Republic of Serbia
Supreme Court of Cassation

UNIFIED BACKLOG REDUCTION PROGRAMME IN THE REPUBLIC OF SERBIA

for the period 2021−2025
(measures, recommendations, implementation and monitoring)

Belgrade, February 2021

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Pursuant to measures 5 and 6 of the Judicial Development Strategy for the period 2020-2025[1] and activities 1.3.6.3. and 1.6.3.4. of the Revised Action Plan for Chapter 23 "Judiciary and Fundamental Rights" under the accession negotiations between the Republic of Serbia and European Union, for which the Supreme Court of Cassation is in charge, the acting president of the Supreme Court of Cassation, Dragomir Milojević, hereby passes

UNIFIED BACKLOG
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1. Introductory remarks

An efficient judicial system needs to ensure equal legal protection of citizens in lawfully implemented proceedings, resolving cases in line with the principles of fairness of trial within reasonable time, while respecting human and minority rights and fundamental freedoms, and quality of justice, while efficient management and rational use of resources represent prerequisites for achieving an effective judicial system.

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

The high number of unresolved cases in the courts in the Republic of Serbia and the high number of pending backlog cases[2] require comprehensive and long-term measures that should be taken throughout the country 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 and confidence in the judiciary.

Serbian court system is overburdened by various problems caused by multiple factors, and particularly by the failed 2010 judicial reform which has led to a deep and long- lasting disruption in the judicial branch, which has not yet been fully rectified.

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[1] *"Official Gazette of RS", No. 101/2020*
[2] Backlog case is a case pending for over three years counting as of the day when the initial act has been filed in accordance with the Book of Court Rules of 19 June 2019 (*"Official Gazette of RS", No 43/2019).*

The courts are neither the generators of social nor of health crises affecting their operation, and the quality of justice depends primarily on the quality of legislative solutions, harmonised with international standards, sound decision of judicial office holders, but also on the appropriate organisation of courts, adequate allocation of their actual jurisdiction and the required number of court staff in courts.

The unbalanced court workload has not been eliminated by the 2010 judicial reform, although this was its formally proclaimed goal, but instead, without adequate previous analysis, the number of courts and judges was provisionally reduced, along with introduction of all misdemeanor authorities in the regular court system, dismissal of experienced judges and election of new and inexperienced ones to a three- year term of office, reduced number of court staff, although the number of unresolved cases remained the same, and the number of incoming cases increased. Such deep systemic disruptions could not have been entirely bridged even by the amended court network as of 1 January 2014, nor this could have been achieved by new procedural legislative solutions that were only able to mitigate the consequences of the failed reform experiment.

The president of the Supreme Court of Cassation had passed several strategic documents as of 2013, based on the indicators of the situation in the court system in 2012, aimed at reducing the total number of unresolved cases in Serbian courts, reducing the number of pending backlog cases and preventing their occurrence, as follows: Unified Backlog Reduction Programme in the Republic of Serbia Su I – 1 384/13-49 of 25 December 2013, Special Set of Measures to Solve the Enforcement Cases Backlog in the Republic of Serbia for the period 2015- 2018 I Su – 1 256/2014 of 18 November 2014, followed by establishment of the Working Group comprising 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, so as to monitor their implementation, dynamics of backlog reduction and propose measures necessary to enhance the backlog reduction process in courts.

In line with activities laid down in the Action Plan for Chapter 23 (measure 1.3.6.5), the analysis was conducted of successful implementation of these strategic documents, and the modified Uniform Backlog Reduction Programme in the Republic of Serbia for the period 2016- 2020 (measures, recommendations, implementation and monitoring) I Su 1 116/16 of 10 August 2016 was passed accordingly, targeting backlog cases reduction by 80%, implying that at the end of 2020 in the court system:

- in basic courts there should be no cases older than ten years in civil matter, or five in criminal matter; that in P matter there should be no more than 7,580 pending backlog cases, 1,885 in P1 matter, 2,391 in K matter, and there should be no cases left at all in P2 matter, with 324,000 backlog cases pending in enforcement matter;

- in the first instance in higher courts there should be no backlog cases in P1 and P2 matters, in P matter there should be no more than 300 backlog cases (when the threshold for review was EUR 100,000 in RSD counter- value at the moment of filing the claim), and that in K matter there should be 249 cases pending;

- in second instance courts of general and special jurisdiction, pursuant to Article 28 of the Law on Judges, there should be no cases older than one year, counting as of the day the case was received by the second instance court upon legal remedy;

- in commercial courts there should be no more than 855 backlog cases, excluding enforcement cases, with 5,800 enforcement backlog cases pending;

- in misdemeanor courts there should be no more than 2,354 pending backlog cases;

- in the Administrative Court there should be no more than 10% to 15% of backlog cases against the total number of pending administrative cases.

Supported by the project "EU for Serbia - Support to the Supreme Court of Cassation", the Supreme Court of Cassation undertook the analysis of backlog cases' reduction under the modified Unified Backlog Reduction Programme for the period 2016-2020[3] and came to the conclusion that comparative results of courts in the Republic of Serbia from 1 January 2012 to 30 June 2020 showed that the objectives laid down in the afore mentioned strategic documents of the Supreme Court of Cassation had not been achieved although in this period 18,879,123 cases in all subject matters were disposed, of which 3,827,499 backlog cases (2,412,017 enforcement cases and 1,415,482 trial cases), given that 526,869 pending backlog cases remained in all matters (435,118 enforcement cases and 91,751 backlog trial cases). As by cases, in this period between 2,380 and 2,652 judges were presiding annually. The underlying reasons for not meeting the objectives are not solely of subjective nature. This also concerns a very high caseload in Belgrade courts and courts in appellate seats, compared to less burdened courts thus disposing lesser number of cases, an unexpected increase in the number of incoming cases, which is why there were over two million unplanned incoming cases in the court system, failure in filling up vacant judge positions equaling to ca. 400 in the past four years- every year, and especially the effects of the state of emergency and measures imposed for protection of the population against COVID 19 pandemic. In 2018 and 2019 court system was stabilised, courts were coping with the incoming cases and reducing the backlog, therefore it could have been expected that the large number of objectives set forth in the Supreme Court of Cassation strategic documents would now be achieved, but the pandemic interrupted this trend.

At the end of 2020, regardless the pandemic, **the objectives set forth in strategic documents regarding enforcement cases have been met**, since lesser number of pending enforcement cases remained compared to the number projected in the Amended Unified Backlog Reduction Programme.

> **According to the statistical data for the period 1 January 2012 until 31 December 2020, in total 19,993,419 cases were disposed, of which 4,035,635 backlog cases. At the beginning there were 3,346,277 pending cases, 18,154,570 cases were received, and 1,510,472 cases remained pending. On average, 2,536 judges presided annually in the court system.**

2. The efficiency analysis

In courts in the Republic of Serbia, in 2012 2,380 judges were effectively presiding, while in 2013 including the reassigned previously unelected judges- 2,652 judges were presiding. However, as of 2014 this number has been declining[4]. According to the data of the Supreme

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[3] The analysis of the Unified Unified Backlog Reduction Programme in the Republic of Serbia for the period 2016-2020 - www.vk.sud.rs

[4] 2012. - 2.380; 2013. - 2.652; 2014. - 2.595; 2015. - 2.522; 2016. - 2.569; 2017. - 2.586; 2018. - 2.418; 2019. - 2.531; 2020. - 2.570.

Court of Cassation (SCC), 3,038 judge positions were identified in the SCC decisions, of which 2,649 were filled up, with 2,570 judges effectively presiding in the court system.

The total number of pending cases in all courts in the Republic of Serbia as of 1 January 2012 amounted to 3,346,277, whereas at the end of 2012, **3,158,400** enforcement cases remained pending. Excluding enforcement, there were 872,831 cases.

According to the data presented in the 2020 report, there were **1,510,479** pending cases including enforcement cases. Excluding enforcement, there were 1,209,631 pending cases in all other legal matters. An increase in the number of pending cases in all other matters, was primarily caused by the upscaled number of incoming cases in the period observed (see Table no. 1 and Chart no. 1).

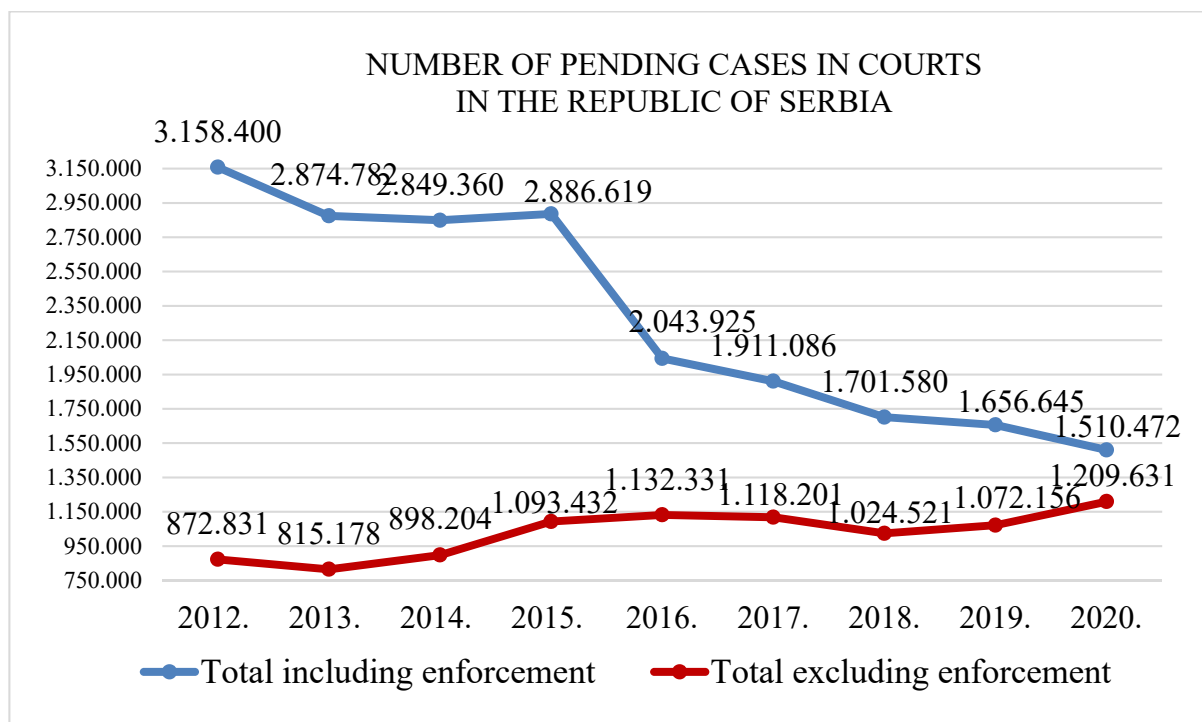| THE NUMBER OF PENDING CASES IN COURTS IN THE REPUBLIC OF SERBIA									
	2012.	**2013.**	**2014.**	**2015.**	**2016.**	**2017.**	**2018.**	**2019.**	**2020.**
TOTAL AT THE LEVEL OF SERBIA - *ALL CASES*	3,158,400	2,874,782	2,849,360	2,886,619	2,043,925	1,911,086	1,701,580	1,656,645	1,510,472
*TOTAL AT THE LEVEL OF SERBIA - EXCLUDING ENFORCEMENT	872,831	815,178	898,204	1,093,432	1,132,331	1,118,201	1,024,521	1,072,156	1,209,631

Table no. 1

Chart no. 1

At the end of 2012, the number of backlog cases equaled to **1,729,768** including enforcement cases, and without enforcement there were **140,418** backlog cases. The total number of pending backlog cases at the end of 2020 was **382,646** with enforcement cases, and **95,173 without**

enforcement cases. This data shows the downward trend in the number of backlog cases in trial matter excluding enforcement, in the period observed.

REPORT ON UNRESOLVED BACKLOG CASES ON DECEMBER 31 ACCORDING TO DATE OF INITIAL ACT									
	2012.	**2013.**	**2014.**	**2015.**	**2016.**	**2017.**	**2018.**	**2019.**	**2020.**
TOTAL SERBIA - *ALL CASES*	1,729,768	1,773,475	1,822,001	1,740,400	915,667	859,272	781,137	621,324	382,646
*TOTAL SERBIA - *EXCL. ENFORCEMENT*	140,418	127,773	126,878	133,365	125,463	128,661	149,649	86,962	95,173
* Commercial courts (all enforcement cases)	22,771	29,872	31,804	32,180	24,303	22,392	17,439	9,427	55
* Basic courts (I, Iv)	1,566,579	1,615,830	1,663,319	1,574,855	765,901	708,219	614,049	524,935	287,418

Table no. 2

Chart no. 2

According to the data on pending backlog cases in courts of general and special jurisdiction by types of courts, without enforcement cases, basic courts have reduced the number of backlog cases in predominantly trial matter (P, P1, P2 and K) from **59,810** backlog cases in 2012 (when 1,102 judges were presiding), to **29,958** cases in predominantly trial matter in 2020 (when 1,181 judges were presiding).

The total number of all pending cases in basic courts as of 31 December 2012 was also reduced (from 1,654,591 to 743,852).

The number of pending backlog cases in first instance criminal matter ("K") before higher courts was reduced from **1,676** cases in 2012 (when 90 judges were presiding) to **634** cases in 2020 (when 81 judges were presiding). In basic courts in first instance criminal matter (K) 279 judges

were presiding in 2012, with **18,206** pending backlog cases. In 2020, 258 judges were presiding, with **2,225** pending backlog cases. This implies a reduction of ca. 88%.

However, in civil matter (P, P1 and P2), the number of pending backlog cases in higher courts has increased from 1,142 in 2012, to 2,949 in 2020 despite the higher number of judges presiding in this first instance matter. This is primarily a consequence of the amended legal jurisdiction, increased number of urgent and particularly urgent cases processed outside of schedule, same as of higher number of incoming cases.

In 2012 in basic courts there were 41,604 pending backlog cases in the first instance civil matter, with 983 presiding judges. In 2020, 1,210 judges were presiding, with the number of pending backlog cases being reduced to 27,733.

Irrespective of this reduction, presidents of the courts are responsible to examine the reasons underlying the existence of backlog cases in civil matter in the courts under their management, to modify individual backlog reduction programmes and ensure cases are processed by the order of their reception, in order to avoid the situation that newly received cases or newly received typical cases are being disposed, without giving priority to backlog cases.

OVERVIEW OF PENDING BACKLOG CASES IN FIRST INSTANCE CRIMINAL MATTER AS OF 31 DECEMBER

CRIMINAL MATTER	LEGAL MATTERS	2012.		2013.		2014.		2015.		2016.		2017.		2018.		2019.		2020.	
		No. of judges	No. of cases	No. of judges	No. of cases	No. of judges	No. of cases	No. of judges	No. of cases	No. of judges	No. of cases	No. of judges	No. of cases	No. of judges	No. of cases	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	92	1,025	80	1,043	72	961	79	631	81	634
Basic courts	K	279	18,206	320	17,125	372	16,567	326	11,957	292	7,604	291	5,211	260	4,171	252	2,047	258	2,225
TOTAL K (BC+HC):		369	19,882	423	18,403	477	18,173	433	13,203	384	8,629	371	6,254	332	5,132	331	2,678	339	2,859

OVERVIEW OF PENDING BACKLOG CASES IN FIRST INSTANCE CIVIL MATTER AS OF 31 DECEMBER

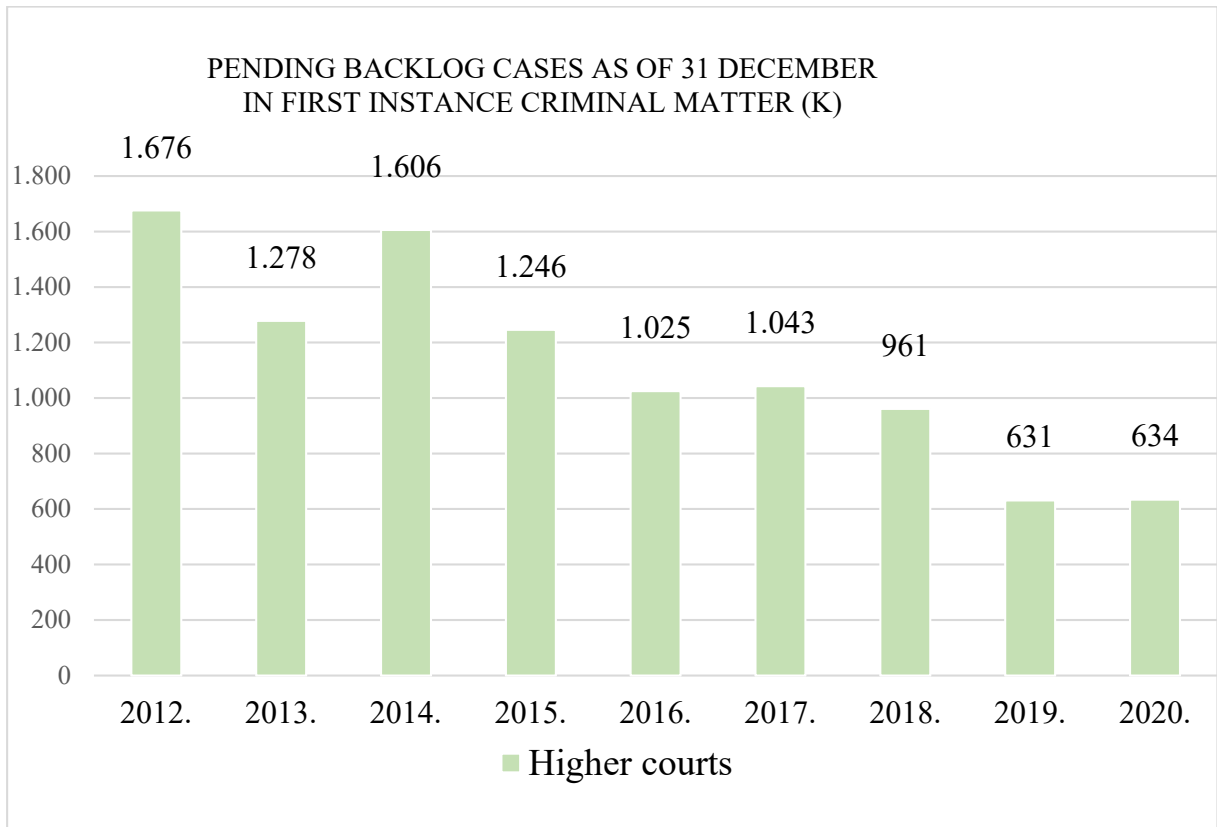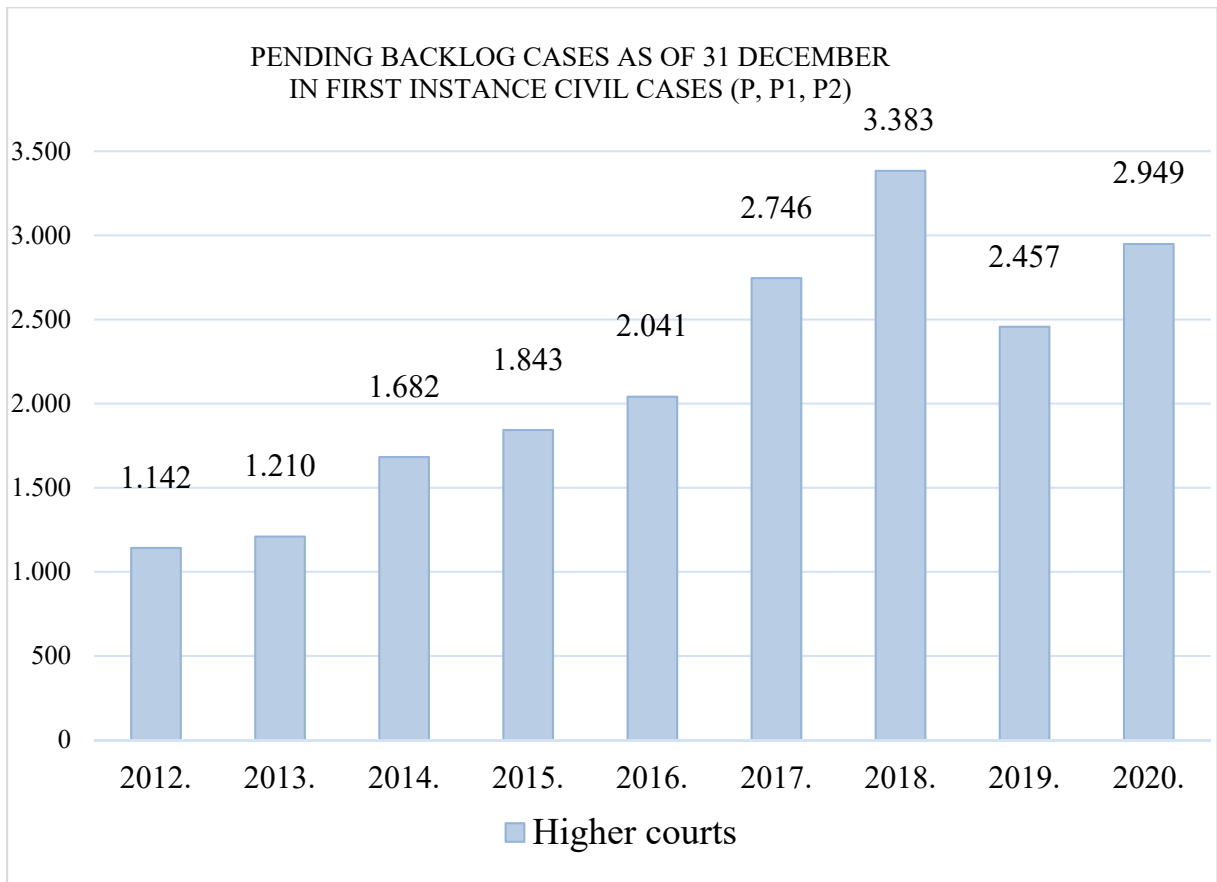| CIVIL MATTER	LEGAL MATTERS	2012.		2013.		2014.		2015.		2016.		2017.		2018.		2019.		2020.	
		No. of judges	No. of cases	No. of judges	No. of cases	No. of judges	No. of cases	No. of judges	No. of cases	No. of judges	No. of cases	No. of judges	No. of cases	No. of judges	No. of cases	No. of cases	No. of cases	No. of judges	No. of cases
Higher courts	P	77	1,085	91	1,162	87	1,400	87	1,490	91	1,727	126	2,366	128	3,022	116	2,188	114	2,701
	P1	51	34	57	26	78	246	81	319	82	284	88	348	84	322	84	249	100	226
	P2	64	23	68	22	71	36	75	34	68	30	68	32	67	39	72	20	87	22
TOTAL:		192	1,142	216	1,210	236	1,682	243	1,843	241	2,041	282	2,746	279	3,383	272	2,457	301	2,949
Basic courts	P	480	31,251	574	31,121	544	34,593	515	37,901	558	28,814	612	34,174	543	31,721	565	18,208	604	20,993
	P1	286	9,514	345	10,140	307	10,465	305	9,423	293	8,469	285	7,068	263	7,270	286	4,296	306	6,420
	P2	217	839	260	720	262	697	266	810	268	702	285	661	262	606	266	237	300	320
TOTAL:		983	41,604	1,179	41,981	1,113	45,755	1,086	48,134	1,119	37,985	1,182	41,903	1,068	39,597	1,117	22,741	1,210	27,733
TOTAL BC+HC:	P	557	32,336	665	32,283	631	35,993	602	39,391	649	30,541	738	36,540	671	34,743	681	20,396	718	23,694
	P1	337	9,548	402	10,166	385	10,711	386	9,742	375	8,753	373	7,416	347	7,592	370	4,545	406	6,646
	P2	281	862	328	742	333	733	341	844	336	732	353	693	329	645	338	257	387	342
TOTAL P+P1+P2 (BC+HC)		1,175	42,746	1,395	43,191	1,349	47,437	1,329	49,977	1,360	40,026	1,464	44,649	1,347	42,980	1,389	25,198	1,511	30,682

Table no. 3

Chart no. 3

Chart no. 4

In the first instance criminal matter (K) in higher courts at the end of 2020 there were 634 backlog cases pending, with the proceedings lasting over five years in 280 cases, while in 73 cases the proceedings have been ongoing for more than ten years.

In the first instance civil matter (P, P1 and P2) in higher courts at the end of 2020 there were 2,949 backlog cases pending, with the proceedings lasting over five years in 998 cases, while in 179 cases the proceedings have been ongoing for more than ten years.

PENDING BACKLOG CASES AS OF 31 DECEMBER IN FIRST INSTANCE CRIMINAL MATTER (K)

Year	Basic courts
2012.	18.206
2013.	17.125
2014.	16.567
2015.	11.957
2016.	7.604
2017.	5.211
2018.	4.171
2019.	2.047
2020.	2.225

Chart no. 5

PENDING BACKLOG CASES AS OF 31 DECEMBER IN FIRST INSTANCE CIVIL CASES (P, P1, P2)

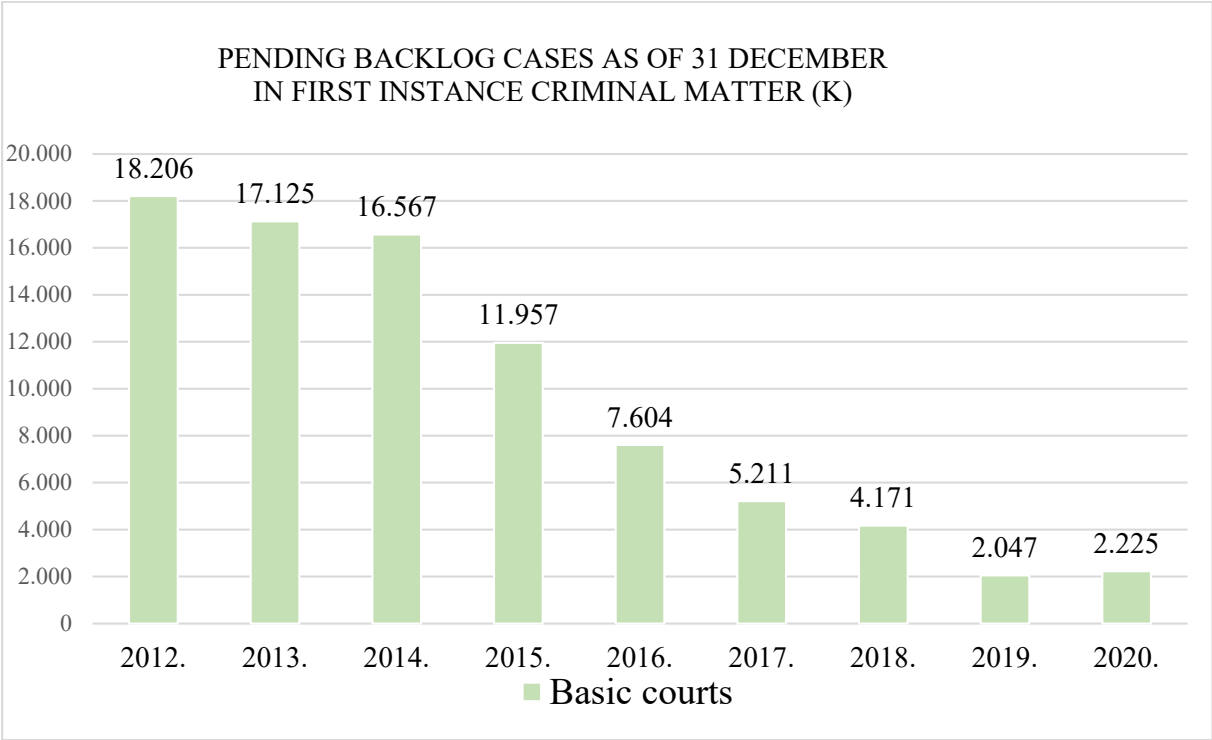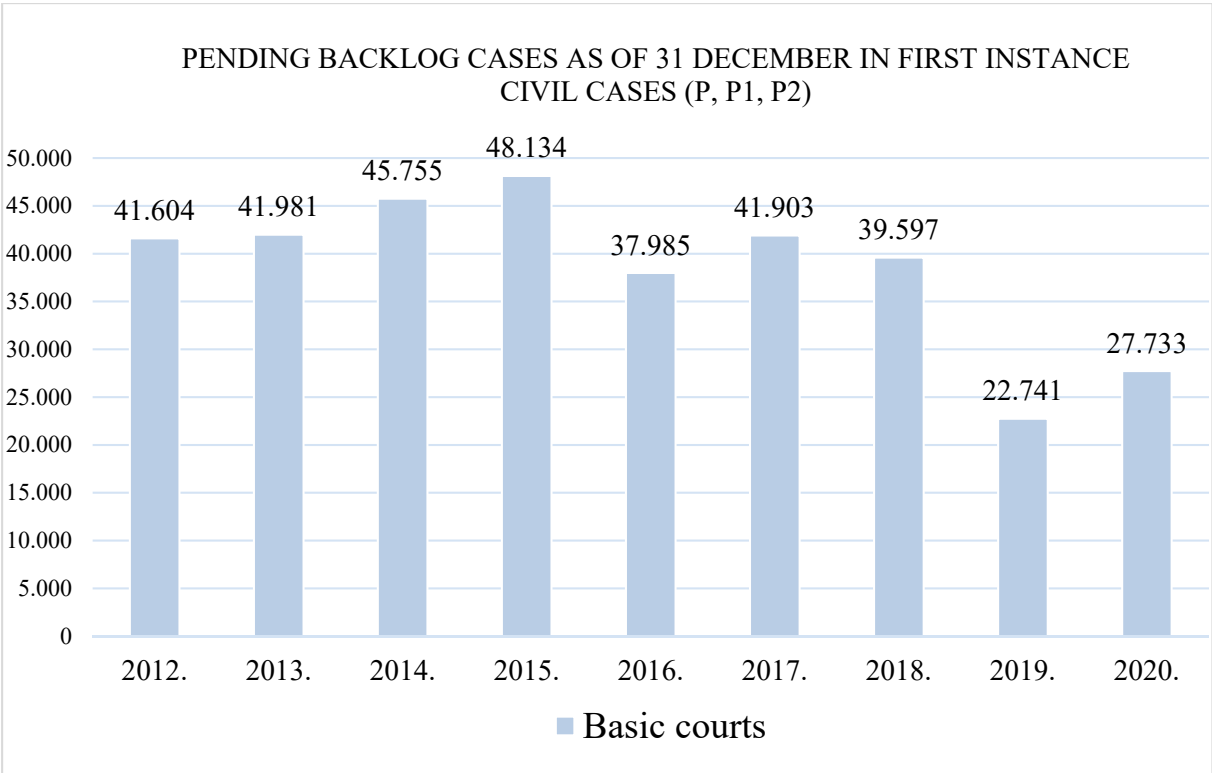| Year	Basic courts
2012.	41.604
2013.	41.981
2014.	45.755
2015.	48.134
2016.	37.985
2017.	41.903
2018.	39.597
2019.	22.741
2020.	27.733

Chart no. 6

The structure of pending backlog cases, excluding enforcement cases in basic courts, shows that in these courts there were 29,958 such cases at the end of 2020, with the proceedings lasting for over five years in 9,770 cases, while in 1,708 cases they lasted for more than ten years. In the first instance criminal matter in basic courts at the end of 2020 there were 2,225 pending backlog cases, of which 747 cases with proceedings lasting for more than five years, and 89 cases of over ten years.

In the first instance civil matter in basic courts at the end of 2020 there were 27,733 pending backlog cases, with the proceedings of more than five years in 9,023 cases, and over ten years in 1,619 cases.

HIGHER COURTS

REPORT ON PENDING BACKLOG CASES AS OF 31.12.2020 - ACCORDING TO THE DATE OF INITIAL ACT

No.	Matter	No. of judges	TOTAL CASELOAD (total pending at the beginning + total incoming) 01.01-31.12.2020	TOTAL PENDING BACKLOG CASES AS OF 31.12.2020	AGE OF BACKLOG CASES			% OF BACKLOG CASES COMPARED TO TOTAL CASELOAD	AVERAGE NO. OF BACKLOG CASES PER JUDGE
					FROM 3 TO 5	FROM 5 TO 10	OVER 10		
1	P	114	16,983	2,701	1,642	888	171	15.90	23.69
2	P1	100	1,505	226	113	105	8	15.02	2.26
3	P2	87	970	22	17	5		2.27	0.25
4	GŽ	130	123,080	21,174	13,140	7,069	965	17.20	162.88
5	GŽ1	102	3,632	280	131	102	47	7.71	2.75
6	GŽ2	75	1,289	14	11	3		1.09	0.19
7	K	81	4,328	634	281	280	73	14.65	7.83
8	K-Po1	18	239	67	25	36	6	28.03	3.72
9	K-Po2	7	27	8	2	5	1	29.63	1.14
10	K-Po3	14	101	11	7	4		10.89	0.79
11	K-po4	19	676	1	1			0.15	0.05
12	KŽ1	73	7,108	142	112	30		2.00	1.95
13	KIM	42	3,720	5	3	1	1	0.13	0.12
14	KM	35	2,185					0.00	0.00
TOTAL FOR PREDOMINANTLY TRIAL MATTER		330	165,843	25,285	15,485	8,528	1,272	15.25	76.62
TOTAL FOR ALL MATTERS		350	330,735	26,287	16,013	8,837	1,437	7.95	75.11

Table no. 4

REPORT ON PENDING BACKLOG CASES AS OF 31.12.2020 - ACCORDING TO DATE OF INITIAL ACT

No.	Matter	No. of judges	TOTAL CASELOAD (total pending at the beginning + total incoming) 01.01-31.12.2020	TOTAL PENDING BACKLOG CASES as of 31.12.2020	AGE OF PENDING BACKLOG CASES			% OF BACKLOG CASES COMPARED TO TOTAL CASELOAD	AVERAGE NUMBER OF BACKLOG CASES PER JUDGE
					FROM 3 TO 5	FROM 5 TO 10	OVER 10		
1	P	604	422,141	20,993	12,257	7,425	1,311	4.97	34.76
2	P1	306	67,737	6,420	4,557	1,556	307	9.48	20.98
3	P2	300	45,074	320	277	42	1	0.71	1.07
4	K	258	56,292	2,225	1,389	747	89	3.95	8.62
	TOTAL 1-4	988	591,244	29,958	18,480	9,770	1,708	5.07	30.32
5	Iv	168	484,764	281,818	1,489	96,029	184,300	58.14	1,677.49
6	I	147	117,820	5,600	1,514	3,383	703	4.75	38.10
	TOTAL 5-6	193	602,584	287,418	3,003	99,412	185,003	47.70	1,489.21
	ALL ENFORCEMENT	393	799,365	295,558	7,002	103,518	185,038	36.97	752.06
	TOTAL FOR ALL MATTERS	1,181	1,806,129	328,883	27,315	114,477	187,091	18.21	278.48

Table no. 5

In commercial courts in first instance at the end of 2020 there were 3,233 pending backlog cases with enforcement cases, while the proceedings lasted over five years in 1,082 cases. Length of proceedings of over ten years was identified in 445 cases.

COMMERCIAL COURTS

REPORT ON PENDING BACKLOG CASES AS OF 31.12.2020 - ACCORDING TO THE DATE OF INITIAL ACT

No.	Matter	No. of judges	TOTAL CASELOAD (total pending at the beginning + total incoming) 01.01-31.12.2020	TOTAL BACKLOG PENDING CASES as of 31.12.2020	AGE OF BACKLOG CASES			% OF BACKLOG CASES COMPARED TO TOTAL CASELOAD	AVERAGE NUMBER OF BACKLOG CASES PER JUDGE
					3 TO 5	5 TO 10	OVER 10		
1.	Commerical offences	56	38,686	515	507	8		1.33	9.20
2.	Bankruptcy	71	2,624	1,234	294	597	343	47.03	17.38
a	I	29	3,387	26	11	14	1	0.77	0.90
b	Iv	29	7,947	10		9	1	0.13	0.34
c	Total (a+b)	31	11,334	36	11	23	2	0.32	1.16
d	Other enforcement	62	30,334	19	6	12	1	0.06	0.31
3.	All enforcement (c+d)	63	41,668	55	17	35	3	0.13	0.87
4.	Payment order	51	733					0.00	0.00
5.	Litigation	109	24,533	1,427	887	442	98	5.82	13.09
6.	Non-litigious	63	4,645	2	1		1	0.04	0.03
7.	Reasonable time	61	27,856					0.00	0.00
	TOTAL 1-7	168	140,745	3,233	1,706	1,082	445	2.30	19.24

Table no. 6

As of 2012, the number of pending cases in Administrative Court has been rising due to the increased number of incoming cases upon claims in administrative disputes (from 21, 509 cases in 2012 to 48, 011 pending cases in 2020), same as the number of backlog cases as per initial act from 591 in 2012 to 2,101 pending backlog cases in 2020, although the number of judges was increased from 27 presiding in 2012, to 45 in 2020.
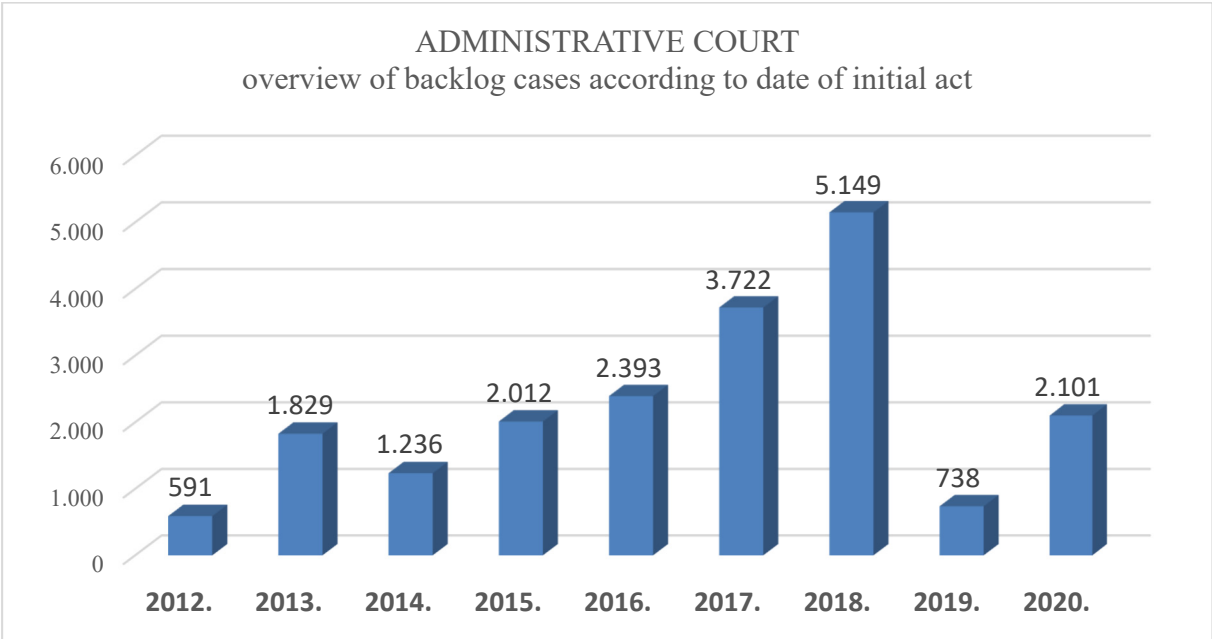

ADMINISTRATIVE COURT
overview of backlog cases according to date of initial act

Chart no. 7

The number of backlog cases declined in the Misdemeanor Court, while the number of pending cases went up. At the end of 2019 there were 2,707 pending cases, and 3,386 at the end of 2020. 111 backlog cases remained unresolved.
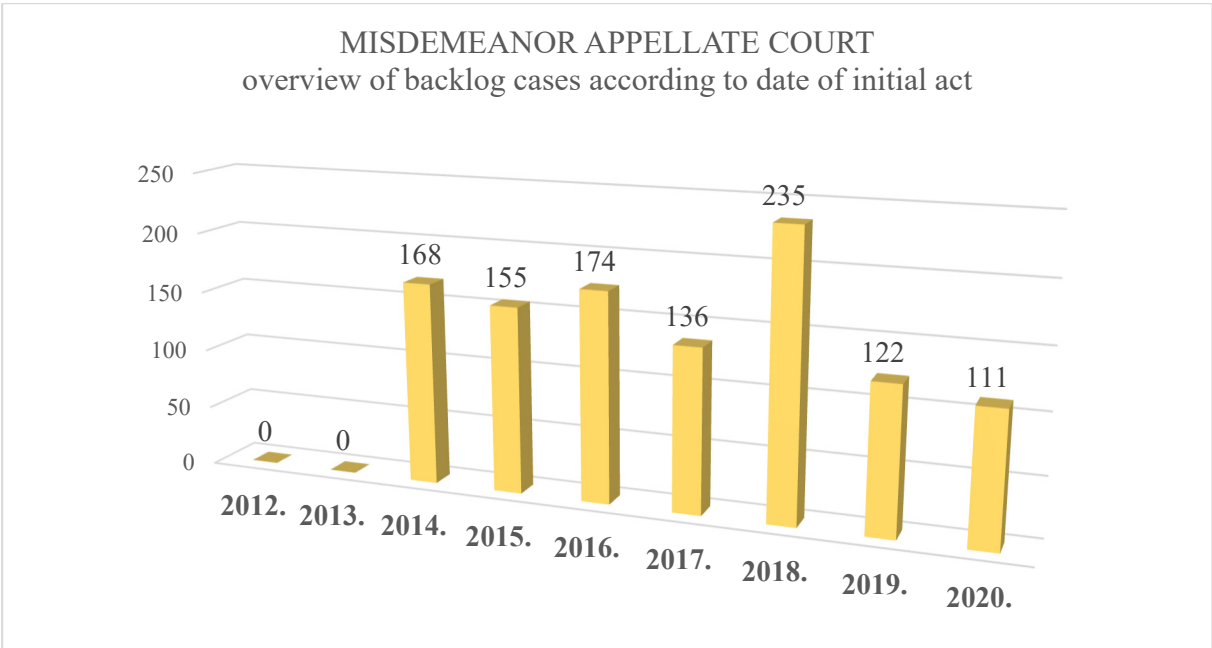

MISDEMEANOR APPELLATE COURT
overview of backlog cases according to date of initial act

Chart no. 8

In misdemeanor courts total number of pending cases has increased at the end of 2020 from 533,772 to 559,422 cases. However, the number of pending backlog cases was reduced from 8,446 to 7,062.

Chart no. 9

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Observing the total number of **disposed cases in all courts** (excluding enforcement cases), it can be concluded that the number of disposed cases is rising, as in 2012, 2,165 judges disposed 1,534,706 cases, while in 2020 2,570 judges disposed 1,680,418 cases during the pandemic.

NUMBER OF DISPOSED CASES IN COURTS IN THE REPUBLIC OF SERBIA

	2012.	2013.	2014.	2015.	2016.	2017.	2018.	2019.	2020.
TOTAL IN THE REPUBLIC OF SERBIA - *ALL CASES*	2,156,958	2,084,768	1,793,212	2,087,332	2,953,921	2,335,760	2,298,870	2,268,769	2,013,829
TOTAL IN THE REPUBLIC OF SERBIA - *WITHOUT ENFORCEMENT*	1,534,706	1,536,355	1,409,886	1,706,704	1,922,470	1,932,366	2,077,174	2,068,435	1,670,418
Basic courts- I+IV	532,377	484,446	326,400	322,994	970,292	350,008	169,745	147,171	302,747
Commercial courts- all enforcement	89,875	63,967	56,926	57,634	61,159	53,386	51,951	53,163	40,664

Table no. 7

OVERVIEW OF THE NUMBER OF DISPOSED CASES IN THE COURTS IN THE REPUBLIC OF SERBIA
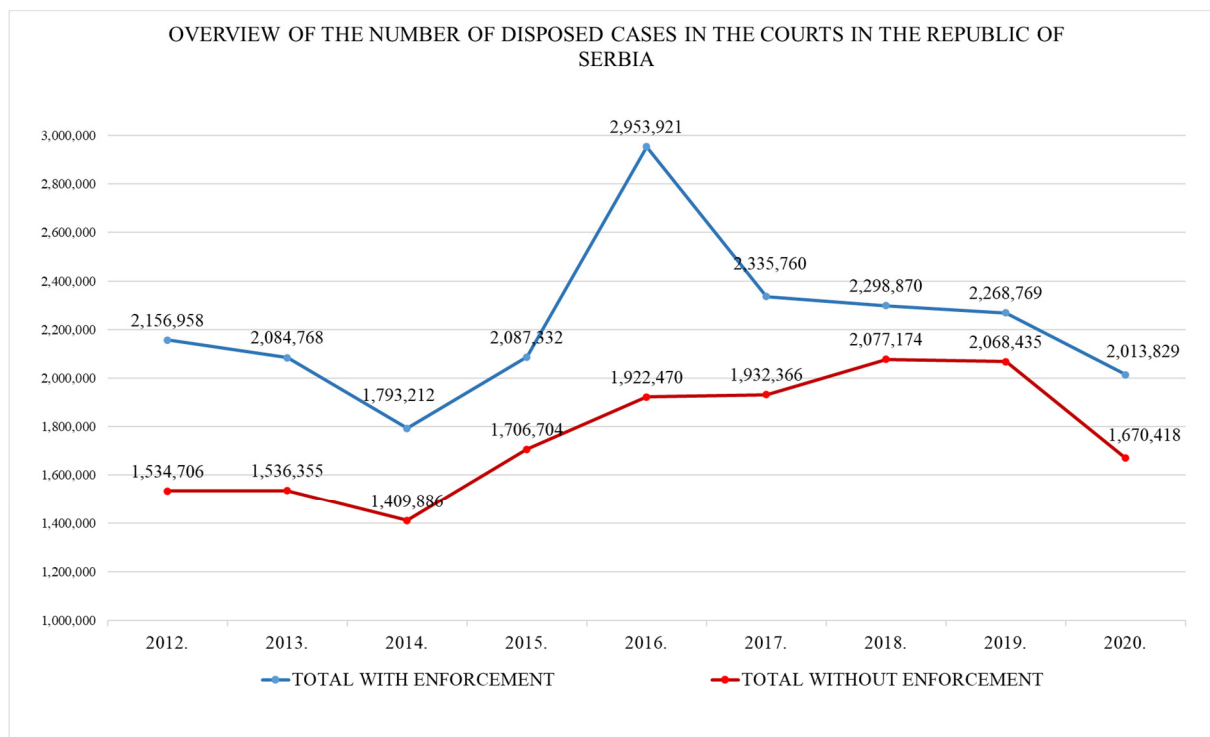
Chart no. 10

The number of incoming cases excluding enforcement (new cases and pending cases after revocation, etc.) was increased from 1,440,611 in 2012 to 1,808,149 in 2020, while in the same period number of judges was increased from 2,165 to 2,570. This means that the number of incoming cases went up by 25.5%, while the number of judges was increased by only 18.7%.

NUMBER OF INCOMING CASES IN COURTS IN THE REPUBLIC OF SERBIA

	2012.	2013.	2014.	2015.	2016.	2017.	2018.	2019.	2020.
TOTAL IN THE REPUBLIC OF SERBIA - *ALL CASES*	1,969,270	1,800,746	1,752,185	2,136,483	2,111,944	2,202,692	2,089,237	2,224,102	1,867,911
TOTAL IN THE REPUBLIC OF SERBIA - WITHOUT ENFORCEMENT	1,440,611	1,477,986	1,486,626	1,902,475	1,962,045	1,918,007	1,983,368	2,116,339	1,808,149
Basic courts- I+IV	457,757	261,695	212,516	181,211	104,648	241,677	61,409	62,689	29,391
Commercial courts- all enforcement	70,902	61,065	53,043	52,797	45,251	43,008	44,460	45,074	30,371

Table no. 8

NUMBER OF INCOMING CASES IN COURTS
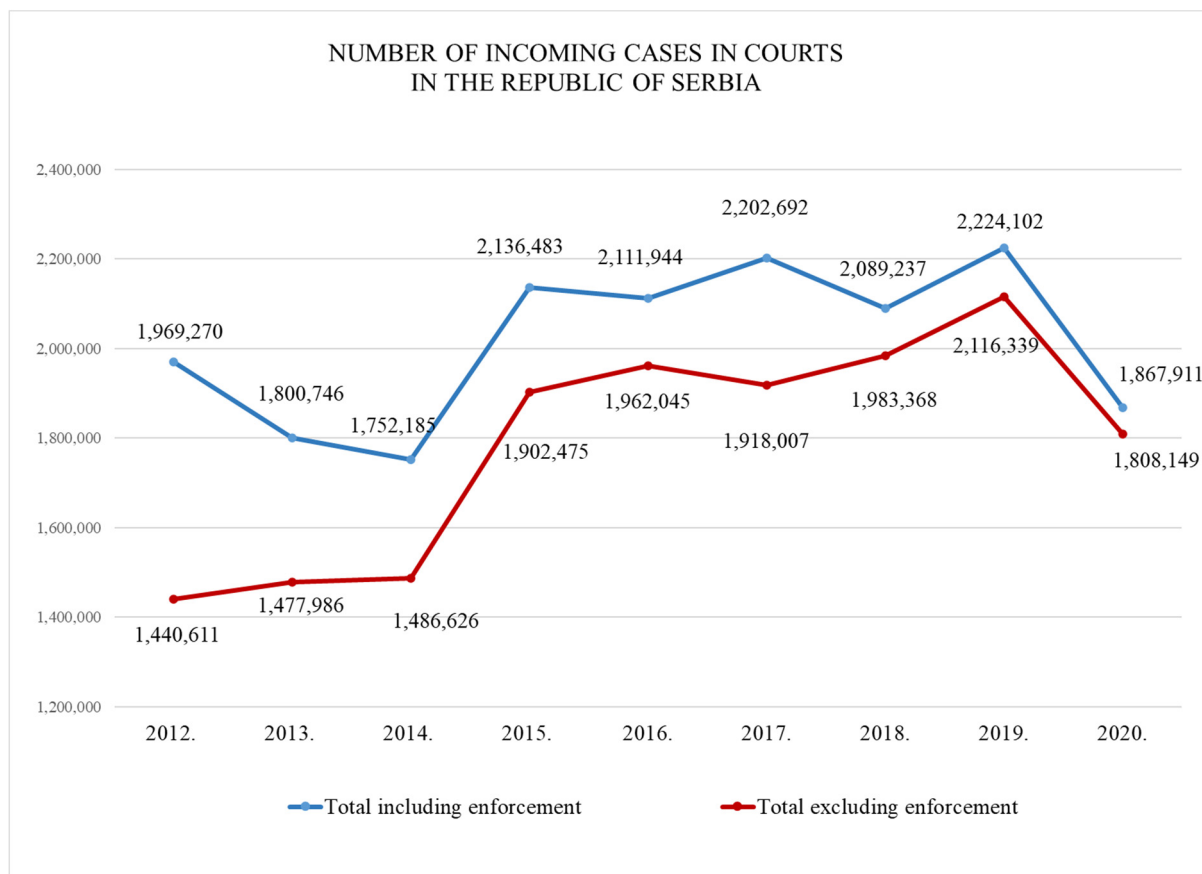IN THE REPUBLIC OF SERBIA

Chart no. 11

3. The effects of enforcement of systemic solutions and general measures on backlog reduction

When observing the effects of enforcement of systemic solutions and general measures on backlog reduction, it could be concluded that:

3.1 The 2016 Law on Enforcement and Security and its 2020 amendments have achieved major systemic effect on the backlog reduction in enforcement matter- the number of backlog enforcement cases was reduced from 1,589,350 in 2012 to 287,473 in 2020. Such effects were achieved by close cooperation of all power branches with the support of the European Union under the projects "Judicial Efficiency Project" and "EU for Serbia- Support to the Supreme Court of Cassation".[5]

3.2 The 2013 amendments to the Criminal Procedure Code, and especially the implementation of the deferred criminal prosecution and plea agreement mechanisms, have significantly reduced the number of incoming criminal cases.

3.3 Implementation of the Law on Mediation in Dispute Resolution in effect as of 1 January 2015, practically had no effect in civil proceedings, despite the provision of Article 30 of this Law stipulating that mediation procedure may be launched before or after court proceedings had been initiated, same as during the proceedings upon legal remedies or

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[5] Initial activities on backlog reduction were implemented in 2011 at the First Basic Court in Belgrade, with the support of the Separation of Powers Project of the United States Agency for International Development (USAID), when 611,000 enforcement cases were disposed.

during the enforcement procedure, which leads to the conclusion that mediation is possible in backlog cases as well.

3.4 Training of judges on the implementation of the above, but also other laws is a necessary precondition for implementation of alternative dispute resolution and backlog reduction mechanisms.

3.5 A detailed training on the implementation of the Law on Civil Procedure and the Labour Law needs to be delivered, since their unbalanced implementation is a major generator of increased number of backlog cases.

Previously conducted analysis shows that the number of backlog enforcement cases dominates in the total number of backlog cases in the national courts: the share of backlog enforcement cases in the total number of backlog cases equals to 75.1%. **The share of backlog cases excluding enforcement cases in the total number of pending cases at the end of 2020 equals to 6.3%.**

Establishing teams monitoring backlog reduction in courts (based on the recommendation presented in the Guide to Best Practices of the USAID Separation of Powers Project, activities under the Action Plan for Chapter 23) so far did not produce expected results, since the teams did not meet regularly and were not productively used.

The work of the teams needs to be regulated by setting joint rules on the content of their activities, regular meetings, work organisation and reporting mechanism on the work and results achieved in pending backlog reduction, under the responsibility of the court presidents.

Cooperation Agreements/ Memorandum of Understanding point to the following:

- Memorandums of Understanding were concluded only by certain first instance courts: basic, higher, commercial and misdemeanor.

- Following the initial incentive provided by passing and adoption of the Unified Backlog Reduction Programme in 2013, a very small number of courts (especially those established on 1 January 2014) concluded new agreements. The major effect to the backlog cases reduction and prevention of new ones was achieved under the agreements concluded by basic courts in Novi Sad and Pančevo.

- Despite the lack of formal mechanisms, the majority of courts organise periodic meetings with local institutions and organisations, and in that way achieve the purpose of the agreements.

- Most frequently the courts enter into agreements with: organisational units of PE "Pošte Srbije", departments of the Center for Social Work, local police directorate or police stations, local Bar Association. In addition, the courts also conclude memorandums of understanding with educational institutions- high schools and universities.

    Rare are the courts that have concluded inter-sector thematic agreements- for example on the protection of minors as participants in court proceedings or on the protection of women- survivors of domestic violence (Higher Court in Kruševac).

The use of the case management application to keep records on the held, not held and postponed hearings (in line with the recommendation that in backlog cases hearing should not be postponed to indefinite time, postponing the hearing must be justified and time periods between

the hearings must be short) has shown the following results (disaggregated by users of different applications):

- AVP (basic, higher and commercial courts, including the Commercial Appellate Court) has the option to register the hearings held, not held or postponed, however this data is irregularly and in different ways being entered into the application. The study has shown that the large number of courts- users of this application, are unaware of this option, thus underlying the need for training on the AVP use.

  AVP now includes the functionality to enter the reasons for not holding hearings or postponing them, but does not generate reports on such reasons.

- SAPS (Supreme Court of Cassation, Administrative Court, appellate courts, Higher Court in Sremska Mitrovica) has the possibility to register the hearings held, not held and postponed, same as the reasons for such hearings not being held/being postponed. The only first instance court using all these options in an advanced manner is the Administrative Court, which is an indicator that additional training is required in other courts.

- SIPRES (Misdemeanor Appellate Court and misdemeanor courts), as the latest developed and introduced application in courts in the Republic of Serbia, includes all listed options: electronic scheduling of hearings, records on the number of held, not held and postponed hearings, records on the reasons for not holding/ postponing hearings, same as electronic/ automatic scheduling of the next hearing in standardised time periods. Still, not all misdemeanor courts are using these options. Bearing in mind that SIPRES application was introduced in misdemeanor courts at the end of 2015, the expectation was that all of its functionalities would be fully used in the second half of 2016, however these functionalities are still being underused, and these deficiencies need to be rectified as soon as possible.

Some courts still practice allocating the oldest cases to the newly elected judges, despite the instruction and conclusion of the Working Group for monitoring of implementation of the Unified Backlog Reduction Programme (hereinafter referred to as: Working Group), not to assign such cases to newly elected judges, but in line with the Book of Court Rules.

Belgrade courts are particularly important for implementation of this measure since all of them still hold cases dating back to 1980s. Together with the cases with initial acts from the 1990s, they make a group of oldest cases in courts. These are P and P1 cases.

Due to these reasons, implementation of this measure should be separately monitored in first instance courts in the future.

4. Systemic measures

4.1   Separate court staff from the public administration system, facilitate filling up court staff vacancies, especially in executive positions, by allocating budget funds, and enabling hiring of the appropriate and quality court staff.

4.2 Fill up judge vacancies, with the previous analysis of the needs and caseload per judges and courts, which includes potential amendments to the decision on the number of judges in specific courts within the determined number of judge positions.

4.3 Pass the decision on training of judges and judicial assistants for the implementation of the Law on Mediation and other laws as well, necessary to apply the alternative dispute resolution and backlog reduction mechanisms. Deliver a detailed training on the implementation of the Law on Civil Procedure and the Labour Law, since their unbalanced implementation is a major generator of a rising number of backlog cases.

4.4 Organise a continuous training for work in all existing applications so as to use their functionalities in a standardised manner.

4.5 Upgrade AVP by reports monitoring statistics on held, not held and postponed hearings, options for electronic scheduling of hearings, and automatic scheduling of future hearings in standardised time intervals, or fully replace it by an application offering all such functionalities.

4.6 Standardise electronic case management in all courts (centralised application).

4.7 Pass guidelines for the establishment of preparatory departments in courts for cases by legal matters.

4.8 Supplement regulations enabling stimulating judges assigned to adjudicate in backlog cases in the form of a special benefit, like reduced caseload, reduced "norm", etc.

4.9 Amend the Law on Judges and set forth special measures enabling occasional engagement of retired judges to prepare backlog cases for trial, with a reimbursement to be set by the High Judicial Council.

4.10 Propose amendments to the Law on Civil Procedure in small value disputes to speed up their resolution, enable statements before the main hearing, introduce documentary procedure, namely filing initial acts electronically and via electronic proceedings, with an option of rendering decision without the hearing if there is no dispute about the facts.

4.11 Speed up the administrative justice reform in line with the Judicial Development Strategy 2020- 2025, by implementing activities under measure 6.3 within the Judicial Efficiency pillar.

4.12 Amend the Law on the Protection of Rights to a Trial within a Reasonable Time in regard to bankruptcy proceedings and preceding enforcement proceedings.

4.13 Implement measures focused on reducing the workload on judges by administrative affairs in line with measure 10, Chapter 4 of the Judicial Development Strategy (Recommendation R 86 (12) of the Council of Europe Committee of Ministers to prevent and reduce excessive workload in courts).

5. General measures

Internal organisational measures:

5.1 Passing individual backlog reduction programmes in courts for each year, in a standardised manner, in electronic form exclusively.

When passing programmes, court presidents are to examine the reasons underlying the increased number of backlog cases in civil matter, pass individual measures for backlog reduction to ensure cases are processed by the order of their reception, in order to avoid the situation that newly received cases or newly received typical are being resolved, without giving priority to backlog cases.

5.2 Passing individual backlog reduction plans for judges for each year, in a standardised manner.

5.3 Presidents of courts with a high number of pending cases in a particular matter or where judges are dealing solely with the number of cases laid down under the Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents, are to initiate passing of individual backlog reduction plans for judges, take individual measures to increase the number of resolved cases (better organisation of work in preparatory departments or in preparatory proceedings, namely in preparing the case for trial especially in the so called mass cases, drafting decisions based on the standardised templates, etc.), through implementation of individual backlog reduction programmes for judges in each court (individual plans).

5.4 Establishing teams monitoring implementation of individual backlog reduction programmes and recording achieved results.

5.5 In annual schedule of tasks assign the oldest cases in the court to the most experienced judges (however at least three, to preserve the random judge principle). The annual schedule of tasks needs to be developed based on the analysis of workload of judges by matters with potential changes in the matter in which judges are presiding in the first instance and amending the schedule of court staff tasks.

5.6 Allocation of cases to newly elected judges needs to be performed in line with the Book of Court Rules so as to avoid assigning backlog cases to newly elected judges, by taking such cases away from other judges in the court or by assigning all unassigned backlog cases to newly elected judges.

5.7 Implementing guidelines for the establishment of preparatory departments in courts for cases by legal matters.

5.8 Introducing measures concerning e- justice referred to in Chapter 5 of the Judicial Development Strategy.

6. **Procedural measures**

6.1 Organising preliminary hearings and main hearings (time frame, concentration of evidence, etc.).

6.2 Using the guidelines for quality drafting of decision and training of judges with up to five years of judicial experience.

7. **Enhancing cooperation with external institutions**

7.1 Encouraging active cooperation with external partners of the court using memorandums of understanding (with the police, medical institutions, social institutions, etc.).

7.2 Introducing an effective system for delivery of court documents and measures for establishing electronic document exchange.

7.3 Increasing the level of public trust.

7.4 Implementing general surveys and surveying users of court services (2021, 2023, 2025).

7.5 Regular communication with the media.

7.6 Cooperation with educational institutions (universities and high schools).

7.7 Cooperation with civil society organisations (e.g. "Judicial Open Doors Day" project).

7.8 Organising the so called open days for citizens' visits to courts.

8. Special measures concerning the pending enforcement cases

8.1 Court presidents are to determine the number of pending cases and draft special plans for efficient enforcement in cases remaining in the exclusive jurisdiction of the court for ruling on the proposal for enforcement and implementing of enforcement (labour and family disputes), and especially look after the following:

- timely passing enforcement decisions and delegating cases to enforcement agents for enforcement when this falls under their competence;

- undertaking measures to finalise activities related to delegating pending enforcement cases to enforcement agents in line with the novelties of the Law on Enforcement and Security (administrative- technical activities pertaining to updating data in each individual case, cross- referencing case data- casefiles- with electronic cases in electronic registries, preparing cases for judge's decision), by 1 December 2021 at the latest.

8.2 When referring cases to enforcement agents in accordance with the provisions of Articles 166. and 167. of the Law on Enforcement and Security, care should be taken not to repeat the irregularities identified to date: lack of evidence on the delivery of the enforcement decision, passing a conclusion on the discontinuation of proceedings whenever conditions have been met, enforcement decision is not backed up by the validity clause.

8.3 Amendments to the Law on Enforcement and Security, for the purpose of:

- Detailed regulation of the ex officio enforcement procedure, and especially payment of advance in this type of the procedure.
- Examining provisions setting the enforcement procedure costs.
- Full or partial digitalisation of enforcement procedure- electronic initiation and running of enforcement procedure, electronic delivery.

8.4 Draft a proposed special training programme for enforcement judges.

9. Measures to be taken by the Supreme Court of Cassation

9.1 The Supreme Court of Cassation needs to pass the Instructions for the preparation of the annual reports based on the guidelines of the High Court Council, with the recommendation for development of individual backlog reduction programmes in courts (including developing individual plans for judges) in electronic form.

9.2 The Working Group formed by the president of the Supreme Court of Cassation for monitoring implementation of the Unified Backlog Reduction Programme, monitors implementation of activities referred to in item 7 of this Programme with the support of the "EU for Serbia- Support to the SCC" project in 2021.

9.3 Instructions to higher courts to conduct supervision twice a year, in the capacity of immediate superior courts, to visit their local basic courts and to submit reports to the Supreme Court of Cassation about said visits. The same instruction should be forwarded to the Commercial Appellate Court – for the purpose of supervising the commercial courts.

10. Measures to be taken by the Ministry of Justice

10.1 Draft amendments to legislation and draft new legislation under its jurisdiction, aimed at implementation of this Programme.

10.2 Amend the Court Book of Rules so as to register enforcement cases discontinued due to bankruptcy proceedings as cases resolved in the court.

11. Measures to be taken by the courts

11.1 Drafting individual court backlog reduction programmes with a special enforcement backlog reduction programme, in electronic form and in standardised manner.

11.2 Determining actual number of pending cases in the court and pending enforcement cases, and cross- referencing with the data contained in electronic databases (on a "case by case" basis).

11.3 Reviewing of each enforcement case and completion of casefiles.

11.4 In misdemeanor enforcement cases, terminate all the enforcement cases that ablosutely fall under the statute of limitations, and inform the courts to which cases were assigned for enforcement about the implementation of enforcement i.e. the absolute statute of limitations

11.5 Forming special enforcement backlog reduction teams in courts with a higher number of enforcement cases.

11.6 External measures to be taken: concluding memorandums of understanding with the Ministry of Interior, Post Office, the media; meetings with creditors with high number of enforcement cases.

12. Measures to be taken by the courts in the territory of the City of Belgrade

In addition to measures set forth under item 11 to be taken by all basic and commercial courts in the Republic of Serbia, basic courts in Belgrade ought to undertake the measures referring to:

12.1 Numbering and organising cases, "filing" each case individually, collating data in electronic registries, registering cases remaining in the court, or cases in which proceedings have been discontinued or referred to enforcement agents in line with the

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novelties introduced by the Law on Enforcement and Security; cases found in AVP only, not entered in line with the Book of Court Rules, are to be marked as improperly entered, and closed as resolved in other ways; identify the cases at Viline vode, and via registries check if the creditor has made a statement as per transitional and final provisions of the 2016 Law on Enforcement and Security, and depending on the outcome, act in line with the 2016 Law.

12.2   Determining the structure of pending backlog cases.

12.3   Implementing measures and activities laid down under the Judicial Development Strategy to accelerate resolution of all cases, and especially of second instance cases in line with Chapter 4, measure 2, and particularly with amended legislation on the jurisdiction of courts aimed at achieving balanced workload on judges, increasing the number of judges, judicial assistants and court staff.

13.   Objectives

General objectives for a more efficient delivery justice concern the reduction in the total number of pending cases in courts in the Republic of Serbia. By 2020, the number of pending cases was reduced by 1,835,805 cases compared to 1 January 2012, and in relation to 31 December 2012, by 1,647,928, by 52.2%.

By implementing the Unified Backlog Reduction Programme for the period 2021-2025, the total number of pending cases in courts in the Republic of Serbia remaining at the end of 2020 of 1,510,472 (ca. 570 pending cases per judge) would be reduced to 1,000,000 (ca. 330 per judge), thus reducing the share of backlog cases in the total number of pending cases, based on the current number of incoming cases, to 2,61%.

In basic courts in general civil matter (P), the objective is to reduce the number of backlog cases from 20,993 as of 31 December 2020, to 13,645 on 31 December 2025. In P1 matter- labour disputes, the objective is to reduce the number from 6,420 as of 31 December 2020 to 3,210 on 31 December 2020, and in P2 matter- family disputes, to reach zero backlog cases at the end of the Programme implementation period. In criminal matter, the objective is to reduce the number of cases from 2,225 to 1,112 on 31 December 2025. In enforcement matter in basic courts, on 31 December 2020 there were 287,418 backlog cases- the objective is to have zero enforcement cases older than three years at the end of the Programme implementation period.

Basic courts

Legal matter	Number of cases as of 31.12.2020	Target – number of cases as of 31.12.2025
P	20.993	13.645
P1	6.420	3.210
P2	320	0
K	2.225	1.112
I	5.600	0
Iv	281.818	0

In higher courts in first instance criminal matter, the objective is to reduce the number of cases from 634 as of 31 December 2020, to 412 on 31 December 2025. The purpose of this Programme is to have zero backlog cases in P2 matter- family disputes and P1- labour disputes in higher courts, considered under the Book of Court Rules as particularly urgent, at the end of the Programme implementation period (31 December 2025). In general civil matter (P) as of 31 December 2020 there were 2,701 cases, and the objective is to have 1,890 of them by the end of 2025.

Higher courts- first instance matter

Legal matter	Number of cases as of 31.12.2020	Target – number of cases as of 31.12.2025
P	2.701	1.890
P1	226	0
P2	22	0
K	634	412

Table no. 10

The objective in second instance courts is to have zero cases in which the proceedings upon legal remedy last for more than one year, counting from the day the case was filed with the court.

At the end of the Programme implementation period, on 31 December 2025, in criminal matter there should be no cases in the court system lasting for more than five years, counting from the day when initial act was filed, and in civil matter there should be no cases lasting for more than ten years, while in labour and family disputes there should be no backlog cases at all.

In commercial courts in first instance cases excluding enforcement, there were 3,178 cases, and the objective is to have 2,065 cases at the end of the Programme implementation period (31 December 2025), without any backlog enforcement cases at all.

Commercial courts

Legal matter	Number of cases as of 31.12.2020	Target – number of cases as of 31.12.2025
All cases excl. enforcement	3.178	2.065
Enforcement cases	55	0

Table no. 11

In misdemeanor courts there were 7,062 backlog cases as of 31 December 2020, and the objective is to have 4,237 cases at the end of the Programme implementation period (31 December 2025).

Misdemeanor courts

Legal matter	Number of cases as of 31.12.2020	Target – number of cases as of 31.12.2025
All cases	7.062	4.237

Table no. 12

In the Administrative Court which at the end of 2020 had 2,101 backlog cases out of 48,011 pending cases in total, the number of backlog cases cannot be expected to remain at the current level, given that due to the number of the pending cases a significant part of the arrears would be included in the backlog category, which is why the objective of the Programme is to on 31 December 2025 have no more than 10% of backlog cases out of the total number of pending cases in the Administrative Court, provided that the administrative justice reform is not initiated which would require amendments to this Programme.

14. Monitoring the Programme implementation

During the Programme implementation, courts regularly (quarterly) report to the SCC Working Group on their progress regarding the implementation of various measures and activities, same as on the statistical data concerning the backlog reduction.

These results are used for preparation of the Working Group annual report, to demonstrate the progress achieved in the implementation of the Unified Backlog Reduction Programme. This report could include results of the surveys (general survey and survey of court services' users) so as to assess the impact of the Unified Backlog Reduction Programme on increased level of citizens' trust in the judiciary and the satisfaction level of users of court services. The data in these reports is used in parallel with the data contained in the semi-annual report on the performance of courts in implementing the Award Programme to courts achieving the greatest progress in reducing backlog.

Concerning the statistical data each individual court needs to submit, it is important to provide the data on the specific number of key indicators. Since this was done in line with European standards and recommendations, the following indicators need to be used in the monitoring and evaluation process:

- The number of incoming cases, disposed cases and pending cases (at the beginning and end of the year);

- The number of pending cases (cases lasting for: from two to three years, over three years, from three to five years, from five to ten years, and over ten years);

- Average length of disposed cases, stated in days (from the initial act registration to final decision);

- Average age of unresolved cases;

- Clearance rate (ratio between the number of received and the number of resolved cases);

- Case resolution ratio (ratio between the number of resolved and the number of unresolved cases);

- Disposition time (in days);

- Average caseload per judge (number of incoming and number of disposed cases per judge);

- Number of judges and court staff in the court;

- Proportion between the number of judges and court staff;

- Required budget funds proposed by the court and budget funds allocated to the court, namely, budget funds required to finance the backlog reduction activities in courts.

The results of the courts in implementation of this Programme will be monitored by the data provided in the centralised statistics and data published in the Interactive Court Map.

ACTING PRESIDENT OF THE
SUPREME COURT OF CASSATION
Dragomir Milojević s.r.