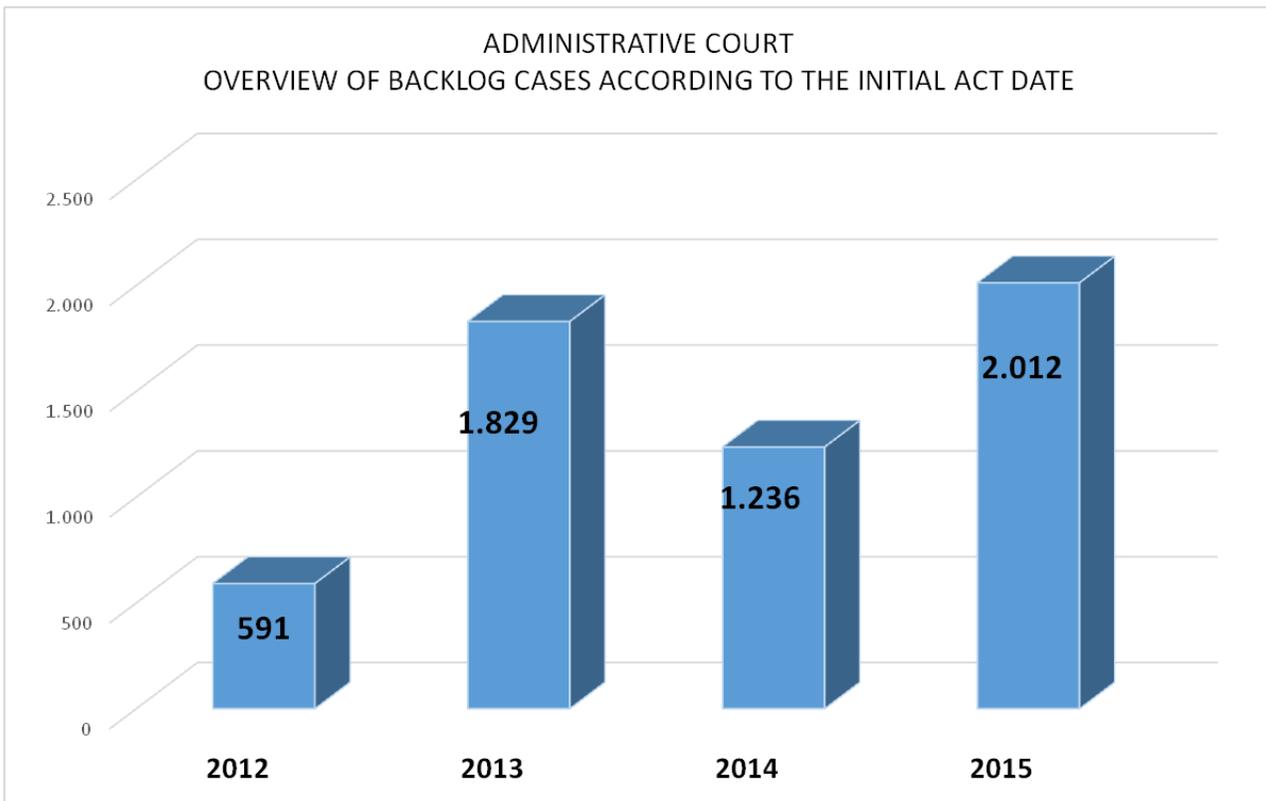
At the end of 2015, in the first instance in commercial courts there were 4,275 pending backlog cases (without enforcement cases), while the proceeding lasted over five years in 1,123 cases, and over ten years in 153 cases.

COMMERCIAL COURTS										
REPORT ON PENDING BACKLOG CASES ON 31.12.2015 - ACCORDING TO THE INITIAL ACT DATE										
No.	Matter	No. of judges	TOTAL PENDING CASES (total pending initially + total received ) as of 31.12.2015	TOTAL PENDING BACKLOG CASES as of 31.12.2015.	BACKLOG CASES DURATION				% OF BACKLOG CASES AGAINST THE TOTAL PENDING	AVERAGE PENDING BACKLOG CASES PER JUDGE
					2 TO 3	3 TO 5	5 TO 10	OVER 10		
1	Commercial offences	25	5.555	322	158	130	34	0	5,80	12,88
2	Bankruptcy (St)	63	3.033	1.360	91	657	546	66	44,84	21,59
3	Enforcement	65	110.798	32.180	7.936	16.273	7.951	20	29,04	495,08
4	Payment order	51	937	1	0	0	1	0	0,11	0,02
5	Litigation	106	34.322	2.552	1.072	861	539	80	7,44	24,08
6	Non-contentious	80	5.214	40	22	8	3	7	0,77	0,50
TOTAL FROM 1-6		157	159.859	36.455	9.279	17.929	9.074	173	22,80	232,20

Table No. 6

Since 2012 in the Administrative Court the number of pending cases was on the rise due to the increased inflow of new cases based on lawsuits in administrative proceedings (from 21,509 cases in 2012 to **25,896** unsolved cases in 2015, same as the number of backlog cases according to the initial act from 591 in 2012 to 2,012 unsolved backlog cases in 2015, although the number of judges presiding in 2012 was increased from 27 to 38 in 2015.<sup>7</sup>

<sup>7</sup> See Table No. 17 in Addendum 1

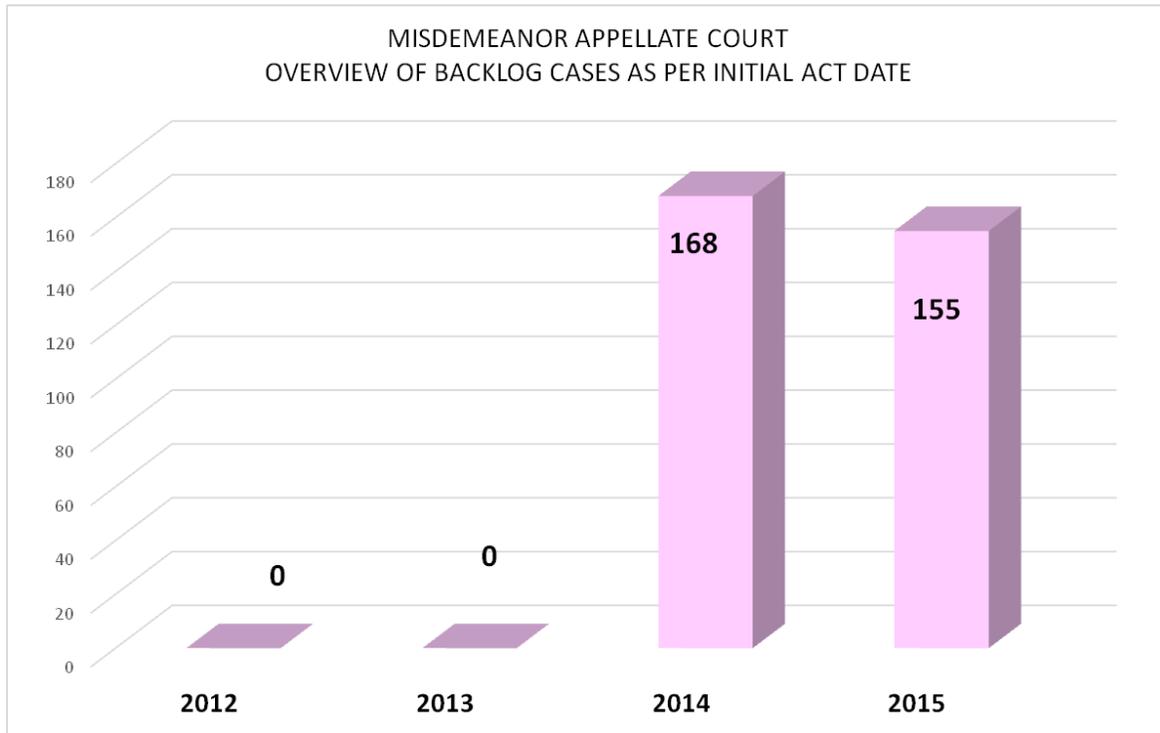


*Graph No. 7*

In the Misdemeanor Appellate Court<sup>8</sup> the number of backlog cases was reduced, same as the total number of unresolved cases, given that at the beginning of 2015 there were 2,634 unresolved cases compared to 1,620 cases at the end of 2015. The total number of pending cases amounted to 1,936 during 2015, with 155 backlog cases that remained unresolved.

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<sup>8</sup> See Table No. 20 in *Addendum 1*

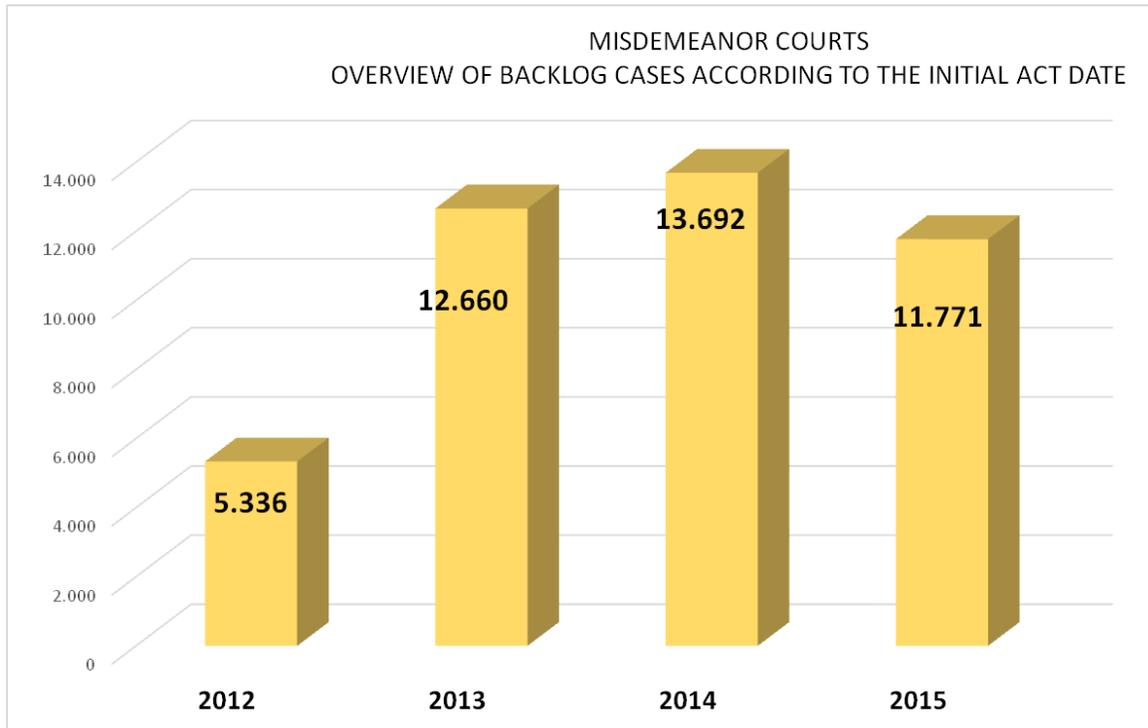


*Graph No. 8*

In Misdemeanor Courts<sup>9</sup> the total number of unresolved cases was increased at the end of 2015 due to the extreme increase in the inflow of cases (by 222,295) based on the new jurisdictions of misdemeanor courts and reduced number of judges (20). However, more cases were resolved compared to the previous year and the total number of backlog cases declined to 11,771 out of the total 586,433 pending cases.

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<sup>9</sup> See Table No. 21 in *Addendum 1*

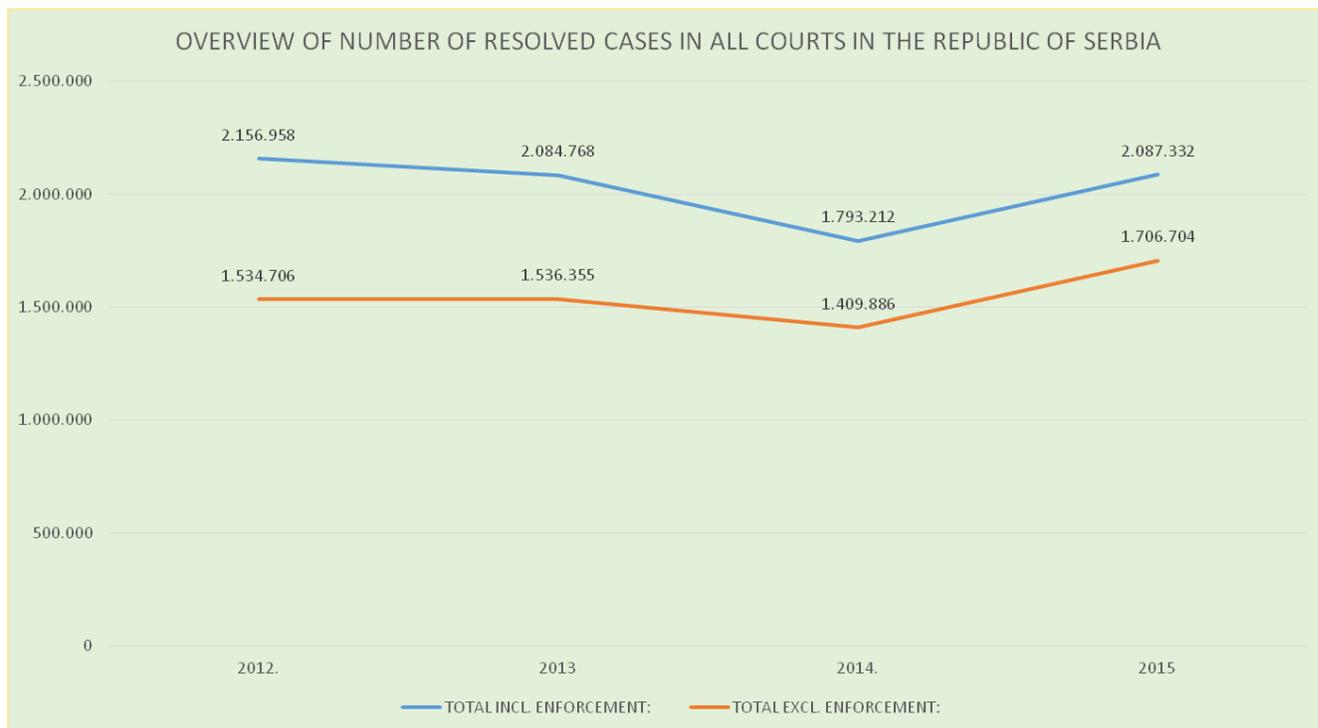


*Graph No. 9*

Observing the number of solved cases (excluding enforcement cases), it may be concluded that the number of solved cases has been on the rise, therefore in 2012 2,165 judges resolved 1,534,706 cases, and in 2015 2,256 judges resolved 1,706,704 cases. Compared with 2014, the number of resolved cases including enforcement cases was increased, same as the number of cases in trial-related matters.

	2012.		2013.		2014.		2015.	
<b>OVERVIEW OF NUMBER OF RESOLVED CASES IN ALL COURTS IN THE REPUBLIC OF SERBIA</b>								
	No. of judges	Total number of resolved cases	No. of judges	Total number of resolved cases	No. of judges	Total number of resolved cases	No. of judges	Total number of resolved cases
<b>TOTAL AT THE LEVEL OF SERBIA - ALL CASES</b>	2.380	2.156.958	2.652	2.084.768	2.595	1.793.212	2.522	2.087.332
<b>TOTAL AT THE LEVEL OF SERBIA - EXCL. ENFORCEMENT</b>	2.165	1.534.706	2.365	1.536.355	2.331	1.409.886	2.256	1.706.704

*Table No. 7*

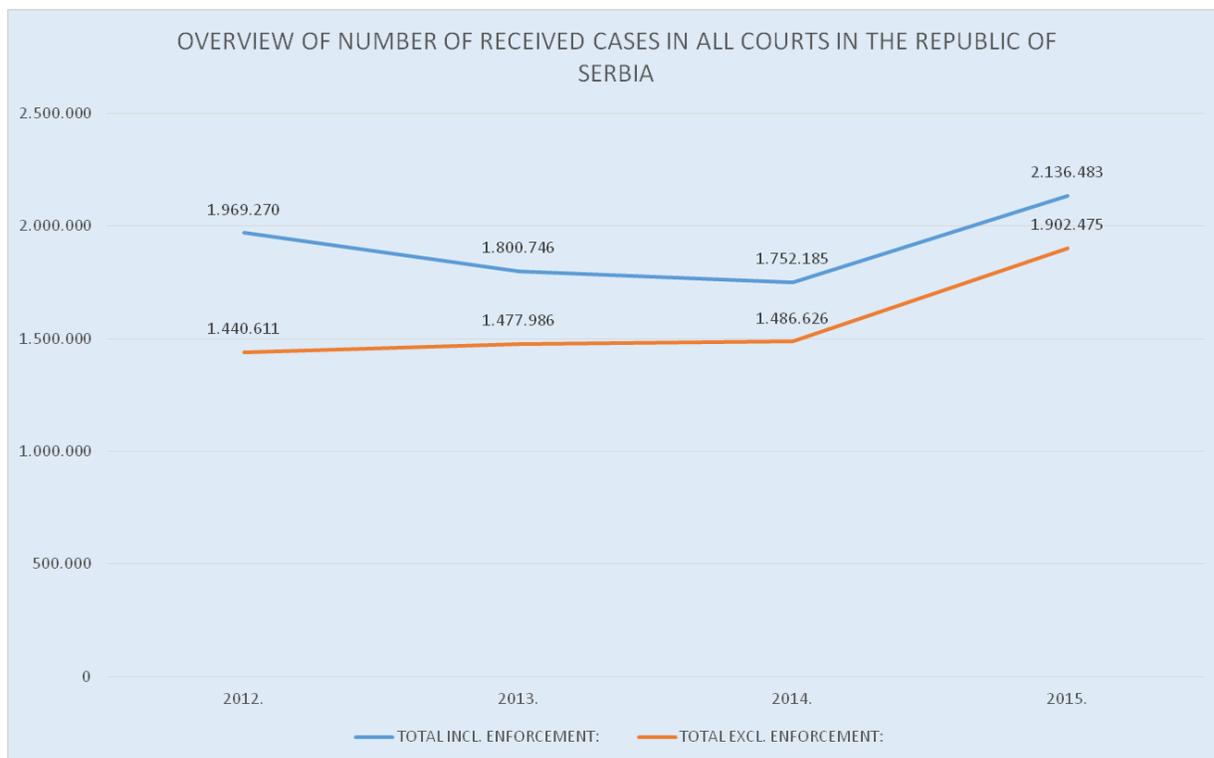


*Graph No. 10*

The inflow of cases without enforcement cases (new cases and pending cases following the reversal, etc.) was increased from 1,440,611 to 1,902,475, with the number of judges in the same period being increased from 2,165 to 2,256. This means that the inflow of cases grew by 32.06%, while the number of judges was increased by 4.20% only.

	2012		2013		2014		2015	
<b>OVERVIEW OF NUMBER OF RECEIVED CASES IN ALL COURTS IN THE REPUBLIC OF SERBIA</b>								
	No. of judges	Total number of received cases	No. of judges	Total number of received cases	No. of judges	Total number of received cases	No. of judges	Total number of received cases
<b>TOTAL AT THE LEVEL OF SERBIA - ALL CASES</b>	2.380	1.969.270	2.652	1.800.746	2.595	1.752.185	2.522	2.136.483
<b>TOTAL AT THE LEVEL OF SERBIA - EXCL. ENFORCEMENT</b>	2.165	1.440.611	2.365	1.477.986	2.331	1.486.626	2.256	1.902.475

*Table No. 8*



*Graph No. 11*

### **3. The effects of implementation of systemic and general measures aimed at backlog reduction**

Observing the effects of implementation of systemic and general measures aimed at backlog reduction, the following is to be noted:

- 1) Parallel and competitive jurisdiction of courts and new judicial professions had failed to even courts and public enforcement agents in all powers regarding the means at their disposal to obtain the data facilitating the efficient implementation of the proceeding (access to electronic registries of the Serbian Business Registry, the Republic Geodetic Authority, the Republic Pension and Disability Insurance Fund, etc.).
- 2) Application of the legal instruments of deferred prosecution and plea bargaining agreement had significantly reduced the inflow of criminal cases.
- 3) Implementation of the Law on Mediation and Resolution of Disputes effective as of 1 January 2015 did not bring even closely similar results when it comes to civil proceedings. Namely, provisions of Article 30 of this Law set forth that the mediation proceeding may be initiated before or after the initiation of the court proceeding, same as in the course of the proceeding upon legal remedies or in the course of enforcement procedure. This points to the conclusion that mediation is possible in backlog cases as well.

Training of judges on the implementation of this, but other laws as well, makes the necessary precondition for application of the mechanism for alternative resolution of disputes and backlog cases reduction. It is necessary to organise an in-depth training regarding the implementation of the Law on Civil Proceeding, same as the Labour Law, given that their disharmonised implementation is a backlog generator.

- 4) The previously undertaken analysis shows that the number of enforcement backlog cases dominates the total number of backlog cases in Serbian courts: the share of backlog cases in the total number of pending cases in basic courts, together with enforcement cases amounts to 51%, and without the enforcement cases to 6.88%.
- 5) Establishment of the Backlog Reduction Teams in courts (following the recommendation from the USAID SPP Best Practice Guide, activities from the Action Plan for Chapter 23) has so far failed to produce the expected results, since the teams don't meet regularly and are not productively used. Operation of these teams needs to be regulated by defining common rules on the content of their activities, holding regular meetings, work organisation and reporting mechanisms on the work and results achieved in reducing the number of unsolved backlog cases, with the court presidents being finally accountable for their work.
- 6) Cooperation Agreements/ Memoranda of Understanding demonstrate the following:
  - Cooperation Agreements were concluded by the first instance courts only: basic, higher, commercial and misdemeanor courts.
  - After the initial incentive given by the passing and adoption of the Unified Backlog Reduction Programme in 2013, only a small number of courts (especially those established on 1 January 2014) had concluded new agreements.
  - Despite the lack of formal mechanisms, majority of courts do hold occasional meetings with local institutions and organisations and in that way meet the purpose of the agreements.
  - The agreements are most frequently concluded between the courts and: organisational units of PE "Pošte Srbije", departments of the Social Welfare Centers, local police directorate or police stations, local Bar Association. Besides the aforementioned, the courts also enter into agreements with educational institutions- secondary schools and universities.

Rare are the courts which have concluded multi-sector thematic agreements- for example on the protection of juveniles as parties in court proceedings, or on the protection of women- victims of domestic violence (Higher Court in Kruševac).
- 7) Use of the case management application to record held, not-held and delayed hearings (in line with the recommendation that in backlog cases, hearings are not to be delayed to an indefinite period of time, that each delay must be explained and that time intervals between the hearings must be short) had resulted in the following (categorised by users of different applications):
  - AVP (basic, higher and commercial courts, including the Commercial Appellate Court) has the possibility to record held, not-held and delayed hearings, however this data is not being regularly and uniformly entered in the software application. The survey has shown that the large number of courts- users of this software application, are not aware of this possibility, thereby confirming the need for training for work in AVP.

AVP does not have the option to enter the reasons for not holding or delaying the hearing, however certain courts use the field "Notes" in this part of the application, to record the

- reasons for delay of hearings. This requires supplementing AVP application to record the respective reasons.
- SAPS (the Supreme Court of Cassation, the Administrative Court, appellate courts, Higher Court in Sremska Mitrovica, Basic Court in Sremska Mitrovica) has the option to register held, not-held and delayed hearings, same as the reasons for their non-holding, i.e. delay. The only first instance court using all of these options in an advanced manner is the Administrative Court, while in the Higher and Basic Courts in Sremska Mitrovica (where SAPS was introduced as a pilot) there is no awareness of these options, and therefore they are not being used, which calls for additional training in these courts.
  - SIPRES (the Misdemeanor Appellate Court and misdemeanor courts), as the latest developed and introduced software application in the courts in the Republic of Serbia, has all of the listed options: electronic scheduling of hearings, records of the number of held, not held and delayed hearings, records of the reasons for not holding, i.e. delaying hearings, same as electronic, i.e. automatic scheduling of the next hearing in standardised time intervals. Still, not all misdemeanor courts are using all options. Having in mind that SIPRES application was introduced in the misdemeanor courts at the end of 2015, its functions are expected to be used in full capacity only in the second half of 2016.
- 8) In the first instance and in line with the measures recommended by the Working Group of the Supreme Court of Cassation monitoring implementation of the Unified Backlog Reduction Programme, in 2015 the number of cases over five years old was reduced in basic courts by 4%, while the number of cases over ten years old was reduced by 12%<sup>10</sup>. In higher courts the number of cases over five years old was reduced by 3%, while the number of cases over ten years was reduced by 14%. In commercial courts the number of cases over ten years old was reduced by 9%, but the number of cases over five years old was increased by 17%<sup>11</sup>.
- 9) Following the solving dynamics of 20 oldest cases in each of the courts in predominantly trial related matters (basic and higher courts) being implemented as of November 2015 and upon the order of the President of the Supreme Court of Cassation and the Working Group, the basic and higher courts identified 20 oldest first instance (backlog) cases each, mainly in trial related matters. The target was set to solve these cases by 1 June 2016. None of the courts managed to solve all cases identified as the oldest ones in the court in November 2015, although generally this measure produced very good results compared to similar measures, especially if published publicly. Implementation of this measure should be continued in the future, and causes of delay of certain courts determined, since some of them had failed in achieving even the average performance.  
The trend of solving cases in the civil matter is better than in the criminal matter, with this difference being drastic in case of some courts.
- 10) The practice of some courts is to still allocate the oldest cases to newly elected judges, despite the instruction and conclusion of the Working Group for these cases not to be allocated to the newly elected judges, but to allocate the cases pursuant to the Book of Court Rules.

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<sup>10</sup> Enforcement cases were not taken into account for the needs of this calculation.

<sup>11</sup> *Ibid.*

The Belgrade courts are particularly important for the implementation of this measure, given that all of them have a considerable number of cases dating from the 1980s. Together with the cases with initial acts dated from the 1990, they make a group of the oldest cases in the court. These are P and P1 cases. This is why the implementation of this measure should be particularly monitored in the future in first instance courts.

#### **4. Systemic measures**

1. Separate court staff from the public administration system and exempt them from the limitation imposed by the Law on the Maximum Number of Employees in the Public Sector.
2. Fill up judges' vacancies based on the previous analysis of needs and caseload of judges and courts, which implies potential amendment to the decision on the number of judges in certain courts within the determined total number of judges' positions.
3. Pass a decision on delivering training for judges and judicial assistants regarding the implementation of the Law on Mediation, but also of other laws necessary for the implementation of mechanisms for alternative resolution of disputes and backlog cases reduction. It is necessary to organise an in-depth training regarding the implementation of the Law on Civil Procedure, same as the Labour Law, given that their disharmonised implementation is a backlog generator.
4. Organise a continuous training for work in the existing applications in order for their options to be used in a standardised manner.

Upgrade AVP by options for electronic scheduling of hearings, recording reasons for their delay or non-holding and automatic scheduling of the following ones in standardised time intervals, or replace it entirely with an application that already includes all of these options.

5. Standardise electronic case management.
6. Adopt guidelines for introducing new way of work in court registry offices.
7. Adopt guidelines for establishment of preparatory departments for cases by type.
8. Amend regulations in order to enable stimulation of judges designated to preside in backlog cases in form of a special compensation, i.e. reduced inflow, reduced, so called, "caseload quota", etc.
9. Amend the Law on Judges and set forth special measures to enable engagement of retired judges to prepare backlog cases for hearings, with a compensation to be set by the High Judicial Council.

#### **5. General measures**

Internal organisational measures

1. Adopt individual backlog reduction programmes in courts for each year of the Unified Programme implementation.

2. Introduce the Backlog Reduction Teams
3. Systematically monitor and separately register backlog cases
4. The most experienced judges preside over the oldest cases in the court (but at least three judges, to comply with the principle of a randomly selected judge), according to the annual work plan
5. Special marking of backlog cases
6. Application of guidelines introducing a new way of work in court registries
7. Application of guidelines for establishment of preparatory departments for cases by matters
8. Introduction of measures referring to e-justice

#### Procedural measures

1. Organise preparatory hearings, hearings for main hearing and trial (timeframe, concentration of evidence, etc.)
2. Use guidelines for a quality drafting of decisions

#### Improve cooperation with external institutions

1. Encourage active cooperation with external partners of the court through cooperation agreements (with the police, medical institutions, social services, etc.).
2. Introduce an effective system of delivery of court documents (cooperation agreement signed with PE “Poste Srbije”) and measures for establishment of electronic document exchange.

#### Increase the level of public trust

1. Implement general surveys and surveying of court users (2016, 2018, 2020).
2. Regular communication with the media.
3. Organise the so called “open door day” for citizens to visit courts.

### **6. Individual measures**

All courts:

The courts having a large number of unsolved cases in a particular matter, with judges managing to close only the number of cases envisaged under the Rulebook on the Criteria, Standards, Procedure and Bodies for Evaluation of Judges’ and Court Presidents’ Performance, ought to undertake individual measures to increase the number of solved cases (better organisation in preparatory departments or in preparatory proceeding, i.e. in preparing cases for a trial, especially in the so called mass cases, drafting decisions based on templates, etc.), through implementation of individual backlog reduction programme in each court.

Amend individual courts’ backlog reduction programmes for 2016. The court presidents are to re-examine the reasons for the higher number of backlog cases in civil matters, supplement individual backlog reduction programmes by measures that are to ensure that cases are handled following the order in which they have been received, in order to avoid that newly filed cases or newly received typical cases are being handled, with no priority being given to backlog cases (deadline is 1 October 2016).

Preparation for elaboration of the annual schedule of tasks based on the analysis of judges' caseload by matters, with the potential change of the matter in which the judges proceed in the first instance, and modification of the court staff schedule of tasks.

Allocation of cases to newly elected judges is to be performed in accordance with the Book of Court Rules so that backlog cases taken from other judges in the court are not allocated to the newly elected judges, or that all unallocated backlog cases are allocated to the newly elected judges.

Encourage active cooperation with external partners of the court through cooperation agreements (with the police, public prosecutor's office, medical institutions, social services, etc.).

## **7. Special measures referring to the pending (unsolved) enforcement cases**

Having in mind the number of pending enforcement backlog cases, special measures laid down under the Unified Backlog Reduction Programme and the new Law on Enforcement and Security will not be sufficient to reach the target set forth under the Unified Backlog Reduction Programme (to reduce the number of enforcement cases to 324,000 in basic courts and to 5,800 in commercial courts), therefore it is necessary to continue with the implementation of the Special Programme on Resolving Enforcement Cases Backlog in the Courts in Serbia of 18 November 2014 and undertake the additional:

### **1. Systemic measures**

- Amend the Law on Enforcement and Security (in Serbian: ZIO) in order to:

- prescribe discontinuance of enforcement for forced collection of claims of up to 1.000,00 RSD, in case of failed inventory aimed at the sale of movables or failed public auction of debtor's movables should the creditor fail to propose a new means of enforcement within the prescribed deadline

### **2. Special measures to be undertaken by the High Judicial Council**

- Guidelines for preparation of annual reports

- Analyse implemented activities and examine actions of the court presidents in the implementation of the new Law on Enforcement and Security and Instruction for the implementation of the new Law on Enforcement and Security as of 26 April 2016.

- Guidelines for centralisation of activities aimed at efficient implementation of enforcement in Belgrade, i.e. major cities in a single place (one building, one auction spot, one sales register, free of charge public advertisements with a notification about the communication means, phones, websites, to learn about the time and auction venue, and take a look at the list of publicly sold items)

- Proposed special curriculum for training of enforcement judges.

### **3. Measures to be undertaken by the Supreme Court of Cassation**

- Implementation of activities pursuant to the Cooperation Agreement between the Supreme Court of Cassation and IPA 2012 “Judicial Efficiency Project” of 5 April 2016.

- Instruction for preparation of annual reports based on the guidelines of the High Judicial Council including:

- Recommendation for compiling annual schedule of tasks in courts so as to allocate more experienced judges to enforcement matter and to increase the number of presiding judges in enforcement cases, all aimed at the implementation of these measures.
- Recommendation for compiling individual enforcement cases reduction programmes in courts in scope of the courts’ annual individual backlog reduction programme.

- Follow up activities to determine the number of pending enforcement backlog cases, create case files, merging delivery receipts, etc., and comparison with the data on the pending enforcement cases in electronic databases (following the “case by case” principle).

- Recommendation to higher courts to, as immediate higher instance courts, two times a year conduct supervision in the enforcement matter and pay visits to district basic courts, and submit the report on such visits to the Supreme Court of Cassation. These recommendations are to be implemented by the Commercial Appellate Court as well - for the purpose of supervision of commercial courts in enforcement matters.

- Proposal to the High Judicial Council and the Ministry of Justice for centralisation of activities aimed at efficient implementation of enforcement in Belgrade, i.e. major cities in a single place (one building, one auction spot, one sales register, free of charge public advertisements with a notification about the communication means, phones, websites, to learn about the time and auction venue, and take a look at the list of publicly sold items).

#### 4. Measures to be undertaken by the Ministry of Justice

- Centralisation of activities aimed at efficient implementation of enforcement in Belgrade, i.e. major cities in a single place (one building, one auction spot, one sales register, free of charge public advertisements with a notification about the communication means, phones, websites, to learn about the time and auction venue, and look into the list of publicly sold items), in accordance with the guidelines of the High Judicial Council

- Amend the Book of Court Rules regarding the recording of discontinued enforcement cases due to bankruptcy procedure - as cases solved by the courts

- Rulebook on the auction sale of movables for forced collection of claims in the court proceeding

- Promotion of new judiciary professions in cooperation with the Chambers of Enforcement Agents and Notary Public

- Organising preparations for taking the following exam: Bar exam, for enforcement agents and notaries public, especially in territories where there are no judicial assistants, private enforcement agents or notaries public.

- Equalise in all powers court and public enforcement agents regarding the means at their disposal to obtain the data facilitating the efficient implementation of the proceeding (access to electronic registries of the Serbian Business Registry, the Republic Geodetic Authority, the Republic Pension and Disability Insurance Fund, etc.).

#### 5. Measures to be undertaken by the courts

- Compile annual schedules of tasks and annual reports on the pending enforcement cases in line with the guidelines of the High Judicial Council and with the instruction of the Supreme Court of Cassation
- Elaborate individual courts' backlog reduction programmes with a special enforcement backlog reduction programme
- Determine the actual number of pending enforcement cases and comparison with the data from electronic databases (following the "case by case" principle)
- Review of each enforcement case and completing files
- In misdemeanor enforcement cases discontinue all absolutely outdated enforcements and notify on the implementation of enforcement, i.e. absolute outdatedness, the courts these cases were transferred to for implementing enforcement
- Establish special backlog reduction teams in courts having a larger number of enforcement cases
- Undertake external measures: Conclude a cooperation agreement with the Ministry of Internal Affairs, PTT (Post Office), the media; meetings with the creditors having a large number of enforcement cases.

#### 6. Measures to be undertaken by the courts in the territory of the City of Belgrade

Besides the measures defined under point 5 to be undertaken by all basic and commercial courts in the Republic of Serbia, basic courts in Belgrade, and in particular the First Basic Court in Belgrade, need to implement measures referring to the following:

- numbering and arranging cases, putting each individual case in a "file" in cooperation with IPA 2012 "Judicial Efficiency Project", updating data in electronic registries to reflect content in paper files, recording cases remaining with the court, i.e. those in which the proceeding is discontinued pursuant to the new Law on Enforcement and Security
- preparing cases to be transferred to enforcement agents pursuant to the new Law on Enforcement and Security
- distribution of enforcement cases administered by the court between the First, Second and Third Basic Courts
- centralising activities to carry out enforcement in Belgrade, i.e. major cities in a single place (one building, one auction spot, one sales register, free of charge public advertisements with a notification about the communication means, phones, websites, to learn about the time and auction venue, and look into the list of publicly sold items, etc.).

### **8. Targets**

In basic courts in civil matter, target is to reduce the number of cases from 37,901 on 31 December 2015, to 7,580 cases on 31 December 2020. In P1- labour cases, the target is to reduce the number of cases from 9,423 accounted for on 31 December 2015 to 1,885 on 31 December 2020, and to eliminate all backlog cases in the P2- family cases at the end of the Programme

implementation period. In criminal matter, the target is to reduce the number of cases from 11,957 to 2,391 by 31 December 2020.

#### Basic courts

Matter	Number of cases on 31.12.2015	Target- number of cases on 31.12.2020
P	37,901	7,580
P1	9,423	1,885
P2	810	0
K	11,957	2391

*Table No. 9*

In higher courts in first instance criminal matters, the target is to reduce the number of cases from 1,246 on 31 December 2015 to 249 cases on 31 December 2020. The objective of this Programme is not to have cases in P2- family and P1-labour cases, both considered particularly urgent pursuant to the Book of Court Rules, in higher courts at the end of the Programme implementation period (31 December 2020).

#### Higher courts- first instance matters

Matter	Number of cases on 31.12.2015	Target- number of cases on 31.12.2020
P	1,490	300
P1	319	0
P2	34	0
K	1,246	249

*Table No. 10*

The target in the second instance courts is to eliminate cases in which the proceeding based on the legal remedy lasts longer than a year, calculated from the day the case was filed in the court.

Within backlog cases the number of which was foreseen for the end of the Programme implementation (31 December 2020) there should be no cases pending over 5 years in criminal matter, or over 10 years in civil matter, or over 3 years in labour matter, while the number of cases from 3 to 5 years in criminal and 5 to 10 years in civil matter are to be reduced in such a number as not to be categorised as backlog cases.

In commercial courts in the first instance cases excluding enforcement cases there were 4,275 cases, and the target number at the end of the Programme implementation period (31 December 2020) is 855.

#### Commercial courts

Matter	Number of cases on 31.12.2015	Target- number of cases on 31.12.2020
All cases excl. enforcement	4,275	855

*Table No. 11*

On 31 December 2015 there were 11,771 cases in misdemeanor courts, and the target number after the Programme implementation period (31 December 2020) is 2,354.

### **Misdemeanor courts**

<b>Matter</b>	<b>Number of cases on 31.12.2015</b>	<b>Target- number of cases on 31.12.2020</b>
All cases	11,771	2,354

*Table No. 12*

In the Administrative Court which at the end of 2015 had 2,012 backlog cases out of the total 25,896 cases, the number of backlog cases could not be expected to remain at the present level, since due to the number of cases significant number of unfinished cases will become backlog cases, and that is why the target of the amended programme is not to have more than 10-15% of backlog cases out of the total number of unresolved cases in the Administrative Court on 31 December 2020.

### **Monitoring and evaluation**

During the Programme implementation, courts should regularly (e.g. quarterly) report to the Working Group on their progress made in regard to implementation of different measures and activities, same as on the statistical data referring to the backlog cases reduction.

These results could be used for preparation of annual report of the Working Group on the backlog reduction, which would show the progress achieved in the Unified Backlog Reduction Programme implementation. This report could include the results of surveys (general survey and surveys of the court users) so as to assess the impact of the Unified Backlog Reduction Programme on the level of citizens' trust in the judiciary and the court users satisfaction level.

When it comes to statistical data to be submitted by each individual court, it is important to present data on a certain number of key indicators. In order to conform to the European standards and recommendations, following indicators should be used in the monitoring and evaluation process:

- Number of received cases, resolved cases and pending cases (at the beginning and at the end of the year);
- Number of backlog cases (cases with duration: from 2 to 3 years, from 3 to 5 years, from 5 to 10 years, and over 10 years);
- Average duration of resolved cases, expressed in days (from the day of the initial act registration to final decision);
- Average age of unresolved cases;
- Handling inflow (ratio between the number of received and number of resolved cases);
- Coefficient of resolving cases (ratio between the number of received and number of unresolved cases);
- Time needed for resolving cases (in days);
- Average number of cases per judge (number of received and number of resolved cases per judge);
- Number of judges and court staff in the court;

- Ratio between the number of judges and number of court staff;
- Required budget proposed by the court and allocated budget, i.e. necessary budget to fund activities underlying backlog cases reduction in courts.

Each court should be obliged to submit statistical data quarterly. This data may be used by the Working Group at the national level for elaboration of periodical reports.

**SUPREME COURT OF CASSATION**  
**PRESIDENT**  
**Dragomir Milojević**  
**signed**