

Pursuant to Measure 5.3.6.1 contained in the Action Plan for Implementation of the National Judicial Reform Strategy for the Period 2013 – 2018 (“The Official Gazette of the Republic of Serbia“ No. 71/13), and the activities defined under Item 4 regarding the implementation of said Measure, and in view of the fact that the Supreme Court of Cassation has been identified as the carrier of said Measure, President of the Supreme Court of Cassation hereby passes the following

**UNIFIED BACKLOG REDUCTION PROGRAM  
FOR THE REPUBLIC OF SERBIA  
(Measures, recommendations, implementation and monitoring)**

**I**

**1. Introductory remarks**

The key components of an efficient judicial system are: quality, efficiency and independence<sup>1</sup>.

An efficient judicial system should provide equal civil-legal protection in lawfully conducted proceedings and acting in cases within a reasonable amount of time and in compliance with human and minority rights and liberties, while effective management and rational utilization of resources represent preconditions for its existence.

Efficiency indicators relate to the number of unsolved cases, duration of court proceedings, judicial expenses and the level of compliance with human rights.

The high number of unsolved cases in the courts of the Republic of Serbia, and particularly the high number of unsolved backlog cases, require comprehensive and long-term measures which should be taken at the national level in order to increase efficiency, reduce the number of unsolved backlog cases, lessen the duration of court proceedings and increase the level of trust and confidence of the public in the judiciary.

**2. Analysis of efficiency**

The Book of Court Rules defines backlog cases as those that have been pending for longer than two years, except in the area of investigation where cases that have not been completed within a period of nine months are deemed backlog cases.

In the creation of the Unified Backlog Reduction Program for all the courts there is the need to consider the difference which exists among the courts in the Republic of Serbia and to apply, in each court, appropriate backlog reduction measures. According to the statistical data of the Supreme Court of Cassation (for the year 2012), basic courts had 190,000 cases that have been

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<sup>1</sup> EU justice scoreboard: A tool to promote effective justice and growth – 2013  
[http://ec.europa.eu/justice/effective-justice/files/justice\\_scoreboard\\_communication\\_en.pdf](http://ec.europa.eu/justice/effective-justice/files/justice_scoreboard_communication_en.pdf)

pending for longer than 10 years, and 540,000 cases that have been pending between 5 and 10 years. According to the European study<sup>2</sup> (and decisions of the European Court for Human Rights), these periods are far too long and therefore represent clear violations of the right to a trial held within a reasonable period of time<sup>3</sup>.

When the number of backlog cases is compared between the courts of various levels, it becomes clear that the basic courts are facing the biggest problem. At the end of 2012, appellate and higher courts had approximately 19,000 backlog cases. Basic courts, on the other hand, had about 1,600,000 (including enforcement cases involving forced collection of claims related to provided utilities services).

**COMPARATIVE DATA  
ON TRANSFERRED, SOLVED, UNSOLVED AND BACKLOG CASES  
IN THE COURTS OF THE REPUBLIC OF SERBIA**

<b>COURT</b>	<b>December 31, 2012  Unsolved</b>	<b>June 30, 2013  Solved</b>	<b>June 30, 2013  Unsolved</b>	<b>June 30, 2013  Backlog cases, according to the date of filing of the initial act</b>
<b>Supreme Court of Cassation</b>	1,617	2,978	1,643	1,309
<b>Appellate courts</b>	25,021	42,372	25,922	19,176
<b>Higher courts</b>	39,927	57,620	38,154	17,626
<b>Basic courts</b>	2,554,666	636,763	2,389,793	1,656,594
<b>Commercial Appellate Court</b>	7,305	6,725	7,186	3,020
<b>Commercial courts</b>	82,773	53,547	78,806	31,723
<b>Higher Misdemeanor Court</b>	1,374	15,909	2,055	0
<b>Misdemeanor courts</b>	424,168	277,320	411,309	13,157
<b>Administrative Court</b>	21,509	9,551	23,273	1,519
<b>TOTAL</b>	<b>3,158,360</b>	<b>1,102,785</b>	<b>2,978,141<sup>4</sup></b>	<b>1,744,124</b>

<sup>2</sup> CEPEJ (2006), Calvez: Length of court proceedings in member countries of the European Union, obtained on the basis of Court Practice of the European Court for Human Rights.

<sup>3</sup> During the creation of this Program, USAID – Separation of Powers Program’s material titled *National Backlog Reduction Plan for the period 2013 – 2018 (Draft)* was used; [www.ewmispp.org](http://www.ewmispp.org)

<sup>4</sup> The number of unsolved cases has been reduced by 180,219 cases

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According to data of the Supreme Court of Cassation for the in the Republic of Serbia for the period from January 1 to June 30, 2013 - 3,158,360 cases have been transferred from the year 2012, while at the end of this six-month period there is a total of 3,008,141 cases. Out of this number, 1,744,124 were cases the Book of Court Rules identifies as backlog cases. The highest number of such cases was found in the basic courts (1,656,594). Backlog cases in the basic courts are mostly enforcement cases: 103,449 – "I" cases; 1,467,881 – "Iv" cases; and 85,264 – other legal areas. The civil matter has the highest number of backlog cases, as follows: in the basic courts: 15,375 - "Ki" cases; 17,165 – "K" cases; 30,806 – "P" cases, 10,665 – "P1" and 6,377 – "O" cases; while in commercial courts there are 31,723 cases.

### BASIC COURTS – BACKLOG CASES

Case type	Unsolved as of June 30, 2013	Out of this number, backlog cases (according to the date of filing of the initial act)
"Ki"	39,899	15,375
"K"	64,713	17,165
"P"	118,595	30,806
"P 1"	41,206	10,665
"O"	38,443	6,377
"I"	227,271	103,449
"Iv"	1,808,868	1,467,881
<b>TOTAL</b>	<b>2,338,995</b>	<b>1,651,718</b>

This information shows that the basic courts require special measures for solving backlog cases.

### BASIC COURTS – STRUCTURE OF BACKLOG CASES

"I"	"Iv"	Other basic courts' cases
103,449	1,467,881	85,264
<b>TOTAL: 1,656,594</b>		

As regards individual types of cases that are causing backlog cases in the basic courts, it is quite clear that many of these cases fall into the group of enforcement cases. With the ever-increasing role of private bailiffs, it is expected that the number of incoming enforcement cases will be significantly reduced in the upcoming months.

### 3. General strategic objective

During the period 2013 - 2018, the total number of backlog cases in the Republic of Serbia should be reduced by 80% (from approximately 1,750,000 backlog cases in 2013 to approximately 350,000 backlog cases in 2018).

<b>Backlog reduction objectives</b>		
<b>Civil cases</b>	<b>Criminal cases</b>	<b>Investigative cases</b>
100% of cases pending >5 yrs 80% of cases pending 3-5 yrs 60% of cases pending 2- 3 yrs	100%, of cases pending >5 yrs 80% of cases pending 3-5 yrs 60% of cases pending 2- 3 yrs	100% of cases pending >2 yrs 50% of cases pending 1-2 yrs

### 4. Measures aimed to achieve the strategic goal related to backlog reduction

Envisaging a continuous reduction in the number of backlog cases by use of a combination of measures defined at both national and local levels, including successful measures already applied in pilot-courts as part of cooperation with the USAID's Separation of Powers Program<sup>5</sup>, the Unified Backlog Reduction Program consists of four major elements, including a certain number of related measures and activities:

1. Introduction of internal organizational measures in order to identify backlog cases and reduce their number with the help of backlog reduction teams, monitoring and marking of cases, introduction of new methods of work in the court registry offices, measures related to e-justice, and more efficient scheduling of hearings.
2. Implementation of procedural measures in civil and criminal proceedings at the level of first instance courts in order to reduce the duration of court proceedings and prevent the occurrence of an ever-larger number of backlog cases.
3. Structural improvement of cooperation between the courts and their external partners (e.g. the police, the public prosecutors offices, attorneys, medical institutions, the social services, etc.).

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<sup>5</sup> [www.ewmispp.org](http://www.ewmispp.org)

4. Increased level of public trust and confidence in the judiciary as a result of positive effects caused by the implementation of the Unified National Backlog Reduction Plan.

Several measures and activities can be listed for each of these areas. The following table provides a review of the main measures aimed towards the achievement of objectives related to the reduction of the number of backlog cases:

## **MEASURES AIMED TOWARDS THE ACHIEVEMENT OF BACKLOG REDUCTION OBJECTIVES**

### **1: Internal organizational measures**

- Establishment of backlog reduction teams;
- Systematic monitoring and special recording/marketing of backlog cases;
- The High Court Council should provide guidelines regarding the internal organization of the courts in connection with the method used to create the annual backlog reduction schedule of tasks;
- Judges with most experience should act in the courts' oldest cases (there should, however, be three of them, in compliance with the principle of random allocation of cases), in accordance with the annual schedule of tasks;
- Marking of backlog cases by use of a special stamp on the cover of the case file (BACKLOG CASE – for cases pending more than 2 years; URGENT - BACKLOG CASE – for cases pending more than 5 years; PARTICULARLY URGENT - BACKLOG CASE – for cases pending more than 10 years)
- When a new file is created, special marking of backlog cases in the case recording system by adding a dash: “-“ and the letter "S" after the case type ("P"-S \_\_ / \_\_), for example: in basic courts, following an abolishment, restitution in integrum, interruption, etc., that is, at the time of transfer of a case. If cases are recorded in electronic form, a program could be made to automatically add these markings as well as names of judges acting in them - in accordance with the annual schedule of tasks;
- Introduction of new methods of work and procedures in court registry offices and establishment of preparatory departments;
- More efficient scheduling of hearings;
- Stimulation of the use of measures related to e-justice.

### **2: Procedural measures**

- Organizing preparatory hearings;
- Use of guidelines for the creation of quality decisions;
- Use of 'checklists' in civil and criminal cases;
- Managing the role of expert witnesses.

### **3: Improvement of cooperation with external institutions**

- Encouragement of the courts' active cooperation with their external partners by using memoranda of cooperation (the police, the public prosecutors offices, attorneys, medical institutions, the social services, etc.).
- Establishment of an effective system of delivery of court service (memorandum of cooperation

signed with the Postal Service).

#### **4: Increasing the public trust and confidence**

- Conducting general surveys and requesting opinions of the users of court services (2013, 2015, 2018)

The following is necessary for the purpose of implementation of said measures:

- Amendment of the Book of Court Rules, to allow the special marking of backlog cases;
- Adoption of the High Court Council's decision to stimulate judges appointed to work on backlog cases through financial compensation or reduction of the number of regularly assigned cases, i.e. lowering of their so-called "norm";
- Supplementing the Law on Judges and prescribing special measures which will allow the engagement of retired judges, with financial compensation – the amount of which is to be determined by the High Court Council – who would participate in the preparation of backlog cases for trials and be “affiliated” with the courts in which they had once performed their judicial duty; or there could be a team of so-called "mobile" retired judges who would be referred by the High Court Council to specific courts where they would perform previously described tasks;
- Supplementing the Civil Procedure Code to authorize immediately higher courts to delegate cases to other courts in their territories.

#### **5. Implementation and monitoring of implementation of the Unified Backlog Reduction Program**

Monitoring of implementation of the Unified Backlog Reduction Program as well as the implementation itself should be built into the Action Plan for the implementation of the National Judicial Reform Strategy, while during the creation of the Program a projection should be made keeping in mind the number of cases that were encountered at the end of the year and the number of anticipated cases – those that will acquire the status of backlog cases during the observed period (prediction).

A Working Group of the Supreme Court of Cassation has been established for the purpose of monitoring of the implementation of the Unified Backlog Reduction Program; its members are: President of the Supreme Court of Cassation, judges of the Supreme Court of Cassation as well as judges of lower level courts.

In accordance with Article 12 of the Book of Court Rules, the Working Group will request that the courts prepare individual programs in which they should list specific objectives of the courts related to backlog reduction for the period of 2013 - 2018, including descriptions of needed measures and activities that are to be taken by the courts in order to achieve said objectives.

A template of the Annual Program for the basic courts, containing the above mentioned elements, is provided in the attachment. For the purpose of increasing the awareness of the citizens, attention should also be paid in these Programs to strategies pertaining to public outreach.

The Working Group will also supervise the implementation of specific surveys (general surveys on the topic of public trust and confidence and the gathering of opinions of users of the courts' services), and recommend other measures aimed at the achievement of objectives listed in the National Backlog Reduction Plan.

## **6. Special measures for reduction of the number of enforcement backlog cases**

In the basic courts, most backlog cases are found in the enforcement matter: 103,449 – "I" cases; 1,467,881 – "Iv" cases (mostly involving forced collection of claims related to provided utilities services). As these are "Iv" backlog enforcement cases, the purpose of which is the forced collection of claims related to utilities services, they will not be taken over by private bailiffs since they must be disposed of by the basic courts. Considering the fact that most of these cases involve claims made by public companies, it is necessary:

- To determine the number of unpaid-utilities backlog cases that have been pending longer than 10 years, as well as the amounts owed, for the purpose of eventual alternative solving of said disputes since the value of some of their claims is completely insignificant;
- Examine the possibility of writing off these claims in cases of most indigent categories of citizens, in cooperation with the founders of said public companies;
- Supplement the Law on Enforcement and Security, in terms of means of enforcement of the so-called insignificant value disputes (below 100.00 RSD, i.e. 500.00 RSD, 1,000.00 RSD, etc.).
- Fusion of enforcement cases for the purpose of simultaneous enforcement, upon proposal of the same creditor against the same debtor that would allow for more efficient enforcement and reduction of enforcement-related costs.

## **7. Monitoring and evaluation**

During the period of implementation of the Program, courts should regularly (e.g. every three months) report to the Working Group about their progress related to the implementation of various measures and activities, as well as about the statistical data related to backlog reduction.

These results could be used for the preparation of the annual report of the Backlog Reduction Working Group which would show the progress made in the implementation of the backlog reduction program. This report can also include the results of surveys (general surveys and gathering of opinions of the users of courts' services), since this would enable evaluation of the

influence of the Unified Backlog Reduction Program on the level of trust and confidence of citizens in the judiciary and the level of satisfaction of the users of the courts' services.

As regards statistical data that should be submitted by each individual court, it is important to present information about a certain number of key indicators. In compliance with the European standards and recommendations, the following indicators should be used in the process of monitoring and evaluation:

- Number of received cases, solved cases and pending cases (at the beginning and end of the year);
- Number of backlog cases (cases pending from 6 months to one year, from 9 months to one year, from two to three years, from three to five years, from five to 10 years, and longer than 10 years);
- Average length of solved cases, presented in days (from the day of filing of the initial act until the final court decision);
- Average age of pending cases;
- Handling of the inflow (ratio between the number of received cases and the number of solved cases);
- The disposal coefficient (ratio between the number of received cases and the number of unsolved cases);
- Time needed to solve a case (presented in days);
- Average number of cases per judge (number of received and solved cases, per judge);
- Number of judges and court staff in the court;
- Ratio between the number of judges and the number of court staff;
- Needed budget funds proposed by the court and the amount of budget funds allocated to the court, that is, budget funds needed for the financing of activities related to backlog reduction.

Each court should be required to submit statistical data every three months. The Working Group can use these data at the national level, for the preparation of periodic reports.

### **8. Time needed for the disposal of cases (in days)**

In compliance with above mentioned EU Guidelines, courts in the Republic of Serbia should monitor the indicators (the so-called time disposition) that pertain to the length of proceedings and present them in days, i.e. as time needed to solve a case in a – for example - first instance court.

The “time” indicator is shown as:

$\frac{\text{Number of unsolved cases at the end of the year}}{\text{Number of solved cases at the end of the year}} \times 365 = \text{___ days}$
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In accordance with EU Guidelines and as per said indicator, the courts in the Republic of Serbia need the following number of days to solve a case:

<b>COURT</b>	<b>Ratio between unsolved and solved cases</b>	<b>Number of days</b>
<b>Supreme Court of Cassation</b>	1.643	x 365 = 201,3751
	----- 2.978	
<b>Administrative Court</b>	23.273	x 365 = 889,3985
	----- 9.551	
<b>Commercial Appellate Court</b>	7.186	x 365 = 390,0208
	----- 6.725	
<b>Commercial courts</b>	78.806	x 365 = 537,1765
	----- 53.547	
<b>Appellate courts</b>	25-922	x 365 = 223,2968
	----- 42.372	
<b>Higher courts</b>	38.154	x 365 = 241,6906
	----- 57.620	
<b>Basic courts</b>	2.389.793	x 365 = 1,369,8573
	----- 636.763	
<b>Higher Misdemeanor Court</b>	2.055	x 365 = 47,1478
	----- 15.909	
<b>Misdemeanor courts</b>	411.309	x 365 = 541,3522
	----- 277.320	

<b>BASIC COURT – LEGAL MATTER</b>	<b>Ratio between unsolved and solved cases</b>	<b>Number of days</b>
"K"	64.713	x 365 = 778,5696
	----- 30.338	
"P"	118.595	x 365 = 616,1086
	-----	

	70.259	
"P1"	41.206	
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	21759	x 365 = 691,2169

### 9. Forwarding of the Unified Backlog Reduction Plan

The Unified Backlog Reduction Plan and the template of a basic court's Backlog Reduction Plan have been forwarded to the courts of the level of the Republic and to Appellate Courts, so that the lower level courts can be acquainted with the Unified program; the Appellate Courts also forwarded to the lower level courts the template of the Program so that the courts can create their individual Backlog Reduction Programs.

## II

Implementation of this Program begins on January 1, 2014.

**Number: Su I-1 384/13-49**  
**Belgrade, December 25, 2013**

**SUPREME COURT OF CASSATION**  
**P r e s i d e n t**  
**Dragomir Milojevic**