



# JUDICIAL MONITOR

MONITORING AND REPORTING ON JUDICIAL REFORMS

5

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## CONTENT

### TOPIC 1

**Criticism of Verdict: Acquitted of Murder During Robbery**

### TOPIC 2

**Supreme Court Identifies Legal Violation in Sentencing for Minor Rape**

### TOPIC 3

**Montenegro's Constitutional Court: An Endless Saga**

### TOPIC 4

**The Trials of Vesna Medenica: One Trial Restarts, the Other Appeal on Hold**

### TOPIC 5

**Judge Shortage at the Appellate Court: Selection Process Stalled by Judicial Council Commission**

### TOPIC 6

**Two Million Euros Disbursed to Judges Upon Termination of Their Terms**

### Short News



## TOPIC 1

### **CRITICISM OF VERDICT: ACQUITTED OF MURDER DURING ROBBERY**

The Criminal Panel of the High Court in Podgorica, led by Judge Veljko Radovanović, acquitted seven defendants (Mitro Knežević, Stojan Albijanić, Nemanja Miljković, Petar Zolak, Srđan Svjetlanović, David Banjac, and Stefan Regojević) of charges alleging their participation in the murder of security guard Ljubiša Mrdak during the robbery of the Post Office in Nikšić in October 2021.

The High State Prosecutor's Office in Podgorica announced that it would appeal this first-instance verdict.

During the pronouncement of the verdict, Judge Radovanović stated that the indictment failed to establish who fired the fatal shots at Ljubiša Mrdak. "In a way, the court was put in a difficult situation because it had to judge based on such an indictment. The court had to conduct an investigation, hearing dozens of witnesses and reviewing many hours of video footage," he explained.

He further stated that the High State Prosecutor's Office failed to provide any evidence "that would reliably and clearly place the defendants at the crime scene or prove that they committed the actions as previously described in the indictment."

In response, the High State Prosecutor's Office remarked: "The court must consider whether, apart from all the proposed and presented evidence, more evidence needs to be gathered to reach a decision. This is not the same as conducting an investigation, as some have wrongly suggested, but rather involves taking steps that the court is legally permitted to take."

A protest was held in Nikšić in response to this verdict, with demonstrators demanding the resignation of top officials in the prosecution and judiciary, referring to the decision as "a crime above all crimes."

"We demand an answer from the state – how could this shameful verdict happen? Who are these people, and who



**All defendants have been acquitted of the charges related to the murder of security guard Ljubiša Mrdak during the robbery of the Post Office in Nikšić in October 2021.**

selects them, allowing criminals and murderers to roam freely in our country?” asked Sanja Gobović, the sister of the murdered Ljubiša Mrdak.

Justice Minister Bojan Božović also commented on the matter through his Facebook profile, stating, “I do not wish to interfere in an ongoing case, but I want to send a clear message – the case is not over yet, and the judicial system will fulfill its duties in accordance with the law.”

This situation has once again raised concerns regarding the quality of indictment reviews. Notably, a panel of three judges from the High Court in Podgorica had previously determined, ex officio, that the indictment was justified and that there was no need for further investigation.

It is concerning that such serious criminal cases do not result in any of the defendants being found guilty. However, it is crucial to wait for the appeal process to conclude and for the Court of Appeals to make its decision. The case must be reviewed objectively. If the indictment indeed lacked sufficient evidence, ordering a retrial will not serve justice; instead, it will only postpone the final decision and temporarily soothe public outrage.

## TOPIC 2

### **SUPREME COURT IDENTIFIES LEGAL VIOLATION IN SENTENCING FOR MINOR RAPE**

**The Appellate Court of Montenegro violated the law by reducing the sentence of a defendant from 15 to 8 years.**

The Appellate Court of Montenegro violated the law in favor of the defendant by reducing his 15-year prison sentence for the rape of a minor to eight years. This decision was made by the Supreme Court of Montenegro, which accepted the request for protection of legality from the Supreme State Prosecutor’s Office.

The Supreme Court concluded that the Appellate Court “provided completely unclear reasons in the explanation of the ruling, particularly regarding the decision on the sentence, and did not clarify the facts that led to the change in the first-instance verdict.” It was noted that the defendant, B.B., who is three decades older than the 15-year-old girl, committed the aggravated crime of rape, the consequences of which the victim will endure for the rest of her life, and that he exploited his long-standing friendship and neighborly relationship with the victim’s family.

The Supreme Court pointed out that the Appellate Court reduced the sentence even though it found no mitigating circumstances for the defendant.

In its ruling, the Supreme Court also referred to the practice of the European Court of Human Rights, which emphasizes that national courts should never allow serious attacks on physical and mental integrity to go unpunished or create a clear imbalance between the severity of the crime and the harshness of the sentence.

This case, is the second instance this year where the Supreme Court identified a violation of the law by a court in favor of the defendants. According to data from the Supreme State Prosecutor's Office, 12 requests for legal protection were accepted last year, with eight accepted in 2023.

The NGO *Human Rights Action (HRA)* informed Radio Montenegro that these figures are concerning, indicating either the incompetence of some judges or potential corruption. "It is important to emphasize that all these accepted extraordinary legal remedies demonstrate that the law was violated in favor of the defendants. This means the defendants benefited... The Special State Prosecutor's Office should investigate whether abuse of office is involved in this case, as well as in other cases," said Amra Bajrović from HRA, stressing the need for vetting in the judiciary.

Judicial Council member Rade Ćetković told Radio Montenegro that the acceptance of "requests for legal protection" does not reflect unprofessional or negligent performance of judicial duties, and therefore, according to current legal provisions, no disciplinary action can be taken against the judge.

Earlier, the President of the Appellate Court, Mirjana Popović, stated that the acceptance of requests for legal protection will influence the evaluation of the judges of that court.

### TOPIC 3

#### **MONTENEGRO'S CONSTITUTIONAL COURT: AN ENDLESS SAGA**

For months, there has been unrest within and around the Constitutional Court of Montenegro. The situation reached a breaking point with the termination of Judge Dragana Đuranović's position and the subsequent blockade of the Parliament of Montenegro by the opposition in protest. This was compounded by the identification of a conflict of interest involving Judge Budimir Šćepanović, the debate over which court should handle Judge Đuranović's lawsuit, and concerns regarding candidates applying for two judge positions announced by different proposers, despite the clear legal ban.

**The Constitutional Court currently has only five of the required seven judges. It still includes two judges who should have pulled out more than six months ago, as they met the retirement conditions**

The Agency for Prevention of Corruption determined that Constitutional Court Judge Budimir Šćepanović violated the Law on Prevention of Corruption by failing to recuse himself in December 2024 from determining whether he met the conditions for the termination of his judicial position.

“He did not refrain from taking actions where there was a risk of a conflict of interest,” stated the decision from the Agency for Prevention of Corruption, which was made following an [initiative from the NGO Human Rights Action](#).

According to Tea Gorjanc Prelević, the executive director of HRA, the Agency’s decision does not affect Judge Šćepanović’s current position or the call for his replacement made by President Jakov Milatović. However, it should result in Judge Đuranović being excluded from deciding whether Judge Desanka Lopičić’s position should be terminated during the next Constitutional Court session.

“It is very concerning that both judges (Šćepanović and Lopičić) are still holding office in the Constitutional Court, even though they have long met the mandatory retirement conditions under the Pension and Disability Insurance Law,” Gorjanc-Prelević told *Vijesti*.

Meanwhile, the Basic Court in Podgorica declared itself “absolutely incompetent” to handle the case of former Constitutional Court Judge Dragana Đuranović against the Parliament of Montenegro. On February 12, she filed a lawsuit demanding the annulment of the Constitutional Committee’s conclusions regarding her retirement conditions and the President of the Parliament’s declaration of her termination. She also requested reinstatement to her position in the Constitutional Court.

“The first-instance court found that the subject of the lawsuit involved acts of the highest legislative body, made under the constitutional powers of Parliament. These can potentially be subject to a review of constitutionality, which cannot fall under the purview of regular courts. This is the original constitutional jurisdiction of the Constitutional Court, and it would be constitutionally unacceptable for regular courts to annul the decisions of Parliament,” stated the Podgorica Basic Court.

While the dispute over the Constitutional Court continues, President Jakov Milatović has compiled a list of candidates for the position of one Constitutional Court judge. The candidates are Danilo Ćupić, Duško Jovović, Mirjana

Vučinić, Dejan Vukšić, Nataša Radonjić, Nikola Golubović, Jovan Kojičić, Alija Beganović, and Nenad Đorđević.

Beganović, Kojičić, and Đorđević applied for two calls for Constitutional Court judges: one announced by the Constitutional Committee and the other by the President of the country, despite the Law on the Constitutional Court stating that an individual cannot apply for both calls. However, they later withdrew their applications from the President's call.

At the February 21 session, the Constitutional Committee adopted the report from the commission regarding the selection of two judges through a public call issued on December 23, 2024. The report noted that the candidates who submitted timely and complete applications include Beganović, Kojičić, Đorđević, Marko Blagojević, Goran Velimirović, Zoran Vukićević, Nerma Dobardžić, Jovan Jovanović, Muhamed Đokaj, Sanja Maslenjak, Medina Mušović, Mirjana Radović, and Milva Prelević.

The Constitutional Court currently has five out of seven judges. The calls from the Constitutional Committee are for the successors of Milorad Gogić and Dragana Đuranović, while President Milatović's call aims to replace Judge Budimir Šćepanović. Šćepanović remains in the Constitutional Court despite having met the retirement conditions stipulated by the Pension and Disability Insurance Law. Judge Desanka Lopičić also continues to serve, even though her judicial position should have ended months ago in accordance with the Constitution and the Pension and Disability Insurance Law. A session to decide on the termination of her position has yet to be scheduled.

**The trial of Vesna Medenica and other defendants for alleged membership in a criminal organization led by her son, Miloš, has restarted. The appeal of the first-instance verdict in a separate case against the former President of the Supreme Court has not yet reached the Appellate Court.**

#### TOPIC 4

### **THE TRIALS OF VESNA MEDENICA: ONE TRIAL RESTARTS, THE OTHER APPEAL ON HOLD**

On February 28, a new trial commenced at the Higher Court in Podgorica for Vesna Medenica, the former president of the Supreme Court of Montenegro, and the other defendants suspected of being part of a criminal organization led by her son, Miloš. This case was assigned to Judge Vesna Kovačević due to the prolonged sick leave of the presiding judge, Nada Rabrenović ([Judicial Monitor no. 3](#)).

The defense team for the accused requested that Judge Kovačević be excluded from the case, as she had previously ruled on the detention of some of the defendants. They also sought a postponement of the hearing. However, the court rejected both requests, and the trial was rescheduled for March 3.

Miloš Medenica is accused of establishing a criminal organization in 2019, of which his mother and other defendants were members. The organization allegedly aimed to smuggle cigarettes and exert illegal influence over the judiciary to gain illicit profit and power. Meanwhile, the Special State Prosecutor's Office has requested that this case be merged with another case involving Nikola Raičević, who is accused of forming a criminal organization, extended smuggling, and committing two counts of illegal influence through assistance.

In a separate case against Vesna Medenica, she was sentenced to six months in prison at first instance. However, there has been no confirmation that her defense's appeal has reached the Court of Appeal of Montenegro. Despite reports by Vijesti indicating that her defense filed the appeal, it has not been received by the Appellate Court after 20 days, so the court has yet to make a decision on it.

As a reminder, Vesna Medenica was sentenced on November 4 of last year to six months in prison by the Higher Court in Podgorica for abuse of office, as she assisted former Rožaje Municipal Court judge Milosav Zekić in gaining benefits ([Judicial Monitor no. 1](#)).

## TOPIC 5

### **JUDGE SHORTAGE AT THE APPELLATE COURT: SELECTION PROCESS STALLED BY JUDICIAL COUNCIL COMMISSION**

President of the Appellate Court of Montenegro, Mirjana Popović, sent an urgent request to the President of the Judicial Council, Radoje Korać, urging the swift completion of the evaluation and selection process for judges who applied for the vacant positions in the court.

In her letter, she emphasized the seriousness of the situation the Appellate Court has faced since May of last year due to a lack of judges, especially as the number of cases (both criminal and civil) continues to rise. Four judges have retired, and to operate efficiently, the court requires 12 judges in

**The Appellate Court of Montenegro is currently staffed by only eight judges instead of the planned twelve, resulting in the formation of just one criminal panel.**

addition to the court president. Currently, there is only one criminal panel, down from two.

During the judges' meeting of the Appellate Court on February 7, Popović pointed out the need to intensify work on cases from last year and those dating back more than three years to meet deadlines.

Radoje Korać, President of the Judicial Council, stated to Radio Montenegro that the selection of the missing judges will be completed once the relevant commission has finished its work.

Five judges have applied for the vacancies at the Appellate Court: Amir Đokaj, Vesna Kovačević, Sonja Keković, Nenad Vujanović, and Igor Đuričković.

Currently, the Montenegrin judiciary is short by 67 judges. Despite this, the processes for selecting and promoting judges have been sluggish. An [analysis by the NGO Human Rights Action](#) revealed that, over the past two years, it has taken an average of five to six months from the public announcement of vacancies to the final decision on selecting and assigning judges.

Judges have often waited even longer for promotions, with an average waiting time of nine months from the public announcement to the final selection. This period includes evaluating judges' work and interviewing candidates. The HRA analysis also indicated that selecting court presidents typically takes four to five months.

In a country experiencing a judge shortage in nearly all courts since 2023, it is crucial to expedite the selection and promotion processes for judges and eliminate any obstacles that hinder this progress.

**Judges in Montenegro whose terms ended between early 2020 and the end of last year have received a total of €2,172,239 in allowances after leaving office. Of the 87 judges who received these payments, 49 (56%) resigned.**

## TOPIC 6

### **TWO MILLION EUROS DISBURSED TO JUDGES UPON TERMINATION OF THEIR TERMS**

Judges in Montenegro whose terms ended between the beginning of 2020 and the end of last year received €2,172,239 in allowances after leaving office. Of the 87 judges across all courts who received this payment, more than half—49 judges—resigned, according to data from the Center for Investigative Journalism.

Judges as well as state prosecutors exercised their right, granted to every official in Montenegro, to request a monthly

allowance equal to their last salary for one year after leaving office if they have not found a new job or retired. This allowance can be extended for up to two years if the official needs to retire within that timeframe. In the last two years alone, 29 judges and 11 prosecutors resigned, as noted in [Bulletin No. 3.](#)

Due to the regular practice of paying such allowances, the NGO Human Rights Action has proposed changes to the Law on Salaries in the Public Sector, along with amendments to the Laws on the Judicial Council, Judges, and the State Prosecutor's Office, aimed at limiting compensation rights after leaving office. They also suggested that individuals who resign should not be entitled to these allowances or severance payments.

**“Resigning is an easy way out for some irresponsible individuals because all the pressure disappears, but the compensation remains... If a judge or prosecutor is guilty of a disciplinary violation, resignation becomes an ideal solution, as it immediately halts the disciplinary process without the loss of their right to the allowance. Moreover, the paid allowances continue even if a judge or prosecutor is later convicted of a crime that would have resulted in their dismissal if they had not resigned,”** said Tea Gorjanc-Prelević, Executive Director of Human Rights Action.

An investigation by CIN-CG also revealed that from 2020 to the end of last year, judges received over €300,000 in compensation for lawsuits they filed against the state and disputes before the Agency for the Peaceful Resolution of Disputes. They claimed compensation for unused vacation days, unpaid on-call allowances, and reduced salaries during the COVID-19 pandemic. Among those who filed lawsuits were former President of the Supreme Court Vesna Medenica, as well as judges from that court, including Miraš Radović (former minister of justice), Svetlana Vujanović and Hasnija Simonović (former president of Association of judges).



## | SHORT NEWS

### **SUPREME COURT PRESIDENT ADVOCATES FOR HIGHER SALARIES FOR JUDGES AND PROMISES RESOLUTION OF OLD CASES**

The President of the Supreme Court of Montenegro, Valentina Pavličić, has urgently requested a temporary solution to increase judges' salaries. In a letter to Prime Minister Milojko Spajić, Deputy Prime Minister Momo Koprivica, Minister of Justice Bojan Božović, and Minister of Finance Novica Vuković, she proposed a temporary 30% salary increase for judges through amendments to the Law on Salaries in the Public Sector, until a special law is enacted. Pavličić emphasized that this increase is crucial for ensuring judicial independence and supporting Montenegro's EU integration, and she anticipates a prompt response from the government.

In addition to addressing salary concerns, Pavličić announced measures aimed at improving the efficiency of the judiciary. She mentioned the introduction of a National Program to resolve cases older than three years and shared plans for forming a Working Group to monitor the pace of work and prevent the accumulation of new backlogged cases.

### **NEW MEMBER ELECTED TO THE PROSECUTORIAL COUNCIL, BUT BODY STILL INCOMPLETE**

The Conference of State Prosecutors has elected Armin Selmanović as a member of the Prosecutorial Council, representing state prosecutors from the Supreme State Prosecutor's Office. However, the Council remains incomplete. Following the resignations of lawyers Siniša Gazivoda and Miloš Vuksanović in August and September 2024, the Council lacks representatives from the ranks of distinguished lawyers. There has been no information regarding new activities from the Committee for Political System, Judiciary, and Administration in 2025, which is responsible for initiating the procedure to elect the missing members of the Prosecutorial Council.

### **LACK OF PROSECUTORS AND EXPERTS IN PLJEVLJA**

The Basic State Prosecutor's Office in Pljevlja, which serves the municipalities of Pljevlja, Žabljak, and Šavnik, is facing a significant shortage of prosecutors. This issue was highlighted in the Office's annual report.

As of August 2024, apart from the head prosecutor, Sanja Golubović, only one prosecutor was employed at the office. Since then, another prosecutor has been hired. According to its organizational structure, the office is supposed to have four prosecutors in addition to the head prosecutor.

Moreover, the Basic State Prosecutor's Office in Pljevlja is also lacking experts in various fields, including traffic, occupational safety, environmental science, economics, and electrical engineering. While experts are available at the state level, their absence in this region hampers the conduct of investigative actions, particularly when timely access to critical sites is essential for gathering evidence.

### **CANDIDATES INTERVIEWED FOR PROSECUTORIAL LEADERSHIP POSITIONS IN BAR AND KOTOR**

The Prosecutorial Council has proceeded with the selection process for the heads of the Basic State Prosecutor's Offices in Bar and Kotor. Candidates Radovan Đurišić for the Bar office and Tijana Čelanović for the Kotor office have both been interviewed.

### **NEW JUDGES ELECTED FOR THE HIGHER COURT IN PODGORICA AND THE MISDEMEANOR COURT**

The Higher Court in Podgorica has appointed new judges following the Judicial Council's selection of Sanja Došljak, Branislav Leković, Radovan Vlaović, Nikola Boričić, and Dragan Babović for judicial positions. These judges were among those who applied for the court's vacancy announcement published on the last day of 2024.

During the sixth session of the Judicial Council, it was also decided to appoint Radenko Bošković, the current misdemeanor court judge in Podgorica, to the position of judge for the Higher Misdemeanor Court of Montenegro.

Additionally, the Council announced public calls for the president of the Basic Court in Cetinje and one judge position in the Higher Court in Podgorica. There were also internal announcements for three judicial positions in the Basic Court in Podgorica and one in the Misdemeanor Court in Podgorica.