

The Topic of the Issue

UNIFORM JURISPRUDENCE

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No decision of the Supreme Court can “leave the building” unless it went through the Department for Jurisprudence.

The Department for Jurisprudence is the fourth department of the Supreme Court and by significance is fully equal to the Criminal, Civil and Administrative departments. The President of this Department is, by virtue of function, the President of the Supreme Court Ms. Vida Petrovic Skero, and her deputy is Judge Ms. Snezana Andrejevic.

- The Department for Judiciary has a defined jurisdiction and expert influence. The Department for Jurisprudence must act in such a way as to preserve the independence of courts. We can point at irregularities, but we cannot influence court decisions – says Snezana Andrejevic for Pravda u tranziciji.

The Rules of Procedure related to the organization and work of the Supreme Court of Serbia say that this Department follows and studies case law, initiates re-examination of an adopted legal decision, proposes to the General Session to give a general opinion on a given legal issue, informs the judges and assistant judges about the legal opinions of the court departments and about the general legal opinion of the General Session. It also establishes which data and documentation have to be followed in order to improve the jurisprudence, as well as the way in which they are to be registered, processed and included into publications, so as to secure uniform implementation of the law by the courts.

The Department for Jurisprudence is also entrusted with collecting and processing data and legal opinions for the needs of the judicial information system, and it prepares data for the Supreme Court’s Internet site. It holds sessions on a monthly or bimonthly basis.

No decision of the Supreme Court can “leave the building” unless it went through the Department for Jurisprudence. For instance, when a District Court’s criminal judgment comes to the Supreme Court, the case is written down in the registry and is taken to a court chamber according to the established schedule which respects the right to a natural judge. The judge rapporteur is nominated to prepare the report for the session’s consideration. After the public session, the decision is taken by majority vote of the chamber of five. After that, the decision is sent to the Department for Jurisprudence.

- If we do have a note or remark, the decision is returned back to the court chamber, and if we do not, the case is transferred to the court of first instance, and the copies of the judgment are transmitted to the parties. Our remark could be that there was a deviation in regard to the usual standpoint and the usual court practice. The case with the remark is returned to the president of the chamber with a statement of reasons, and then it is again brought to the chamber; if the chamber takes once again the same decision, the case will go to the General Session of the Supreme Court, which gives an opinion – explains judge Snezana Andrejevic.

The Department for Jurisprudence has also produced a text “Criteria for evaluating the minimal success in performing the judge’s function”, which is of use for the High Personnel Council when it decides on dismissal of judges. The Department was engaged also in a big undertaking of publishing legal opinions of the Criminal, Civil and Administrative departments of the Supreme Court between 1995 and 2005. The Supreme Court has also concluded cooperation protocols with the law schools in Nis and Belgrade, where the judges of the Department for Jurisprudence give very interesting lectures to students.

Assistance to lower courts

- We have agreed to have a uniform procedure for controlling lower courts in Serbia and we are seriously following how the new Civil Procedure Act is being implemented. We asked the Judicial Centre to organize the education of judges in order to harmonize the jurisprudence related to international legal assistance. Judges in Serbia are very young, and therefore the need for our Department to give much greater assistance to lower courts when it comes to the implementation of new rules – says judge Snezana Andrejevic.