BORIS BEGOVIĆ AND DRAGOR HIBER:

EU Democratic Rule of Law Promotion: The Case of Serbia

SECTION A

A.1: Judicial Independence

(a) Judicial system

In the former (second) Yugoslavia (1945-1991) which was a federal state, according to the constitutional provision on the federal character of the state, judicial system was organized on the level of federal units (republic and provinces) and on the federal level only consistency of the case law was provided by the revision function of the Federal Court (cassation). Furthermore the Federal Attorney prosecutes the most severe crimes against the state and political order, taking into account the ideological charters of that order.

After the collapse of the former Yugoslavia, Serbia maintained the organization of the judicial system inherited for the former Yugoslavia, only the cassation function has been reallocated to the Supreme Court of Serbia.

There are two types of the courts in Serbia: (1) general courts and (2) commercial courts. General courts are organized in three levels: (1) municipal courts (first instance courts), virtually in each municipality (161 courts altogether), (2) district courts (16 altogether, appeal courts for municipal courts and/or first degree court for the some important cases), and the Supreme Court of Serbia as revision and cassation court, as well as appeal court for the district courts. (After 1990's constitutional changes, the Supreme Courts of the Autonomous Provinces Vojvodina and Kosovo, has been abolished and their functions have been reallocated to the (central) Supreme Court of Serbia. The general courts are organized along the lines of specialized departments, that deal with specific cases: criminal cases, civil litigations, and non-litigious processes. Only the Supreme court of Serbia deals with the administrative cases (with the exception of the District Court of Belgrade, which deals with the administrative cases in the Belgrade District).

Commercial courts are organized in two levels: (1) district commercial courts (first instance courts). The High Commercial Court (second instance courts, commercial court of appeals). The Supreme Court of Serbia is a cassation court for all commercial cases. Commercial courts deal with commercial litigations and misdemeanors of commercial legal entities and bankruptcy cases.

The new Law on the territorial organization of the courts (adopted in 2001) stipulates the new structure of all the courts: (a) incumbent municipal and district courts become first instant courts only and division of the cases between of them depends on the legal significance of the cases. (b) new second instance courts will be established (a single Court of appeals located in Belgrade with three departments located on big Serbian cities); (c) The Supreme Court of Serbia that will strictly be cassation court for the court decisions on all courts including the specialized courts; (d) No changes are stipulates in the case of commercial courts; (e) Administrative courts are introduced as specialized courts on the district level with Supreme court as the cassation court in administrative cases.

The public prosecution is hierarchically organized as independent body with lowers constitutional garmented level of independence comparing with the courts. The head of the prosecution is the Chief Public Prosecutor of Serbia. There is correspondence of the structure of courts and prosecution, i.e. there is a prosecutor that correspondence to the each municipal and district court. Higher level prosecutors can take a case from the lower level prosecutors and to issue a binding instructions.

Initially, the Law on the territorial organization of the courts stipulated that the new organization will be enforced in mid 2003. Nonetheless, the target date for the implementation has been postponed for three times, and for the time being the target date is end 2006.

As to the legacy of the judiciary in Serbia it is important to emphasis that, in the socialist system, participation or affiliation with the governing (sole) party was a must for appointment and promotion in the judiciary. However, in the absence of competition within the party or among parties, within a single-party structure, and having in mind that a career in the judiciary brought about adequate material standing and considerable prestige in the society, there was significant professional competition. The executive branch of the government and the political factors influenced the judiciary and its decisions only in the case that were considered political important. In these case the judiciary obedience was the absolute one.

Erosion of professionalism under conditions of prolonged economic and societal crisis reached its peak in the early 90s. This was fostered by the very bad economic standing of the judiciary which led to a situation where many judges left the judiciary, mostly to join the ranks of the attorneys. The reasons for leaving the judiciary were also related to increased political pressures, which were more pronounced during the times of war and nationalistic hysteria. There is no collected data, but according to the some of the published figures, over 800 of the judges left the judiciary in the period between 1992 and 1994. This figure, alone, represents a heavy blow to the judiciary, but even more devastating was the system of hiring new judiciary employees, based on party affiliation in a multi-party system. Furthermore, this fostered the creation of a judiciary that lacked competence. Party coalitions forged during the creation of the executive branch of power resulted in agreements between the parties on appointment and promotion of judiciary officials. On the other hand, a lot of legislation was amended so as to widen discretionary powers, resulting in great dominance of parties over judiciary and through the judiciary over other spheres of social life, including the economy.

Dominance of the parties in matters of state organization was, in fact particularly visible in their treatment of the judiciary. Given the environment of all-out party struggle and the branding of the opposition as enemies of the state, or as ttraitors, the underlying goal was to make of the judiciary one of the instruments of partisan political competition. . The role of judges and courts in forging election results, particularly in 1996, as determined, among others, by a special OSCE commission (the so-called 'Gonzales Commission') represents a high water mark of this process. '*Lex specialis*' which recognized the election results without investigation of individual responsibility with regard to the abuse of election commissions where some of the members were judges of the courts that later annulled the election results without the support of legal provisions, resulted in the total absolution of those who had acted illegally, and the only ones who were sanctioned were those who had raised their voices against such misconduct. The most of them received concessionary mortgage loans or property ownership that they were not entitled to.

The change of power after October 5th, 2000 did not bring about unbiased assessment of the situation, let alone some significant change. Practically, no judge has been dismissed for participating in election fraud. The parties continued to operate through representatives they had in the legislative, executive and even judicial branch, and continued to behave as the sole decision-

makers in the matters concerning the judiciary. Therefore, the domination of political parties over the judiciary has not been brought to a halt, and that consequently raises the possibility of institutional corruption. As one of the final proofs or illustrations, one may observe the fact that judiciary officials are appointed and dismissed in accordance with the election results, or balance of power within ruling coalitions. Under the circumstances of legal uncertainty, referred to in the previous paragraph, this means clearing the ground for a partisan confrontation for substantial influence over the judiciary.

There has been no substantial change in the judicial system since the political changes in 2000 due to weak domestic agents of change and rather limited impact of the external agents of change. On the contrary since blockers of the reform have been very strong and forged alliances there has been no significant move ahead in the area. One of the puzzling alliances is the one between judges feared to be removed from the office, seeking no change and political parties /executive government, incumbent of the future one) seeking no change for preserving effective control over judicial system.

(b) **Appointment of the judges appointed**

Until recently (November 2001), from a formal legal standpoint, judges in Serbia were appointed exclusively by the parliament. In practice, all the potential weaknesses of this pure parliamentary system have materialized: the dominance of the executive branch and political parties' nomenclatures were hidden behind the role of the parliament. Effectively, the candidates for judges were selected by the Minster of Justice and appointed as the result of political parties horse trading in the Parliament.

Reform of the organizational judiciary legislation in the late 2001 envisaged a decisive role for the *High Council of the Judiciary*. This authority was initially vested with the exclusive right to propose all judicial officials (judges, prosecutors, court presidents) and the National Assembly could only chose between the candidates proposed (they could confirm or reject appointment). The High Council of Judiciary is complex in composition, appointed partly from the ranks of judges, or prosecutors, by the Joint Session of the Supreme Court. Other members, from the ranks of renowned legal experts and attorneys, were to be appointed by the National Assembly. A third group was to be appointed because of the office in which they were serving. In addition, for the appointment of judges and court presidents the majority of the decision-makers were judges, and when forming proposals for appointment of prosecutors, the majority was prosecutors. Soon after the system was introduced it became apparent that the Council would not be formed by the statutory deadline. A conflict of interest between the judicial, on one hand, and legislative and executive branches, on the other, has burst out. Following several occasions on which the National Assembly rejected proposals for the High Council of the Judiciary, statutory amendments gave the right to the National Assembly, in case it rejects a proposal made by the High Council of the Judiciary, to appoint instead a candidate who has not been proposed by the Council but who, at the same time, fulfills the conditions required for the office (this amendment was later declared unconstitutional). Further, the High Council of the Judiciary was stripped of its power to propose court presidents, and that right was assigned to the competent committee of the National Assembly, and, after the provision had been declared unconstitutional, to a special authority dominated by representatives of the legislative and executive.

When assessing the constitutionality of taking away of the powers of the High Council of Judiciary, the Constitutional Court held that this infringes the independence of the courts guaranteed by the Constitution, although that same court did not consider that independence had been infringed upon

in the previous legal regime where the competent committee of the Assembly had exclusive power to propose judiciary officials. On the other hand, those who supported curbing the powers of the High Council of the Judiciary which was dominated by judiciary officials, invoked the fact that the composition of the judiciary has not been altered, that the overall view of it is rather bad, and that the structure of appointment proposals for positions in higher courts and for court presidents amounted to giving blessing to the judiciary as it existed under the previous regime.

Without any comparative evaluation of arguments, one may easily conclude that there was a power struggle with regard to influence over the procedure for the appointment of judiciary officials, and this implies that the most important criteria were not those of professional quality. This further opens up the possibility of prolonged control of the appointed officials, or those who hope to be appointed – that is, for institutional corruption. Briefly, those who decide on appointment, or promotion, have leverage over appointees or candidates for appointment.

As to the skills needed, it is obligatory for appointed judges to be graduated lawyers who has obtained diploma in judicial exam. Only graduated lawyers with two years of experience in judicial jobs (court assistants, assistant to the attorney at law, etc.) or three year in other relevant jobs can take the Judicial exams. The exam is organized as the state one. The candidates are examined in all relevant branched of law. The candidates are examined by the Commission appointed by the Minster of Justice; the appointees are usually justices of the Supreme Court and professors of the School of Laws at the Serbian universities. Although the Judicial exam is a serous one, there are substantial second thoughts regarding the quality of legal training/education for the judges and all other judicial professions. It is rather widespread opinion that university undergraduate education provides no practical training to the lawyers and that after the university graduation there is no organized training system. Accordingly, insufficient quality of the judges is considered to be one of the most significant problems of Serbian judiciary.

Although there has been some change since the political changes in 2000, these changes were not substantial. The main reason being that is that domestic agents of change have been rather weak and not well organized. Crucial promoter of the changes of the appointment of the judges has been the Association of judges, i.e. judges themselves, considering the process as one of the cornerstones of judicial independence that has been considered as accountability to none. The influence of the general public is not well articulated (the public is not interested in the issue) and not substantial. Crucial blockers of the reform are political parties who want to maintain the position of the executive and legislative branch of the government to have crucial role in the appointments process as they can capitalize on their position and ask for the return of the favor in due course.

(c) **Numbers of judged and staff and other resources**

Total number of judges in Serbia is 2,350 in spring 2005. Taking into account the population of Serbia (around 8 million), the number of judges is definitely too big. Nonetheless, the caseload for each judge is huge and growing. The average workload of each judge is 400 cases per year, as it has been well found on the number of filed and closed cases. The number of filed cases is definitely too big, perhaps due to the low court fees (price elasticity of the demand for litigations is yet to be established), but also due to the more frequent violation of law in recent years.

As to the judicial staff apart from the judges, number of clerks and administration staff people employed in the judiciary is rather high (8,500). Nonetheless, the quality of their work is rather poor. It is evident that their role is the process is rather limited as the judges operate as one-man band: they cannot relay on the services of the overhead staff, as the staff is not train to support the judges.

As to the buildings and technology, particular IT is far below any decent level. For instance, the Supreme Court was for years located in the building of the Ministry of Justice. When a new building has been purchased for the Supreme court in 2002 (funded by the GTZ, German foundation), its capacity was enough for only half of the justices. The postponement of the introduction of the administrative courts and court of appeal is justified by lack of funding for purchasing the buildings (premises) for these courts. Though the purchasing of the IT has intensified in the recent years, the level of IT operations is very low, partly because majority of judges and the administrative staff are not trained to use IT and cannot see the benefits of using it.

Judges themselves are definitely not the agent of change in this area, because they have fear that reduction of the number of judges will increase the caseload for the remaining. International players are very interested in the subject of changing (reducing) the number of judges, hence the majority of the foreign assistance is based on the rather straightforward improvement of the premises and IT. Recently the Ministry of Justice attitude to the reform has been focused almost exclusively to the premises refurbishment and IT issues. There are strong incentives for such an attitude, because focusing to these issues enables short-run political (partisan) promotion, without any political responsibilities.

(d) **Security of judges' tenure?**

According to the Constitution, the judges enjoy the security of tenure and in principle can be dismissed only due to retirement and voluntarily. This principle was violated after the political changes in 2000, though in 1990s a substantial number of judges have been dismissed with substantial violation of the procedure.

Judges who violated relevant rules and regulations can be dismissed in the special procedure specified by the legislation, but can not be found liable for discipline sanctions. Decision of dismissing is made by the National Parliament, is made according to the proposal made by the Big Personal Council (The council is elected by the general session of all justices of the Supreme Court). The procedure is detailed specified.

The situation regarding dismissal from office is identical. According to the provisions that were in force in October 2000, the proposal for dismissal of a holder of judiciary office had to be determined by the General Session of the Serbian Supreme Court. It is well known that this provision was evaded when it came to the dismissal of the judges who stood up to 1996 election fraud and later became activists of the Society of Judges, a professional association of judges, the operation of which government tried to hinder before 2000, by refusing to register it. A new set of laws on the judiciary vested power to propose dismissal and determine other causes for termination of judiciary functions with the High Personnel Council, which was in turn appointed by the General Session of the Serbian Supreme Court, and, following amendments, this power was transferred to National Assembly. This last amendment has been proclaimed unconstitutional by the Constitutional Court. This legal confusion, among other things, completely paralyzed the initiation of dismissal proceedings (there were only three cases by the end of 2003, save for cases of retirement or voluntary termination of employment). At the same time, the executive branch has repeatedly initiated the issue of banning existing members of the judiciary from office, introducing such a possibility in amendments to the Law on Judges, and reserving it primarily for so-called election frauds and sham political trials (such a focus has also been declared unconstitutional). During the Constitutional Court ruling, the mandatory retirement of the judges was halted by the decision of the president of the Court in according to the Labor Law effective at the time of supposed mandatory retirement.

Besides the significant legal uncertainty, different approaches to strategic questions, frequent amendments of legal provisions and frequent interventions of the Constitutional Court, the general view of the provisions on appointment and dismissal are characterized, on one hand, by a struggle for domination between judiciary officials and officials of other branches of power and, on the other hand, uncertainty and even fear of holders of judicial offices. This is a milieu where institutional corruption is possible, whether it comes from executive officials or from holders of top judicial offices.

The procedure of judge removal is triggered by the Chief Justice of the Supreme Court, or president of the Court in which the judge is allocated to, or the president of directly superior court.

The procedures of removal is fair as the judge whose removal is under way can make his own plea, and also can refute all the accusation gains him/her as has been demonstrated in the practice. The only weakness of this procedure is the right to appeal, as with the dismissal of the Constitutional Court of the FR Yugoslavia (The Federal Constitutional Court) there is no room for the constitutional appeal, stipulated by this institutions.

Judge can not be moved to the other court without his/her explicit consent, even temporarily due to substantial change of the workload. This is strictly stipulated by the Law on Judges, and this particular rule is strictly enforced in all the cases. There is no exception to this rule and some analyst consider that this rule and its strict enforcement disables good allocation of judges along the courts. When judicial organization changes, for example when the number of case the Supreme Court is dealing with, the surplus of judges at that court can not be moved from the Administrative cases department of this court to the newly established Administrative Court.

The current Law on Judges promulgated in 2001 has precisely stipulated all theses issues based on the current constitutional principles. The majority of the amendments to this law have been revoked as they violated the Constitution. Legal advisors of the EU took an active part in the preparation of the Law on Judges.

The major agents of change or rather preservation of the security of judges' tenure are judges themselves, particularly the judges that fear that they can bee removed of the office due to violation of law during 1990s in the process of "lustrations". Accordingly, sticking to the security of the tenure issue is the strongest option for preventing any kind of "lustrations". General public is indifferent about the issue and the international agents have some second thought. Although they will like to see some of the judges out of the office, the fear is that this precedent can lead to the continuous violation of the tenure security.

(e) **Physical security of judges?**

There is no specific piece of legislation that deals with the issue of physical security (protection) of the judges. There is no special court police in Serbia and security in the courts is provided by the regular police.

There have been cases of murders and assault to judges and prosecutors, but these cases are not frequent. The recent recorded case is the murder (or suicide) of the deputy District Attorney (prosecutors) at the District Court of Belgrade. It is still not established how he has died, hence the case could be linked to his judicial function. Furthermore, some threats and warnings have been recorded.

Judges have both civic and criminal law (liability) immunity.

Judge can not be sued for the damage compensation due to his/her decision (rulings) that violated the law. The compensation must be given by the state. The judge can not be criminally liable for the crime that he/she committed in the line of duty; cannot be arrested and no criminal charges can be brought upon him/her if he/she claims immunity guaranteed by the Constitution. The decision for revoking the immunity is made by the National Parliament. In recent year the Parliament revoked the immunity of judges for two times, enabling the arrest and criminal prosecution, in both cases due to the corruption.

The immunity of judges is stipulated by the Constitution and further specified by the Law on Judges. Physical security of the judges is, from time to time, issue considered by media and it is estimated that the security will be enhanced by the introduction of court police. There are additional reasons for introduction of the court police, for example to assist in the enforcement of judicial decisions.

The issue has not been considered as the important one, it seems that one consider this issue to be valuable as reform issue.

(f) **Salaries and pension of the judges**

Judges and prosecutors are civil servants, though their wages are specified and guaranteed by the 2001 Law on Judges, according to which their wages are made equal to the wages of the ministers (cabinet members) in the Government of Serbia. Their pensions are specified by the general rules on pensions. Accordingly their pensions are on average 70 percent of the salaries.

Wages of the judges are paid from the treasure of the Serbian budget. The ministry of Justice allocates the funds to the courts for the presidents of the courts to further distribute the resources. The level of wages is the same for all judges, irrespectively of the court, i.e. its territorial location. The level of wages slightly varies according to the years in service and workload and to the greater extent according to the level of the court starting from the lowest (municipal) court up to the Supreme court.

The issues of wages of the judges is one of the first problems that has been addressed after the political changes in 2000. The level of wages in that time was relatively (comparing with the wages in executive and legislative branch of government) and absolutely on very low level. Such a low level of wages made the profession of judges not attractive, hence there was a drain of professional to private attorneys (legal representatives), as the wages very substantially higher in this area. Furthermore. Low wages creates room for corruption.

Due to the funding from the international community (including EU) wages of the court officials have been substantially increased in 2001. The biggest wage increase has been recorded for judges, somewhat lower in the case of prosecutors and unsatisfactory low in the case of court administration (clerks, etc.). Special, double wages are stipulated for the Special departments of the District courts and Special department of the Supreme Court for organized criminal, as these special departments have been established according to the Law of legal processing of the organized crime.

After 2001 the growth of the nominal wages of judges was slower than inflation and average growth of nominal wages. In the moment of one-fold increase of wages of judges, these wages were five times higher that the average wage in Serbia, now these wages are just three time higher that the average. This is one of the reasons for continuous conflicts between judicial and executive branch

of the government. Accordingly, there are initiatives for establishing so called judicial budget that will be executed by the judiciary, and reconsideration of the funding of judiciary altogether. These initiatives are estimated as crucial are urgent by some experts and by judiciary.

Nonetheless, the issue of the judicial budget is a controversial one. Not only that the arrangement has its merits and shortcoming, but also there is a conflicting interest of the two main branches of the government. Executive government would like to control the funding of judiciary as a part of total political (partisan) control. On the other hand judiciary would like to have absolute control of the allocation of the resources, because that will create a power for decision maker in the judiciary. There is no strategic view on the issue. Although draft "Strategy for the reform of judiciary" has been formulated in June 2005, there is no reference to the funding issues in the Strategy.

(g) **Interference by the executive or legislative branches**

According to the Constitutions and relevant pieces of legislation, Serbia is the country of divided power (executive, legislative and judicial) of government and influence of executive over judicial branch is violating the law. The recorded influence of executive branch over judicial in the cases of institutionalized interferences, in the cases of appointment of judges and funding judiciary, have demonstrated that there is strong disposition of the executive branch to control the judicial one. It is logical that this disposition is not limited to the domination in principal, but is embodied in the specific cases.

The real influence (attempted or materialized) on the specific judicial decisions can be evaluated only indirectly. Accordingly recent analysis of corruption in judiciary (Begovic *et al.* 2004, *Corruption in Judiciary*, Belgrade: Center for Liberal-Democratic Studies), based on the survey of litigants and judicial officials, provide evidence that channels of corruption are via representatives of executive and legislative braches of the government (23% of respondents), as well as that corruption in judiciary is influenced very much (45% of respondents) and much (30%) of respondents by dependence of judicial to the executive branch of government. Furthermore, institutionalized corruption has been analyzed, i.e. that judges are prone to make biased decisions, i.e. decisions in favor of the representatives of executive and legislative branch of power and their protégés, for the sake of getting better positions, i.e. moving higher in the judicial hierarchy or some material advantages, like concessionary rents or concessionary terms for real property capital transactions.

In the same way it is possible to analyze the influence (impact) of the judges of the higher instances courts. The mentioned research provided suggestions on the mechanisms of interaction. Finally it is evident that any political change in the country immediately sparked personal changes in the presidents of the courts. Presidents of courts are appointed from the judges, the term is four years, and this administrative function would not have been so important if it is not considered (by the executive and legislative) as a potential leverage for influencing judicial outcomes.

There are some actions for establishing judicial independence as well as combating judicial corruption, nonetheless, the results, even by public statements of the state officials involved in the actions are far from satisfactory.

The "culture" of the interference by the executive and legislative branch has been longstanding one and it has come form the communist time. In recent 15 years it has been transformed into partisan one and changes of political parties in the office, both in terms of executive and legislative branch changed nothing in that regard. There are still no incentives for the political parties to relinquish inreference to the judicial branch.

(h) Executive branch support to the courts

Nominally, the executive branch of the government stands for the rule of law and separation of power, hence the executive branch of the government insists that judicial decisions must be obeyed and enforced. Effectively, segments of the executive government enjoyed position "above the law".

On the one hand that is evident in the economic and financial issues. For example, there is a long standing conflict between the National Bank of Serbia and Commercial Court. The National bank of Serbia was withdrawing licenses form commercial banks for breaching commercial banking regulations and not fulfilling the required capital (asset) thresholds. Commercial Court proclaimed these decisions null and void due to ostensible procedural mistakes. The National Bank of Serbia refused to obey these rulings of the Commercial Court, by withdrawing the operational licenses of these commercial banks once again and then completely ignoring courts ruling. National banks of Serbia provide public justification for such moves by pointing out to the attitude that courts are not in charge of making decisions of that kind (though there is a contradiction of the rules and regulation in this area) and by general outspoken criticisms of the judiciary as unreformed, incompetent, and corrupted institution.

On the other hand, it is possible to identify the attempt of the police forces to avoid its control by judiciary in the cases in which such a control is stipulated by the legislation, as in case of surveillance and eavesdropping,

Finally, it is important to point out that executive branch of the government is seldom in the position to not to enforce the judicial decisions that are not favorable for them. The executive branch has leverage to influence the outcomes much before the final decisions, by manipulating the prosecution, by prolonging the litigations etc. Still, apart from the empty political talks about the rule of law, i.e. lip service in the area of improving enforcing judicial decisions there was no legislative or any other activities (changes).

In short, there has been no recorded support whosoever. The first post-Milosevic government has been engaged in public exchange of mud with the judiciary and undermining its position, and the second one is still in the process of formulating the strategy. The first draft of the strategy available to the public demonstrated that effectively executive branch support of the courts will be nothing more that a lip service.

(i) Difficulties of enforcement

The execution (enforcement) of judicial decisions is one of the most important problems of judiciary in Serbia. The smaller problem of execution in the area of criminal law as to the huge migrations due to the recent wars provides room for culprits to be at large and the evasion of short imprisonment, evasion of the trial etc. Nonetheless, the majority of the problems of judicial executions are in the field of civil and commercial law.

First due to the general violation of the rule of law, the huge numbers of judicial decisions have not been enforced voluntarily, but due to coercion. Though judicial statistics are not completely trustworthy, almost 35 percent of all cases in municipal courts are the cases of judicial executions.

Secondly, the judicial execution procedure is to long and very frequently it is ended without success. It is evident that evasion of the execution of judicial decisions is frequent in all the case of debtors, natural persons and legal entities, irrespectively of some specific sector of social status,

Judicial execution procedures have been the area of serious reform. Due to the support of USAID, Center for Liberal-Democratic Studies provided a policy paper and draft of the new Law of the judicial executive procedures. This draft has been accepted by the Serbian Ministry of Justice and it has been with minor changes formulated as the bill that the Government of Serbia has passed to the national parliament. Finally the legislation is adopted in November 2004. Enforcement of this legislation is about to start and the time will show whether the judiciary is capable of enforcing such a piece of legislation, particularly taking into account the new solutions regarding the executions in commercial disputes, in the case of real property and accounts. For the time being it is evident that preparatory movers that would enable judiciary to be efficient in the enforcement of the new legislations, for example reorganization of the bailiff service, are not accomplished for the time being. Estimated done by the World Bank (Costs of doing business series) provide for shortening of contract enforcement time, although the new time is still far from acceptable (from 1,028 days to 690 days).

Interestingly, there is no substantial pressure of the business community to improve the enforcement. Obviously, the most powerful players are not so concerned about that. Perhaps they have a way to enforce these contacts that are important for them and to evade contact obligation to the others due to inefficient enforcement of judicial decisions.

(j) Courts' budget and administration

There is no specific "judiciary budget" in Serbia, but funding of the judiciary operations and capital investments is done via the treasury of the general purpose budget, i.e. as it is stipulated in the legislation that regulates both judiciary and public finances. That means, among other things, that all the judiciary "revenues" (court fees, litigants expenditures cashed-in by the courts, fines, etc.), i.e. all the revenues generated by judiciary operations and decisions are collected in the general purpose state budget of Serbia and it is the expenditures of the Serbian judiciary that are planned with that very budget.

Up to recently, the judiciary expenditures are covered by the transfers from the budget on the monthly and quarterly basis for each court. These transfers are used to fund the salaries of the judicial officials, material costs of judiciary operations, and partly for funding capital investment of each court. The resources transferred from the state budget are allocated to the end-users by the President of each court who, within the precise framework given by the legislation does all the necessary financial paperwork.

From October 2004 the procedures has been changed – the new arrangement has been introduced by a governmental decree (sub-statutory legal texts). Now it is the Minister of Justice himself who is in charge of all decisions regarding funding and allocation of the funds to end-users. Furthermore, the Minister himself is in charge of all financial paperwork, hence it is his signature that makes payments (transfers) possible. This change has been justified by the Government of Serbia pointing out that the Ministry of Justice should be in charge of regular funding, i.e. regular operation of the judiciary.

The implementation of the new arrangement produced delays in the transfer of funds as it was expected because a new bottleneck has been created. Furthermore, judiciary officials criticized this

arrangement, suggestion that the new arrangements is additional pressures of the Ministry of Justice to the independence of judiciary.

As to the control of courts over their own administration, there is bigger autonomy comparing with the funding issues. The courts hire the labor for themselves (within the rules and regulations stipulated by relevant pieces of legislation) and each court has a decisive role in control of the employees, their working performance, and firing (if necessary) of the employees of the court administration.

Apart from the mentioned change of arrangement of transferring the funds from October 2004, there is a public debate in Serbia on the introduction of the "judiciary budget" as a specialized budget, although not all the details of this arrangement have been specified. Furthermore, there are some initiatives to do a thorough research of current funding of judiciary, including the court fee settings and alternatives for future of such a funding. An EU institution (EAR) has provided support for such activities, but it is still uncertain what will be the effects of these reforms and/or whether the reforms will take place at all. Obviously there is still strong conflict between executive and legislative branch of government, from one side, and judiciary from the other.

(k) Code of ethics for judges

There is no ethical code for behavior of judges and other judicial officials and judicial professionals.

The new Law on Judges stipulates the obligation of the Supreme Court of Serbia to stipulate "what kind of behavior and actins contradict the dignity and independence of judges and that are harmful for the reputation of the courts". Nonetheless, the Supreme court of Serbia accepted this obligation is the most restrictive way, hence producing only a brief documents "Guidelines fro evaluating out of court activities of the judges" that stipulates without any sanctions a list of business (activities that generate cash) that contradict the job of judge. Accordingly, there is no action required if a judge is involved in any activity that is stipulated by the list.

Furthermore, the Association of Judges (voluntary professional organization of judges) produce a document that they claimed to be an "ethical codex", but this document is hardly any kind of codex because it is a document with very general statements and without and kind of legal biding for anyone.

There is an initiative for the proper ethical codex (of the type of codex that exists in the EU countries) to be formulated, produced (adopted) and enforced. There are even a few version of the draft (working) version of the codex texts, and substantial international assistance has been employed, mainly through collaboration with the national judges' professional associations. The crucial unresolved question regarding the adoption of the ethical codex is who should be in charge (responsible) for its adoption and who should be responsible for its enforcement: the state (whether Ministry of Justice or the Supreme court, i.e. whether executive or judicial branch of government) or professional associations of judges and prosecutors.

Obviously there is agent of change in the area of the code of ethics. It is widespread notion that such a code is not needed, i.e. not relevant for judiciary in Serbia, as it is believed that it would be violated even when it is in place. Accordingly, all the activities in the area of the code of ethics is considered as some kind of concession to the external players who stick to it as important element of judicial integrity.

(l) Legal education

In general terms the legal education in Serbia is not sufficient to produce high-quality judges and prosecutors.

Formal legal education is strictly linked to universities. At the schools of law at the Serbian universities there is classical four years undergraduate law course. According to the syllabus, the undergraduate law course is rather general with very weak specialization. One of the specialized courses is judiciary. Nonetheless, the specialization is very weak, specialization in judiciary is not exception, hence the employment of new lawyers in judiciary it is not obligator that they specialized for judiciary in their undergraduate course.

Within the existing system of high legal education there is virtually no practical training, i.e. there are no education in the area of the law enforcement, hence the specialized legal education of judges, prosecutors and legal representatives before the course starts after the undergraduate law course.

There are some plans for the reform of the university education and the reform of the law school dedication as a segment of that reform. One segment of that reform is focusing university education more to the law enforcement issues, providing some practical training for the lawyers at the university.

There is no official and organized school of law for further education (training) of judges, prosecutors and legal representatives before the court. Professional license for these jobs is acquired by passing the judiciary exam that is exactly the same for all judiciary legal professional. The exam itself is organized with the Ministry of Justice with substantial participation of the Supreme Court. The exam can take only eligible lawyers (who are eligible after reaching specified years of professional service). It is up to candidates to prepare themselves fro the exam. There is rather widespread supply of the *ad hoc* training for the exam, mainly on commercial basis organized within the universities, association of lawyers, etc.

Judicial Training Center (JTC) is established in 2001. Initially, it was organized within the Association of Judges (professional voluntarily organization) and later the Ministry of Justice became involved in the project. The activities of the Judicial Training Center have been focused to the upgrading legal education of the judges and prosecutors, training for the enforcement of new legislation (new rules and regulations), hence its curriculum has been formulated rather *ad hoc* according to almost daily needs and room for funding, i.e. available financial resources.

In this very moment final preparations for establishment of the Center for Professional Education are under way. The idea is that once the Center in established and become operational it will be in due course transformer and enhanced into the Judiciary Academy. It is the Ministry of Justice that is involved in the project, together with professional associations of judges and prosecutors and it is expected that the school of law at the university will be involved in the project.

The EU has been substantially involved in the organization and funding of the Judicial Training Center (JTC) and now it is actively involved via EAR in preparing the ground for the new Center for Professional Education and ultimately the Judiciary Academy. It is expected that new piece of legislation will provide the legal ground for establishment of the new Center/Academy.

(m)Education of the public about justice issues

There is no serous and thorough research on the public opinion, i.e. perception of the justice system and how it functions (operates). There are a few particular researches that are focused to some specific segments of the justice system (protection of human rights, general attitude to police etc.). Some of these option survey are just a part of general (omnibus) public opines research and some are very focused with rather small samples. In majority of the cases these surveys have been done by specialized NGOs, though from time to time some ministries have been involved.

It is the exactly the external players that play crucial role in this area, by suggestion agenda to the NGOs and ministries and providing funds for the research. Accordingly, it is the external actors (mainly donors) that suggested and funded the research about the public perception and public education in the matters of justice system. Among external players substantial role has been the one of the EU and the Council of Europe.

Still, there is no substantial demand for that kind of the education. General public is a bit cynical about the justice issues and very little has changed in last 15 years on that front.

(n) Complain mechanism

For the time being there is no accessible and transparent mechanism for the public to complain about judges, suspected judicial corruption, delays in courts or any other fault in the judicial system, hence there are limited options for the public. Basically it is the second instance court and the official appeal that is filed before that court.

Furthermore, compliant can be fled to the President of the court and to the Ministry of Justice. Nonetheless, there is basic in-built flaw in this solution. Any complaint to the Ministry can be qualified (labeled) as interference of the ministry in judicial affairs, i.e. breaching judicial independence b the executive branch of the government.

In late 2004 a new institution has been introduced: *Supervisory board*. Complaints regarding breaching the law by the judicial officials and inefficiencies of judges (prolonging period of the case, etc.) Short period from the introduction of the new institutions prevents from any reasonable feedback about its efficiency.

The institution of Ombudsman is not stipulated by the Serbian constitution (the one from year 1990), hence the introduction of that very institution would be highly controversial regarding the Constitutional court. Accordingly the Ombudsman has been introduced only on the level of local government and its powers are substantially limited. There has been no attempt to introduced Ombudsman in the area of judiciary and the justice system.

There is general political recognition (even consensus) that the institution of the Ombudsman should be introduced. However, as to the political tactics, it has been decided by the majority of the political parties that the new constitutional ground should be established for the institution of the Ombudsman, i.e. that constitutional changes or new Constitution should be a first step for introduction of the string and efficient institution of ombudsman. Otherwise there will be so legal (constitutional) doubts that can be exploited in partisan politics.

The external actors have been very active regarding the institution of Ombudsman, particularly in the area of the preparation of the legislative ground for that very institution. Accordingly the external actors (Council of Europe) took active part in preparing the first draft of that legislation and the preparations of the introduction of the institution.

(o) Private (non-state) lawful dispute resolution

There are non-judicial arbitrations that have a legal, biding power of a judicial decision. The parties are voluntarily contracting such arbitration. There are two permanent arbitrations; one for the foreign trade relations and the other one for internal trade, both of them within the Serbian Chamber of Commerce. The foreign trade arbitration has proved itself in a few decades of history and has been receiving a substantial number of cases as it has been established according to the international standards (ICC and UNITRAL). The other arbitration has not been so efficient and successful.

The introduction of the mediation has started in 2001/2002 and the main reform agent in that project was the Serbian Association of Judges. The idea was to solve the backlog cases, particularly these with long history. The "experiment" has been finished with good results; at least that is what has been claimed by the Serbian Association of Judges.

In 2005 new Law on Mediation has been adopted in the National Parliament that stipulates dispute resolution by mediation and the relations between mediation and the state judiciary have been specified. This very law enforcement has just stared, hence there is still no feedback regarding the results – some time is needed for that. Dispute resolution via mediation prior to the court case has recently been introduced in the area of labor contracts that is appealed by the non-state bodies of arbitration.

Criminal "dispute resolution", blackmails, extortion and violence of the criminal gangs has reached their peak at the end of 1990s. Unlawful "dispute resolution" system, **"mafia"** type enforcement, debt collection or ostensible debt collections, loan sharking was regular practice on daily basis, and "Agencies" for mafia style, unlawful dispute resolution were openly advertising their services in the press. This phenomenon has been substantial reduced after year 2000, hence these days such activities, although not completely eliminated, are restricted primarily to the area of organized crime, i.e. to dispute resolution between criminals and their organization.

Local business community is not very active in reform in the area of private lawful dispute resolutions. Interesting some of the external players are more keen on the idea, usually trying to disseminate the ideas developed in their own countries.

(p) Media and the justice system

In the most of the cases media covers the judiciary in the way that could be describe only as the "yellow press". It is very often that media equals indicted with found guilty, judicial outcomes (ruling and verdicts) are commented before they are made or before they are valid and, particularly in the cases that are interesting for the general public (trials of the organized crime, trial for the assassination of the Prime Minister Djindjic, trials in which public persons are involved even indirectly) non-public documents have been released, and information that influenced the trial are published. Frequently, aimed at the increase of the circulation, statements of the officials (legal representatives before the courts) that are breaching of law are published. The same way of scandal-prone reporting is the essence of reporting about the organization of judiciary, allegations for corruption (including names of the officials that are ostensible bribed), nepotism etc. The other extreme from time to time is glorification of the policies of the Ministry of Justice. There are very few contributions that are based on investigative, analytical and critical journalism.

Various political and business groups strongly influence "yellow press" media, providing financial resources or favor to them. In that sense, some of the media disclosed "scandals" are nothing but a

segment of the partisan politics wars or business wars between tycoons. Freedom of press is obviously in Serbia misunderstood as accountability to none.

Some influence of the media to the Government exists, by influencing the public opinion. That can be indirectly corroborated by the attempt of the Government of Serbia, particularly the Ministry of Justice to respond to some allegations in the press and to clear the facts regarding some cases. Nonetheless, the media involvement of the Government is usually nothing but exchange of blame between executive and judicial branch of the government, particularly between judiciary and police in criminal cases and scandals.

It is estimated that education of journalist in the judiciary issue is necessary. Nonetheless, there is no autochthonous demand for it and there is no supply for such a kind of education. External players very keen on the ideas on education and training of judiciary are not considering the idea of education of journalist.

A.2: Reforms meant to strengthen legislative and administrative capacity

The modernization of legislation and the strengthening of administrative capacities – making them more efficient, more effective and more responsive to public needs – is a key challenge to the consolidation of democratic regimes. Effective democracies are able to initiate, plan, formulate debate and pass sophisticated legislation; implement it and adjust policy in line with societal change and public expectations. This is a large topic, so please focus on the most important aspect of reforms in these areas, answering the following questions:

(a) Efforts to enhance parliament's legislative abilities

Operations of the Serbian National Parliament and fulfillment of its legislative role can hardly be evaluated as satisfactory. The Parliament is more a focal point for general political debate and partisan politics and campaigns rather then serous and substantial debates regarding legislative proposals.

It is important to stress that in Serbia effectively only the executive government (Government of Serbia) promulgates the Bills and the role of the Parliament is virtually restricted to discuss the bills and to amend the bills supplied by the Government. As to the Government of Serbia efforts in drafting new legislations, it is evident that the drafting process includes specialized institutes and NGOs. The legislation drafting process is more serious and responsible than before year 2000. The IT level of the Parliament is substantially improved as MPs were provided with computers and Internet connections, and access to databases relevant for their job. As to the education of the MPs, some of the general educational courses took place (conflict resolution, procedures of debate, and support for permanent committees, etc), and some specialized courses, basically preparations of the MP and the Parliament staff for the new pieces of legislation. The MPs were not enthusiastic for the course, hence the results were limited. Majority of these courses were funded by international community, including the EU.

Taking all that into account, in the recent years, there was no substantial public debate on the new legislation and relevant public policies in Serbia. The Parliament should be the focal point of the debate for the widespread public debate on new legislation, but it completely failed in that role. The main reason being that is the Parliament is considered by the political parties as the vehicle for partisan politics and continuous election campaign rhetoric that for serious substantial debate.

Finally, parliamentary control of the security forces is at its begging. Serbian National parliament is in charge of police, as military structures suppose to be controlled by the Parliament of the State Union of Serbian and Montenegro. The introduction of this type of control is substantial improvement comparing with no control at all; nonetheless existing control is far below reasonable democratic standards. In particular, there is no mechanism that will enable the results of the control (monitoring) to be embodied in the executive decisions regarding the security services.

External factors played a substantial role in the early stages of the preparation of the new legislation that enabled parliamentary control of the security forces and particularly separation of the intelligence agency from the (regular) police. The EU took an active part in these efforts. Nonetheless, due to the lack of domestic counterpart, i.e. the lack of domestic agent of change, these efforts were not very effective.

(b) Strengthening the ability of the government for policy implementation

It is a political tradition in Serbia that before the new cabinet of the Government of Serbia in sworn-in, the structure of the Cabinet (Ministries, Agencies, etc.) is changed by the legislation, to accommodate concepts of the new Prime Minister designate. Furthermore, these changes are followed with the changes of supporting institutions (Agencies, commissions, etc.). Accordingly, every cabinet is trying to improve its own political and governance efficiency and to strengthen its own ability for policy implementation. The same process occurs on the each ministry level.
The major problem in that is the capacity of the civil service is very limited due to historical reason. Although some kind of civil services has been created under communism, it severely deteriorated during 1990s.This creates lack of capacity that is usually bypassed by new political appointments. Nonetheless, the political appointees motivation is quite distinctive from the civil service, particularly partisan politics (using the office for party promotion and building, in the case of small and ambitious parties) and to the extent, rent-seeking behavior.

The lack of the capacity has been somewhat compensated in the few years after the political changes in 2000 by bringing Serbs ex-patriots (Serbian Diaspora) funded by international organization like UNDP. Nonetheless, the initial enthusiasm vanished in due course, demonstrating that this solution is not sustainable.

The crucial novice in last five year is establishment of the agencies (both independent, like independent regulatory institutions and government agencies) to which some authorities of the Government of Serbia have been transferred. The independent agencies have been established in the areas in which market deregulation has occurred: telecommunication, power, broadcasting, etc. Better results have been achieved in the cases of governmental agencies comparing with the independent agencies, i.e. agencies independent from the executive branch of the government.

Due to the tight budgetary control (introduced and monitored by the IMF), there are substantial difficulties regarding funding of obtaining better buildings, new technology and better trained bureaucrats (civil servants). Taking the budgetary control into account, the crucial way for improving new technology, especially IT and better trained bureaucrats were international donations with substantial involvement of the EU.

(c) Efforts to improve the formulation and allocation of the national budget

The public finance reform started immediately after the political changes with substantial reform moves in the area of taxation, tax collection, tax administration, budget organization and control and budget execution. These include simplification of the turnover tax and introduction of the uniform turnover tax rate in 2001, to be finally replaced by the VAT in January of 2005. Tax collection has been significantly improved due to improved tax administration and introduction of severe sanction for tax evasion. The budget administration has been substantial improved with the introduction of the treasury, i.e. integrated budget management and transparent budgetary control. The problems are still due to huge subsidies that are allocated to the loss-making firms, although these subsidies are rather transparent. Although substantial success in this area has been recorded on the central level, local public finances are still unreformed and the level of transparency of the local budgets is substantial lower that the central one. As to the actors that have driven the change, the most important actors were domestic, since monetary stability has been the paramount after a batch of inflations in Serbia in 1990s, hence any Serbian government is carefully about the budgetary/public finance issues, as there is a widespread public “fear” of inflation External actors also played significant role in changes in this area. The IMF provided both incentives through the conditions for the SBA and the EFF, and through the technical assistance provided to the Government of Serbia. Substantial technical assistance has been provided by the US Treasury and funded by the USAID. The role of the EU has been rather modest in this area.

(d) D**ecentralization and strengthening local authorities**

The constitutional reform in Serbia in 1990 provided for strong and virtually unlimited centralization. The role and authority of the local communities (municipalities) as well as autonomous regimes was substantial reduced. The number of issues that they deal with was substantial reduced, public finances crucially depend on the central government (with negligible autonomous public revenues) and local public ownership was completely centralized.

There have been three major driving forces for decentralization: (1) Serbian tradition of autonomous local authorities, (2) Democratic political parties from mid 1990s onwards controlled all big cities and municipalities and (3) General trends of decentralization in the democratic World. On the level of political declarations, decentralization was up on the agenda of all Serbian government since 2000, but effectively modest results were accomplished due to the constitutions restrictions. A few decentralization moves have been recorded: (1) Autonomous province of Vojvodina have been transferred to some of the authorities of Republic of Serbia, (2) New law on local authorities and elections, harmonized with the standards of the EU, (3) Local authorizes are given more power in the areas of urban land development. International community provides great support to the decentralization process, particularly in the area of networking between local authorities, particularly USAID.

Nonetheless, the crucial steps in decentralization are yet to be taken, particularly regarding the new Constitution.

(e) O**rganization and quality of the civil service**

No substantial results have been accomplished in last 15 years on the organization and quality of the civil service in Serbia. The civil service is still unattractive for competent professionals and incumbent personal can be described as over-employment and lack of competence/efficiency. In 2001 the Agency for reform of the civil service has been established, without any substantial results. It was dissolved in 2004. In 2005 new legislation in the area of state administration (civil service) and employment of civil servants has been prepared and passed to the National Parliament as a bill by the Government of Serbia. These pieces of legislation should provide a legal ground for the reform. The role of the EU in preparing these prices has been substantial in terms of technical assistance.

(d) **Strengthening citizen complaint mechanisms**

There is no ombudsman or comparable body that will enable efficient processing of the citizen complaints to the civil administration. There are no specific rules that will enable monitoring and sanctions for bad public servants. Although there is substantial pressure of the public for the service of the public administration, there is no improvement in the area. Obviously executive and legislative branches of the government do not feel that pressure as something relevant. Possibly, the reason for this attitude is consideration that bad feelings regarding the services of the public administration are short-run; when the time comes for the elections, that would not be relevant issue.

A.3 Efforts to combat corruption and increase state accountability

(a) Promotion of open discussion of the governance problems

Since the political changes in 2000 the new governments promoted open discussion about corruption, but the majority of the activities have been focused to the "previous" government, and its abuse of the office. Although the increased political will to bring on the reforms needed to make government operations transparent and accountable, the majority of the activities in this area are scandal-prone, i.e. the cases of corruption and abuses (as well as ostensible corruption and abuses) are used in partisan politics competition and exchange of accusations within the framework of prolonged election campaign in Serbia. Serbian political actors have been driven these changes, but substantial part of their motivation is due to the international community and external actors that provided substantial political incentives for increased transparency. The point is that domestic players learned that it would be expected from them to address the issue, at least by providing a lip service to the international community. The most important role has been the one of the Council of Europe and OESC though some would dispute the effectives of that role.

It is evident that general public is now much more demanding regarding the information of the operations and misconduct for the public officials, as one would say from the kind of media pressures to the executive government to reveal relevant information on its operations.

(b) Conflict of interests standards for public employees

The government established in 2004 new legislation (adopted by the National Parliament) that takes care of the conflict of interest, mainly for decision-makers, but also for all public administration employees. This legislation provides a list of the cases of conflict of interest for the political decision-makers and public servants both on the central and local level (both central and local authorities). One provision of the new legislation is compulsory registration of the assets (wealth) before entering the office. Furthermore, as public enterprises are considered as one of the neuralgic points of corruption and abuse (particularly regarding partisan politics and abuses for the sake of the partisan interest), membership in the public enterprise boards is banned for the public officials. If conflict of interest is identified, that monitoring report on each particular case is to be made public and public warning is issued to the official involved in the conflict of interest. The Commission that is in charge of monitoring the conflict of interest is appointed in February 2005. One of the first rulings of the Commission is to introduce *ex post* compulsory registration of the assets of all public officials. This system is rather complicated, expensive and difficult for enforcement, so still there is no enough evidence to evaluate the results of the legislation enforcement, i.e. of the work of the commission.

It is, however, evident that this very informal norm has been internalized from the EU and other democratic countries in the recent period. During 1990s, there was no room for such a demand by the public. Nowadays, due to opening of the country to the World and adoption of the values from the democratic countries, this informal norm became evident and formal rules have been introduced to meet this attitude.

(c) Legislation and international treaties against bribery

Although no special piece of legislation on corruption has been adopted, a substantial changes (amendments) to the (general) Penal Code, specifying the crime of corruption, both in the form of

bribe taking (for the officials) and bribing officials (for the corruptors). As one of the biggest problems in prosecuting corruption is lack of (internal) information, hence generous leniency policy is stipulated for the bribers if they provide internal information. The country joined GRECO program of the Council of Europe.

(d) **Free and fair elections to Parliament**

After a 1990s in which free and fair election were the most important domestic politics topic with Milosevic constantly rigging elections, new election legislative was adopted in late 2000 and has been improved in years to come, sorting out the most important problems The only serious problem to be resolved is the list of the registered voters, but this is mainly the problem of accuracy and the problem of the status of refugees and IDPs in Serbia. Serbia now has free and fair elections and no political party (whatever is the election result) complains about the election process. Media coverage of the election campaigns is impartial and unbiased. The most important actors (agents of change) are domestic political (partisan) leaders who realized that no sustainable political outcome can be generated in constant dispute over legitimacy of power, something that was common in Milosevic time. Furthermore, the political efforts to get free and fair elections during Milosevic time was a kind of commitment that cannot be disposed of after Milosevic left the power. Finally, the role of domestic NGOs sector was substantial, particularly the role of CeSID (Center for Free Elections and Democracy). The role of the external actors was the most important in funding the NGOs and democratic political parties. Furthermore, the monitoring role of OSCE proved to be very valuable in early post-Milosevic elections.

(e) Parliament's committee

There is no permanent National Parliament committee with power to question senior officials about use of public funds, appointments of personnel, awarding of contracts and public procurement. Instead *ad hoc*, specialized committees of the Parliament have been established a few times to deal with the high profile cases of real or ostensible abuse of the office by senior public official, i.e. to investigate scandals regarding the abuse public funds or any other kind of abuse of the office. The sessions of the *ad hoc*, specialized parliamentary committees were televised and that was a great opportunity for political PR and partisan politics. Accordingly, these committees proved not to be of a great value in terms of accountability of public officials. These committees have been introduced during 1990s, in the early stage of partisan pluralism. No external actors played any significant role in this area for the time being.

(f) Auditor General office

There is no **Auditor General** office, as there is no Auditor General. The political decision of the key domestic players is to wait for the constitutional changes for the that institution to be introduced in a proper way, rather than to be controversial (at least legally) from the beginning. For the time being it is German rather than French model of the Auditor General that is considered. No external actors played any significant role in this area for the time being.

(g) Civil service ethics code

There is no **civil service ethics code**, i.e. there is no internal civil service mechanisms to detect, investigate, prosecute and punish acts of corruption. This is the consequence of the failure of the

reform of the civil service that was initiated in 2001. Perhaps some improvements can be expected with the new civil service legislation that should be accepted in 2005.

(h) Government facilitated access to information

The Law on the Access to Public Information has been adopted in the national Parliament in 2004. According to the Law the institution in charge of monitoring of the law enforcement and actions of the executive government has been established. The General Secretary of that institution has been appointed. However, there are substantial problems regarding the beginning of the operations of that very institution. Although it is the legal obligation of the Government of Serbia to provide the institution and its General Secretary promises for the operation, these premises are not provided yet. All the moves of that kind are considered as political and other pressures to the enforcement of the legislation, or rather the lack of it. It is obvious that there is no substantial political will to allow free access to public information. The political pressure from the EU was enough only to allow passing of the legislation (it is obviously difficult to object passing of such legislation) but the devil is in the detail of enforcement, i.e. creating obstacles to the enforcement, rather than to the legislation is the political tactics of the Government of Serbia. This situation is typical for Serbia. Although there is a strong lip service to some of the modern idea, embodied in the new legislation, adopted in the Parliament without any reasonable debate, using ruling parties' majority, the legislation is not enforced and no effective change occurs. This is the strategy of the executive and legislative branch of the government in many cases, particularly if there are strong external actors which insist to the legislative reform in some area.

(i) Legal measures to protect workers who expose corruption

There are no special or particular legal measures to protect workers who expose corruption at their place of work. There are no effective legal measures to ensure freedom of expression/speech when it comes to exposing corruption, but the problem is that freedom of expression/speech is used for promoting political scandals and even reasonable moves of exposing corruption are perceived by many (general public) as faulty mechanism of partisan politics and rating generated political scandals. External players played no role in this area.

(j) Anti-corruption watchdog agencies

The Anticorruption Council of the Government of Serbia has been established in 2001 (http://www.antikorupcija-savet.sr.gov.yu). The idea was to establish a consultative body that will furnish the Government of Serbia with report primarily on the legislation and public policies that are creating room (fertile ground) for corruption, i.e. to influence public policies relevant for corruption or rather for combating the corruption. Members of the Council have been respectable people from the civil society, academia and media, i.e. people that considered as people of great integrity. Form the very begging three huge problems gave been created and have not been solved yet. The first one is the relations between the Council and the Government of Serbia, as the Council would like to be independent (at least to claim that it is independent), but still expects funding from the government, i.e. out of the budget of Serbia. The second one is that the Council is accountable to no one. The third one is the one of the mandate. Although the idea was to establish the Council as a consultative body, the Councils has been involved in much wider activities of investigation of the cases of corruption, making public statements of the specific cases (real or ostensible) of abuses of public office, i.e. taking over the authority of judiciary (both prosecution and courts). Furthermore,

from the very beginning, the Council operations were connected with scandal. The allegations regarding the integrity of the former president of the Council (not relates to his activities in the Council, but in his academic career) led to his resignation, as the resignation of the many council member. Some reports of the council fell very far from the topic of corruption as the Council made report of the model of privatization and technical issues of the privatization that are not related to corruption. Such operations of the council decreased its public creditably and proved to be counterproductive for anti-corruption efforts. The actors who have driven changes in the area (particularly the establishment of the Council) have been members of the Government of Serbia cabinet in 2001. The external actors played the role by setting the agenda – integration in the World, a key word of the fist post-Milosevic Government of Serbia was not possible without anti-corruption efforts, at least the rhetoric about these efforts.

(k) Ombudsman system

The institution of Ombudsman is not stipulated by the Serbian constitution (the one from year 1990), hence the introduction of that very institution would be highly controversial regarding the Constitutional court. Accordingly the Ombudsman has been introduced only on the level of local government and its powers are substantially limited.

There is general political recognition (even consensus) that the institution of the Ombudsman should be introduced. However, as to the political tactics, it has been decided by the majority of the political parties that the new constitutional ground should be established for the institution of the Ombudsman, i.e. that constitutional changes or new Constitution should be a first step for introduction of the string and efficient institution of ombudsman. Otherwise there will be so legal (constitutional) doubts that can be exploited in partisan politics.

The external actors have been very active regarding the institution of Ombudsman, particularly in the area of the preparation of the legislative ground for that very institution. Accordingly the external actors (Council of Europe) took active part in preparing the first draft of that legislation and the preparations of the introduction of the institution.

(l) Regulation of banking, competition, tax collection, public procurement or land allocation

Banking regulation has been substantially reformed, though this was a part of substantial reform of the banking sector in the country (one of the most reformed sectors in Serbia), not an effort to combat competition. The role of external actors was substantial, particularly the role of the IMF and the US Treasury. The same goes to the tax collection as a part of a substantial reform of the public finances in the country. Apart form the IMF, USAID has been substantial involved in the process. There is no reform of the competition policy and the role of the EU in this particular area is specific due to the long standing policy of the State Union of Serbia and Montenegro to be in charge of competition policy. Urban land allocation has not been reformed and agricultural land allocation has been corruption-free private market for decades. Public procurement has been regulated with the new piece of legislation (Law on Public Procurement) that proved to be controversial. First, the implementation of the legislation has been substantially delayed. Second, the legislation has been amended to offer the advantage to domestic suppliers. Finally, the police procurements have been exempted from the provision of the Low on Public Procurement by a Government of Serbia Decree (sub-statutory text). Though public procurement is obviously not regulated in the best way, the transparency of public procurement is much improved comparing with 1990s, when there was no transparency at all. The role of the external actors, particularly the IFIs has been substantial.

(m) **Cooperation with other countries**

The crucial step in the last few years that the government has taken to strengthen **cooperation with other countries** in police is the readmission of the country in the Interpol. There were some initiatives of the neighboring countries for regional collaboration regarding these issues, but the results have been rather slim for the time being.

A.4: Police reform and civilian control of security forces

(a) Security agencies that operate wholly or partially outside the effective control of the civilian government

Military organization operate partially outside the effective control as the control of the State Union that has been envisaged as weak structures and it is even more weak effectively. The reform of the armed forces and achieving effective control of civilian government is rather difficult due to the legacy of the wars during 1990s and substantial interest groups organized around military. Police have been involved in the organized crime operations, including assassination of the Prime Minister Djindjic, a legacy of the para-military troops organized in wars in 1990s. The public opinion is still divided. Still a substantial part of the population considers parts of the military and police heroes from the 1990 wars that should not be controlled. The effects of the involvement and particularly the style of the ICTY provided some ground for such an attitude. A batch of scandals involving senior military personal made the public opinion of the military severely deterioaterd during 2004/2005. International players are very active in the area, tough their agenda is somewhat different: the main goal is to make Serbian military controllable, not necessarily by domestic democratic institutions.

(b) Legal measures to regulate police powers? Can the government implement police reform effectively?

Legislative reform of the police has not been completed, although some prices provided the framework for civilian control. The law of criminal justice procurers regulates surveillance and tapping (eavesdropping). It is comprehensive, rather well though-out, but it is not entirely enforced. The reform enforcement created problems as the security structures are reluctant to enforce new rules.

(c) Civilian control over the police and security forces

Parliamentary control of the policy and related security forces exists to the great extend, but it is not thoroughly institutionalized. New Law on the State Security Agency (BIA) has been adopted and enforced in 2002 and it provides a legal ground for parliamentary control of the secret police. The reform of the police is rather slow and sluggish, particularly due to enormous burden of the heritage. During 1990s police was involved in military operations with para-military groups and organized crime. Still, after some many efforts to clean-up the policy some traces of these links can be found, making the job of thorough clean-up rather difficult.

(d) Sets and controls the budget of the security agencies

The parliament sets and controls the **budget** of the security agencies since 2001. The major events that brought about the change were these linked to the ousting Milosevic from the power and dismantling his security apparatus that followed. Still the extent of the control, in terms how detailed it is remains rather unclear. General public is not very interested in these issues, so the political incentives for the further reform in the area remains rather weak.

(e) Training of police officers and personnel of other security agencies

Police agencies, i.e. their own school, **trains police officers** and personnel of other security agencies. These agencies set the training curriculum. It is not known to what extent Ministry of Interior is involved in the formulation and/or endorsing training curriculum. There is a support training center with specific programs that are funded by the EU. The curricula of these specific programs are formulated and controlled by the EU agencies.

(f) Disciplining police officers and personnel of other security agencies

Internal control, the General Inspectorate, was introduced in 2004, and it internal prosecutor disciplinary measures, removing from the specific jobs and removing from the service altogether. General Inspectorate operates for relatively short time, hence there is no room for the evaluation of that institution and its effectiveness. It was established after change of the government following accusations of the alleged mass violation of human rights by police after assassination of the Prime Minister Djindjic in spring 2003.

(g) **Legislative, institutional or policy changes regarding arrest, detention of suspects and prisoners and methods of criminal investigation**

Constraints due to the Council of Europe membership have been introduced in 2003/4 and requested adjustment of the criminal justice procedures took place via changing criminal law procedure legislation.

Violations of the criminal justice procedures (prolonged detainment without indictment, interrogation without legal representatives, provision of no legal advice, etc.) on the state of emergency introduced after assassination of the Prime Minister Djindjic in March 2003.

Recently, senior police and other security officials have been arrested on the charges of violation criminal justice procedures in few high profile cases. Furthermore, it was demonstrated that these changes, although valuable regarding the substance, these changes were not implemented in the good way, opening the loophole that has been used by convicted criminals and their legal representatives.

Virtually, all changes of the criminal justice procedures have been accomplished due to the international agents of change. Domestic human rights organizations, although rather active in the field, received litter if no attention from the public, because public opinion, due to the high crime rate, is not very interested in human right of people they consider criminals, and do not care about the “presumption of innocence”.

(h) Measures exist to detect, investigate and punish abuse of power by security agencies

Both internal and external legal and institutional measures are much more efficient than in 1990s to detect, investigate and punish abuse of power by security agencies. Simple reason for that improvement is that there was no measures whatsoever during 1990s. Substantial number of cease of investigation, prosecution the abuses took place recently. The only problem is that many of these cases are nothing but partisan politics struggle in the area of security agencies. In the police it is General Inspectorate in the case of military Supreme Council of Defense.

(i) Citizens' complains about the conduct of police and other security organizations

The institutions that deal with these complaints are General Inspectorate of police and Human rights organizations (NGOs). The role of media is very important and that is a part of the leverage of the human rights organizations. General public is concerned about the conduct of police in the case of "ordinary" citizens, i.e. if parcepted criminals are not involved.

(j) Adoption of new treaties and membership in international organizations

The crucial change is membership in the Council of Europe (CoE), since all European treaties that have been signed and ratified as the condition (consequence) of that membership.

A.5: Strengthening protection of basic rights

(a) Legal and institutional measures have to improve respect for and protection of basic human, civil and political rights

There are few legal and institutional measures that have substantial effects in last 10 years:

- The death penalty has been abolished in 2001.
- The new Crater of human and minority rights adopted in 2003 prohibits the deprivation of right to life, freedom and personal dignity. The provisions of the Charter have been introduced in the new Law on Criminal Justice Procedures.
- The measures to detect and punish torture, cruel or inhuman punishment have been stipulated by adoption and ratification of the International convention and are enforced by the general Inspectorate of the Police.
- Measures to promote freedom of thought, expression and the media (including measures to protect journalists, intellectuals and political dissenters), are stipulates by the Charter of human and minority rights, new Information law, and changes in the Penal code that are under preparations for abolishing criminal liability for journalists.
- The main measures to protect property rights includes privatization and a batch of laws that provides the ground for market economy based on the protection of private property rights. For the time being there is no legislative move on the restitution front partly because that is not a political priority, partly as there are substantial disagreements about the best way fro implementation of the legislation. Due to the constitutional constraints, urban land is still public owned. Nonetheless, the rules of compulsory purchase of the land have been substantially changed minimizing the transfer of the privately owned land to the public ownership.
- The crucial measures to protect and promote freedom of religion and minority rights are embodied in the Law on minority rights – there is a positive discrimination of minorities.
- One of the measures to promote equality between men and women and to prevent other forms of discrimination in private, work and public life is that on the election list for the parliament there must be at least 1/3 of women.
- As to the measures to promote children's rights, care for the elderly and for people with physical or mental disabilities they virtually do not exist, hence there are no results in this field.
- As to the Measures to protect workers, health and safety at work and to strengthen freedom of collective bargaining and trade unions, there are too strong and effective for a transition economy producing very inflexible labor market and huge unemployment. The basic philosophy of these measures is still socialist in nature.
- Measures to improve universal education, health-care and social security are not necessary because there things have been at least nominally provided for a long tome as a part of communist welfare state. Effectively, some of these services are not provided or are provided of the poor quality because the lack of the funds, and poor efficiency of the service provision, i.e. even resources already allocated to these services are not efficiently utilized.

(b) Domestic actors in promoting changes

As to the basic human, civil and political rights, NGO sector has been the most important in promoting changes in these areas. Two types of the sector should be distinguished. The first type of the NGO sector is the one consisted of the local branches of the basically international NGOs (Helsinki Committee for Human Rights, Human Rights Watch, etc.) and their network, and the

other type is consisted of authentic domestic NGOs in the area. The "international NGOs" enjoyed abundance of funding and their attitude have been more activist than the domestic NGOs. International NGOs philosophy has been "we have to comply with the international standards" without much of the explanation. Domestic NGOs philosophy was much more educative, particularly taking into account the specific situation of the heritage of the 1990s wars in the former Yugoslavia. With the political (democratic) changes in 2000, Serbian government has become much more active in the area, particularly taking into account the activities regarding integration of the country to the international community. The Government activities were predominantly legislative.

(c) The role of external actors

Before the political changes of the 2000, the role of external actors, due to lack of any collaboration with Serbian (Milosevic's) Government of that tome, was restricted to the support of the NGO sector, primarily by finding its operations, but also by distant monitoring of the implementations of the programs. After the political changes of the 2000, the international actors, particularly the Council of Europe and the OSCE have taken very active part in the implementation of the internationally recognized standards in the area of human rights.

(d) The networks of actors that cut across the domestic-external divide

The direct role of the international organization in cutting across the domestic-external divide is not big. The role of external actors is much more important in supporting the NGO sector. This is not to say that all of the NGOs were equally effective. Some of them were more, some of the less effective, and the activities of some of them were even counterproductive. The strength of the NGOs sector could be explained by its activities during the isolation of the country and it is experienced in the area with lot of networking.

SECTION B

(a) Domestic policy-makers and the ruling elites

The ruling elite of the country is divided regarding the domestic situation and particularly regarding the direction the country is heading in or should head in. Although popular support of general population to the EU accession/integration is huge according to the public opinion survey (almost 75%), the popular support can be explained by lack of proper knowledge about the EU and political manipulation of the EU accession by the part of the ruling elite (promoting EU accession as a kind of *panacea*). There is still a part of the ruling elites that are not excepting basic European values.

In last 10-15 years there have been every domestic crisis even with the international involvement, but that proved not to be effective incentive for the government to introduce the rule of law, i.e. to conduct large rule of law reforms. Taking into account that a substantial part of the ruling elites, particularly the segment of that elite in the executive branch of the government considers the rule of law primarily as a constraint to the exercise of their power, it is not surprising that they do not see any intrinsic value of the rule of law reforms and that the achievements on that area (if any) and more the consequences of the political pressures (mainly international) than domestic genuine motivation for the reform.

For the time being there is no political consensus about the rule of law reforms. Furthermore, there is no consensus on the evaluation of the achievement in the area of the rule of law reform, their scope content and effects.

(b) Fluid vs. stabile political situation

The big political change of the 2000 (the end of Milosevic political era) provided huge opportunity for the rule of law and other democratic reforms. There was substantial political motivation for the change, because that was the was to demonstrate "discontinuity" with the Milosevic's time and ruling elite. In the same time, this was the period of great stability, i.e. the ruling coalition has overwhelming majority in the National Parliament. This periods was absolutely the best for implementation at least the beginning of the rule of law reform. The problem was that the international community had its own agenda, exercising huge pressure regarding collaboration with the Hague Tribunal (ICTY). The political energy that could have been used for the reforms, including the reforms in the area of the rule of law, dissipated in the areas of "facing the past" within the framework of the ICTY operations. New political conflicts among the ruling elite of the time have been created by such political agenda. As the time passed in became clear that the conditions (in terms of incentives and constraints) for the reform in the area of the rule of law are far from being favorable.

(c) **Look outside the country for solutions to economic, social and regulatory problems**?

Domestic policy makers frequently do look out side the country for solutions to economic, social and regulatory problems! The solutions that they are looking for are predominantly solution from the EU. There are many reasons for that orientation, one of them being a feeling that at the end of the day there will be a necessity for harmonization of domestic with the EU rule, so it is better to do it right away. Apart from the EU, solutions for some other European countries have also been considered (Norway and Switzerland, for example). Technical assistance in the process of drafting

new pieces of legislation have been asked in many cases fro the EU countries and the Council of Europe and OSCE.

(d) The **relative political power** of pro-Western, liberal, democratic elites

The estimates relative political power of pro-Western, liberal, democratic elites, as opposed to non-Western oriented, illiberal elites are:

- In executive: 60%
- In legislature: 55%
- In judiciary: 30%
- In security agencies: 3-5%
- In civil service: 30%

(e) Closer ties with the EU?

The pro-Western, liberal elites on Serbia seek to enhance their power by making reference to closer ties with the EU very frequently, as that become one of their political trademarks. As there is still widespread popularity of the EU accession (see above), such a strategy could pay off. The problems are, however, that the knowledge on the EU and full notion of "European values" are not very widespread in Serbia, but rather a vague notion of "better life" in the EU, and that there is widespread political/economic populism regarding EU, i.e. that accession and the membership are kind of *panacea*, i.e. a medicine for all our illnesses.

Accordingly, there is no political commitment to take all the measures that are necessary for the successful accession to the EU, both in the terms of the political decisions)like, for example collaboration with the ICTY), and in terms of reform process that will at least on the legislative grounds provides acceptance of the EU rules and standards (for example bankruptcy legislation), let alone the implementation of these standards (like for example enforcing that vary legislation in the restructuring of the industrial sector of Serbian economiy). This demonstrates that there so political costs of the EU accession, at least costs regarding political ratings and the true commitment to the EU ideas is revealed when there are some political costs.

Nonetheless, that are segments of the population and segments of the social and political elite, that are opponents to the EU accession, because they have some vested interests in opposing that move. These include:

- Transition losers, inflexible and unskilled labor force that have been employed in the socially owned (public) enterprises that are about to be restructured/closed.
- A segment of new business elite (tycoons) that has got the fortune during the Milosevic era in the framework that was protectionist and non-transparent.
- "Nationalistic" political elite, xenophobic by attitude and not equipped to sustain the competition of ideas.

(f) The prospect of a closer relationship with the

The signals are mixed in the area of indirect influence of the EU through empowerment of domestic actors. The reason being that is that the EU is heavily involved in a few crucial and specific issues

like the collaboration with the ICTY, organization of the State Union of Serbia and Montenegro and the final status of Kosovo. Taking into account development on these three fronts (as well as the other) the prospects of the EU membership can be viewed both as political asset and liability.

(g) External actors and "veto players"

There are no veto players in the Serbian society except perhaps in the security sector, although their veto power is informal (in the area of reform implementation, rather than decision-makers). It is not the issue of veto players, but rather the strength of the opponents.

(h) Formal institutions and weak state institutions

The two explanations are rather complementary both in general and in some of the specific cases. As there is no doubt lack of substantial administrative capacity to enforce the reform legislation, sometimes it is "easy" to promulgate new reform legislation knowing very well that it will no be effective.

On some case there was a genuine political will to make a reform move, but it was offset by the lack of administrative capacity. Typical case is the issue of business registry and to register the track record of the company. The lack of this very institution provided the lack of possibility for implementation of financial leases and there is no vested interest for the implementation of financial leases.

(i) Change Agents

Change agents exist in all the forms: NGOs, universities, the media, political parties, professional associations (lawyers, doctors, businesspeople), except perhaps professional state bureaucracies and (professional) politicians. But the crucial issue is that there is no strict division between the sectors as the same people are moving from one sector to the other and from time to time they operate in a few sectors simultaneously. The crucial limitation is then the number of people that can be labeled as changed agents is very limited. The other important issue is that effective change agents are only these who have direct access to the government, i.e. decision-makers.

(j) Informal channels by which elites interact with EU member states/institutions

There are some informal channels by which elites interact with EU member states/institutions colleagues. The opportunities are rather small for a few factors, visa regime restrictions to be perhaps the most important factor, as well as the lack of funds. The most relevant people in these fields are heavily involved in commercial consultancy and there must be substantial funds fro them to be involved in alternative activities.

(k) Adoption of EU law and institutions (the *acquis communautaire*)

There domestic bureaucratic circles that are very pro-EU and try to push for adoption of EU law and institutions (the *acquis communautaire*) and promote closer integration with the EU, but the number is limited. The champions are specific people usually those who joined the government in

year 2000 from the NGO sector. The most of these people are in the economic ministry, very few of them in the ministry of interior and, to the extend judiciary. One way or the other, they Do they respond to EU pressures for reform rather than trying to promote voluntary harmonization with EU rules and norms.

(l) Systems of government, economies and culture of EU member model

The "political correct" public speech (adopted by the majority though not all of political parties) still idealizes EU and European values, without going into the substance of then. Now, after the adoption of the positive Feasibility SAA Study and the preparation of the negotiations on the SAA, there is a move toward more realistic approach to the issues, i.e. not to consider the EU in idealist terms.

The opposition elite have strong convictions about the EU, as something that anti-Serbian, hence the EU accession will destroy traditional Serbian values. Although this attitude has been weakening in recent time, it is still rather strong and rather appealing, at lest on the emotional ground, taking into account rather widespread xenophobic attitude of the population.

As mentioned earlier, according to the public opinion surveys, there is substantial support of the EU accession, as the accession is seen asmechanisms for overcoming economic problems that are considered as the most important problems by the population. It is unclear what is the commitment of the people to that accession, particularly taking into account that accession means changing the incumbent working habits and way of life

(m) Integration with the EU as "the only game in town

Effectively, EU is "the only game in town", though there are some political groups who oppose the accession, more ostensibly (for the reasons of the political rhetoric) than genuinely. There is a general support of the public to the EU accession, although the support is a declarative one for the time being and it should remain to be seen what is really the strength of the commitment of the public to the EU accession when the time comes for some of the bitter medicines.

(n) EU as an "inspiration" and a model to be emulated

The most attractive feature of the EU for Serbia is economic prosperity. After sharp decline of the GDP and decreased welfare of the population in the 1990s and sluggish economic recovery with some many transition losers, the image of the EU for Serbia is the image of economically successful group of countries and affluent society. A "return home" motive is more "return to the golden age" as many Serbs consider 1970s as good years with rather successful economy and international importance of the (former) country.

(o) Clear "road-map" for reforms

It could be expected that the map will be developed within the SAA. Such a road map will be beneficial for Serbia.

(p) Full membership in the EU

This question is not relevant for Serbia because their precise sequencing for all countries in the Western Balkans, first the SAA, it's execution and than full membership.

SECTION C

International Conventions on Human Rights and Protection of Minorities

Conventions and Protocols	Signed (date)	Reservations or derogations to some provisions	Ratified (date)	Entered into force (date)	Level of enactment (total, partial, null)	Main problems regarding enactment	SOURCE/ WHO
ECHR[1]	03.04.03.	Article #57	26.12.03.	26.12.03.	partial	Judicial (court) system	DOCUMENTS (CoE[2])/ US
Protocol No. 1 to ECHR[3]	03.04.03.		26.12.03.	26.12.03.	partial	Judicial (court) system & restitution	DOCUMENTS (CoE)/US
Protocol No. 4 to ECHR[4]	03.04.03.		26.12.03.	03.03.04.	partial	Judicial (court) system	DOCUMENTS (CoE)/US
Protocol No. 6 to ECHR[5]	03.04.03.		26.12.03.	01.04.04.	partial	Judicial (court) system	DOCUMENTS (CoE)/US
Protocol No. 7 to ECHR[6]	03.04.03.		26.12.03.	01.06.04.	Total		DOCUMENTS (CoE)/US
Protocol No. 13 to ECHR[7]	03.04.03.		26.12.03.	01.07.04.	Total		DOCUMENTS (CoE)/US
European Convention for the Prevention of Torture[8]		Technical agreement signed 23.08.04. UNMIK and CoE	26.12.03.	26.12.03.	Total		DOCUMENTS (CoE)/US
European Social Charter							DOCUMENTS (…)/US
Revised European Social Charter							DOCUMENTS (…)/US
Framework Convention for National Minorities	10.11.94.		03.12.98.	03.12.98.			DOCUMENTS (CoE)/US
ICCPR[9]	06.03.01.		12.03.01.	12.03.01.	Total	Re-adopted by the statement of the FRY (succession)	DOCUMENTS (UN[10])/US

[1] European Convention on Human Rights.
[2] Council of Europe.
[3] Right of property.
[4] Freedom movement et al.
[5] Death penalty.
[6] Ne bis in idem.
[7] Abolition of the death penalty in all circumstances
[8] And inhumane or degrading treatment or punishment.
[9] International Covenant on Civil and Political Rights.

First Optional Protocol to ICCPR[11]	06.03.01.		12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (UN)/US
Second Optional Protocol to ICCPR[12]	06.03.01.		12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (UN)/US
ICESCR[13]	06.03.01.		12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (UN)/US
CAT[14]	06.03.01.		12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (UN)/US
Optional Protocol to CAT	06.03.01.		12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (UN)/US
CERD[15]	06.03.01.		12.03.01.	31.07.03.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (UN)/US
CEDAW[16]	06.03.01.		12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (UN)/US
Optional Protocol to CEDAW	06.03.01.		12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (UN)/US
CRC[17]	06.03.01.		12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (UN)/US
Optional Protocol to CRC[18]	06.03.01.		12.03.01.	12.03.01.		Re-adopted by the statement of the FRY	DOCUMENTS (UN)/US

[10] United Nations.
[11] Right of individual communication.
[12] Death penalty.
[13] International Covenant on Economic, Social and Cultural Rights.
[14] Convention against torture and other cruel, inhuman or degrading treatment or punishment.
[15] Convention on the Elimination of all Forms of Racial Discrimination.
[16] Convention on the Elimination of all Forms of Discrimination against Women.
[17] Convention on the Rights of the Child.

						(succession)	
Optional Protocol to CRC[19]	06.03.01.		12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (UN)/US
Conventions nr. 87[20]	19.04.01.		19.04.01.	19.04.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (ILO)/US
Conventions nr. 98[21]	19.04.01.		19.04.01.	19.04.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (ILO)/US
Conventions nr. 29[22]	19.04.01.		19.04.01.	19.04.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (ILO)/US
Conventions nr. 105[23]	19.04.01.		19.04.01.	19.04.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (ILO)/US
Conventions nr. 138[24]	19.04.01.		19.04.01.	19.04.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (ILO)/US
Conventions nr. 182[25]	19.04.01.		19.04.01.	19.04.01.		Re-adopted by the statement of the FRY (succession)	DOCUMENTS (ILO)/US
Conventions nr. 100[26]						Re-adopted by the statement of the FRY (succession)	DOCUMENTS (ILO)/US
Conventions nr. 111[27]						Re-adopted by the statement of the FRY (succession)	DOCUMENTS (ILO)/US

[18] On the involvement of children in armed conflict.
[19] On the sale of children, child prostitution and child pornography.
[20] Freedom of Association and Protection of the Right to Organize (1947).
[21] Right to Organise and Collective Bargaining (1949).
[22] Forced Labour (1930).
[23] Abolition of Forced Labour (1957).
[24] Minimum Age (1973).
[25] Worst Forms of Child Labour (1999).
[26] Equal remuneration (1951).

Other (specify): ……							…/…

International and Regional Conventions/Agreements

SOURCES /WHO	Area	Conventions/ Agreements	Signed (date)	Ratified (date)	Entered into force (date)	Level of enactment (total, partial, null)	Main problems regarding enactment
…/…	**Nuclear Safety**	…					
		…					
DOCUMENTS (UN)/US	**Environment**	Framework Convention on Climate Change	06.03.01.	12.03.01.	12.03.01.	Total	
		Barcelona Convention for protection of the marine environment and the coastal region of the Mediterranean	06.03.01.	12.03.01.	12.03.01.	Total	
DOCUMENTS (OECD and CoE)/US	**Anticorruption**	OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions					
		Council of Europe Criminal Law Convention on Corruption	26.02.02.	26.02.02.	01.04.03.	Total	
		Council of Europe Civil Law Convention on Corruption	26.02.02.	26.02.02.	01.04.03.	Total	
		Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime	09.10.03.	02.07.03.	01.02.04.	Total	
		Agreement Establishing GRECO[28]					
		…					
DOCUMENTS (UN)/US	**Organized Crime**	2000 UN Convention Against Transnational Organized Crime (Palermo Convention)	06.03.01.	12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)
		First Protocol to Palermo Convention[29]	06.03.01.	12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)

[27] Discrimination (Employment and Occupation) (1958).
[28] Group of States Against Corruption.
[29] Prevent, Suppress and Punish Trafficking in Persons, Especially Women and the Children.

		Second Protocol to Palermo Convention[30]	06.03.01.	12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)
		Third Protocol to Palermo Convention[31]	06.03.01.	12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)
		…					
…/…	**Money Laundering**	……...					
		……...					
DOCUMENTS (UN)/US	**Refugees**	(UN) Geneva Convention on Refugees (1951)	06.03.01.	12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)
		(UN) Protocol relating to the status of refugees (1967)	06.03.01.	12.03.01.	12.03.01.		Re-adopted by the statement of the FRY (succession)
…/…	**Other (specify):**	……...					

Membership in Political and Economic International Organizations

SOURCES/WHO	**Political Organization**	**Date of membership**	**Main problems regarding membership, eventual membership or no membership**
DOCUMENTS (UN)/US	United Nations	01.11.00.	Succession
DOCUMENTS (CoE)/US	Council of Europe	03.04.03.	Succession
DOCUMENTS (NATO)/US	NATO		No membership
DOCUMENTS (OSCE)/US	OSCE[32]	10.11.00.	Succession
DOCUMENTS (AL)/US	Arab League (AL)		No membership
DOCUMENTS (OIC)/US	Organisation of Islamic Conference (OIC)		No membership
…/…	…		

SOURCES/WHO	**Economic Organization**	**Date of membership**	**Main problems regarding membership, eventual membership or no membership**
DOCUMENTS (IMF)/US	IMF[33]	20.12.00.	Succession from 14.12.92.
DOCUMENTS (WB)/US	World Bank	08.05.01.	IDA membership

[30] Smuggling of Migrants.
[31] Smuggling of Firearms.
[32] Organization for Security and Cooperation in Europe.
[33] International Monetary Fund.

DOCUMENTS (WTO)/US	WTO	Accession process	No membership
DOCUMENTS (OECD)/US	OECD		No membership
DOCUMENTS (EBRD)/US	EBRD[34]	19.01.01.	
…/…	…		

Supranational Courts

SOURCES/WHO	**STATUTE**	**Signature of the Statute**	**Ratification of the Statute**	**Main problems regarding signature/ ratification of the statute or its enactment**
DOCUMENTS (ECHR[35])/US	European Court of Human Rights	03.04.03.	31.03.03.	
DOCUMENTS (ICC[36])/US	International Criminal Court	06.09.01.	06.09.01.	

DOCUMENTS (ICTY[37])/US	International Criminal Tribunal for Former Yugoslavia	None	None	Cooperation with
…/…	……..			

International Obligations

SOURCES/WHO	**Level of respect for international obligations (total, in part, at all)**	**Main problems:**
…/US	……..	1)……
		2)……
…/US	……..	1)……
		2)……
…/US	……..	1)……
		2)……

Regional Cooperation (RC)

SOURCES/WHO	**Country**	**Main frameworks of RC**	**Level of participation in each framework of RC** (date of membership)	**Quality of participation in each framework of RC** (very active, moderate, poor, passive)
…/…	Romania	Stability Pact		
		Black Sea Economic Cooperation		

[34] European Bank for Reconstruction and Development.
[35] European Court of Human Rights.
[36] International Criminal Court.
[37] International Criminal Tribunal for Former Yugoslavia.

…/…	Serbia and Montenegro	Stability Pact	26.10.00.	Moderate
…/…	Turkey	……..		
		…….		
…/…	Ukraine	Central European Initiative		
		Black Sea Economic Cooperation		
		GUUAM (Georgia, Ukraine, Uzbekistan, Azerbaijan, Moldova)		
		Eurasian Economic Community (EAEC)		
		Single Economic Space with Russia, Belarus and Kazakhstan (since September 2003)		
		…….		
…/…	Morocco	Agadir free trade agreement (with Tunisia, Egypt and Jordan)		
		…….		

Presence of Contractual Links with the EU

SOURCES/ WHO	**Specify main contractual links with the EU**	**Signature and Entered into force** (dates)	**Level of enactment** (total, partial, null)	**Main problems regarding enactment**
…/US	□ Europe Agreement, □ Stabilization and Association Agreement, □ Partnership and Cooperation Agreement, □ Association Agreement □ Other (specify): ……..		Null Feasibility study	1): …… …… …… …… 2) : …… …… ……..……

SOURCES/ WHO	**Other contractual links with the EU**
…/US	a) ……
…/US	b) ……

SOURCES/ WHO	**EU Membership Application and Negotiations**
DOCUMENTS (EU)/US	**EU membership application** (date): None
DOCUMENTS (EU)/US	**Opening of EU accession negotiations** (date): None
DOCUMENTS (EU)/US	**Closing of EU accession negotiations** (date): None

EU Economic Assistance

SOURCES/ WHO	Specify main EU financial instrument:	Size		Sectors	Total Size for Each Sector
DOCUMENTS (EU)/US	□ Phare □ Cards □ Tacis □ Meda	Before 2000	€ 50 mil	1) Various	€
		2000	€ 200 mil	2) Various	€
		2001	€ 250 mil	3) Various	€
		2002	€ 250 mil	4) Various	€
		2003	€ 250 mil	5) Various	€
		Total:	€ 1,000 mil	6) Various	€
DOCUMENTS (EU)/US	ISPA	Before 2000	€	1) …	€
		2000	€	2) …	€
		2001	€	3) …	€
		2002	€	4) …	€
		2003	€	5) …	€
		Total:	€	6) …	€

DOCUMENTS (EU)/US	SAPARD	Before 2000	€	1) …	€
		2000	€	2) …	€
		2001	€	3) …	€
		2002	€	4) …	€
		2003	€	5) …	€
		Total:	€	6) …	€

Other EU financial instruments			
SOURCES/ WHO	**Name of the Instrument**	**Total Size (1990-2003)**	**Relevant Sectors**
…/US	1) EIDHR	€	
…/US	2) ECHO	€	
…/US	3) Multi-country Programmes or Regional programmes	€	
…/US	4) ……	€	

EU Member States				
SOURCES/ WHO	**Country**	**Grants** Total (1990-2003)	**Credits** Total (1990-2003)	**FDI** Total (1990-2003)
…/US	France	€	€	€
…/US	Germany	€	€	€
…/US	Luxemburg	€	€	€
…/US	Netherlands	€	€	€
…/US	Belgium	€	€	€
…/US	Italy	€	€	€
…/US	Spain	€	€	€
…/US	Greece	€	€	€
…/US	Portugal	€	€	€
…/US	Great Britain	€	€	€
…/US	Ireland	€	€	€
…/US	Austria	€	€	€
…/US	Denmark	€	€	€
…/US	Sweden	€	€	€
…/US	Finland	€	€	€

Other European financial instruments				
SOURCES/ WHO	**Actor:**	**Total (1990-2003)**	**Specify what sort of financial instruments**	**Relevant sectors**
…/US	EBRD	€ 800 mil	loans	Infrastructure, banking, SMEs
…/US	EIB	€ 400	loans	Infrastructure

Non EU Financial Instruments				
SOURCES/ WHO	**Actor:**	**Total (1990-2003)**	**Specify what sort of financial instruments**	**Relevant sectors**
…/US	Japan	€ 150	Grants	TA and infrastructure
…/US	USA	700 USD	Grants	TA, local development
…/US	Other OECD	€	……...	……...
…/US	WB	475 USD	Loans (IDA terms)	Varuious
…/US	UN	€	……...	……...
…/US	IMF	680 USD	……	Marcoeconomics (BoP)

Cooperation Against Common Security Threats

SOURCES/ WHO	**Area:**	**Subarea**	**Level of Cooperation (high, medium, low)**	**Main problems regarding cooperation**
…/US	Terrorism			
…/US	Proliferation of weapons of mass destruction			
…/US	Trans-national organized crime	Drugs trafficking		
		Trafficking in human beings		
		Smuggling of migrants		
		Fraud		
		Counterfeiting		
		Money laundering		
		…		
…/…	Environmental hazards			
…/…	…			

Involvement in Regional Conflict Prevention and Crisis Management

SOURCES/ WHO	**Geographical Area**	**Level of involvement (high, medium, low)**	**Main problems regarding involvement or no-involvement**
…/…	□ TRANSNISTRIA		
…/…	□ KOSSOVO	High	Many

…/…	□ MIDDLE EAST		
…/…	□ SOUTH SAHARA		
…/…	□ ……..		

Community programmes

SOURCES/WHO	Area	Name of the Program	Notes
…/US	Culture	Culture 2000	
		…	
…/US	Education	Tempus	
		Leonardo da Vinci	
		Erasmus	
		Erasmus Mundus	
		Socrates	
		Youth	
		…	
…/US	Environment	Environment Protection NGO 2003	
		…	
…/US	Technique and Science	Nuclear Safety	
		…	
		…	
…/US	Other (specify): …….	…	
		…	

EU Technical Assistance

Total size of **TAIEX**	€
TAIEX areas and size for each areas:	a): …
	b): …
	c): …
List of TAIEX projects and characteristics	1)
	2)
	3)
	4)
SOURCES/WHO	DOCUMENTS(EU)/US
Total size of **Twinnings**	€
Twinnings areas and size for each areas	a) …
	b) …
	c) …
List of Twinnings' projects and characteristics	1) …
	2) …
	3) …
SOURCES/WHO	DOCUMENTS(EU)/US

Non EU Technical Assistance

OECD	
Main programme: **SIGMA**	
Total size of SIGMA:	

	€
SIGMA areas and size for each areas:	a): …
	b): …
	c): …
List of SIGMA projects and characteristics	1)
	2)
	3)
	4)
	5)
SOURCES/WHO	DOCUMENTS(OECD)/US
OSCE	
…	
SOURCES/WHO	DOCUMENTS(OSCE)/US
Soros Foundation	
…	
SOURCES/WHO	DOCUMENTS(Soros Fundation)/US