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**INTERNATIONAL COMMISSION OF JURISTS' SUBMISSION TO THE UNIVERSAL
PERIODIC REVIEW OF THE REPUBLIC OF SERBIA**

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SUBMISSION OF THE INTERNATIONAL COMMISSION OF JURISTS TO THE UNIVERSAL PERIODIC REVIEW OF THE REPUBLIC OF SERBIA

Introduction

1. The International Commission of Jurists (ICJ) welcomes the opportunity to contribute to the Human Rights Council's (HRC) Universal Periodic Review (UPR) of the Republic of Serbia (Serbia).
2. In this submission, the ICJ wishes to draw attention to the following issues:
 - a. the involvement of the National Assembly in the appointment and dismissal of judges and prosecutors;
 - b. the composition of the High Judicial Council (HJC)¹ and State Prosecutors' Council (SPC)²;
 - c. the tenure of judges, court presidents, public prosecutors, and deputy public prosecutors;
 - d. the protection of judges and prosecutors; and
 - e. Serbia's engagement with international human rights instruments and mechanisms.
3. The submission concludes with recommendations addressing the above-mentioned concerns. For more detailed coverage of these issues, please refer to the ICJ's Report on judicial independence in Serbia, published in 2016, and annexed to the present document.³

Background

4. An independent judiciary is a cornerstone to the rule of law, and essential to the proper administration of justice, and to guarantee the respect, protection and fulfillment of human rights, and access to justice, including under articles 2.3 and 14 ICCPR.⁴ In countries where the public prosecution is part of or subordinate to the government, in order to satisfy their obligations under international human rights law to investigate and prosecute gross human rights violations effectively, independently, and impartially, States must guarantee that the prosecution service be at least autonomous.⁵
5. In response to the recommendations of its first UPR, Serbia accepted to "strengthen the rule of law as enshrined in the Constitution, and ensure the independence of the judiciary."⁶ In 2011, the UN Human Rights Committee (CCPR) urged Serbia to ensure strict observance of the judiciary's independence.⁷ During its second UPR, Serbia supported the recommendation to reinforce the judicial reform initiated in 2009 "with a view to ensuring the judiciary's independence [and] transparency".⁸
6. Despite legal reforms undertaken, Serbia's legal framework still allows the executive and the legislative powers to exercise undue influence on the HJC and the SPR.

(a) The National Assembly's involvement in the appointment and dismissal of judges and prosecutors

7. The judiciary and the prosecution service must exercise their functions free from direct or indirect external influences, pressures, threats or interferences, including from the legislative and executive powers.⁹ The Consultative Council of European Judges (CCJE) has stated that the selection, appointment, discipline, and ethics of judges, as well as the administration of the judiciary, should be core tasks of a Council for judges, and that such tasks should be fulfilled independently.¹⁰ Executive and parliamentary interference in the disciplining and removal of judges should be limited.¹¹
8. In Serbia, the National Assembly appoints the President of the Supreme Court of Cassation, court presidents, and all other judges, upon the proposal of the HJC.¹² Public prosecutors are appointed by the National Assembly from a list of candidates sent by the Government but determined by the SPC.¹³ In the case of deputy public prosecutors, the

procedure is similar, but the Government is not involved.¹⁴ The National Assembly can dismiss public prosecutors upon the proposal of the government, following a decision by the SPC.¹⁵ It can also dismiss court presidents after proposal of the HJC¹⁶ and the President of the Supreme Court of Cassation.¹⁷

9. The legislative power therefore holds an undeniable influence over the appointment and dismissal of judges and prosecutors, thus threatening their independence. This threat is exacerbated by the fact that the Constitution of Serbia expressly allows party discipline in the National Assembly,¹⁸ making the legislature effectively subservient to the executive.
10. International human rights bodies agree that parliamentary assemblies should have no place in the appointment of judges, and that this task should be entrusted to an independent body, such as a Council for the judiciary.¹⁹ The European Commission for Democracy through Law (Venice Commission),²⁰ and the UN Committee against Torture²¹ have criticized the role of the Serbian National Assembly in the appointment and dismissal of judges. The Venice Commission has also stated that the appointment of prosecutors "can be done ideally in the framework of an independent body like a democratically legitimized Prosecutorial Council".²² In 2016, the EU European Commission stated that Serbia's legal framework leaves "scope for political influence in the recruitment and appointment of judges and prosecutors",²³ and recommended that "[t]he role of the National Assembly in high-level judicial appointments should be eliminated".²⁴
11. Court presidents exercise significant power over court administration, case allocation, and recusal of judges.²⁵ External influence on them may therefore translate into internal influence, against which judges must be protected.²⁶ The CCJE has recommended involving the judges of the court in question in the selection and appointment process for their court's presidents.²⁷
12. The ICJ welcomes the fact that Serbia is undergoing an accession process to the EU that includes the commitment to ensure an independent judiciary.²⁸ In this context, Serbia announced it is committed to removing the role of the National Assembly in the "appointment of court presidents, judges, public prosecutors [and] deputy public prosecutors".²⁹ However, the ICJ remains concerned that no proposal for the amendment of the Constitution necessary to translate the above-mentioned commitment into reality has been submitted yet.³⁰

(b) Composition, election and dismissal of the members of the HJC and the SPC

13. The establishment of Councils for the Judiciary and Prosecution is recommended by international bodies such as the Consultative Council of European Prosecutors (CCPE) and the Venice Commission.³¹ The executive should not have any influence on the election of the Councils, or in their work.³² According to international standards, in Councils (i.e., for the Judiciary and Prosecution) judges and/or prosecutors should be the majority of members.³³ In Councils for the Judiciary, the judge members should be elected by their peers, and "[a]ll forms of appointment by authorities internal or external to the judiciary should be excluded".³⁴ The Ministry of Justice should not participate in transfer and disciplinary proceedings of judges;³⁵ political representatives should not be members of disciplinary bodies for judges³⁶ (such bodies instead must be independent)³⁷; and non-judge members should not be appointed by the executive or legislature.³⁸ Only Councils free of external influence can safeguard the independence of judges and prosecutors.
14. The independence and autonomy of the HJC and SPC is crucial since they propose, directly or indirectly, the candidates for the offices of the President of the Supreme Court of Cassation, court presidents, all other judges, public prosecutors and deputy public prosecutors to the National Assembly.³⁹ If only one name is mentioned, the National Assembly can only accept or reject it.⁴⁰ Additionally, the HJC is the sole body that appoints all judges to permanent office after the probationary period of three years (see below).⁴¹ The HJC also decides, among other things, on the transfer of judges⁴² and their dismissals,⁴³ and is considered a second-instance disciplinary body.⁴⁴ It also makes proposals to the National Assembly for the dismissal of court presidents.⁴⁵ The powers of

the SPC are similarly extensive, as it is the sole body that appoints deputy public prosecutors after their probation period, and that can dismiss them.⁴⁶ Additionally, it issues a first decision on the dismissal of public prosecutors, that the government may bring before the National Assembly for a final decision.⁴⁷ However, for the reasons set out below, the ICJ considers that the self-governance of the judiciary and of the prosecution service, entrusted to the two Councils, is weak.

15. Each Council has three *ex officio* members: the Ministry of Justice, the Chairperson of the relevant committee of the National Assembly, and the president of the Council which is either the President of the Supreme Court of Cassation (for the HJC), or the Republic Public Prosecutor (for the SPC).⁴⁸ The other 8 members are elected by the National Assembly and comprise a lawyer proposed by the Serbian Bar Association and a law professor recommended by the Deans of law faculties in Serbia, per Council, 6 permanent judges proposed by the HJC (for the HJC), and 6 permanent public prosecutors or deputy public prosecutors proposed by the SPC (for the SPC).⁴⁹ The SPC and HJC must propose to the National Assembly candidates for these last positions who must have been previously elected by the judges or prosecutors.⁵⁰ It is also the National Assembly that decides on the dismissal of the members of the Councils, after a proposal by the respective Council.⁵¹ There is therefore a major influence of the legislative power in the election and dismissal of the members of the Councils. This seriously undermines the independence of the HJC⁵² and exposes the appointment and promotion of judges to political pressure.⁵³
16. The influence of the legislative power on the Councils is even more alarming considering the grip, mentioned above, that the executive has on the National Assembly. The ICJ agrees with the Venice Commission's statement that both the election and the composition of the HJC is a "recipe for the politicization of the judiciary"⁵⁴, and strongly considers that the rules of appointment of the Councils do not ensure their independence from the executive in law and in practice. The powerful influence of the executive on the governance of the two professions is an unacceptable infringement of their independence and autonomy.
17. The ICJ welcomes the commitment of Serbia in its National Judicial Reform Strategy to exclude the National Assembly "from the process of appointment of ... members of the [HJC and the SPC and to introduce] changes in the composition of the [HJC and SPC] aimed at excluding the representatives of the legislative and executive branch from membership in these bodies".⁵⁵ The ICJ urges the adoption of these constitutional amendments.

(c) Tenure of judges, court presidents, public prosecutors, and deputy public prosecutors

18. Security of tenure for judges and prosecutors is a crucial element to ensure the independence of the judiciary and the prosecution service.⁵⁶ Indeed, when the law provides for a possible re-appointment, there is the risk that the judge will face political or executive pressure. As a result, international bodies have recommended that judges and prosecutors should be appointed until retirement.⁵⁷
19. In Serbia, public prosecutors are elected for a period of six years, and may be re-elected.⁵⁸ Deputy public prosecutors are elected for a probation period of three years,⁵⁹ a practice that the OSCE recommended abandoning.⁶⁰
20. The Law on Judges previously provided that judges were appointed to the post of court president for a non-renewable period of five years. After recent amendments, judges are now appointed to this position for a four-year, renewable term.⁶¹ This amendment, which provides for their re-appointment as court president, is a step backwards from the general movement towards judicial independence, and is particularly detrimental to the independence of the judiciary due to the significant power court presidents hold in the judicial system (as seen above).

21. Serbian law provides that judges are first elected for a probation period of 3 years, after which they can be appointed to a permanent position.⁶² According to domestic law, a judge who has performed his or her judicial duties exceptionally must be appointed to permanent tenure. However, in case of negative evaluation, he or she cannot be re-appointed.⁶³ The Special Rapporteur on the independence of judges and lawyers stated that “the requirement of re-appointment following a probationary period runs counter to the principle of the independence of judges”.⁶⁴ International bodies have affirmed that, due to the undue pressure this requirement may put on judges, it is permissible only “provided that life appointment or fixed tenure is automatically granted afterwards”⁶⁵, and the tenure can only be terminated “for health reasons or as a result of disciplinary proceedings”.⁶⁶ The Venice Commission stated that the non-reconfirmation of office after three years must follow the same procedural safeguards which would apply to a permanent judge.⁶⁷ This probation period is rendered *a fortiori* undesirable due to the fact that judges fully exercise the judicial function during this period.⁶⁸

(d) Protection of judges and prosecutors

22. Although article 6 of the Law on Organization of Courts explicitly prohibits all forms of influence on the courts, in its evaluation report of 2014, the Group of States Against Corruption (GRECO) was “repeatedly told that both politicians and the media exert significant pressure on the judiciary – including with regard to specific cases – resulting in fear [...] on the part of judges and prosecutors”.⁶⁹ This contravenes the Council of Europe’s Recommendation on judges which provides that the “executive and the legislative powers should avoid criticism that would undermine the independence of [...] the judiciary.”⁷⁰ Prosecutors and judges who do not feel safe cannot act independently, and it is therefore a duty of the State to take the necessary steps to protect them.⁷¹ The European Commission has expressed concern at this external pressure, which continuously hampers the independence of judges, “without adequate protective measures being taken by the HJC and SPC”.⁷² The ICJ is pleased that in January 2016 the Code of conduct for government members stipulating the limits of commenting on judicial decisions and procedures, was approved, and that, in line with the Action Plan, a similar code for members of the National Assembly has been drafted.⁷³ The ICJ however remains concerned that, according to the report of a reputable NGO, the Code provisions have been “violated virtually on a daily basis”, and thus comments were made in a way that can be “interpreted as pressure on the courts and prosecutors”, and that the Code does not lay down any penalties for its infringement.⁷⁴ The ICJ agrees with the Human Rights Committee that cases of political pressure against judges and prosecutors should be strictly investigated and sanctioned.⁷⁵ The ICJ is furthermore alarmed that the Councils do not have an established and codified procedure for the protection of judges and prosecutors from attacks on their independence, autonomy, and professional integrity,⁷⁶ which is at odds with international standards stating that in a situation of threat to their independence, judges “should be able to have recourse to a council for the judiciary or another independent authority, or they should have another means of remedy”.⁷⁷

International human rights instruments and mechanisms

23. Serbia is a party to several of the core human right treaties, but it has not yet ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure⁷⁸, and the ICRMW.⁷⁹ It is not a party to the Optional Protocol to the ICESCR.⁸⁰

Recommendations:

24. The ICJ calls upon the Working Group and the HRC to recommend to the Serbian authorities the following.

Concerning the independence of the judiciary and prosecution service

1. Preclude any involvement of the National Assembly in the appointment and dismissal of judges, court presidents, public prosecutors, and deputy public prosecutors.

2. Provide that the selection and appointment of court presidents involve the judges of their respective court.
3. Remove the role of the National Assembly in the appointment and dismissal of the members of the HJC and SPC. Judges should be elected as members of the HJC only by their peers.
4. Remove the Ministry of Justice and the chairperson of the relevant committee of the National Assembly as members of the HJC and the SPC. An *ad hoc* or observer status could be provided for the Ministry of Justice in both Councils, and he/she should not have power in the decisions of appointment, transfer, and disciplinary procedures for judges.
5. Remove the probationary period for deputy public prosecutors and judges.
6. Appoint public prosecutors until retirement.
7. Remove the provision providing for re-appointment of court presidents.
8. Put in place a codified procedure for the protection of judges and prosecutors from attacks on their independence, autonomy, and professional integrity, with annual reporting on its implementation and use; cases of political pressure against judges and prosecutors should be strictly investigated and sanctioned.
9. All the changes to the Constitution and the relevant legislative changes should be made during this cycle.

Concerning international human rights instruments and mechanisms

- a. Ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure⁸¹, and the ICRMW; and
- b. become a party to the Optional Protocol to the ICESCR.

ENDNOTES

¹ Article 153, Constitution of Serbia of 2006 ("Constitution"): The High Judicial Council is "an independent and autonomous body which shall provide for and guarantee independence and autonomy of courts and judges."

² Article 164, Constitution: The State Prosecutors' Council is autonomous and "provide[s] for and guarantee[s] the autonomy of Public Prosecutors and Deputy Public Prosecutors".

³ International Commission of Jurists (ICJ), Serbia's Judges and Prosecutors: The Long Road to Independent Self-Governance, A Mission Report, 2016.

⁴ International Covenant on Civil and Political Rights; ICJ Act of Athens (1995); ICJ Declaration of Dehli (1959); UN Basic Principles on the Independence of the Judiciary, adopted by the 7th United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, Principle 1; Recommendation of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies, CoE Doc. CM/Rec(2010)12 ('Council of Europe Recommendation on judges'), Preamble and articles 3 and 7; Magna Charta of Judges, adopted by the Consultative Council of European Judges (CCJE) at its 11th plenary meeting, 17-19 November 2010 ('Magna Charta of Judges'), article 3 ("judicial independence shall be statutory, functional and financial"); CCJE, Opinion No. 10 (2007) of the Consultative Council of European Judges to the attention of the Committee of Ministers of the Council of Europe on the Council for the Judiciary at the Service of Society, adopted at its 8th meeting, 21-23 November 2007 ('Opinion No. 10'), para. 9.

⁵ Consultative Council of European Prosecutors (CCPE), Opinion No. 9 (2014) of the of the Consultative Council of European Prosecutors to the Committee of Ministers of the Council of Europe on European norms and principles concerning prosecutors, adopted at its 9th meeting, 16-17 December 2014 ('Opinion No. 9'), para. 33; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005, principle 2; Economic and Social Council, Promotion and Protection of Human Rights: Impunity, Report of the independent expert to update the Set of principles to combat impunity, Addendum, Updated Set of principles for the protection and promotion of human rights through action to combat impunity, UN DOC. E/CN.4/2005/102/Add.1 (2005), Principle 19.

⁶ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Serbia, UN Doc. A/HRC/10/78 (2009), para. 57.17; Human Rights Council, Report of the Working Group on the Universal Periodic Review: Serbia, Addendum: Views on conclusions and/or recommendations, voluntary

commitments and replies presented by the State under review, UN Doc. A/HRC/10/78/Add.1 (2009), para. 31.

⁷ CCPR, Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee: Serbia, UN Doc. CCPR/C/SRB/CO/2 (2011), para. 17.

⁸ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Serbia, UN Doc. A/HRC/23/15 (2013), para. 132.60.

⁹ Council of Europe, Challenges for judicial independence and impartiality in the member states of the Council of Europe (2016), paras. 19, 39 and 41; CCPE, Opinion No. 9, para 38; CCPE, Rome Charter, adopted at its 9th meeting, 16-17 December 2014 article V; UN Basic Principles on the Independence of the Judiciary, Principle 4; CCPE, Opinion No. 11 (2016) of the Consultative Council of European Prosecutors on the quality and efficiency of the work of prosecutors, including when fighting terrorism and serious and organised crime adopted by the CCPE at its 11th plenary meeting, 17-18 November 2016, para. 22.

¹⁰ CCJE, Opinion No. 10, para. 42.

¹¹ Council of Europe, Plan of Action on "Strengthening Judicial Independence and Impartiality", adopted at the 1253rd meeting of the Ministers' Deputies, 13 April 2016, action 1.3.

¹² Articles 144 and 147, Constitution; Article 71, *Law on Judges*.

¹³ Article 74, *Law on Public Prosecution*.

¹⁴ Article 159, Constitution.

¹⁵ Article 97, *Law on Public Prosecution*.

¹⁶ Articles 74 and 77, *Law on Judges*.

¹⁷ Article 144, Constitution.

¹⁸ Article 102, Constitution.

¹⁹ Council of Europe, European Charter on the Statute of Judges, adopted at the at the multilateral meeting on the statute for judges in Europe, 8-10 July 1998, para. 2.1; Magna Charta of Judges, para. 5; CCJE, Opinion No. 10, para. 48; European Commission for Democracy through Law (Venice Commission), Report on European standards as regards the independence of the judicial system: Part II—The Prosecution Service, adopted at its 85th Plenary Session, 17–18 December 2010 ('Report on the prosecution service'), para. 48; Venice Commission, Opinion on the draft amendments to the Law on the High Judicial Council of Serbia, CoE Doc. CDL-AD(2014)028, 13 October 2014, para. 16; Human Rights Europe, 2 July 2015, <http://www.humanrightseurope.org/2015/07/serbia-must-improve-measures-for-preventing-corruption-among-parliamentarians-judges-and-prosecutors/>.

²⁰ Venice Commission, Opinion on rules of procedure on criteria and standards for the evaluation of the qualification, competence and worthiness of candidates for bearers of public prosecutor's function of Serbia, CoE Doc. CDL-AD(2009)022, 15 June 2009; Venice Commission, Opinion on the provisions on the judiciary in the draft Constitution of the Republic of Serbia, CoE Doc. CDL-AD(2005)023, 24 October 2005; Venice Commission, Opinion on the Constitution of Serbia, CoE Doc. CDL-AD(2007)004, 19 March 2007; Venice Commission, Opinion on the draft laws on judges and on the organization of courts in the Republic of Serbia, CoE Doc. CDL-AD(2008)007, 19 March 2008.

²¹ Committee against Torture, Concluding observations on the second periodic report of Serbia, UN Doc. CAT/C/SRB/CO/2, para. 22.

²² Venice Commission, Report on the prosecution service, para. 48 (bold in the original text).

²³ European Commission, Commission Staff Working Document: Serbia 2016 Report ('Serbia Progress Report'), 9 November 2016, pg. 12.

²⁴ European Commission, Serbia Progress Report, pg. 55.

²⁵ ICJ, Serbia's Judges and Prosecutors: The Long Road to Independent Self-Governance, A Mission Report, pgs. 42-43; Article 40, *Code of Criminal Procedure*.

²⁶ UN Special Rapporteur on the independence of judges and lawyers, Annual Report to the UN Human Rights Council, UN Doc. A/HRC/11/41, 24 March 2009 ('Annual Report 2009'), para. 48; Magna Charta of Judges, Article 10.

²⁷ CCJE, Opinion No. 19 (2016) of the Consultative Council of European Judges on the Role of court presidents, adopted at its 17th plenary meeting, 8-10 November 2016, para. 53.

²⁸ Under Chapter 23 of the EU acquis.

²⁹ National Assembly of Serbia, National Judicial Reform Strategy 2013-2018, 1 July 2013, pg. 7; Republic of Serbia Negotiation Group for Chapter 23, Action Plan for Chapter 23, April 2016, Recommendation 1.1.1.

³⁰ Council for Implementation of the Action Plan for Chapter 23, Report 1/2017 on implementation of the Action Plan for Chapter 23, April 2017, pg. 5.

³¹ CCPE, Opinion No. 9, para. 54; Venice Commission, Report on independence of the judicial system—Part I: the independence of judges, adopted at its 82nd Plenary Session, Venice, 12–13 March 2010, para. 32.

³² Council of Europe, Challenges for judicial independence and impartiality in the member states of the Council of Europe, para. 114.

³³ CCJE, Opinion No. 10, para. 18; UN Special Rapporteur on the independence of judges and lawyers, Annual Report to the UN Human Rights Council, UN Doc. A/HRC/20/19, 7 June 2012 ('Annual Report 2012'), para. 62.

³⁴ CCJE, Opinion No. 10, para. 31; Council of Europe Recommendation on judges, article 27.

³⁵ Venice Commission, Judicial Appointments, adopted at its 70th Plenary Session, Venice, 16–17 March 2007 ('Report on judicial appointments'), paras. 33 and 34.

³⁶ UN Special Rapporteur on the independence of judges and lawyers, Annual Report to the UN Human Rights Council, UN Doc. A/HRC/26/32, 28 April 2014, para. 93.

³⁷ Council of Europe, Plan of Action on "Strengthening Judicial Independence and Impartiality", Action 1.3.

³⁸ CCJE, Opinion No. 10, para. 32; Council of Europe, Plan of Action on "Strengthening Judicial Independence and Impartiality", para. C.II.

³⁹ Articles 144, 147 and 159, Constitution; article 70, *Law on Judges*; article 74, *Law on Public Prosecution*.

⁴⁰ Article 74, *Law on public prosecution*; article 50.4, *Law on Judges*.

⁴¹ Article 147, Constitution.

⁴² Article 13, *Law on High Judicial Council*.

⁴³ Article 148.2, Constitution.

⁴⁴ OSCE Mission to Serbia, Legal framework and overview of case law on disciplinary responsibility of judges, May 2016, pg. 43.

⁴⁵ Articles 65, and 77, *Law on Judges*.

⁴⁶ Articles 159.7 and 161.3, Constitution.

⁴⁷ Articles 94 and 97, *Law on Public Prosecution*.

⁴⁸ Articles 153 and 154, Constitution.

⁴⁹ Articles 153 and 154, Constitution; articles 20 and 35, *Law on High Judicial Council*; articles 20 and 35 *Law on the State Prosecutorial Council*.

⁵⁰ Article 20, *Law on High Judicial Council*; article 20, *Law on the State Prosecutorial Council*.

⁵¹ Article 46 *Law on High Judicial Council*; article 46, *Law on the State Prosecutorial Council*.

⁵² Council of Europe, Challenges for judicial independence and impartiality in the member states of the Council of Europe, para. 86.

⁵³ Group of States against Corruption (GRECO), Fourth Evaluation Round: Corruption prevention in respect of members of parliament, judges and prosecutors—Serbia ('Fourth Evaluation Round'), CoE Doc. Greco Eval IV Rep (2014) 8E, 2 July 2015, para. 99.

⁵⁴ Venice Commission, Opinion on the Constitution of Serbia, para. 70.

⁵⁵ National Assembly of Serbia, National Judicial Reform Strategy 2013-2018, pg. 7.

⁵⁶ UN Special Rapporteur on the independence of judges and lawyers, Annual Report 2012, para. 67; CCJE Opinion No. 1 (2001) paras. 52 and 57.

⁵⁷ Venice Commission, Report on the prosecution service, para. 50; CCJE, Opinion No. 1 (2001) of the Consultative Council of European Judges for the attention of the Committee of Ministers of the Council of Europe on Standards concerning the independence of the judiciary and the irremovability of judges, adopted at its 2nd meeting, 21-23 November 2001, para. 48.

⁵⁸ Art 159.3, Constitution.

⁵⁹ Art 159.6, Constitution.

⁶⁰ Joint Report of the OSCE Mission to Serbia and the ODIHR, Report on Monitoring of Peer Elections for the High Judicial Council and State Prosecutors' Council of the Republic of Serbia, 23 May 2016, pg. 30.

⁶¹ Article 72.1, *Law on Judges*.

⁶² Articles 146 and 147; Constitution.

⁶³ Art 52; *Law on Judges*.

⁶⁴ UN Special Rapporteur on the independence of judges and lawyers, Annual Report 2009, para. 56.

⁶⁵ UN Special Rapporteur on the independence of judges and lawyers, Annual Report 2009, para. 56.

⁶⁶ Council of Europe, Challenges for judicial independence and impartiality in the member states of the Council of Europe, para. 154.

⁶⁷ Venice Commission, Report on judicial appointments, para. 41.

⁶⁸ ICJ, Serbia's Judges and Prosecutors: The Long Road to Independent Self-Governance, A Mission Report, pg. 24.

⁶⁹ GRECO, Fourth Evaluation Round, para. 95.

⁷⁰ Council of Europe Recommendation on judges, article 18.

⁷¹ Council of Europe, Challenges for judicial independence and impartiality in the member states of the Council of Europe, para. 155.

⁷² European Commission, Serbia Progress Report, pgs. 12-13.

⁷³ Republic of Serbia Negotiation Group for Chapter 23, Action Plan for Chapter 23, Activity 1.1.6.1.

⁷⁴ Belgrade Centre for Human Rights, Human Rights in Serbia 2016: Law, Practice and International Human Rights Standards, 2017, pgs. 114 and 179.

⁷⁵ Human Rights Committee, Concluding observations on the third periodic report of Serbia, 2017, para. 35.

⁷⁶ ICJ, *Serbia's Judges and Prosecutors: The Long Road to Independent Self-Governance, A Mission Report*, pgs. 22-23.

⁷⁷ Council of Europe Recommendation on judges, article 8.

⁷⁸ Signed by Serbia in 2012.

⁷⁹ International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, signed by Serbia in 2004.

⁸⁰ Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

⁸¹ Signed by Serbia in 2012.