

# JUDICIAL MONITOR

MONITORING AND REPORTING ON JUDICIAL REFORMS

8

MAY

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## BRIEF NEWS



## TOPIC 1

### THE APPELLATE COURT CONFIRMS: SEVEN MONTHS IN PRISON FOR PROSECUTOR MITROVIĆ

The suspended special state prosecutor Lidija Mitrović was sentenced to seven months in prison for the prolonged criminal offence of abuse of official position. In a repeated procedure, the Appellate Court of Montenegro confirmed the verdict of the High Court in Podgorica from December last year, making it legally binding.

According to the indictment, in the period from November 2020 to December 2021 Mitrović suspended the criminal proceedings against four persons who were suspected of tax evasion (N.P, Z.B, S.B. and P.R.), making it possible for them to acquire gains.



"Acting contrary to the provisions of the Criminal Procedure Code and the Rulebook on Deferred Criminal Prosecution, she issued four decisions rejecting criminal charges against the above mentioned persons for the criminal offence of tax and contributions evasion even though she was aware of the fact that said persons were reasonably suspected of having committed the criminal offence of tax and contribution evasion, regarding which the institute of deferred prosecution cannot be applied", stated the Appellate Court.



**The Appellate Court has confirmed the verdict sentencing prosecutor Lidija Mitrović to seven months in prison for abuse of official position.**

The Court felt that a sentence of seven months in prison was appropriate, and that it would have an effect on Mitrović.

“In the opinion of the Appellate Court, the seven-month prison sentence is proportionate to the seriousness of the criminal offence and the degree of guilt of the defendant, which is why it can be rightly expected that the purpose of the punishment will be achieved with such a measured prison sentence, i.e. that it will deter the defendant, as well as others, from committing criminal offences in the future.”

During the repeated proceedings before the High Court in Podgorica, the convicted prosecutor denied the accusations, claiming that the four accused persons did not commit the criminal offence because they allegedly were not even engaged in a taxable business activity.

In June 2023, the Prosecutorial Council suspended special prosecutor Lidija Mitrović after criminal proceedings were initiated against her for an act that, according to the law, makes her unworthy of performing prosecutorial duties. Since a final conviction was issued in the meantime, this is the most serious disciplinary offence in terms of Article 108 of the Law on the State Prosecutor's Office. Pursuant to Article 109, a measure of dismissal is prescribed for such offences, and it is expected that the Prosecutorial Council will impose this measure in the upcoming period.

The judgment against Lidija Mitrović is the first legally binding judgment issued against a state prosecutor in Montenegro for a criminal offence related to the discharge of prosecutorial duties. First-instance court proceedings against former Chief Special Prosecutor Milorad Katnić and former Special Prosecutor Saša Čadjenović are pending as well.

## TOPIC 2

### THE TRIAL OF KATNIĆ, LAZOVIĆ AND ČADJENOVIĆ HAS BEGUN - ALL THREE HAVE DENIED GUILT

The trial of former Chief Special Prosecutor Milivoj Katnić, former Assistant Director of the Police Administration Zoran Lazović, and Special Prosecutor Saša Čadjenović began on 9 May before the High Court in Podgorica.

**In the courtroom, at the beginning of the trial, Milivoje Katnić, Zoran Lazović and Saša Čadjenović denied guilt.**



All three stated before the court panel presided over by judge Veljko Radovanović that they were not guilty of the charges brought against them by the Special State Prosecutor's Office, and said that they would not answer the questions of prosecutor Miloš Šoškić. On top of that, Čadjenović said that he would not answer the questions of the court either.

The Special State Prosecutor's Office has accused Lazović and Katnić of participating in the creation of a criminal organisation and abusing their official positions by allegedly working in the interest of the Kavač criminal group. According to the indictment, Special Prosecutor Čadjenović was also a member of the group.

Zoran Lazović said that he was the subject of a political process designed by "powerful persons outside of Montenegro, from the world of politics, diplomacy, business and crime", that he had been convicted before the trial even began, and that his right to defence was provided to him only formally.

"There is no evidence in the case file that I have committed any criminal offence; there are no messages, no photographs, no audio or video recordings, no oral or written orders [showing] my actions or inactions that could link me to any of the allegations contained in the indictment" - said Lazović, as reported by Television E.

At the beginning of the trial, Milivoje Katnić accused prosecutor Šoškić of falsifying and hiding evidence.

After the hearing, the High Court in Podgorica [published on its website a recording](#) of the reading of the indictment and the pleas. This was approved by the Supreme Court of Montenegro in April, at the request of Katnić and Lazović.

**The trial of former President of the Supreme Court Vesna Medenica and judge of the Commercial Court Milica Vlahović-Milosavljević is starting over.**

### TOPIC 3

#### **THE TRIAL OF MEDENICA AND VLAHOVIĆ-MILOSAVLJEVIĆ TO BEGIN AGAIN**

Another case, in which the former President of the Supreme Court Vesna Medenica plays the main role of the accused, is starting all over again. Medenica will return to the courtroom on 20 June, together with the suspended judge of the Commercial Court Milica Vlahović-Milosavljević. This trial is about to start again, no less than two years and four months after the confirmation of the indictment.

In this case, the Special State Prosecutor's Office accused Medenica of inciting judge Vlahović-Milosavljević to abuse her official position, i.e. to prevent the collection of claims from Medenica's best man [kum] Rade Arsić (who is meanwhile suspected of tax and contributions evasion and



causing damage to the state budget). Vlahović-Milosavljević did this, but explained in court that she did not do it under pressure from Vesna Medenica, as she had said in her initial statement, but based on the law.



Let us recall that the proceedings were initially led by judge Nada Rabrenović, before whom Medenica and Vlahović-Milosavljević denied guilt. Due to Rabrenović's illness, the case was assigned to judge Vesna Kovačević, who in the meantime applied for a position in the Appellate Court. After that, the case finally passed to Branislav Leković, who was elected judge of the High Court in Podgorica in February of this year. All in all, only two main hearings were held in almost two and a half years.

The suspended judge Vlahović-Milosavljević was initially included in the indictment accusing Vesna Medenica and the other defendants of being part of a criminal organisation created by Medenica's son Miloš; however, in July 2023 the High Court in Podgorica allowed those proceedings to be separated.

**Witnesses heard as the trial in the "Tunnel" case continues.**

#### TOPIC 4

### I THE "TUNNEL" CASE TRIAL

The trial in the "Tunnel" case continues in the Basic Court in Podgorica. It concerns the digging of a tunnel from a residential building to a depot in the basement of the High Court in Podgorica and stealing certain items therefrom.

Of the eight accused persons, seven are charged with the criminal offence of criminal association in conjunction with the criminal offence of aggravated theft, while one defendant

is also charged with the criminal offence of document forgery. The eighth defendant is charged only with the criminal offence of assisting the perpetrator after the fact.



Several witnesses were heard during the main hearing, which was held on 19 May. Among the first were Tamara Vojvodić, the owner of the retail space from which the tunnel to the High Court had been dug, and her mother Nataša Ćuković. They explained that they rented out the space through an agency, and that the tenants' plan was to open a wedding dress salon in it. Apart from them, the employees of the real estate agency Ana Luburić and Kristina Vukčević-Laković also appeared before the court, explaining how they came into contact with the tenants.

The testimony of Mladen Radovanović, employee of the High Court depot, as well as that of the former president of that Court, Boris Savić, were also read. Radovanović said that there is no video surveillance in the court depot, although he had demanded that it be installed. Savić, on the other hand, explained in his testimony that there were no financial resources for such equipment. In his testimony given in 2023, he presented his own understanding of the intrusion into the court that he presided over.

“In my opinion, the intention was to take the drugs that were stored in the depot, that is, that those who broke in wanted to get the cocaine. They did not know that the cocaine was stored somewhere else, so it seems to me that they randomly chose weapons that were in good condition.”

The trial in the “Tunnel” case continued on 20 May, which is when Maja Baćović, the mother of Katarina Baćović

(accused in the robbery of the depot) appeared before the court.

She explained that, together with her female colleague, she discovered a hole in the wall of the court depot through which the robbers entered the court building. She also confirmed that she did not know the other defendants in this case, and that her daughter never mentioned them in any of their conversations.

Let us recall that, in January, the Basic State Prosecutor's Office confirmed the indictment against Montenegrin citizens Predrag Mirotić, Katarina Baćović and Nikola Milačić, and Serbian citizens Veljko Marković, Milan Marković, Dejan Jovanović and Vladimir Erić. They were accused of having dug a 30-metre long tunnel at the beginning of July 2023 from the basement of a residential building to the depot of the High Court in Podgorica, which stores evidentiary material from cases that are pending or have been concluded in that court. Marijan Vuljaj, who helped Baćović to hide, is also among the accused.

Neither the motive nor those who ordered the break-in are currently known, but the investigation revealed that weapons (19 pieces), several mobile phones and a small amount of drugs were stolen from the depot. These are pieces of evidence from cases that were, or are, pending before the High Court. So far, it has not been announced whether and in what way the theft of evidentiary material affected specific cases, and whether the material was ever found.

**The report on the work of the Administrative Court reveals worrying data, i.e. more than 30,000 pending cases.**

## TOPIC 5

### **THIRTY THOUSAND CASES PENDING IN THE ADMINISTRATIVE COURT OF MONTENEGRO!**

Fourteen judges of the Administrative Court of Montenegro are currently working on more than 30,000 cases. This was announced at the press conference presenting the report on the work of that Court for the year 2024 and the first quarter of 2025.

The data show that in the reporting period judges were in charge, on average, of approximately 2,500 cases each. Although the stipulated norm for the number of resolved cases per judge is 300, the judges of the Administrative Court have resolved twice as many, i.e. an average of about 740 cases.





This Court has not been functioning at full capacity for quite a long time now; according to data from May of this year, the Court has 14 of the planned 16 judges, with five advisers missing. On 28 January 2025, the Judicial Council selected a candidate for the position of judge of the Administrative Court, while a competition for the election of one judge of that court was announced on 13 May.

The President of the Administrative Court Miodrag Pešić recently said in an interview for the *Standard* portal that the number of judges in the Court was planned having in mind an annual inflow of approximately 5,000 cases. As he confirmed during the presentation of the report, it is precisely the number of cases that is the biggest challenge they are facing.

“In 2023, we had a record inflow of 17,000 cases. We have not had such a number of cases since the Administrative Court was established... The number of cases exceeds the number of judges. In such conditions, it can hardly be said that the court is functioning normally and that it can fulfil its role of resolving cases within a reasonable time”, said Pešić.

As stated, the Administrative Court of Montenegro was efficient in the first quarter of this year as well, resolving a greater number of cases than it received and thereby partially reducing the total backlog. Nevertheless, at the end of 2024, as many as 26,638 cases from earlier years remained unresolved (4,932 from 2022, 12,213 from 2023, and 9,493 from 2024).

The latest report of the specialised body of the Council of Europe - the European Commission for Judicial Efficiency (CEPEJ) - for the year 2022 showed that the situation in the Administrative Court of Montenegro is alarming. They pointed to the worrisome situation in that Court based on the fact that it has experienced the highest drop in promptness at the European level, of 89%, and that its proceedings

**How independent are judges in Montenegro when issuing judgments? What does practice show?**

lasted 739 days on average. Serbia is the only other country with a similarly bad situation.

## TOPIC 6

### | JUDGMENTS AND INFLUENCE ON JUDGES?

After current and former judges were heard before the High Court in Podgorica in April, in the case against the former President of the Supreme Court Vesna Medenica, the public learned that the former first woman of the Montenegrin judiciary allegedly did not influence the judges while they were passing judgments. At that time, those who testified denied that Medenica influenced them in the court cases that were mentioned in the indictment that was brought against her and others who were suspected of being part of a criminal group organised by Medenica's son Miloš.



Still, there is the question of whether, and to what extent, the holders of judicial offices were independent in making decisions, and what the situation in practice is.

The case “**Tripčević v. Montenegro**”, in which the European Court of Human Rights has ruled, is quite indicative in this sense. It was a civil proceeding involving trespassing - the neighbour had erected a fence that had physically separated two neighbouring plots owned by the applicants, thus preventing them from accessing one of them.

They noticed the disturbance on 13 June 2009 and filed a lawsuit on 15 July of the same year. According to the law, specifically according to Article 77 of the Law on Property and Legal Relations that was in force at the time, a claim involving trespassing must be filed within 30 days from the date of learning of said trespassing and the perpetrator.

In this case, the thirtieth day from 13 June was 13 July, but 13 and 14 July were public holidays, and the courts



were closed. According to Article 108 of the Law on Civil Procedure, if the deadline expires on a holiday, it is deemed to in fact expire on the first following working day - that is, 15 July, when the lawsuit was actually filed.

The Basic Court in Kotor accepted the lawsuit as submitted in a timely fashion, correctly applying the aforementioned legal provisions. However, the High Court in Podgorica reversed the verdict and rejected the lawsuit as untimely. It did so without referring to the relevant laws and without explaining why the rule on extending the deadline to include the first working day did not apply in this case.

As a result, the applicants initiated proceedings before the European Court of Human Rights, which ruled in 2017 that there had been a violation of the right to a fair trial. The Court in Strasbourg pointed out that the High Court decided arbitrarily, without a legal basis and contrary to the clearly defined rules on the calculation of deadlines.

The decision of the High Court, made contrary to the clearly prescribed rules on the calculation of deadlines, issued without an explanation and without referring to the relevant legal norms, opened up space for serious doubts regarding the motives of such action. A justified dilemma arises When one deviates from the elementary legal rules, which are studied in the first years of law school: is it mere incompetence or corrupt activity?

In any case, this kind of judicial practice, revealed after several years, undermines the basic principles of legal security and further erodes citizens' confidence in the independence and professionalism of the judiciary.

Additionally, in 2024 and 2025 the Supreme Court found a violation of the law in favour of the defendants in 23 cases, adopting requests for the protection of legality. This practice can also indicate the same phenomena - incompetence or corruption.

**Worrying data from the Judicial Council on the use of standby and on-call staff in Montenegrin courts. In 2024, almost EUR 730,000 were spent for these purposes.**

## TOPIC 7

### ARE JUDGES ABUSING READINESS IN MONTENEGRIN COURTS?

Montenegrin judges charge a lot for being on standby and on call. According to the Judicial Council data published by the Centre for Investigative Journalism of Montenegro, almost EUR 730,000 were paid for these purposes just last year alone (EUR 530,000 for being on standby).



The research conducted by CIN-CG also showed that, in 2024, some judges had “more hours of standby time than the total number of hours that were available for such work in that month once the working hours were subtracted”.

For example, the President of the Basic Court in Plav, Mirjana Knežević, was on standby for 554 hours in September 2024, a month that had only 552 possible hours. The same was recorded in the courts in Rožaje and Cetinje.

However, the Judicial Council explained that those cases involved an “obviously technical errors made while writing numbers in preparing a large number of decisions that are made every month, and that these examples represent rare exceptions and not the rule”.

Data concerning the Appellate Court also show that judges were often on standby. Four or five judges were on standby for hundreds of hours every month, without a single on-call shift. The situation was similar in the Basic Court in Kotor, as well as in most other courts in the country.

It is interesting, however – according to the CIN-CG report - that at the end of last year, i.e. from the moment when Valentina Pavličić was elected new President of the Supreme Court of Montenegro, there has been a visible decrease in standby hours.

Therefore, a legitimate question arises: were judges abusing their rights?

**“The answer to those questions should be provided by the judicial inspection of the Ministry of Justice, which is competent to carry out control of the application of the Court Rules of Procedure in the part that refers to court administration”**, the Director of the Human Rights Action (HRA) Tea Gorjanc-Prelević told CIN-CG.

The court Rules of Procedure prescribe that “the president of the court assigns the judge for the investigation, as well as officials and state employees who will be ready to come to the court, and determines the standby status of other judges, officials and state employees who should perform tasks that do not tolerate delay”.

**“Such a need, for standby to last non-stop, should be documented, extra hours should be recorded in the court, there should be a written record of everything, minutes of deliberations, etc., so that the judicial inspection can verify whether there was a basis for all those standbys”,** concluded Gorjanc-Prelević.

Although monthly standby schedules are the responsibility of the court presidents, the Judicial Council pointed out to CIN-CG that they are actively working on the preparation of Guidelines for compiling standby schedules and records of work that exceeds full-time, whose adoption and publication is expected in the upcoming period.

High standby costs and identified irregularities in the number of judges’ hours indicate insufficient control and the possibility of abusing the system. Although the Judicial Council is working on new Guidelines for better standby monitoring and scheduling, it is necessary to urgently strengthen supervision in order to ensure accountability and transparency.

The Human Rights Action sent a letter to the Minister of Justice, asking whether the inspection has been initiated; however, the answer had not arrived by the time of publication of this issue of the Judicial Bulletin.

**What sort of vetting do judges in the United States of America have to undergo before they can take office, and which institutions are involved in this process?**

## TOPIC 8

### | VETTING IN THE USA

In the expectation of Montenegro’s concrete moves regarding the introduction of vetting, we are presenting a brief overview of how the financial, ethical and professional integrity of judges and prosecutors is vetted in the United States of America (USA).





In the document “Improving the Rule of Law - Guidelines on the Vetting of Judges”, the CEELI Institute showed how the integrity and impartiality of the judiciary is ensured in the USA.

The vetting process for federal judges is based on the US Constitution and supplemented by federal laws. It involves thorough background checks conducted by the FBI, as well as oversight by the US Senate, which serve to assess the suitability of candidates for lifetime appointments through an assessment of their reliability, credibility and personal integrity.

“The investigation looks at personal details, citizenship status, marital and cohabitation history, residential history, family background, education and employment history, military service (if any) and financial information. It also includes a mental health evaluation, involvement in civil or criminal legal matters, affiliation with various organisations, substance abuse (including drugs and alcohol) as well as any information technology abuse”.

In addition to the FBI, candidates for judges are also vetted by the US Senate, which is responsible “for providing advice and consent before a candidate can be appointed a federal judge”.

“The Senate supplements the FBI’s investigation by seeking detailed information about the candidate’s personal, educational and professional history, legal practice experience, affiliation with organisations, speeches and publications, previous judicial positions and financial statements. As stated in the document “Advancing the Rule of Law - Judicial Vetting Guidelines”, the Senate also “calls on civil society organisations, such as the American Bar Association, to provide impartial peer reviews of judicial candidates.”

However, the American vetting system does not end here. After the appointment, security checks of judges are periodically performed to ensure transparency and ethical behaviour, while judges have the obligation of constant reporting.

“This includes annual financial statements, reporting on effective case management, mandatory recusal from cases involving personal bias or financial interests, and compliance with the Code of Conduct for American Judges”.

The document says that allegations of judicial misconduct are investigated by the Judicial Council or the Judicial Conference of the United States, with the possibility of referring them to the US Congress, “which has the constitutional authority to impeach and remove judges from office”.

While America has a system that increases the responsibility of office holders in the judicial system, the situation in Montenegro is completely different.

In the April newsletter, we wrote about the fact that Montenegrin judges and prosecutors are rarely held accountable for failings in their work, and that they are not held accountable for not submitting property reports to the Agency for the Prevention of Corruption. Compared to the USA, it seems that in Montenegro the integrity of the judiciary still depends on the good will of individuals, rather than a system that should guarantee that integrity.

**The Supreme Court of Montenegro confirmed the sentence imposed on judge Suzana Mugoša. Due to the accusations she made against the Appellate Court, she will not be able to advance and her salary will be reduced.**

## TOPIC 9

### **THE SANCTION AGAINST JUDGE SUZANA MUGOŠA REMAINS - LOWER SALARY AND INABILITY TO ADVANCE**

The Supreme Court of Montenegro confirmed the decision of the Disciplinary Panel of the Judicial Council, which reduced the salary of the judge of the Podgorica High Court, Suzana Mugoša, by 30 percent for three months and prohibited her from being promoted in the next two years.



In February of this year, the Disciplinary Panel found that Mugoša was responsible for a serious disciplinary offence because she announced in November 2023 that the decision of the Appellate Court of Montenegro in the “Coup d’état” case had been bought.

The decision of the Supreme Court emphasised that a judge’s right to freedom of expression is not absolute, and that it must be exercised while respecting the principles of independence and impartiality of the judiciary.

“The Supreme Court concluded that the decision of the Disciplinary Panel did not violate the right to freedom

of expression, and that it does not violate freedom of expression in a way that would be prohibited by Article 10 of the Convention on the Protection of Human Rights and Fundamental Freedoms”.

As assessed by the Supreme Court, the decision of the Disciplinary Panel was fully in line with legal and international standards.

Let us recall that in February 2021 the Appellate Court annulled the first-instance verdict of the judicial panel of the High Court in Podgorica, presided over by Suzana Mugoša, by which 13 persons who were accused of attempted terrorism on the day of the parliamentary elections in 2016 were sentenced to almost 70 years in prison. Among them were the leaders of the Democratic Front, Andrija Mandić, the current Speaker of the Parliament of Montenegro, and Milan Knežević, a member of parliament.

In July 2024, all the persons who were accused in the “Coup d’état” case were acquitted in the repeated first-instance proceeding.

## TOPIC 10

### **MONTENEGRO AND OFFICIALS’ COMPENSATION - WHILE THE REGION IS TRYING TO SAVE MONEY, WE ARE GIVING IT AWAY**

**In certain countries of the region, judges are not paid officials’ compensation. In others they are, but under strict conditions, while in Montenegro, the right to a year’s salary without having to do any work is used by many.**

The information that the former judge and Acting President of the Supreme Court Vesna Vučković was granted compensation in the amount of her full salary for the next 12 months despite the fact that she resigned from the judicial position raises numerous questions, especially since we know that the state has paid more than EUR 2,170,000 to former Montenegrin judges since 2020 upon the termination of their offices in the name of official compensation. According to data from the Centre for Investigative Journalism of Montenegro, published at the beginning of the year, as many as 49 of the 87 former holders of judicial positions have resigned.





And while our country has no doubts about the justification of financing long-term paid vacations after the end of public office, the following question arises: are other countries of the region doing the same thing? HRA investigated the conditions under which officials' compensations are paid in the neighbouring countries, and whether they exist at all.

In **Slovenia** and **Bosnia and Herzegovina**, they do not pay compensation upon termination of judicial and prosecutorial office, while in other countries of the region this right does exist, but under different conditions.

In **Serbia**, after the termination of office, (former) judges and state prosecutors have the right to a three-months compensation in the amount of their last salary. This right can be extended to include another three months if the right to retirement is to be acquired during those three months. The position of judges of the Constitutional Court is somewhat more favourable, as they are entitled to a semi-annual compensation, but not always. There is no compensation for a judge whose office has ended because s/he has fulfilled the conditions for old-age retirement, who has been dismissed due to membership in a political party or due to a conflict of interest, due to a prison sentence or a criminal offence that makes him/her unworthy of the office of a judge of the Constitutional Court.

In **Kosovo**, only the presidents of the Constitutional and Supreme Courts and the Supreme State Prosecutor have the right to compensation. It lasts for life and is paid in the amount of 70% of their last salary. However, if they are legally convicted of a criminal offence, they lose their right to this compensation.

In **Croatia**, only judges of the Constitutional Court who have been in office for at least one year are entitled to monetary compensation after the termination of that office, until they start receiving a salary on another basis or until they retire. For the first six months after they stop adjudicating, they are entitled to their full salary, as if they were in office, while for the next six months they are entitled to half their salary. Those who resigned or were dismissed do not have that right.

At the end of the review we present the situation in Albania, a country that we often mention because of its successful implementation of vetting, a process that has been announced but is not yet taking place in Montenegro.

Namely, after the termination of their office, the Presidents of the Constitutional and Supreme Courts and the Supreme State Prosecutor of **Albania** receive three monthly salaries they had while they were in office. After that, they are entitled to half of the gross reference salary for as long as they have been in that position, but no longer than three years.

The situation is somewhat different when it comes to judges of the Constitutional and Supreme Courts. After the termination of their office, they receive two monthly salaries, and then exercise the right to 50% of the gross reference salary for as long as they were in office, but no longer than three years.

Judges, state prosecutors and deputies of the Supreme State Prosecutor in Albania receive two monthly salaries after the termination of office, and then have the right to 40% of the gross reference salary for as long as they were in office, but not longer than one year.

It is obvious that the right to pay officials' compensation is not used anywhere like it is in Montenegro.

Because of this practice, the NGO Human Rights Action previously proposed changes to the Law on Salaries in the Public Sector, as well as changes to the Law on the Judicial Council and Judges, in order to limit the right to compensation upon termination of employment. They also suggested that those who resign should be denied benefits and severance pay.

**“Resignation is a convenient move for some irresponsible people, because all the burdens and pressures disappear while the official compensation remains... If, on top of that, a judge or a state prosecutor is guilty of a disciplinary offence, resignation happens to be the ideal solution, because the disciplinary procedure is terminated immediately and the compensation is not lost”,** the Executive Director of the NGO *Human Rights Action*, Tea Gorjanc-Prelević, explained earlier to *Dan*.

**Although the President of the country proposed Mirjana Vučinić as a candidate for judge of the Constitutional Court, there is a delay in the process of filling vacant positions in that Court.**

## TOPIC 11

### **MIRJANA VUČINIĆ IS THE CANDIDATE FOR JUDGE OF THE CONSTITUTIONAL COURT, IT IS NECESSARY TO ALSO ELECT THE REMAINING CANDIDATES**

The President of Montenegro, Jakov Milatović, proposed Mirjana Vučinić as a judge of the Constitutional Court and submitted that proposal to the National Assembly of Montenegro.



Milatović stated that if she is elected as a judge of the Constitutional Court, Mirjana Vučinić would “perform her duties professionally, conscientiously and responsibly, contributing to the efficiency of the work of that institution”. Vučinić should replace judge Budimir Šćepanović once he retires.

Despite this step, the NGO Human Rights Action warns of the delay in the election of new judges of the Constitutional Court.

“The fact that at least one of them has not been elected already has a disastrous effect on the efficiency of this court, which now needs about two years to decide in one case”, they stated in the announcement.

We remind that candidates for new judges of the Constitutional Court should replace Milorad Gogić, whose office ended on 30 August 2024, Dragan Djuranović, whose retirement was confirmed on 17 December of the same year and regarding which the Venice Commission is expected to provide an opinion, and Budimir Šćepanović, who has held his position until now, but will not be discharging it after 31 May of this year.

The process of electing Dragana Djuranović’s successor was halted before the Constitutional Committee on June 13 and 14 until the Venice Commission’s opinion, but it is unclear why there is hesitation to select a candidate to replace Gogić - as stated by the Human Rights Action.

In addition, the HRA warns that from 31 May the Constitutional Court will have four judges, out of the prescribed seven, and that only three judges who will remain in office at that time will have a legitimate mandate!

Namely, they explain that out of the five judges who are currently adjudicating, two are doing so unlawfully.

“Based on the imperative provisions of the Constitution and the Law on Pension and Disability Insurance, Budimir Šćepanović and Desanka Lopičić’s judicial offices should have ended in May and June of last year, respectively, when they fulfilled the conditions for retirement having reached 65 years of age, i.e. 40 years of service”, said HRA.

They remind that Šćepanović will be turning 66 at the end of May, and that “if the Constitutional Court of Montenegro decides to apply the Labour Law”, his office will terminate on 31 May.

To prevent legal uncertainty regarding the duration of the mandate of the judges of the Constitutional Court, the HRA suggests that the Constitution should “clearly stipulate that



the office of a judge of the Constitutional Court must end when s/he reaches a certain age". They point to the example of Bosnia and Herzegovina, where the Constitution stipulates that judges can work until they turn 70.

## | BRIEF NEWS

### **FORMER JUDGE VESNA VUČKOVIĆ HAS BEEN GRANTED THE RIGHT TO COMPENSATION**

The former Acting President of the Supreme Court, Vesna Vučković, was granted the right to receive one-year compensation upon termination of office. This stems from the decision of the Administrative Court, which changed the position of the Judicial Council which previously rejected her request for compensation.

On 12 March, Vučković sued the Judicial Council again before the Administrative Court ([Bulletin no. 6](#)) for not recognising her right, which, according to the last verdict, was indisputably hers. The procedure will now go to the Supreme Court, and if they do not enforce the judgment themselves, Vučković will collect the funds through an enforcement agent.

As a judge of the Supreme Court, Vesna Vučković was elected at the session of the Judicial Council in 2021 to be the acting head of the highest court instance. At the beginning of December 2024, she resigned from the position of judge after she was not elected head of the Supreme Court for a full term.

### **JUDICIAL EMPLOYEES THREATEN TO STOP WORKING BECAUSE OF LOW SALARIES**

More than 400 civil servants and state employees employed in the Montenegrin judiciary are thinking about suspending their work unless their financial situation is improved, i.e. unless they receive a salary increase.

As announced by the Trade Union of Administration and Justice, this will be the final step aimed at attracting the attention of the authorities. They claim that they are receiving the lowest wages in the public sector, warning that state employees and civil servants constitute the most numerous

group in the judiciary and that the courts and prosecutor's offices would not be able to function without them.

For this reason, they submitted requests for urgent meetings to the Prime Minister and the Ministers of Justice and Finance, with the aim of finding a quick and sustainable solution. They also wrote to the Judicial and Prosecutorial Councils.

Let us recall that in April, the Government of Montenegro proposed amendments to the Law on the Judicial Council and Judges and the Law on the State Prosecutor's Office according to which the salaries of judges and state prosecutors should be increased by 30 percent. Those acts will not affect the salaries of civil servants and state employees in the judiciary.

### **THE RULES FOR PERFORMANCE EVALUATION OF PROSECUTORS HAVE BEEN ADOPTED**

At its session held on 8 May, the Prosecutorial Council adopted the Rules for the Performance Evaluation of State Prosecutors and Heads of Prosecutor's Offices, thus fulfilling the legal obligation to adopt a by-law prescribing the performance evaluation procedure and relevant indicators in accordance with the amendments to the Law on the State Prosecutor's Office from June 2024.

However, this act did not adopt the recommendations of the HRA - that the law should stipulate that the quality of the work of prosecutors be evaluated based on adopted or rejected proposals for the determination and extension of detention, adopted complaints on decisions on the rejection of criminal charges, legally binding judgments, the number of convictions and accepted appeals; that the decisions of the Constitutional Court of Montenegro and the European Court of Human Rights be treated as an indicator of professional knowledge within the framework of the quality of work and not of the acting skills; and that the law prescribe mandatory performance evaluation of state prosecutors in the Supreme State Prosecutor's Office.

Complaints about the work of prosecutors and heads regarding the legality of work were discussed at the session as well. The Prosecutorial Council was of the opinion that 20 complaints were unfounded, that one was founded, and that three cases did not involve complaints concerning the legality of work.

At the Council session, Tanja Božović was elected state prosecutor in the High State Prosecutor's Office in Podgorica.

## **THE BASIC COURT IN ULCINJ AND THE COMMERCIAL COURT HAVE RECEIVED REINFORCEMENTS**

At the session of the Judicial Council held on 6 May, Maida Šurla-Bašić was elected as a judge of the Basic Court in Ulcinj, while Anja Bojović was elected as a judge of the Commercial Court.

The Council also took decisions to announce competitions for the election of presidents of the misdemeanour courts in Podgorica and Bijelo Polje, as well as for the election of judges in the Administrative Court, the Commercial Court, and the High Court in Bijelo Polje.