

July 16, 2012

With regard to the Constitutional Court decision from July 11, 2012, Judges' Association of Serbia issues the following

S T A T E M E N T

In June 2012, both associations of European judges (European Association of Judges and Magistrats Européens pour la Démocratie et les Libertés - MEDEL), CCJE - Consultative Council of European Judges of the Council of Europe as well as two independent experts i.e. judges from France and Germany, issued an identical assessment as well as proposals for the solution of the judicial crisis resulting from the implementation of reappointment of all judges in Serbia.

Unanimous stand of the European experts underlines that the reappointment violated European standards of the permanence of judges' function as a guarantee of judicial independence, which represents basic foundation of the rule of law. As one of the measures for overcoming the negative effects of the reappointment, experts suggested reintegration of non reappointed judges and prosecutors into judicial system.

The Constitutional Court decision of 11th July 2012 states the following: "first composition of the High Judicial Council conducted proceedings of the general election in inappropriate manner and not in accordance with standards of fair trial, which resulted in conclusion that it cannot be considered, legally, that HJC has established that any of the non-reappointed judges do not meet legal requirements for appointment to permanent position. In addition, citing reasons related to each of non-reappointed judges, Constitutional Court noted that "the electiveness assumption is not overturned for any one of the applicants."

However, the decision of the Constitutional Court only applies to bit more than 120 non-reappointed judges out of 837 of them. At this point, before the Constitutional Court there are more than 200 judges and 120 prosecutors' complaints. Furthermore, approximately 150 judges are drafting the appeal to the Constitutional Court, while High Judicial Council did not deliver individual decisions for approximately 300 judges.

This is why Judges' Association of Serbia find that Constitutional Court should consider the possibility of putting to an end the problem that for three years shatters Serbian judiciary as well as society in general and provide the decision from 11th July 2012 with pilot character, pursuant to Article 87 in conjunction with Article 102 and Article 102a of the Law on Constitutional Court (bearing in mind that the decision has legal effect only after being served to the participants and that it may be revised by then) and state that it applies to all non-reappointed judges and prosecutors who did not file an appeal, but are in the same legal position.