

Chapter 7: Intellectual property law

The *acquis* on intellectual property law specifies harmonised rules for protection of copyright and neighbouring rights, for industrial property rights and contains provisions on civil enforcement.

In the area of **copyrights and neighbouring rights**, the objectives of the Directive on the harmonisation of certain aspects of copyright and related rights in the information society (2001/29/EC) are to adapt legislation on copyright and related rights to reflect technological developments and to transpose into EU law the main international obligations arising from the two treaties on copyright and related rights adopted within the framework of the World Intellectual Property Organisation (WIPO). Directive 93/83/EEC aims at facilitating the cross border transmission of audiovisual programmes, particularly broadcasting via satellite and retransmission by cable. The objective of the Directive on the resale right for the benefit of the author of an original work of art (2001/84/CE) is to provide a balance between the economic situation of authors of graphics and plastic works of art and that of other creators who benefit from successive exploitations of their works. The protection of semiconductor's topographies is harmonised through Directive 87/54/EC. The Directive 96/9 EC on the legal protection of Databases creates a new sui-generis right for database producers, to protect their investment. Directive 2006/116/EC (the codified version of original Directive 93/98/EEC) harmonises the terms of protection of copyright and neighbouring rights for each type of work and each related right in the Member States. Directive 2006/115/EC (the codified version of original Directive 92/100/EEC) harmonises the provisions relating to rental and lending rights as well as on certain rights related to copyright. The Directive 2009/24/EC (the codified version of original Directive 91/250/EEC) harmonises Member States' legislation regarding the protection of computer programmes.

In the field of **industrial property rights**, the *acquis* sets out harmonised rules for the legal protection of trademarks and designs, as well as a partially harmonised regime for patents. The latter relates to the accession to the European Patent Convention; specific provisions on biotechnological inventions, supplementary protection certificates (SPCs) for medicinal and plant protection products and compulsory licences. The *acquis* also establishes a Community trademark and a Community design system.

The Directive 2004/48/EC on the **enforcement** of intellectual and industrial property rights such as copyright and related rights, trademarks, designs or patents requires all Member States to apply effective, dissuasive and proportionate civil remedies and penalties against those engaged in counterfeiting of goods and piracy and so create a level playing field for right holders in the EU. Customs Administrations play an important role in preventing entry into the EU of products infringing copyright or industrial property.

The Stabilisation and Association Agreement already lays down specific obligations in the areas covered by this chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

A. Copyright and neighbouring rights

1. Does your country provide for protection of semiconductors? If yes, do you consider this protection to be in conformity with Directive 87/54/EEC?

Yes. The protection of semiconductors in the Republic of Serbia is provided for in the Law on the Protection of Topographies of Integrated Circuit (Official Gazette of RS, No 104/2009), which is partially harmonised with Directive 87/54/EEC.

2. Does your country provide for a rental right, lending right and the provisions on certain related rights set out in Directive 2006/115/EC 2006/115/E3 (the codified version of original Directive 92/100/EEC)?

Yes. Provisions of the Law on Copyright and Related Rights (Official Gazette of RS, No 104/2009, below: the copyright law) provide for the exclusive property right of authors and holders of related rights to give permission or prohibit renting copies of their work or subject-matters of related right, and the right of the authors to obtain an remuneration for the lending copies of their work. Only the author of a computer program has the exclusive right to prohibit or give permission for lending copies of his/her work.

a) If YES, please give full references and the principal contents of your legislation. Does the legislation notably provide for a right to equitable remuneration for rental where an author or performer has transferred or assigned his rental right concerning a phonogram or an original copy of a film to a phonogram or film producer? Does your legislation provide that at least authors obtain remuneration for public lending? Does it provide for derogation from the exclusive public lending right and if so, would this be in line with the Directive? Does your legislation provide that a single equitable remuneration is paid by the user to the relevant performers and phonogram producers every time a phonogram published for commercial purposes is used for broadcasting by wireless means or for any communication to the public?

Article 22 of the copyright law provides for the exclusive right of an author to give permission or prohibit renting copies of his/her work. Article 23 of the copyright law lays down that the author shall not enjoy the exclusive right to rent copies of his/her work if any of the following is involved: 1) a built work of architecture; 2) a work of applied art materialized in the form of an industrial or artisan product; 3) a work that came into being or was reproduced for the purpose of being rented as the exclusive form of the exploited work agreed upon between the author and owner of a copy of the work.

Articles 116, 126 and 131 of the copyright law provide for the exclusive right of a performer, producer of phonograms or videograms to rent the recordings of his/her performance, phonograms or videograms.

For the purpose of this law, “renting” means making copies of the work available for use to other persons for a limited period of time and for direct or indirect pecuniary benefit.

Under Article 22 (3) and Article 116(3) of the copyright law, if an author or performer licenses his/her right to give permission or prohibit renting copies of his/her work and/or the recordings of his/her performance to a producer of phonograms and/or videograms, he/she shall retain the right to obtain an equitable remuneration for the rental of the work recorded on a video cassette, audio cassette compact disc and the like and/or the

recordings of his/her performance. The author and performer may not waive the right to remuneration for the rental of copies of their work and/or recordings of their performance. **Please see Annex Laws**

Under Article 24 of the copyright law, the author of a computer program shall have the exclusive right to give permission or prohibit lending of copies of their work.

Under Article 40 of the copyright law, an author shall have the right to remuneration for the lending of copies of his/her work. **Please see Annex Laws**

Article 40(2) of the copyright law provides for derogation from the exclusive right of authors and related right holders regarding the lending of copies of their work in accordance with Article 6 of Directive 2006/115/EC.

The producer of a phonogram and performer shall have the exclusive right to be remunerated for broadcasting and re-broadcasting of the phonogram, public communication of the phonogram and public communication of the phonogram being broadcasted. The producer of phonograms and performer can realise the right for remuneration only through the organisation for collective management of copyright and related rights. The remuneration is collected from the user in the form of the single remuneration (Articles 117. and 127 of the copyright law). **Please see Annex Laws**

b) If NO, do you plan to adopt legislation on the protection of rental rights, lending rights and related rights? Please give details and dates.

3. Is the term of protection of copyright and related rights in your country in conformity with Directive 2006/116/EC (the codified version of original Directive 93/98/EEC)? If NO, how and by when do you intend to align your legislation with this directive?

Yes, the term of protection of copyright and related rights is in conformity with Directive 2006/116/EC. The terms of protection of copyright and related rights are envisaged by Articles 102 to 106 and Article 147 of the copyright law.

4. Does your copyright law provide for the legal protection of computer programs?

Yes. The copyright law provides for the legal protection of computer programs.

a) If YES, is it fully compatible with Directives 2009/24/EC and 2006/116/EC (the codified version of original Directive 91/250/EC), including with the provisions of this directive on authorship, restricted acts, exceptions to the restricted acts, de-compilation and special measures of protection?

The copyright law is compatible with Directives 2009/24/EC and 2006/116/EC. Computer programs, the same as the literary works, are protected by the copyright law (Article 2 of the copyright law) **Please see Annex Laws**

Besides the author, the holder of copyright may also be a person who is not an author and who has acquired the copyright in accordance with provisions of the copyright law (Article 9 of the copyright law). If the work of authorship is a computer program and was created by an author during employment period, the permanent holder of all exclusive pecuniary rights on such work shall be the employer, unless otherwise provided for in the contract (Article 98 (4) of the copyright law).

Article 47 of the copyright law regulates the limitations on copyright in the case where the work of authorship is a computer program. **Please see Annex Laws**

Articles 20 to 33 of the copyright law provide for exclusive property rights of all authors, including the authors of computer programs. **Please see Annex Law**

The Law does not envisage special terms of protection of copyright for computer programs, but for all works of authorship pecuniary rights shall last for the life of an author and 70 years after his/her death (Article 102 of the copyright law). Moral rights of an author shall last even after the expiration of his/her pecuniary rights (Article 102 of the copyright law).

No special legal measures against persons who infringe the rights of the author of a computer program or copyright holder are provided for in the copyright law, but the protection is provided generally for all works of authorship by sanctioning the infringement of the rights of an author or copyright holder as economic transgression (Article 215 to 217 of the copyright law). **Please see Annex Laws**

The Criminal Code of the Republic of Serbia contains penal provisions and criminal sanctions for the infringement of copyright and related rights, as well as other intellectual property rights (Articles 198 to 200 of the Criminal Code).

b) If NO, do you plan to adopt any legislation in this field? Please give details and dates.

5. Does your copyright law provide for the legal protection of databases?

Yes. The copyright law provides for the legal protection of a database, through the provisions on copyright protection and on related rights of database producers (Articles 2, 5, 137 to 140) **Please see Annex Laws**

a) If YES, is it fully compatible with Directive 96/9/EC, including on scope of protection, protection under copyright and sui generis protection?

The legal protection of databases envisaged by the copyright law is in conformity with Directive 96/9EC.

Provision of Article 138 of the copyright law regulates that the database means the collection of independent data, works or other materials arranged in a systematic or methodical way, individually accessible by electronic or other means. A computer program used for its development or operation shall not be deemed a database.

Under Article 5 of the copyright law, a collection of the works of authorship, which in view of the selection and arrangement of its integral parts, meets the requirements referred to in Article 2 (1) of this law (encyclopaedia, collection of works, anthology, selected work, music collection, photograph collection, graphic map, exhibition and the like) shall also be deemed a work of authorship. A collection of folk literary and artistic creations, as well as a collection of documents, court decisions and similar materials, which in view of their selection and arrangement, meets the requirements referred to in Article 2 (1) of the copyright law, shall also be deemed a work of authorship. Under the provisions of the copyright law, a collection shall also mean a database, regardless of whether it is in a mechanically or otherwise legible form, which in view of the selection and arrangement of its integral parts, meets the requirements referred to in Article 2 (1), of

the copyright law. Article 2(1) of the copyright law, a work of authorship is an author's original intellectual creation, expressed in a certain form, regardless of its artistic, scientific or other value, its purpose, size, contents and way of manifestation, as well as the permissibility of public communication of its contents. The rights of the author of a work that belongs to a collection are not limited in any way by the protection of the collection.

The exclusive rights of the author of a database are provided for in Articles 20 to 33 of the copyright law. **Please see Annex Laws**

With regard to the provisions of the Directive on sui generis protection, Articles 137 to 140 of the law provide for the right of database producers as related right. Please see Annex Laws – Article 140 of the copyright law provides for the exclusive property rights of the producer of a database. These provisions are in conformity with Directive 96/9/EC.

The rights of database producers shall be transferrable in accordance with Article 145 of the copyright law. Provisions on the duration of the rights of database producers are provided for in Article 147, paragraphs 4 and 5 of the copyright law. Please see Annex Laws. These provisions are in conformity with Directive 96/9/EC.

b) If NO, do you plan to adopt legislation on the legal protection of databases (including sui generis protection)? Please give details and dates.

6. Does your copyright legislation provide for the legal protection of copyright and related rights in conformity with Directive 2001/29/EC?

The copyright law provides for the legal protection of copyright and related rights in conformity with Directive 2001/29/EC.

7. If YES, is it fully compatible with the listed exclusive rights of authors and certain neighbouring right holders? Does your legislation provide, in particular, for a right of communication to the public of works and a right of making available to the public other subject-matter? Does it provide for the mandatory exception for “temporary copies” (Article 5.1)? .

Does it provide for other exceptions? If yes, please list them. Does your country provide for a system of fair compensation to right holders for the following: reprography, reproductions made by a natural person for private use, reproductions of broadcasts made by social institutions pursuing non-commercial purposes? Does your legislation provide for the legal protection of technological measures and rights management information? What sanctions and remedies does your legislation provide in respect of infringements of the rights and obligations set out in Directive 2001/29/EC?

The Law is in conformity with Directive 2001/29/EC to a great extent.

Articles of the copyright law 20 to 33 provide for the exclusive property rights of authors. **Please see Annex Laws**

Article 116 of the copyright law provides for the exclusive property rights of performers. Please see Annex Laws

Article 126 of the copyright law provides for the exclusive property rights of the producer of a phonogram. **Please see Annex Laws**

Article 131 of the copyright law provides for the exclusive property rights of the producer of a videogram, i.e., a film producer. Please see Annex Laws

Article 136 of the copyright law provides for the exclusive property rights of the producer of a broadcast. **Please see Annex Laws**

Provisions of Articles 30, 32 and 33 of the copyright law provide for the right of an author to public communication of his/her work, including the interactive making available to the public. Provisions of Articles 116. paragraph 1. item 5, 126, 131. and 136 of the copyright law regulate the exclusive right of the performer, producer of a phonogram, producer of a videogram and producer of a broadcast to give permission or prohibit making performance, phonogram, videogram and broadcast available to the public in an interactive manner by wire or wireless means, within the meaning of Article 30 of this Law. **Please see Annex Laws**

Article 48 of the copyright law provides for the limitation on copyright in accordance with Article 5(1) of Directive 2001/29EC. **Please see Annex Laws**

Provisions of Articles 42 to 54 of the copyright law provide for other limitations on copyright: 1. the limitation on copyright for the purpose of conducting an official procedure before a court or other state bodies (Article 42 of the copyright law); 2. the limitation on copyright for the purpose of informing the public on current events by the means of the press, radio and television (Article 43 of the copyright law); 3. the limitation on copyright in the field of education, examination or scientific research (Article 44 of the copyright law); 4. The limitation on copyright for public libraries, educational institutions, museums and archives, exclusively for their archival and non-commercial purposes (Article 45 of the copyright law); 5. the limitation on copyright in the case of reproduction of disclosed work for personal non-commercial purposes of any natural person (Article 46 of the copyright law), 6. the limitation on copyright for the person who has legitimately obtained a copy of a computer program for his/her own usual use in order to store the program in the computer memory and run the program, eliminate errors in the program, as well as make any other necessary changes in it, in accordance with its purpose, unless otherwise provided by the contract, make one back-up copy of the program on a lasting tangible carrier; decompile the program exclusively for the purpose of obtaining the data necessary for making that program inter-operational with some other independently developed program or some hardware, on condition that such data were not accessible in some other way and that decompilation is limited only to those parts of the program which are necessary to achieve interoperability (Article 47 of the copyright law), 7. the limitation on copyright for the purpose of temporary reproduction of the work of authorship (Article 48 of the copyright law), 8. The limitation on copyright for the purpose of quotation (Article 49 of the copyright law), 9. The limitation on copyright enabling a broadcasting enterprise to record a work on a sound carrier or picture carrier or on a sound and picture carrier using its own facilities, for its own broadcasting purpose (ephemeral recordings) (Article 50 of the copyright law), 10. The limitation on copyright for the purpose of making public exhibition catalogues or conducting public sales, enabling displayed works to be reproduced and their copies thus

made marketed (Article 52 of the copyright law), 11. The limitation on copyright that allows for the reproduction in two dimensions and placement of thus made copies on the market, as well as communication to the public in some other way of any work that is permanently displayed in a street, square or some other open public places (Article 51 of the copyright law); 12. The limitation on copyright that allows for the works to be reproduced on a sound and picture carrier and communicated to the public, though only to the extent necessary to demonstrate the operation of such devices, in shops, at trade fairs and other places where the operation of the sound and picture recording reproducing and transmitting devices is demonstrated (Article 53 of the copyright law), 13. The limitation on copyright for the needs of the persons with invalidity (Article 54 of the copyright law).

The Law also provides for certain cases of statutory license (Articles 55 to 57). **Please see Annex Laws.**

Articles 39, 46 and 146 of the copyright law provide for the system of fair compensation for authors and copyright and related right holders in case of reprography and personal reproduction. **Please see Annex Laws**

Fair compensation for the holders of these rights is not prescribed in the copyright law in case of the reproduction of broadcasts by public institutions for non-commercial purposes.

Article 208 of the copyright law provides for the protection of technological measures and rights management information. Please see Annex Laws. This article provides for the definition of the terms “technological measures” and “rights management information” in conformity with the Directive.

According to Article 205 of the copyright law, in case of the infringement of copyright or related rights any holder of copyright, performer, producer of a phonogram, producer of a videogram, producer of a broadcast, producer of a database and acquirer of exclusive license for copyright and related rights may file a suit and request particularly the following: 1) Determination of the infringement of a right; 2) Termination of the infringement of a right; 3) Destruction or alteration of the objects instrumental to the infringement on rights including copies of the subject-matter of protection, their packaging, stencils, negatives and the like; 4) Destruction or alteration of the tools and equipment that has been used for production of the objects instrumental to the infringement of rights if so is necessary for the protection of rights; 5) Compensation for material damages; 6) Publication of the court decision at the defendant’s expense. Any author and/or performer shall have the right to file a suit and request compensation for non-material damage for infringement of his/her moral rights. The plaintiff may, instead of a request for the destruction or alteration of the objects that were instrumental to the infringement on a right, request such objects to be handed over to him/her. Under Article 207 of the copyright law, proceedings for the infringement on copyright and related rights shall be urgent.

Article 210 of the copyright law envisages that at the request of a holder of the right who makes it credible that his/her copyright or related right has been infringed on or will be infringed on, the court may order a provisional measure involving the seizure or removal from the market of the object with which the infringement is made and/or a provisional

measure involving a prohibition against the acts under way, which could be conducive to infringement. Article 211 of the copyright law envisages that at the request of the holder of the right who makes it credible that his/her copyright or related right has been infringed, or that such infringement is imminent or that irreparable harm is likely to occur, as well as that there is justified apprehension that the evidence of that will be destroyed or that it will not be possible to obtain it later on, the court may order a measure to secure evidence without giving prior notice to or hearing the person from which evidence is to be collected. Temporary injunctions or the securing of evidence may be requested even before filing a suit.

Article 215 of the copyright law provides for pecuniary penalties for economic transgression – **Please see Annex Laws**

Article 217 of the copyright law provides for pecuniary penalties for offences – **Please see Annex Laws**

The Criminal Code of the Republic of Serbia contains penalty provisions and criminal sanctions for the infringement of copyright and related rights, as well as other intellectual property rights (**Articles 199 and 200 of the Criminal Code**).

8. Does your copyright law provide for a resale right for the benefit of the author of an original work of art?

Yes.

a) If YES, is it fully compatible with Directive 2001/84/EC?

The provisions of the copyright law concerning Droit de Suite are partially in conformity with Directive 2001/84/EC. Articles 35 and 36 of the copyright law regulate Droit de Suite – **Please see Annex Laws**

b) If NO, do you plan to adopt any legislation in this field? Please give details and dates.

The provisions of the law referring to Droit de Suite are expected to be amended by the end of June 2011 in order to be fully compatible with Directive 2001/84/EC.

9. Has your country adhered to the two WIPO Treaties of 1996 (WCT and WPPT)? To which other international treaties and agreements relevant to copyright and related rights is your country a party?

Yes, both conventions were ratified in the parliament of the Republic of Serbia in 2002 and have been in effect since 28 December 2002.

The Republic of Serbia is the signatory of the following international treaties that relate to copyright and neighbouring rights:

1. Berne Convention (Literary and Artistic Works), since June 1930;
2. Geneva Convention (Unauthorized Duplication of Phonograms), since June 2003;
3. Brussels Convention (Distribution of Program-Carrying Signals Transmitted by Satellite), since August 1979;
4. Rome Convention (Protection of Performers. Producers of Phonograms and Broadcasting Organisation), since June 2003;

5. Phonograms Convention, since June 2003;
6. Satellites Convention, since April 1992;
7. WCT (WIPO Copyright Treaty), since 2002;
8. WPPT (WIPO Performances and Phonograms Treaty), since 2002.

10. Does your copyright law provide for the protection of satellite broadcasting?

Yes.

a) If YES, do you consider that it is in conformity with the provisions of Directive 93/83/EEC, in particular as regards the principle of acquisition of broadcasting rights in accordance with the terms of this directive? Do you have a definition of communication to the public by satellite?

Yes. We consider that the copyright law is to a great extent in conformity with Directive 93/83/EC.

Article 28 of the copyright law provides for the exclusive property right of an author to prohibit or give permission the broadcasting of his/her work. For the purpose of this law, broadcasting shall be understood to mean public communication of a work by wire or wireless transmission of radio or television program signals intended for public reception (radio broadcasting and cable broadcasting). The wireless and wire broadcasting are two different ways of exploiting a work and they make up the subject-matter of two different copyright authorizations, except in the following cases: 1) if the re-broadcasting of a work by wire is a technically essential condition for the reception of a broadcast; 2) if the re-broadcasting by wire of a work that is broadcast wireless supplies less than a hundred receivers with signal on a non-commercial basis.

Satellite broadcasting is defined in Article 28(5) of the copyright law as a special broadcasting operation under the control of a broadcaster (below: the broadcasting organization), which shall be responsible for the transmission of program signals for public reception in an uninterrupted communication chain to a satellite and back to the ground.

If the program signals are coded, transmission via satellite shall be deemed to exist on condition that the signal decoding devices are accessible to the public through a broadcasting organization or through a third party duly authorized by the broadcasting organization Article 28 (6) of Copyright Law.

b) If NO, do you plan to adopt any legislation in this field? Please give details and dates.

11. Does your copyright law provide for the protection of cable retransmission?

Yes. Article 29(1) of the copyright law regulates the protection of cable retransmission.

a) If YES, do you consider that it is in conformity with the provisions of Directive 93/83/EEC, in particular in relation to the following: principle of mandatory collective management extended to non-members of a collecting society; principle of good faith in the negotiations for cable retransmission and principle of mediation?

The provisions of the copyright law are to a great extent in conformity with Directive 93/83/EC.

In the case of cable rebroadcasting of works, the right of the author is realized only through the collective management organization for copyright and related rights (Article 29(2) of the copyright law). The provision on obligatory collective management organization is not applied in the case of cable rebroadcasting if it concerns the emissions belonging to the broadcasting organizations, regardless whether those are the original rights of the broadcasting organizations or the rights transferred to them by the other holders of rights (Article 29(3) of the copyright law).

Article 180(4) of the copyright law regulates that with respect to the distribution of remuneration, the collective organization shall treat the holders of copyright and/or related rights who have not concluded a contract with the organization equally to the organization members.

b) If NO, do you plan to adopt any legislation in this field? Please give details and dates.

12. What is Serbia's administrative capacity in this area?

In the domain of copyright and related rights, the Intellectual Property Authority is in charge of law drafting in the fields of copyrights and related rights, issuance of work licences for collective organizations and supervision of their work, and reception of deposit copies of copyrighted works and subject-matters of related rights. A Group for Copyright and Related Rights employing four public servants has been set up within the Department of Copyright and Related Rights and International Cooperation.

There are three organizations in Serbia currently holding a valid licence for collective exercise of copyright and related rights, namely:

1. The Organization of Music Authors of Serbia – SOKOJ, for the exercise of music copyrights,
2. The Organization of Phonogram Producers of Serbia (OFPS) for the exercise of rights of phonogram producers, and
3. the Organization for the Collective Exercise of Performers' Rights (PI) for the exercise of the rights of performers.

B. Industrial property rights

Patents

13. Please provide information on your country's accession to the European Patent Convention.

The Republic of Serbia ratified the European Patent Convention by the Law on the Ratification of the European Patent Convention (Official Gazette of RS – International Treaties No. 5/10) and has become member of the European Patent Organization as of 1 October 2010.

14. What are your plans for full alignment with the EU acquis on industrial property in the field of patents? Which provisions do you intend to amend in your existing legislation on this, and by when?

The field of protection of patents in the Republic of Serbia is regulated by the Law on Patents which entered into force (Official Journal of SCG, No. 32/2004 and 35/2004 – corr. and Official Gazette of RS, No. 115/2006 – corr.) on 10 July 2004.

In order to fully harmonize the Law on Patents with the EU acquis, the following actions are planned:

- implementation of Regulation (EC) No. 816/2006 of the European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems, in relation to Doha Declaration/TRIPS Agreement and Public Health;
- harmonization of provisions of the Law on Patents referring to supplementary protection certificate (Articles 77 to 86 and Article 91) with Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the creation of a supplementary protection certificate for medicinal products and Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products. Provisions of the Law on Patents referring to the supplementary protection certificate shall be applied starting from 1 July 2013, in accordance with the signed EFTA agreement (Article 14);
- introduction of complaint procedure to final decisions of competent authority.

Introduction of revision against second-instance valid decisions made in disputes relating to the protection and use of inventions.

The new Law on Patents is planned to be adopted by the end of I quarter 2011.

15. Has your country already modified its legislation in order to comply with the content of Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions?

Yes. Articles 5, 6, 7, 25, 53, 54, 68 and 69 of the Law on Patents regulate biotechnological inventions, which is partly harmonized with Articles 2, 3, 4, 5, 6, 8, 9, 10, 11 and 12 of Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions. Please see Annex Laws.

Articles 15 to 18 of the Decree on the Procedure for Legal Protection of Inventions (Official Journal of SCG, No. 62/2004) regulate the depositing of biological material, which is in conformity with Articles 13 and 14 of Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions.

16. Are supplementary protection certificates (SPCs) for medicinal products and/or plant protection products available in your country?

Yes. Articles 77 to 86 of the Law on Patents regulate supplementary protection certificates (SPCs). These provisions also encompass medicines for humans and animals

and plant protection products. The stated provisions regulate the subject-matter of protection and legal effect of SPC, subjects of protection, conditions for obtaining SPC, time limit for filing the request for SPC, validity of protection under the recognized SPC, expiry and maintaining the validity of SPC, and publication of data on recognized SPC, rejection of request for SPC and termination of validity of SPC. **Please see Annex Laws**

SPCs are regulated in Articles 37 to 42 of the Decree on the Procedure for Legal Protection of Inventions. The stated provisions regulate: the content of application for the grant of a certificate, content of the request for the grant of a certificate, formal examination of the certificate, essential examination of the certificate, content of the certificate, and data recorded in the Register of Supplementary Protection Certificates.

a) If YES, since when?

Supplementary Protection Certificate is established by the Law on Patents that came into force on 10 July 2004. Under Article 142(3) of the Law on Patents, implementation of the stated provisions shall start as of the day of accession of the Republic of Serbia to the European Union.

b) If NO, please indicate when you envisage to introduce such certificates.

17. Do you have rules governing the grant of compulsory licences (Regulation (EC) No 816/2006 of the European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems in relation to the Doha Declaration/TRIPS and Public Health?

No. The Law on Patents does not contain provisions relating to the issuance of compulsory licence in conformity with Regulation (EC) No 816/2006 of the European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems, in relation to Doha Declaration/TRIPS Agreement and Public Health.

18. What is Serbia's administrative capacity in this area (patent examiners etc.), and what are the future plans? How many patent applications did Serbia receive on an annual basis for the last 3 years, and how many patents were granted?

Administrative capacity

The Department for Patents employs a total of 28 civil servants, 1 of whom is department director, 19 are patent researchers, 4 are patent lawyers and 4 are administrative officers.

Number of patent and petty patent applications for the period 2007-2010

Protection of inventions in the Republic of Serbia is exercised on the basis of patent applications and on the basis of petty patent applications.

Protection of inventions on the basis of patent applications is exercised by direct filing of applications to the Intellectual Property Office (below: Office), and on the basis of applications filed to the Intellectual Property Organization (the so-called PCT applications in the national phase) and the European Patent Office (extended applications of European patent filed until 30 September 2010 and applications of European patent as

of 1 October 2010 as the implementation of the European Patent Convention started then).

Of the total number of filed patent applications, in the course of 2007, the Office directly received 408 applications, while 55 applications were filed based on the Patent Cooperation Treaty (PCT applications in the national phase), and 5,372 applications of extended European patent, which makes a total of 5,835 patent applications.

Of the total number of filed patent applications, in the course of 2008, the Office directly received 402 applications, while 73 applications were filed based on the Patent Cooperation Treaty (PCT applications in the national phase), and 5,625 applications of extended European patent, which makes a total of 6,100 patent applications.

Of the total number of filed patent applications, in the course of 2009, the Office directly received 320 applications, while 40 applications were filed based on the Patent Cooperation Treaty (PCT applications in the national phase), and 4,258 applications of extended European patent, which makes a total of 4,618 patent applications.

Of the total number of filed patent applications, in the course of 2009, the Office directly received 313 applications, while 16 applications were filed based on the Patent Cooperation Treaty (PCT applications in the national phase), and 3,298 applications of extended European patent until 31. November 2010, which makes a total of 3,627 patent applications.

The structure of filed patents from 2007 to 2010 and is presented in the table below.

Year		2007	2008	2009	2010
National applications	Applications of domestic applicants	388	386	299	290
	Applications of foreign applicants filed directly to the Office	20	16	21	23
International applications	PCT applications in the national phase	55	73	40	16
	Extended European patent applications	5372	5625	4258	3298*
Total number of patent applications		5835	6100	4618	3627

* The data on the number are until 30 November 2010

The data on the number of applications for registration of extended European patent in the patent registry from 2007 to 2010 are presented in the table below.

Year	2007	2008	2009	2010
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Request for registration of extended European patent	53	148	218	250
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The structure of filed petty patents from 2007 to 2010 is presented in the table below.

Year	2007	2008	2009	2010
Domestic applicants	155	136	101	97
Foreign applicants	3	1	4	4
Total	158	137	105	101

Number of registered patents and petty patents for the period 2007-2010

A total of 278 patents were registered in the course of 2007, a total of 294 patents were registered in the course of 2008, and 403 patents were registered in 2009 and 952 were registered in 2010. A total of 46 extended European patents were registered in the Patent Register in the course of 2009, and a total of 525 extended European patents were registered in 2010.

The structure of registered patents from 2007 to 2010 is presented in the table below.

Year	2007	2008	2009*	2010.
Domestic	71	70	103	98
Foreign	207	224	300	854
Total	278	294	403	952

* registration of extended European patents started in 2009 included in foreign registered patents

A total of 96 petty patents were registered in the course of 2007, a total of 84 petty patents were registered in the course of 2008, and 403 patents were registered in 2009 and 78 were registered in 2010. A total of 62 petty patents were registered in 2010.

The structure of registered petty patents from 2007 to 2010 is presented in the table below.

Applicant	2007	2008	2009	2010.
Domestic	93	81	86	74
Foreign	3	3	0	4

Total	96	84	86	78
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A total of 1912 patents and 224 petty patents were in force in the Republic of Serbia at 31 December 2010.

Trademarks

19. What are your plans for full alignment with the EU *acquis* on industrial property in the field of trade marks? Which provisions do you intend to amend in your existing legislation on this, and by when?

The field of trademark protection in the Republic of Serbia is regulated by the Law on Trade Marks that was adopted on 11 December 2009 and is in effect since 24 December 2009 and was published in the Official Gazette of RS No 104/09. The Law on Trade Marks set the legal framework for the protection of trademarks similar to the one that exists in the EU, so no changes of the valid Law on Trade Marks are planned.

20. Has your country already modified its trademark law in order to comply with the content of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 on the approximation of the laws relating to trademarks (codified version)?

Yes. The Law on Trade Marks introduced adjustments in compliance with Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks.

a) If YES, is the law now fully in conformity or are further amendments required; if so, which and by when do you plan to adopt them?

Based on an approximation analysis, we consider that the Law on Trade Marks is to a great extent in conformity with Directive 2008/95/EC and no changes or amendments to the law are planned for now. To possibly plan the changes and amendments to the law to achieve full approximation, it would be necessary to establish in cooperation with the EC possible discrepancies from the directive so that, for legal safety, the law would not be changed in short time intervals.

b) If NO, give a target date by which your country will programme the appropriate amendments.

21. Are there specific provisions relating to the protection of trade marks with reputation/well-know trade marks?

Yes. Protection of well-known trade marks and protection of trade marks with reputation (i.e. famous trademarks) is regulated in Article 5, 1. items 10. and 11 and Article 43, paragraph 2, of the Law on Trade Marks.

Article 5, paragraph 1, item 10. of the Law on Trade Marks regulates that a trade mark shall not be used to protect a mark that is identical or similar to a mark for identical or similar goods and/or services, which is well-known in the Republic of Serbia within the meaning of Article 6bis of the Paris Convention for the Protection of Industrial Property (well-known trademark).

Article 5, paragraph 1, item 11. of the Law on Trade Marks regulates that a trade mark shall not be used to protect a mark that regardless of the goods and/or services concerned, is a reproduction, translation or transliteration of a registered trade mark, or the essential segment thereof, which is known without any doubt to those participating in the commerce in the Republic of Serbia as a mark of widespread reputation (famous trade mark) used by other persons for marking their goods and/or services, if the use of such a mark would result in an unfair benefit from the reputation acquired by the famous trademark or in harm to its distinctive character and/or reputation.

Article 43(2) regulates as exception from the principle of specialty of a trade mark that the holder of a registered famous trademark may bar other persons from using the same or similar mark for marking goods and/or service, which are not similar to those for which the trade mark has been registered if such use of the mark would indicate a connection between those goods and/or service and the holder of a famous trade mark and if it is likely that the interests of the holder of the famous trade mark would suffer damages by such use.

22. What is Serbia's administrative capacity in this area (trade mark examiners, etc.), and what are the future plans? How many trade mark applications did Serbia receive on an annual basis for the last 3 years, and how many trade marks were registered?

Administrative capacity

There are 15 civil servants working on trade mark protection who are employed at the Department for Distinctive Signs, i.e., 9 examiners, including the section head, at the Section for National Trade Marks, and 6 examiners, including the section head, at the Section for International Trade Marks.

Number of trade mark applications for the period 2007-2010

In 2007, a total of 2,335 national trade mark applications (2,112 were domestic applicants and 1,023 were foreign applicants) and 5,754 international trade mark applications were filed (on the basis of the Madrid Agreement on the International Registration of Trade Marks and Madrid Protocol), which makes a total of 8,889 trade mark applications filed in 2007.

In 2008, a total of 3,178 national trade mark applications (2,067 were domestic applicants and 1,111 were foreign applicants) and 6,385 international trade mark applications were filed (on the basis of the Madrid Agreement on the International Registration of Trade Marks and Madrid Protocol), which makes a total of 9,536 trade mark applications filed in 2008.

In 2009, a total of 2,087 national trade mark applications (1,376 were domestic applicants and 711 were foreign applicants) and 5,422 international trade mark applications were filed (on the basis of the Madrid Agreement on the International Registration of Trade Marks and Madrid Protocol), which makes a total of 7,509 trade mark applications filed in 2009.

In 2010, a total of 2,161 national trade mark applications (1,376 were domestic applicants and 785 were foreign applicants) and 4,927 international trade mark applications were filed (on the basis of the Madrid Agreement on the International Registration of Trade Marks and Madrid Protocol), which makes a total of 7,088 trade mark applications filed in 2010.

Structure of filed trade mark applications for the period 2007-2010

Year	National applications		International trade mark applications (filed on the basis of the Madrid System)	Total
	Domestic persons	Foreign persons		
2007	2112	1023	5754	8889
2008	2067	1111	6358	9536
2009	1376	711	5422	7509
2010	1376	785	4927	7088

Number of registered trade marks for the period 2007-2010

In 2007, a total of 2102 national trade marks (1246 were domestic applicants and 856 were foreign applicants) and 5162 international trade marks for the territory of the Republic of Serbia were registered, which makes a total of 7624 trade mark applications registered in 2007.

In 2008, a total of 3108 national trade marks (1636 were domestic applicants and 1472 were foreign applicants) and 5659 international trade marks for the territory of the Republic of Serbia were registered, which makes a total of 8767 trade mark applications registered in 2008.

In 2009, a total of 3340 national trade marks (1819 were domestic applicants and 1521 were foreign applicants) and 5885 international trade marks for the territory of the Republic of Serbia were registered, which makes a total of 9225 trade mark applications registered in 2009.

In 2010, a total of 1870 national trade marks (1143 were domestic applicants and 727 were foreign applicants) and 5158 international trade marks for the territory of the Republic of Serbia were registered, which makes a total of 7028 trade mark applications registered in 2010.

Number of registered trade marks for the period 2007-2010

Year	National registrations		International registrations (filed on the basis of the Madrid System)	Total
	Domestic persons	Foreign persons		
2007	1246	856	5162	7624
2008	1636	1472	5659	8767
2009	1819	1521	5885	9225
2010	1143	727	5158	7028

Models and Designs

23. What are your plans for full alignment with the EU acquis on industrial property in the field of designs? Which provisions do you intend to amend in your existing legislation on this, and by when?

The field of designs protection in the Republic of Serbia is regulated by the Law on Legal Protection of Industrial Design, which was adopted on 11 December 2009 and was published in the Official Gazette of RS No 104/09. The Law on Legal Protection of Industrial Design sets a legal framework for the protection of industrial design similar to the one that exists in the EU, so no changes of the valid Law on Legal Protection of Industrial Design are planned.

24. Has your country already modified its legislation in order to comply with the content of Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs?

Yes. Law on Legal Protection of Industrial Design was adjusted in compliance with Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs.

a) If YES, is the law now fully in conformity or are further amendments required; if so, which and by when do you plan to adopt them?

Based on an approximation analysis, we consider that the Law on Legal Protection of Industrial Design is to a great extent in conformity with Directive 98/71/EC and no changes or amendments to the law are planned for now. To possibly plan the changes and amendments to the law to achieve full approximation, it would be necessary to establish in cooperation with the EC possible discrepancies from the directive so that, for legal safety, the law would not be changed in short time intervals.

b) If NO, give a target date by which your country will programme the appropriate amendments.

25. Do you have (envisage to adopt) provisions relating to the protection of unregistered designs?

No. Law on Legal Protection of Industrial Design does not contain provisions on the protection of unregistered designs.

26. Are the registrability criteria for designs compliant with the public policy or morality principles?

Yes. Under Article 9, paragraph 1. item 1. of the Law on Legal Protection of Industrial Design, industrial design whose publicizing or use is contrary to public order or morality shall not be registered.

27. Can a design protected by a registered design right be also eligible for protection under the law of copyright?

Yes. Under Article 46 of the Law on Legal Protection of Industrial Design, the industrial design protected pursuant to the provisions of this law shall also enjoy protection based on the legislation governing the copyright as of the date of its creation, or as of the date it was expressed in a certain form.

28. What is Serbia's administrative capacity in this area (designs examiners, etc.), and what are the future plans? How many design applications did Serbia receive on an annual basis for the last 3 years, and how many designs were registered?

Administrative capacity

The Group for Design and Indications of Geographical Origin of the Department for Distinctive Signs employs 3 examiners, including the group's head.

Number of industrial design applications for the period 2007-2010

In 2007, a total of 164 national applications for industrial design (148 were domestic applicants and 16 were foreign applicants) and 400 international applications for industrial design were filed, which makes a total of 564 industrial design applications filed in 2007. Of the total number of national applications, 32 applications were multiple applications, so the total number of filed national applications for industrial design was 278.

In 2008, a total of 153 national applications for industrial design (116 were domestic applicants and 37 were foreign applicants) and 351 international applications for industrial design were filed, which makes a total of 504 industrial design applications filed in 2008. Of the total number of national applications, 25 applications were multiple applications, so the total number of filed national applications for industrial design was 228.

In 2009, a total of 135 national applications for industrial design (118 were domestic applicants and 17 were foreign applicants) and 162 international applications for industrial design were filed, which makes a total of 250 industrial design applications filed in 2009. Of the total number of national applications, 28 applications were multiple

applications, so the total number of filed national applications for industrial design was 232.

In 2010, a total of 104 national applications for industrial design (81 were domestic applicants and 23 were foreign applicants) and 201 international applications for industrial design were filed, which makes a total of 305 industrial design applications filed in 2010. Of the total number of national applications, 23 applications were multiple applications, so the total number of filed national applications for industrial design was 157.

Structure of filed industrial design applications for the period 2007-2010

Year	National applications		International applications (filed on the basis of the Hague Agreement)	Total
	Domestic persons	Foreign persons		
2007	148	16	400	564
2008	116	37	351	504
2009	118	17	181	316
2010	81	23	201	305

Number of registered industrial designs for the period 2007-2010

In 2007, a total of 87 national industrial designs (59 were domestic applicants and 28 were foreign applicants) and 400 international industrial designs for the territory of the Republic of Serbia were registered, which makes a total of 487 trade mark applications registered in 2007. Of the total number of national registered industrial design applications, 13 applications were multiple industrial design applications, so the total number of registered national industrial design applications was 134.

In 2008, a total of 62 national industrial designs (45 were domestic applicants and 17 were foreign applicants) and 351 international industrial designs for the territory of the Republic of Serbia were registered, which makes a total of 413 trade mark applications registered in 2008. Of the total number of national registered industrial design applications, 11 applications were multiple industrial design applications, so the total number of registered national industrial design applications was 111.

In 2009, a total of 87 national industrial designs (59 were domestic applicants and 28 were foreign applicants) and 181 international industrial designs for the territory of the Republic of Serbia were registered, which makes a total of 268 trade mark applications

registered in 2009. Of the total number of national registered industrial design applications, 17 applications were multiple industrial design applications, so the total number of registered national industrial design applications was 138.

In 2010, a total of 115 national industrial designs (92 were domestic applicants and 23 were foreign applicants) and 201 international industrial designs for the territory of the Republic of Serbia were registered, which makes a total of 316 industrial design applications registered in 2010. Of the total number of national registered industrial design applications, 15 applications were multiple industrial design applications, so the total number of registered national industrial design applications was 118.

Structure of registered industrial designs for the period 2007-20010

Year	National registrations		International registrations (filed on the basis of the Hague Agreement)	Total
	Domestic persons	Foreign persons		
2007	59	28	400	487
2008	45	17	351	413
2009	59	28	181	268
2010	92	23	201	316

C. Enforcement

29. Which area(s) of intellectual, industrial and commercial property would you identify as requiring further major changes/adaptations to fully comply with the Interim Agreement and the SAA and the *acquis* and for what reasons?

No area requires major changes. In order to further promote this area and reach the level of protection similar to that existing in the EU, in 2010 the drawing up of the National Strategy for the Development of Intellectual Property 2011-2015 was initiated. The interdepartmental working party for drawing up the Strategy has been formed, and it is expected that the Draft Strategy will be forwarded to the Government for adoption in the first quarter of 2011. The aim of the Strategy drawing up is to create stimulating conditions for further promotion of the intellectual property system in Serbia in order for it to be compatible with the development interests of the country, and to ensure fulfilment of all obligations that Serbia undertook pursuant to the Stabilisation and Association Agreement with the European Union, concerning the protection of intellectual property.

Draft Strategy shows the analysis of the existing state of intellectual property in Serbia and measures necessary for its promotion. Proposed measures are divided into four groups: further legal and institutional development, combating and sanctioning infringement of intellectual property rights, commercialisation of intellectual property and raising awareness of the public and education in this area.

Within each of the aforementioned groups, there is a list of reasoned measures that are necessary to take in order to accomplish the vision of the national intellectual property system until 2015. Integral part of the Draft Strategy is the Action Plan which, in table form, shows measures, authorities competent for their enforcement, and indicators of success of these measures.

The first ten measures that belong to the legal and institutional basis for protection of intellectual property include activities for promoting legislative framework (adoption of the new Law on Patents, amendments of the Law on Copyright and Related Rights), and activities that will contribute to further modernisation of the Intellectual Property Office.

The second group consists of eleven measures concerning promotion of enforcement of intellectual property rights. These measures include: concentration of territorial jurisdiction of courts that deal with first instance actions for infringement of intellectual property rights, passing the Law on Optical Discs, revision of distribution of competence between inspecting authorities that are involved in enforcement of intellectual property rights, completion of unified and binding system for recording and statistical analysis of the data concerning infringements and sanctioning infringements of intellectual property rights, establishing the Coordinating Authority for cooperation between authorities for enforcement of intellectual property rights and drafting coordination programme between institutions, etc.

The third group is concerned with increasing the level of intellectual property commercialisation in order to promote competitiveness within national economy. In addition to establishing the Centre for Technology Transfer within at least two Universities in Serbia, these measures also include development of services that the IPO will offer in order to identify and estimate economic value of MFA's intellectual property, and support measures for commercialisation of inventions and use of other forms of intellectual property, especially geographical indications.

The fourth group of measures aims to raise awareness on the significance of intellectual property for the society as a whole, and contains the organisation of promotional campaigns, publishing brochures and publications on intellectual property, promoting website of the IPO and the support of the IPO for competitions for the best technological innovation and similar competitions organised by inventors associations. Furthermore, these measures include the introduction of intellectual property teaching into higher education institutions and Judicial Training Centre.

30. Does your country have plans to accede in the next five years to any international conventions relating to intellectual, industrial and commercial property of which it is not yet a member? If so, which convention(s) and when?

NO. With respect to compliance with the conditions from Annex 7 – the list of international agreements in the area of intellectual property rights, Stabilisation and

Association Agreement, i.e. Annex 6 of the Interim Trade Agreement, only the obligation to accede to the TRIPS Agreement remains, which is related to accession of our country to the WTO.

The list of conventions is in the annex.

31. Do you have specialised courts or tribunals to hear intellectual or industrial and commercial property cases? How many such cases were the subjects of court rulings in the period 2008- to 2010?

Do you have specialised courts or tribunals to hear intellectual or industrial and commercial property cases?

NO. In the Republic of Serbia there are no specialised courts or tribunals for actions in the area of intellectual property rights.

According to the Law on Organisation of Courts (OG of RS, No. 116/2008, 104/09 and 101/10), the protection of intellectual property rights at first instance is ensured by high and commercial courts. Article 23, of the Law on Organisation of Courts, lays down that in actions on copyright and related rights, protection and use of inventions, models, samples, trademarks and geographical indications, the High Court has jurisdiction in the first instance, if other court does not have jurisdiction. In the second instance, the Appellate Court has jurisdiction (Article 24, of the Law on Organisation of Courts), while on extraordinary legal remedies, filed against decisions of courts, decides the Supreme Court of Cassation (Article 30, of the Law on Organisation of Courts).

In actions on copyright and related rights, and protection and use of inventions, models, samples, trademarks and geographical indications when such disputes arise between domestic and foreign commercial entities (companies, enterprises, cooperatives and entrepreneurs and associations thereof), between commercial entities and other legal entities relating to conduct of business activities of commercial entities, even where one of the parties in the aforementioned actions is a natural person if a substantial intervener in the case, the Commercial Court has jurisdiction in the first instance (Article 25, of the Law on Organisation of Courts). Article 26, of the Law on Organisation of Courts lays down that in the aforementioned actions, in the second instance, the Commercial Appellate Court has jurisdiction.

In the case of the courts of general jurisdiction, only in the High Court in Belgrade there are two judges specialised to act in cases concerning intellectual property. The first instance commercial courts do not have specialised judges for actions in the matter of intellectual property, but judges that adjudicate all litigation cases act in these cases as well. The Commercial Appellate Court has one specialised chamber (three judges) that is specialised for acting in intellectual property cases.

Pursuant to Article 29, of the Law on Organisation of Courts, the Administrative Court has jurisdiction to decide in administrative actions.

According to the Law on Arbitrage (*Official Gazette of RS*, No. 46/2006), an action may be heard through arbitration based on the parties' agreement. An action for which arbitration is agreed is heard by the Court of Arbitration, comprised of arbitrators. Arbitrage may be agreed for hearing property action on the rights of which parties have free disposal, excluding actions for which the exclusive jurisdiction of courts is designated. Any natural

or legal person may agree an arbitration, including the state, its authorities, institutions and enterprises in which it has a share of property. An arbitration may be agreed by anyone who, pursuant to provisions of the law that lays down civil procedure, has the ability to be the party in a procedure (Article 5, of the Law). Arbitral hearing of actions is organised by a permanent arbitral institution or ad hoc arbitration, depending on parties' agreement. Domestic arbitral decision has the power of a domestic final decision made by a court and it is exercised pursuant to provisions of the law that lays down enforceable procedure.

The Law on Organisation and Jurisdiction of Government Authorities in Suppression of High Technological Crime (*Official Gazette of RS*, No. 61/2005, No. 104/09), applicable since March 2007, lays down the establishment of specific divisions for suppression of cyber crime in the Higher Public Prosecutor's Office in Belgrade, and in the Higher Court in Belgrade, and offices for suppressing cyber crime within the Ministry of Interior. In the case of crimes against intellectual property from Part XX of the Criminal Code of the Republic of Serbia, the aforementioned state authorities are competent for acting under conditions laid down in Article 3, paragraph 2 of the aforementioned Law, while territorial competence is applied to the entire territory of the Republic of Serbia.

How many such cases were the subjects of court rulings in the period 2008- to 2010?

In 2010, there were total of 1 699 cases concerning the protection of intellectual property rights in the Republic of Serbia. In the same year, 1 325 cases were resolved, and 373 cases remained unresolved.

According to the data acquired from the courts of general jurisdiction (high courts), in 2010, there were in total 163 cases concerning the protection of intellectual property rights in the Republic of Serbia. In the same year, 67 cases were resolved, and 96 cases remained unresolved.

According to the data acquired from commercial courts, in 2010, there were in total 1 545 cases in the first instance commercial courts concerning the protection of intellectual property rights in the Republic of Serbia. In the same year, 1 265 cases were resolved, and 280 cases remained unresolved.

In 2010, there were total of 1,081 cases concerning the protection of intellectual property rights before the Commercial Appellate Court, of which 504 cases were resolved, and 577 cases remained unresolved.

It should be stressed that, out of total number of cases before commercial courts, circa 90% of the cases are concerned with monetary claims of collective management organisations for copyright and related rights, and the remaining part are cases of infringement of rights.

In the area of suppression of cyber crime, for the period from March 2007 until the end of 2008, 30 cases were completed with convicting court decisions.

32. Does your country provide for a specific border regime preventing importation, exportation and transit of counterfeited and pirated subject matter? Please explain how the prevention of import of counterfeited goods is ensured?

YES. The protection of intellectual property right at the border of the Republic of Serbia is laid down in:

The Law on Customs – Part Eight – Measures for Protection of Intellectual Property Right at the Border (Articles 286-287) (*Official Gazette of RS*, No. 18/2010 of 26 March 2010), in force since 3 April 2010, implemented on 3 May 2010 (Article 310, paragraph 1 “The Law on Customs shall be repealed on the day this Law starts to be implemented” (OG of RS, No. 73/03, 61/05, 85/05-other law and 62/06-other law), except for Articles 252-329 of that Law) and

The Regulation on Terms and Means of Enforcement of Measures for Protection of Intellectual Property Rights at the Border (OG of RS, No. 86/2010 of 17 November 2010), entered into force on 1 January 2011 (hereafter referred to as the Customs Regulation).

The Law on Customs is compatible with the EU Community Customs Code (Council Regulation (EEC) No 2913/92), and it also contains some of the provisions of the Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code).

Furthermore, this Law is compatible with the provisions of the TRIPS Agreement. The Customs Regulation is compatible with the Council Regulation (EC) No. 1383/2003 and the Commission Regulation (EC) No. 1891/2004.

Please explain how the prevention of import of counterfeited goods is ensured?

The specific regime of measures on the border is provided by the provisions of The Law on Customs (Articles 280-287), and conditions and means of application of these measures are regulated by the Customs Regulation:

- Import and other customs procedures which apply measures for protection of intellectual property rights are laid down in Article 2, of the Customs Regulation, and goods, to which these measures are applied, are laid down in Article 4, of the Customs Regulation;
- Customs authorities *ex officio* actions are laid down in Article 282, of The Law on Customs and Article 7, of the Customs Regulation;
- Actions of customs authorities at the request of a right holder and procedures concerning submitting and accepting the request are laid down in Article 281, of The Law on Customs, and Articles 8, 9 and 10, of the Customs Regulation; innovation laid down by the Customs Regulation is a form for submitting requests and the possibility of electronic submission is also provided.
- Conditions under which a customs authority imposes measures are laid down in Article 284, of The Law on Customs and Articles 11, 12, 13, 14, 15 and 16, of the Customs Regulation. Article 12, of the Customs Regulation is concerned with simplified procedure for the destruction of goods.

- Treatment of goods for which it was determined to have been used for the infringement of intellectual property right is regulated by provisions of Articles 17-21, of the Customs Regulation.

33. What is the exact number of counterfeited goods (please specify subcategories) and copyright related material which the national customs and police forces have registered/seized during the last 3 years (presented per year)?

STATISTICAL DATA

THE MINISTRY OF INTERIOR – the Section for Combating Crime in the Area of Intellectual Property and the Section for Combating Frauds in Business Activities and Intellectual Property

CRIMINAL OFFENCES AGAINST INTELLECTUAL PROPERTY	2008	2009	2010	Total
Infringement of moral rights of the author and performer Article 198				0
Unauthorised exploitation of copyright protected work and subject matter of related rights Article 199	330	213	216	777
Unauthorised removal or alteration of electronic information on copyright and related rights Article 200				0
Infringement of inventor's rights Article 201			1	1
Unauthorised use of other person's design Article 202	2		1	3
TOTAL	332	213	218	781

THE STRUCTURE OF SEIZED GOODS	2008	2009	2010	Total
Printed publications (books, brochures...)	53 998	156 757	685	211 440
Audio tapes	129	12		141

Video tapes	5 398	793		6 191
CD	131 232	99 635	85 671	316 538
Technical devices	50	31	4 805	4 886

TAX ADMINISTRATION

The results of the Tax Administration controls (checking the legality of use of computer programmes and databases in commercial entities) from 2008 until I-XI 2010. :

DESCRIPTION	PERIOD			TOTAL
	2008	2009	2010	(2008-2010)
Number of checks carried out	1509	2162	2384	6055
Number of submitted denunciations	121	28	26	175

According to these data, the use of illegal computer programmes (software) has been reduced by the controlled commercial entities – legal persons (in 2008, 8% used illegal software; in 2009, 1.29% used illegal software; in 2010, 1.09% used illegal software). Since the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Right entered into force, the Tax Administration has submitted, to the competent prosecution service, 175 denunciations for illegal use of computer programmes, and to the Ministry of Interior, as a competent authority, the Tax Administration has submitted 15 notifications, in the form of an official record of the existence of elements of criminal offence - Unauthorised use of copyright works or subject matter of related rights from Article 199, of the Criminal Code.

CUSTOMS ADMINISTRATION

The number of interrupted customs procedures, amount of seized goods and percentage account (per year)

2008

Goods category	Amount/piece	%
1) Foods and drinks	400	0.05
2) Cosmetics and toiletries	247 431	27.00
3) Clothes and accessories, including footwear	129 451	14.00

4)	Electrical appliances and equipment	24 423	2.50
5)	Computers and computer equipment	20 850	2.00
6)	CD/DVD and tapes	5 930	0.90
7)	Jewellery and watches	665	0.05
8)	Toys and games	70 006	8.00
9)	Other	416 581	45.5
10)	Cigarettes	0	0.00
11)	Medicines	0	0.00
Total amount of goods		915 737	100.00
Total number of objects		856	

2009

Goods category		Amount/piece	%
1)	Foods and drinks	0	
2)	Cosmetics and toiletries	4 288	0.50
3)	Clothes and accessories, including footwear	196 483	26.00
4)	Electrical appliances and equipment	11 419	1.50
5)	Computers and computer equipment	536	0.07
6)	CD/DVD and tapes	980	0.25
7)	Jewellery and watches	3 212	0.55
8)	Toys and games	60 612	8.11
9)	Other	469 090	63.00
10)	Cigarettes	60	0.01
11)	Medicines	0	0.00
Total amount of goods		746 620	100.00

Total number of objects	918	
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2010

Goods category	Amount/piece	%
1) Foods and drinks	0	
2) Cosmetics and toiletries	30.142	3,19
3) Clothes and accessories, including footwear	518.170	54,78
4) Electrical appliances and equipment	10.609	1,12
5) Computers and computer equipment	950	0,10
6) CD/DVD and tapes	0	
7) Jewellery and watches	1.324	0,14
8) Toys and games	35.301	2,69
9) Other	319.980	33,82
10) Cigarettes	29.400	4,16
11) Medicines	0	3,19
Total amount of goods	945.876	100
Total number of objects	990	

In the last three years, the Customs Administration, according to the general requests of the intellectual property rights holders, made:

2008	Decisions adopting general requests	129
	Requests refused	2
2009	Decisions adopting general requests	135
2010	Decisions adopting general request	138
	total decisions:	404

MARKET INSPECTORATE

Statistical data on measures taken with respect to seized goods by the Market Inspectorate in the period 2008-2010:

Number of adopted requests	2008	2009	2010
TOTAL:	51	31	57

	Type of goods	2008	2009	2010
1.	Foods and drinks	165	72 195	7 627
2.	Cosmetics and toiletries	1 879	70	291
3.	Clothes and footwear	2 225	2 800	4 632
4.	Electrical appliances and equipment/electrical material/ stoves, etc.	630		26
5.	Building materials			600
6.	Car spare parts			25
7.	Printer cartridges			2
8.	CD/DVD/Programme inscriptions	17 582	23 161	40 513
9.	Jewellery and watches		148	2 479
10.	Toys and games			1 290
11.	Other (books, paintings, etc.)	5 068	33 337	48
	Total	22 650	108 550	57 533

34. Which system of exhaustion of intellectual, industrial and commercial property rights does your country apply? In particular, does your country apply a system of national or international exhaustion of trademarks? Does your country apply a system of national or international exhaustion of the distribution right (copyright and related rights)?

In the Republic of Serbia, within the area of copyright and related rights, the principle of national exhaustion of rights is applied (Article 21, paragraph 3, of the Law on Copyright and Related Rights).

In the Republic of Serbia, within the area of patents, the principle of national exhaustion is applied (Article 60, of the Law on Patents). See annex Laws

In the Republic of Serbia, within the area of trademarks, the principle of international exhaustion of rights is applied (Article 40, of the Law on Trade Marks). See annex Laws

In the Republic of Serbia, within the area of industrial design, the principle of national exhaustion of rights is applied (Article 45, of the Law on Legal Protection of Industrial Design). See annex Laws

In the Republic of Serbia, within the area of topographies of integrated circuit, the principle of international exhaustion of rights is applied (Article 19, of the Law on Protection of Topographies of Integrated Circuit). See annex Laws

35. Does your country provide for an effective system of enforcement of intellectual property rights (both copyright and related rights and industrial property rights) to combat piracy and counterfeiting?

Yes. The Republic of Serbia has an effective system of enforcement of intellectual property rights to combat piracy and counterfeiting. Administrative, civil and criminal protection of right holders is provided against infringements of intellectual property rights.

Provisions laying down enforcement on intellectual property rights **in civil law procedures, as well as administrative penal measures** are contained in the following special substantive laws:

1. Law on Copyright and Related Rights in Chapter VII – Protection of Copyright and Related Rights (Articles 204-214, of the Law) and in Chapter VIII – Penal Provisions (Articles 215-217, of the Law)
2. Law on Patents in Chapter XI – Civil Law Protection (Articles 92-100)¹
3. Law on Trade Marks in Chapter X – Civil Law Protection (Articles 71-83) and in Chapter XI – Penal Provisions (Articles 84-86)
4. Law on Legal Protection of Industrial Design in Chapter IX – Civil Law Protection (Articles 62-74) and in Chapter X – Penal Provisions (Article 75-77)
5. Law on Indications of Geographical Origin in Chapter X – Civil Law Protection (Articles 71-74), in Chapter XI – Provisional Measures (Articles 75-79), and in Chapter XII – Penal Provisions (Articles 80-82)
6. Law on the Protection of Topographies of Integrated Circuit in Chapter VIII – Civil Law Protection (Articles 27-29).

General rules of procedure for granting judicial protection when hearing civil law disputes are contained in the Law on Litigation Procedure (*Official Gazette of RS*, No. 124/2004 and 111/2009).

¹ The Law on Patents does not contain systems of penalties; they are contained in the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Right

Provisions laying down enforcement of intellectual property rights **in administrative procedures** are contained in the following special substantive laws:

1. Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights. This Law lays down special powers of the state administration authorities and organisations that exercise public powers for the purposes of protecting intellectual property rights pursuant to regulations that lay down intellectual property rights;
2. The Law on Customs and Customs Regulation;
3. The Law on Police (OG of RS, No. 101/2005).

General rules of administrative procedure that are applied in enforcement of intellectual property rights are contained in the Law on General Administrative Procedure (OJ of FRY, No. 33/97 and 31/2001, and OG of RS, No. 30/2010).

Within the criminal law, the area of intellectual property is regulated by the provisions of the Criminal Code – Chapter XX, Articles **198-202** and Chapter XXII - Offences against Economic Interests, **Article 233, see answer to the question 35c**, and the Law on Criminal Proceeding (OJ of FRY, No. 70/2001, 68/2002 and OG of RS, No. 58/2004, 85/2005, 115/2005, 85/2005-other law, 49/2007, 20/2009-other law and 72/2009).

The institutional framework for enforcement of intellectual property rights in the Republic of Serbia consists of:

The Ministry of Interior:

There are two specific organizational units within the Ministry of Interior which combat crime in the area of intellectual property: the Section for Combating Crime in the Area of Intellectual Property and the Section for Combating Frauds and Malpractice in the Area of Intellectual Property.

The Section for Combating Crime in the Area of Intellectual Property acts within the Special Division for Fighting against Cyber Crime that is positioned in the Office for Fighting against Organised Crime within Criminal Police Directorate. The Section deals with suppression of criminal activities in the area of intellectual property where computers and computer networks are used as means or manner of execution. The Section deals with operational work, initiated by the complaint of the injured party, as well at the request of a competent prosecutor for cyber crime. All actions that are taken in order to detect and identify offenders, and other pre-trial actions (search of premises, questioning of the suspect, etc.) are done with the consent of a competent prosecutor.

The Section for Combating Frauds and Malpractice in the Area of Intellectual Property acts within the Division for Suppression of Economic Crime. This Section is positioned within the Service for Suppression of Crime in the Criminal Police Directorate. The Section coordinates the work and merges data from regional police directorates and performs consultative activities.

Regional police directorates are competent for prevention, detection and solving of all types of crime, offences and other delicts, as well as actions in the area of intellectual property.

The Customs Administration within the Ministry of Finance:

- Enforcement Department:
 - Division for Intellectual Property Rights Protection is specialised organisational unit that takes measures for combating intellectual property rights on the border;
 - Anti-smuggling Division is organisational unit that, through its mobile teams, and as part of its regular activities, takes measures for protection of intellectual property rights;
- All customs offices take measures for protection of intellectual property rights as a part of their regular activities;

The **Tax Administration within the Ministry of Finance**, pursuant to provisions of the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights, through tax police and tax inspectors, checks legality of use of computer programmes (software) and databases in commercial entities.

The **Market Inspectorate within the Ministry of Trade and Services**, pursuant to the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights, is competent for the inspectoral supervision over production and circulation of goods and services that infringe intellectual property rights. Application of the aforementioned law by market inspectors started in late 2006. The Market Inspectorate, when enforcing intellectual property rights, may institute procedures on the basis of a right holder's request or *ex officio*.

The system of judicial protection of intellectual property rights is laid down in the Law on Organisation of Courts. See answer to the question 31.

The public prosecutor's network is laid down in the Law on Public Prosecution (*Official Gazette of RS*, No. 116/2008 and 104/2009). The Public Prosecutor's Office of the Republic of Serbia consists of the Republic Public Prosecutor's Office,, Appellation Public Prosecutor's Office , High Public Prosecutor's Office, basic Public Prosecutor's Office and Public Prosecutor's Office of specific jurisdiction (Prosecution Service for Organised Crime and Prosecution Service for War Crimes). Also, article 2 of the Law on Organisation and Jurisdiction of Government Authorities in Suppression High Technological Crime prescribes the actual competences of the High Public Prosecutor's Office in Belgrade for the entire territory of the Republic of Serbia for criminal acts against intellectual property where the object or the means of performing criminal acts is computer, computer systems, computer networks or computer data as well as their products in the material or electronic form, if the number of copies of copyright protected works surpasses 2000 or if the suffered material damage is estimated to be over the amount of 1.000.000 dinars. For all other criminal acts against intellectual property the competences belong to other public prosecutor's offices on the territory of the Republic

of Serbia according to the traditional territorial principle, depending on the place where the criminal act occurred.

a) If YES, is it fully compatible with Directive 2004/48/EC on the enforcement of intellectual property rights?

The enforcement of intellectual property rights in judicial and administrative procedures is **partially** compatible with the Directive 2004/48/EC on the enforcement of intellectual property rights.

b) In which cases is it possible to obtain provisional and precautionary measures?

Provisional measures and measures to secure evidence are laid down in Articles 210-213, of the Law on Copyright and Related Rights, Articles 94 and 95, of the Law on Patents, Articles 75 and 76, of the Law on Trade Marks, Articles 66 and 67, of the Law on Legal Protection of Industrial Design, Articles 75 and 76, of the Law on Indications of Geographical Origin.

Pursuant to aforementioned provisions, the court may order provisional measures at the request of the right holder who makes it probable that his right has been infringed or is about to be infringed. The court may order the following provisional measures: provisional measure for seizure or removal from the market of the infringing products, products made or obtained by the infringement, as well as equipment for production of those products. The court may also order provisional measure of prohibition of the continuation of activities already commenced which result or could result in an infringement.

The court may designate a measure to secure evidence at the request of the person who makes it probable that his/her right has been infringed, and that there is reasonable doubt that the evidence on the infringement will be destroyed or that later it will not be possible to obtain them.

The Law on the Protection of Topographies of Integrated Circuit does not lay down provisional measures and measures to secure evidence; therefore the provisions of general procedure laws that lay down this matter are applied.

General procedural laws that govern provisional measures and measures to secure evidence are the Law on Executive Procedure laying down provisional measures in Articles 291-303, and the Law on Litigation Procedure laying down measures to secure evidence in Articles 269-273.

Provision of the Article 284, of **The Law on Customs** and Article 15, of the Regulation, lay down designation of provisional measures by the competent authority on the basis of which customs procedure is delayed.

Pursuant to Articles 15 and 19, of the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights, inspection authorities are competent to impose *ex officio*, i.e. at the request of a right holder, the following provisional measures: temporary seizure the goods and/or products that are subject of the infringement or are instrumental in such an infringement; temporary prohibition of the activities that infringe the intellectual property rights; sampling of the concerned goods or products for the

purpose of establishing the infringement of the intellectual property right and/or to secure evidence of such an infringement.

Concerning provisional measures within the meaning of the Law on Criminal Proceeding (LCP), pursuant to conditions laid down in this law, the authorities of the Ministry of Interior may take actions of searching premises or person – Articles 77 and 81, and they may temporary seize objects – Articles 82-86. Within the meaning of Article 234, of the LCP, a public prosecutor may request from bank or other organisation to perform a business control of persons, if there are grounds to suspect that a crime was committed for which a prison sentence of at least four years may be imposed. Public prosecutor may request from bank or other organisation to submit documentation and data that may serve as evidence on a crime or assets acquired through crime, and a notification on suspicious monetary transactions within the meaning of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on Financing Terrorism. Furthermore, on the basis of the written and reasoned request of a public prosecutor, an investigative judge may decide for competent authority or organisation to temporary suspend a specific financial transaction, payment, i.e. issuance of suspicious money, securities or objects for which there is basis to suspect they are acquired through crime or through proceeds from crime, or that they are intended for committing, i.e. concealment of crime.

c) Are infringements of intellectual property rights (both copyright and related rights and industrial property rights) covered by criminal law provisions?

YES. Chapter XX of the Criminal Code (OG of RS, No. 85/2005, 88/2005-corr., 107/2005-corr. and 72/2009), lays down criminal offences against intellectual property: infringement of moral rights of the author and performer Article 198, unauthorised exploitation of copyright protected work and subject matter of related rights Article 199, unauthorised removal or alteration of electronic information on copyright and related rights Article 200, infringement of inventor's rights Article 201, and unauthorised use of other person's design Article 202.

Chapter XXII of the Criminal Code – (Offences against Economic Interests), Article 233, lays down criminal offence of unauthorised use of other person's business name and other specific signs of goods or services.

d) What are the possibilities for the right holder to obtain damages from the infringing party?

There are possibilities for the right holder to obtain damages from the person who broke the law.

Provisions of **Articles 205 and 206, of the Law on Copyright and Related Rights**, lay down that copyright holder, or related right holder may also claim the compensation, for damages, and if the infringement of a property right has been done intentionally or by gross negligence, a plaintiff may demand compensation up to three times the amount of regular compensation that he/she would receive for a concrete form of utilisation of the protected subject matter, if this use was legal, instead of compensation for material damage.

Provisions of Article 93, of the Law on Patents, Article 71, of the Law on Trade Marks, Article 62, of the Law on Legal Protection of Industrial Design, Article 71, of the Law on Indications of Geographical Origin and Article 27, of the Law on the Protection of Topographies of Integrated Circuit, lay down that a right holder (of patent, trademark, industrial design, geographical indication, i.e. topography of integrated circuit) may claim the compensation for material damages, but if the infringement has been done intentionally the right holder (plaintiff) may demand, from the defendant, instead of compensation for material damage, compensation up to three times the amount of the regular license fee he would have received for the use of the subject matter protected.

Pursuant to the provisions of the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights, and in order to exercise rights for obtaining compensation for damages, administrative authorities competent for enforcement of intellectual property rights shall notify, without delay, a right holder on a determined infringement and measures taken. At the request of a right holder, and at the request of the court before which the procedure for obtaining compensation for damages is conducted, competent administrative authorities engaged in supervision have to submit all relevant data concerning determined infringements of intellectual property rights.

Pursuant to Article 201, paragraph 1, of the Law on Criminal Proceeding – LCP (OJ of FRY, No. 70/2001, 68/2002 and OG of RS, No. 58/2004, 85/2005, 115/2005, 85/2005-other law, 49/2007, 20/2009-other law and 72/2009), property law claim that is a result of the criminal offence commission, will be discussed at the proposal of an authorised person in criminal procedure if this would not significantly delay the procedure. Pursuant to paragraph 2, of this Article, property law claim may refer to obtaining compensation for damages, recovery of property, or revocation of a certain legal affair. Pursuant to Article 202, of the LCP, proposal for the exercise of property legal claim in criminal procedure may be submitted by a person authorised to exercise this claim in litigation procedure. Pursuant to Article 206, of the LCP, court decides in judgment on property law claim. From the above mentioned, the possibility of property right holder to obtain damages from the person who broke the law is resulting. In the judgment in which the defendant is declared guilty in Article 206, of the LCP, the court may, to the authorised person, adjudicate property legal claim fully or adjudicate property law claim partially and refer him/her to litigation procedure for the remaining part. If the criminal procedure data do not offer credible basis neither for full nor partial adjudication, the court is authorised to refer a person to exercise property law claim fully in a litigation procedure. Pursuant to Article 356, of the LCP, in judgement where the defendant is declared guilty, the court shall decide on property law claim of the aggrieved in the way laid down in Article 206, of the LCP.

e) Are infringements of intellectual property rights covered by administrative law provisions? Does the current legal framework properly tackle the issue of IPR infringements over the Internet? Are these infringements covered by specific legal provisions (civil, administrative or criminal)?

Are infringements of intellectual property rights covered by administrative law provisions?

YES. Basic laws that govern administrative procedure and actions of inspectoral authorities, the Customs Administration and the Ministry of Interior are:

1. The Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights (*Official Gazette of RS*, No. 46/06 and 104/09):
2. The Law on Customs (Part VII – Measures for Protection of Intellectual Property Rights at the Border, Articles 286-287) Article 310, paragraph 1, of The Law on Customs contains transitional provision reading: “The Law on Customs shall be repealed on the day this Law starts to be implemented (OG of RS, No. 73/03, 61/05, 85/05-other law and 62/06-other law), except for Articles 252-329 of that Law”.
3. The Customs Regulation,
4. The Law on Police
5. The Law on State Administration (*Official Gazette of RS*, No. 20/92, 6/93, 48/93, 53/93, 67/93, 48/94, 49/99, 79/2005, 101/2005) which is applied only in the part of inspectoral provisions Articles 22-37, until the new Law on Inspection is passed;
6. The Law on General Administrative Procedure (*Official Journal of FRY*, No. 33/97, 31/01 and *Official Gazette of RS*, No. 30/10).

Does the current legal framework properly tackle the issue of IPR infringements over the Internet?

YES. As already indicated in the answer to the question 35, the Law on Organisation and Jurisdiction of Government Authorities in Suppression High Technological Crime established special divisions for suppression of cyber crime within the Higher Public Prosecutor’s Office in Belgrade and Higher Court in Belgrade, as well as Office for suppressing organised crime within the Ministry of Interior. In the case of crimes against intellectual property from Part XX of the Criminal Code of the Republic of Serbia, the aforementioned state authorities are competent for acting under conditions laid down in Article 3, paragraph 2 of the aforementioned Law, while territorial competence is applied to the entire territory of the Republic of Serbia. Aforementioned Article 3, paragraph 2, of the Law lays down that this Law is applied for the purpose of detecting, prosecuting and trial of criminal offences against intellectual property where computers, computer networks, computer data and other products in physical or electronic form are used as objects or means of criminal offence, if the number of copyright works exceed 2000 copies or if they caused material damage exceeding the amount of 1 000 000 dinars.

Are these infringements covered by specific legal provisions (civil, administrative or criminal)?

NO. Infringements of intellectual property rights over the Internet are not covered by specific legal provisions. In the case of infringements of intellectual property rights over the Internet general provisions laying down enforcement of intellectual property rights are applied.

f) Do judicial authorities have the possibility to order the destruction of counterfeit or pirated goods? Does Serbia ensure the timely destruction of such goods? Please provide examples over the last 3 years. Who covers the cost of destruction?

Do judicial authorities have the possibility to order the destruction of counterfeit or pirated goods?

Yes. The competent court has the possibility to order the destruction of counterfeited and pirated goods in criminal and civil procedure.

Article 71, of the Law on Trade Marks, Article 62, of the Law on Legal Protection of Industrial Design, Article 71, of the Law on Indications of Geographical Origin, Article 93, of the Law on Patents, lay down that a plaintiff may demand, by suit, destruction or alteration of the infringing objects as well as destruction or alteration of the tools and equipment used for production of the infringing objects if this is necessary for the protection of rights. Furthermore, Article 93, of the Law on Patents, lays down that a plaintiff may demand destruction of material that was predominantly used for creation of products infringing the patent.

Moreover, in the case the infringement of trademark, industrial design, geographical indications, and infringement of right of the author or other copyright, judicial authorities may order destruction of counterfeited or pirated goods on the basis of penal provisions contained in the Law on Copyright and Related Rights, Law on Trade Marks, Law on Legal Protection of Industrial design and Law on Indications of Geographical Origin. Penal provisions of the aforementioned Laws prescribe that the infringing objects in the economic offence, i.e. misdemeanor and the objects used for the perpetration of the economic offence, i.e. misdemeanor shall be forfeited, while the infringing objects in the corporate offence shall also be destroyed. (Articles 215 and 216, of the Law on Copyright and Related Rights, Articles 84 and 85, of the Law on Trade Marks, Articles 75 and 76, of the Law on Legal Protection of Industrial Design, Articles 80 and 81, of the Law on Indications of Geographical Origin). In the case of infringement of patent and petty patent, judicial authorities may order destruction of counterfeited and pirated goods on the basis of the provision contained in the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights. Article 39, paragraph 3, of the aforementioned Law, lays down that the objects of the economic offenses and the objects used to commit the economic offences shall be confiscated, and the objects of the economic offences shall be destroyed. In the case of the infringement of topography of integrated circuit, pursuant to Article 32, of the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights, competent authorities are authorised to destroy the goods infringing the right of topography of integrated circuit. See annex Laws.

Articles 31 and 33, of the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights, lays down that courts, in addition to fines for objects of offense, may impose the measure of seizure and destruction of the object.

Pursuant to Article 32, of the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights, competent administrative authorities are authorised to seize and destroy counterfeited and pirated goods in administrative procedure, if a person, from whom these good are seized, does not dispute infringement, and intellectual property rights holder does not institute procedures before the competent court.

Provision of Article 20 and Article 21, of the Customs Regulation, lay down that if a claim is accepted and decision made to destroy goods infringing intellectual property right, customs authority shall order destruction of these goods under customs supervision or its removal from regular trade flows in other way (including free of charge assignment for humanitarian or related purposes, recycling, etc.).

Chapter XX, of the Criminal Code of the Republic of Serbia, in the case of all forms of criminal offence against intellectual property rights, lays down that the objects implying performing crime and objects that were instrumented or intended for the performing of crime shall be confiscated, and the objects implying performing crime shall also be destroyed.

Does Serbia ensure the timely destruction of such goods?

Serbia seeks to timely destroy such goods. However, given that the country does not own facilities for destruction of the goods, but rent them from commercial entities, the timetable of destruction depends on type and amount of seized goods.

Intellectual Property Rights Division, of the Customs Administration, with the help from the Commission for Destruction of Goods, of the Customs Administration, formed exclusively for destruction of goods infringing the intellectual property rights, intensively imposes measures for achieving continuity in destroying the counterfeited goods.

Please provide examples over the last 3 years.

In the last three years, Intellectual Property Rights Division, of the Customs Administration, has supervised destruction of the following amounts of goods:

2008	2009	2010
36 928 pieces	10 722 kg	12 715 kg

The destroyed goods were of various types:

- Various textile goods, accessories, clothes and footwear
- Accessories for mobile phones
- Toys and school supplies
- Stickers and labels
- Jewellery, watches
- Remote controls...

The goods are destroyed in compliance with all the procedures concerning the protection of environment: by cutting in the tyre cutting machine, running over with heavy machines and storing in appropriate cassettes, composting.

Steps that are being taken in order to solve the problem of storing and destruction of counterfeited goods in the Market Inspectorate and Customs Administration are related to providing their own facilities for destruction of seized goods. To that end, in the cooperation between the Customs Administration and Market Inspectorate with the

support of the Intellectual Property Office, the joint project, within the IPA 2011, has been submitted and approved and its implementation is expected in 2012..

Market Inspectorate

Destroyed goods	2008	2009	2010
Amount and type	11 tons of CDs/DVDs		<ol style="list-style-type: none"> 1. 122.649 CD/DVD 2. 1.560 kg (33.477 packs) of chips 3. 5 855 – sports footwear and clothes
Budget costs for the destruction of goods	114 850.00 dinars		<ol style="list-style-type: none"> 1. 141.600,00 dinars 2. 8.640,00 dinars
Destruction costs paid by right holders			<ol style="list-style-type: none"> 3. 45.000,00 dinars
Method of destruction	Recycling		<ol style="list-style-type: none"> 1. Recycling; 2. machine destruction 3. Cutting in the machine for cutting truck and tractor tyres, and other ways of machine destruction through authorised firm for waste storage on dumping sites

Who covers the cost of destruction?

Article 22, of the Regulation **on Terms and Means of Enforcement of Measures for Protection of Intellectual Property Rights at the Border**, lays down that the destruction of goods is done on the expense of the owner or importer of goods. In the case of the enforcement of simplified procedure from Article 12, of the Regulation, the destruction is done to the responsibility and on expense of the right holder.

With regard to destruction costs, the Market Inspectorate applies general rules of administrative procedure (the Law on General Administrative Procedure); therefore resources for activities performed *ex officio* are provided from the budget. There is a legal possibility to reimburse costs of the procedure, including the destruction costs from the person who executed counterfeiting, given that this possibility may be applied on the basis of court decision or administrative act that orders destruction of these goods whilst at the same time deciding on procedure expenses. In the cases when the Market Inspectorate acts at the request of a right holder, it is possible to request for security in the

amount of costs that may arise if the procedure is stopped as a result of actions or failure of the applicant, i.e. if it is determined that in the concrete procedure there is no infringement of intellectual property rights (Article 25, of the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights).

g) Do the administrative and operational enforcement authorities dispose of sufficient and sufficiently trained staff? Please explain the capacity of the competent institutions to ensure IPR protection, number of staff and budget. What is the average length and cost of the judicial procedures for the main type of infringements (patents, trademarks, copyright, etc.)? Please also provide data on fines and penalties per year and IP crime.

Do the administrative and operational enforcement authorities dispose of sufficient and sufficiently trained staff?

Not in all segments.

Please explain the capacity of the competent institutions to ensure IPR protection, number of staff and budget.

Public Prosecutor's offices dispose of sufficient number of staff that is adequately trained for the work in this sector. With regard to the number of employees in the special divisions for suppression of high-technology crime within the Higher Public Prosecutor's Office in Belgrade has enough experts employed who can give reliable and efficient capacity to face successfully this kind of criminal activities for criminal act from the actual competences of this Public Prosecutor's Office in compliance with the Law on Organisation and Jurisdiction of Government Authorities in Suppression High Technological Crime. The department consists of one head of the department, two deputy prosecutors and one administrative employee. Court procedure lasts, at the average of 6 to 8 months, from the moment of filing criminal incitement. One should be in mind the different institutes prescribed by the Law on Criminal Procedures, such as regular procedure, summary criminal trial, public hearing, in the meaning of Article 455 of the Law on Criminal Procedure. For example, for the criminal act of unauthorised utilisation of copyright protected work of subject mater of related rights, Article 199 of Criminal Code, the rules of so called summary criminal trial procedure are applied. Article 46, of the Law on Criminal Proceedings, lays down that the basic right and duty of a public prosecutor is to prosecute perpetrators of criminal acts, that for criminal acts prosecuted *ex officio*, the public prosecutor is competent to conduct pre-trial procedure, to demand investigation and conduct the preliminary criminal procedure pursuant to the Law on Criminal Proceedings, to raise and represent the indictment, i.e. motion to indict before a competent court, to take an appeal against the court decisions that are not final and to file extraordinary legal remedies against final court decision. In order to exercise these powers, all the authorities that participate in pre-trial procedure shall notify competent public prosecutor on all action taken, and the MI and other state authorities competent for detecting crime shall act on any request of the competent public prosecutor.

Among courts of general and special competence (26 high courts and 16 commercial courts), only the Commercial Court in Belgrade, Commercial Court in Zajecar, Higher Court in Belgrade and Higher Court in Kragujevac stated that they do not dispose of sufficient number of judges for efficient acting in the area of protection of intellectual rights trials. The remaining courts dispose of sufficient number of judges and staff for acting in this field.

The Section for Combating Crime in the Area of Intellectual Property within the Ministry of Interior has 5 police officials in total (section head and 4 operating workers). Actions are performed in cooperation with special prosecutor's office for cyber crime, upon application of the aggrieved or on its own initiative (operational work). In the Section for Suppression of Crime in the Area of Intellectual Property work highly educated police officials that are trained to successfully combat crime in the area of intellectual property. Competence of this section is applied to the entire territory of the Republic of Serbia. The sector is focused on combating all forms of intellectual property infringement, by using the Internet or Internet networks. The greatest number of infringements in this area consists of unauthorised download of various copyright works (films, series, music, computer games, etc.) from the Internet, following their copying and further distribution, with purposes of gaining illegal property benefits. Police officials are concerned exclusively with persons that use the Internet for these illegal activities, downloading the content, and marketing and sale of the content. In this regard, there is good cooperation with the PU "PTT Srbija", from which the Section receives data on funds acquired from illegal CDs and DVDs shipment and with the Directorate for the Prevention of Money Laundering, concerning the data on funds that are, on this basis, paid to their bank accounts.

The Section for Suppression of Frauds in Economic Activities and Intellectual Property, within the Ministry of Interior, has in total 4 police employees (head of department and three operatives) and is engaged in coordination activities with the appropriate sections for combating economic crime that are located in 27 police directorates throughout Serbia. These sections employ inspectors that are not specialised for actions in this area, but the work is organised in such a manner that in every directorates there is one inspector supervising work on individual files, keeping record of activities in the field of work on the suppression of these problems, taking measures and actions for the discovery of these problems. That inspector is also in charge to send the results and to coordinate with the seat in Belgrade. The employees on the Section furnish data to competent directorates within the police administrations depending on the place where the crime has been committed and also collect data from the field. The Section cooperates with other ministries and government bodies engaged in the problem of IPR infringement.

The Intellectual Property Rights Division, within the **Customs Administration**, currently has nine customs officials employed: 5 with Bachelor's degree, 3 with college education and 1 with secondary education. Taking into account the scope of work, a greater number of executors is needed, as well as introduction of the position of coordinator in the customs houses. Employees in the Intellectual Property Rights Department, and a specific number of customs officials from operations, are constantly trained through seminars, workshops and trainings organised by relevant organisations on national, regional and

international level (the Intellectual Property Office of the RS, the Ministry of Trade and Services/Market Inspectorate Sector, WCO, WIPO, TAIEX, DG TAXUD, USPTO, INTERPOL/EUROPOL, CARDS, SNB React, CAFAO/TACTA, EPO) with active participation and support of intellectual property rights holders and their representatives, as well as foreign customs administrations. Moreover, part of the mandatory training for all authorised customs officials in the Customs Administration's School Centre is dedicated to protection of intellectual property rights at the border. There is a need for permanent training within the meaning of following new trends.

In the **Market Inspectorate** within the Ministry of Trade and Services, 40 inspectors, out of 485 market inspectors, are responsible for conducting procedures for inspectoral protection of intellectual property rights, which are enforced on the entire territory of the Republic of Serbia and coordinated from the Division for General Supervision within the Market Inspectorate. The Law on Autonomous Province of Vojvodina (*Official Gazette of RS*, No. 99/09) lays down that tasks of inspectoral protection of copyright within the market inspectorate are done through provincial authorities as assigned tasks. For these purposes, the Ministry of Trade and Services has transferred on AP necessary recourses for the work of 2 inspectors that were taken from this Ministry.

The Ministry of Trade and Services decides centrally on all submitted requests for protection of intellectual property rights, including requests for protection of copyright on the territory of Vojvodina, provided that the order for carrying out activities and measures is submitted and enforced through provincial authorities if the infringement is done on the territory of the aforementioned province.

In 2010, the budget of 37 532 544.00 dinars was provided for actions of market inspectors in this area.

In 2010, the budget funds of 2 300 000.00 dinars were provided for destruction of pirated/counterfeited goods seized by market inspection.

Furthermore, the funds are continuously provided for storages that safeguard seized pirated/counterfeited goods which are under supervision of market inspection.

The **Tax Administration** has trained tax inspectors and the Tax Police for efficient determination of intellectual property rights infringement – computer programmes (software) and databases. The training of tax inspectors and Tax Police begun with the application of the Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights, which laid down competence of the Tax Administration, i.e. tax inspectors and Tax Police for determining intellectual property rights infringement – computer programmes (software) and databases. In late 2009, the training of tax inspectors and the Tax Police was held in the Tax Administration's centres for training: Belgrade, Novi Sad, Nis and Kragujevac, on the negative influence of the use of illegal software for the country and the society in general, accounting treatment of software products, with concrete instructions on how to recognise illegal software of various producers. On that occasion, the concrete experiences in the area of law implementation were exchanged and proposals for promotion of the existing procedures for control of taxpayers were given. In 2010, 853 executors carried out the control of determining intellectual property right infringements – computer programmes (software) and databases:

741 executors assigned to duties of tax inspector of field control;

112 executors assigned to duties of inspector of the Tax Police.

What is the average length and cost of the judicial procedures for the main type of infringements (patents, trademarks, copyright, etc.)?

In the case of commercial courts, in 2010, the average length of the procedures in the first instance courts was 129 days, and the average cost of the judicial procedure was 43 953 dinars. In 2010, the average length of procedure before the Commercial Appellate Court was 254 days and there is no data on average cost of a procedure.

Before the courts of general jurisdiction (high courts), the average length of a procedure in 2010 was one year and three months, and average cost of a judicial procedure was 43 500 dinars.

Including commercial courts and courts of general jurisdiction, the average length of a procedure in 2010 in the Republic of Serbia was 10 months, and average cost of judicial procedure was 43 725 dinars.

During 2010, in the Republic of Serbia, the only two convicting judgments for criminal act of unauthorised exploit of copyright work or related rights material from Article 199, of the Criminal Code were adjudicated before the High Court in Belgrade, and in both cases suspended sentences were imposed.

Please also provide data on fines and penalties per year and IP crime.

There are no reliable data regarding fines and penalties.

h) Please describe the cooperation and coordination mechanisms put in place between relevant administrations (including market inspectorate, intellectual property office, police, customs, etc.), as well as cooperation with rights-holders. What are the channels of communication and mechanism for cooperation, and how do these work in practice? What are the plans to improve enforcement capacity? Are there any special units to tackle internet piracy?

Cooperation between state authorities:

Pursuant to Article 64, of the Law on State Administration (OG of RS, No. 79/05, 101/07), state administration authorities shall cooperate in all common issues and submit data and information necessary for work to each other.

The Ministry of Interior has a good cooperation with the Customs Administration – Intellectual Property Rights Department, and with the IPO. Moreover, a good cooperation exists with the competent prosecution service for cybercrime, and all criminal charges submitted to date resulted in convicting judgments, which means that there was no abandonment of prosecution or discharge of criminal charges. To date, only one case is recorded that the person, who was already convicted for this type of acts, was in question.

The Customs Administration has intensive cooperation with:

Intellectual Property Office

➤ In the cases of interruption of customs procedures *ex officio*, through written correspondence, data on unknown right holders are acquired so that the Customs

Administration may inform them about the goods for which the customs procedure was interrupted;

➤ through activities directed to education of customs officials (within the project enforced by the European Commission and European Patent Office in the Intellectual Property Office);

The Ministry of Trade and Services - The Market Inspectorate Sector

➤ Joint efforts are made for solving problems (in particular storing and destruction of goods for which was determined infringement of intellectual property rights); Mechanisms for destruction of stored goods exist and function, and it is necessary to establish continuity and uniform procedures;

➤ Information on the operational level are exchanged

➤ Experiences are exchanged;

➤ Joint trainings are organised (in regard to similar procedures).

Intellectual property rights holders:

➤ A number of seminars was held by right holders (trainings where all relevant data and risk parameters for easier identification of goods were given);

➤ Right holders give additional information regarding concrete knowledge in individual cases to the Customs Administration.

The precise mechanism of cooperation with the remaining authorities dealing with the protection of intellectual property, i.e. courts and polices, is not sufficiently developed. Joint activities mostly manifested in the education sector and trainings organised for all authorities that are related to this topic.

Tax inspectors and the Tax Police, pursuant to the Law on Tax Procedure and Tax Administration (*Official Gazette of RS*, No. 80/2002....53/2010) shall cooperate with all state authorities, especially with authorities of the interior, prosecution service and courts, given that notifications and applications for determined infringements of intellectual property rights are submitted through computer programmes and databases. In addition, during the determination of infringements of intellectual property rights, the Tax Inspectors and the Tax Police cooperates with other organisational units of the Tax Administration and other state authorities pursuant to **the Guidelines on Performance of Duties of the Tax Police; the Guidelines on Coordination of Duties of Tax Control; the Guidelines on Forms and Means of Cooperation between the Tax Police and the Ministry of Interior on Detecting Tax Criminal Offences and their Offenders, as well as exchanging other data and knowledge relevant for actions of these authorities for combating crime**, which is laid down by both of the aforementioned authorities and put to force for the purposes of unified and efficient actions within the competence of the Tax Police in the Law on Tax Procedure and Tax Administration.

With producers of computer programmes, as intellectual property rights holders, the Tax Administration cooperates through their associations, like Business Software Alliance, through U.S. Chamber of Commerce and directly. On several occasions, the Tax Administration has organised trainings for the Tax Inspectors and the Tax Police,

dedicated to determining legality of use of computer programmes and databases, on which intellectual property rights holders participated, through U.S. Chamber of Commerce.

The cooperation between the Intellectual Property Office, Customs Administration, Market Inspectorate, Tax Administration and Ministry of Interior is implemented in the area of exchanging information, planning and realising joint trainings and joint preparation and participation in regional expert meetings and workshops. Furthermore, the mutual cooperation has resulted in the proposal of the IPA project for promotion of the work of authorities for enforcement of the IPR in Serbia. The main organiser of the activities is the Ministry of Trade and Services. The Customs Administration and Ministry of Interior are the users, and the Intellectual Property Office supports the project.

What are the plans to improve enforcement capacity?

In terms of promoting capacity of intellectual property rights application, it is planned to concentrate territorial competence of the courts that hear first instance actions for infringement of intellectual property rights, pass the Law on Optical Disks, revise distribution of competence of inspectoral authorities that participate in enforcement of intellectual property rights, establishing unified and binding system of recording and statistical analysis of the data concerning infringements and sanctioning infringements of intellectual property rights, establishing the Coordinating Authority for cooperation between the police, inspections, Customs Administration and Financial Police.

In 2010, it is planned to reorganise the Tax Administration aiming to enhance work functionally. In relation to this, and on the basis of the analyses made by the expert team of the Tax Administration, it was concluded that a special unit within the Tax Administration should be formed for the control of the legality of use of computer programmes and databases. . The special unit shall be composed of 25 good experts for information technologies. This will provide greater efficiency of the controls that demand previous specific knowledge. This unit shall undergo specifying training during December, in order to be geographically deployed and active on the entire territory of Serbia since January 2011. In the following period, it is expected that the unit will be expanded to 50 members.

Are there any special units to tackle internet piracy?

YES. The answer is given within the answer to the questions 31 and 35e.

i) Do the enforcement bodies have *ex-officio* powers to act against IP infringements?

Yes. The Ministry of Interior is competent to, *ex officio*, act against intellectual property infringements pursuant to Article 31, paragraph 3, of the Law on Police.

Furthermore, the Customs Administration has the authority to act *ex officio* within the meaning of Article 282, of the Custom Law and Article 7, of the Customs Regulation.

The Law on Special Powers for the Purpose of Efficient Protection of Intellectual Property Rights gives special powers to inspectoral authorities for the purposes of inspectoral supervision over production and circulation of goods and services that infringe intellectual property rights. Inspectoral authorities are competent to act *ex officio*

in administrative, i.e. inspectoral procedure, and at the request of the intellectual property right holder, see answer to the question 35.

j) If NO, what measures, procedures and remedies does your country envisage adopting in order to dispose of an efficient system to fight against piracy and counterfeiting?

36) Is there a strategy in place (including consumer awareness) to support the enforcement of IP rights/fight against counterfeiting and piracy? Are there any overall assessment of the main characteristics and significance of IP infringements in Serbia (main rights infringed, economic impact, national production vs. import/transit etc.)? What measures do national authorities take to ensure the public (consumers as well as retailer) understands the importance of respecting IPRs? Is there any policy to develop inter-industrial code of conduct to enforce IPR in Serbia?

Is there a strategy in place (including consumer awareness) to support the enforcement of IP rights/fight against counterfeiting and piracy?

YES. Connected with the answer to the question 29.

The Draft of National Strategy of the Development of Intellectual Property in all its segments includes measures for combating piracy and counterfeiting, but formally, of four parts of the Draft Strategy, the most important measures are those contained in the second and fourth part. The second part that include eleven measures is directly related to promoting enforcement of intellectual property rights and combating counterfeiting and piracy, while some of the measures contained in the fourth part, concerning rising the public awareness and education in the area of intellectual property, indirectly contribute to the combat against piracy and counterfeiting.

Are there any overall assessment of the main characteristics and significance of IP infringements in Serbia (main rights infringed, economic impact, national production vs. import/transit etc.)?

There are no reliable data. According to the data that are at disposal of the Customs Administration, the majority of cases are those where trademarks were infringed, during import and transit.

What measures do national authorities take to ensure the public (consumers as well as retailer) understands the importance of respecting IPRs?

Within the enforcement of the national IPA project "Support for Establishing the Education and Informative Centre within the IPO of the Republic of Serbia", the IPO carries out the activities of raising the public awareness on danger that comes from piracy and counterfeiting. More specifically, the IPO organises thematic round tables, regularly issues the Bulletin printed in both Serbian and English, the IPO's employees participate in all manifestations and fairs where there is interest for the topic of intellectual property and they are present at all exhibitions of inventors' associations (participate in the actions of the jury for The Best Technological Innovation and contests organised by inventors' associations). Each year, the IPO organises celebration of the World Intellectual Property Day. The IPO's website, which has received good marks by users, is regularly updated and provides all the information for various interest groups. Through the IPO's website it

is possible to access national databases of trademarks, design and patents, and to access server for announcement of patent documents, electronic edition of the Bulletin on the IPO's work, electronic edition of the official gazette of the IPO, and numerous other publications and promotional material that the IPO prepares and publishes. Furthermore, the IPO organises numerous seminars and workshops on topics of interest for development of the intellectual property system in the Republic of Serbia. Apart from the IPO activities, promotional campaigns are sporadically conducted by the entities whose business interests are endangered by the mass infringement of intellectual property rights (e.g. the U.S. Chamber of Commerce, SOKOJ).

For the purposes of promoting the protection of intellectual property and drawing the public's attention towards hazard and danger that arise from counterfeited goods, and in cooperation with PR Office of the Customs Administration, the following actions are made: distributing regular public press releases in this respect, publishing numerous articles that raise awareness of people in this context in daily and weekly media, organising guest appearances in educational and informative television shows, and reporting from the field. Preparation of brochures, fliers and related promotional material is planned.

The Market Inspectorate, in cooperation with the IPO, Customs Administration and Ministry of Interior, plans to conduct joint campaigns that would ensure that the public, consumers and retailers understand the importance of respecting intellectual property rights.

Is there any policy to develop inter-industrial code of conduct to enforce IPR in Serbia?

In 2006, Serbian Chamber of Commerce has passed the Code of Business Ethics and the Code of Corporate Governance. In the Code of Business Ethics, there are, expressly, provisions on protection of intellectual property (Article 2 and Article 61), on trade secret (Article 2 and Articles 40-43) and on unfair competition (Article 80) accompanied with mechanism of supervision of Code application (Chapter II) and procedure in case of infringement with measures against the offender of the Code (Chapter III).

The Code is mandatory act of the Serbian Chamber of Commerce and to a certain extent contains good business practices and rules on business moral. The infringement of the Code also means the infringement of good business practices, business moral and mandatory act of the Serbian Chamber of Commerce. According to all three of the aforementioned grounds, the Law on Chambers of Commerce, statutes of chambers of commerce and rulebooks on courts of honour in the chambers of commerce lay down jurisdiction of their own courts of honour. The Court of Honour in the Serbian Chamber of Commerce supervises enforcement of the Code and observance of good business practices and business ethics in the area of corporate governance. In addition to the Court of Honour, as a separate authority that is independent in performing actions and autonomous in deciding, the Supervisory and Management Boards of the SCC are also competent for ensuring compliance with the codes (Code of Corporate Governance and Code of Business Ethics) and are responsible for their application. Furthermore, the Management Board of the SCC, as the second instance authority, decides on complaints filed against the first instance decisions of the Court of Honour.