



## Mapping Legal Inclusion in Serbia

Provisory  
Legal Inclusion Mapping Report - Serbia



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## Legal Inclusion Mapping Serbia

### I. Introduction

#### A. SDG 16: leaving no one behind

In 2015, world leaders adopted the UN Global Goals for Sustainable Development 2016-2030. SDG 16 tackles the issue of legal inclusion and good governance: ‘a) to promote peaceful and inclusive societies for sustainable development, b) provide access to justice for all and: c) build effective accountable and inclusive institutions at all levels.’

An important dimension of the Global Justice Gap is the exclusion of 4.5 billion people from the opportunities the law provides (legal exclusion). This is a major finding of the **Justice for All report** (April 2019) of the Task Force on Justice, a multi-stakeholder partnership working on SDG 16. The challenge for governments, policy makers, lawyers, international organizations, NGOs and other stakeholders for the next decade then is: How to close the global legal gap while ‘leaving no one behind’?

Microjustice4All (MJ4All) is a **Justice Partner in the Task Force on Justice** as an expert organisation in **mapping legal inclusion** and setting up **legal empowerment programs** with its methodical handbooks developed over the past 22 years while working in humanitarian disaster and development situations in the former Yugoslavia, Latin America, Middle East, and East Africa.

#### B. Legal Inclusion Mapping Method

##### What is Legal Inclusion?

The situation in which people (and nature)

- a. have their basic legal needs satisfied through adequate registrations, contracts, or their ‘status’ demonstrated in any other form, which enables them
- b. to enjoy legal protection by means of effective access to remedies and the court system, and
- c. to have access to the rights, benefits and entitlements of the society in which they live.

The Legal Inclusion Mapping Method, developed by MJ4All, is a simple and cost-effective tool to implement the targets formulated in SDG 16. The Mapping Method focuses on the legal empowerment of vulnerable citizens.

The national legal framework of a country already in place usually provides its citizens with rights and protection. However, it often is the case that due to a lack of legal-administrative documents or of status recognition otherwise, excluded groups are not able to access their rights and enjoy legal protection.

The entire population needs to arrange administrative and private law issues related to property, housing, business, family, inheritance etcetera in order to be legally included. Only a tiny percentage in a country has to deal with courts in conflicts and penal law related procedures. The latter is also essential for legal inclusion to exist, but the administrative and private law issues of the vast majority

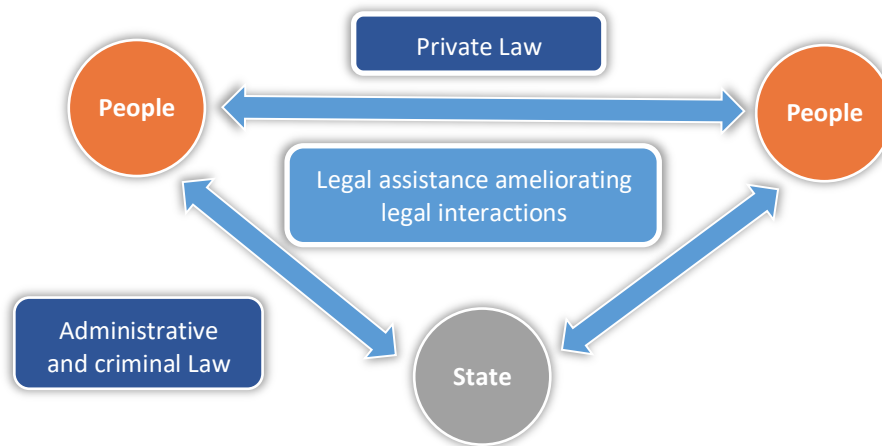
is an area that has been overlooked by most working in the justice sector. The LIM research shows that the most urgent legal exclusion problems come down to six areas:

1. **Civil documentation:** birth certificates and documents relating to personal identity which give access to education, health services, social benefits, microfinance and voting
2. **Property and housing:** land property registration and documents relating to property transfer and rental issues which provide legal protection and access to loans
3. **Income and work:** documents for setting up businesses, co-operatives and other legal entities, contracts and basic labour issues
4. **Family law:** papers related to inheritance, divorce, and child recognition
5. **Disasters and conflict:** issues and documents relating to manmade or natural disasters legal rehabilitation of refugees, IDPs and other disaster victims
6. **Natural environment:** environmental issues and documents related to legal personality, representation and recognition

### The Mapping Process

Since 2017/2018 Microjustice4All has developed the Legal Inclusion Mapping Method as a tool to implement the targets formulated in SDG 16. Three sets of legal inclusion indicators are mapped, which relate to the three agents of legal inclusion:

- a. the ability of **'people'** to access and protect their rights
- b. the way the **'State'** has organized the access to basic legal needs and the judiciary, and
- c. the accessibility, affordability, and quality of **'legal assistance'**



### ***Legal Interactions between 'People'/'People' and 'People'/'State', supported by 'Legal Assistance'***

If a person is poor, uneducated, and belongs to a group at risk, it is likely that (s)he will be legally excluded if the state services, institutions and the judiciary are not easily accessible, and legal assistance is out of reach. The table below illustrates the key elements that are mapped on both a country-wide and the excluded groups' level in order to provide recommendations on making the legal system more easily accessible and to provide the needed legal assistance services to include the excluded part of the population.

## Mapping Legal Inclusion

Agents of legal interactions	Mapping legal inclusion Phase I: indicators on country level	Mapping Legal inclusion Phase II: situation of Excluded Groups per group	SDG 16
People	Society: <ul style="list-style-type: none"> <li>Poverty level</li> <li>Education Level</li> <li>Groups at risk</li> </ul>	Description of the vulnerability of the specific excluded group	Peaceful and Inclusive Societies for Sustainable Development
State	Accessibility, affordability, transparency and quality of the legal and institutional framework	Legal and Institutional framework applied to the specific group, and research into the legal tools available for their legal empowerment	Effective, accountable and inclusive institutions on all levels
Legal Assistance	Accessibility and quality of legal assistance	Legal assistance available per excluded group	Access to Justice for All
Output			
	Comprehensive Legal Empowerment Plan to achieve Legal Inclusion with the stakeholders: <ul style="list-style-type: none"> <li>Recommendations for legal empowerment at the state level</li> <li>Legal Service Provision for the empowerment of excluded groups</li> </ul>		Implementation Tool & Progress Monitoring Framework for SDG 16

### Legal Inclusion mapping in two phases

The legal inclusion mapping is realised in two phases:

**Phase I:** Qualitative overall research into the indicators on country level in order to identify:

- the bottlenecks in the way to legal inclusion of all, and
- opportunities and possibilities to enhance legal empowerment of determined groups

The output of Phase I is a provisory legal inclusion mapping report reflecting the first findings, that will be further developed and validated by involving more stakeholders in phase II (for Serbia in the last part of 2019 to late 2020). Furthermore, Phase I results into a plan for Phase II: a more focussed applied research design, chosen on the basis of the findings in phase I, through the implementation of a pilot of the legal empowerment plan.

**Phase II:** Applied research into the market to further develop a comprehensive legal empowerment plan, with two parallel activities:

- Applied research into the legal services needed for the legal empowerment of the identified excluded groups and piloting a standardized legal services' program to do market research into the precise needs for legal services of these groups. In this way a business case is developed.
- Develop with stakeholders a plan for upscaling a legal empowerment program countrywide, including recommendations for the institutional framework to enhance the legal empowerment for all.

The output of Phase II is the LIM report, including a Comprehensive Legal Empowerment Plan, with an implementation and monitoring framework until 2030.

### **Phase III: Comprehensive Legal Empowerment Plan: implementation and monitoring**

The final output, the Comprehensive Legal Empowerment Plan, contains sustainable and inclusive solutions to meet the excluded groups' legal needs. The Plan involves both stakeholders in the specific excluded groups and stakeholders in the legal and Government sector; recommendations in the institutional structure and for a sustainable legal services infrastructure.

The third and final phase of the Legal Inclusion Mapping consists of setting up an Implementation Plan and a Progress Monitoring Framework. This includes establishing legal inclusion targets and drawing up a timeline for the implementation of modifications to reach SDG 16 by 2030. It also involves the introduction of innovative tools for the legal-administrative and institutional framework.

## **C. Implementation of Legal Inclusion Mapping in Serbia**

This report concerns Phase I of the Legal Inclusion Mapping of Serbia: a quick scan of the legal inclusion situation with indicators on country-level. On the basis of this qualitative research a focus is defined for LIM research Phase II, with involved stakeholders, for applied follow-up research into the opportunities for legal empowerment activities to include the selected group of legally excluded.

The question in phase I relates to the capacity to be legally empowered and included in three categories of indicators related to: 1) the people of Serbia, 2) the accessibility and efficiency of the state organisation and c) the accessibility and affordability of quality legal aid services.

The LIM research has been implemented through desk research in reports of various Serb and international organisations, legal documents, and a large number of consultations and interviews with Serbian attorneys, legal experts, civil society representatives, representatives of state institutions such as the Ombudsman and the Ministry of justice, the bar association of Serbia, entrepreneurs, IDPs from Kosovo, (ex) refugees from Croatia and Bosnia Herzegovina (BiH), and many 'normal' Serbs. The triangulation of these sources is the basis of this report.

MJ4All conducted field research during various visit to Serbia from June 2018 to June 2019, and collected the needed information from a number of consulted experts, of which a few have revised the output regarding the technical legal assessment. Although this report is based on what people share, the explanations by legal experts, held against the desk study reports, the LIM analysis is the sole responsibility of MJ4All.

There is a large number of excellent reports on Serbia: related to its assessment to the EU (annual EU Commission reports on Serbia <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-serbia-report.pdf> and 20190529), on the shadow economy (Report of late 2017 by the National Alliance for Local Economic Development NALED) and also by NALED the Grey Book (Siva Kniga 11) describing a great number of obstacles in the administrative system. The Multi-donor Trust Fund for Justice Sector Reform publishes a great quantity of reports on the failures and challenges in the formal justice sector. The civil society organisations working with a number of vulnerable groups as the ex-refugees from the former Yugoslavia, the refugees, asylum seekers, IDPs from Kosovo, Roma issue important reports on the situation of their target population. The LIM research does not have as purpose to add more of the same to these reports. Where this LIM report aims to provide value added is not to describe the system from an institutional perspective, but moreover to show legal inclusion from the point of view of the people: how can they make their basic legal needs come true? All people need to be embedded in the system of the country in which they live to assess

the benefits of the system and to be able to protect their rights. To what extent are people and their businesses in Serbia able to do that is the key question for this LIM research.

## D. Context and executive summary of mapping results

### **Context**

MJ4All has been in the region since 1996. To describe the legal inclusion situation in Serbia in a structural manner is not so easy despite 23-year experience in Serbia working on the legal rehabilitation of the refugees from Croatia. The picture is very mixed. Serbia, at the centre of the Balkan, the system is a result of its mixed history: The South of Serbia and Belgrade having been part of the Ottoman Empire for 500 years, and the Northern part, Vojvodina, part of the Habsburg Empire. Subsequently Belgrade was the capital of the Kingdom of Yugoslavia in the interbellum, and after World War II of the socialist Yugoslavia. The socialist state (1945 until the end of the 1980s) brought its particular features of society and the law system, followed by privatisation and the gradual dissolution of Yugoslavia from 1991 with the wars in Croatia and Bosnia Hercegovina, followed by Kosovo, and the succession of Montenegro, ever *'crnije i gorije'* (blacker and worse) as people would say in the early 2000s, playing with the name *'Crne Gore'* (Montenegro, the black mountains). Many say that as a consequence of the wars of the 1990s and the Milosevic regime, the new elites were created, that is to say the people who took advantage of the privatisation and the wars of the 1990s, and that were legalized in the 2000s. These elites have dominated politics ever since.

In the time of Milosevic and his aftermath people in the street would always say: *'bice bolje'*, it will be better'. But then, after the democratisation already failed in its early phase with the killing of the first prime-minister after Milosevic, Zoran Djindjic, people started to say: *'nema vise nada'*, 'there is no hope any more'. Now people express a real saturation with the system. In their eyes, as they express it, the system is a combination of political-economic-legal interconnections, marked by corruption and legal insecurity. As a consequence, 'normal people' try to stay out of the system. They never know that if they have a right, if they can make it come true, especially when the other party is stronger. In this context, people want to avoid to pay tax as they don't have the money and the system is not giving them anything in return anyway. And this massive movement of avoiding taxes on its turn, encourages the illegality (e.g. shadow economy where salaries are partially paid in cash, houses not being put on the name of the inheritor et cetera), and hence the legal insecurity. This attitude of civil disobedience is certainly also due to 500 years Turkish occupation, in which undermining the state was seen as something heroic. This is different in northern Serbia, the Vojvodina with its capital Novi Sad, that used to be part of Habsburg Austria, where people have more a tendency to comply with the system; the corruption seems to be more limited to simple gifts and the contacts of the Kum (=witness in marriage or baptism, a very important person in someone's life), which are the mechanisms any way of the 'corruption' on a lower level. The over 40 years socialism on top of this, has had as consequence that, on the one hand, people have a reinforced sense of not taking responsibility (which becomes very visible at work) and on the other hand, a sense of having social entitlements (without responsibility). The subsequent market economy-led privatisation and wars have resulted in a mentality that all try to get what they can for free. This leads to great injustice and disenfranchisement of the ones who are not in power.

### **Summary of Mapping Results**

The legal system is principally based on the continental law system. At the same time the socialist system, dating from Yugoslavia, is still fundamentally present in the state system and structures while American consultants have also pushed for some American-type features in the legal system. Concerning legal inclusion, people in this framework are formally very well included, especially where it concerns the rights related to its socialist past. And there is an easy registration system for birth and



deaths at in the civil registry (maticar) located in the municipal offices. Access to IDs is a simple procedure at the police stations (MUP). Furthermore, the state services and benefits have become more easily accessible through the digitalisation and E-Governance portals<sup>1</sup>. Setting up a company and business transactions are relatively easy, and the land registry at the 'kadastar' has improved a lot with the digitalisation. Family related issues as divorce and inheritance entail simple, fast, and clear procedures.

Related to the court procedures the main complaint is that the courts are too slow as any court decision will take minimum three years. The possibility of a summary proceeding with for example the President of the court in case of rapid action is required, is non-existent. Thus, in all matters where a rapid decision is needed, there is no remedy<sup>2</sup>, which is especially damaging in labour relations. Putting an attachment, seizing real estate or the bank accounts, can be done as a temporary measure but does seem to require more material proof, proportionality and time then in many other jurisdictions in the world, losing its deterring effect. Mediation is gradually introduced as an alternative to fill this gap, and new legislation for mediation is in preparation to facilitate this complementary role to the courts, but unfortunately it does not provide daunting pressure of blocking bank accounts or summary proceedings.

However, what people with litigation experience say that they experience as the most important problem with the courts is the lack of execution of the courts' decisions. The court executors either don't dare to execute the judgement or one has to deal with more Mafiosi practices. At the same time, execution procedures against poor people are seen as a real problem, incurring high additional execution costs for poor people that cannot pay their utility bills.

In all the administrative and legal procedures related to the basic legal needs, there is a tradition, culture and bureaucracy that requires that people need an attorney for most procedures, despite the fact that self-representation in the courts is allowed and that formally most administrative procedures can be done personally. However, the needed information, expertise, and contacts lack. People working in the legal sector say that being a successful lawyer does not necessarily depend on being technically good, but specially on your connections and your know-how to move the system in the favour of your client. Young lawyers in law firms will tell that they are not involved in the 'deals' with the justice sector representatives, but it are their bosses who have the needed connections. People experience that both public and private institutions (insurance companies, banks) do not comply, lay the burden of proof on the citizen, and do not pay out, or less than they are due. Even when there is a court sentence against them, they use to be unwilling to pay voluntarily, preferring to pay additional high costs of an execution procedure. When you ask a functionary with the institution why, (s)he will tell you that they are not competent ('*nisam nadležan*') to arrange. For the same reason, the (semi) public institutions will not come to an out-of-court solution.

The main problem on top of this is the poverty of most people due to the very low-income level. This makes that most young people look for opportunities outside the country.

Recently, finally, after 15 years of preparation, a free legal aid act has been past. The Free Legal Aid Act would cover the free legal aid of social cases and vulnerable groups. Each municipality has a Centre for Social Work and a Legal Aid Office, that will be the front office of free legal aid. If the person and

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<sup>1</sup> For state services in general <https://www.euprava.gov.rs/?alphabet=lat> , for business registrations: <https://www.apr.gov.rs/registri/privredna-drustva/obrasci.2042.html>, for property and housing (permits): <http://kadarstar.rs> and <http://restitucija.gov.rs/latinica/index.php> for the restitution of property returned from nationalization during the communist Yugoslavia.

<sup>2</sup> The only exceptions are: a) in a divorce procedure the arrangements around the children as *nacelo hitnosti* (emergency pressure) while the division of the matrimonial goods can take many years. b) an execution procedure of an unpaid formal invoice (with stamp), for which only a proposal of execution and the name of the public executor is needed.



case is considered eligible, through the intervention of a call centre an attorney will be assigned. The Bar Association of Serbia is in charge of implementation and supervising the attorneys' engagement. The NGOs have been excluded as legal aid providers (legal aid is also considered to be legal advice) even despite the long experience in this of some of them.

The legally excluded groups are people and businesses who cannot afford a good lawyer in general, and whose cases are not eligible for free legal aid. This group may be estimated to concern almost half the population. Then of course there are the vulnerable groups as the Roma (who used to have no civil documents) and IDPs from Kosovo, while the (ex) refugees from Croatia and Bosnia-Herzegovina are rather well integrated and also have their papers from the countries they came from. For the Serbs from Croatia, the Croatian citizenship provides them an EU passport to escape and look for economic opportunities in Western Europe.

### ***Legal service provision in basic legal needs made accessible to all***

The Legal Inclusion Mapping has been defining strategies to legally empower people in their day-to-day legal-administrative issues, and also to gradually combat the overwhelming feeling of legal insecurity. The proposal is to make quality legal services accessible and affordable for those that cannot pay the current fees of quality lawyers. The group excluded from legal aid may be estimated to consist of around 50% of the Serbian population (which lives with less than Euro 350 a month).

For all these people and their legal issues, not covered by the free legal aid act, this proposal is made. Under basic legal needs we understand the needs that all people come across in their daily life related to their personal status and access to the rights and benefits of the system, their property (housing, land, inherited or acquired through buying), registration and running a business, family relations, working relations, including all types of paperwork and contracts. It can also concern standard claims on institutions as banks, insurance companies, pensions funds to create a feeling of legal security.

### ***Making institutional and judicial framework accessible and more efficient & effective***

On an institutional capacity level, the LIM leads to two types of recommendations:

1. Simplification, digitalization and clear information provision:
  - To be further developed and continued in the administrative and judicial sector, and providing clear information on all procedures on internet.
  - in the legal services in basic legal needs in the free legal aid system to make the new free legal aid system affordable for local government and the state budget.
2. To increase the law enforcing function and deterring effect from civil justice system in rapid procedures and temporary measures (to put an attachment and seize property) that would make out-of-court negotiation and mediation more effective and increase the possibility of executing court decisions.
3. Related to 2) In addition, to ensure that in any public or semi-public institution there are people accountable for the most effective and efficient management of court cases against the state and (semi) public institutions; to see if out-of-court settlements are possible and to avoid the costs of a public execution when a (semi) state body has to pay on the basis of a court decision.
4. Tax issues: simplify/change the system, avoiding that people feel forced to function in the grey economy (hiring an employee for minimum salary, and paying surplus in cash). Calculate wage taxes as percentage of the Gross salary. Lower taxes but make sure that all pay through making it affordable, transparent and acceptable (which would lead to increased tax income for the state). Create the profession of tax lawyer/advisor.

## II. Country Mapping on the Basis of Legal Inclusion Indicators

### Chapter I: Level of vulnerability of People

#### 1. Poverty

##### 1.1. Population of Serbia

Estimated population of the Republic of Serbia in 2017 is 7 020 858 inhabitants, of which 51.3% (3 601 043) is female and 48.7% (3 419 815) male<sup>3</sup>.

##### 1.2. Statistics (general):

- **National Poverty level / Poverty Headcount ratio**

Proportion of a population that lives, below the **national poverty level**, also called '**Poverty headcount ratio**': 25.7 % of the population (2016)<sup>4</sup> at or below the poverty line. If monthly earnings alone are taken as a measure of calculation then this figure is 36.7%. The poverty line is drawn at 15.600 dinars (130 euros) for a family with one member, 28.080 (234 euros) for a couple with one child and 32760 dinars (273 euros) for a couple with two children.

Data from the National Statistical Office of Serbia (RZS) is relentless in terms of the standard of living of the citizens and the tendency for the pauperization of the entire population. One in four persons is experiencing a serious survival problem, warns RZS, pointing out that children, teenagers, the unemployed and rural residents are at greatest risk.

RZS data also show that 40% of households find it difficult to meet all of their monthly obligations, 50% could not bear an extraordinary cost of 10000 dinars (83 euros), and two in three citizens do not have the financial means to go for a one-week vacation.<sup>5</sup>

Income share held by the lowest 20% in 2017 was 9%<sup>6</sup>

##### 1.3. Salaries /income

- **Average salary:** Expressed in euros, the average net salary of the formally employed population was EUR 443 in December 2018<sup>7</sup>. One has to take into account that the average salary is made up of enormous differences depending on being in the capital Belgrade and the rest of the country, and the North (more developed) and the South (less developed with very low salaries). The salaries have increased recently, especially in Belgrade, where the minimum people make is at least Euro 500,-
- **Minimum salary** early 2019 is 28,575.20 dinars (Exchange 0.0085) = 242.14 EUR, and as of February 2019 this has formally gone up to **304.68** EUROS average, but until June 2019 it seems that the old minimum wage is still in use<sup>8</sup>.
- **GDP:** according to World Bank in 2018 the GDP per capita was USD 7,134 (around Euro 6000).

<sup>3</sup> Projection by the Serb Government on the basis of previous Census. <http://www.stat.gov.rs/en-us/oblasti/stanovnistvo/procene-stanovnistva/>

<sup>4</sup> World Bank Open Data <https://data.worldbank.org/country/serbia>

<sup>5</sup> Independent Balkan News Agency (Published on: 09/01/2019) <https://balkan.eu.com/25-of-the-serbian-population-lives-at-the-poverty-line/>

<sup>6</sup> World Bank World Development Indicators 4/24/2019 Country Serbia

<sup>7</sup> Statistical Office of the Republic of Serbia – TRENDS 4 quarter 2018: Salaries and wages <http://publikacije.stat.gov.rs/G2019/PdfE/G20198001.pdf>

<sup>8</sup> Trading Economics - Serbia Gross Minimum Monthly Wages: <https://wageindicator.org/salary/minimum-wage/serbia> <https://tradingeconomics.com/serbia/minimum-wages>

#### 1.4. Observations related to income (indicators)

In Serbia, like in many other ex-communist countries (at least in all countries of the former Yugoslavia) people talk about their **net** salary, and the wage taxes and social security costs are expressed in a percentage of the net salary<sup>9</sup>, on top of it. The gross salary actually is 64% over the net salary (100%) thus 164%.

People are reluctant to pay such a high amount of taxes, feeling that they state is not providing quality public services (see chapter II). In reality, the wage social & tax costs are 40% over the gross salary, but the feeling is that they pay 64% and do not get anything in return. In this context, it is a common practice that employees wish to be paid on their bank account the minimum salary and that they receive the rest in cash. For example, a salary may be Euro 500 on Belgrade, of which Euro 300 is paid formally and Euro 200 in cash. This makes that the formal average salary is less than in practice. And the employer has to organize to have cash that is not accounted for in the bookkeeping. This (s)he may arrange among others by getting false invoices from a service provider (such as a lawyer), paying it, and getting the cash back from the service provider minus his administrative costs and possible taxes. This adds to the grey economy on which more in Chapter II.1.b below.

Despite the fact that the minimum full-time salary is going towards Euro 300, -, in practice people have less income, especially in rural areas in the south of Serbia.

#### 1.5. Observation related to income from business activity and grey economy

In general, the Serb population is poor to lower-middle income. The corruption in the public sector is in the eyes of the people huge, especially related public procurement (see Part II Chapter II). In such a small country of a population of 7 million where everyone knows every one, only a smaller group has visibly much more financial means than the rest; all know where that comes from.

Other phenomena until recently was the lack of cash in the economy. In a business deal, one would propose to pay in natura. Cash still is not easily available. Businesses are not easily receiving credits from the bank. And if they get a credit the interest rates are very high as if it were dinars, but the loan is in Euro; in this way the client pays for the risk that the bank is not running! In practice, all transactions that have value are expressed in Euro.

The grey economy is very big, submerged, consisting of activities of many people on a very small scale. At the same time, there is a lot of control while the public sector is also involved in the grey economy. For example, we were informed of cases that a Ministry would pay external services in cash.

There is also the completely informal economy, often related for services and products offered on internet.

## 2. Education

### 2.1. General statistics

According to the last 2011 Census, the Population aged over 15 has attained the following levels of education<sup>10</sup>:

- ✓ Without education attainment: 2.7% (164 884)
- ✓ Incomplete primary education: 11% (677 499)
- ✓ Primary: 20.8% (1 279 116)
- ✓ Secondary: 48.9% (3 015 092)

<sup>9</sup> This can be big source of confusion in salary negotiations when one comes from Western Europe)

<sup>10</sup> Statistical pocketbook of the Republic of Serbia 2019  
<http://publikacije.stat.gov.rs/G2019/PdfE/G201917012.pdf>

- ✓ Higher/ college: 5.7% (348 335)
- ✓ University education: 10.6% (652 234)
- ✓ Unknown: 0.4% (24 424)

Thus, 65% of the population has at least secondary education, and there is in general a good level of education with only 2.7 without education.

### **Observation regarding capabilities/competence**

In general, people are specialized in one theme, and do not know a lot about issues that are not their theme. In this perspective, there is a tendency to hire agencies for all type of issues that one has to arrange, including lawyers to arrange basic legal things and administrative documents.

## **3. Groups at risk of legal exclusion**

### **3.1. Poor people at large:**

**Up to 50% of the population** that makes probably under Euro 350 a month, and have no financial backup to pay for additional costs as the fees of a lawyer, and within these:

- ✓ Elderly people who live from a small pension
- ✓ Small entrepreneurs/businesses, in the shadow economy: struggle with administrative work, licences, permits and tax.
- ✓ Small hold farmers who face many legal issues: a) being entrepreneurs having to comply with all business regulations and registrations b) all land related issues c) regulations and subventions for farmers

### **3.2. Disabled:**

Those who are not capable of managing themselves due to illness, disabled. You have to be a fighter to survive. There are two main problems:

- a. Barely any facilities to accommodate for the needs of physically disabled, and people have difficulties accessing the benefits that do exist.
- b. With mental disability, there is a real problem with a too easy deprivation of legal capacity on the basis of impairment. Some human rights organisations (Yucom) work on this issue

### **3.3. IDPs from Kosovo**

After the NATO bombing campaign on Serbia in 1999, and the consequent declaration of independence by Kosovo, recognised by many countries but not by Serbia, most Serbs in Kosovo were displaced and either remained in Kosovo in the majority Serb city in Kosovska Mitrovica or left to Serbia where they have remained ever since as internally displaced persons (IDPs). In the past 20 years no considerable return has happened.

The number of IDPs is stable around 200.000 in the last years (Early 2018: 201.047 published in July 2018 in the Migration Profile of Serbia for 2017, of which 58,137 in Belgrade). According to EU commission report 2019 on March 2019 still: 199.584

1/3 of the IDPs is in vulnerable position, and particularly vulnerable are the ones belonging to the Roma, Ashkali and Egyptian communities. Since recently all collective IDP centres have been closed and 85% is estimated to live with relatives, friends or rented apartments. Being citizens of Serbia, the status of the IDPs is like any other Serbian citizen, in need of social assistance and solutions for their housing problems.

The main legal problem they have is the restoration of their housing property rights in Kosovo that has not happened at large, because their houses are either occupied or destroyed.

### 3.4. Roma

147.000 registered, but in reality, around 350.000 is the estimation.

Social-economic Problems:

- ✓ Discrimination
- ✓ Unemployment or less paid jobs, poverty
- ✓ No access to education and health care
- ✓ Living in slums, in semi-rural areas and per consequence lack of proper housing
- ✓ Most receive social help

Main legal problems of the Roma, especially the IDPs from Kosovo, used to be the lack of birth certificate and consequently they were denied access to all other rights. This has changed drastically thanks to the long-term determination of 15 years work on this theme by the NGO Praxis (which was formerly called Civil Rights Project with an important history working on the legal issues of the refugees of the wars of the 1990s):

- ✓ 2012 change in the law due to the advocacy of Praxis; instead of impossible court procedure, simple administrative procedures for obtaining birth certificate
- ✓ Around 10.000 registered through the legal services of Praxis

In the progress report 2010-2015 by UNHCR on persons at risk statelessness (majority Roma, and few Askhali and Egyptian nationalities (read 'ethnicity) with Serb citizenship):

- ✓ 1 % did not have birth certificate
- ✓ 5% no ID cards
- ✓ 38% no registration of residence
- ✓ 50% no citizenship registration and document
- ✓ The latter 2 higher percentages are due to lack of address, information and money to pay the administrative fees.

Outstanding problem:

Roma who still do not have papers cannot obtain birth certificate of their children. Estimated around 2000 are still at risk of statelessness.

**3.5. Asylum seekers** from Syria, Iran, Afghanistan, Iraq: the number was huge around 2015, but has now been stabilized to around 4.000 people passing through Serbia on a yearly basis. Due to the fact that the numbers were so high in 2015/16, legal assistance programs had been set up, and are still going on. Barely any one asks for asylum in Serbia and around 150 have been provided the status. In 2018, 6840 people registered (every year one has to register) that were coming to Serbia, only 290 applied for asylum.

### 3.6. (Ex) refugees from Croatia and Bosnia-Herzegovina (BiH):

Due to the wars in the early 1990s in the former Yugoslavia, in 1996 in Serbia 537.937 refugees were registered mainly from Croatia and BiH, of which 290.667 from Croatia and 232.978 from BiH. Due time these numbers gradually decrease: in 2001 there are still 377.131 of which 242.624 from Croatia and 133.853 from BiH; in 2004/5: 104.254 of which 76.545 from Croatia and 27.541 from BiH and in 2018: 27.802 of which 19.038 from Croatia and 8.764 from BiH.

A number of NGOs have been working on the legal issues of these refugees of which the main ones were HCIT and Civil Rights Project (now called Praxis), which both were and still are implementing partner of UNHCR. They work(ed) also closely with the Serb Commissioner for Refugees.

Regarding the Serbs from Croatia, HCIT has worked structurally on their legal rehabilitation from the 2<sup>nd</sup> half of the 1990s until present. The work both in solving their legal issues in Serbia as in Croatia, complemented with its lobbying for structural solutions can be seen as a successful best practice. See **Annex 1: Best Practice: post-war legal rehabilitation of the refugees.**

Since Croatia has become an EU member state on 1 July 2013 all progress concerning the still outstanding legal questions regarding the buying right on socially owned property among others have been stalled. And now the situation for the Serbs in Croatia is not conducive to return, but the bulk of the legal problems they had in Croatia have been resolved, which have permitted the (ex)refugees to settle in Serbia.

There are still a number of outstanding problems for the ex-refugees from Croatia, who almost all have obtained both Serb and Croatian citizenship. There is a constant need throughout the various stages of life to arrange documents and legal issues in Croatia as the registers are located in the places of origin and as they have the Croatian citizenship. The most important ones are:

Related to documents:

1. To obtain pension: workbooks, and convalidation of working years during the war, but also many cases where the official databases are missing and proof has been lost
2. Birth certificate and proof of citizenship
3. Annulment of residence
4. Related to having the double Serb and Croatian citizenship: proof that any type state service or benefit is not received twice: eg Serbian authorities ask to proof that your driving licence in Croatia to be annulled, which a paralegal in Croatia obtains in the police office in the municipality the person is from. But it can also be related to receiving social help and health
5. Croatian citizenship for the children

Related to property/housing:

1. Serbs from Croatia never were able to benefit from the privatisation of the social housing in the early 1990s due to the war. Other Croat citizens had been able to buy their housing for a very low sum. Now these people are only offered social housing if they proof that they have no other property at all and are really social cases. De facto they lost their social ownership right.
2. New problem: when one has destroyed property in Croatia, people start to receive letters from Croat authority, that one has to destroy it completely and that otherwise a company will do it, for a very high amount (Euro 20.000 to 30.000) that people cannot pay.
3. Illegal housing (in regions where property was never registered) need to be legalized now, which is very expensive
4. When shortly the tax on immovables will be introduced

### 3.7. National Minorities

National minorities are always a group at risk of (legal) exclusion. The national majority and minority question touches upon essential questions regarding the role of statehood: to guarantee a number of rights and freedoms related to all individuals within its state-borders whatever their national background is (Western democracies) or to ensure rights linked to groups (national, religious). Those groups often are present across the state borders, seeking their groups' rights guaranteed in all the states where they are dwelling. In countries that have a past as part of the Ottoman Empire, the state system is based on rights as a group to which one belongs (religious, ethnic etc) in contrary to the Western tradition where rights are connected to the individual person, which has the right to have a religion, to associate in a group,



etc. Following the Ottoman tradition, to keep ‘brotherhood and unity’<sup>11</sup> in Tito’s Yugoslavia the Constitution was giving rights to various groups within its republics. According to the Constitution of Yugoslavia, there were 6 republics, with each of them majority nations (such as for example the Croatian Constitution would say: Croatia is the country for the Croats, and other nationalities ..... ) and within them a range of small nations and minorities with each their own rights related to their culture, language, education et cetera.

Another conceptual difference in this framework is the meaning of ‘nationality’. While in Western democracies citizenship and nationality are used in normal language as synonyms, in the countries of the former Yugoslavia only citizenship refers to which state one technically-administratively belongs, and nationality refers to ‘ethnicity’ (Serb, Croat, etc).

Regarding the legal inclusion of the minority groups, one has to map both the individual rights of the group members as well as the collective rights of the group:

1. The enjoyment and protections as individual citizens. Are the individual rights of the group members respected? In general, the individual rights of all communities are implemented in the same way for all citizens of Serbia, except for the Roma as described above. The IDPS from Kosovo and ex-refugees from Croatia, on the contrary, face important legal exclusion issues in all aspects of life in Kosovo, respectively Croatia, as described above under IDPs from Kosovo and (ex)refugees from Croatia.
2. Enjoyment of group rights: in a country as The Netherlands, collective rights are in general realized via the rights of an individual (freedom of religion, freedom of association, freedom of expression et cetera); only some linguistic and cultural rights may be connected to a minority nation as the Frisians. In France, all rights are connected to the French citizen, and the state does not give space to linguistic and religious aspirations connected to a group.

In Serbia, all traditional minority and indigenous groups as the Croats, Rumenians, Swaabs (Volksdeutcher), the Roma, Vlachs, Ruthinians, Askhasi, Egyptians and Bunjevski have their own rights, are organised through their organisations and are member of the Council of National Minorities. Some specialists on ethnic relations are now propagating to include two new ‘nationalities’ to the list: the Mormons (which came from the US through Serb migrants to the USA) and Wahabi (from Saudi Arabia through the wars of the 1990s, now settled in the area between Serbia, BiH and Montenegro). In the ever-globalizing world, we would make a distinction between the indigenous populations’ rights and the rights of the religions/cultures of the new migrants. Actually, from a global perspective, to avoid conflict, it would be recommendable to try as much as possible to deal with religious and cultural rights through the individual rights’ framework. The Legal Inclusion mapping will as such not get further into the implementation of the groups’ rights as all national minorities are well integrated into Serbia, if not described specifically in one of the groups at risk above.

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<sup>11</sup> ‘Brotherhood and Unity’ was the Communist Party’s idea of state, essentially the state’s *raison d’etre*. Such an idea was intended to lend the state legitimacy in the minds of its inhabitants or citizens as well as to define the state’s purpose. Brotherhood and unity as both idea of state and the state’s *raison d’etre* formed the basis of Tito’s Yugoslavia’s first constitution in 1946. In this document brotherhood and unity sought to mobilise the peoples of Yugoslavia in the construction of Socialism, promote solidarity amongst them, and above all to screen out memories of the recent conflict. This was to be achieved through the ‘four equalities. First, all Yugoslavs had equal rights and duties, regardless of nationality, race or religion. Secondly, Yugoslavia was composed of six republics, which all were to be equal in all aspects of their rights and duties. Thirdly, all ‘nations’ (big and small nations!) of Yugoslavia were defined as equal to allay fears that any one nation might seek to dominate the others. Finally, all nations of Yugoslavia made an equal contribution towards the struggle for liberation.



#### 4. Analysis

- In general, the population at risk of legal exclusion are the people with little financial resources. They try to avoid paying taxes, build a house illegally, and in case of transfer of property (in case of inheritance) they will often not formalize it in the kadastar to avoid the transfer taxes and costs of a lawyer and notary.
- From the chapter II and III hereafter on the state organization and the legal assistance possibilities, we will see that people need a lawyer for all type of procedures and legal documents, but that a good lawyer is too expensive for 40 to 50% of the population including the vulnerable groups.

## Chapter II: Legal-administrative institutional framework

### 1. Introduction to the state organisation:

#### a. Legal insecurity

There is a wide-spread feeling of legal insecurity within the population at large. You never know what will happen, and when you are the victim, you are in a weak position, that you have to proof one's rights against all odds.

People do not believe in the system, the 'patronism', the corruption in all type of larger transactions. They have little income and want to avoid to pay taxes that are in their eyes too high and not give anything in return. And for the very fact of not paying all due taxes, not registering their house and land etc, they enter into a vicious circle of legal insecurity.

**However, an important fact is that at a lower level the system functions well, and people know that they can access the rights they have.** The problem is the bureaucracy and the lack of transparent information, and hence the lack of awareness on how to realize one's rights.

Illustrative of the legal insecurity is for example:

- In case of a car accident: people prefer to arrange the damage among each other immediately (calling the garage asking for his estimation of the value of the damage) and pay out in cash at the spot for lack of trust in the police (several people said that the police would fine the person who has caused the accident which information is said to be no longer true with the European accident form) and the insurance company.
- The legal insecurity may often also be due to a lack of efficiency in management structures, which causes that no-one feels responsible. An example is that in the case of 2000 court rulings against a pension fund, every time again the pension fund did not want to comply with the court's decision, because no-one within the fund felt responsible. This in the end has costed the pension fund high amounts of execution costs, but no-one cared about this neither. Another example is the fact that there appear to be 300.000 civil court cases running against the state. There is never ever an attempt to settle these (in mediation), and the responsible people in the relevant institutions/ministries say that they have not the responsibility to settle; they are so afraid. There is no mechanism to efficiently fulfil their duties. What one can see in all organisational structures is that people don't have the responsibility or at least have this conviction, and say: I don't dare ('ne smem' – the 'ne smem' mentality or 'nisam nadležan' – it is not my duty/competence).

#### b. Level of corruption and grey economy

As mentioned, the corruption and grey economy go hand in hand, and are main sources of legal insecurity.

#### Corruption

The annual EU Commission's reports on the Serbia's accession to the EU confirm the perception of the people that corruption is high. The Commission's report of 29 May 2019 states: "Public procurement, infrastructure projects, healthcare, education, construction and spatial planning, and public companies remain **particularly vulnerable to corruption**. No tangible improvements took place in relation to verifications and procedural transparency in these fields."

And the 2018 report: “Corruption remains prevalent in many areas and continues to be a serious problem. Operational capacity of relevant institutions remains uneven. Law enforcement and judicial authorities still need to prove that they can investigate.”

And people say that all institutions and the public media are dominated by the Party in government. The 2019 EU Commission report mentions: “Merit-based recruitment is still undermined by excessive discretion allowed to the political level in the choice of final candidates”

In all areas, successful business transactions are based on one’s network. According to most informants, the corruption thus is everywhere, for example:

- in case of a bankruptcy, it is a usual practice that the public executor will make beforehand a deal with the buyer(s), agreeing on a part of the deal paid by bank transfer and the part paid in cash.
- in case of providing subventions in a tender, the list of the ones who will receive the subsidy is already marked before assessing the applications. The younger staff members of ministries who should do the selection see that to their surprise, and share this information with their friends.
- in all public tenders the pre-selection with additional payments to the panel appears to be a big problem.

Due to the ICT and formal fight against corruption, people are more afraid, and take their precautions. For example, in meetings, people have to leave their phones at the entrance.

#### Grey Economy

As mentioned, people in Serbia prefer to be paid a minimum salary formally and the rest in cash. The National Alliance for Local Economic Development (NALED) published late 2017 a report on the Shadow Economy in Serbia according to which the shadow economy consists out of a) undeclared turnover in order not to declare profit and b) payment of salaries partially in cash, which the report esteems make up 15% of the GDP. They consider that the partial cash payment of salaries would make up 10 % of the registered companies and 17% of the non-registered companies, and thus 30% of business would be according to the report in the shadow economy.

#### **c. New legal professions: the notary and the bailiff**

##### Introduction of the notary (javni beleznik) in 2014

Notaries in the past existed only in the Habsburg Vojvodina (North Serbia).

Until 2014, all notary functions were implemented by the attorneys and courts, which used to be in charge of legalizing documents. When the notary act was first introduced in 2013/14 this caused a general strike of all attorneys (members of the bar association). The reason was that important aspects of their work would have been taken away, as the drafting of contracts itself. For over 6 months the attorneys did not work at all and in the end, they kept the monopoly on contract drafting.

A general complaint of people is that the court fees for legalizing documents were much lower, and that the notaries are very busy and chaotic. There are now 174 notaries, but they are not yet covering the entire country.

##### Introduction of the Bailiff (javni izvršitelj = public executor) for execution of the court decisions since 2011 law + amendment 2014

The public executor with a seal of the state is another new profession, only in charge of execution of civil court decisions. The private bailiff replaces the court bailiff that existed until 2011.

As the notary, these new professions are driven by the international community. In this case specially the Germans are behind it (GTZ) and the American Embassy is said to have been very happy as well.

The complaint that people have is the execution is still a problem; either the bailiff is afraid or has 'contacts' and is open for corruption. At the same time, the high execution fee/costs are a real problem, specially where it concerns debt collection from poor people who fail to pay their utility bills.

#### Prosecutor-led investigation introduced in 2013

#### **d. Simplification of administrative processes and digitalization**

According the EU Commission Report of 17 April 2018:

'Creating a more **user-oriented administration** remains a key government priority. The government established a new Office for Information Technologies and e-government directly accountable to the Prime Minister. The e-government strategy is being implemented, and an action plan is under preparation. There is an increase in the provision of integrated e-services to citizens and businesses through one-stop-shops. However, mechanisms and resources to measure citizen satisfaction with the delivery of public services are not in place.'

And, according to the EU Commission report of 29 May 2019:

'The legal framework for **simplification of administrative procedures** has been in place since the 2016 Law on general administrative procedures.'

'**the authorities have made digitalisation one of their top priorities.** A new law on e-government was adopted in April 2018, which aims to enable simpler, more transparent and efficient functioning of electronic public services and to facilitate communication with the administration. .... The information and communication sector continued expanding, increasing its share in the economy and in total exports. The share of households that have a computer and access to a broadband internet connection increased further to more than 72% in 2018. .... while the shares of those who have never used a computer or the internet halved over the last decade to less than 25%.'

In Charge is the Ministry of Administration (Ministarstvo Uprave), that connects to all other relevant ministries for the implementation of the E-Administration ([www.euprava.gov.rs](http://www.euprava.gov.rs)). This webpage contains all type of state services related among others to: finance, employment, education, environment, protection data, Tax and customs, property register (kadaster), social help, subsidies, birth and death certificate, etc.

Despite the improved accessibility to the system and its benefits, in practice the E-governance is just a communication tool, and its effectiveness depends on the efficiency of the relevant state institution, which according to many people is still very bureaucratic and inefficient. Another complaint is that there are so many state benefits that people are not aware off.

The digitalization of the judiciary is in development but still not fully implemented.

The Courts have a portal in which one can check one's case if one is digitally registered. In the commercial (business) courts: it works more than in other courts.

## 2. Description of administrative-legal procedures to fulfil basic legal needs

Below follows in summary of the administrative legal procedures in basic legal needs.

### 2.1. Identity-related documents

#### 2.1.1. Birth certificate

Needed, inter alia, for:

- Main proof of existence and of name
- you don't exist, if you don't have birth certificate, which means: no school, no healthcare, no ID, nothing

Procedure: processed automatically by the civil register after being informed by:

- Hospital sends immediately birth declaration automatically
- Parents within month, of whoever who proves that has legal interest to have the certificate.
- If you have none birth certificate, court procedure is needed: Procedure for determining place and time of birth

#### 2.1.2. Death certificate

Death certificate ('extract of the civil register for the death'), inter alia needed for:

- Inheritance
- Receive the pension and insurance benefits by widow and other deceased relative(s)
- To obtain legal guardianship of non-adult children

Procedure:

- Hospital or the doctor that has declared the death sends the death declaration to the civil register
- If you proof to have legal interest, you can get the death certificate at the civil register

#### 2.1.3. Certificate of citizenship:

In the countries of the former Yugoslavia, there is a civil document that most countries in the world do not know and that is the proof of citizenship, that you need to proof that you are a citizen of Serbia and which is a requirement in many procedures as for obtaining an ID.

It is on your birth certificate, but later you have to proof that you are still citizenship (because of the disintegration of Yugoslavia; documents of ex-Yugoslavia: they were living in Serbia, and they were not citizens of Serbia)

Births of citizenship also ask as Maticar

Needed for:

- Passport
- ID
- All rights exclusive of Citizens: pension, social care

#### 2.1.4. ID

ID needed is need:

- Employed
- Insurance
- Every thing

- Obtained with the Police – Ministry of Interior (MUP), which have a joined database with the civil register
- Obligatory to get it with 16 years
- Requirements: birth certificate and citizenship certificate

### 2.1.5. Problems/obstacles in civil documents

Birth, death and citizenship certificates are obtained through a straightforward, uncomplicated procedure through E-Uprava (E-Administration) and in the Civil Register (maticar / maticni uret), that is based in the municipal office of each municipality (opstina), and can nowadays be obtained everywhere in the country, notwithstanding your place of birth. Only the IDPs from Kosovo have to get copy of their civil documents in the civil registries offices that were moved from Kosovo to: Nis, Kraljevo and Kragujevac

Mistakes in civil documents is not a problem and can be easily corrected through an administrative procedure in the civil register.

The law on register books law (Zakon o maticnim knjigama) is applicable. Also, the ID obtained with the police is an easy procedure.

Two groups have problems with their civil documents, which will be explained in more detail in the chapter on the particular group:

- a. Roma, especially the IDPs from Kosovo, who never had civil documents. They have to pass through a court procedure to first obtain a birth certificate.
- b. Ex-refugees from the other countries of the former Yugoslavia, who mostly now have double nationality, of the country they came from (mainly Croatia and Bosnia Hercegovina) and Serbia. They need all type of documents from the country they originally came from for many reasons, described in the **best practice: 'cross-border legal rehabilitation of the refugees from Croatia'**.

## 2.2. Family-related documents

### 2.2.1. Marriage and marriage certificate

The municipality is in charge of the marriage:

- Requirement: birth certificate and citizenship certificate of spouses

Marriage is needed inter alia for:

- Matrimonial property (Bracna zajednica): All earnings during the marriage are the common property, except for what one inherits and/or obtained with one's own (pre-matrimonial) belongings. One can make a prenuptial agreement (prenups) at the notary, but this is not common at all ('no-one would do it and the bracna zajednica is really felt as a key-element of the marriage)
- Custody over and responsibility for the children
- Access to inheritance, pension

### 2.2.2. Cohabitation - living together

Formal cohabitation is not a concept people are aware of.

Co-habitation contract/joint statement in front of a notary is a joint statement (notarized) of the existence of the extramarital community. The problem is that this is a private agreement without any public consequences, not having access to the benefits of a spouse. As marriage between same sex exists and a cohabitation contract has not public affect, homosexual are legally discriminated.

### 2.2.3. Divorce

Always in court, each of the spouses represented by a different lawyer, unless the court approves to have only one lawyer for both spouses.

Very simple in a couple of days specially if there is a divorce proposal (sporazum) on the main topic the care of the children. The urgency is related to the children (Nacelo hitnosti); therefore, the divorce is a fast procedure ending in an agreement on the children, in which normally the centre for social work is involved. But often there is not yet an agreement on the division of the matrimonial property. That is why often people are officially divorced but they are still fighting over the property for years.

### 2.2.4. Children

- a. Recognition = see birth certificate  
If no marriage, father recognises in the civil register at the birth declaration and obtaining of birth certificate, within one month after the birth
- b. Guardianship  
In case of divorce in principle the mother (see divorce)

## 2.3. Inheritance

### 2.3.1. Will and Maintenance Contract

In general people do not use a will however there is a legal tool that has prevalence over all inheritors and that is the maintenance contract.

The will:

There are various types of wills, with various degrees of formalisation, at the notary and deposited in court.

The maintenance contract (ugovor od doživotnom izdržavanju):

- Can be given to anyone who commits to take care over a person for his/her life
- In compensation one receives the house in which the person lives, after the person passes a way
- It concerns a contract that is legalized by a notary
- When the person passes away; it provides a right on the house which prevails the rights of the inheritors, and is a very strong right in court
- One pays transfer taxes as if it were a normal property transfer (2.5% of the value)

The maintenance contract is used a lot in practice, especially by elderly people who do not have heirs or the potential heirs do not live near enough to take care of them. The care mostly consists of basic needs, such as taking them to the doctor, providing medicine, food, help in cleaning, but not 24/7 care.

The main problem is this agreement is aleatory by its definition, because the provider cannot know for how long this agreement will be in force and if his/her total costs would be even higher than the value of the real estate. The other problem could be the heirs contesting the contract upon user's death, but there is a really small number of successful claims of the heirs. They could succeed with their claim only if they prove that the user was not legally capable to conclude the agreement (due to their state of mind), but this is so hard to prove and therefore the provider is in a much better position than the heirs.



### 2.3.2. Inheritance procedure

The inheritance procedure is simple and automatic. It is with or without testament either through the court or the notary. A document of the death (*smrtovica*) is prepared that contains all needed information: the goods, the heirs, the division between the heirs et cetera.

People normally do not use a lawyer. automatically the Civil Register sends the death certificate to the relevant instances:

- the registrar who has registered the death in the civil register (*maticar*) (see above 2.1.2) delivers within 30 days the death notification to the court.
- Upon receipt of the certificate, the court brings a decision by which it entrusts the notary to compile a death certificate. The notary is obliged to submit a complete death certificate to the court within 30 days. If the court delays, the family or any other interested party (eg the creditors) can submit a request to the court to start the procedure
- The death certificate is drawn up on the basis of information obtained from the relatives of the deceased, from the person with whom he lived,(s) as well as from other persons who may provide information that is entered into the death certificate. The death certificate is being compiled in the event that deceased did not leave any property. The inventory and assessment of the deceased's property is performed by a public notary, based on a court decision. When compiling the death certificate, the notary performs an assessment of the inheritance, without a court decision, if there is no conflict or other need to pass by the court.
- The court shall terminate the discussion of the inheritance and instruct the parties to initiate a lawsuit or proceedings before the administrative body, if the parties are contested of the facts on which their right is subject.

If there is not will, equal division upon the first spouse and children, if no children not all to the spouse, but a part also to the parents, 2<sup>nd</sup> parents, 3<sup>rd</sup> siblings.

### Will

There are not so many cases of inheritance with a will, but it is common for people with high value properties. The law provides various types of wills, but the most common is the one made before the notary (recently) and before court (which was more common before establishment of the notaries).

The court (or the notary) is obliged to check if there is a will upon the initiation of the inheritance procedure, but also any interested party could present one. The court (or the notary) is obliged to check if the will is composed in line with the law and therefore if it is valid.

There are no specific problems with the will if it is valid, but any heir is entitled to contest the will and the court decides if that contest is grounded in separate (litigation) procedure

### 2.4. Real Property-related issues (land and housing)

At this moment, the property of land and houses is fairly simple. Mainly private or public property with various destinations, depending on the public planning:

- Rural property (*Poljoprivredno zemljište*)
  - foreigners cannot buy this but can inherit it (if reciprocity between countries exist).
  - For building on rural property a change of regime has to be asked to building property in an administrative procedure
- Urban property

The transfer of property is rather simple:

- Purchase contract, normally drafted by lawyer (for the complications explained below)
- Cadastre check normally by lawyer to check if the property is indeed registered on the name of seller without mortgage et cetera.
- Legalization by the notary, who will register the property in the Property Register (kadastar)
- Pay transfer tax: 2.5% of the value in case of sales and 1.5% in case of inheritance

The cadastre used to be complex and slow, but this has changed with its digitalization in 2012: [www.rgz.gov.rs](http://www.rgz.gov.rs)

Complications are due to:

1. The lack of valid title deeds due to the fact that a) the title deed has not been put on the name of the actual owner and b) there is no title deed because the house was illegally built.

- a. Property title not transferred

people often do not transfer the real property on their name, especially with property acquired through inheritance, to avoid the costs of the transfer and the transfer tax. This results in an outdated property register (kadaster), and confusion as regard who is the ownership rights. One often does really not know who the owner is. A good check is important when one wants to buy, and often it is impossible to figure out what the exact situation is. That is an important reason why one needs the services of an attorney when purchasing real estate to make sure that one buys the property from the legal owner in the property register (kadaster) at the exact time of the transfer of the property.

Advantages of not doing the property title transfer:

- No-one knows it is yours (for criminals the reason)
  - Easy, not to do the transfer procedure, not to pay the costs of lawyer, notary
  - Not to pay transfer taxes; if one inherits a flat of Euro 200.000,-: 2.5% is Euro 5000,- and people often simply do not have this amount
- b. People have massively built houses without any permit. Thus, many houses are illegal and not registered. Since 2017, the state has provided an opportunity to legalize these illegal houses. The procedure is more or less the same as the procedure for getting the permit in the first place:
    - to present the project of by an architect etc.
    - 2 years

Satellite mapping was done in 2017. From 2017 the houses have to be constructed legally. All that is on the picture of 2017 may be legalized if the conditions of the procedure are met, if not yet legal.

This results in an impossibility for people to transfer their ownership rights over illegally built houses/buildings as it is not registered in the cadastre. Furthermore, it is hard to perform any other activity arising from ownership right because strictly legally and formally speaking that property does not exist.

The state has changed the conditions and procedure rules for legalisation more than a few times and it is hard to follow what are the activities that need to be performed in order to legalise the building. At this point all procedures are stopped until the new legislation is adopted.

2. Property regimes from the socialist past of Yugoslavia in which private property did not exist and all property belonged to the people (*narod*). This was arranged as follows:
  - a. Socially-owned property rights: Workers /employees of companies would receive a flat in use from the company. With the privatisation in the early 1990s, they got the opportunity to get the ownership rights for a very low payment.  
Problem: not all people could participate in the privatisation scheme for various reasons:
    - Not enough money
    - Refugees from the wars in Croatia and BiH, but also Croats from the Vojvodina, were not there when the privatisation took place and miss out on it. (see best practice regarding the cross border legal rehabilitation of refugees on Annex 1)

The unfinished privatisation can still be a source of legal issues. For example, if the workers of a company received a percentage of a flat building that was in construction, and the building was not terminated. In the first place the users' rights could not be turned into property rights in the early 1990s. And if now, the building is commercially finished and sold, the users' rights could still be validated and turned into property rights, having double ownership rights.

- b. Nationalisation of private property that predominantly had happened in 1946 and 1953. This considered property of 'enemies of the people' (*neprijatelji od narod*), and predominantly larger rural properties or houses/flats that were considered too large for one family. These properties were nationalized and if this residence would be big, the right of use of parts of the house/flat were given to other families, who would just present themselves with their belongings at the doorstep.

The people who only had the users' rights could also buy this for a low price in the privatisation process in the 1990s. In this way, the property right of the nationalized property was permanently lost.

This is a source for many types of complications in the legal situation of property rights. For example, if the property of the users' rights on flats has been registered in the name of the users, the land around it was registered in any one's name, and is restituted to the former owner. When someone builds on this land, then this is a source of legal complication.

Only for the property in public use, since 2009 a process of restitution (or compensation when the object cannot be restored) of the nationalized property has started with the creation of the agency for restitution in various groups:

- Started with churches and monasteries to return them to the Church; started in 2010 and now finalizing
- Property from private persons: a) Agricultural lands that were taken away in the agricultural reform in 1946 b) Buildings and houses from 2013 and are now finishing the outstanding cases. No new requests can be received any more.  
76.000 claims have been made concerning the restitution of 33,448 ha of agricultural & forest land, and 6.016 buildings, apartments and business premises

- Return of the property of the Jews lost in the 2<sup>nd</sup> World War.  
[https://www.b92.net/biz/vesti/srbija.php?yyyy=2018&mm=11&dd=27&nav\\_id=1474495](https://www.b92.net/biz/vesti/srbija.php?yyyy=2018&mm=11&dd=27&nav_id=1474495)

## 2.5. Economic and social activity related areas, registrations and documents

### 2.5.1. Business registrations:

All businesses are covered by the Law on Business Companies.

The institution in charge of registration of businesses is the APR (Agencija za Privredne Registre)

<https://www.apr.gov.rs>

The following are the type of businesses according to the Law on Business Companies:

#### a. Entrepreneur – preduzetnik – pazualac

Most small businesses are registered as a preduzetnik / entrepreneur

= natural person who is registered and who conducts lawful activities for profit as his profession (selling goods, services, car mechanic, café, painter, shop)

= is liable with all of his assets for all its obligations

No articles of association

The entrepreneur has the obligation to have a bookkeeper (around 2000 dinar per month = 18Euro) for the bookkeeping and the tax obligations, including the annual accounts

Registration consists of filling out form and show ID

Up to Dinar 8.000.000, (68.000 Euro) turnover: no VAT

#### b. General Partnership: all partners are liable and Limited Partnership:

= two or more legal entities and/or natural persons who undertake to conduct business under a common registered name,

both partners liable for all its obligations, while in a limited at least one partner's liability is unlimited (a "general partner") and at least one partner's liability is limited to the loss of his agreed contribution (a "limited partner").

Needed:

- Articles of Association
- Partnership Agreement

#### c. Limited liability Company = DOO

a company organized by one or more legal entities and/or natural persons, as members of the company, to conduct business under a common registered name.

= liable for all of its obligations with all of its assets. A member of a limited liability company is not liable for obligations of the company solely by reason of being a member, except that a member shall be liable up to the amount of any agreed but unpaid contribution of the member to the company.

Needed:

- Articles of Association
- Company Agreement

#### d. Joint Stock Company - AD Akcionarsko Drustvo (=Company with actions)

= Company organized by one or more legal entities and /or natural persons, as shareholders of the company, to conduct business under a common registered name, and whose basic capital is defined and divided into shares.

= liable for all of its obligations with all of its assets  
 = A shareholder of a joint stock company is not liable for obligations of the company solely by reason of being shareholder, except that a shareholder shall be liable up to the amount of any agreed but unpaid contribution to the company in accordance with this Law.

Needed:

- Articles of Associations, the amount of subscribed and paid-in capital, number and nominal value of shares
- By-Laws – do not have to be registered at the APR

### 2.5.2. Process of registration at APR:

1. Name search
2. Articles of association and Partnership or Company Agreement, with notarised signature of the establishers  
 Most small businesses are registered as ‘entrepreneur’; they do not need articles of association, but just register as person and name.  
 All partnerships, limited companies and joined stock companies need to register:
  - Articles of Association
  - Partnership respectively Company Agreement, by-laws
  - If establisher is a company: signature of the representative of company, or special power of attorney (punomoc) to attorney
3. At APR give Tax registration Number PIB Poreski Identifikacioni Broj
4. With the registration at the APR, a bank account can be opened.

Duration: 5 days

Costs of APR: reasonable

Time required to start business: 10 days in 2017<sup>12</sup>

If you are a Limited company and stock Company are obliged to draft all kind of regulations concerning employees working conditions and safety:

Pravilnik o radu for – Rules of Procedures – work regulations

Pravilnik od sistematizaciji radnih mesta (not for small)

Health conditions

Pravilnik against fire – not by lawyer

Bezbednost i zdravlje – not done by lawyer

Need for a lawyer:

- Formally there is no need for a lawyer but for the specific knowhow needed, drafting of articles of association, contracts and other regulations mostly a lawyer is needed. There is no clear information and no one can tell you how to do it.

### 2.5.3. Tax obligations

Hiring a bookkeeping Agency is obligatory for all businesses: runs the bookkeeping and calculates all taxes that need to be paid.

Income tax is paid beforehand on the basis of an estimation based on the previous year.

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<sup>12</sup> World Bank World Development Indicators Database 4/24/2019 Country Serbia

Indirect taxes 20% (also on rent out housing and offices)  
Income tax: 15%

Tax laws change a lot and information is lacking.

Recommendation:

Missing in tax matters: the figure of the tax advisor, commonly available (perhaps in the international accountancy firms they may provide tax advice, but their fees would not be accessible for smaller companies and entrepreneurs). The accountant/bookkeeper accounts, and tells how much taxes one has to pay, but does not advise on tax strategies. Lawyers do not advise on tax strategies, and there is no information available.

#### 2.5.4. Permits

In addition to the registration no specific permit is needed from the municipality of operation. Only permits are needed, depending on the activity and branche, with a procedure with the organisations/institutions in charge of the regulation of the type of activity.

#### 2.5.5. Basic Legal Needs in business:

- Setting up the business: registrations with the APR and drafting of related articles of association and contracts
- Contracts for running the business: renting, distribution, sales
- Customers who don't pay = one of the major problems. In the crisis of 2009/10, people really could not pay, but then they figured out that if you don't pay, nothing happens. This has led to a mentality that people shamelessly don't pay what they are due. Need for execution procedures.

#### 2.6. Labour part:

Definite contract is obligatory after a total 24 months temporary contract

With Indefinite contract trial period may be up to: 6 months

Temporary labour contracts are allowed up to 36 months contract for newly established company with less than 12 months existence on the date of signing the contract.

Labour contract needs to contain 9 categories of items to be regulated: working position, salary, duration, vacation, place of work etc.

Lots of companies pay minimum salary and the rest of the income in cash. Nothing is signed; unaccounted cash is created through issuing and payment of services that were not provided. Income taxes are 10%; so, the service provider will charge 10% + his handling fee.

Wage taxes, Pension, health, and other social contributions: 62% on the top of netto salary (a bit more than 38% of gross salary)

Consultancy contracts are not covered by the labour law, and are not so frequent, moreover for providing external services as computer and accountancy services.

#### Position of the employee in case of dismissal and/or other labour conflict

There is the contradictory situation that on the one hand an employee has lots of rights on the basis of the law and a court tends to decide in his/her favour. But due to the lack of summary court proceedings, the high lawyers' costs, the hassle, employees do not tend to contest and

undue dismissal or to claim unpaid overtime (which amount amount to 50% on top of the salary).

The relics from the past, with a strong protection of the employee, makes it legally almost impossible to terminate a labour contract. The only way to terminate a contract is that the employee's position does no longer exist. Thus, employers tend to terminate contracts by the cancellation of the position of the employee. The only other reason may be a big mistake but it is very difficult to proof. It is very hard to make a case that the employee is not competent.

Despite the strong case an employee has and the benefits (salary fully paid all the time and legal costs compensated) the long court proceedings are deterring him/her from starting a court case (duration 4 to 5 years in Belgrade and 2 to 3 years in rural areas).

## 2.7. Contracts

Contracts are valid without any formal requirements.

Only legalization by the notary is needed for transfer of real property and vehicles.

People do use contracts a lot because of legal insecurity is present in all areas, specially a need for contracts:

- Rent
- Business and company related
- Property transaction
- Services

## 2.8. Social Organisations: legal personality of social groups:

### 2.8.1. NGO / Foundation

Easy registration at the APR (see business issues above)

### 2.8.2. Ethnic, religious and/or other organisation for groups: how is this organized?

Another issue regarding Legal Inclusion in Serbia is the legal inclusion as a group, in addition to the individual legal inclusion. In countries that have a past as part of the Ottoman Empire their system was based on rights as a group to which one belongs (Religious, ethnic etc) in contrary to the Western tradition where rights are connected to the individual person, which has the right to have a religion, to associate in a group. See page national minorities as group at risk in Part I Chapter 3.6. As mentioned there all national groups are registered and take part in the Council of National Minorities, and can enjoy the various rights related to the group: language, culture, religion et cetera.

## 3. State benefits - What benefits does the State provide?

As the socialist state of Yugoslavia, there was a highly developed social system in place, in which the centres for social work played an important role with a great many of social issues. Serbia has still the same very developed system in place, with all kind of benefits (related to being pregnant, children, child care, disability pension, unemployment, social security and services et cetera), but the benefits are worth very little. People complain that they do not get any benefit in return for the high contributions they have to pay as part of their salary.

The Centres for Social Work were never reformed and are understaffed, lack of capacity and funds.



In each municipality there is at least one centre. The Centres for Social work is in charge of 109 functions, among others:

- Child protection related to divorce
- Protection neglected children
- Family violence
- Protection of people with disabilities

There are a great number of benefits, very complex welfare system, complicated to figure out precisely the possibilities

Social help for poor people exists when one can submit a great number of documents related eg to unemployment, not having house, not paying tax. Social assistance is 10.000 to 20.000 dinar (70 to 150 euro) per month, depending on quantity of family members.

Many types of help:

- For children addition (dodatak)
- Parents for new born
- Winter wood and kitchen

State pension and public health insurance are obligatory to be paid also as self-employed or owners of companies.

### 3.1. Education:

elementary and secondary for free.

University for free only if you are good student depending points.

### 3.2. Health:

everyone has to pay for the public health insurance, related to salary or fixed amounts if it concerns self-employment (lawyer, business owner etc). Health services are very poor, and many people have a private insurance next to the public one.

### 3.3. Pension – work & disabled & family pension.

99% work related pension, vary between 120 to 700/800. Formal system with the work years, work as long as you want, to increase pension

All type of social help: <https://www.euprava.gov.rs/eusluge?userTypeId=1>

## 4. Judiciary

EU Commission Report 29 May 2019:

“There are still significant differences in workload across the country. Lengthy proceedings, the lack of a free legal aid system – until the new law is implemented in October 2019 – and the failure in processing indemnity claims continue to hamper the quality of justice and citizens’ access to justice (see under Procedural rights).

<http://www.mdtfjss.org.rs/en/documents> multi-task force for justice website with a number of reports on the justice over past 10 years

#### 4.1. Civil - justice sector

- court fees: a few 100 up to 3.150 Euro varying on the value of the case. “Tarifni broj 1”: [https://www.paragraf.rs/propisi\\_download/zakon\\_o\\_sudskim\\_taksama.pdf](https://www.paragraf.rs/propisi_download/zakon_o_sudskim_taksama.pdf)
- court fees are paid by the party that has lost the case
- legal representation/advocate – fixed fees, which can be negotiated
- but court representation by an attorney is not required; one can represent oneself or a family member in court
- Duration: minimum three-year, main problem very slow. Only the procedure for recovering a debt when someone doesn't pay a bill is fast and the arrangements for the children in a divorce procedure. Commercial courts are faster. No Summary proceedings
- first basic municipal court (opstina): very slow
- Outcome: Ok, but the execution is the problem

The **main complaints in court civil court procedures** are:

- the courts are too slow as any court decision will take minimum three years.
- The possibility of a summary proceeding with for example the President of the court in case of rapid action is required, is non-existent.
- Attachment/Seizing real estate or the bank accounts can be done as a temporary measure but does seem to require more material proof, proportionality and time-taking, and lacks the deterring effect it has in many other jurisdictions
- what people with litigation experience say that they experience as the most important problem with the courts is the lack of execution of the courts' decisions? The court executors either don't dare to execute the judgement or one has to deal with more Mafiosi practices.

Thus, in all matters where a rapid decision is needed, there is no remedy, which is especially damaging in labour relations, and any type of relation where rapid action is needed. Mediation is gradually introduced as an alternative to fill this gap, and new legislation for mediation is in preparation is focusing on more a more efficient system for transferring court cases to mediation. But unfortunately, it does not provide daunting pressure of blocking bank accounts or summary proceedings to force people to come with a real solution on the negotiation table.

#### **Inefficiencies in civil court procedure and execution of court decision – an example**

For example: the pension fund has paid too little to a few thousand pensioners. The pensioners all start a court case, mostly with the same lawyers. The solution in a very clear-cut case like this meets the following inefficiencies:

- the cases cannot be joined but are done all separate, with every time a condemnation in the court costs of the losing party (the pension fund)
- the pension fund then does not pay out what it is due on basis of the court decision, because no-one in the pension fund feels responsible for this.
- If the value of the case is for example dinar 150.000; (Euro 1000) the costs of the public execution is Dinar 40.000. The execution is again a process in itself: 1) make a proposal for execution to the court (dinar 6000 for the court costs) and if the court approves, executed by the public executor, who tend to make transparent bills (usually charges too much), if (s)he already dares to execute.

Courts in general are seen as very inefficient and far from highly digitized. Young judges seem to be more efficient as they want to score (the points they should get related to the number of cases et cetera).

### Two type of problems with the public execution:

On the one hand: one wins the case, but can't get the court decision executed: too expensive and the public executor doesn't dare or uses questionable means, and on the other Really poor people who cannot pay their bills for example of public services, are the victim of disproportional execution and executive costs.

## 4.2. Criminal justice sector

### Rule of Law Index

On number 78 of the 113, with a score of 0.5 (in which 1 is the highest score), scoring especially badly on topics as:

- Constraints on government powers: limits by the judiciary (0.35) and sanctions for official misconduct (0.27)
- Absence of corruption: in the legislature (0.26)
- Open government: complaint mechanisms (0.41)
- Criminal justice: effective investigation (0.36), timely and effective adjudication (0.45), effective correction system (0.36, no improper gov influence (0.23)
- Civil justice is scoring relatively high, especially accessibility & affordability non-discrimination and impartial & effective ADR, but on the contrary bad scores on corruption with 0.47, no proper gov influence at 0.34, no unreasonable delay at 0.31 and effective enforcement at 0.48.
- The best score is on Order and security: absence of crimes (0.87) and absence of civil conflict (1) and fundamental rights are also above average

These findings of the index underscore the findings of the qualitative legal inclusion mapping research.

## 4.3. Alternative Conflict Resolution

In 2005 a first law on mediation was passed. In 2015 this law was changed, and now there is a working group at the Ministry of Justice preparing a new law. The purpose is to make mediation a more effective solution, as an alternative to the court, also in the context of the new free legal aid act to avoid that the number of court cases increase too much, and to have an enforceable settlement contract, with similar value to a court settlement. The registered attorneys are very much against the proposed new legislation as also non-registered attorneys (not even lawyer) may be mediator.

There are 1000 certified mediators and 150 active ones, mostly in Belgrade, Novi Sad and Nis, in issues related to family law, the workplace, neighbours and business

## 5. Analysis Legal-administrative institutional framework

### 5.1. Analysis / Conclusion and summary on the functioning of the administrative and private law

People need legal assistance in two types of legal areas:

1. Standard procedures and documents that everyone needs on a daily basis, related to property, business, family, labour:
2. Standardized procedures in conflict and/or court related:
  - a. complaints and/or claims to institutions, and instances, public or private on what they are due.
  - b. Execution of court decisions

More particularly legal assistance is needed in:

- a. **Property:**
  1. Transfer
  2. Legalization of illegal houses
  3. Restitution finalization of procedure and obtaining property title of previous social property
- b. **Inheritance:**
  1. Will
  2. Maintenance contract
- c. **Business related issues:**
  1. Registration and incorporation of business
  2. Contracts: sales, partnership, business to business, lease agreements, share transfer agreements
  3. Customers often don't pay the bill for the services/products: standard claims
  4. Execution of court decisions
- d. **Execution (victims of the public execution) - paying for communal services:**  
is a big problem. Its effects everyone  
Electricity, heating, water for small amounts of money + penalty interest 11% per year  
Public executor blocks pension, takes your stuff. Effects so many people.
- e. **Family law**
  - Divorce and divorce-related issues
- f. **Employment**
  - All kinds of documents required by the law
  - Employment dispute resolution
  - Licences for foreign employees
- g. **Cross-border legal needs of the ex-refugees from Croatia:**
  - All kind of documents and validations to get Croatian nationality and passport (for children of the refugees), to access pension and update of work books, to maintain and access property in Croatia, to access social rights in Serbia (to show that not the same right is realized in Croatia etcetera)
  - This could be done by done by specialized lawyers from Croatia in Novi Sad

**5.2. On an institutional capacity, reform would be needed in the following areas to make the system more accessible for the people:**

1. Further simplification and digitalization of the administrative and judicial sector, and providing clear information on all procedures on internet,
2. To increase the pressure on fair conflict resolution by having a possibility of fast summary procedures leading to temporary measures. This is essential for:
  - Urgent procedures such as in labour relations
  - To make the civil justice system comply its role as deterrent, increasing the chances of successful negotiation and mediation
3. To make the possibility of preventive measures as seizure on bank accounts more easily available:
  - to increase the possibility of successful negotiation/mediation
  - to have security for the execution of court rulings
4. linked to 5) to avoid disproportional executive measures for normal people for small bills, related to electricity, etc. Develop debt-relief schemes (NL)

## Chapter III: Legal assistance

### Introduction to the Legal assistance:

- a. Developments/trends
- b. Level of digitalisation of state and justice services in which sectors
- c. Accessibility of state and justice services
- d. Level of corruption
- e. Other relevant information

### 1. Commercial Lawyers

#### 1.1. Lawyers registered in the Bar Association of the Country

Legal services may only be provided by attorneys registered at the bar association of Serbia. Legal services concern legal advice, drafting of contracts, court representation and so on, but does not concern administrative law procedures and documents. The Bar Association has lists of fixed fees, which have to be respected with a margin: 50% under the fixed fee and up to a few times more.

Registered attorneys are not allowed to actively look for clients through networking and PR activities and are not allowed to be the legal representative of any legal personality.

#### 1.2. Notaries

New profession since 2012. Actually in 2014 they started due to the attorneys' protest (6 months strike) against this new profession taking a way a lot of the attorneys' functions. Initially it was planned that the drafting of contracts itself would be a monopoly of the notaries. This have been taken out.

legalization function, mainly taken over from the previous court function, and in parts form attorneys 174 in entire Serbia, not covering the entire country.

Very busy, chaotic shop kind of outfit.

The notaries are former attorneys who have applied in the tender when the profession was created. They have to take special exam, and since recently have ethical code. Supervised by the Notary Association (Komore)

Costs: the complaint is that the costs are much higher than the costs at court used to be.

Standardized fees; varying from Euro 3 for verification of a signature to 5.500 euro, depending on type of document.

Used to be done by the courts and now done by notaries, e.g.:

- Buying real estate and vehicle contracts
- Wills
- Power of Attorney (Punomoc)
- Solemnacija: special seal for transferring property right
- Inheritance procedure (can also be done by court, which is cheaper)
- Inheritance procedure
- They can establish notary deposit (people can keep their money at notaries as a guarantee that some legal procedure (for example, buying real estate) is going to be conducted
- Et cetera

### 1.3. Bailiff – public executors

New profession since 2012 as described in Chapter on page

Profession is the execution of court decisions

Attorneys were able to apply in tender, and had to pass exam.

There are 230

Costs: per action taken. there is a special rule for charging their actions, and the charging depends on many parameters.

As already described throughout this report, there are a number of serious problems, related to:

- Execution of court decisions is remaining a problem in Serbia, partially due to the fact that the bailiffs often don't dare to execute the court decision, and if (s)he dares then the problem is often through illegal practice and corruption. Another problem is that debtors often doesn't have any assets, or the assets are hidden.
- Their costs: the costs of execution fee is often an important percentage of the value of the case.

## 2. Non-Commercial

Currently there is no general free legal aid system in Serbia. The following are the current ways of court representation and legal counselling for people without the financial means for an attorney:

- People can represent themselves in court, and only in a criminal law suite (with a possible incarceration of more than 7 years) one has to be obligatory represented by an advokat (a registered attorney-at-law), in which case an advokat ex-officio is appointed in case one cannot afford to pay a lawyer.
- Most municipalities have a legal aid office, providing legal advice and assistance with filling out simple administrative legal documents.
- Since the 1990s, there is a number of NGOs that has been funded by foreign donors to provide free legal aid to special target groups, with focus on the refugees and IDPs from other parts of the former Yugoslavia, Roma (mostly IDPs from Kosovo), refugees & asylum seekers from Syria, Afghanistan and Iran, and some legal aid related to human rights issues.

In the last 15 years a free legal aid act has been in preparation, and finally in November 2018 the current Free Legal Aid Act has been adopted. This Law (Zakon o besplatnoj pravnoj pomoći, objavljen u "Službenom glasniku RS", br. 87/2018 od 13.11.2018. godine) will enter into force on 1 October 2019. The Municipal legal aid offices and the Law Society of Serbia (Advokatske Komore) have a key-role in the implementation of the free legal aid according to this act, and there is no role specified for the NGOs.

In summary key elements of the free legal aid system as laid down in this law are the following:

1. Eligible for free legal aid are people who have been identified by the social services of the municipality as a social case, which is estimated by the World Bank to concern 600.000 people in Serbia. In addition, some specified vulnerable groups as asylum seekers will have access to free legal aid.
2. The cases eligible for free legal aid do concern family law (specially connected to children), labor law, criminal law, claiming damage for car accidents. The law does not cover topics related to property law, and business-related legal issues.
3. In the municipalities there will be a legal aid office that is the entrance point. The lawyer of the municipal legal aid office will decide whether the person and his/her case is eligible, and if the legal advice given by him/her is not enough, an attorney at law will be appointed.



4. If it is decided to appoint an advokat, the lawyer at the municipality will contact a call center to match the client and his/her case to an attorney (advokat)
5. The Bar Association of Serbia is in charge of involving the attorneys and supervising them
6. The free legal aid will be paid by the local governments which will bill 50% of the lawyers' bills to the central government.

Currently, the fees of the attorneys are still negotiated and the preparation of the implementation of all elements of the law is ongoing.

### 3. Analysis/ Conclusion and summary of available legal services for the population

Most people in need of legal aid will not have access to free legal aid, and all people (including the poorest segments of society) will not have access to free legal aid for cases that are not eligible, such as property and business-related issues. For those the proposal for standardized legal services in their basic legal needs is made.

## Chapter IV: Analysis & Conclusion Legal Inclusion Mapping in Serbia

Assessment of level of legal inclusion on the basis of the information under A, B and C:

### 1. Short description and motivation of the level of legal inclusion:

- Which part of the population is included/excluded? People have no money to pay a lawyer, lack education to aware of their rights and what to do, and/or the system is not easily accessible
- What is needed to be included? e.g. Paying a good lawyer, easy access in a well organised system?
- What interests do people have to be legally included? E.g. good access to courts to protect their rights? Access to services of the state? Or no interest because the state does not provide many benefits and the court do not work well

As mentioned in Part A with the groups at risk of legal exclusion: these are the poorest segment of the population in general.

In Part B it was shown that people need legal assistance to make their rights come true, and that there is a system that may offer them benefits and legal protection as long as they arrange it well.

And Part C showed that quality legal services are not accessible for the poorer segments of society which make up till 50% of the population despite the free legal aid system that will start in October 2019.

On the basis of the analysis of the three indicator sets for legal inclusion:

- a. the capacity of the people
- b. the organisation of the administrative legal framework, and
- c. the availability of legal services

a Comprehensive Legal Empowerment Plan has been developed, containing recommendations as to:

- a. how to make the administrative-legal framework increasingly accessible, which regards the institutional capacity
- b. affordable quality legal services for all in Serbia

### III. Comprehensive Legal Empowerment Plan

#### A. Recommendations for reform of administrative-institutional framework/ practices on the basis of identified gaps and obstacles:

##### Making institutional and judicial framework accessible and more efficient & effective

On an institutional capacity level, the LIM leads to two types of recommendations:

1. Simplification, digitalization and clear information provision:
  - Further in the administrative and judicial sector, and providing clear information on all procedures on internet.
  - of legal services in basic legal needs in the free legal aid system to make the new free legal aid system affordable for local government and state budget.
2. To increase the law enforcing function and deterring effect from civil justice system in rapid procedures and temporary measures to make out-of-court negotiation and mediation more effective and increase the possibility of executing court decisions.
3. Related to 2) In addition, it should be ensured that in any public or semi-public institution there are people accountable for the most effective and efficient management of court cases against the state and (semi) public institutions; to see if out-of-court settlements are possible and to avoid the costs of a public execution when a (semi) state body has to pay on the basis of a court decision.
4. linked to 5) to avoid disproportional executive measures for normal people for small bills, related to electricity, etc. Develop debt-relief schemes (NL)
5. Tax issues: simplify/change the system, avoiding that people feel forced to function in the grey economy (hiring an employee for minimum salary, and paying surplus in cash). Calculate wage taxes as percentage of the Gross salary. Lower taxes but make sure that all pay through making it affordable, transparent and acceptable (which would could lead to increased tax income for the state). Create the function of a tax lawyer/advisor.

#### B. Legal Empowerment program to provide quality legal services in basic legal needs

This proposal concerns making quality legal services accessible and affordable for those that cannot pay the current fees of quality lawyers. The group excluded from legal aid may be estimated to consist of around 50% of the Serbian population (which lives with less than Euro 350 a month).

For all these people and their legal issues, not covered by the free legal aid act, this proposal is made.

Under basic legal needs we understand the needs that all people come across in their daily life related to their personal status and access to the rights and benefits of the system, their property (housing, land, inherited or acquired through buying), registration and running a business, family relations, working relations, including all types of paperwork and contracts. It can also concern standard claims on institutions as banks, insurance companies, pensions funds that a big number of people have. And a basic legal need may be the execution of a court order verdict, court ruling or judgement. They are basic legal needs as long as they are similar for a big group of people, and they can be offered as a standardized legal service to a larger group of people, if the circumstances are not too individual and complex, but more or less the same for most people. Individual complex court procedures are not basic legal needs and cannot be standardized, but should be solved by an experienced attorney at law.

##### Objectives:

- to provide quality legal services for an accessible fee to the part of the population that has now no access to quality legal service.

- Opening up a new market for the legal profession, catering for the legal needs of all people in Serbia
- To have a system of affordable and reliable legal aid services in Serbia

#### **How?**

- To develop standardized legal services through handbooks, templates, use of ICT
- To specialize in a number of legal services
- Legal services are distributed and provided by the inexpensive young lawyers who need to do their two-year practice under the guidance of an experienced attorney-at-law.
- Use of economies of scale to lower the price
- develop an App & website, with the needed practical information on basic legal procedures that people need regularly, and referral to specialized expert law firms that participate in the network of mikropravda
- The legal aid office of the municipalities and the call centre may refer to these law firms if people and/or their cases are not eligible for free legal aid. Referring to these law firms may also happen in the context of the implementation of the free legal aid act.

#### **Who?**

- Registered attorneys from various law firms in Serbia will provide next to their normal individualized legal services, also provide standardized legal services in basic needs for a price that will be attainable for the poorer segment of the population.
- The participating law firms will hire a number of pripravnici (graduated lawyers who need their two years practice in a law firm to be able to register as an advokat, and who get a low salary varying between 15000 to 25000 dinars a month = 130-220 Euro) who will attend to the clients and provide the service under the supervision of a lawyer.

See **Annex 2** for proposal of Legal Empowerment program to provide quality legal services in basic legal needs

## Annex1: Best Practice: post-war legal rehabilitation of the refugees

### The case of the refugees in Serbia, who came from Croatia due to the wars 1991-95

Due to the wars in the former Yugoslavia, in 1996 in Serbia 537.937 refugees were registered from Croatia and BiH, of which 290.667 came from Croatia and 232.974 from BiH. Due time these numbers gradually decrease: in 2001 there are still 242.624 refugees from Croatia, in 2004/5: 76.545 and in 2018: 19.038. In reality, Serbia received many more people from Croatia and BiH, but not all did register as refugee. The amount has been decreasing only partially due to returns, but in the majority of the cases refugee status was lost due to obtaining Serb nationality and integrating in Serbia while people also arranged their legal issues in Croatia: obtained Croatian citizenship, got their real property restored, solved banking and contractual issues, arrange(d) their pensions, and they have been constantly arranging (still now) a great number of administrative-legal documents they need for a number of reasons. Although not all legal issues have been solved in a just way, the restoration of pre-war rights can be considered successful in large part thanks to the continuous support of the lawyers of the Humanitarian Centre for Integration and Tolerance (HCIT) in Novi Sad.

HCIT was created by Ratko Bubalo, a legal expert from Zagreb<sup>13</sup> who himself had become refugee in Novi Sad by 1995. Ratko and his former colleagues from all over Croatia, started to help provide legal aid to the hundred and thousands of Serbs from Croatia who mainly settled in the Vojvodina (northern part of Serbia, bordering at the East with Croatia). Soon HCIT became implementing partner of UNHCR, that only funded legal aid in Serbia. But the legal issues of the refugees were all back home in the places where they came from where they had to arrange their paperwork, get their pre-war rights restored. In Serbia they had nothing. In cooperation with Microjustice4All, that had its office in Croatia in Vukovar, bordering Serbia, and the generous support of the various funds of the Dutch Ministry of Foreign Affairs, HCIT was able to structurally help the refugees solving their problems in the governments' offices and courts back home in Croatia.

Most refugees were left with legal documentation from former Yugoslavia and the yet non-existent self-proclaimed Serb Republic Krajina, that had no validity. As they were from Croatia, they could not get Serbian papers in Serbia neither. Getting their civil documentation over the border in Croatia was necessary to begin to address the many legal challenges, but as they had no passports, they could not cross the new state-borders between Serbia and Croatia. Hence: Catch 22!

#### Multiple legal issues at stake and obstacles in their solution

These refugees were facing double obstacles in having their rights and entitlements in Croatia restored. They had to undertake legal and administrative procedures across the border in Croatia to access their property and acquired rights for the following reasons:

- Croatia is a "new country" for them, requiring new paperwork such as obtaining the citizenship.
- Refugees have lost their houses, land, movables, and many other acquired rights and entitlements due to their forced displacement
- In their absence, the collective property of the socialist times had been privatized, and sold for very low prices to the users of this property, and had been left out from this opportunity.

Hence these Serb refugees had so many legal issues and problems to sort out. On top of that in these procedures, they face a great number of obstacles in the legal system in Croatia, which is not only

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<sup>13</sup> Ratko is from a town south of Zagreb, was the legal advisor of Stipe Mesic when he was the last president of the complete Yugoslavia in 1991, and continued to work for the Croatian parliament until 1994 when he settled as a refugee in Novi Sad.

inefficient in general but is functioning in a discriminatory way towards the refugees from the Serb minority in Croatia<sup>14</sup>.

### Cross-border legal aid

In response to these needs, a network of lawyers, paralegals, and volunteers was established throughout Croatia, all former colleagues of the lawyers of HCIT in Serbia. The mechanism for solving cases was as follows: the network of lawyers and paralegals in Serbia obtained certified powers of attorney for the refugee. Then, the MJ4All office in Vukovar (at the border between Serbia and Croatia) collected the documents and sent them to paralegals and lawyers in Croatia for their resolution. The key legal needs of these refugees were:

- **Property and housing issues**, particularly reclaiming private property, resolving issues of pre-war occupancy and tenancy rights, compensation for property damaged as a result of terrorist acts, and access to reconstruction aid and loans;
- **Administrative or declaratory proceedings**, necessary to access basic rights (including inheritance proceedings or extra-judicial proceedings);
- **Contractual issues**, such as issues related to force majeure, abuse of circumstance, duress, annulment of contracts, debt payment litigation, and employment relations litigation;
- **War crime prosecution** - Charges are raised and non-transparent criminal proceedings are underway for war crimes and genocide, without legally relevant evidence and without distinction of the concrete acts attributed to a particular defendant. As a result, many innocent citizens have spent time in detention units or have been tried in absentia. A few hundred persons are actually imprisoned, charged with war crimes, but just the risk of arrest is enough for the majority of Serb males not to return to Croatia.

In the years just after the wars, restoration of rights related to property, tenancy rights and settling old debts was not easy. As said, there were many legal obstacles on the way. Intensive co-operation with lawyers and courts on both sides of the border was mandatory. One needs a lot of patience to find structural legal solutions for problems related to e.g. housing and ownership. A lot of 'pushing and pulling' needs to be done. This means a combination of test court cases, writing comprehensive reports, lobbying, organizing seminars and thematic meetings and everything else that is necessary to come to solutions for unresolved conflicts.

### Results example of the work done through a few legal rehabilitation programs for the refugees

Administrative documents obtained across the border in Croatia for refugees in Serbia Period 2001 to 2008	
Citizenship certificates (Domovnica)	7668
Birth certificates	10365
Death certificates	178
Marriage certificates	1267
Ownership certificates	873
Working booklets	848
School diplomas	483
Various attestations	6428
Other certificates	2607
<b>TOTAL</b>	<b>30.717</b>

<sup>14</sup> According to the census of 1991, members of the Serb minority constituted 12,2% of population of the Republic of Croatia. The census of 2001 set this percentage at 4.5%.

**2001- 2004 - court cases in Croatia**

Group of cases	Total Number prepared cases	Number of closed cases		No. of cases filed European Court for Human Rights
		Positive	Negative	
1. Damage compensation	32	20%		2
2. Occupancy / Tenancy rights	37	14,3%	14,2%	2
3. Property cases	87	61,5%		1
4. Criminal proceedings	18	26.6 %	6,7%	-
5. Debt payments	21			-
6. Inheritance procedures	62	48,5%		-
7. Extra judiciary procedures	16	77,8%		-
8. Employment litigations	10	100%		-
9. Contract annulments	19			-
<b>TOTAL</b>	<b>302*</b>	<b>40,6%</b>	<b>2,3%</b>	

**Lobbying successes**

Also, a lot of lobbying work has been undertaken to enhance the restoration of rights and legal empowerment of the refugees:

- 1) Law on double citizenship:  
HCIT (Ratko Bubulo) drafted a law on double citizenship applicable for the refugees from the countries of the former Yugoslavia in order to have citizenship both in the country where one has integrated as in the country where one is from. This was essential in for legal inclusion of the refugees to restore the rights in the place of origin and being able to integrate in their new country Serbia. Through a good contact with the Minister of Justice of Serbia in 2001, this law was successfully adapted by all countries of the former Yugoslavia.
- 2) Progress made on many legal areas in Croatia through constant reporting on the obstacles, also referred to as 'post-war ethnic cleansing through the abuse of the legal system in Croatia.

**Still unresolved**

**Occupancy/Tenancy Rights (OTR) on socially owned property** – in 2004, according to various sources, between 30.000 and 45.000 ex-occupancy/tenancy rights holders were registered as refugees or war-affected persons in Serbia. Since most former holders of tenancy rights have families, the number of persons affected by this problem is three to four times higher, bearing in mind that an average household has three to four members. Former OTR holders continued to have their rights as pre-war tenants denied as opposed to the situation in BiH where approx 99% of property including OTR have been restored. This issue has never been solved. Only the EU is now funding a social housing project in the former Yugoslavia, to which the social cases of people without any income nor property may have access.

**Compensation for Properties / Housing Damaged as a result of 'Terrorist Acts' –**

A large number of Real estate belonging to refugees has been destroyed and damaged by 'terrorist acts'. These properties are located in areas that were controlled by Croatian authorities, including the



former Krajina Region following operations Flash and Storm in 1995. Exact figures of properties destroyed and damaged by 'terrorist acts' are not available, however based on various estimates the number could be between 30.000 and 40.000. The Legislation (2003) does not provide for compensation for damaged properties and denies the right of owners of damaged property to claim compensation through court procedures or even to continue procedures started in the past. Instead of providing legal remedies for compensation, the 2003 law refers owners of property damaged by terrorist acts to seek a solution under the Law on Reconstruction, which applies in limited cases only. This issue has never been resolved ever since.

## **Annex 2**

# **Proposal for Legal Empowerment Program in Serbia**

Developing a standardized legal services  
infrastructure in basic legal needs

DRAFT July 2019  
[www.microjustice4all.org](http://www.microjustice4all.org)

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## Annex 2

### Proposal for legal empowerment program in Serbia; Developing a standardized legal services infrastructure in basic legal needs

#### 1) Context

##### 1.1. New free legal aid system starts in October 2019

Currently, there is no general free legal aid system in Serbia. The current ways of court representation and legal counseling for people without the financial means to engage an attorney are:

- People can represent themselves in court
- In a criminal law suite for more serious crimes, obligatory representation by an advokat (a registered attorney-at-law), in which case an advokat ex-officio is appointed to people without the financial means to pay a lawyer.
- Most municipalities have a legal aid office, providing legal advice and assistance with filling out simple administrative legal documents.
- Since the 1990s, there is a number of NGOs that has been funded by foreign donors to provide free legal aid to special target groups, with focus on the refugees and IDPs from other parts of the former Yugoslavia, Roma (mostly IDPs from Kosovo), refugees & asylum seekers from Syria, Afghanistan and Iran, and some legal aid related to human rights issues.

In the last 15 years a free legal aid act has been in preparation, and finally in November 2018 the current Free Legal Aid Act has been adopted. This Law (Zakon o besplatnoj pravnoj pomoći, objavljen u "Službenom glasniku RS", br. 87/2018 od 13.11.2018. godine) will enter into force on 1 October 2019. The Municipal legal aid offices and the Law Society of Serbia (Advokatske Komore) have a key-role in the implementation of the free legal aid according to this act, and there is no role specified for the NGOs.

In summary, key elements of the free legal aid system as laid down in this law are the following:

1. Eligible for free legal aid are people who have been identified by the social services of their municipality as a social case, which is estimated by the World Bank to concern 600.000 people in Serbia. In addition, some specified vulnerable groups as asylum seekers will have access to free legal aid.
2. The cases eligible for free legal aid do concern family law (specially connected to children), labor law, criminal law, claiming damage for car accidents. The law does not cover topics related to property law as such, and business-related legal issues.
3. In the municipalities there will be a legal aid office that is the entrance point. The lawyer of the municipal legal aid office will decide whether the person and his/her case is eligible, and if the legal advice given by him/her is not enough, an attorney will be appointed.
4. If it is decided to appoint an attorney (advokate), the lawyer at the municipality will contact a call center to match the client and his/her case to an attorney.
5. The Bar Association of Serbia is in charge of involving the attorneys and supervising them.
6. The free legal aid will be paid by the local governments which will bill 50% of the lawyers' bills to the central government.

Currently, the fees of the attorneys are still negotiated and the preparation of the implementation of all elements of the law is ongoing.

### 1.2. Legal Service Provision in Serbia by attorneys registered in the Law Society of Serbia

Legal services may only be provided by attorneys registered at the bar association of Serbia. Legal services concern legal advice, drafting of contracts, court representation and so on, but do not concern administrative law procedures and documents. The Bar Association has lists of fixed fees, which have to be respected with a margin: 50% under the fixed fee and up to a few times more.

### 1.3. Income indicators of people in Serbia

In Serbia, the average salary is around Euro 443,- with a minimum salary of Euro 240, pensions vary between Euro 120 to 800, and Euro 400 is a pension for a higher salary job. 25.7 % of the population (2016)<sup>15</sup> is at risk and below the poverty line. The poverty line for Serbia is drawn at 15600 dinars (130 euros) for a family with one member, 28080 (234 euros) for a couple with one child and 32760 dinars (273 euros) for a couple with two children.

Income inequality is important, and the huge majority has a low middle income. Within these parameters, at least 50% can be estimated to have an income of lower than Euro 350,- and has difficulties to make ends meet with high costs of living.

### 1.4. The challenge: providing quality legal aid services for an accessible fee for all

Most people in need of legal aid will not have access to free legal aid, and all people (including the poorest segments of society) will not have access to free legal aid for cases that are not eligible, such as property and business-related issues. This proposal to offer standardized legal services in their basic legal needs is made should cater in their needs.

The standardization of legal services in basic legal needs may also be developed within the new free legal aid system, for the cases that are eligible for free legal aid, to make the new free legal aid system affordable for local government and the state budget.

## 2) Proposal to provide quality legal services in basic legal needs

This proposal concerns making quality legal services accessible and affordable for those that cannot pay the current fees of quality lawyers. The group excluded from legal aid may be estimated to consist of around 50% of the Serbian population (which lives with less than Euro 350 a month). For all these people and their legal issues, not covered by the free legal aid act, this proposal is made.

Under basic legal needs we understand the needs that all people come across in their daily life related to their personal status and access to the rights and benefits of the system, their property (housing, land, inherited or acquired through buying), registration and running a business, family relations, working relations, including all types of paperwork and contracts. It can also concern standard claims on institutions as banks, insurance companies, pension funds that a big number of people have. And a basic legal need may be the execution of a court order, ruling or judgement. They are basic legal needs as long as they are similar for a big group of people, and they can be offered as a standardized legal service to a larger group, if the circumstances are not too individual and complex, but more or less the same for most people. Individual complex court procedures are not basic legal needs and cannot be standardized, but should be solved by an experienced attorney at law.

#### Objectives:

- to provide quality legal services for an accessible fee to the part of the population that has now no access to quality legal services.

<sup>15</sup> World Bank Open Data <https://data.worldbank.org/country/serbia>

- Opening up a new market for the legal profession, catering for the legal needs of all people in Serbia
- To have a system of affordable and reliable legal aid services in Serbia

### How?

- To develop standardized legal services through handbooks, templates, use of ICT
- To specialize in a number of legal services
- Legal services are distributed and provided by (inexpensive) young lawyers, who need to do their two-year practice under the guidance of an experienced attorney-at-law.
- Use of economies of scale to lower the price
- develop an App & website, with the needed practical information on basic legal procedures that people need regularly, and referral to specialized expert law firms that participate in the network of mikropravda
- The legal aid office of the municipalities and the call centre may refer to these law firms if people and/or their cases are not eligible for free legal aid.

### Who?

- Registered attorneys from various law firms in Serbia will provide, next to their normal individualized legal services, also standardized legal services in basic needs for a price that will be attainable for the poorer segments of the population.
- The participating law firms will hire a number of pripravnici (graduated lawyers who need their two years practice in a law firm to be able to register as an advokat) who will attend to the clients and provide the service under the supervision of a lawyer.

### Objective of the law firms:

- social function
- to open up a new market for legal services, of clients who will find their way for to the law firm after in other legal needs
- sustainable business activity; as the costs are kept low and economies of scale are achieved

### 2.1. Distribution

We will not engage in any marketing activity (as this is prohibited by the Law Society), but people will know about these services in several ways:

- The website and App (above) will refer to the expert lawyers of the mikropravda network who can provide specific legal services in these for an accessible price (not lower than 50% of the fixed tariff of the Bar Association)
- Through social and professional organizations working with the people in need, provide legal training to their clients and beneficiaries, such as centers for social work, municipal office, real estate companies, syndicates,
- Working in cooperation with the Bar Association, which may send an invitation to participate to all experienced lawyers with a minimum years of experience and some complementary quality guarantees
- Once the Bar Association would have invited all, the legal offices of the municipalities and the call center may also refer to these lawyers who provide legal services in basic needs for an accessible fee.

### 3) How to start and organize the project? The partners

Working name of the provision of standardized legal services with economies of scale and also of the network of law firms that will work with this method = Mikropravda (Mikrojustice)

Mikrojustice4All is international expert organization that will in the initial phase lead and guide the implementation by partners in Serbia.

The partners are:

- 1) Network of law firms and attorney that are implementing the Mikropravda method, providing standardized legal services under their supervision through their 'privravnicí'.
- 2) Law Society of Serbia: provide list of the law firms to be referred to for standardized legal services. Within the context of inviting the attorneys to participate in the free legal they can also sign up for Mikropravda (standardized legal services with economies of scale) if they meet some quality norms (minimum years of experience et cetera).
- 3) Legal aid office in the municipalities and call center: referral of cases

### 4) Pilot in year 1

Before scaling up, and to implement Mikropravda country-wide, MJ4All will organize a pilot for one year with a limited number of law firms.

Year 1: pilot with a first limited number of law firms that will develop standardized legal services in a few areas of law, and do applied market research into the specific needs of the people and what they are able to pay.

Annex 1 first ideas about areas of law and basic legal needs to develop standardized services in.

## Annex 1 first ideas about areas in which to develop standardized legal services

The first legal needs to be tested in market research with customers will be selected on the basis of the following reasons, facts and criteria:

- 1) Shorter cases where you can see the end
- 2) No individualized court procedures, but standard requests and procedures

Two types of legal areas:

3. Standard procedures and documents that everyone needs on a daily basis, related to property, business, family, labor:
4. Standardized procedures in conflict and/or court related:
  - c. complaints and/or claims to institutions, and instances, public or private on what they are due.
  - d. Execution of court decisions

First ideas (please complement)

### Property:

- 1) Transfer
- 2) Legalization of illegal houses
- 3) Restitution finalization of procedure and obtaining property title of previous social property

### Inheritance:

- 1) Will
- 2) Maintenance contract

### Business related issues:

- 1) Registration and incorporation of business
- 2) Contracts: sales, partnership, business to business, lease agreements, share transfer agreements
- 3) Customers often don't pay the bill for the services/products: standard claims
- 4) Execution of court decisions

### Execution (victims of the public execution) - paying for communal services:

is a big problem. Its effects everyone

Electricity, heating, water for small amounts of money + penalty interest 11% per year

Public executor blocks pension, takes all the belongings of the poor person

### Family law

- Divorce and divorce-related issues

### Cross-border legal needs of the ex-refugees from Croatia:

- All kind of documents and validations to get Croatian nationality and passport (for children of the refugees), to access pension and update of work books, to maintain and access property in Croatia, to access social rights in Serbia (to show that not the same entitlement is realized in Croatia) etcetera
- This could be done by done by specialized lawyers from Croatia in Novi Sad