

6th March, 2011

The results of the judicial elections have shown the shortcomings Judges' Association of Serbia warned about.

COURTS				NUMBER OF JUDGES WHO VOTED	VOTES	%	CANDIDAT	
REPUBLIC	SUPREME COURT OF CASSATION			24	72	40	55%	MIRJANA IVIĆ
	COMMERCIAL APPELLATE COURT			25				
	ADMINISTRATIVE COURT			23				
APPELLATE	BELGRADE			80	218	63	29%	MILIMIR LUKIĆ
	KRAGUJEVAC			53				
	NIŠ			35				
	NOVI SAD			50				
HIGH AND COMMERCIAL	HIGH			273	397	100	25%	ALEKSANDAR STOILJKOVSKI
	COMMERCIAL			124				
BASIC AND MISDEMEANOR	BASIC	SERBIA without AR	616	827	1433	172	12%	SONJA VIDANOVIĆ
		Autonomous Regions	211					
	MISDEMEANOR	SERBIA without AR	475	606		308	21%	BLAGOJE JAKŠIĆ
		Autonomous Regions	131					
AUTONOMOUS REGIONS	VOJVODINA	NOVI SAD APPELLATE		50	477	233	57%	BRANKA BANČEVIĆ
		HIGH		63				
		COMMERCIAL		32				
		BASIC		211				
		MISDEMEANOR		121				
	KOSOVO I METOHIJA	HIGH		8	32			
		BASIC		14				
		MISDEMEANOR		10				
TOTAL				509				

Having in mind the European Commission's statements that "the reappointment procedure for judges was carried out in a non-transparent way, putting at risk the principle of the independence of the judiciary" and that: "Until the review (of the reappointments) is completed any further consolidation of the situation resulting from the re-appointment procedure should be avoided", the Judges' Association of Serbia indicates that the judicial elections, based on legislation changes in December 2010, considerably consolidated the consequences of re-appointment even before its thorough review, which is putting at risk the independence of judiciary. It had been done in several ways, namely by:

- Exclusion from the electoral process 837 non-reappointed judges, whose final legal status is not final yet
- Inclusion in the electoral process 606 misdemeanor judges who don't have the permanent tenure, although the process of assessing the compliance with the Constitution of the provision that gives misdemeanor judges the right to vote is still pending before the Constitutional Court (the judge rapporteur proposed to Constitutional Court to declare this provision unconstitutional), and further more, each decision of the election of these judges will be reviewed by the newly elected HJC
- Inappropriate representation, and not in compliance with Aquis, of judges regarding the types and levels of courts and number of judges within the peers
- Failure to ensure the legitimacy and credibility of the new High Judicial Council due to the lack of appropriate campaign, single round elections and three times shorter periods for the elections (60 days instead of 6 months), thus providing political impact on election results

Although Constitution prohibits Presidents of court to be members of the High Judicial Council, two elected candidates are acting court presidents (Zrenjanin and Subotica). Performing the function of the President of the court for more than a year, significantly determines the position and influence of acting presidents, and places them in privileged position in judicial elections.

From current data it is clear that the elections failed to provide credible results, since four of the six candidates received the support of only about ¼ of their peers, some not more than 12%, while the only candidate of the republic rank courts received only 55% of the votes.

Once again, judges in civil matters, that process 75-80% of all cases in Serbia, will be represented by only one candidate (from the commercial judiciary) out of the six elected members from the judges in the new composition of the High Judicial Council.

It is interesting that out of six elected judges - candidates the half (three out of six) are from the courts in Vojvodina, although only about ¼ of the total number of judges in Serbia are in Vojvodina, and that there is not a single candidate from the area of appellate courts in Kragujevac and Niš.

Judges' Association of Serbia expects that the Election Commission of HJC, without any delay, publish the minutes from all polling stations, because the thorough analysis of judicial elections is in Serbia's public interest.