

## **The High Prosecutorial Council conducted an illegal election of chief public prosecutors and public prosecutors**

Belgrade, June 21, 2023

The Working Group of the National Convention on Chapter 23 condemns the illegal election of new heads of public prosecutors and public prosecutors by the High Prosecutorial Council on June 19, 2023, thereby calling into question its commitment to implementing constitutional reforms. Certain competitions for chief public prosecutors were announced as early as 2021, and with the adoption of new laws, the method of selecting chief public prosecutors has been completely changed.<sup>1</sup> The most important change is that public prosecutors are no longer elected by the National Assembly of the Republic of Serbia, but by the High Prosecutorial Council, and that procedure must now be completely conducted by this body. Since this election grossly violates the new Law on Public Prosecution, we call for the initiation of proceedings from Article 56 (2) of the Law on the High Prosecutorial Council, and for the current president of this body, Branko Stamenković, to resign, as he obtains the function responsible for ensuring that the work of the Council is in accordance with the law.

The High Prosecutorial Council, which was formed in May 2023, from representatives of public prosecutors and prominent lawyers, proceeded to fulfill its primary responsibilities - the selection of new prosecutors - completely ignoring the new regulations and the spirit of constitutional changes. Prominent lawyers agreed to elect the candidates, although they did not directly participate in the election process and listened to the presentation of the candidates, which is why their new electoral authority was compromised. We remind you that at the same time, the High Judicial Council is currently conducting the election of court presidents and judges, which began before the entry into force of judicial laws, in accordance with the new regulations, which shows that the reasons for the urgency of the election are not opposed to following the legal action.

The different behavior of these two bodies with regard to the election of judicial/prosecutorial office holders does not contribute to citizens' confidence in the judiciary. The fact that the High Prosecutorial Council does not apply the improved selection procedure, in which public prosecution collegiums and prominent lawyers play an important role, raises suspicions that political criteria, and not professional ones, are once again decisive for personal prosecutorial decisions. The President of the High Prosecutorial Council made a key contribution to questioning the first election of prosecutors in Serbia since the constitutional changes, and to the fact that the decisions confirmed by the citizens in the referendum were completely rigged. Although the legal avenue of protection regarding illegal conduct before the Constitutional Court for the candidates who were not elected is forthcoming, the damage in terms of the perception of the commitment of the High Prosecutorial Council to judicial reform has already been made.

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<sup>1</sup> The Association of Public Prosecutors of Serbia had sent a letter to the High Prosecutorial Council at the beginning of June 2023 with concrete proposals for the implementation of this election, which the Council did not pay attention to. A letter indicated the differences in the selection procedure according to the old and new law, emphasizing in particular: that the new law introduced the obligation to obtain the opinion of the collegium for candidates for the position of chief public prosecutor; The National Assembly was electing public prosecutors at the time when the competitions were announced, which could have been discouraging for some of the candidates who were convinced that they would not be elected by the Assembly, and especially for those who already had such experiences and whose personalities and professional experiences commented by deputies; etc.