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CONTENT

TOPIC 1

VENICE COMMISSION ISSUES NUMEROUS RECOMMENDATIONS REGARDING THE CONSTITUTIONAL COURT

TOPIC 2

CONSTITUTIONAL COURT IGNORES THE CONSTITUTION AND INTERNATIONAL RECOMMENDATIONS IN THE CASE OF JUDGE LOPIČIĆ'S DISMISSAL

TOPIC 3

FROM BRUSSELS: WHAT IS NEEDED TO MEET THE FINAL BENCHMARKS IN CHAPTERS 23 AND 24

TOPIC 4

PRESIDENT OF PARLIAMENT CALLS FOR VETTING OF THE JUDICIARY

TOPIC 5

MEDICAL EXPERT STATES VESNA MEDENICA CAN FOLLOW TRIAL WITH PAUSES

TOPIC 6

KATNIĆ REQUESTS DISCLOSURE OF ORIGINAL COMMUNICATION FROM THE SKY APPLICATION, REITERATES ACCUSATIONS AGAINST THE PROSECUTOR'S OFFICE AND THE POLICE

TOPIC 7

THE "TUNNEL" CASE TRIAL CONTINUES

SHORT NEWS



TOPIC 1

VENICE COMMISSION ISSUES NUMEROUS RECOMMENDATIONS REGARDING THE CONSTITUTIONAL COURT

For three months, Montenegro waited for the opinion of the Venice Commission on whether Constitutional Court judge Dragana Đuranović was retired in accordance with the law, a.i., the Constitution of Montenegro, and whether any changes are needed regarding the retirement of Constitutional Court judges.



Photo: Council of Europe

The document sent by the Council of Europe's advisory body to the Parliament of Montenegro stated that the Parliament should have respected the procedure and waited for formal notification from the Constitutional Court on whether the conditions had been met for the termination of Judge Dragana Đuranović's mandate. It was also stressed that it is regrettable that the Constitutional Court never explained why it believes that Judge Đuranović's mandate should not have ended.

To recall, Judge Dragana Đuranović's term was terminated by Parliament at the end of last year, without the usual notification from the Constitutional Court, and based on the conclusion of the Committee on Constitutional Affairs, on the grounds that she had met the retirement conditions under the Law on Pension and Disability Insurance. Due to this, the opposition left Parliament and blocked the Committee on Electoral Reform, until the crisis was resolved on 15 March, when part



The Venice Commission indicated that the Parliament should have respected the procedure in the case of Constitutional Court Judge Dragana Đuranović. It addressed numerous recommendations to the relevant institutions, including the Constitutional Court itself.

of the opposition signed an agreement with Prime Minister Milojko Spajić that included a request for the opinion of the Venice Commission.

Nevertheless, the Venice Commission did not interpret whether Constitutional Court judges meet the conditions for retirement under the Labour Law or the Law on Pension and Disability Insurance, which has been a matter of debate among the judges of that court for years. As stated in its opinion, it is not within the mandate of the Venice Commission to interpret national constitutional provisions or disputed norms of domestic legislation, nor to assess the constitutionality of specific actions taken by the Parliament or the Constitutional Court.

The Venice Commission stated that no state institution, not even the Constitutional Court, should be allowed to block the appointment process in that judicial body. "If a deadlock or delay in renewing the composition occurs, mechanisms should exist that allow the Constitutional Court to continue functioning," the Venice Commission stated.

Therefore, the Commission proposed: the adoption of a clear legal framework that explicitly regulates the retirement age for Constitutional Court judges; the introduction of a simplified automatic mechanism for notifying when judges meet the conditions for age-based retirement; the adoption of a provision that allows a judge to continue performing duties until a new judge takes office, in order to avoid situations where judicial positions remain vacant; the consideration of expanding the provisions on the disqualification of Constitutional Court judges in cases of conflict of interest, with full respect for procedural guarantees and the preservation of the Court's functionality. In conclusion, the Venice Commission also urged Constitutional Court judges to refrain from voting in matters concerning their own positions.

Minister of Justice Bojan Božović commented on the Venice Commission's position, stating that it offers recommendations aimed at overcoming a long-standing and harmful lack of consistent practice.

"We believe, as does the Venice Commission, that it is an absolute priority for the Law on the Constitutional Court to clearly and unambiguously define the retirement age for judges, thereby eliminating the source of all past disputes and legal confusion. In addition, expanding the rules on conflict of interest, particularly in the context of decisions concerning the personal status of judges, will be crucial to maintaining trust in the independence and ethical conduct of the Constitutional Court," Božović wrote.

He announced that all recommendations would be respected and incorporated into amendments to the Law on the Constitutional Court, which will be drafted in cooperation with the NGO sector and the professional public.

The Executive Director of the NGO *Human Rights Action*, Tea Gorjanc-Prelević, told *Vijesti* that the opinion of the Venice Commission is focused “on the future,” on how to clarify the legal framework and ensure the smooth and legitimate functioning of the Constitutional Court with all judges in place.

“It did not resolve the practical issue of the constitutionality and legality of the termination of Judge Đuranović’s mandate, as we had warned it would not, because the Venice Commission is not a court and does not deal with the application of the law in individual cases. Judge Đuranović’s mandate has ended, no court has so far ruled otherwise, nor has it ordered that the process of selecting her replacement be halted,” Gorjanc-Prelević recalled.

She called on the Parliament of Montenegro to schedule, as soon as possible, a session to elect the candidate proposed by President Jakov Milatović to replace Budimir Šćepanović. She also believes it is necessary for the Committee on Constitutional Affairs to determine a list of candidates to replace judges Milorad Gogić and Dragana Đuranović.

“Any further obstruction of the Constitutional Court’s work could have a harmful impact on Montenegro’s accession to the European Union. The government, but also the opposition, bears great responsibility not to ruin this,” Gorjanc-Prelević warned.

On the other hand, the Chair of the Committee on Constitutional Affairs, Jelena Božović, stated that the election of three Constitutional Court judges will take place “very soon.”

To recall, after Budimir Šćepanović met the retirement conditions at the end of May, the Constitutional Court of Montenegro has been operating with four judges instead of the prescribed seven.

The Constitutional Court informed President Milatović that Judge Desanka Lopičić’s twelve-year mandate will expire at the end of the year. Human Rights Action (HRA) protested the failure of the Court to comply with constitutional provisions and the Venice Commission’s recommendations.

TOPIC 2

CONSTITUTIONAL COURT IGNORES THE CONSTITUTION AND INTERNATIONAL RECOMMENDATIONS IN THE CASE OF JUDGE LOPIČIĆ’S DISMISSAL

On June 26, the Constitutional Court of Montenegro informed President Jakov Milatović that the mandate of the Constitutional Court judge Desanka Lopičić will end at the end of the year due to the expiration of her twelve-year term. Judge Lopičić also voted on this decision, contrary to the recommendation of the Venice Commission.

The NGO *Human Rights Action (HRA)* protested against the violation of the Constitution and the law regarding the extension of Judge Lopičić’s mandate.



“We also protest the disregard for the Venice Commission’s recommendation that Constitutional Court judges should refrain from deciding on matters that personally concern them, and that they should explain all their decisions. We expect the President of the country to soon propose a new person to the Parliament to replace Judge Lopčić and to stop supporting unconstitutional actions by the Constitutional Court. We call on the executive and legislative authorities to urgently clarify the legal framework for leaving office in the Constitutional Court in accordance with the Constitution of Montenegro and the recommendations of the Venice Commission,” HRA stated.

The NGO reminded that Judge Lopčić met the conditions for old-age retirement last June under the Law on Pension and Disability Insurance, and that her mandate should have ended according to the Constitution of Montenegro, which states that “a Constitutional Court judge’s mandate ends before the expiry of the term when they meet the conditions for old-age retirement (Article 154, paragraph 1).”

“The Constitutional Court did not address this rule or Judge Lopčić’s years of service, but decided, without explanation, that she should continue to perform her duties until her twelve-year term expires in December,” HRA noted.

Human Rights Action also criticized inconsistent treatment from case to case. Judge Dragana Đuranović’s mandate ended when she met the retirement conditions under the Pension and Disability Insurance Law, while in the case of Budimir Šćepanović, the Labour Law was applied.

“It is assumed that the rule on mandatory termination of employment at the age of 66 from the Labour Law was applied. However, it is well known that the Constitutional Court judges are not employed by the Court, which would imply a status governed by the Labour Law, but hold public office instead, which is regulated by the Constitution of

Montenegro together with rules on its termination. The Constitutional Court did not explain its position. At the same time, judges of all other courts in Montenegro regularly end their mandates once they meet retirement conditions prescribed by the Law on Pension and Disability Insurance, under the same constitutional rule that should also apply to Constitutional Court judges,” HRA said.

In a non-paper, the European Commission stressed that more work and stronger political commitment are needed if Montenegro wants to meet the final benchmarks for Chapters 23 and 24.

TOPIC 3

FROM BRUSSELS: WHAT IS NEEDED TO MEET THE FINAL BENCHMARKS IN CHAPTERS 23 AND 24

If Montenegro wants to meet all the final benchmarks in negotiation chapters 23 (judiciary and fundamental rights) and 24 (justice, freedom, security), especially in the areas of the judiciary, fight against corruption, and organized crime, it will need to work much harder and show strong political commitment. This was stated in the latest informal document (non-paper) from the European Commission regarding our progress in chapters 23 and 24.



Photo: Shutterstock

It is noted that positive initial results have been seen in the judiciary, but the implementation of reforms remains insufficient. Brussels points out the need to further strengthen the independence of the Judicial and Prosecutorial Councils and stresses that the Minister of Justice’s membership in the Judicial Council must be removed. They also call on the Parliament of Montenegro to complete all tasks related to filling the vacant seats in the councils (one vacancy in the Judicial Council, two in the Prosecutorial Council).

“The Parliament must urgently and decisively proceed with appointing new members to both councils without delay,” the European Commission states.

The document also addresses the evaluation and appointment of judges.

“There is no separate law on judges’ labor rights, and the flaws in the existing rules on the evaluation of judges and court presidents have not yet been resolved. Montenegro must consistently ensure fast appointments to high judicial positions based on merit and transparency,” Brussels emphasizes.

Our European partners warn that pressures and public comments from high officials on the work of judges and prosecutors harm the situation and increase distrust in the judiciary.

It is also assessed that judicial efficiency is unsatisfactory, with more new cases than resolved ones, especially in the Administrative Court of Montenegro.

The report also comments on events related to the Constitutional Court that contributed to an institutional and political crisis after the Parliament declared the mandate of judge Dragana Đuranović ended due to retirement eligibility.

“This decision was not in line with the procedure set by the Constitution, which actually requires a plenary decision of the Constitutional Court. This decision caused a serious crisis in Parliament. Such events raised significant concerns about respect for the independence of the Constitutional Court and the separation of powers as set out in the Constitution,” the document states.

It also stresses that it is essential “to fully implement the opinion of the Venice Commission” and to respect the conditions of the political agreement reached “between the government and the opposition.”

The President of Parliament, Andrija Mandić, advocates for the implementation of vetting in the judiciary and prosecution by the end of the year.

TOPIC 4

PRESIDENT OF PARLIAMENT CALLS FOR VETTING OF THE JUDICIARY

The President of the Parliament of Montenegro, Andrija Mandić, advocates for the implementation of vetting of judges and state prosecutors by the end of the year, stating that without this, Montenegro cannot meet the high standards achieved by European Union countries. He made this statement during a meeting with the Minister of Justice, Bojan Božović.

He noted that the Montenegrin judiciary is contaminated by criminal influence and corruption challenges, and that increasing the transparency of the system is essential.

Therefore, he supports establishing clear facts about the assets owned by judges, prosecutors, and their family members, and whether these assets correspond to their lawful income.



Mandić added that vetting also involves checking possible connections to organized crime, analyzing the lifestyle of judges and prosecutors, assessing professional qualifications, and many other controls aimed at reforming the judicial system.

“During the conversation, I told Božović that no time should be wasted regarding vetting, and that it should be carried out and completed by the end of the year,” Mandić posted on the X platform.

As he pointed out, while members of Parliament and local assembly members undergo regular checks by voters every four years, which he assessed as “a form of public vetting”, judges and prosecutors, who are appointed to their positions until retirement, have so far not been required to undergo any form of substantive control.

In June, seven hearings were held in the case against former President of the Supreme Court, Vesna Medenica. A medical expert confirmed her ability to attend trial.

TOPIC 5

MEDICAL EXPERT STATES VESNA MEDENICA CAN FOLLOW TRIAL WITH PAUSES

The process against the former President of the Supreme Court, Vesna Medenica, and other accused is proceeding rapidly before the High Court in Podgorica. Seven hearings were held in June.

As a reminder, Miloš Medenica, son of Vesna Medenica, is accused of creating a criminal organization in 2019, whose members allegedly included his mother and other defendants, with the aim of cigarette smuggling and unlawful

influence on the judiciary, to gain illegal profit and power. The Special State Prosecutor's Office filed charges against him, his mother, Darko Lalović, Vasilije Petrović, Bojan and Marko Popović, Marko Vučinić, Milorad Medenica, Luka Bakoč, Petar Milutinović, Ivana Kovačević, Radomir Raičević, Marjan Bevenja, Stevo Karanikić, Goran Jovanović, and the company Kopad Company for criminal offenses including: formation of a criminal organization, smuggling, giving and accepting bribes, unlawful influence and inducement to unlawful influence, abuse of official position, drug trafficking, illegal possession of weapons, infliction of serious bodily injury, and obstruction of evidence.



On June 2nd, accused Luka Bakoč was heard and denied the charges. He spoke about his relationship with Filip Đorđević, who, according to him, proposed the founding of *Kopad Company*. Petar Cerović also appeared at the hearing, testifying about his relationship with accused Vasilije Petrović.

The next day, the trial continued with witness testimonies. Milija Vukanić, former head of the Security Department in Kolašin, denied having contact with Vesna Medenica, as alleged by police officers Mladen Bošković and Predrag Rakočević. He stated that he communicated with her only twice, and that was in a professional capacity since she was a protected person. He confirmed that he met with Miloš Medenica, accused of organizing the criminal group, two or three times.

The former police chief in Kolašin told the panel presided by Judge Vesna Kovačević that he was not afraid of the former Supreme Court leader and denied claims that she dismissed or employed him.

After Vukanić's testimony, Vesna Medenica's defense attorney, Zdravko Begović, stated that it was confirmed that

police officers Mladen Bošković and Predrag Rakočević gave a coordinated testimony intended to discredit Vesna Medenica and her son Miloš.

In addition to Vukanić, witness Zoran Đurović testified before the court. His attorney, Miloš Vuksanović, stated that Đurović's questioning by the Special Police Department and the Special Prosecutor's Office was an attempt at "witness intimidation using levers of power" to make him provide testimony favorable to the prosecution.

On June 4th, the trial resumed with the testimony of Filip Đurović, who stated he was not involved in cigarette smuggling and did not participate in founding *Kopad Company*, contrary to what accused Luka Bakoč said two days earlier.

On June 5th, Vesna Medenica's lawyer, Zdravko Begović, submitted her medical documentation to the court and requested that hearings not last for five hours. Vesna Medenica later informed the court panel that due to back problems, she was unable to follow lengthy court proceedings.

"I know my presence here is important, but I want my documentation to be examined. I cannot sit in court for five hours and risk having to undergo another surgery," Vesna Medenica's statement was reported by *Vijesti*.

The following day, June 6th, the medical expert Nemanja Radojević's report was read. He stated that Vesna Medenica is able to follow the main trial but requires 15-minute breaks every 45 minutes. He also confirmed that the court should provide her with better seating.

Medenica's attorney, Zdravko Begović, was not satisfied with Radojević's findings, saying the report was made without any medical empathy. He requested that the expert attend one of the upcoming hearings.

Although a new hearing was scheduled for June 16th, it was postponed due to the absence of the accused Vojin Perunović.

The trial resumed on June 17th with the reading of written evidence. Among the documents read were waybills, cigarette shipment papers, delivery notes, and customs documents.

On June 19th, the trial featured a dispute between Medenica's defense attorney, Zdravko Begović, and special prosecutor Jovan Vukotić. Begović claimed that contents of Medenica's mobile phone were manipulated at the premises of the Special Police Department, and that prosecutor Vukotić

confirmed this. Vukotić, on the other hand, stated that only Vesna Medenica could have deleted the applications on the phone, as she was the only one with the password to the device.

The former head of the Montenegrin judiciary stated she filed a criminal complaint with the Basic State Prosecutor's Office against an unknown person for hacking her device and alleged abuse of official position due to the alleged manipulation of her phone's contents.

A hearing was scheduled for June 20th in the second case against Vesna Medenica and Commercial Court judge Milica Vlahović-Milosavljević. However, the main hearing before the High Court in Podgorica was not held because Medenica had a scheduled MRI scan. The Special State Prosecutor's Office charged Vesna Medenica in this case with instigating judge Vlahović-Milosavljević to abuse her official position by preventing the collection of a debt owed to Medenica's godfather Rado Arsić (who has since been suspected of tax and contribution evasion and causing damage to the state budget). Vlahović-Milosavljević admitted to doing this but explained in court that she acted according to the law, not under pressure from Vesna Medenica, as she initially stated.

Former Chief Special Prosecutor Milivoje Katnić, charged with abuse of office, once again accused the prosecution and police of falsifying evidence. He is requesting disclosure of the original Sky application messages.

TOPIC 6

KATNIĆ REQUESTS DISCLOSURE OF ORIGINAL COMMUNICATION FROM THE SKY APPLICATION, REITERATES ACCUSATIONS AGAINST THE PROSECUTOR'S OFFICE AND THE POLICE

Former Chief Special Prosecutor Milivoje Katnić has once again accused the investigative authorities of falsifying evidence and omitting numerous messages from the SKY communication in order to incriminate him, that is, to publicly portray him as a member of a criminal group allegedly organized by the former Deputy Director of the Police Directorate, Zoran Lazović. During the hearing held on June 19 at the High Court in Podgorica, he stated that the Special State Prosecutor's Office team and certain police officers engaged in cooperation with Europol acted unlawfully.

Due to this, Katnić requested the court panel to obtain the original communication, allegedly crucial for his defense, directly from Europol. This concerns correspondence via the SKY application between Petar Lazović, an accused police officer, and Radoje Zvicer, the accused leader of the Kavač criminal clan.



Photo: Pobjeda

Milivoje Katnić, Zoran Lazović, and former Special Prosecutor Saša Čađenović are being tried for, among other charges, abuse of official position, allegedly acting in the interest of the criminal clan led by Zvicer.

While analyzing the messages used as evidence against him by the Special State Prosecutor's Office, Katnić noted that they do not prove that Petar Lazović was a member of Radoje Zvicer's criminal group. Instead, the primary motive for their communication was for Zoran Lazović's son to obtain information about members of the Kavač clan.

As evidence supporting him and Saša Čađenović, Katnić also cited messages from members of the Kavač clan who planned his assassination, as well as an attack on Čađenović. He claims that the Special State Prosecutor's Office concealed the messages about the planned attack on the special prosecutor.

The "Tunnel" case trial continued. The judge requested a report from a construction expert and official records from the Ministry of Internal Affairs.

TOPIC 7

| THE "TUNNEL" CASE TRIAL CONTINUES

The trial in the "Tunnel" case continued on the June 3rd, after the main hearing was interrupted the previous day. The interruption occurred because one of the accused, Marijan Vuljaj, did not appear at the Basic Court in Podgorica where the proceedings are held.

During the resumed hearing, Judge Borko Lončar issued several requests to the competent authorities. Among other things, he reiterated the order for a construction expert report to confirm how the tunnel to the High Court in Podgorica was dug, and whether the amount of excavated soil and material could fit inside it. The judge had requested this expert report during the investigation but without results. Additionally, Lončar requested from the Ministry of Internal Affairs the

report from the Diversion Protection Group, which examined the tunnel using technical equipment.



Furthermore, those present at the hearing had the opportunity to review video and photo evidence showing the persons who allegedly dug the tunnel to the High Court's storage, the vehicle used during the break-in, and apartments where the accused stayed. All accused, except Vladimir Erić, stated that they did not recognize the persons shown in the footage.

Defense lawyers argued that the shown footage, allegedly depicting the accused, is legally invalid since it consists of surveillance camera recordings filmed by a phone.

To recall, the Basic State Prosecutor's Office confirmed the indictment in January against Montenegrin citizens Predrag Mirotić, Katarina Baćović, and Nikola Milačić, as well as Serbian citizens Veljko Marković, Milan Marković, Dejan Jovanović, and Vladimir Erić. They are charged with digging a 30-meter-long tunnel in July 2023 from the basement of a residential building to the storage of the High Court in Podgorica, which they entered on September 8th. The storage contains evidence from cases that are ongoing or concluded at that court. Among the accused is also Marijan Vuljaj, who allegedly helped Baćović to hide.

The motive and those who ordered the court break-in remain unknown, but the investigation established that weapons (19 pieces), several mobile phones, and a small amount of drugs were stolen from the storage. These are evidentiary materials from cases conducted or previously conducted in the High Court. So far, it has not been disclosed whether and how the theft of the evidence affected the specific cases and whether the material has been recovered.

| SHORT NEWS

PROSECUTOR LIDIJA MITROVIĆ REMOVED FROM HER POSITION

The Prosecutorial Council, at its session held on June 5th, dismissed State Prosecutor Lidija Mitrović from her position. At the end of May, the Court of Appeal confirmed a seven-month prison sentence for Mitrović due to abuse of official position. Consequently, the Prosecutorial Council acted in accordance with the provisions of the Constitution of Montenegro, which mandates the dismissal of a prosecutor upon a final conviction to a prison sentence.

At the same session, amendments to the Rules of Procedure of the Prosecutorial Council were adopted. Complaints regarding the work of prosecutors and heads of prosecutor's offices were also reviewed. The Council found two complaints to be justified, ten unfounded, and in two cases, the matters did not concern complaints about the legality of work.

BUDIMIR ŠĆEPANOVIĆ NO LONGER A JUDGE OF THE CONSTITUTIONAL COURT

The Parliament of Montenegro has acknowledged the termination of Budimir Šćepanović's mandate as a judge of the Constitutional Court, as he reached the conditions for retirement on May 31. This decision was made following a proposal from the Constitutional Committee.

At the end of May, the Constitutional Court informed the President of the Parliament that two judges (Snežana Armenko and Momirka Tešić) considered the reasons for Šćepanović's termination to have occurred on May 31 of the previous year, in accordance with the Pension and Disability Insurance Law. However, two other judges (Desanka Lopičić and Faruk Resulbegović) argued that the reasons for terminating Šćepanović's judicial function would arise on May 31 of the current year. They referred to compliance with the Labor Law but did not provide an explanation, a point noted by the Venice Commission.

THE SUPREME COURT ADOPTS STRATEGIC DOCUMENT TOWARDS FASTER CASE RESOLUTION

The Supreme Court of Montenegro adopted on June 12 a strategic document titled the Unified Program for Resolving Old Cases for the period 2025-2027.

“The program foresees detailed monitoring of all cases older than three years, organizing court work in a way that gives priority to the oldest cases, and introducing supervision and regular evaluation of the implementation of measures,” the Supreme Court stated.

At the end of last year, Montenegrin courts had nearly 75,000 unresolved cases, of which almost 7,000 were older than three years. It should be noted that the European Commission for the Efficiency of Justice (CEPEJ) ranked Montenegro among judicial systems that create backlogs in its 2024 report.

The Supreme Court assesses that the implementation of the Unified Program will allow courts to fulfill one of their obligations – respecting the right to a trial within a reasonable time. This will help shorten the time citizens wait for justice. It will also improve access to justice for all citizens, strengthen the rule of law, and help avoid rulings from the European Court of Human Rights and compensation payments from the budget.

The entire process will be supervised by the Supreme Court.

THE PROSECUTORIAL COUNCIL COMPLETING CONTINUES

At the Conference of State Prosecutors held on June 20, five new members of the Prosecutorial Council were elected from among state prosecutors: Jelena Đaletić, Ana Marinović, Zoran Vučinić, Marko Bojović, and Ivan Gačević. They will be part of the next composition of the Prosecutorial Council after the current term expires in August.

Meanwhile, the Parliamentary Committee for Political System, Judiciary, and Administration has published a public call to elect one member of the Prosecutorial Council from among respected lawyers representing NGOs, and to elect two members from among respected lawyers who are not lawyers by profession.

GREEN LIGHT FOR THE CHANGE OF CONSTITUTION

The Constitutional Committee of the Parliament of Montenegro accepted the proposal for amending the Constitution of Montenegro at its session held on June 9.

The constitutional amendments focus on changes to the composition of the Judicial Council – to have the majority made up of judges elected by other judges, to remove the Minister of Justice as a member of the Council, and to ensure that members who are not judges are elected based on professional references and integrity, according to objective and measurable criteria.

ELECTED NEW PRESIDENT OF THE BASIC COURT IN PLJEVLJA

At the session held on June 11, the Judicial Council elected Marina Jelovac as the new president of the Basic Court in Pljevlja. This marks the beginning of her second term as head of that court.

At the same session, Bojana Fatić and Marija Popivoda were elected as judges of the basic courts in the northern region. Also, a call was announced for the selection of 13 candidates for judges of the basic courts in the northern region, as well as two judges for the Higher Court in Bijelo Polje.

At the session held on June 17, due to meeting the conditions for retirement, the termination of the function of Vesna Jočić, judge of the Supreme Court of Montenegro, was confirmed.