

Belgrade, 30 October 2017

To the Ministry of Justice

Professional associations, being completely devoted to promoting the rule of law in Serbia have relentlessly supported, since their establishment, the elimination of every form of unacceptable influence over the judiciary and promotion of the quality justice system. The preconditions for such a system are the independence of the judiciary and the autonomy of the public prosecution. Both of them can predominantly be achieved by the competent work of the professionals with integrity.

Professional associations responded to the Ministry of Justice call concerning the amendments to the Constitution of the Republic of Serbia from May 2017, in response they provided their written contributions in June 2017, and later on they actively engaged in consultations.

In its accession negotiations with the European Union the Republic of Serbia has assumed an obligation to ensure elimination of political influence over the judiciary by amending the Constitution. For the reason, the National Commission for the reform of the judiciary, through its working group, has finalised the Analysis of the constitutional framework in the part on the judiciary back in 2014. The Serbian judiciary has fully supported the findings of this analysis in November 2016. After that, the professional associations have expected, and furthermore encouraged MOJ on several occasions, to launch the broadest possible public debate between the society and the state authorities, which will be based on already identified baseline for amending the Constitution with the aim of strengthening judicial independence.

However, in the absence of this baseline for constitutional amendments and also the expected broad public debate, the consultative process currently taking place is organised by the MOJ in form of several roundtables during which a certain number of professional associations and the CSOs are given an opportunity only to present their views, without any exchange of arguments, and only on topics pre-selected by the MOJ which neither belong to the constitutional matter, nor have the goal to strengthen the independence of the judiciary; on the contrary these topics serve the purpose of reinforcing the mechanism for political influences on the judiciary.

So, faced with avoiding the real debate on constitutional solutions and, above all, with diverting the public attention while neglecting the primary topic on which the debate should be taken – which is the independence of the judiciary – the Judges' Association of Serbia, Association of

Public Prosecutors and the Deputies, Centre for Judicial Research, Association of Court and Prosecution Assistants of Serbia, Committee of Lawyers for Human Rights - YUCOM and Belgrade Centre for Human Rights have taken a decision to suspend their further participation in such a process.

At the same time, these associations call upon the MOJ to do what all the other participants in the consultations have already done: to present to the Serbian public their draft of amendments to the Constitution of the Republic of Serbia in timely fashion, i.e. before sending it to the Venice Commission for the opinion, and to facilitate a comprehensive and substantive debate with the state authorities, thus giving this process a necessary legitimacy.

While remaining fully committed to finding the best solutions for the Serbian judicial system and considering that the only way to do so is to have a true debate, based on mutual recognition and respect for the proposals and opinions of all the participants therein, which can only then lead to finding the best solutions for strengthening the rule of law in Serbia, the associations stand ready to take part in the debate once the MOJ has presented the baseline for amending the Constitution of the Republic of Serbia.

Judges' Association of
Serbia

Association of Public
Prosecutors and Deputy
Public Prosecutors of
Serbia

Centre for Judicial
Research

Association of Court and
Prosecution Assistants of
Serbia

Committee of Lawyers for
Human Rights - YUCOM

Belgrade Centre for
Human Rights