

**Central & Eastern European Judicial Exchange Network
Webinar Spotlight Series: Judiciaries in Peril in Central and Eastern Europe**

Spotlight #3:

JUDICIARY IN PERIL: MONTENGRIN CASE STUDY

Tuesday 26 January 2021 Transcript

Speakers:

1. Judge Mirza Ademović, Judge in the Basic Court in Nikšić
2. Marijana Laković-Drašković, Former Deputy Minister of Justice
3. Ivan Vukčević, Program Director, Centre for Monitoring and Research (CeMi)

Background: Following its application in 2008 for EU membership, Montenegro continues its efforts to comply with the EU Acquis, protect fundamental rights, and implement other European standards, including those related to the judiciary. However, specific challenges remain and continue to cause concern. As with other jurisdictions in the region, pressing themes include judicial independence, accountability, and transparency. The judiciary in Montenegro has been the subject of political attacks from both government and opposition parties. Public concern recently has focused on certain court appointments, including the appointment of seven Presidents of Basic Courts and the President of the Supreme Court. Additionally, other challenging issues focus on strengthening the disciplinary framework for judges and prosecutors, and new strategies for downsizing the number of 'Basic Courts' (a move is intended to improve efficiencies).

[Transcript Begins]

Freda Grealy, Program Manager (FG): Thank you so much for joining the third in our spotlight series where we focus on the Judiciary in Central and Eastern Europe. And in this evening's proceedings, we're focusing on Montenegro. I'm Freda Grealy, I'm a program manager at the CEELI Institute and I'm based in Prague, here. I'd like to hand you over to Chris Lehmann, Executive Director of the CEELI Institute for a brief introduction.

Chris Lehmann, Executive Director (CL): Thank you, Freda, and good evening and a warm welcome to everybody that's attending. As Freda said, my name is Chris Lehmann and I'm the executive director of the CEELI Institute. We are delighted to welcome you to this program. I think many of you are probably familiar with us. We are based in Prague and we, as an institute for the last two decades have been committed, to supporting the judiciary, particularly the independence of the judiciary across Central and Eastern Europe through a variety of programs. These include a Judicial Network of young and rising judges from 18 countries across the region. We have long participated with the judiciary in Montenegro, and so, it's a wonderful opportunity to continue that relationship this evening and have an opportunity to explore the challenges facing that judiciary in some depth tonight. As Freda mentioned, this is the third in a series, a Spotlight Series, where we are able to really look closely and get beyond the headlines for the issues affecting judiciaries. We started with Bulgaria and Poland, and we hope to continue this program through the Spring of 2021. So do follow us on the website and

social media for further postings. So without further ado, I will give the floor back to Freda but again, thank you to our participants and most importantly, thank you to our panellists here this evening.

FG: Thank you so much, Chris, yes. So we have three speakers for you this evening, and I'm delighted to introduce them to you. Our first speaker will be Judge, our first speaker will be Judge Mirza Ademovic. He currently serves on the Basic Court of Podgorica in the Civil Division. Before becoming a Judge, he worked as a judicial advisor and an administrator of the PRIS, which is the judicial information system. Judge Ademovic's role was to deal with complaints regarding the work of the court. He's a graduate of the Faculty of Law in the University of Montenegro and, in 2015, he finished his Master's studies at the Faculty of Law in the University of Belgrade.

We will also be joined by Marijana Lakovic-Draskovic, she was the Deputy Minister of Justice for the judiciary from 2015 to very recently. She was leading European integration processes, and she was Head of the Working Group for Chapter 23 Negotiations. She was the member of the Government Rule of Law Counsel and Counsel for Judiciary Strategy Implementation. She has more than 22 years of professional experience in the area of judiciary, human rights, anti-corruption, public administration reform and project implementation. Previously, she was a member of the European Commission for the Efficiency of Justice. She was President of Working Groups for the laws on organization functioning of the judiciary and a member of the Judicial Training Center management board.

We are also joined this evening by Ivan Vukcevic and he is the Program Director at the NGO Centre for Monitoring and Research. He observed the presidential, parliamentary and local elections in Montenegro and Moldova in 2020. He acts as a consultant on various projects that deal with the risk of money laundering and nongovernmental organizations, and the harmonization of Montenegrin legislation with EU directives in the field of money laundering prevention.

He graduated in 2017 from the Faculty of Law University of Montenegro. He is currently a doctoral student at the Faculty of Law in the University of Belgrade and he is published widely on judicial reform, electoral reform and the fight against corruption and the right to privacy. So, while we are waiting on our panellists, Ivan and Marijana, to connect to their zoom cameras, we will ask Judge Ademovic, to address us, and I understand that the judge will begin his presentation in English, and then he will switch to Montenegrin. So I'll hand the floor over to you Judge, many thanks.

Judge Mirza Ademovic (JA): Thank you. Thank you, good evening to everyone. I would like to thank the CEELI Institute for this webinar. This is a great opportunity to discuss about this topic. I would also like to greet Ms. Lakovic-Draskovic and Mr. Vukcevic, and express my gladness to be a part of this webinar. I would also like to greet all the participants, participants and to thank you all for your time and attention, special greetings and gratitude to Ms. Freda Grealy for her kindness.

[Montenegrin discussion]

Although the topic for the judiciary is very important for us, I'd like to point some of the issues, some of the problems that we have made when it comes to positive progress. I'd like to say that we have refreshed employees and they have refreshed the human resources. So the Judiciary Training Centre there is really helping us in training, both the courts, both the judiciary and the Prosecution Service.

As of 2015, the Judiciary Training Centre is early effort, the networking and also the human resources, management development. So I must say that there are window when it comes to obtaining and achieving great results. And we have continued with this trend also during the COVID-19. And I must say that in 2020, the efficiency of course, was 101% against the last year, regardless of the fact that we had a huge...huge COVID interaction [problems]. We must say that we are very proud of our results, that many hearings were postponed due to the fact that the parties in the procedure, lawyers and judges were COVID positive so they were facing [illness].

In regard to the NGO, Supreme Court of Montenegro has entered numerous MOUs with the NGOs. Now, judiciary is becoming more transparent, also amending some of the laws. So the law, law on protection from family violence has been given a right to NGO person to be the part of judiciary hearings or the hearing board, in order to observe whether those rules have been upheld.

Judges are subject to strict recruitment procedures and we have made a huge step forward when it comes to the early 19th, last century. And now we have to the judiciary council, that is appointing and electing the judges. And this is what we must have in mind. So just to say, when it comes to the base picker for the judge, I'll tell you something more about the requirements the candidate must have — two years of work experience in courts or in Prosecution Service, and also some of the other requirements then he or she may apply to become a judge. And after the selection procedure and two-tier testing, one is a written test and the other is the verbal test. And then he or she is subject to the training that lasts 18 months. And if he or she has been awarded the with satisfactory appraisal, then it is taking the exam before the Judiciary Council. So it is a quite exhausting procedure, education and training through which a candidate is going through so he or she must fulfil all the criteria. Or go through several filters which is a current tour for the necessary professional experience and service when it comes to, when it comes to career development. We also have enumerated requirements in the law.

And since we have our topic here today, the peril judiciary like to say something about the problems that we are challenged with. It's also affecting the perception of the public. With regard to the membership in the judiciary Council, I must say something about that for the participants that are not here. The Judiciary Council is the authority of judiciary that is this dismissing, reappointing and appointing the judges. It is also composed of 10 members and they are deciding about everyone or the elections or the appointees, the member may be a person.

JA: Just to say about the problem that we have with the Judiciary Council, when it comes to renew lawyers, we now have the problem when it comes to appointing the members. We have the struggle as of 2018. The members of the council has been terminated, the head of office has been terminated and they must be elected by the members of the Parliament. That's why as of 2018, we do not have the lawyers.

That's why we must focus our attention to the distinguish lawyers and this is the problem of position and opposition and the sharing their burden when it comes to this issue. It's important for distinguished lawyers, that will be able to act in good faith. And as we agree, it is imperative to find and to appoint these four persons. This is a political thing that is actually undermining the confidence in judiciary, we have a temporary or interim situation that is now t. It's in the sense that now for three years we do not have four lawyers [on the judicial council],

We must pinpoint this issue. The judiciary hasn't been blocked, but we have a temporary interim solution, which is affecting the work of Judiciary Council. We also have a problem that our charge in the Court of the EU hasn't been appointed as a parliamentary compromise or consensus cannot be reached. The question is whether the Minister of Justice should be the member of the Judiciary Council or it should be avoided — that the executive branch of power has an inside or an inflow into the judiciary branch.

They see plenary liability is done something that we should also think about that what else I can notice as an issue. Although I haven't done the research for the purpose of this webinar. Meaning that I don't know exactly which the standard of judges agree with me, but I think that majority of judges agree with me and that is that the appraisal procedure needs to be changed. Actually the law in that regard needs to be changed.

The appraisal of judges were the criteria that need to be very important, such as quality quantity, control requests, complaints, are just emerged in a sea of criteria such as academic title, in the period for which the judges are appraised, professional activities membership in expert groups, then presentation before the Center for training. So, not many judges have a opportunity to become a member of the working group or the development of laws. Judges can be presented on a [incoherent] word, but if they are not presenter and sensitive for training, then this will not be taken into account.

So the question is why this criteria should be equal to criteria such as quality and quantity of work of judges. So, I think that all judges will agree that there needs to be changes in this area. Also, in my opinion, another issue is the concept of the national announcement for judges, were the candidate for judge from the very beginning of the announcement and in the case of election, and then the appointment and the end of training after at least 18 months. And in training, they don't know which courts will be offered to him, for which court he has applied the position, of course, and what are the needs to these courts. So the candidate is not certain about that, and many candidates opt for other jobs, they leave the judiciary, and then we have the outflow of quality judges.

Another issue, in my opinion is that in the procedure of getting the justice in order reform, we have neglected a very important component of that — and that is the satisfaction of the bearers of judiciary functions. So the judiciary should be a quality and authoritative mechanism, and here we have a neglected those who present a basis of this.

Also salaries of judges of basic courts at the same level as it was in 2007, there are no ways to provide incentives to judges who are working above the average and whose norm is above the average. Judges have to average net salaries in Montenegro. But also, for the past 14 years, salaries have remained the same for the generation of basic courts. So public have the wrong impression regarding the work of judges. Because judges, although they have a formal working hours, it doesn't start when they come to work, and it doesn't end when they leave work physically. So public really have an impression that judges are working only within their working hours. It would be interesting to do a research how many hours judges are working during the weekends. I think two thirds of judges work on the weekends also.

Also regarding premises capacity, especially for the basic courts and commercial court employees it's really unacceptable working conditions. Also premises there the Administrative Court is using it might be modern and well-equipped — still not sufficient. Because they are placed in a commercial building,

where are the legal entities are placed, companies that is. So for the average citizen first impression of the judiciary, visual impression is not really acceptable.

Also, you know, in other countries, court buildings are very nice buildings. And here, I don't think citizens can get that impression — judging the architecture and the capacity of our buildings. Especially, we had a problem during the pandemic — Corona pandemic — judges were forced to give hearings in the theatres, faculties, which also didn't contribute to the authority of the court.

And that will end my presentation with point of view of media. Regarding media their contribution to the perception of the public was positive in a sense that they were emancipating the public, but we still need to educate journalists, because we know that journalists from the biggest three or four media in Montenegro are not lawyers by profession. These are people that graduate from political science faculty. I know an anecdote that happened 10 years ago, there was a case where a very insulting article was written on a judge. It was published in a very famous newspaper, and it was on by journalists who had only a secondary education.

So, of course, the situation has improved in this regard, but also we haven't, we get the impression that additional professionalization is needed. I will thank you for attention and I will give floor to other panellists. Thank you.

FG: Thank you so much for that very informative overview Judge Ademovic. Particularly interesting is the comments you make about the media and also the public perception of the judiciary — and perhaps there are pointers that we can come back to in in the discussion following the other panellists. So now, I'm delighted to say that Marijana Lakovic-Draskovic has joined us, it's lovely to see you here this evening and I will give the floor over to you. Thank you.

Marijana Lakovic-Draskovic (MLD): Thank you, it is my pleasure to give this presentation. And I'd like [incoherent] some technical problems that we overcame. And that's why [incoherent]. I'll start off with an overview similar to Judge Ademovic's presentation. To tell something more about what we did in a short period of time, and also the challenges that we face on a daily basis in and also in the next period.

An independent and efficient judiciary is a condition necessary for overall European process of status. Driving the judiciary reform process, the most important activity in the in the previous period. But if we're to strengthening the independence and efficiency of judiciary —which is the new imperative and the ultimate objective of democratic fashion in both the national, international and European level and it's also a garment or when it comes to its independence of citizens. I try to tie the day to be in process and Judge Ademovic which also touched upon this, when it comes to development of legislative framework.

So, other set of organizational rules we have around the judiciary area, when it comes to the functioning of judiciary or the normative application that was initiated based on an amendment to the Constitution. Can you take us unified appointment collection appraisal of both judiciaries and state Prosecution Service and also standard disciplinary liabilities. Then you will think the new changes were actually triggered by the huge growth, that was also followed by the screening process, and we have received some recommendation and come to the appointment of judges and prosecutors — and this is something that we really tied down and also towards the legislative changes.

We started off then with the implementation or with the enforcement, they started off in September 2016. And we have established a Judiciary Training Centre as an independent authority, that is engaged in the training and it is very important link in the overall chain. The Center the focus was on traditionally tutorial counsel.

When the implementation is concerned, the first reaction of judges and prosecutor that could be heard is the action that we heard from a judge and this is, the so to say, resistance to the appraisal system. They were reluctant that they were subject to the appraisal and we were insisting upon the audit, it's very important. Especially when it comes to the appraisal of the work of judges that are independent and they are not used to the subject of the appraiser.

We can see the, this was the European Commission since the toning down the head of the Working Group or Title 23, but I was also the negotiator for this Chapter, Chapter 23 and 24. And the European Commission was telling us you should not be appraising the work of the judges. But we were insisting on the appraisal and Judiciary Council has actually allowed these new changes and instituted the appraisal system. Since we call the members of the judges, we actually inviting them to start off with the addendum to the procedure and then something happened, it actually it was accepted, in my opinion.

We made an error, we were supposed to be focused on subordinate legislation or to amend subordinate legislation, and also to change the rules when it comes to the appraisal system. And then we got on the appraisal the system and we made some changes. We didn't do a huge intervention, but not the interventions that will actually focused by the judges. The President of the Judiciary Council, at that time, was the President of all appraisal commissions or appraisal committees, and they said that it is our fault. The appraisal rules are good, the law is okay, the legislation is again, as supportive legislation must be changed.

So, the second question that I'd like to open, the second issue I like to open, is the issue of responsibility — responsibility of judges as well as state prosecutors. And I do believe that this is the overriding issue. So in addition to legislative framework, we almost do not have any results in the last five years. Five years have expired after the laws have been adopted, so we have sporadic disciplinary proceedings. We cannot say that we have immaculate judges, prosecutors and attorney. We have of course, good judges and good prosecutors, but we cannot can say that the system is well functioning.

When it comes to the appraisal system, prosecutors were reluctant when it comes to the amendments and changes. But the appraisals that they received are the best funds. If you get the best grade, if you grade with the highest grade the judges or the prosecutors then here you are defeating the purpose of the appraisal system. You cannot have judges and prosecutors that are excellent in its manner, we have defeated the purpose.

Record recommendation of Minister of Justice when it comes to his role as a member of the Judiciary Council. So when it comes to not having other ministers in the council. So once the Constitution has been amended this issue will also be the method of consideration. So all the terms of office, when it comes to composition of Judiciary Council will be actually resolved by the Constitution because you need [a proper approval process] when it comes to the appointment election of judiciary Council.

I believe the Minister of Justice will not be the member anymore in Judiciary Council. But in my opinion, when it comes to the Minister of Justice is the President of every working group when it

comes to develop laws, the Ministry of Justice working on strategies — the judiciary from strategy is the most important one. And the Minister of Justice is also bonded is called upon by the opposition, he's in charge of the Chapter 23. In my opinion, when it comes to this integration the Prosecutor of Justice must be in the Judiciary Committee, maybe not forever, but at least the interim period or in this conditional period. If he wants to interfere politically, he can do that, regardless of the fact whether he's the member or not. So regardless of his membership, membership or not, he is the one in my opinion to be there. He is places in the judiciary counts.

Out of 10 members of the Judiciary Council, we do not have a President of the Judiciary Council. Now we are having the six members of the Judiciary Council, of which three are pretty new lawyers — which is unnatural. Sure, is something that is really a disaster. So the Council proposal six members — you do not have a quorum for the decision making. You cannot appoint President of the Supreme Court because you only have six members of the Judiciary Council — you need seven votes for the President of the Supreme Court.

If political dialogue has not been established then judiciary will enter a huge crisis. This is when it comes to the traditional when it comes to Prosecution Service. So the State Prosecutor offices will go in the acting situation and we also have the acting Supreme Prosecutor. Now there's a talk about the change of laws and the change of the composition of the Judiciary Council. So we need to monitor the situation in the next period, and try to give our best to solve this in the best possible way. But unfortunately, everything depends on, depends on the politics, whether the dialog will be established among politicians — it all depends on that.

I want to highlight not only bad things, because it might turn out that I talk about only the bad things that the judiciary has to have, but this is a topic — basically challenges. Now, let me mentioned some positive things regarding the efficiency of the work of the judiciary. We have achieved very important results, that was acknowledged by the European Commission also, as a result of numerous activities — litigation cases alternative resolution disputes, such as mediation and postponing the criminal charges.

So also based on the initiative of this we did the analysis in order to identify the weaknesses in the procedure that result in the delays cases older than five years, this is done within the project. And a lot has been achieved here. The challenge and integration process rationalization of the judiciary network, we have a temporary benchmark, interim benchmark. But if we fail to fulfil all these interim benchmarks, we cannot progress to the next stage of negotiation, second stage of negotiations with the European Union.

We will just lag behind what the EU expects from us — they expect the abolishment of the small courts. So during my mandate, I have insisted on the [high] standard. But you have the Ministry of Justice and we had excellent cooperation with him and he prepared the analysis for the rationalization purposes. Montenegro was very satisfied with his analysis, he provided some recommendation on what Montenegro needs to do in regard of the further rationalization of the judicial network.

So until we do that, we cannot move to the next stage and this is the final measures, getting the final benchmarks. We cannot close any negotiation chapter unless we do something in that regard. What European Commission expects after this analysis is to prepare a restoration plan and to slowly start with the rationalization of judiciary.

I'm now opening some issues that I think Judge had opened and these are the capacities, the premises, what the Ministry of Justice did last year, during the last year. He also did an analysis of all buildings, public buildings with courts and prosecutors' offices with recommendations, specific recommendations about which courts need to be renovated or refurbished, or move to another building. And we have prepared such an analysis and now there is a plan within the action plan for the implementation of this strategy of judiciary forum and the next steps for the implementation analysis.

So I really need to in order to get funds from the European Commission we need to act in accordance with these procedures which are pretty demanding. So the state as we can all see, with of course with this Corona crisis, and the state is really in a very, very serious economic crisis then and adapted. So it's very difficult without the support from the EU to have a better interest structural solution for the judiciary.

I think I've talked a lot I prefer a live discussion. So if any of you have any questions after Ivan's presentation, I'm here to answer to give answers. Thank you.

FG: Thank you so much Marijana for that presentation. It was great to get an outline of the many reforms that have been done and also you highlighted some of the issues that are ongoing. So thank you so much for that. And our final panellist this evening is Ivan Vukcevic, so I will hand over to Ivan and then we will have questions and more of a discussion. So thank you, Ivan. You have the floor.

Ivan Vukcevic (IV): Thank you very much Freda, I hope you hear me. And at the beginning I would really like to express my gratitude to CEELI Institute for organising event with such an important topic, as well as to greet you all on behalf of Centre for Monitoring and Research. Also, I would like to express special gratitude to participants, to speakers from Montenegro at this event — Marijana Lakovic-Draskovic and Mr. Ademovic who accepted to be speakers at this event. I think that this is a very important topic in every moment for transitional countries. So, this is one more step to make a good and quality discussion about important issues in judiciary in Montenegro.

At the beginning, I would like to say that it is not possible to talk about judicial system in Montenegro without mentioning report of European Commission on Progress of Montenegro. And now, the most important recommendation was that there should be greater influence, and also, there should be much more exercising current laws in order to have professionalism and integrity in judiciary.

[Incoherent] assessment is that Montenegro is moderately prepared, and there are some very specific recommendations which Marijana and Mirza have talked about. That is the message to limit the appointment of Court Presidents to a maximum of two terms. Also message to do abolition of participation of the Minister of Justice in traditional counsel, and rationalization of judiciary network, as well as implementing laws with regard to disciplinary responsibility.

All these shortcomings were accompanied by a lower citizen's confidence in a traditional system. According to a research poll carried out by the Centre for Monitoring and Research, in 2017, the citizens confidence was 48%, and in 2020, it was 34%. So, we see that it is lower and that is problem for legitimacy.

Also, when we are talking about this judicial system, it is important to emphasize the right word trial within a reasonable time and it's exercise. In Montenegro we have a disproportion between the length of proceedings and the use of tools that can act that can be exercised by parties in the proceeding. So

we have control requests and we have other instrument, which is called the lawsuit for just satisfaction. But citizens do not use these instruments enough if we compare that with the length of proceedings. Also, as some of main reasons, for plenty proceedings, through our research we found that it is, as panellists already said — space and premises — the courts as well as non discipline of participants in court proceedings. Also, it is important to emphasize here that measures which are prescribed for non discipline are maybe not used as much as they should be. So, all of these shortcomings lead to a situation in which 48% is — I think that this is the right percentage — 48% of proceedings before European Court for Human Rights and Freedoms against Montenegro is because of violation of right or trial within reasonable time.

Another important topic is introduction of the institute of plea agreement. And now, there is no still citizens confidence as it should be in this area. Because first problem, I would say is the scope of offices. It is forbidden only for a war crimes and terrorism. But there are also some offenses which should be in this group. For example, or organized crime, high level corruption, sexual offences, and also the panel policy something which is seen as a problem here. And in our criminal code, the Criminal Code of Montenegro, it is stipulated that a plea agreement has to be in line with the interests of justice and that the sanction must be proportionate to its purpose. So, it is clear that judges he has judges to have a very good justification.

During our research about plea agreement, we didn't see that in some cases, that it is enough, because they were only referring to provisions of criminal code which is not enough. Because people will see this like a privilege for politically exposed persons, which can be problematic for introduction of new institute.

Also, I would like to refer to media coverage and to talk a little bit about presumption of innocence. We conducted research on publications of portals televisions, as well as newspaper. The research showed that in 12.5% media is violating presumption of innocence and the 9.5% it is with regard, it is in the title. So, it shows that they want to attract probably the readership with sensational titles.

Also, we have another information that more than half of texts or other kinds of obligations are signed with initials, but there are difference between different types of media. In the print medium, almost all articles are signed with initials 95%. Among portals and television, approximately, it is half of the announcement which are not signed, in portals 49% announcements are not signed, and in the television, it is 52% which are not signed — which is not good for the transparency of partnership and that is where codecs of journalists should be changed.

Another interesting information is the publication of face of alleged perpetrator. And we found that there was publication of the face in 37%, which worries because it violates not only right to a fair trial presumption of innocence, but also right to privacy. And in the end, there was one more interesting fact one more interesting information that we came to, and it is that source of information was not stated by televisions in 28%, when we come to portals it is 12%, and when we come to newspapers it is 2.5%.

So regarding all about mentioned, we can see that we need the step forward. We can see that we need more trust in our judicial system. And we need that because of legitimacy of the system. This is because things that happen in the courtroom, are not related only to those who work there, but also people who participate in proceedings. So, it would be a longer path, but I think that there are certain

decisions and certain steps forward in the past, and that now we can proceed and make all those necessary steps in the future for the judicial reform. Thank you.

FG: Thank you so much, Ivan, and thank you to all of our panellists. So we do have a number of questions as well in various different areas. One question that I was interested in, and I think, Ivan, you touched on this, as did the other panellists. In some of the EU reports, one item that they do highlight is the lack of transparency in relation to the judiciary. And I know that there have been moves that have been made in relation to publishing decisions on the website, and giving, trying to give more clear information to citizens. I also noticed that there were plans and to develop some type of service for public relations of the Supreme Court in Montenegro. And I just wonder, and perhaps Marijana, you may have an answer for this question — have there been any developments along that line? And I also just want to mention that one of our partners, people who've come through the webinar this evening is from North Macedonia, and they have developed a Judiciary Council that deals with the press as well. So some interesting insights, perhaps from their experience.

So Marijana, I wonder if..

MLD: In the previous period, a lot of things were done with the transparency and the openness of both judiciary, or the courts, or the prosecutors. Prosecution Service, state prosecutors did a lot, what I say, generally for the courts and for the Prosecution Service, is the courts become more transparent. They're publishing a lot of things. They have their web pages, they're also publishing, the schedule, eating, activity reports, annual activity reports — all the things that are very important for informing the public. So we're not in addition to all these things, they are publishing decision on appointing a public defender lawyer and also the fees of the lawyer.

But the problem is that now the judiciary system or the ICT system is now being developed. We used to have a PCs that was outdated, and that was only focused on tradition. Now we are connecting and networking the Ministry of Justice, that is the leader of developing the IT system, judiciary and also the prison institute will be there, and also the Prosecution Service. So it will be an open system for all entities with whom the judiciary is associated with. I was trying to find a decision and I was trying to find any information and I couldn't find it, and this is not because of the lack of transparency, but because it happens that there are some problems because of the backlog of the [incoherent] official period and I must say things have been done.

In February last year, the system in the Supreme Court has been changed. Now, we have a PR service, they have also the spokesperson — who used to be a journalist — and she's also putting all these documents on the website. And every port and every state prosecution office has its own PR.

In September, we can do great training in hotels planning that was financed by the embassy, and by the US Embassy, and they have gathered all the spokesperson. It was really, really great training and we are really working on openness and transparency of judiciary. And I must say that a lot has been done with regard to this and the European Commission has also praised the transparency in this era. and the professionalism. The efficiency is not problematic, openness and transparency, and also the liability when it comes to the appraisal. And in the last report we were we received good progress. But now we have a limited progress, which is not a good thing, we can go backwards to the judiciary, which with the catastrophic situation.

The focus right now is on the Judicial Council. In the last report, that was the focus. This is something in your report that is both as a [incoherent] issue of the implementation of the law, lack of the Judicial Council in the fullest extent and the decision making of the Judicial Council.

FG: Very good. I just wonder Judge Ademovic from your point of view, you as a Judge in relation to transparency, and as Marijana outlined the introduction of spokespersons and PR for the judiciary. What is your experience? Or what's your opinion on how that transparency mechanism is working?

JA: Thank you for your question. I will take this opportunity to answer this question and also questions in the chat box. The PR function was done by the advisors of the Court. The President, of course, usually appoints the advisor who presents then to the media of what is asked from him by the media. But now we are slowly moving to the concept of the judges PRs, because we think that the judges, that we are the court with his authority, his presentation will additionally contribute in a sense that he will present the Institution.

So, previously, we had advisors doing this and now we have the professionalization of the PR service in the judiciary, regarding the publishing of results. Now, not all the procurement decisions, which require of course anonymity, but all these the past, the stresses of an on a visitation is published on the back portals of the courts — and in this way the courts become transparent. So both from professionals and the general public. So all decisions are published in the anonymized form of course.

Now, I see some questions in the chat box, so I will take this opportunity to first read the comment attorney from the Northern Macedonia — thank him for his question. Also, thank you for the comment and suggestions on how the Northern Macedonia has solved the issue of professionalization of media, it is a very interesting model that they have applied.

It's a good idea for our legislators to get informed about this North Macedonian experience. Now for the postponing of hearings, my answer is that since the pandemic started, maybe beginning of April and until May 20, hearings were postponed — only accessible the urgent matters, such as detention or the domestic violence. Although I have just started my work as a judge, I was already working on such cases. So judiciary really didn't feel too much the effects of the pandemics during the personal down only later, due to the fact that parties making moves that they were either a contact of the person that gets the COVID-19, which of course required postponing. But the court did all the technical things in order to avoid delays, and postponing. So thank you.

I see there are some questions. And I'd also like to thank her because she always participating in such this fashions and always ask inspirational questions. So first questions regards methodology, I'm not sure if I'm the right person that can give you an answer to this question, because I'm not aware of the methodology that is suggested by the European Commission. I'm aware of the methodology from a judge, I can tell you the concept, I'm not satisfied with it regarding especially calculation of rigorous decision. Algorithm is such that calculates the percentage of values decisions, only those that were abolished by the appeal. So if a judge has a small number of appeals also can be affirmative. So it means that fabric is was satisfied with this judge. So out of the small percentage, out of for example 10 decisions, a judge has only one decision abolished, statistically the rate increases drastically the percentage of most decisions. So only compared to those decisions that are knowledge based on the appeal. Oh, they just the comment, not really an answer to a question. Because I think I'm not the right person that can give you the answer to your first question.

Second question that you had, was whether I was satisfied with the work of the Judicial Council? I have to say the time that despite the work of the court, or so regarding Judicial Council, or the rumours that I have mentioned, can apply also to the Judicial Council, because these are all open issues. Starting from the capacities regarding premises. Also, the fact that salaries of judges remain the same, maybe Judicial Council didn't really play the best role in all of this. But regarding the protection that the Judicial Council is providing whether I'm satisfied with that? I think that the Association of Judges is better in that regard. I think they're even ahead of the Judicial Council in this area. And the Association of Judges is that the association that has the premise, regarding the dependent, when the independence of judges endangered. So my suggestion is that the Judicial Council can do that as well. Partially, I am satisfied with the work of traditional counsel, but also I had some objections that I think that other judges share as well — and thank you for your question.

MLD Allow me if I can answer these questions that I have seen. One question also relates to what I focus on my presentation that is consistency of judiciary statistics. European Commission also focuses on the inconsistency of this, which is a challenge in the reform process.

So, when I started working as the Head of the Working Group for the Chapter 23, this was the biggest problem, the consistency of the judiciary statistics. So, statistics submitted by COVID, the security offices for the iPhone problem, we are slowly overcoming and why. Because of the complexity of the development of the new IT system.

It is true that the data is inconsistent, it is also completely inconsistent. We had terrible problems in the Ministry of Justice when comparing different analysis. So press data, for example, the Religulous difference, and then we have to go step by step and ask the courts to submit the data — but they were not matching. So the data that we were submitting to the [incoherent] commission were very inconsistent. And that's why we have prepared a strategy development of the IT and the competent plan for the implementation of the strategy, which is about to expire. Now, the second strategic paper will be prepared.

But what is the problem in general? It is always a human factor.

Actually quality human resources. IT experts have very small salaries and their job is very demanding. And this process requires perfect human resources and inter-institutional cooperation and networking. This way, the challenge, the serious challenge the future period, so the consistency of the traditional statistics.

Now, second question — I manage to the law on Judiciary Council and there is a lot of considerations when it comes to amendment, a lot of things that were published in the media are actually false. We were very cautious when it comes to the amendment to the law and Judiciary Council because we obtain a great opinion from the European Commission. Based on the recommendations, and all the recommendations that we received, we started off with the amendment legal opinion and as I have said we were quite cautious.

During the COVID pandemic, the senior European Commission said to stay with the process. And now we have [incoherent] the process and the European Commission helped us brainstorming all the ideas until we obtain the consensus we won't be on the amendments. So when the working group met the experts and we when we finalize the amendments, when we wanted to place it for the proper

discussion of the situation [incoherent]. Now have the new government and now everything has been halted.

The question that might be posed in the next period, since I'm not working in the Ministry of Justice anymore. But I'm always keeping my eyes open because I want to know what happened with all the efforts that we invested — action for human rights, recommendations, everything was taken into consideration and this has been reviewed by all the experts.

We were not alone when developing [incoherent]. Now if everything goes in vain, I would be really disappointed. Also disciplinary actions, we took everything into consideration, but nothing has been done so far. First we had a transitional government, no one wanted to do anything about this and then after having, after appointing the new government, I'm sure that the new government is not interested in what we did so far. They have their own plan. Well, let's see what you need. For the next period, we should do now work on administrative dispute law. This law has been developed for a year and its adoption has been halted because of the Covid-19. Also the law on free [incoherent], personal information, these are all the laws that are suspended.

I'm always asking my former employees what is going on? So let's see what will happen next and then the NGO sector should step up a little bit.

IV: I would like to jump in.

FG: Absolutely Ivan, yeah.

IV: I saw some questions in chat, and also I would like to talk a little bit about question that I mentioned. As I could see, Ilir asked for remote trials and that there are no remote trials during the Covid-19 pandemic in Montenegro. And that's something what Centre for Monitoring and Research would like to advocate for and not only during the pandemic, but also in regular times because of the necessity for these kinds of trials, and especially in some simple proceedings with small number of witnesses, and not so complicated evidences.

Andrej asked about the mandate of a Judicial Counsel, if it's regulated by Constitution? And it is regulated by amendments to Constitution in 2013. That's the answer. And Tea also mentioned the plenty of proceedings. Something I forgot to mention during my first speech — is that education of citizens is very important because some of citizens refer to protector of the human rights and freedoms in Montenegro when they have some complaints regarding trial within a reasonable time. So that shows that citizens are not well educated, and that maybe the PR means I mentioned should focus more on this part, because it is a topic that should be discussed in Montenegro more.

FG: Thank you, Ivan, and Marek, I was just going to ask you if there are any other questions? I think our panel are well used to multitasking. They are doing our job for us. Are there any other questions you've seen for the panel?

Marek Svoboda, Director of Programs (MS): I guess we're nearing the end right? Timewise? Time. So yes, the panelists did a very good job of self answering and self selecting the questions in the chat — thank you. There's are three questions in the in the Q&A, which I think one of them is a comment about the mention of on plea bargaining that was that was mentioned in one of the earlier

presentations. So it's comment on the work that Bosnia and Kosovo have done in that regard and that could be serving as a source of source of inspiration, possibly.

There was a question about disciplinary proceedings that happened during Judge Ademovic's presentation that that I feel was subsequently answered.

There was another question about the appraisal — sort of evaluation system — for the judges, which I think was largely also answered by the by the presentations later.

One interesting sub-element of it was the question like — to what extent do you feel that, that neutralizing the, the political influence in it, and also the, I think, often happening pitfall in the evaluations that focuses more on the quantity of cases without necessarily on the on the quality of the judgment and the level of effort it requires?

But maybe, you know, since we have really, last minute or two, I would post an open question to all three panelists representing different point of view to the, to the judicial situation in Montenegro. And that would be — you know, there is a there is an audience here of about two dozen professionals from various countries — so what, if anything, could outside actors, be it you know, peers or professionals or representatives or international organizations? What could they do or not to do in order to be useful for positive development of the situation in Montenegro? That would be my question.

FG: Great, perhaps Judge Ademovic we might ask you to answer that first, please.

JA: Judiciary is actually open for any kind of proposal or any kind of assistance. We are not the silos or the closed the Institution, we would like to be open and to cooperate in the best possible manner to receive knowledge, receive know-how, and skills from various institutions and international institutions. So is this something that we are eager on receiving.

MS: Thank you, any other comments or thoughts for your professional peers from other countries here in attendance?

IV: Yes, thank you Marek for the question. I think that international organization can really contribute to the better situation here. And that is, in my opinion, mainly, through providing our judges, prosecutors, with best practice, best comparative practice. Now, I'm thinking about the, for example, use of social media and one really interesting and useful guidebook from CEELI Institute. That can be something as already mentioned, which needs modern approach and which needs comparative analyses and recommendations and that can help a lot to representatives of judicial institutions.

MS: You know, I cannot resist to react on that point, of course. To say that Ivan is referring to the guidelines on conduct on social media for judges, which are available at our website. But so sorry, I just needed to use an elaborate on that point. Marijana, any final comments in that regard

MLD: In regard to the support generally speaking, judiciary has support of the European nation within the Euro project or the Council of Europe and so on. To the civil society sector, [incoherent] I think we would benefit from providing support when it comes to the issue of law. Because we are really, I think, huge problems when it comes to internships and bar examination. Definitely [incoherent], because the profession, the legal profession is actually complaining about the law —and I think this is the era.

When it comes to reliability or accountability, I must say that the NGOs and the Association of judges do not fulfil the purpose for which they were established. In my opinion, they work on promotion, promotion of the code is generally called the facts, so when it comes to the brochures, when it comes to the application of the code of ethics and also to inform the citizens [incoherent].

Maybe I'm too general about the institutions I hear. The thing is that I work a lot in this area, the executive branch of power, these are things that, in my opinion, really need their huge attention.

FG: The first thing I want to do is just to thank our panellists, most sincerely, thank you, Mirza, Marijana, and Ivan. Thank you for all your time for your preparation for this event, and for answering our questions. And also to thank everybody else who's turned up this evening and we look forward to seeing you all again.

We have another event in this series, which is happening on the eighth of March, and that will be with the judiciary in Romania. And if you'd like to tell anybody else about this event, the recording of the webinar will be available on our website at ceeliinstitute.org. So thanks again, stay safe and well everyone, and we look forward to seeing you again soon. All the best.

[Transcript Ends]