

## The Topic of the Issue

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IN FOCUS: SUPREME COURT OF SERBIA

### FACING EUROPEAN CHALLENGES ALEKSANDRA PETROVIC AND IVAN STOJKOVIC



The highest ranking court in Serbia will receive this year a few very voluminous cases against those indicted for war crimes and organized crime.

The Supreme Court of Serbia has hard work ahead. Apart from a big number of new criminal, civil and administrative cases, the highest ranking court in Serbia will receive this year a few very voluminous cases related to war crimes and organized crime which are approaching their end in front of the District Court in Belgrade. At the same time, the Supreme Court is going to have a huge relocation – the Criminal Department is returning to the old building in Nemanjina 22, and the Administrative Department will move into the renovated building in Resavska 42 where the court administration is.

This, however, is not the end of relocation. Next year the entire court should move into the new building of judicial organs in Nemanjina 9, and a big part of its jurisdiction will be delegated to new courts – the Court of Appeal and the Administrative Court - which should start their work on January 1, 2007.

#### Principle's decree

The Supreme Court of Serbia was established by Principle Aleksandar Karadjordjevic in 1846. Today the Court has 77 judges and 83 advisors to the court, which work in four departments – Criminal, Civil, Administrative and the Department for Judicature. Within the Criminal Department there are two separate units – for organized crime and for military cases, as well as two separate chambers – for war crimes and for minors.

For the work of the entire Serbian judiciary very important are three bodies of the Supreme Court – the General Session, High Personnel Council and the Supervisory Board.

The court's administration consists of the court's secretary, the secretariat and the general affairs office.

Once the appellate courts and the administrative court will be established, a big part of the jurisdiction of the Supreme Court will be delegated to them. For instance, in criminal matters the Supreme Court is now in charge of decisions in the second and third instances, of appeals related to judgments and other decisions of the courts in the first instance, of the extraordinary legal remedies, as well as of appeals related to judgments in the second instance in cases when the pronounced sentence was 30 to 40 years in prison. Jurisdiction in the second instance will be completely delegated to the appellate courts, and the Supreme Court would decide only in the third instance and in regard to extraordinary legal remedies.

This year the Supreme Court of Serbia marks 160 years of existence, and only in the last five years it was headed by women. First in 2001 Leposava Karamarkovic became President of the Court, after her Sonja Brkic, and today the first lady of the Serbian judiciary is judge Vida Petrovic-Skero.

- For decades has the network of courts not been corresponding to the real needs, nor has the distribution of cases, which is obviously unbalanced. As far as 94 percent of courts, those beyond Belgrade, take over only 40 percent of all cases. Besides, the structure of cases makes it much easier for the courts beyond Belgrade to be more expeditious. There is even the question whether the existence of certain courts beyond Belgrade is justified – says for Pravda u tranziciji Vida Petrovic-Skero. The District Court in Belgrade, which by the scope of jurisdiction and the number of judges is the biggest in the country, was in 2005 even more deluged with cases than in the previous year. In civil matters alone the judges deal with as much as 22,899 cases, whilst there were 18,453 in 2004.

- Critical remarks that the quality of trials is declining are fully justified, but this is a natural result of such a big inflow. All this cases related to appeals and other aspects come to the Supreme Court of Serbia. On January 1, 2006, entered into force the new Criminal Code, Act on Juvenile Offenders, Act on Protection of Participants in Criminal Proceedings, and recently came into force the Civil Procedure Act

and the Executive Procedure Act. According to the new law, the Supreme Court of Serbia will be the only court in the second instance to deal with juvenile trials, and this will automatically lead to an increase of cases in the criminal field. Cases from the dissolved military courts were transferred under the jurisdiction of regular courts, so that in this field, too, there will be an increased number of cases. The Act on Rehabilitation will soon be enacted, so the Supreme court is expected to have thousands of new cases. We have also a new law on high-tech criminal where our court is also the court in the second instance – says the president of the highest-ranking court.

### **The court without a courtroom**

With such burden and with an unbalanced distribution of cases, it will be difficult to satisfy the criteria of the European Convention on Human Rights, which ask for the trials to be brought to an end within a reasonable time. We are threatened by the danger of too long trials, which could result in numerous charges in the court in Strasbourg and bring high costs to the state Serbia and its citizens. Besides, it is also the obligation of the Supreme Court to send regular reports to the Council of Europe, the OSCE and United Nation's commissions for torture, discrimination and human rights.



- The budget of the Supreme Court of Serbia for this year is smaller than that for the previous one, and it is necessary that it be bigger exactly because of the increased scope of work. Financial means to pay the members of the jury, which by the new law will be members of the juvenile chamber, are not planned. It will be difficult for us to plan the costs for arresting minors, and there will be problems also in supplying with the most essential things for work. Apart from that, five additional judges should be elected into the Supreme Court because of the increased bulk of work, but it is absurd that we would not have where to seat them because we lack cabinets. Besides, there is no solution for the residential problems of newly elected judges which are coming to Belgrade – says Vida Petrovic-Skero.

The Supreme Court of Serbia practically has no courtroom, so the sessions are held in four offices, and one of them is nowadays under reconstruction. The Supreme Court works in two buildings, in Nemanjina and Resavska streets, whilst the Board of the highest-ranking court is held in the premises of the Constitutional Court of Serbia. The Supreme Court has no room which would in the least resemble a courtroom, so that public sessions of criminal chambers with a big number of inditees are held in the biggest courtroom of the Palace of Justice in Savska Street. So the Supreme Court's judges work in a "Bermuda Triangle" between three buildings, which jeopardizes not only the authority of the highest ranking court in the country, but also the security of judges.

- Security is endangered also in another way. In the building in Nemanjina, apart from the court, there are also numerous ministries, which means that a party dissatisfied with the judgment can go through to the judges' cabinets under the pretext of going to another institution or another part of the building, – says Vida Petrovic-Skero.

This year the Supreme Court will be even more burdened, and it is a big question whether conditions will be met for the Court of Appeal and the Administrative Court to begin their work in accordance with the Act on Organization of Courts, i.e. on January 1, 2007. There are only ten months left to begin with its implementation and the buildings in which the appellate courts in Belgrade, Nis, Kragujevac and Novi Sad are not yet secured. By establishing four new appellate courts the entire judicial system will be disburdened, and the Supreme Court would be solely the Cassation court. It is expected that the reforms will continue and there will probably be a new changes of rules. The judges are obliged to follow all these changes and to educate their colleagues in lower courts.

- Supreme Court's judges participate also in working groups for drafting of new laws. Our office for complaints has solved many cases. It is our obligation to answer the appeals within 15 days, and we also give answer to requests in accordance to the Act on Free Access to Information. There is also the spokesperson of the court, but without creating a good analytical service and an interactive computer network with all district courts in Serbia it is difficult to get quality facts and this is where much time is lost and we must ask for everything in a writing. We shall have to improve also our Internet presentation and this work is underway just now – said the President of the Court.

One of the obligations of the Supreme Court of Serbia is also control over district courts in Serbia, i.e. control of their expedience and respect of deadlines by insight into cases.

The President of the Supreme Court has herself initiated the dismissal of certain judges because of an extremely big number of cases expired by limitation. As courts in which the situation is dissatisfying mentioned were courts in Nis, Sremska Mitrovica and Subotica.