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**HERE ARE THE ANSWERS TO THE TWO QUESTIONS YOU POSED:**

- 1. Do you think that the judges and the president of the Constitutional Court of Montenegro are in an employment relationship, and do their offices expire at the end of their working life under the Labour Law of Montenegro?**

According to Article 4 of the Labour Law, the employment relationship is established by an employment contract concluded by the employee and the employer. According to Article 5, paragraph 1 of this Law, an employee is a natural person who acquires the status of employee by way of said contract. According to Article 5, paragraph 3 of the Law, the employer is a domestic or foreign legal person with which the employee establishes an employment relationship.

Judges of the Constitutional Court are public office holders who cannot establish an employment relationship because the Constitutional Court, as a state body, does not have legal subjectivity and therefore cannot be an employer, the same as other state bodies or bodies of local self-government units. Hence, if a judge were to be in an employment relationship, s/he would have to establish it with the state, and then s/he would have to recuse him/herself in every dispute that involved said state. In that case, there would be no one to try the state, which would be contrary to the constitutional principle of the rule of law. This also applies to the President of the Constitutional Court because, as the first among equals, s/he, too, is a judge.

Civil servants and appointed officials work in state bodies and local self-government units based on an employment relationship; however, in labour disputes they use the legal subjectivity of the state, with which they have established the employment relationship. (In the lawsuits, they place the name of the body in which they work in parentheses.)

- 2. Does the public office of a judge of the Constitutional Court of Montenegro cease when the appropriate reason occurs, or when the National Assembly of Montenegro takes a decision that these requirements were met?**

According to Article 82, item 13 of the Constitution, it is the Assembly that decides on the termination of the office of judges and president of the Constitutional Court. According to Article 154 of the Constitution,

the office terminates before the end of the term for which these persons were elected: 1) when they request it themselves, 2) when they meet the requirements for age-based retirement, 3) when they are sentenced to an unsuspended prison sentence.

The first reason is governed by the Law on the Constitutional Court, which stipulates that the request for early termination of office shall be submitted to the Assembly, and if the Assembly fails to take a decision within 30 days, the office will cease at the end of that period (Article 16). The second reason is governed by the Law on Pension and Disability Insurance, and some judges of the Constitutional Court are content with forty years of insurance and sixty years of life (Article 17, paragraph 2). The third reason is governed by the Law on the Constitutional Court, which stipulates that a judge's office ends once the judgment becomes final, about which the competent court must inform the Assembly and the Constitutional Court (Article 17).

The provision of Article 154, paragraph 3 of the Constitution clearly stipulates that the reason for termination of the office of a judge is to be determined by the session of the Constitutional Court, within a reasonable period of time before the occurrence of the reason itself (in Serbia, this period is one to two months) so as to ensure the judge's replacement. The declaratory announcement of reasons is linked to the session of the Constitutional Court, and the constitutional reason - to the decision of the Assembly on termination of office.