



# Microjustice

## Legal Rights Protection Barometer SERBIA - Report 2023



Microjustice is a Dutch foundation that works for the legal empowerment and inclusion of marginalized people and victims of humanitarian disasters. To achieve this aim, the foundation enables these people to exercise their fundamental legal rights and facilitates their access to legal aid through its Legal Rights Protection Program. Since 2018, Microjustice has developed the Legal Rights Protection Barometer of Civil Justice, which aims to map the justice gap from the perspective of ordinary people in society, and to identify how to set up a Digital Legal Aid Platform. So far, Barometer research has been undertaken in Serbia, Bolivia, Kenya, Egypt, Jordan, and Ukraine.

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# I INTRODUCTION

## A. RESEARCH METHOD

The Microjustice Legal Rights Protection Barometer has been developed by Microjustice as a tool to scan, monitor, and enhance the access to justice component of United Nations Sustainable Development Goal (SDG) 16. So far, Barometer research has been conducted in Bolivia, Serbia, Kenya, Egypt, Jordan, and Ukraine.

This report concerns the Barometer research for Serbia: a quick overview of the legal rights protection situation through indicators on a country level. The research questions relate to the extent to which all people in Serbia – both Serbian citizens and foreign nationals residing in the country, including migrants and refugees – are legally protected and included in society through the analysis of **three indicator categories**:

1) the financial and educational capacities of the **general population and particular vulnerable groups**; 2) the **accessibility and efficiency of the way the Serbian state** has organized the **procedures** for legal rights protection in private and administrative law, and the effectiveness of the available enforcement mechanisms, and 3) the accessibility and **affordability of quality legal aid** in Serbia.

The research has been implemented through social interaction with various Serbian and international organizations. A large number of consultations and interviews were conducted with Serbian advocates, 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.

Microjustice conducted field research during various visits to Serbia from June 2018 to June 2019. On the basis of the research in Serbia, Bolivia and Kenya in this period, a standard set of questions was developed and shaped into a digital Legal Rights Protection Barometer research toolkit. In 2021/22 this database was used in Serbia for further research with the input of Serbian advocates with extended experience in civil, administrative, and business procedures and related issues. This Legal rights' barometer report is the result of the research over the past years.

# B.

## A DIFFERENT PERSPECTIVE

### A DIFFERENT PERSPECTIVE

There is a large number of excellent reports on Serbia: related to its assessment to the EU (annual EU Commission reports on Serbia (<https://neighbourhood-enlargement.ec.europa.eu/system/files/2021-10/Serbia-Report-2021.pdf>), on the shadow economy (Report in the late 2017 by the National Alliance for Local Economic Development NALED) and also by NALED the Grey Book (Siva Knjiga 12) 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 are issuing important reports on the situation of their target population.

In a departure from many of the reports on the state of the justice sector in Serbia, this Barometer research report analyses the justice system from the perspective of the people. Rather than describing the system from an institutional perspective, this report aims to show the challenges involved in obtaining legal rights protection from the people's point of view: how can people have their basic legal needs met? What problems do they face? All people need to be embedded in the system of the country in which they live to access the benefits of the system and to be able to protect their rights. The key question of this study is: to what extent are people in Serbia able to protect their rights? As a first step towards answering this question, this study aims to identify the precise and often technical problems people face on the procedural level.



# LEGAL CONTEXT

## LEGAL CONTEXT

Microjustice has been in the region since 1996. To describe the legal rights protection situation in Serbia in a structural manner is not so easy despite over 25 years experience in Serbia working on the legal rehabilitation of the refugees from Croatia. The picture of legal rights protection in Serbia is mixed as a result of its geographic location, historically on the border of the Habsburg and Ottoman Empire. 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. These very different cultures have an impact on today's legal practice in the North which different from the South of the country.

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 the privatization of socially owned housing and companies, and the gradual dissolution of Yugoslavia from 1991 with the wars in Croatia and Bosnia Hercegovina, followed by Kosovo, and the succession of Montenegro. On the latter people would say at the time 'crnije i gorije' (blackier and worse), playing with the name 'Crna Gora' (Montenegro, the black mountains). Many say that as a consequence of the wars of the 1990s and the Milošević 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 Milošević and his aftermath people in the street would always say: 'biće 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 Milošević, Zoran Đinđić, people started to say: 'nema više nade', 'there is no hope anymore'. Now people express a real saturation with the system. In their eyes 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 paying tax as they don't have the money and the system is not giving them anything in return anyway. 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, Vojvodina with its capital Novi Sad, that used to be part of Habsburg Austria, where people have the 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.

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.

There is a wide-spread feeling of legal insecurity within the population at large. You never know what will happen. 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 paying 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.

The problem is that people do not arrange their legal rights, which is the cause of the legal insecurity.

However, an important fact is that at on 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. In addition, the restrictions on the Legal Profession as enforced by the Bar Association prevent advocates (especially young members) to reach out for clients and prevent people from getting quality and affordable legal assistance.



# D. HIGHLIGHTS

## HIGHLIGHTS

### Positive trends

People are formally well protected, especially where it concerns the rights related to its socialist past. In recent years Serbia experienced some improvements in certain areas. Things that function and are helpful for regular people are:

#### 1. Civil registration:

In general, civil registration (obtaining a Birth Certificate, Marriage Certificate, Death Certificate, and various confirmations) works really well. There is an easy registration system for birth and deaths at the civil registry (*'Matičar'*) located in the municipal offices. Access to IDs is a simple procedure at the police stations (MUP). The state services and benefits have become more easily accessible through the digitalisation and E-Governance portals. Serbia has an online system called *"E - Uprava"* that helps people obtain a lot of documents easy and without going to various government institutions. Still, this system is experiencing certain problems such as the fact that not all people have internet access, not all people have digital literacy, especially old people (approximately 1.7 million) that have problem using the technology.

#### 2. Property register:

Property register of real property is being digitalized allowing citizens and all interested parties to easily access information about real property in Serbia. The Property register is deciding on applications in a timely manner, and they tend to become an agency that provides people with various types of services related to real property. One of the main problems is the backlog. Requests and cases from before 2018. are still being processed. There are still mistakes when the Property register took the previous system which was based on the land registers. Correcting these mistakes is a long and sometimes expensive process.

#### 3. Serbian Business Registers' Agency

Serbian Business Registers' Agency (the Agency) is accessible, affordable, and efficient. The Agency provides instructions, templates, and legal assistance for registering. It is one of the best examples of an efficient government body. However, it's still very formal. People's applications are being rejected for even the smallest mistakes or discrepancies, and even experience advocates are facing these problems.

<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/obraci.2042.html>, for property and housing (permits): <http://katastar.rs> and <http://restitucija.gov.rs/latinica/index.php> for the restitution of property returned from nationalization during the communist Yugoslavia.

#### 4. Public notaries:

Since the office of the public notary has been established, it managed to bring legal security to transactions related to real property. Procedures are simplified especially because they are connected with the Tax Administration which, on the one hand, makes paying taxes easier (public notary will share all necessary documents with the Tax Administration, freeing people from the burden of initiating another proceeding) and on the other, gives the government a better overview of taxes that need to be paid. The Public Notary is connected to the Property Register which has reduced double sales of real property to a minimum. The problem with public notaries is that they are still not affordable for many; they don't have a standardized practice and they still have not managed to get rid of the backlog in a lot of proceedings that have been transferred from the courts to them. The Courts had the function of today's public notaries in terms of certifying, but additionally since 2019, the Inheritance procedure has been transferred to the public notary. Old inheritance proceedings have remained in the Court jurisdiction and in approximately 2% of the new cases the Courts remain competent.

#### 5. Public executor

In 2011 the office of the public executor has been created in charge of the enforcement of court rulings. Transferring enforcement procedures from courts to the public executor has helped people acquire their rights, settle their debts, and has improved the enforceability of courts decisions. However, due to the shadow economy a lot of court decisions are still not enforceable as debtors have often hidden informal capital. Another problem with the public executors is that they tend to favor the creditors (who are their clients), even though they are a public body that needs to be neutral.

#### 6. Centralization:

A lot of institutions in Serbia are being centralized in the sense that they can now access records of multiple institutions, or at least some parts of them. Courts, Tax Administration, Property register, public notaries, public executors, Police can now acquire information from one another directly, which creates less burden for people participating in those proceedings (acquiring documents from different institutions, initiating different proceedings), making them more accessible and affordable.

# Remaining challenges

However, Serbia is facing a lot of problems when it comes to providing people with **accessible, affordable, and efficient** justice and legal assistance:

## 1. Slow justice:

The Justice system is slow and there are too many unresolved cases due to the lack of manpower. There are a lot of cases in the European Court of Human Rights. According to their data Serbia was in top five countries with the most filed cases in 2021.

Judges do not have areas of expertise (except for labour law, family law) which cause problems in their rulings and creates discrepancies in court decisions. Judges are being transferred from one court to another (for example from misdemeanor courts to litigations courts) which deepens this problem.

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 property 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 has recently been adopted 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 experienced mostly is the lack of execution of the courts' decisions. The public executors either don't dare to execute the judgement or one has to deal with more Mafiosi practices. At the same time, enforcement procedures against poor people are seen as a real problem, incurring high additional enforcement 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 advocate 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.

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<sup>2</sup> The only exceptions are a) in a divorce procedure the arrangements around the children as načelo 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.

People working in the legal sector say that being a successful advocate does not necessarily depend on being technically good, but specially on your connections and your know-how to move the system in the favor of your client. Young advocates in law firms will tell that they are not involved in the 'deals' with the justice sector representatives, but it is 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 enforcement 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.

## 2. Unaffordability of legal assistance & the role of the Bar Association

Advocates are not affordable for the majority of people. Even though there is free legal aid available limited to a) providing a compulsory defense advocate in criminal law, and b) "rights of the poor" for litigation, most people still do not have access to it.

A large part of the population in Serbia is just "making ends meet" and as a result of that fact, the average citizen has very little or no money left to pay an advocate, whose services are necessary for the majority of citizens in their daily needs (housing, labour law, family relations, inheritance law, etc.), all in order to protect and realize their guaranteed rights.

The Law on Free Legal Aid excludes the majority of people needing an advocate and most of their legal issues. Namely, free legal aid is available for (i) a limited group of poorest, (ii) in specifically described areas of law, as described in article 4 of the Law on Free Legal Aid.

The Legal Profession such as it is regulated and run by the **Bar Association of Serbia** limits not only drastically the legal profession's market but also prohibits the development of solutions that aim to put into place a system for quality legal aid, available for an affordable price for all. If just a few words were taken out of the Advocate's Law and regulations, legal aid might become available for the population at large by initiatives that cost a fraction of the new free legal aid system that is just available for very few people and cases.

### Identifying the justice gap

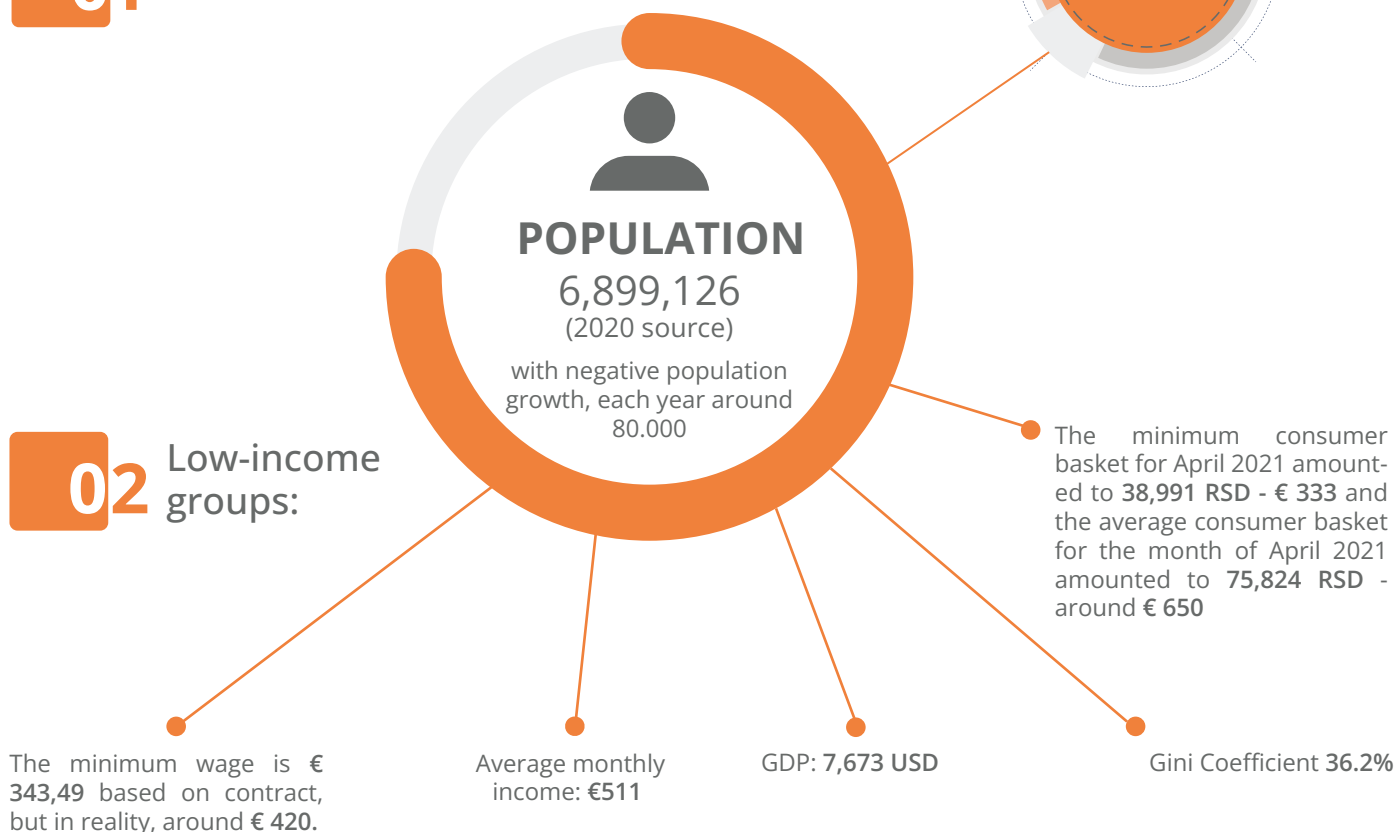
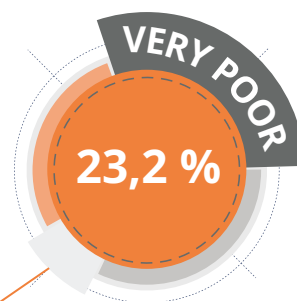
Microjustice has mapped the Justice gap in the Legal Rights Protection Barometer research. In this report solutions are presented for making quality legal services accessible and affordable for those that cannot pay the current advocates' fees. The group at risk to be legally unprotected and unable to afford legal assistance may be estimated to consist of around 50% of the Serbian population (which lives with less than Euro 350 a month in reality). This report will address those issues and will show the needs in the reality of these people.

# II THE CAPACITY OF THE POPULATION TO ACCESS AND PROTECT THEIR RIGHTS

## Poverty based on income and informality indicators

The big majority of the population is at risk of being legally unprotected due to a lack of resources based on the following indicators:

**01** Very poor under the poverty line **23,2 %** with monthly income under **19,381 RSD - € 165**



## Formality indicators

- Estimation by lawyers: 35 – 40 % of businesses are informal
- Percentage of tax & social security on salary at the expense of the employee 19.90%; at the expense of the employer 16.65%; Total 36.55%
- 35 % of labour has no employment contract which means that they do not enjoy no legal rights protection in their job

## 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, on top of it. The gross salary actually is 64% over the net salary (100%) thus 164% in 2019.

People are reluctant to pay such a high amount of taxes, feeling that the state is not providing quality public services. 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 creates an impression that the formal average salary is less than in practice. In these cases, the employer has to organize to have cash that is not accounted for in the bookkeeping. One of the ways to arrange this is by getting false invoices from a service provider (such as a advocates), 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.

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

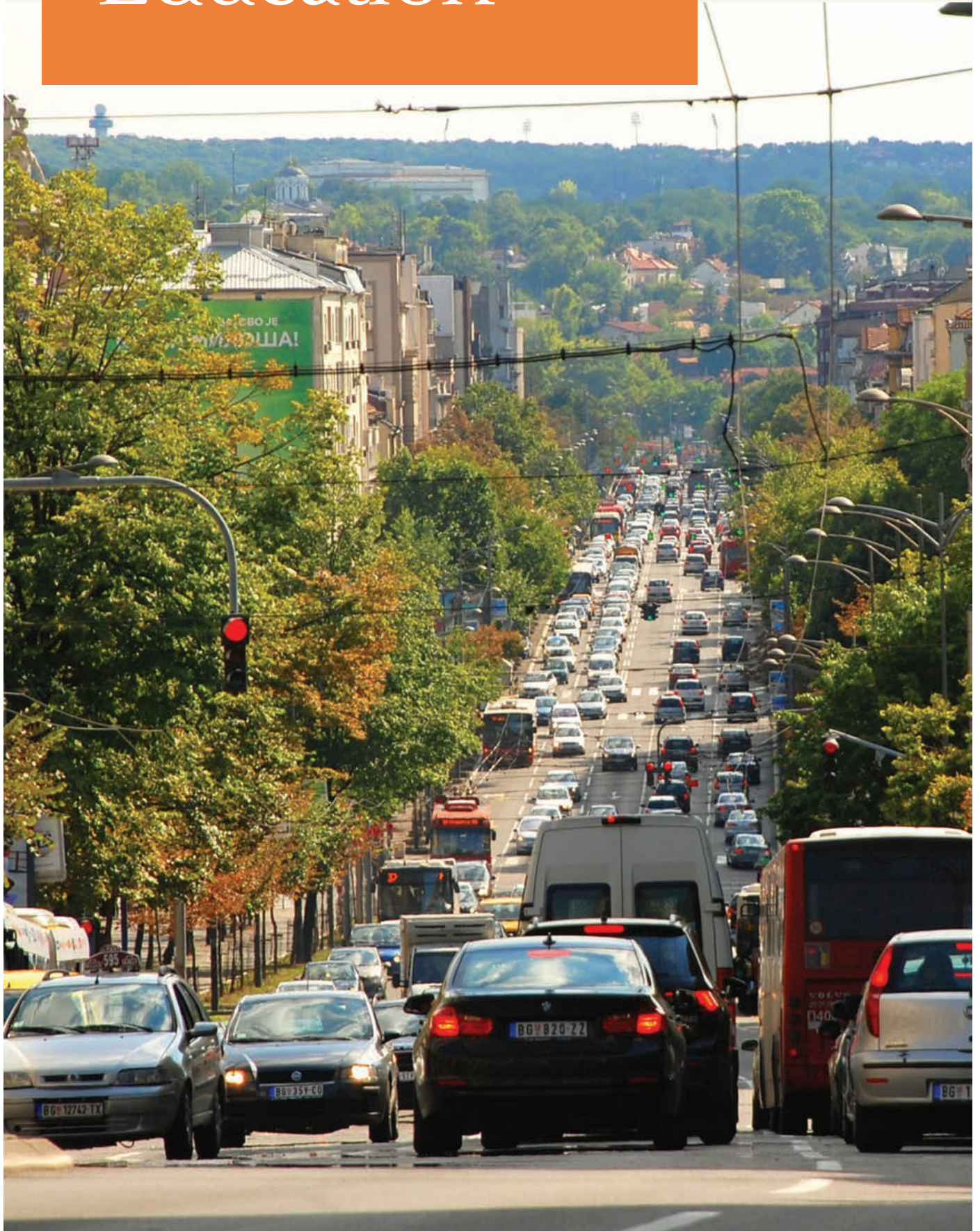
In general, the Serb population is poor to lower-middle income. The corruption in the public sector is in the eyes of the people huge, especially related public procurement. In such a small country of a population of 7 million where everyone knows everyone, only a smaller group has visibly much more 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.

# Education



## 1. General statistics

According to the last 2011 Census, the Population aged over 15 has attained the following levels of education :

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)

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.

## 2. Observation regarding capabilities/competence

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

## 3. Additional indicators to define further risks of being legally unprotected

Language: is not an issue for legal rights protection. People at large speak the official language Serbian. Internet: **80.1%** of households have an Internet connection in good quality.



# Groups at risk of being legally unprotected

## 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 an advocate, 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.

## 2. 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 for 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 centers 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. 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.

4. 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 anyone 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.

## 5. (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.

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:

- 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
- Birth certificate and proof of citizenship
- Annulment of residence
- Related to having the double Serb and Croatian citizenship: proof that any type of state service or benefit is not received twice: e.g., 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 is can also be related to receiving social help and health
- Croatian citizenship for the children

Related to property/housing:

- 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.
- 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.

- Illegal housing (in regions where property was never registered) need to be legalized now, which is very expensive
- When shortly the tax on immovables will be introduced

## 6. National Minorities

National minorities are always a group at risk of being legally unprotected. 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>5</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 rights protection 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:

- 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.

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<sup>5</sup> 'Brotherhood and Unity' was the Communist Party's idea of state, essentially the state's *raison d'être*. 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'être* 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.

- 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, Rumanians, Swaabs (Volksdeutcher), the Roma, Vlachs, Ruthinians, Askhasi, Egyptians and Bunjevski have their own rights, are organised through their organizations 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 Rights Protection Barometer research will as such do 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.

### **Analysis of groups which are at risk of being legally unprotected**

- 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 Property register to avoid the transfer taxes and costs of an advocate and public notary.
- From the chapter II and III hereafter on the state organization and the legal assistance possibilities, we will see that people need an advocate for all type of procedures and legal documents, but that a good advocate is too expensive for 40 to 50% of the population including the vulnerable groups.

### **Related to property/housing:**

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.

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.

# III

## THE STATE: Affordability & accessibility

# Corruption and grey economy

## Identity-related documentation

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 benefit 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.

# Public Notary and the Public Executor – innovation in the justice system

## Introduction of the public notary (javni beležnik) in 2014

Public notaries in the past existed only in the *Habsburg Vojvodina (North Serbia)*. Until 2014, all public notary functions were implemented by the advocates 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 advocates (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 advocates 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 public notaries are very busy and chaotic. There are now 174 public notaries, but they are not yet covering the entire country.

## Introduction of the Public executor (javni izvršitelj) 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 executor replaces the court executor that existed until 2011.

As the public 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 public executor 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.



# Simplification of administrative processes and digitalization

According to 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.'

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 državne uprave i lokalne samouprave*), 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 (katastar), 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.

## A.

## PROCEDURES AND INSTITUTIONS

## PROCEDURES AND INSTITUTIONS

## Identity-related documentation

## Birth certificates

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 birth declaration automatically
- Parents within month, of whoever who proofs that has legal interest to have the certificate.
- If you have no birth certificate, court procedure is needed: Procedure for determining place and time of birth

**Problematics:** This procedure is quite simple, except for rare cases (for example sometimes with Roma or migrants in transit). Usually, hospital sends birth declaration immediately and automatically. Parents, or whoever has proof that has legal interest to have the certificate can do it within a month. System is centralized and digitalized. IDPs from Kosovo have a problem using Birth Certificates issued by the Serbian government if they want to obtain their rights in Kosovo. They have to get Birth Certificates issued by the government of Kosovo that should be in three different languages (Albanian, Serbian, and English) but in most cases only Albanian part is being filled in. There are a lot of mistakes and discrepancies in documents and people need to go through a difficult process of correcting them. Language is another problem since everything is in Albanian.

**AT-RISK GROUPS:**

- Roma people
- Migrants: it is difficult to obtain a residence permit and without the residence permit, one cannot get a birth certificate
- IDPs from Kosovo

**LEGAL ASSISTANCE NEEDED:**

In case of correcting mistakes procedure, which may be long and difficult.

**SOURCES OF DISCRIMINATION:**

Nationality in the sense of ethnicity



# ID cards/citizenship

ID needed for:

- Employed
- Insurance
- Everything
- Obtained with the Police – Ministry of Internal Affairs (MUP), which have a joined database with the civil register
- Obligatory to get it when 16 years old

Requirements for citizenship certificate:

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 prove 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 prove that you are still a citizen (because of the disintegration of Yugoslavia; documents of ex-Yugoslavia: they were living in Serbia, and they were not citizens of Serbia). Matičar also asks for the Citizenship certificate.

Needed for:

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

**Problematics:** The system is digitalized but not all databases and documents exist. There is a fine for late modification/renewal and registration. The cost and the fine of late registration/renewal might be high (up to 200 EUR).

People who have place of residence in Kosovo have a problem with IDs, especially when changing place of residence from Kosovo to Serbia. People who live in Serbia can change their place of residence just by submitting an application and documents required, while people from Kosovo need to go through different checks that includes visit from police (similar process that people with foreign nationality go through when they're applying for temporary residency).

People with place of residence in Kosovo need visas in their passports for traveling in countries while people with a place of residence in Serbia do not.

## At-risk groups :

- Roma People
- Refugees of former Yugoslavia (Croatia, Bosnia and Herzegovina)
- People with a place of residence in Kosovo
- Immigrants and asylum seekers

## Sources of discrimination:

Nationality.

## LEGAL ASSISTANCE NEEDED:

People rarely need legal assistance except in case of missing documents or correction of the mistakes.

## RECOMMENDATIONS TO SOLVE LEGALITIES:

- ☑ Digitalize all the steps and documents;
- ☑ Allow people from Kosovo to change their residency faster;
- ☑ Reduce the costs.

# 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 prove to have legal interest, you can get the death certificate at the civil register

**Problematics:** Death certificates are obtained through a straightforward, uncomplicated procedure through E-Uprava (E-Administration) and in the Civil Register, that is based in the municipal office of each municipality, and can nowadays be obtained everywhere in the country, regardless of 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 are usually not a problem and can be easily corrected through an administrative procedure in the civil register.

The issue of the certificate is related to not conducting inheritance proceedings after the death of the testator, approximately after 10 years of death. In this regard, many documents contain errors due to the frequent migration of documents and people after the war and natural disasters that led to the loss of documentation and inaccurate data, which leads to corrections being made in the registry books, which is a long and inefficient process (proceedings involve public notaries, witnesses, etc.).

## At-risk groups :

- Roma, especially the IDPs from Kosovo, who never had civil documents. They have to go through a court procedure to obtain a birth certificate first.
- 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 and Herzegovina) 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.

**Legal assistance needed:** People rarely need legal assistance except in case of missing documents or correction of the mistakes.

## Indicator conclusions on civil documents

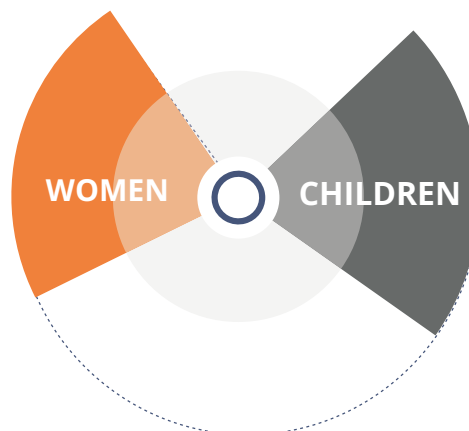
Birth, death, and citizenship certificates are obtained through a straightforward, uncomplicated procedure through E-Uprava (E-Administration) and in the Civil Register (matičar / matični uret), that is based in the registration offices (matica) of each municipality (Opština), and can nowadays be obtained everywhere in the country, notwithstanding your place of birth. Only the IDPs from Kosovo have to get a copy of their civil documents in the civil registration offices that have been 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 matičnim knjigama) is applicable. Also, the ID obtained with the police is an easy procedure.

# Family-related documentation

## Recognition of children

**Problematics:** Recognition is happening only in cases of extramarital cohabitation. It concerns only if the father refuses to register his child or in case of rape. The court procedure is long and complicated. Women need to give proof of the relationship; DNA proof is part of the procedure; The burden of proof is the responsibility of the plaintiff (usually mother or a child itself). Costs for the DNA test and the court proceeding costs are high in compared to the income of the low - middle class. These proceedings are mostly initiated by women in order to quire rights related to child support and inheritance.

### At-risk groups:



### SOURCES OF DISCRIMINATION:

Gender

### RECOMMENDATIONS TO SOLVE LEGALITIES:

Reduce the costs

### LEGAL ASSISTANCE NEEDED:

Hiring an advocate is a necessity, but it requires a high cost exercising this procedure due to the DNA test, court procedure, and cost of an advocate.

# Marriage

The municipality is in charge of the marriage:

- Requirement: birth certificate and citizenship certificate of spouses

Marriage is needed inter alia for:

- Matrimonial property (*Bračna 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 public notary, but this is not common at all ('no-one would do it and the bračna zajednica is really felt as a key-element of the marriage)
- Common Custody over and responsibility for the children
- Access to inheritance, pension

**Problematics:** Marriage is a contract concluded between people of opposite sex. Serbian law does not recognize same sex unions. Polygamy is forbidden by the Serbian law. Obtaining marriage certificate is straightforward. First marriage certificate is issued by a government official concluding the marriage. After that people can get it by going to their local municipality regardless of their place of marriage or through E-Uprava (E-Administration).

People have problems when they decide to take or add their partner's last name. In most cases this happens to woman. First of all, it is culturally mandatory for woman to take the husband's last name, so they are being pressured. Taking the husband's name involves changing your name in various government and private institutions, since the process is not centralized. This takes a lot of time and money. Women who decide to keep their last name have problem connected to acquiring rights for their children since the children usually get father's last name, and they have to "prove" that they are children's mothers so that they can file claims and acquire rights on their children's behalf.

## At-risk groups :

- Women
- People in same sex unions

## Sources of discrimination:

Gender, religion

## Legal assistance needed:

People do not need legal assistance

# Cohabitation

**Problematics:** Cohabitation of people of opposite gender is common and, in some aspect, recognised by the state. Serbian Family law recognises cohabitation and equates marriage with cohabitation in aspects of life regulated by Family Law. To acquire their rights, people need to prove that they are in cohabitation. They can give a statement in front of public notary or in front of a judge. However, not all laws recognise cohabitation. Serbian Inheritance Law does not recognize cohabitation as a basis for inheritance. If people who live together do not regulate their property and inheritance rights, after the death of one partner the other one's rights are jeopardized, regardless of the fact that the property was jointly acquired and they have to initiate a long court procedure to prove their rights, which is often not in their favor, especially if the deceased partner had children.

## At-risk groups :

- Extramarital partner in case of non-regulation of property relations during the duration of the union in case of death

## Legal assistance needed:

People need legal assistance only in case of inheritance proceeding

## Recommendations to solve legalities:

Adopt changes in inheritance law that will recognise cohabitation as a basis for inheritance

## Practical solution:

People can write wills or conclude pre-dead agreements to secure that their cohabitation partner will inherit them. People can conclude Agreements on the regulation of property relations in the cohabitation (In Serbia called "Marriage Contract"). It is preferable that they have joint residence in order to prove the cohabitation.



# Prenuptial Agreements

**Problematics:** Prenuptial Agreements (Marriage contracts) are recognized by Serbian Law and can be concluded before or during the marriage. However, people usually do not conclude these types of contracts because they either do not have enough information on them or they think it's bad luck to conclude them. Prenuptial Agreements need to be notarized in order for them to be valid which causes extra costs.

## At-risk groups :

- Uneducated people
- Poor people

## Legal assistance needed:

People need advocate in order to create a Prenuptial Agreement in accordance with the law;

## Recommendations to solve legalities:

- Educate people on Prenuptial Agreements
- Lower the cost of notarizing the Agreement accordance with the law;



# Divorce

Always in court, people can represent themselves, but if they have an advocate then each of the spouses need to be represented by a different advocate.

## Divorce in agreement:

**Problematics:** Divorce in agreement is an easy procedure that can be done in couple of months. Spouses need to conclude an agreement where they need to decide on things like custody (if they have children that are minors) and assets (if they acquired shared assets during marriage). Agreement is then approved by a judge. Without judge's approval the divorce cannot be finalized. There is also a fee (around € 25). Even when they want to divorce by agreement, the procedure regarding the division of property can prolong the procedure, which is a problem that leads to inefficiency and a dispute that turns into divorce without agreement, which prolongs the process and drags minor children into a traumatic experience through the Center for social work. All this leads to bearing advocates fees as well, that are in practice EUR 100 per each legal action taken.

**Legal assistance needed:** People can represent themselves, but it is advisable to have an advocate in order to prepare a Divorce Agreement in accordance with the law.

## Divorce without agreement:

**Problematics:** The lawsuit for divorce is filed in the court, in the place where the person who files the lawsuit resides or in the place where the spouses last had a joint residence. People need legal assistance because the Family Law is complex. The costs of divorce by lawsuit are higher than in cases of mutual divorce. Divorce by lawsuit is often complicated, painstaking, and long-lasting, especially if there is disagreement between the spouses. At the first hearing, the issue of custody of the child(ren) is resolved, as it is a priority, while the division of joint property is often conducted as a separate litigation, as it can take years.

The dispute over the amount of alimony or the division of property always prevails, which leads to manipulation of the law according to statistics on the part of women, lawsuits are filed for domestic violence, where temporary measures are automatically taken. This is another procedure and prolongs the divorce and often creates a more problematic personal relationship between spouses.

A major role is played by the Centre for Social Work (Centre). Regardless of the possibility of imposing preventive and corrective measures by the Centre, in general, there is no positive impact of their intervention.

A criminal and civil lawsuit may be filed for alimony due to non-payment of alimony. All these issues involve parallelly various civil and criminal proceedings.

## At-risk groups :

- Poor people, especially in rural areas
- Due to informality in business – women (who take sole custody and cannot obtain alimony rights from former husband)

## Sources of discrimination:

Gender (man are in more insecure position when it comes to alimony and child custody)

## Legal assistance needed:

People need legal assistance throughout the entire proceeding

## RECOMMENDATIONS TO SOLVE LEGALITIES:

*Increase the role and authority of the Center for Social Work in order for their decisions become enforceable; Workshops and Legal campaigns related to practice exchange and providing solutions to identify loopholes.*

# Custody

**Problematics:** During an amicable divorce, parents can agree on sole custody of one of them. Decision on sole custody can also be made by the court, after the divorce proceedings. Regardless of the fact that one parent solely exercises the parental rights, the child has the right to see the parent with whom he does not live, according to a pre-agreed or specific visiting scheme, determined by the court decision on the basis of the Center for Social Work's advice. In practice, obtaining sole custody is a long and complex procedure involving multiple government institutions such as courts, Centre for Social Work and sometimes police.

Decisions about custody are often made prematurely and automatically, and in 99% of cases, the mother will get custody. Children often stay with a parent who does not have custody and they want to live with them, which leads to the forced removal of the child by means of an enforcement procedure. This drags other authorities, such as Public Executor, social workers, court experts, creating a great trauma for the child. This is not helpful in finding a just and peaceful solution and involves many years of painful litigation.

## At-risk groups :

- Children
- Mostly man
- Due to informality in business – women (who take sole custody and cannot obtain alimony rights from former husband)

## Sources of discrimination:

Gender (man are in more insecure position when it comes to alimony and child custody)

## Legal assistance needed: :

People need legal assistance throughout the entire proceeding

## Practical solution:

Seek advice in Centre for social work before taking any legal action

## Recommendations to solve legalities:

- Increase the role and authority of the Centre for Social Work in order for their decisions become enforceable; Workshops and Legal campaigns related to practice exchange and providing solutions to identify loopholes
- Simplify the procedure

# Child Support

**Problematics:** There are 2 proceedings in which the court and Center for Social Work are involved:

1. Determined in agreement and approved by both institutions in one hearing
2. A cumbersome litigation procedure that takes 2 to 3 years involving all kind of investigations on financial capacity of the parents
3. The amount of alimony is determined in the range of 15-50% of the income of the giving parent, in order to guarantee that the child is provided with the same quality of life as the parent has who provides the child support. In a situation where the parents have passed away or are unable to provide support due to illness or poverty, that obligation passes to the grandparents or another relative in the direct line of kinship. The Court judgment usually regulates the amount and method of paying child support. Failure to provide child support is a criminal offense for which a legal penalty is prescribed. However, in practice these procedures are long and complex (one procedure to determine the amount and method of payment, another if a person is not paying child support, criminal procedure, enforcement procedure etc.). People also hide their assets in order to avoid paying child support.

## At-risk groups :

- Children
- Parent with full custody whose former spouse has no formal income
- Poor people

## Legal assistance needed:

People need legal assistance throughout the entire proceeding(s)

## Practical solution:

- Use witnesses to prove financial status
- Keep financial and relevant records on the family practices

### LEGAL ASSISTANCE NEEDED:

People need legal assistance throughout the entire proceeding(s)

### RECOMMENDATIONS TO SOLVE LEGALITIES:

- Increase the role and authority of the Centre for Social work in order for their decisions become enforceable; Workshops and Legal campaigns related to practice exchange and providing solutions to identify loopholes
- Simplify the procedure

# Inheritance

## Will and 'Maintenance Contract'



In general people do not use wills 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 formalization, at the public notary and deposited in court.

The **maintenance contract** (*ugovor o 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 away
- It concerns a contract that is legalized by a public 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.

**Problematics:** According to the law, a will can be verbal or written. It is necessary to draw up a will if we want to avoid the legal regime of inheritance, either by distributing the shares differently to our legal heirs, or by distributing the property to persons who are not legal heirs.

People generally do not use wills and mostly inheritance is conducted by the rules defined by the inheritance law. People prefer to do 'Maintenance contract during life', instead of drafting of a will, because it gives them more security for it to be executed. They fear a dispute between multiple heirs, who may want to annul the will.

The maintenance contract has as formal objective to guarantee that there is someone taking care of elderly people who do not have heirs, or the potential heirs do not live near enough to take care of them. But in reality, most often it is used instead of a will as the maintenance contract offers the highest level of security to be executed.

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 property. 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.

Another alternative to the will is the 'pre-dead' agreement, in which the 'testator' distributes part or all of his belongings during lifetime to his/her lawful heirs, who should sign the agreement to provide their consent. Even without their consent the agreement, made at the public notary's is valid. A stipulation for usufructus can always be included in the same agreement to secure the testator.

In reality all inheritance arrangements are moreover used by wealthier people, not only because they have more to divide but there are costs involved for the advocate, the public notary, taxes, calculated based on the market price the goods.

It is not used connected to legal uncertainty due to the right to the obligatory part of the heirs and the frequent overturning of the will, which leads to a dispute in which the value of the property is reduced.

**At-risk groups :**

Elderly people

**Practical solution:**

Concluding Maintenance agreement. When older people are involved, an expert should provide an opinion on business capacity of the person concluding this contract. Consult first a lawful heir before entering into Maintenance agreement.

**Sources of discrimination:**

Gender

**Legal assistance needed:**

People need legal assistance for the formality of the will and taking insurance on the foundation of the will and is it going to be executed as per stated.

# Inheritance procedure

The inheritance procedure is simple and automatic. It is always needed, even if there is a will, either through the court or the public 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 an advocate. The Civil Register sends the death certificate to the relevant instances automatically. The procedure is as follows:

- the registrar who has registered the death in the civil register (matičar) (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 public notary to compile a death certificate. The public 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 (e.g., 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 public 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, 2nd parents, 3rd siblings.

**Problematics:** Inheritance law in Serbia makes no distinction between male and female heirs. All children are equal (including those born in cohabitation). In reality, a lot of female heirs (mothers, sisters) will give up their inheritance in favor of male heirs. The Inheritance law does not recognise cohabitation as a reason for inheritance. People use pre-dead agreements and other type of agreements to exclude heirs (mostly female heirs). The tradition is still preserved in rural areas, which creates inequality and complicates the procedure when one of the heirs initiates a dispute to get a larger inheritance, which leads to longlisting procedures which decrease the value of the real property while engaging a lot of costs.

Conducting an inheritance procedure is a big problem for people from Kosovo. It is difficult to get all needed legal documents related to the inheritance procedure, because families are separated, and the documents all need to be in Albanian. It is extremely difficult to prove ownership over land, especially if it is occupied. Kosovo's government does not recognize documents issued by the Serbian government after 1999 with as consequence that people have a hard time obtaining all necessary documents.

### At-risk groups :

- Women (especially in rural areas where the “machismo” is still presented in the practice)
- IDPs from Kosovo

### Practical solution:

Drafting a will and pre-dead arrangements makes the inheritance procedure easier.

### Sources of discrimination:

Gender and ethnicity

### Legal assistance needed:

The procedure is done by public notaries, and it is recommendable to have an advocate.

### Recommendations to solve legalities:

- Adopt changes in inheritance law that will recognize cohabitation as a basis for inheritance
- Educate women on their inheritance rights

# Property related documentation



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

The Property Register 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 (*Katastar*), 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 advocate when purchasing real estate to make sure that one buys the property from the legal owner in the property register (*Katastar*) 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 an advocate, public notary
- Not to pay transfer taxes; if one inherits a flat of Euro 200.000,00: 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 Property register. 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 legalization 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

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 1990. 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 naroda), 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 2nd World War.

# First registration of property

**Problematics:** People need to register their real property at the Property register (*katastar*), competent for the region in which it is located. Although registration in the Property register is mandatory for the purpose of acquiring property, there are a large number of owners who have remained in the off-book ownership regime. The procedure is very formal and requires a great number of correct documents. There is a big number of people who have not registered their property (they do not have all the licenses, they were building on state property, they don't have money for fees, and often lack (legal) literacy etc.). Foreigners cannot obtain agricultural land, and construction land and real property can only be obtained under condition that the country of origin of the foreigner allows Serbs to acquire real property in their country of origin - reciprocity.

The main problem when it comes to the Property register are the cases that started the registration procedure before 2018, because as of 2019 a more efficient digitalized Property register registration is in place, allowing people to easily obtain information and file objections. The old cases are still pending within the old system and the needed documentation for finalizing the process of first registration is missing. Another problem is the first registration due to the conversion of a type of rent for 99 years into property rights, which prolongs the registration. Since this type of rent is an old feature in Serbia, most documents needed to complete the case are missing.

## At-risk groups :

- Poor people
- People without Serbian nationality
- Population in rural area, who mostly have not their real property registered
- refugees who built illegally and lack documentation

## Recommendations to solve legalities:

- Simplify procedure for registering property;
- Reduce cost;

## Sources of discrimination:

Bureaucracy of the system

## Legal assistance needed:

Because the procedure is formal and digitized, and many people do not implement it.

## Practical solution:

In case of lack of documentation start finding it through court and public notary Archives this is something that people do not have knowledge of.

# Legalization of Construction

**Problematics:** Legalization of Construction is a procedure of legalization of buildings that were built without a building permit / deviated from the building permit, do not have a use permit and other legally regulated conditions. Currently, there are 2 million illegally constructed buildings, of which almost 50% residential buildings that are listed in the Database of Illegally Constructed Buildings prepared by the Ministry of Construction, Transport and Infrastructure and the Republic Geodetic Authority. Corruption is at the highest level here; cases are almost never resolved without paying certain officials in charge of the case. This is a real problem in this field. A lot of documents were transferred from one institution to another causing documents to be lost. People don't know which institution is in charge and they can't easily check the status of their case. People have built on land they did not have ownership rights on, which causes disputes between owners. This is especially affecting the Serbs from Croatia and Bosnia who settled in Serbia and have built their houses illegally. Due to all of this, people face even bigger problems, such as not being able to connect to the electricity network.

## At-risk groups :

- Poor people
- People without Serbian nationality
- Refugees from Croatia, Bosnia, especially in the north of Serbia - Vojvodina

## Sources of discrimination:

Bureaucracy of the system/  
unofficial tariffs

## Legal assistance needed:

Yes, procedure is complex and long

## Recommendations to solve legalities:

- Simplify procedure for registering property;
- Reduce cost;

# Transfer of property

**Problematics:** it is necessary to check the ownership of the real property in question, in such a way that the transferor has a legally valid basis and that it is registered as the owner of the real property in the Property Register. There are still real property transactions in the off-book ownership regime which cause problems in real life (people cannot get a mortgage on these for example). Transfer itself is expensive and long. People need to pay public notary fees, Real Property Register's Service fees as well as transfer taxes. Problems occur because documentation is often missing. Before the office of the public notary has been established in 2014, there were cases of double sale. The legal security has been increased but an additional costly step has been created, the one of the pre-sale agreements that need to be notarized.

IPD's from Kosovo have problems because the documentation has been lost, Kosovo has a new Property Register which is in Albanian and with a different identification system so people can't find their land in the new system. They have to go through a long process of translating documents, acquiring witnesses, and initiating long and complex proceedings to prove their ownership rights.

## At-risk groups :

- Poor people
- People without Serbian nationality
- IDPs from Kosovo

## Legal assistance needed:

It is advised to have an advocate.

## Recommendations to solve legalities:

- Simplify procedure
- Reduce cost

# Rent agreements

**Problematics:** A real property rent agreement obliges the landlord to hand over real property to the tenant for use. The tenant undertakes to pay him a certain rent in return for the property. The law does not require any formality when it comes to the conclusion of a rent agreement. It can therefore be concluded in written form (which is more common) or verbally. The most important thing is that the parties agree on the fundamental elements of the agreement. Landlord avoid concluding rent agreements in written because they are avoiding taxes but having a rent agreement in written is the only way for a landlord and tenant to legally protect themselves. Recent developments in Europe caused migration of people to Serbia which caused landlords to increase the rent prices and by doing so terminate the tenant. Most people cannot afford living in certain parts of the Serbian capital anymore.

## At-risk groups :

- People without any literacy and the ones who do not have any insurance (especially the ones renting to foreigners);

## Legal assistance needed:

yes, especially when rent is done through an intermediary.

## Practical solution:

Concluding long-term rent agreements with contractual penalties.

## Recommendations to solve legalities:

- Empower and raise awareness on notarization of the rent agreements;

# Social - Economy activity

## Business registrations

All businesses are covered by Companies Act.

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 by Companies Act:

**a. Entrepreneur – *preduzetnik – paušalac***

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 Društvo (=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

### Process of registration at APR

1. Name search
2. Articles of association and Partnership or Company Agreement, with notarized 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 advocate (*punomoć*) to advocate
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

Limited companies and stock Company are obliged to draft all kind of regulations, some with certificate from special agencies:  
 concerning employees working conditions and safety:  
*Pravilnik o radu* for – Rules of Procedures  
*Pravilnik od sistematizaciji radnih mesta* (not for small) – Regulations organisational structure  
 Health conditions  
 Fire-prevention regulation  
*Bezbednost i zdravlje na radu* Regulations on security and health

Need for an advocate:

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

# Tax obligations

Hiring a bookkeeping Agency is obligatory for all businesses: runs the book-keeping 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.

Indirect taxes 20% (also on rent out housing and offices)

Income tax: 15%

Tax laws change a lot and information is lacking.

## Recommendations:

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. Advocates do not advise on tax strategies, and there is no information available.

## Social security obligations

The biggest loophole in practice preventing entrepreneurs from enjoying social security rights is related to the monthly tax payment, in which health insurance is paid but not automatically registered. The entrepreneurs have to do twice a year a procedure within the pension fund to regulate the enjoyment of health insurance in reality, parallely communicating with the tax authority. During this procedure, often a small tax payment appears to be missing.

## 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 branch, with a procedure with the organisations/institutions in charge of the regulation of the type of activity.

## 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 shame lessly don't pay what they are due. Need for execution procedures.



# Constitution of company

**Problematics:** The documentation required for the establishment depends on the legal form of the company. The registration of the company begins with the registration with the Serbian Business Registers Agency. All procedures have been digitalized. The procedures are simple and quick, other state institutions such as the tax administration are connected and cooperate well. It takes 2-5 days to register an entrepreneurial activity. Entrepreneur registration can be done completely online, even a lower fee is paid if the registration is done online as a form of incentive. Tax returns and tax debt review can be done entirely online also. People don't have major legal issues with these procedures. And for registering entrepreneurship people often don't need even legal assistance, because they have all the information available on the state institutions' websites. The biggest problem is the formality of the system which causes applications to be rejected in large numbers. Even professional advisors do not have the knowledge to deal with this formalism. But the agency provides free advice to tackle the procedure.

## **AT-RISK GROUPS:**

rural population which is mostly digitally illiterate but run business that need formalization

## **LEGAL ASSISTANCE NEEDED:**

Yes, due to formalism.

## **PRACTICAL SOLUTION:**

there is a room for free legal advice, provided by the Agency – sometimes mandatory to start procedure.

## **Recommendations to solve legalities:**

Longer deadlines for formal harmonization of documentation, especially in cases where founder is a foreign entity

# Civil associations

**Problematics:** The relationship between the government and the non-governmental sector, which has the task of controlling and helping the democratic progress of society, has been variable over the years and not without problems. The European Commission's latest report on Serbia focuses on inter-party dialogue, which is claimed to have continued. Regarding civil society the report states that the newly established Ministry for Human and Minority Rights and Social Dialogue initiated a series of public debates, but that additional efforts are still needed to ensure systematic cooperation between the government and civil society. Documentation for establishing civil associations is complex and civil associations deal with a lot of bureaucracy.

## Recommendations to solve legalities:

- Simplify procedures;
- Control system;
- Unification of platforms for all NGOs in that area;
- Transparency of work.

## LEGAL ASSISTANCE NEEDED:

People generally need legal assistance due to the complexity of establishing procedure.

# Closing down legal entities

**Problematics:** There are two ways to close a company – liquidation or bankruptcy. Liquidation is a simpler procedure because it does not involve courts, but it is still complex, and it takes a lot of time (approximately 3-5 months). Bankruptcy is a procedure that involves creditors, courts, bankruptcy officers, public executors, and a lot of other personnel. The entire procedure can take years which causes a lot of costs for the government and for people participating in the bankruptcy procedure. The biggest construction companies of the former Yugoslavia have been in bankruptcy proceedings for over 20 years, the costs are piling up and cannot be recovered. The most common debts are to public institutions due to the avoidance of debt collection.

## AT-RISK GROUPS:

employees who have not been paid in full for the purpose of exercising the right to a pension;

## LEGAL ASSISTANCE NEEDED:

People generally need legal assistance due to the complexity of procedure.

## Recommendations to solve legalities:

- Simplify procedure;
- Reduce cost;
- A better system for notifying workers about bankruptcy;

## PRACTICAL SOLUTION:

for employees: check the status of the company on the online Business registry website (especially in the case of potential bankruptcy);

# Labour



An Indefinite contract is obligatory after a total 24-month temporary contract  
 Trial period for any labour contract may be up to 6 months

Most companies pay their employees a minimum salary on which tax and social security are paid. The rest of the salary is paid in cash in order not to pay tax over the rest. Nothing is signed. Unaccounted cash is created in various ways. It can be that cash is taken from the bank by the company to take out the profit, on which 10% Income tax is paid. It can also be done through an invoice by a service provider for payment of services that were not actually provided. The service provider pays this person the money then and charges a handling fee. The reason why the service provider can do this is that a paušalac (small entrepreneur) do often pay a fixed lump sum tax/social security per year with a maximum income allowed until 6 million dinar (€ 50.000) per calendar year that the service provider often does not reach.

Wage taxes, Pension, health, and other social contributions are mentioned on top of the net salary: 58.14% (around 35% 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 courts tend to decide in favor of the employees. But due to the lack of summary court proceedings, the high advocates' costs, the hassle, employees do not tend to contest an undue dismissal or to claim unpaid overtime or to make any other labour related claim. On the other hand, most claims related to labour issues do not face court fees, and the advocates normally charge upon the court decision, only when the employee wins the case, and the employer is condemned to pay all the costs including the advocates' costs.

In reality employees are really afraid and normally file only claims in case of bankruptcy. 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 cancelation 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 during the procedure and legal costs compensated) the long court proceedings are deterring employees from starting a court case (duration 4 to 5 years in Belgrade and 2 to 3 years in rural areas).

# Indefinite/Temporary Employment Contract

**Problematics:** The Employment Contract must be in writing, so a verbal Contract will not produce legal effects. If the labour inspection finds a worker who does not have an Employment Contract and who is not registered with the central records of workers and insured persons, the employer will be punished, and the worker will be treated as if he has an Employment Contract for an indefinite period. Temporary Employment Contracts are an exception according to the Serbian Labour Law, but employers are using them a lot. The Labour Law provides many forms of out-of-employment work, such as temporary and occasional work, volunteer work, additional work, which employers often use to avoid paying taxes and contributions for their workers and reduce costs. In this way workers are not protected, they have no rights like the rights to sick leave, overtime, paid holidays, days off, rest, counting working years that are necessary as a condition for retirement.

Under Serbian law, a fixed-term employment relationship can be established for a maximum of 2 years. However, many employers abuse this type of contract by moving employees to another job or organizational unit, by doing so, this period of 2 years starts again. By abusing this possibility, they keep employees in fix termed labour contract for years. It is a common practice among employers in Serbia. This affects employee's credit score and leaves them without a lot of possibilities to move in social ladder. A lot of people do not have Employment Contracts due to shadow economy and if they do, they're not familiarized with their rights. Employers conclude Contracts with minimum wages and then pay rest of the employees' salaries in cash thus avoiding paying taxes and contributions which has bad consequences on Pension Fund. Employers are also abusing the law by transferring employees, which causes problems when it comes salaries and other labour law benefits for employees. In the Yugoslav past, there was a state agency (SDK) that was in charge of overseeing the implementation of salaries and taxes by the employers. Now that this agency has been abolished for over 20 years there is no control.

contracts by the cancelation 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 during the procedure and legal costs compensated) the long court proceedings are deterring employees from starting a court case (duration 4 to 5 years in Belgrade and 2 to 3 years in rural areas).

## AT-RISK GROUPS:

- The majority of the population in the shadow economy;
- People who work in factories;
- People who work in Hospitality and tourism;
- People who work in Grocery stores;
- People who work in Sales;

## SOURCE OF DISCRIMINATION:

Gender (receive lower wages);

## LEGAL ASSISTANCE NEEDED:

In case of employment disputes; in all cycle of employment from contracts to disputes.

## PRACTICAL SOLUTION:

Employees need to go to the Pension, and Disability Insurance Fund and check is their contributions have been paid by the Employer.

# Contracts in general

- Contracts are valid without any formal requirements.
- Only certification by the public notary is mandatory for transfer of real property and vehicles.
- If in a contract there is a clause included that regulates the enforceability of the obligations in the contract, and this contract is notarized, then one can directly conduct an enforcement procedure, implemented by the public executor, avoiding long lasting court procedures. This can be done in all kinds of contracts when financial obligations are involved.
- People do use contracts a lot because of legal insecurity is present in all areas, especially a need for contracts in:
  - Rent
  - Business and company related
  - Property transactions
  - Services
  - Debt settlements

**Problematics:** Contract law in Serbia is based on the principle of autonomy of will, so that the parties can make a contract that will be valid. The form of the contract is not prescribed, and the written contract is prescribed only for some of the most important transactions, such as - real property sale agreement, bank loan agreement, etc., as well as agreements between legal entities, other agreements can be verbal and still valid. Real property transfer contracts need to be in writing and notarized (solemnized). People need legal help when drafting such a contract because they cannot do it alone. The public notary examines the entire contract and its content and gives consent only if all legal requirements for the transfer of rights between the contracting parties are met. This verification with a public notary provides an additional form of security in the sale of real property and ensures that the obligations prescribed by law have been complied with. Rent contracts are very rarely used in Serbia, only legal entities must have a written contract when renting real property, others, especially natural persons, do not conclude a contract or report to rent out real property in order to avoid paying taxes.

Problems occur because contracts are not standardized, people are doing their own contracts which leads to mistakes, and sometimes contracts are not enforceable due to insol-

## AT-RISK GROUPS:

- Poor people;
- Rural population (distance from the public notary, lack of information, misconceptions of the contracting parties);

## LEGAL ASSISTANCE NEEDED:

Yes, people do not know how to

## PRACTICAL SOLUTION:

Assessment of contractual ability for older people;

## RECOMMENDATIONS TO SOLVE LEGALITIES:

- Create a database of contract templates;
- Reduce the cost of notarized contracts;
- Reduce the cost of advocate fees for drafting contracts;

# B.

# EFFECTIVE WAYS TO ENFORCE ONE'S LEGAL RIGHTS



## 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 advocate is not required; one can represent oneself in court, or be represented by a family member
- Duration: minimum two to three years, 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': very slow
- Outcome: Ok, but the execution of court decisions is the problem

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

- The possibility of a summary proceeding with for example the President of the court in case rapid action is required, is non-existent. There is a 'shortened procedure',
- which in practice may last as long as the ordinary procedure. Attachment/Seizing real property or the bank accounts can be done as a temporary measure but does seem to require a lot of material proof and showing proportionality of the measure. This is time-taking, thus lacks necessary speediness.

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.

At a **positive note** what is really helpful for the enforcement of agreements in Serbia is that they can be easily enforced if the contract has a such an enforceability clause included and is notarized.

## Courts



**Problematics:** There are courts of general and special jurisdiction:

- Courts of general jurisdiction are basic courts, higher courts, appeals courts, and the Supreme Court of Cassation.
- Courts of special jurisdiction are the commercial courts, the Commercial Court of Appeal, the misdemeanor courts, the Misdemeanor Court of Appeal, and the Administrative Court.

### Self-representation

Everyone can represent themselves in the procedure, except in cases of extraordinary legal remedies when representation is obligatory, as well as in criminal proceedings for certain criminal offenses, when defense by an advocate is obligatory by law. In practice it is rare for someone to represent themselves in court.

## Duration

Court proceedings, especially litigations are long (they can last for several years) and are therefore expensive. Disputes last so long that courts can sometimes lose documentation.

## Corruption

Corruption is present throughout the entire court system and its one of the reasons people do not trust courts and court's decisions.

## Enforcement procedure

As mentioned, 'public executors' were introduced in 2011, and although the costs of the entire debt collection process increased significantly, they influenced the financial discipline. Citizens now settle their obligations much more regularly and are much more cautious because of fear of the large fees and charges that would accompany the debt collection process, so obligations are settled more regularly compared to the period before 2010 when the collection of debt was in court jurisdiction and when it did not work well. Since this procedure was transferred from the courts to public executors, the procedures have been greatly accelerated and, and average duration per case is now much shorter - couple of months. The costs of the work of public executors and advocates are high, so citizens will no longer risk getting into a situation where they will be charged large enforcement costs due to the small debt. Considering that the collection of debt is an important aspect for every citizen, and that the process before the court and the public executors in Serbia is quite complicated and formalized, and that the court or the public executors can reject the request or suspend the procedure due to the smallest procedural shortcomings it is important to pay additional attention to this area.

In the past couple of years due to public executors the efficiency of enforcement of courts decisions increased, however they are still not completely enforceable due to expensive procedures and insolvency of debtors. Except in family law there are no efficient temporary measures. Although the law stipulates that they should be decided by an urgent procedure, the judges do not decide on them, which leads to the loss of their meaning.

Most proceedings are very expensive, and people therefore cannot actively participate in judicial system.

Judges don't have areas of expertise (except for labour law, family law) which cause problems in their rulings and creates discrepancies in court decisions. Judges are being transferred from one court to another (for example from misdemeanor courts to litigations courts) which deepens this problem.

### At-risk groups :

- A large part of the population in Serbia (about 50%) is just "making ends meet" and as a result of that fact, the average

### Practical solution: Writing:

- Emergency requests
- Complaints about the duration of the dispute to the president of the court
- Request for the exemption of judges

### Recommendations to solve legalities:

- Reduce the length of court procedures
- Reduce the cost of court procedures
- Reduce the cost of advocate fees
- Control file systema cohabitation.

### Legal assistance needed:

Yes, people need legal assistance;



# Possibilities for alternative dispute resolutions (ADR)

Mediation and arbitration are the alternative ways of resolving disputes in Serbia. All disputes, besides criminal cases may be settled this way. The process of mediation and arbitration is quite cheap and much faster than court proceedings, less fees are paid, parties do not have to have an advocate, the process ends faster. Arbitral decisions are controlled by filing a lawsuit in court to annul the arbitral award. The list of authorized mediators is maintained by the Ministry of Justice. For some types of disputes, this is a very efficient and fast way of resolving and reaching an agreement.

This institute is easily accessible to citizens, it can be initiated by a court (in divorce cases) or another body or can be initiated by the parties themselves voluntarily. This type of dispute resolution is resorted to in cases concerning property rights, family relationships (inheritance, divorce, or co-ownership), and trade or financial issues, such as debt restructuring.

In arbitration the decisions are final and enforceable. Mediation is a step in the procedure through which, depending on the precise procedure, a notarized settlement can be reached, and is thus enforceable. Some procedures still need a court decision to become enforceable, such as a divorce settlement.

## **Problematics:**

In order for all these things to be enforceable people usually need to have some kind of courts approval which causes stagnation in the process.

In reality, people in Serbia very rarely use this institution and very few disputes are resolved in this way.

According to the report of the Supreme Court of Cassation, in 2019, the courts in Serbia had **460,970 litigation cases** in operation, while according to the statistics of the Ministry of Justice, **569 mediations** were conducted in the same year. This statistic shows that this system, although legally available to citizens and far cheaper and faster than court dispute resolution, it is rarely used.

# IV

## AFFORDABILITY, ACCESSIBILITY AND QUALITY OF LEGAL ASSISTANCE



# Commercial legal assistance Advocates

The market for legal aid is restricted by the Bar Association of Serbia in many ways. **The severe restriction of free competition results in fees that are not affordable for the largest part of the population while quality is often lacking.**

Legal services may only be provided by **advocates registered at the Bar Association**. This is the Bar Association of the region where the advocate is practicing, that is controlled by the Bar Association of Serbia. Under **legal services that are the exclusive competence** of registered advocates fall not only court representation, but also any legal advice and drafting of contracts. The Bar Association has lists of official tariffs for all types of legal services, including for actions that vary enormously in terms of complexity and time spent as the drafting of a contract. These fees need to be respected with a margin. 50% under the fixed tariff is allowed. Registered advocates are limited in the way that they can work in many ways. They are not allowed to do any form of publicity or paid outreach, and they cannot be involved in politics or be the legal representative of a legal entity.

**Organization of advocates:** Advocates are organized according to the principle of independence of the profession and independence in their work. Only the Bar Association can control the work of advocates and they can be accountable to Bar Association for disciplinary offenses.

There is an enrolment fee, and a monthly membership fee while the advocate is enrolled in the chamber. The amount of the enrolment fee depends on where the candidate performed legal practice before enrolling in the Bar Association. If one has been a legal trainee in a law firm for two years and under the age of 30 the fee for registering as an advocate is € 500 while advocates not having done the traineeship are required to pay € 4000, - to enroll.

Popular and successful advocates unofficially charge much higher amounts than the tariff prescribes, and on the other hand young advocates who are just entering the legal profession charge less than prescribed by the tariff to gain new and retain clients. Of course, this is not openly done.

In practice:

many people who are not advocates provide legal services, such as agencies helping to open companies.

There are many intermediaries in mass claims at court, more precisely in the past years against expropriation by the State, and bank claims for unlaw costs on the credit, et cetera.

The Bar Association has not been doing anything about this in regard to stopping these endeavors.

Most advocates are located in Belgrade, leaving people in rural areas with more difficult access to legal assistance. Bar Associations in Serbia are not unified, and everyone has its own set of rules, while obeying the advocates' legislation.

## Free legal aid

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

- 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
- The cases eligible for free legal aid are limited to very special vulnerable groups of people in very specific cases with a focus on social problems of the most vulnerable in Serbia
- In the municipalities there are a legal aid office that is the entrance point. The advocate of the municipal legal aid office will decide whether the person and his/her case are eligible, and if the legal advice given by him/her is not enough, an advocate at law will be appointed
- If it is decided to appoint an advocate, the advocate at the municipality will contact a call center to match the client and his/her case to an advocate (advokat)
- The advocates can bill 50% of the official tariff as a cost
- The Bar Association of Serbia is in charge of involving the advocates and supervising them
- 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 and the great work in this field done by NGOs.

The groups that don't have access to legal assistance are people and businesses who cannot afford a good advocate 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 Serbs from Croatia, the Croatian citizenship provides them an EU passport to escape and look for economic opportunities in Western Europe.

According to the law on free legal aid, NGOs may provide free legal aid only on the basis of the provisions of the law governing the right to asylum and the prohibition of discrimination. Free legal aid on behalf of these association is provided by advocates. Associations within the goals for which they were founded, can provide legal assistance in administrative law matters, providing general legal information and fill out forms.

Due to the prohibition, currently, there is no official statistic to be found on how many cases and people these organisations reach and help. Given that they are guided by projects and specialize in narrowly specific issues and problems in the population and try to help specific categories of people - Roma, women asylum seekers, etc. the number of cases and the reach of these organizations is in a small percentage of total legal cases in country.



# Barometer conclusions

The Legal rights protection Barometer 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 conclusions are focused on solutions to the identified problems on a procedural and enforcement level, and with regard to the affordability, efficiency, and quality legal assistance for the specific groups at risk of being legally unprotected.

Comparing the results of the three indicator categories (people, state organization, legal aid) the indicator conclusions are as follows:

## 1) People at risk of not enjoying legal rights protection

The groups at risk of being legally unprotected are people and businesses who cannot afford a good advocate in general, and whose cases are not eligible for free legal aid. This group may be estimated to concern almost half the population.

Specifically:

- Very poor and poor Serbians with low income (lower middle classes and low-class), especially the informal sector
- Rural population
- Women
- People from former Yugoslavia
- Refugees and asylum seekers
- IDPs from Kosovo
- Minorities especially Roma

### a) Women

Women face discrimination in family and inheritance related issues, which is typical for rural areas. This gender-based discrimination obliges women to settle their rights through long lasting court procedures while during the time the procedure takes not enjoying legal rights protection. Women are in a vulnerable position related to marriage, divorce, child custody and alimony. Women need to be educated on their rights in order to enjoy protection in these day-to-day matters. In work force women are treated differently by employers and when it comes to maternity leave women who are employed and women who are entrepreneurs are treated differently, especially advocates.

**b) People from former Yugoslavia:**

Despite the fact that there are only a few thousand people with refugee status, people from former Yugoslavia still face problems in acquiring personal and property documents. Processes for them are longer and require more documentation that is sometimes lost. They need legal assistance, especially because they need to communicate with at least two different countries in order to get the documents they need. This slows down procedures they're involved in such as inheritance proceeding and processes regarding social rights (acquiring rights regarding pension, for example).

**c) Refugees and asylum seekers:**

Just like people from former Yugoslavia refugees and asylum seekers have problem acquiring documents. In order to have full rights in Serbia these people need temporary residency. Acquiring one is a long process and the government is asking for a lot of documentation, that most refugees and asylum seekers don't have. Language barrier and cost of the proceeding only cause more problems.

**d) IDPs from Kosovo:**

IDPs from Kosovo experience a lot of problems when changing place of residency, their traveling documents have different status than those issued to people born in Serbia, they have problems regarding inheritance, real property, and property in Kosovo. They're governed by two different sides, Kosovo government and Serbian government and sometimes they are just a collateral damage of conflict between these two sides.

**e) Minorities especially Roma:**

Roma and other minorities face discrimination and poverty which creates difficulties for them in Serbian society. They have had time acquiring documents such as Birth Certificates, IDs, travel documents which causes them to have limited access to education, health care system, job market, etc.

**2) Effectiveness of state organisation and procedures for legal rights protection**

All groups at risk to be legally unprotected lack the resources and have difficult with their legal rights protection due to:

- The informality they live in, lacking all needed legal paperwork
- Shadow-economy
- Costs of the procedure
- Lack of document within the procedure
- Discrimination in the specific procedures
- Lack of clarity and transparency
- Lack of standardized unified legal procedures

More particularly legal assistance is needed in:

**a) Real Property:**

- Registration and Transfer
- Legalization of illegal houses
- Restitution finalization of procedure and obtaining property title of previous social property

**b) Inheritance:**

- Inheritance procedure and related missing document issue, including correction of documentation
- Maintenance contract
- Pre-dead agreement

**c) Business related issues:**

- Registration and incorporation of business
- Day-to-day legal needs related to tax (being in between 2 realities of informal functioning and a very formalistic tax authority), liability 3rd parties, and the workers
- Execution of court decisions

**d) Family law:**

- Long lasting divorce procedure
- Custody and alimony procedure
- Criminal charges parallelly on all kind of issues related family proceedings

**e) Employment:**

- Employment contract: short term contract for maximum 2 years, and the abuse of the system by employers prolonging another 2 years by changing the position
- Employment dispute resolution
- Licenses for foreign employees

**f) 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 workbooks, 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)
- Related to former socially owned flat rights in Croatia that the Serbs of Croatia have not received the property rights on during the privation process. Serbia and Croatia have a bilateral agreement on this arranging this issue.

To make progress on chapter 24 of the EU Accession Process, on an institutional level, reform would be needed in the following areas to make the State Procedures & institutions and enforcement solutions through the justice sector more accessible for the people:

1. Further simplification and digitalization of the administrative and judicial sector, and providing transparent and accessible information on the specific procedures on internet
2. Improve the efficiency and effectiveness of 'shortened procedures' and make them available for all areas that need an urgent temporary measure. 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 increase the efficiency and effectiveness of the seizure of bank accounts and registered property:
  - to increase the possibility of successful negotiation/mediation
  - to have security for the execution of court rulings
4. linked to 3) to avoid disproportional executive measures for normal people for small bills, related to electricity, etc., and develop debt-relief schemes

### 3) Accessibility and affordability of quality legal assistance

Registered advocates are limited in what they can do and not do. **Advocates are restricted in the following ways:**

- prohibited to actively look for clients through networking and PR activities
- acquisition of clients through an intermediary who charges a commission is prohibited
- prohibited to be the legal representative of a legal personality
- prohibited to undercut the fixed tariffs
- prohibited to be involved in politics

For these restrictions, the **Bar Association forbids perfectly honorable activities** as:

- advocates working with NGOs to give free legal aid to people in need
- NGOs to provide legal information through booklets and information on websites to help people understand what their legal needs are, and to find a solution

Even initiatives to set up a system for quality legal aid affordable for all, have been rejected by the Bar Association.

Microjustice for example, has developed a **non-for-profit digital legal aid platform** for the people in Serbia that provides legal information and refers people to advocates that would work with affordable fees, not undercutting their established fees.



**Microjustice ensured that the Platform's operational modalities are in line with the legislation and rules on the advocates' profession:**

- The information on the platform has been developed by advocates registered in Serbia that Microjustice had hired for this service.
- All advocates are allowed to participate in this platform, and therefore the legal aid platform does not create unfair competition.
- The more so, Microjustice would not ask for a commission for the referral of clients to advocates, which is a key-element of the definition of being an intermediary.

In all respects, the Platform has been set up to respect Serbian legislation and the wishes of the Bar Association with whom Microjustice had coordinated from the very start of the development of the Platform. But once the Platform was developed, the Bar Association prohibited it. The Bar has rejected any discussion on the legal merits concerning its legality, clearly stating the following: "for us there is no need to clarify the situation in Serbia, nor that we aim to align the Advocate's Profession (advokatura) with the EU directives regarding (legal) services." The clear message from the Bar Association was that the Legal Profession is not and will never be considered as a 'service', but as 'legal aid', not wanting to discuss the fact that the digital Legal Aid Platform is complying with their regulations within the non-liberated market.

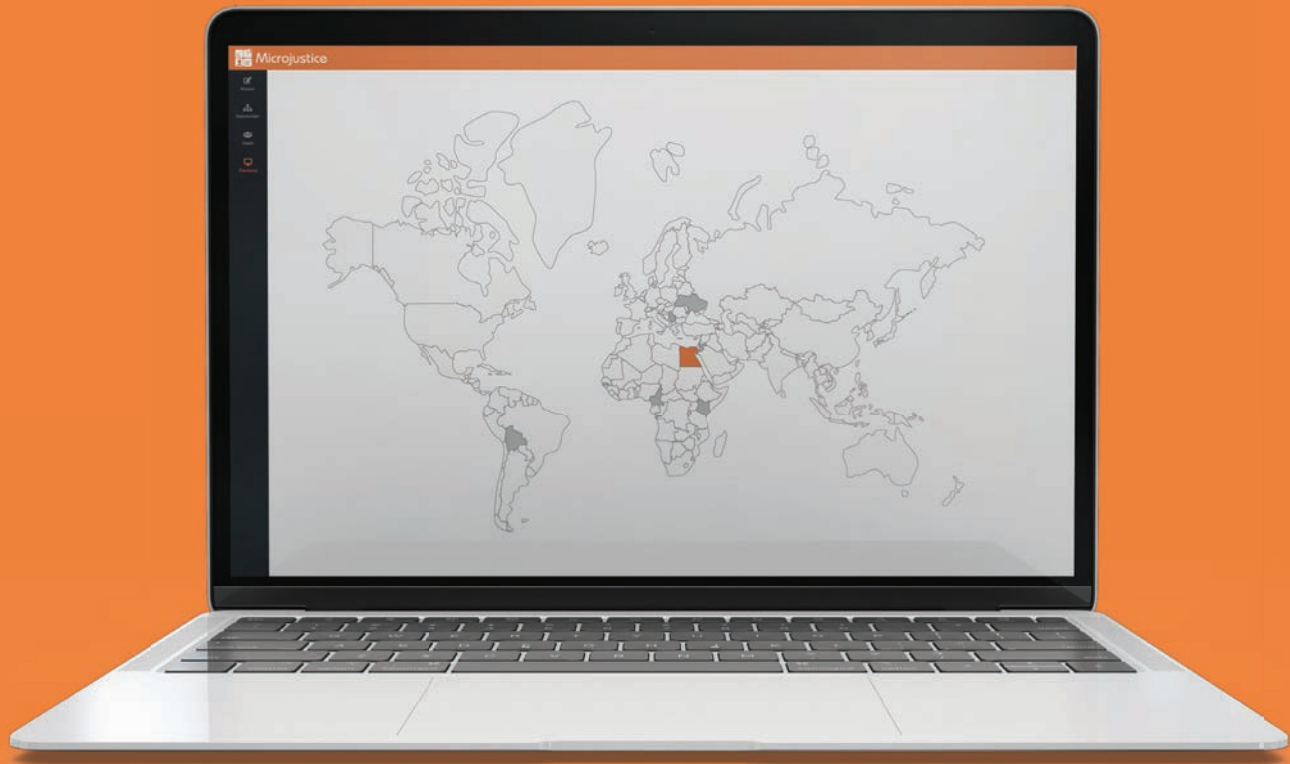
In this way, no advocate would dare to join the platform despite the fact that the testing statistics of the developed digital legal aid platform show huge interest of both advocates and people to use and participate in the Platform.

Serbia is a prototype of how restrictions on the legal profession negatively affect the quality, efficiency, and accessibility of legal aid.

Microjustice would be very glad to cooperate with any institution and organization to make the digital Legal Aid Platform available in Serbia.

## References

1. 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://katastar.rs> and <http://restitucija.gov.rs/latinica/index.php> for the restitution of property returned from nationalization during the communist Yugoslavia.
2. The only exceptions are a) in a divorce procedure the arrangements around the children as načelo 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.
3. This can be big source of confusion in salary negotiations when one comes from Western Europe)
4. Statistical pocketbook of the Republic of Serbia 2019 <http://publikacije.stat.gov.rs/G2019/PdfE/G201917012.pdf>
5. 'Brotherhood and Unity' was the Communist Party's idea of state, essentially the state's raison d'être. 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'être 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.



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