



JUDICIAL MONITOR

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TOPIC 1

MUGOŠA IS ELECTED JUDGE OF THE CONSTITUTIONAL COURT, KRSTONIJEVIĆ FAILS TO SECURE SUPPORT IN THE FIRST ROUND

On the last day of 2025, the Parliament of Montenegro elected Nikola Mugoša, former President of the State Election Commission, as a judge of the Constitutional Court, upon the proposal of the Constitutional Committee.



Nikola Mugoša
Photo: Vijesti

Predrag Krstonijević, a judge of the High Court in Podgorica and the nominee of President Jakov Milatović, failed to secure the required majority. Mugoša received 61 votes, while Krstonijević was supported by only 25 members of parliament. In the first round, the election of a Constitutional Court judge requires a two-thirds majority, at least 54 votes, while in the second round, held no earlier than one month later, a three-fifths majority is required, at least 49 votes.

Ahead of the continuation of parliamentary work, Prime Minister Milojko Spajić held consultations with representatives of parliamentary parties regarding the election of Constitutional Court judges. He stated that completing the composition of the Constitutional Court is one of the most important obligations on Montenegro's path to membership in the European Union. It has not been announced whether consultations were held regarding the President's nominee.



The Constitutional Court has gained its sixth judge – Nikola Muško. Predrag Krstonijević, the President's nominee for a judge of the Constitutional Court, did not receive the required support in the first round of voting in the Parliament of Montenegro.

A few days before the vote on Constitutional Court judges, Parliament decided to extend the mandate of Constitutional Court judge Desanka Lopičić until the election of her successor, for a maximum period of one year. Her mandate expired in December, and the Law on the Constitutional Court allows for such an extension if Parliament fails to elect a new judge. Lopičić is expected to be replaced by a nominee of President Milatović.

The Executive Director of the NGO Human Rights Action, Tea Gorjanc-Prelević, told Vijesti that the extension of Lopičić's mandate is contrary to the Constitution, as her judicial office should have ended last year when she completed 40 years of service, in accordance with the Law on Pension and Disability Insurance. In January, she will also turn 65, thereby meeting the second statutory condition for retirement.

"The extension of the mandate of Constitutional Court judge Desanka Lopičić is unconstitutional and unlawful. In a situation where there is neither war nor a state of emergency, this represents unjustified disregard for the legal order. This is inappropriate for a state that must demonstrate its commitment to the rule of law ahead of accession to the European Union," Gorjanc-Prelević stated.

The Executive Director of HRA expects President Jakov Milatović to urgently propose another candidate for judge and to ensure that all positions are filled, so that the Court has both the legitimacy and the capacity to function normally.

On 24 December, President Jakov Milatović established the list of candidates for the election of one judge of the Constitutional Court, following a public call issued on 28 November this year. Ten candidates applied: Nenad Đorđević, Nenad Vujanović, Milica Kovačević, Almir Muratović, Nataša Radonjić, Jelena Ružičić, Marija Bošković, Marko Blagojević, Ivan Adamović, and Mirsad Mujević.

Out of the seven judges prescribed by law, the Constitutional Court currently has six, including Judge Lopičić, who is performing her function unconstitutionally. It should be recalled that on 25 November, in the second round of voting following an unsuccessful first round, Parliament elected Jovan Jovanović as a judge, while the remaining two candidates, Mirjana Radović and Mirjana Vučinić, did not receive the required support. Jovanović and Radović were nominees of the parliamentary Constitutional Committee, while Mirjana Vučinić was proposed by President Milatović.

The Podgorica High Court sentenced former President of the Supreme Court Vesna Medenica and suspended Commercial Court judge Milica Vlahović-Milosavljević to prison terms. The Special State Prosecutor's Office announced an appeal.

TOPIC 2

VESNA MEDENICA SENTENCED TO ONE YEAR AND NINE MONTHS IN PRISON, JUDGE VLAHOVIĆ-MILOSAVLJEVIĆ TO SIX MONTHS

In one of three criminal proceedings pending against her, former President of the Supreme Court of Montenegro Vesna Medenica was sentenced at first instance to one year and nine months in prison for abuse of office by incitement. Suspended Commercial Court judge Milica Vlahović-Milosavljević, whom Medenica incited, was sentenced to six months in prison for abuse of office.



The court considered the fact that neither defendant had been previously convicted as a mitigating circumstance, while the aggravating circumstance was that both held public office.

The first-instance judgment, [in proceedings that restarted in June 2025](#), was rendered by High Court judge Branislav Leković. When delivering the verdict, as reported by Vijesti, he stated that it had been unquestionably proven that the defendants committed the criminal offence.

“Defendant Vesna Medenica repeatedly called defendant Vlahović-Milosavljević by telephone (...) and demanded that the *Ten* Corporation from Moscow be prevented from collecting 400,000 euros from the company *Vin*, owned by Rade Arsić, her godfather. Defendant Vlahović-Milosavljević issued a decision imposing a provisional measure, thereby preventing the mortgage creditor *Ten* from enforcing its claim through the sale of real estate,” Leković stated.

Special Prosecutor Vukas Radonjić told the media that the prosecution was satisfied with the conviction, but that the Special State Prosecutor's Office would file an appeal, as it had requested a sentence of three years' imprisonment for Medenica and one year for Vlahović-Milosavljević. He added that the proceedings were conducted professionally and without political interference.

It should be recalled that Vesna Medenica, who did not attend the pronouncement of the verdict, stated in her closing arguments in late November that politics had entered the courtroom and that there was an attempt to sacrifice her in order to obtain “European strings.” On the other hand, Milica Vlahović-Milosavljević criticised the position of the prosecution and stated that, due to such an approach, any final court decision could be treated as a potential criminal act.

Suspended judge Vlahović-Milosavljević was initially included in the indictment accusing Vesna Medenica and other defendants of being part of a criminal organisation allegedly organised by Medenica’s son, Miloš. However, in July 2023, the Podgorica High Court allowed the separation of these proceedings.

Closing arguments held in the case against Vesna Medenica, her son Miloš, and other defendants. Judgment expected at the end of January.

TOPIC 3

PROSECUTORS SEEK 20 YEARS IN PRISON FOR VESNA MEDENICA AND HER SON MILOŠ, DEFENCE SEEKS ACQUITTAL

High Court judge Vesna Kovačević scheduled the pronouncement of the judgment for 28 January in the proceedings against former President of the Supreme Court Vesna Medenica and other defendants, in a case in which her son Miloš Medenica is identified as the head of a criminal organisation. The Special State Prosecutor’s Office is seeking long-term prison sentences and fines for Vesna and Miloš Medenica, while the defence is seeking acquittal.



Miloš Medenica
Photo: rtk.me

Vesna Medenica
Photo: Vrhovni sud

During several hours of closing arguments on 11 December, special prosecutors Jovan Vukotić and Vukas Radonjić emphasised that Vesna Medenica was not an ordinary

member of a criminal organisation, but rather its institutional shield, and that the organisation exerted influence over the judiciary.

The prosecutors requested that the court sentence the former head of the Supreme Court and her son Miloš to 20 years in prison each, and also impose fines of 100,000 euros on each of them.

They stated that Medenica's interest in court cases was a consistent pattern of her conduct. According to the prosecutors, she had unquestionable power, which they supported by referring to evidence in the form of communications between the defendants. However, although in November the Special State Prosecutor's Office requested that additional communications via the Sky application be admitted as evidence, the trial panel rejected that proposal.

One day later, on 12 December, defence lawyers and the defendants presented their closing arguments before the High Court. All defence counsels requested acquittals for their clients, except for the lawyer representing defendants Marko and Bojan Popović, who proposed suspended sentences for them.

In her closing statement, Vesna Medenica said that there was no evidence that she belonged to any criminal group and that she would not admit to something she had not done.

"For none of these groups is my conduct described. And we know that this is an essential element of a criminal offence. The only thing taken as my 'conduct' is motherhood," she said.

She also stated that she appeared to be "an expensive exhibit meant to serve today's socio-political reality."

Her defence lawyers, Zdravko Begović and Zdenko Tomanović, argued that the case files contain no evidence that the former President of the Supreme Court had contact with members of a criminal organisation, but that there was a political need for her to be convicted.

Counsel for Miloš Medenica, Stefan Jovanović, stated that Sky communications, in the absence of material evidence, cannot serve as a basis for a conviction.

It should be recalled that Miloš Medenica, the son of the former President of the Supreme Court, is charged with having formed a criminal organisation in 2019, whose members

allegedly included his mother and other defendants, with the aim of cigarette smuggling and unlawful influence over the judiciary, for the purpose of acquiring unlawful gain and power. The Special State Prosecutor's Office filed an indictment against him and Vesna Medenica, Darko Lalović, Vasilije Petrović, Bojan and Marko Popović, Marko Vučinić, Milorad Medenica, Luka Bakoč, Petar Milutinović, Ivana Kovačević, Radomir Raičević, Marjan Bevenja, Stevo Karanikić and Goran Jovanović, as well as the company Kopad Company, for the criminal offences of forming a criminal organisation, smuggling, giving and receiving bribes, unlawful influence and incitement to unlawful influence, abuse of office, drug trafficking, unlawful possession of weapons, infliction of grievous bodily harm, and obstruction of justice.

The path to a judicial office takes years, and those who choose it ultimately cannot rely on adequate working conditions. In addition to improving workplace support, it is necessary to introduce specific incentive measures for young lawyers.

TOPIC 4

| THE PATH OF A YOUNG LAWYER TO JUDICIAL OFFICE

The judicial office, as a symbol of authority, justice, and expertise, is one of the most important functions in modern society. However, the path to this office is long and complex. It requires many years of work and personal sacrifice, while offering relatively modest financial compensation compared to the responsibility and workload involved. As a result, young lawyers in Montenegro are less willing to pursue a judicial career. Even after assuming judicial office, working conditions and salaries are often unsatisfactory, which is why this career path is most often chosen by a small number of highly motivated individuals.



Photo: harvard.edu

The path to judicial office begins with earning a law degree, either through a four-year programme or the 3+2 study model, which provides the required qualification level (VII-1).

After that, candidates must meet the requirements to sit for the bar exam. This is achieved by completing three years of traineeship in a court, the State Prosecutor's Office, or the Constitutional Court, or by working with an attorney-at-law or a legal property rights representative. Eligibility to take the bar exam is also granted to lawyers with four years of work experience in other legal positions in the public or private sector. During the three-year traineeship, court and prosecution trainees receive a monthly salary of approximately 600 euros, which is a highly discouraging factor for young lawyers considering this career path.

After passing the bar exam, the conditions for appointment as a judge are clearly defined depending on the type of court.

To be appointed as a judge of a Misdemeanour Court or a Basic Court, a candidate who has passed the bar exam must have at least two additional years of experience as a court or prosecution advisor, attorney-at-law, notary, or professor of legal sciences, or at least four years of experience in other legal positions. Appointment as a judge of the Commercial Court requires five years of experience after the bar exam in the capacity of an advisor, attorney-at-law, notary, or professor of legal sciences, or six years of experience in other legal positions. For appointment as a judge of the Administrative Court, the prescribed requirement is eight years of experience as an advisor, attorney-at-law, notary, or professor of legal sciences, or ten years in other legal positions. It should be noted that the basic salary of advisors in courts and prosecution offices is around 800 euros, while the average salary in Montenegro is slightly above 1,000 euros.

Once these conditions are met, candidates applying for judicial office for the first time must respond to a public call. Selection is based on the grade obtained in the bar exam or, if the candidate is not satisfied with that grade, on the result of a written test. The written test consists of drafting a court decision in both criminal and civil matters. Candidates then attend an interview with members of the Judicial Council, during which motivation for judicial work, communication skills, decision-making ability, and problem-solving skills are assessed.

Following selection as a candidate for judge, mandatory initial training is conducted. For candidates for judges of Basic Courts, this training lasts 12 months, while for candidates for Misdemeanour Court judges, as well as judges of the Commercial and Administrative Courts, it lasts

six months. During the initial training, candidates are entitled to remuneration amounting to 70 per cent of the salary of a Basic Court judge. Given that this salary ranges between 1,200 and 1,600 euros, this amounts to between 840 and 1,120 euros per month.

After the completion of initial training, the Judicial Council, based on the report of the Programme Committee for Initial Training, the final proposed grades for candidates, and the reports of the authorised legal entity responsible for judicial training and the mentors on the training conducted, determines the final assessment for the theoretical and practical parts of the initial training. If the assessment is “satisfactory,” the Judicial Council adopts a decision on their appointment as judges.

All of the above shows that the path to a judicial office, in theory, takes at least six to seven years after graduation from the Faculty of Law. In practice, it often takes longer, depending on the type of court, whether the candidate gains experience within the judiciary or in other legal positions, and whether public calls are announced in a way that allows a direct transition from trainee or advisor status to selection as a judicial candidate. Lengthy traineeships, an extremely demanding bar exam, and many years spent in lower-paid legal positions—common stages of this process—make the judicial profession increasingly unattractive to young lawyers. This trend is further exacerbated by frequent public verbal attacks on judges by politicians, which undermine the dignity of the profession.

Given that, at the end of 2025, Montenegro lacks more than 40 judges across almost all courts in the country, it is essential to timely design policies that introduce better working conditions and incentive measures for talented students, in order to realistically expect the vacant judicial positions to be filled.

The Judicial Council is not publishing decisions on judges' disciplinary and ethical responsibility, as required by its Rules of Procedure

TOPIC 5

JUDICIAL COUNCIL STILL FAILS TO PUBLISH DECISIONS ON JUDGES' DISCIPLINARY AND ETHICAL RESPONSIBILITY

Decisions on judges' disciplinary accountability and violations of the Code of Ethics have still not been published on the official website of the Judicial Council of Montenegro, although amendments to the Council's Rules of Procedure explicitly requiring their publication were published in the Official Gazette of Montenegro in November.



The amendments provide that “decisions of the Judicial Council and the Disciplinary Panel adopted in disciplinary proceedings, as well as decisions of the Commission for Monitoring the Implementation of the Code of Ethics for Judges, shall be published on the website of the Judicial Council after becoming final and after anonymisation.”

It should be recalled that, in September, a request submitted by Human Rights Action (HRA) for access to decisions of the Judicial Council's Disciplinary Panel was rejected. Following this, HRA twice addressed the members of the Judicial Council in writing, requesting that the decisions be made available and highlighting the importance of transparency in matters of judicial disciplinary accountability.

On 24 November 2025, the Judicial Council informed HRA that amendments to the Rules of Procedure had been adopted and that their publication in the Official Gazette of Montenegro was pending. On that occasion, the Council stated that, after publication and entry into force, anonymised decisions of the Judicial Council, the Disciplinary Panel, and the Commission for Monitoring the Implementation of the Code of Ethics for Judges would be published on its official website.

Although the amendments to the Rules of Procedure were published on 26 November 2025, the decisions have still not been made public.

Human Rights Action once again calls on the Judicial Council to publish, without delay, the decisions of the Disciplinary Panel and the Ethics Commission, as their availability is essential for monitoring compliance with professional standards in judicial practice. Strengthening judges' ethical and disciplinary accountability is also one of the closing benchmarks under Chapter 23 and an important precondition for Montenegro's continued progress towards membership in the European Union.

Almost 42% of cases initiated against unknown perpetrators over the past ten years became time-barred, according to an analysis by the Supreme State Prosecutor's Office of Montenegro. Responsibility for inaction in 2,208 cases, which the Prosecutorial Council of Montenegro established as time-barred in state prosecution offices in March 2024, has never been determined. According to the same analysis, from the beginning of 2020 to November 2025, time limitation was recorded in only 0.63% of cases involving known perpetrators.

TOPIC 6

MORE THAN TWO FIFTHS OF CASES WITH UNKNOWN PERPETRATORS BECAME TIME-BARRED OVER TEN YEARS

An analysis by the Supreme State Prosecutor's Office shows that, over the past ten years, criminal prosecution became time-barred in 41.8% of cases involving unknown perpetrators—roughly four out of every ten initiated cases.

"In cases initiated against unknown perpetrators (13,861 cases formed over a ten-year period), criminal prosecution became time-barred in 41% of cases (5,794 cases). The reason for the expiry of the limitation period is the inability of the police to identify perpetrators within the statutory time limits. As a result, once the legally prescribed time for criminal prosecution elapsed, prosecution became time-barred and further proceedings were no longer possible," the Supreme State Prosecutor's Office stated.



Photo: Engardio

The Supreme State Prosecutor's Office also found that, from 1 January 2020 to 1 November 2025, criminal prosecution became time-barred in 362 cases out of 57,756 cases initiated against known perpetrators. This indicates that time

limitation in such cases is statistically negligible and that prosecution offices generally act in a timely and effective manner, according to the Office.

“In 339 cases initiated against known perpetrators, criminal prosecution became time-barred before a criminal complaint was filed with the prosecution (representing 0.59% of the total number of cases). In only 23 cases initiated against known perpetrators did criminal prosecution become time-barred after the criminal complaint had been filed (representing 0.04% of the total number of cases),” the Supreme State Prosecutor’s Office announced.

Despite this, the prosecution service headed by Milorad Marković examined whether the expiry of the limitation period was justified and what circumstances led to it, particularly in the 23 cases where time limitation occurred after a criminal complaint had been submitted.

“By reviewing the case files, it was established that the limitation period expired for justified reasons beyond the control of state prosecutors, despite actions taken in accordance with the law, except in two cases, which led to the initiation of [one disciplinary proceeding against a state prosecutor](#),” the Supreme State Prosecutor’s Office stated.

These findings further indicate that the problem of expired limitation periods in criminal prosecution is largely linked to cases involving unknown perpetrators. However, the actions of the Prosecutorial Council in relation to these cases do not suggest an adequate institutional response. In October 2023, the Prosecutorial Council was informed that, at the Basic State Prosecutor’s Office in Podgorica, certain cases from 2016, 2017, 2018, 2019, 2020, and 2021 had been kept in the archives and had not been assigned to state prosecutors for handling.

Although the Council subsequently requested reports from all state prosecution offices, these were not submitted within the prescribed deadline and were only considered in March 2024. At that time, it was established that as many as 2,208 cases had become time-barred in state prosecution offices across Montenegro. Neither at that session nor at subsequent sessions did the Prosecutorial Council adopt concrete measures to determine accountability for years of inaction in cases that became time-barred. Instead, it limited its response to noting the findings and issuing additional requests for reports. Such conduct by state prosecutors, which may also constitute abuse of office, undermines public trust in the State Prosecution Service.

After analysing the views expressed at the public hearing, the Constitutional Court will decide on the constitutionality of the Law ratifying the agreement between Montenegro and the United Arab Emirates.

TOPIC 7

CONSTITUTIONAL COURT HOLDS PUBLIC HEARING ON AGREEMENT BETWEEN MONTENEGRO AND THE UAE

The Constitutional Court of Montenegro held a public hearing on 15 December regarding the Law ratifying the Agreement on Cooperation in the Field of Tourism and Real Estate Development between the Governments of Montenegro and the United Arab Emirates. The hearing was broadcast live and was accessible to the public. This was the first public hearing held by the Constitutional Court in eight years.



As a reminder, a review of constitutionality was requested by Đorđe Zenović, a councillor in the Budva Municipal Assembly, and by the NGO Centre for the Protection and Study of Birds, after the Parliament of Montenegro adopted the Law first in April and again in June, following its return for reconsideration by President Jakov Milatović.

Participants in the public hearing included the Minister of Public Works, Majda Adžović, five experts in constitutional law, public international law, and private international law (with a sixth expert submitting a written opinion), as well as representatives of the Centre for the Protection and Study of Birds and Councillor Zenović. The majority of participants considered that the constitutionality of the Law should be reviewed.

Human Rights Action welcomed the organisation of the public hearing and called for this model of work to be applied consistently in all cases of particular constitutional and social importance. The organisation recalled that it had previously assessed that the adoption of the Law violated the Constitution.

According to Human Rights Action, the Law was adopted by a simple majority, although the Constitution requires a

two-thirds majority (at least 54 votes) for laws regulating the property rights of foreigners. This argument was central to the initiative for constitutional review submitted to the Constitutional Court by the Centre for the Protection and Study of Birds.

During the hearing, Minister Adžović stated that the Venice Commission had already warned that subsequent review and annulment of a ratified international agreement could place a state in conflict with its international obligations.

“For that reason, accepting initiatives contrary to the position of the Venice Commission could have harmful consequences for Montenegro’s EU accession negotiations,” the Minister warned, recalling that the ratification of the NATO Accession Agreement had also required only a simple majority in the Parliament of Montenegro.

Nevertheless, most participants at the public hearing questioned the adoption of the Law and the signing of the agreement with the United Arab Emirates.

Đorđe Zenović stated that rejecting the initiatives would undermine the very purpose of the Constitutional Court.

“It is entirely wrong for the Government to claim that international agreements are above the Constitution. Such an approach would undermine the Constitution itself, especially if agreements of this kind were to be ratified in the future,” Zenović said.

Professor of constitutional law from Belgrade, Vladimir Đurić, stated that it was a mistake that Parliament had so far ratified all international agreements by a simple majority, and warned that the agreement under review could harm the state.

“In my view, this agreement interferes with the core of Montenegro’s constitutional order. Its provisions are non-transparent and legally difficult to interpret, and I fear that it does not serve the interests of Montenegro as a sovereign and independent state,” Đurić emphasised.

Professor of constitutional law and former President of the Constitutional Court, Mladen Vukčević, stated that the Court has the authority to review the constitutionality of the Law.

“Constitutional principles cannot be changed with 41 votes. A state cannot, by invoking international law, violate its own Constitution,” he said.

Professor of constitutional law from Zagreb, Đorđe Gardašević, assessed that the Law should be repealed if it was not adopted by a two-thirds majority. Professor of public

international law and former judge of the European Court of Human Rights, Nebojša Vučinić, stated that the case reveals a serious and profound legal gap that must be resolved by the Constitutional Court.

In a written opinion, Professor of private international law from Belgrade, Vladimir Čolović, stated that the agreement with the United Arab Emirates was not accompanied by documents explaining its content and that numerous additional acts would be required for its implementation. Professor of private international and environmental law, Maja Kostić-Mandić, noted that there had been no public discussion or consultations on the agreement and that there were no grounds for the urgent adoption of the Law.

Following the conclusion of the public hearing, the President of the Constitutional Court, Snežana Armenko, stated that the Court would decide on the Law after a careful analysis.

The Venice Commission analysed the Draft Amendments to the Law on the Constitutional Court and issued recommendations aimed at preventing court blockages caused by a lack of judges.

TOPIC 8

VENICE COMMISSION: AUTOMATIC EXTENSION OF CONSTITUTIONAL COURT JUDGES' MANDATES NEEDED, MORE PRECISE RULES REQUIRED

Judges of the Constitutional Court of Montenegro should have their mandates automatically extended until their successors are elected, according to an opinion of the Venice Commission on the Draft Amendments to the Law on the Constitutional Court. The Commission stated that this would be the only reliable way to protect the Court from possible blockages.



Photo: Council of Europe

The Venice Commission also noted that, in most European countries, the practice is based on the automatic extension of judges' mandates, as this is the only way to ensure the uninterrupted functioning of constitutional courts and to

prevent their work from depending on political agreements in parliaments.

“Although the draft law moves in the direction of strengthening the stability of the Court, it still provides for a limited and conditional possibility of extending mandates, which leaves room for different interpretations and potential new political and institutional crises,” the experts of the Venice Commission assessed.

Under the proposed draft, a judge whose mandate is expiring or who meets the conditions for retirement may remain in office only if they so wish and “if this is necessary for decision-making by a majority of all judges.” In practice, this could mean that a judge could continue to perform their function only if the Constitutional Court has four judges or fewer, but not if it has more than four.

Although the advisory body of the Council of Europe assessed that such a solution could be transitional, it found it insufficiently precise, as it leaves open questions, including which exact number of judges the “necessary majority” threshold refers to and what happens if, for example, the mandates of two judges expire on the same day.

For these reasons, the Venice Commission recommended that the law explicitly specify the number of judges to which the “necessary majority” threshold applies, as well as the procedure in cases where multiple judges leave office at the same time, in order to avoid a new legal gap. The solution must be clearly and precisely defined, without room for interpretation.

The Venice Commission noted that Montenegro has fulfilled three other recommendations: it clearly defined the retirement age for Constitutional Court judges, introduced an automated and reliable mechanism for notifying the termination of judicial office, and prescribed the obligation to recuse a judge when decisions are taken on their own mandate.

These were also the key recommendations that the Venice Commission issued to Montenegrin institutions in June, after examining the case of the retirement of Constitutional Court judge Dragana Đuranović, which led to the blockage of the work of the Parliament of Montenegro ([see Bulletin No. 9](#)).

A working group established by the Ministry of Justice of Montenegro has been working on amendments to the Law on the Constitutional Court, which will be submitted for public consultation once the process is completed.

It should be recalled that Human Rights Action submitted two initiatives for constitutional review concerning the extension

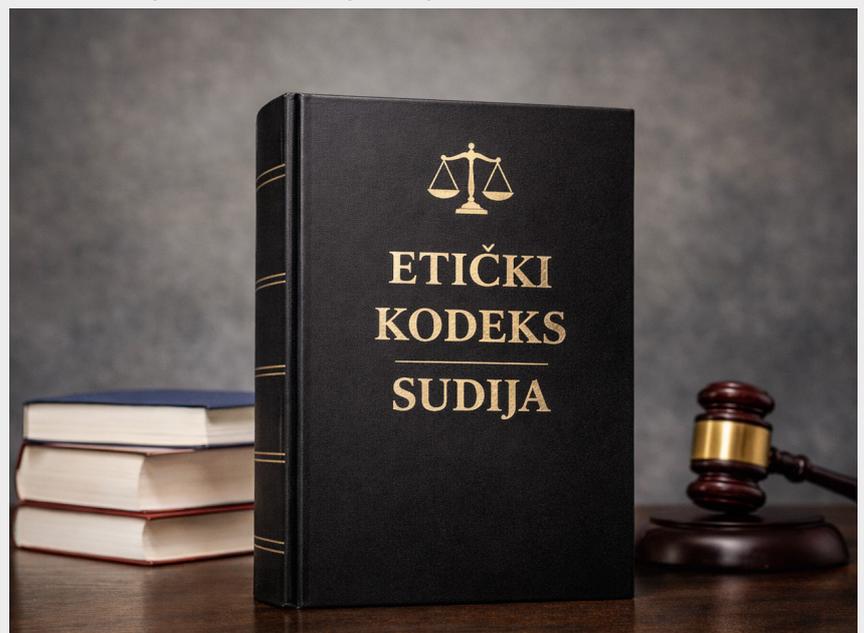
of mandates of Constitutional Court judges and members of the Judicial Council elected from among distinguished legal professionals. The Law on the Constitutional Court and the Law on the Judicial Council and Judges allow for the extension of mandates of Constitutional Court judges and Judicial Council members, even though the Constitution prescribes a 12-year term for Constitutional Court judges and a four-year term for Council members, while no constitutional amendments have been proposed in the meantime. The decisions in these cases will be important for assessing the constitutionality of statutory solutions that allow for the extension of constitutionally limited mandates.

Ethical breach or disciplinary offence – a dilemma that remains even after the adoption of the new Code of Judicial Ethics.

TOPIC 9

NEW CODE OF JUDICIAL ETHICS: REVISED FORMAT, OLD DILEMMAS REMAIN

The Conference of Judges of Montenegro adopted a new Code of Judicial Ethics at its session held on 28 October 2025. The Code was published in the Official Gazette of Montenegro on 25 November the same year. The new Code does not introduce substantively new ethical rules; instead, it condenses existing standards into a shorter normative text, while their more detailed explanations and practical application are set out in accompanying guidelines. At the same time, the Code does not resolve previously identified problems, as descriptions of breaches of ethical principles and the related guidelines continue to significantly overlap with descriptions of disciplinary offences.



The new Code of Judicial Ethics consists of eight articles and covers the core ethical principles of the judicial function, including independence, impartiality, integrity, competence, professionalism and accountability, freedom of association,

as well as rules on compliance with the Code and the procedure for establishing breaches.

Unlike the previous Code of Judicial Ethics, issues that were previously regulated directly by its provisions—such as equality, relations with the public and the media, and relations with colleagues and court staff—are now addressed through the Guidelines for the Application of the Code of Judicial Ethics. These guidelines serve as additional clarification of ethical principles and their application in specific situations.

Taking into account the new provisions of the Code and the accompanying guidelines, a clear distinction between breaches of the Code of Judicial Ethics and judges' disciplinary accountability has still not been established.

In the section on integrity, the Guidelines provide that a judge is “required to refrain from any conduct that creates the appearance of corruption within the court.” The same section states that a judge is “required to refrain from accepting gifts and free services from parties and other participants in proceedings, as well as from any other benefits that could cast doubt on their independence, impartiality, and objectivity,” and that a judge “must not use their judicial office, official position, or reputation to obtain material benefit for themselves or others, or to advance their private interests, the interests of family members, or the interests of any other persons.”

At the same time, Article 108 paragraph 3 of the Law on the Judicial Council and Judges classifies the same conduct as serious disciplinary offences, providing that a judge bears disciplinary responsibility if they “use the judicial function to pursue their private interests or the interests of their family or closely related persons” (item 11), or if they “accept gifts or knowingly fail to disclose data on assets and income in accordance with regulations on the prevention of conflicts of interest, with the intent to conceal assets and income” (item 12). As a result, issues related to gifts and private interests of judges are regulated both as ethical breaches under the Guidelines and as grounds for disciplinary accountability under the law.

Overlap is also evident in the area of relations with parties to proceedings and court staff. The Guidelines provide that a judge is required to behave “professionally, with dignity, respect, and consideration” when dealing with parties, other participants in proceedings, and court employees. At the same time, Article 108 paragraph 3 item 9 of the Law defines as a serious disciplinary offence a situation in which a judge “behaves inappropriately towards participants in proceedings and court staff.”

A similar overlap exists in the area of confidentiality and relations with the public. The Guidelines explicitly state that a judge is “required to safeguard confidential information obtained in the course of performing the judicial function and must not disclose it or use it for other purposes,” while Article 108 paragraph 3 item 10 of the Law classifies the same conduct as a serious disciplinary offence.

The Guidelines also state that a judge is “required to refrain from providing information to the media and interested persons about specific cases unless authorised to do so.” Article 108 paragraph 3 item 14 of the Law on the Judicial Council and Judges provides for disciplinary sanctions where a judge “comments on a court decision, proceedings, or a case in the media in a manner contrary to the law and the Court Rules of Procedure.”

It should be recalled that the consequences of breaching the Code of Judicial Ethics are significantly milder than those arising from disciplinary proceedings. Disciplinary offences may result in sanctions such as a warning, a fine, a ban on promotion, or dismissal, while a breach of the Code of Ethics may affect the evaluation of a judge and thus indirectly their career advancement.

At the same time, the Law on the Judicial Council and Judges does not allow for parallel proceedings for a breach of the Code of Judicial Ethics and a disciplinary offence based on the same conduct. If the Commission for the Code of Judicial Ethics assesses during its proceedings that there are elements of a disciplinary offence, the ethics procedure is suspended and the case is referred to the competent body for the initiation of disciplinary proceedings. If disciplinary responsibility is established in those proceedings, the procedure before the Commission is terminated; otherwise, the procedure for determining a breach of the Code of Judicial Ethics may continue.

Given that the new Code of Judicial Ethics has not eliminated the existing overlap between ethical breaches and disciplinary offences, and that the current Law on the Judicial Council and Judges does not provide sufficiently precise distinctions between these two accountability regimes, it is of particular importance to initiate amendments to that law in the forthcoming period. In this context, it is necessary to establish a working group tasked with clearly separating disciplinary offences from breaches of the Code of Judicial Ethics, in order to ensure legal certainty, consistent practice, and a more effective system of judicial accountability.

| SHORT NEWS

CONSTITUTIONAL COURT PUBLISHES LIST OF 348 PENDING NORMATIVE REVIEW CASES

For the first time, the Constitutional Court of Montenegro has published a list of pending cases in the area of normative review, i.e. cases concerning laws and by-laws whose constitutionality and legality are being reviewed by the Court. At present, 161 cases challenging laws and 187 cases challenging by-laws remain unresolved, with the oldest case dating back to 2018.



The President of the Constitutional Court, Snežana Armenko, stated that this represents a first step towards greater public insight into the state of normative review, which the civil society sector has consistently called for over the past decade.

“By publishing this list, every citizen can see which legislative and sub-legislative solutions have been challenged before the Constitutional Court and how long decisions have been pending,” Armenko said.

She explained that the list will be updated on a quarterly basis and that resolving these cases will be a priority during 2026.

The publication of the list of pending cases represents an important step forward in recognising that the Constitutional Court performs a public service in the interest of citizens and that the public should be informed about matters brought before the Court and the order in which they are addressed.

It should be recalled that Human Rights Action proposed the publication of such a list and a case-resolution plan as early as 2014, during the presidency of Desanka Lopičić. At the time, however, the importance of this initiative for transparency and legal certainty was not recognised.

GOVERNMENT PROPOSES EXTENSION OF INCREASED SALARIES FOR JUDGES AND PROSECUTORS UNTIL THE END OF 2026

The Government of Montenegro adopted draft amendments to the Law on the Judicial Council and Judges, the Law on the State Prosecution Service, and the Law on the Constitutional Court, extending the right of judges and prosecutors to a 30% functional allowance until 31 December 2026.



The Government stated that the amendments are based on the principle that judges and state prosecutors are entitled to remuneration commensurate with the dignity of their office and the level of responsibility they bear, and that adequate income represents an important guarantee of their independence and material security.

It should be recalled that the Action Plan for Chapter 23 envisaged the preparation, by the end of the fourth quarter, of a draft Law on Salaries and Other Rights of Holders of Judicial and Constitutional Court Offices, which was intended to regulate in a systematic manner the salaries and other rights of judges and state prosecutors. As this law has not yet been prepared, the Government proposed the extension of the functional allowance—previously valid until the end of 2025 under earlier legislative amendments—as a transitional solution.

We consider it necessary for the Government and the Parliament of Montenegro to consider and adopt a permanent legislative solution as soon as possible, in order to ensure a stable and predictable framework for the functioning of the judiciary and the Constitutional Court.

SPECIAL PROSECUTOR BOŠKOVIĆ RESIGNS

Special Prosecutor Nataša Bošković has resigned from her position at the Special State Prosecutor's Office of Montenegro, as noted by the Prosecutorial Council of Montenegro at its session held on 29 December.

"I submitted my resignation after careful consideration, for personal and professional reasons. During my tenure, I acted in accordance with the Constitution, the law, and professional standards. This is my personal and independent decision, and I plan to continue my career within the judiciary," Bošković told Portal ETV.

Bošković began her career as a judge at the Basic Court in Nikšić and later continued her work at the Basic Court in Podgorica. Since 2015, she has served as a Special State Prosecutor. She was also a candidate for a judge of the Constitutional Court in a competition announced in early December 2025 by the Parliament's Constitutional Committee.



DRAFTING OF THE LAW ON COURT ADMINISTRATION BEGINS

The working group tasked with drafting the Law on Court Administration began its work on 18 December. The President of the Judicial Employees' Union, Dejan Đukić, stated that the law will, for the first time, regulate in a systematic manner job titles, the classification of positions, employment, career advancement, professional training, as well as the rights and obligations of employees in court administration.

"We expect significant progress from the working group, as similar solutions already exist in EU member states in the region, such as Croatia and Slovenia. In parallel, a separate law for holders of judicial office will also be drafted, and both laws should be submitted to parliamentary procedure at



the same time. The Judicial Employees' Union has already prepared its proposals, including indicative coefficients for court secretaries, professional associates, court managers, heads of criminal registries, clerks, and advisors, which will be considered within the working group," Đukić told Pobjeda.

He assessed that the draft law could be finalised within three to four months and submitted to parliamentary procedure in April 2026.

It should be recalled that the Judicial Employees' Union of Montenegro and the Ministry of Justice of Montenegro signed an agreement in October providing for the suspension of the court administration strike, an increase in salaries starting with the November payroll, and the establishment of a working group to draft the Law on Court Administration.

The agreement was opposed by the Union of Public Administration and Judiciary, whose members continued their strike, while a similar position was taken by the Union of State Prosecution Service Employees of Montenegro.

"To date, there has been no increase in salaries for civil servants and employees in the State Prosecution Service, while court employees have already received an increase through their November salaries. Such treatment of part of the staff in judicial institutions does not represent a responsible approach to resolving this issue; on the contrary, it further deepens divisions and dissatisfaction within the judiciary. Employees of the State Prosecution Service are ready to respond appropriately to this kind of dismissive and discriminatory treatment if salary increases for employees of this institution are not introduced in the near future," Bulatović told Pobjeda.

MIRKO ĐUKOVIĆ APPOINTED AS MONTENEGRO'S NEW AGENT BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS IN STRASBOURG

The Government of Montenegro appointed Mirko Đuković as Montenegro's Agent before the European Court of Human Rights in Strasbourg at its session held on 4 December. Ana Srdanović was appointed as his Deputy.

Đuković's appointment followed the dismissal of Katarina Peković from the position. She had taken up the post last year, replacing Valentina Pavličić, whose dismissal by the Government was later found to be unlawful by the Constitutional Court of Montenegro.

Đuković and Srdanović were selected following a public call issued on 2 September, in accordance with amendments to the Law on the Agent adopted by the Parliament of Montenegro in March. Under these amendments, the Agent and the Deputy Agent are appointed and dismissed by the Government, on the basis of a public call and upon the proposal of the Secretary General of the Government. Previously, the Agent and Deputy Agent were proposed by the Minister of Justice.

The new Agent of Montenegro before the Court graduated in law from the University of Montenegro and obtained a master's degree in European integration law from the University of Belgrade, as well as a master's degree in international economic and business law from Kyushu University. He has lectured at universities in Montenegro, Hungary, Austria, and China, and has also worked in research and consultancy.

