



## **DECLARATION OF THE CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)**

### **ON THE REVIEW OF THE DECISIONS OF THE HIGH COUNCIL OF JUDICARY ON THE ELECTION OF JUDGES IN SERBIA<sup>i</sup>**

The Consultative Council of European Judges (CCJE)

recalling its Declaration of 19.3.2010 on the Reform of the Judiciary in Serbia where it

(1) identified the process of Re-Appointment Process of all Judges in Serbia including judges who already had offices with permanent tenure as being in conflict with international and European standards;

(2) urged the Serbian authorities to grant an effective remedy before an independent body which should be composed by judges appointed according to criteria, and use a procedure, agreed by the relevant actors, where due process guarantees of the European Convention of Human Rights should be applicable and international bodies such as the Venice Commission and the CCJE, as well as international and national judges' associations, should be associated to this independent instance as observers;

taking account of:

(1) the fact that Serbia has started a review of the decision of the High Judicial Council regarding the judges which have not been re-appointed;

(2) the Rules of Procedure of the Review Procedure which had been adopted by the High Judicial Council after consultation with the Venice Commission and international experts;

(3) the Opinion of the Ombudsman of Serbia of 11.01.2012 about serious short-comings in the review process;

(4) the Resolution concerning Serbia adopted by the International Association of Judges on 10.11.2010;

(5) the information provided by the Judges Association of Serbia;

issues the following

**Declaration:**

1. The CCJE reiterates that the termination of tenure of Serbian judges violates the principle of irremovability of judges, and infringes the international standards;

2. While a full remedy for these infringements would necessitate a legislation which re-installs the judges concerned or at least a review procedure regarding the judges who have not been re-elected by an independent judicial body applying a procedure by which the guarantees contained in Article 6 of the European Convention on Human Rights would be exercised;

3. The CCJE regrets that there are serious doubts that the re-view procedures which have been exercised by the High Judicial Council have actually followed the requirements expressed in Article 6 of the Convention;

4. The CCJE therefore underlines once more the necessity of Serbia amending its legal framework to remedy the violations of international standards which has been caused by the non-re-election of judges, who enjoyed previously permanent tenure, and by the shortcomings in the review procedures that have been followed;

5. The CCJE stands ready to assist the Serbian authorities by giving its opinion if so requested. The CCJE will follow the further developments with interest and ask its Serbian member to give a report at the next plenary meeting.

Strasbourg, 18.6.2012

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<sup>i</sup> [http://www.coe.int/t/dghl/cooperation/ccje/cooperation/Declaration\\_Serbia\\_2012\\_CCJE.asp](http://www.coe.int/t/dghl/cooperation/ccje/cooperation/Declaration_Serbia_2012_CCJE.asp)