



**MONTENEGRO
SUPREME COURT**

**INTERVENTION
WARSAW, 12-14 MAY 2009.**

Distinguished Ladies and Gentleman,

I consider that it is my privilege today, to speak to You, in the capacity of the President of the Supreme court of Montenegro and the President of Judicial Council, and to give my personal contribution to the discussion on this Seminar, dedicated to the strengthening the rule of law in the OSCE area-with a special focus on the effective administration of justice.

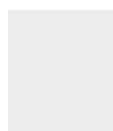
Montenegro, as the Balkan country, does not have any specifics and particularities in relation to all other countries of Western Balkan. Accordingly, current economic and political challenges in our country confirm that the request for the rule of law is the core value of its existence.

Rule of law is indeed seen as the condition for political, economic and social development, and very important for human rights and democracy, security and stability, good governance, investment security and favourable business climate, as well as the fight against the corruption and all kinds of illegal trafficking.

I would like to present the Montenegrin progress in the direction to make the judiciary more efficient, through strengthening the rule of law and effective administration of justice. Namely, for the first time, the Constitution of Montenegro, which was adopted in October 2007, have recognized the Judicial Council as the body competent for an efficient administration of justice, determining it as an independent authority securing the independence and autonomy of the courts and judges. In the sense of the Law on Judicial Council, the latter has been constituted on 19 April 2008.

The Constitution determined its competences, as follows:

1. Appoints and removes the judges, presidents of the courts and lay judges;
2. Determines the termination of office;
3. Determines the number of judges and lay judges in the court;
4. Considers the report on the work of the court, petitions and complaints on the work of the court, and takes positions upon them;



5. Makes decisions about the immunity of the judges; when speaking about the immunity, the Constitution gave the judges only functional immunity, meaning that a judge may not be called upon responsibility for expressed opinion and his vote, when passing the judgement, except if it is a criminal offence. Before passing this Constitution, judges had the general immunity.
6. Proposes the funds for the work of the courts to the Government.

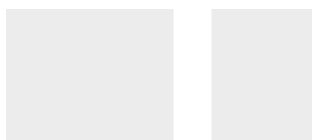
Besides the competences determined by the Constitution, the Law on Judicial Council also determines the manner of selection and termination of office of the members of the Judicial council, organization and manner of work of the Judicial Council, the procedure of appointment of the judges and lay judges, the manner of determination of termination of office of the judges, disciplinary responsibility, removal of judges, so. the Judicial Council, in its scope of work:

1. Conducts the control of the work of the courts;
2. Determines about the disciplinary responsibility of judges;
3. Gives the opinions on the draft laws and by-laws regulating judiciary and initiates passing the relevant laws and other provisions from this area;
4. Ensures the application, sustainability and uniformity of the judicial information system, in the part relating to the courts;
5. Takes care about the education of the holders of the judicial function, in the cooperation with the prosecutorial council (over the Judicial training centre);
6. Keeps data evidence about the judges;
7. Considers the complaints against the judges and takes position in relation to their independence and autonomy;
8. Proposes the tentative measures on the number of judges and other officials and employees that are necessary in the courts;
9. Establishes the methodology for drafting the report on the work of the courts and yearly apportionment of functions;
10. Determines the proposal of the ethical code, which is being passed by the Conference of the judges.

In accordance with Article 127 of the Constitution of Montenegro, the Judicial Council is consisted of the president and nine members. The president of the Judicial Council is the President of the Supreme court at the same time, while the members are four judges, who are being appointed and removed by the Conference of judges, two members of Parliament, who are being selected and removed by the Parliament from the part of the parliamentary majority and the opposition, two respected lawyers, who are being appointed and removed by the President of Montenegro, as well as the member of the Judicial council and the Minister of justice.

The Constitution establishes the permanency of judicial function, while the presidents of the courts are being appointed on the period of five years, with the right of unlimited reappointment.

For one year of its work, Judicial Council has published more than 60 public advertisements for unfulfilled positions in the court system. More than 170 candidates have applied, selection for fulfilled positions have been conducted, through the procedure that was established by the Rules of order. Namely, candidates, who fulfil general conditions. and special ones, with five years of work experience, and passed the bar exam, who are applying for the first time for the position of the judge, must write a test of knowledge, after that they take an oral



interview before the commission, constituted of the three members, afterwards they obtain the mark, which is the condition for the final table, on the basis of their accomplished results, professionalism shown through their manifested referrals, marks from their studies and successful studying. The Judicial council conducts the selection from the proposed candidates, by the public competition. The decision of the Judicial Council is final, and the candidate who is not satisfied, has the rights to a court's protection, by submitting the action to the Administrative court.

The Judicial Council proposed the Code of Judicial Ethics, which was passed at the Conference of the Judges on **28. July 2008** and which is being applied consistently. It instituted several procedures for removal of judges, some of them are removed and some of them have submitted the resignation, during the procedure for removal. More than 10 judges have been disciplinary punished, and 10 of them were temporarily removed because of the criminal procedures against them, which were in the course before the courts.

Through its one-year work, Judicial Council has shown its full independence, because it made the selection of judges at all levels and presidents of the courts, outside the Parliament, for the first time without the influence of the executive and legislative power.

Wishing not to abuse the time that you gave me, these are the basic indications of the specifics and functions of the Judicial Council, as the new body of judicial power, which is being named as Government in judiciary, often, with the remark that the results have shown the justification of this concept, which will amplify more, in the course of the time before us, by the experiences of others, so my participation on this Seminar is the reason more, to realize the positive experiences of Council of Europe member states, all with one aim to strengthen the rule of law, independence and effective administration of justice.

Thank you for attention.

PRESIDENT OF THE COURT

Vesna Medenica