

## Conclusions

### from third extra ordinarily Assembly of Judges' Association of Serbia held on 26<sup>th</sup> of December 2009

#### **1. The Judges' Association of Serbia reached the conclusions that in the procedure of (re)election of judges, the High Judicial Council has made the mistakes as follows:**

- the High Judicial Council has been constituted against the Constitution and Laws of Republic of Serbia;
- the High Judicial Council worked and rendered the decisions in improper way and manner as well as against the legal procedure;
- the High Judicial Council has entered secrecy in their work as well as decision making and that way of work resulted not only with high level of doubt in public yet with general doubt in existence of secret and not transparent criteria and political influence in subject (re) election of judges;
- the High Judicial Council denied and failed to request and obtain the opinions from the sittings of all judges about the candidates i.e. current judges with permanent judging function prior to issuing any decision;
- the High Judicial Council disabled the judges to give their own opinion with regards to the criteria used in the procedure of (re)election and based on which was concluded that not (re)elected judges are not fulfilling the level of expertise, capability and integrity needed;
- the High Judicial Council has failed to denounce the decisions with strict and concrete reasons why they were not (re) elected together with legal remedy note.

#### **2. The Judges' Association of Serbia**

- requests from the President of Republic of Serbia to give an explanation with regards to his statement that there were not political influence on the (re)election of the judges;
- requests from High Judicial Council to present and denounce the decision with strict and concrete reasons and explanations to each not (re) elected judge together with legal remedy note;
- requests from the High Judicial Council to reconsider the decision about the minimum number of judges needed or to publicly explain the reasons why the number of judges is reduced for 25%.

#### **3. Judges' Associations shall:**

- consider not reelected judges in the current (re)election procedure as its members as long as the High Judicial Counsel renders decisions containing the reasons and explanation to every single not (re)elected judge and as long as the appeal procedures upon those decisions are final;
- provide legal support to all not elected judges aiming to valid protection of their rights with respect to the (re)election procedure;
- requests from the High Judicial Counsel to disclose all data and information used in making decisions and ranking all candidates upon its expertise, capability and integrity, minutes from its sittings and to reveal the sources of those data;

- inform the Council of Europe, European Commission, Venetian Commission, UN Special Rapporteur for independent status of justice in the member state as well as all relevant international institutions, organizations and bodies;
- submit to the National Assembly of Republic of Serbia the suggestion to temporarily cancel and stop with issuing the decisions on election of new judges until all the constitutional and legal rights of not (re)elected judges are fully protected and decisions on their claims are rendered in order to allow possible mistakes to be solved.