



IT'S NOT ALL ABOUT
QUALITY, THERE IS
ALSO SOMETHING IN
THE SPEED -
**THE POSTPONEMENT
OF THE EU
ACCESSION, LESS UP
TO 200 MILLION PER
YEAR**

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COMMENT

Ursula von der Leyen
– Doors and mind
open to Balkans

URSULA VON DER LEYEN – DOORS AND MIND OPEN TO BALKANS



Photo: Vjesti



By: Vladan Zugic

"President-elect of the European Commission. Mother of seven. Brussels-born. European by heart."

That is how introduced herself on her Twitter account **Ursula von der Leyen**, the first female President of the European Union's executive body in its history, former German Defence Minister, and Chancellor **Angela Merkel's** second political daughter, after **Annegret Kramp-Karrenbauer**, who took over the Christian Democratic Union (CDU) few months ago.

Von der Leyen has not tweeted that she is not a conventional politician, though not like her predecessor, outgoing European Commission (EC) head Jean-**Claude Juncker** from Luxembourg.

Namely, she made changes in the areas she led, made a fuss and fought with military structures, the authenticity of her doctoral thesis was questioned, and she comes to the forefront of the EC at a time of declining popularity due to poor state of affairs in the German military and parliamentary investigations on charges of expensive affairs of the Ministry of Defence with consulting firms, one of which is where her son is employed.

Due to the sudden election at such a period, the media also found that von der Leyen has lucky influence of the planets, although French President **Emmanuel Macron** and Merkel ensured such horoscope the most.

Von der Leyen, a physician who entered politics in the 1990s following her father's tradition, was elected as the President of the EC in mid-June at the session of the European Parliament with 383 votes in favour, or just nine more than the minimum required.

She is set to take office in Brussels, city where she spent the first 13 years of her life, on 1 November 2019. This day is scheduled exit of United Kingdom from the EU, the country where she lived a year when she was young. Until then, the President-elect of the EC will visit European capitals to form a new Commission.

In her first public speeches, von der Leyen announced overcoming of growing differences between the old and

the new Europe, and when it comes to migrant crisis, she expressed the need to practically start from the beginning since everything done so far only caused divisions. In several hours long speech before MEPs, she announced that she will put forward a 'Green Deal for Europe' plan and the European climate law within the first 100 days in office. She also emphasized that the EU must establish an economy that serves the people, where "everyone needs to share the burden", which, she explained, also includes tech giants that conduct their business in Europe and yet do not pay to the European citizens for their access to human and social capital. She also highlighted that violence against women has to be tackled decisively and therefore seek to define violence against women as a crime within the European treaties. She said that the fundamental principles of the EU must not be jeopardized. Von der Leyen accentuate her commitment to rule of law as a European value, announcing that she intends to establish an EU-wide monitoring mechanism in parallel to existing measures. Shortly after the election, Prime Minister **Dusko Markovic** congratulated von der Leyen: "I am convinced of her successful mandate and future partnership between Montenegro and the European Commission."

Von der Leyen initially brings optimism when it comes to the Western Balkans. She comes from Germany and from the CDU, the state and the party, which are traditional proponents of enlargement, although the dynamics and approach certainly do not delight either Europhiles or Eurosceptics.

Additionally, she explicitly promised to advocate for enlargement policy: "The Western Balkans is very important for the European Union. It's Europe. And therefore, I will support as much as possible the growing relationship between the Western Balkan countries and the European Union." She added that reforms have to be done, but also that the "door and mind" must be open to the Western Balkans.

Ursula von der Leyen raised seven children. It would not be bad to rise another from the Balkan diapers during his mandate. Although it is hard to expect when we have not yet learned that three are not two, as in the case of the election of **Vesna Medenica** as President of the Supreme Court.

IT'S NOT ALL ABOUT QUALITY, THERE IS ALSO SOMETHING IN THE SPEED OF EU ACCESSION

EACH YEAR OF POSTPONEMENT OF EU ACCESSION – **LESS UP TO 200 MILLION EUROS FOR MONTENEGRO**

Montenegro is at a loss of around 200 million euros for each year of postponement of accession to the European Union (EU). This is indicated by a rough assessment based on the experience of Croatia and member states of major enlargement in 2004.

Even if the Montenegrin administration and businessmen are not particularly successful in receiving grants from the EU Cohesion Fund, for example, this loss costs tens of millions of euros annually.

Hence, the motto – quality before speed – which is often voiced by representatives of the Montenegrin authorities is rather questionable.

Path of one country to the EU does not only encompass the adoption of European values and alignment with the EU legislation and its application, that long and exhausting path is also about money. And it is about the large amount of money, which would bring great financial benefit to a small country like Montenegro – country without developed economy, with negligible exports and relatively large debt. Although Pre-accession Assistance (IPA) is large and significant, real money only comes after accession to the company of the most developed European countries.

In order to reduce the development gap between rich and poor member states and region, as was the case with Croatia and members from almost all recent enlargements, the EU has a so-called Cohesion Fund. Throughout this fund, the EU provides financial instruments for underdeveloped regions by co-financing projects in the area of transport, environmental protection, small and medium-sized enterprises, education. Simply – it improves citizens' lives and standard. Beneficiaries of this fund are member states whose GDP is below the EU's average of 90%, and in the past, it was abundantly used by,



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Foto: arhiva Vijesti

among others, Ireland, Spain, Greece, Slovenia...

The example of Croatia, which attracted just under two billion euros in the first five years of EU membership, shows how important is when Montenegro will join the EU.

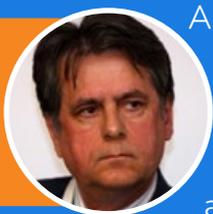
The best examples of successful use of the Cohesion Fund are Poland, which has received the highest amount of money of all, or Hungary, which is the first in the total funding allocation according to GDP. According to Erste Group's analysis, Poland managed to draw two thirds (67.9 percent) of EU funds by the end of 2013. For the period 2014-2020, so far, Poland has received over 80 billion euros from EU Structural and Cohesion funds.

Croatia has over 10.7 billion euros in the Cohesion Fund at its disposal for the 2014-2020 period. However, the EU does not give this money easily, therefore Croatia has managed to attract just under two billion in the last five years. Most of the money received Croatian entrepreneurs, and much of it went into competitiveness policy. The Croatian public talks about the allocated 4, 8 billion euros and the 45% usage of the cohesion fund.

Croatian Prime Minister **Andrej Plenkovic** said that from 1 July 2013 to 1 March 2019, Croatia had paid 19.7 billion kunas (2.6 billion euros) into the European budget, while at the same time received 34,1 from the European budget, which means that it has surplus of 14.4 billion kunas, or slightly under 1.9 billion euros.



Photo: G. Kovacic



According to assessment of the Croatian economic analyst **Damir Novotny** for *European pulse*, money from EU funds is important even to developed countries, pointing to the example of Austria in which the provinces Carinthia and Burgenland are amongst the regions that have used the most the EU funds. However, he points out that the problems in

absorption of EU funds in some countries can be the result of a slow and poorly trained administration, which is why projects are long in preparation.

Montenegro would become a beneficiary of European Structural and Investment Funds by joining the EU, which would also include the Cohesion Fund.

From the office of the EU Chief Negotiator **Aleksandar Drljevic** is said that it is still unknown how much money will be at disposal to Montenegro throughout the Cohesion Fund.

"Within the framework of negotiations on Chapter 22 - Regional policy and coordination of structural instruments, Montenegro is negotiating with the EU on the legislative framework, structures and procedures for the use of European structural and investment funds (ESI funds). The amount of EU funding that will be disposable to Montenegro from these funds after joining the EU is not subject of negotiations in this chapter, but the amount of support is negotiated at the very end of the negotiation process within the Chapter 33 - Financial and Budgetary Provisions", as further explained from the Chief Negotiator's office.

Negotiating the amount of support from ESI funds, they add, is part of the dialogue with the EU on the overall expenditure of Montenegro in the EU budget, on the one hand, and the amount of money that we will be able to use from the European funds, on the other.

"The practice of states from previous EU enlargement cycles shows that this amount is usually six to eight times higher than available resources from pre-accession funds. The final figure is obtained by a complex procedure of calculation that takes into account the gross domestic product of the EU accession country, inflation rate, economic growth rate and interest rates", as stated at the Chief Negotiator's office when asked if they consider that each year on their EU path, i.e. non-joining and delays along that path means a financial loss for Montenegro and its citizens.

"We use the period ahead of the day of EU accession to carry out preparatory activities for the use of these funds - establishing structures, rules and procedures, as well as strengthening the capacity of administration for this challenging task. Precisely because of this reason we do not believe that the period before EU accession means a financial loss for Montenegro and its citizens. On the contrary, it means that we will be fully prepared when we join the EU to make more efficient and better use of disposable funds for projects that will benefit all Montenegrin citizens", clarified from the Chief Negotiator's office.

However, it cannot be said that the money flowing into the Montenegro from the EU is insignificant, although it is certainly not even close to the available amount of resources in the Cohesion Fund.

During the last two years, i.e. from 1 July 2017 to 1 July 2019, the EU has granted 163.5 million euros to Montenegro from available EU funds.

"From this amount, for national IPA programmes has been allocated 64.7 million euros, which includes 28.5 million euros for IPA 2017 and 36.2 million euros for IPA 2018," stated from the Chief Negotiator's office.

Furthermore, they added that when it comes to cross-border and transnational co-operation projects, from 1 July 2017 to date, total of 77 million euros have been approved for projects from the Danube and Mediterranean transnational programmes and from the trilateral cross-border programme for Italy, Albania and Montenegro out of which 18.2 million euro was allocated to partners from Montenegro", stated from this institution.

In addition, when it comes to the Western Balkans Investment Framework, since 1 July 2017 Montenegro has been approved seven projects for the preparation of projects totalling 12 million euro, as it was said at the Chief Negotiator's Office.

"During the same period, four infrastructure projects worth 68.6 million euro were approved to Montenegro. In summary, the total value of projects approved under the Western Balkans Investment Framework since 1 July 2017 is 80.6 million euros," they claimed.

Bridges, reconstruction of railways, wastewater treatment systems were made with the money from EU..

From European funds, Croatia financed the modernization and electrification of the Zapresic - Zabok railway line with 68.7 million euros, built the Peljesac bridge with 357 million, upgraded the airport to Dubrovnik with 95 million euros. More specifically, from Cohesion Fund Croats received 64.3 million euros for wastewater collection and treatment of the Varazdin agglomeration, about 28 million euros for the construction of a sludge system and wastewater treatment plant in Porec, 19.2 million euros for Osijek Water Infrastructure Improvement Project, and 48.5 million euros for wastewater collection and treatment systems in island Krk. From the same fund, they used 63.6 million euros to upgrade water supply systems in 14 cities. If Montenegro was EU member, it could use money from such funds, for example, to finance the construction of the next section of the Bar - Boljare highway, from Matesevo to Andrijevica, that according to estimation will cost 237 million euros and its construction will take two years.

Finally, they added that in addition to 163.5 million euros approved, it should be borne in mind that during the aforementioned period were approved projects within four bilateral programmes (with Serbia, Albania, Kosovo and Bosnia and Herzegovina) where Montenegrin partners together with partners from of these countries have 8.8 million euros at disposal.

Speaking at a conference of the Centre for Civic Education (CCE), Prime Minister **Dusko Markovic** recently pointed out that the EU has invested over eight billion euros in the region over the past 10 years, and that these messages do not reach citizens, as such these data are often in the shadow of other, more bureaucratic messages that do not indicate the true extent of the EU's commitment to the Western Balkans and Montenegro.

President **Milo Djukanovic** on several occasions said that EU membership is a priority, but that it is not a race against time but a desire to be part of that value system.

Similar view took Drljevic who assessed that the final date of Montenegro's accession to the EU is less important, hence "it is more important that we feel certain benefits of the negotiation process in different segments and that is an objective that should be pursued", but also added that the aim is not to enter the EU as soon as possible but to function as an EU member state as soon as possible.

However, the facts indicate that each year that Montenegro spends outside the EU, if we take into account the effect of the Croatian withdrawal of money from the Cohesion Fund, loses around 150-200 million euros per year which is a remarkable figure for a country whose budget for 2019 is 2,38 billion euros.

PUBLIC PROCUREMENT TO BE BASED ON EXPERIENCES OF DEVELOPED EU MEMBER STATES



Photo: gov.me



By: Jelena Jovetic

The author is the Director-General of the Directorate for Public Procurement Policy in the Ministry of Finance and a member of the Working Group on Chapter 5 (Public Procurement).

Respecting the objectives of the Government of Montenegro set out in the European Integration Agenda, one of the most important and demanding areas in this process is the improvement of the public procurement system as well as public-private partnership, monitored through the Negotiation Chapter 5.

Efforts to implement the *acquis communautaire* have been continuously monitored, both in terms of improving regulation and reporting, enhancing transparency and strengthening the supervisory and control systems. Transparency in the public procurement system is necessary for the rational and efficient use of public funds as it increases competitiveness and results in the best value for money. An increase in the average number of tenders per public procurement procedure is clear indicator of an upward trend in competitiveness growth (in 2018 the average number of tenders per procedure was 3,14, while in 2017 the average number of tenders was 2.66 per procedure).

The share of public procurement in gross domestic product for 2018 is 9.1% (EUR 449.37 million), which points to the importance of this system both in terms of public policy and in terms of economic parameters in the country. Despite the fact that there is no preferential treatment in Montenegro, the dominant participation of domestic companies in public procurement procedures is evident (90% of the bidders are domestic bidders), which indicates the confidence of the private sector in the public procurement system.

The Ministry of Finance's clear focus on fiscal responsibility in the public procurement system is also encouraged by the savings made, which are reflected in the fact that the contracted value of public procurement is approximately EUR 43.8 million lower in comparison with the estimated value in 2018.

Measures to improve the negotiation position

The Government of Montenegro is determined to further improve and fully comply with the requirements of the EU *acquis* in the field of public procurement, as well as to close this chapter by 2021. In this regard, the Ministry of Finance has drafted the Law on Public Procurement and the Law on Public-Private Partnership, which are fully based on five relevant EU directives, taking into account the specificities of the markets and systems in Montenegro observed so far in practice.

The Government of Montenegro adopted the Action Plan - Agenda for Public Procurement and Public-Private Partnership Policy Reforms for the period July 2019 - December 2020 in order to meet the closing benchmarks for Chapter 5. On this occasion, activities are undertaken to align the legislative framework with the relevant EU legislation, the Treaty on the Functioning of the EU and the establishment of

appropriate administrative and institutional capacity at all levels.

In the forthcoming period, the following activities have been programmed: setting up an electronic public procurement system, drafting accompanying implementing acts, manuals, guidelines and other instructions, trainings for around 400 members of specific target groups in the field of public procurement, as well as conducting campaign on raising public awareness in this field.

Within the framework of continuous EU support, at the end of 2018, contracts were signed for two technical assistance projects funded by IPA funds, namely: 'Improving and strengthening the institutional system and legal framework in the field of public procurement and state aid' and 'The introducing of e-Procurement in Montenegro'. Both projects are implemented with established dynamics, and the activities covered by them correspond to the strategic objectives of the public procurement policy in Montenegro.

The Ministry of Finance will also continue, in co-operation with all departments and the central body, with measures to improve the implementation of centralized public procurement to further rational and efficient use of public funds.

Furthermore, the Ministry of Finance has prepared a new regulatory framework for public-private partnerships, which provides a systematic regulation of this policy as a new investment policy instrument in Montenegro. Transposing the standards from the directive and recognizing new institutes of public works concessions and public service concessions is a key determinant of this draft law. The draft law introduces a new model of public contracts that will combine the authority of public institutions as well as the knowledge and skills of the private sector and ultimately lead to the improvement of the quality of public works, the construction and reconstruction of public infrastructure.

Concerning public procurement and public-private partnerships, the EC Report on Montenegro for 2019 refers to the progress made in the preparation of new regulations and alignment with European standards and directives.

In conclusion, our position in the Ministry of Finance is based on the commitment that overcoming internal difficulties is in the context of public procurement policy, achieving greater efficiency and rationalization should be based on the experience of developed EU countries. In this regard, our reforms in these areas, the regulatory framework, the electronic system of public procurement, the strengthening of institutional capacity will have an impact on the creation of a stronger public procurement policy and, accordingly, the fulfillment of all requirements of the negotiating chapter.

WORK EXPERIENCE IN POLAND - LESSONS FOR MONTENEGRIN LEGISLATORS AND EMPLOYERS



Photo: Private archive



By: Radovan Ognjenovic

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On 1 May 2019, the Republic of Poland marked 15 years of membership in the European Union. During the negotiation process, Poland significantly liberalized its market and effectively adapted its legislation, enabling many international corporations and firms to successfully operate from their operational centres in Warsaw and other major Polish metropolises after joining the Union. From year to year, Poland - not so long ago a country with no glowing reputation and today by many standards the most prosperous economy east of the former Iron Curtain - attracts an increasing number of workers from the rest of the world.

The largest influx of labor is coming from the east, especially from Ukraine and Belarus. However, for reasons other than their financial nature, Poland is becoming an increasingly attractive destination for young people from Southeast Europe, including, of course, Montenegrin citizens. The average net wage in the Warsaw area is just over 1,000 euros, which is almost twice as high as (according to official statistics) the average wage in Montenegro.

Obviously, in absolute terms, this salary is also far from the

remuneration received by employees in Ireland or any other Western European country. However, when taking into account the cost of living, which is still quite low across Poland, it is clear that the opportunities for comfortable and relaxed lifestyle are far greater than in any contemporary Balkan society.

The business environment is well organized, and the legislation is quite well adapted to the business of a twenty-first-century man, and there are number of social benefits, which - all together - make workers from our region feel what they probably needed most when trying to find employment on the 'home turf' - security.

In short, based on my personal example, I will outline some of the benefits awaiting foreigners interested in working in Poland:

- Health insurance: it is provided through private companies and valid throughout the EU;
- Relocation bonus: Depending on the company employing them, foreign workers receive tempting financial bonus for the first month of work in Poland, often accompanied by paid plane-ticket costs, insurance and visa costs;

- Language bonus: if you do business in a foreign language, you are entitled to financial supplement to your basic salary;
- Guaranteed vacation of 20 or 26 days, depending on work experience: certificate of completion of master's studies, e.g. counts as six years of work experience;
- Right to unexpected leave of absence: four days a year (six days for parents);
- The right to maternity/paternity leave can be exercised by both parents and thus jointly contribute to the balance between work and family life;
- Work on weekends, holidays and at night is additionally paid (in the case of our company, six working night shifts result in an increase of one quarter of a total monthly salary) and overtime is duly compensated;
- myBenefit program - depending on social status, the state assigns employees so-called 'Points' that can be translated into a wide range of benefits - from free memberships at any gym in the city, through a food voucher card, to discounted airfare, accommodation, tickets to various festivals, cinemas, online shopping, etc...

As a reminder, Poland is a country that suffered multiple destructive attacks during the 20th century, which ultimately resulted in the creation of an extremely retrograde communist political system. But in the period immediately following the

overthrow of the socialist regime, Polish society was completely reformed. The state authorities have wisely used the EU negotiation process to create the foundations for a sustainable economy, attractive to many outside Poland.

Of course, this medal has its less bright side as well. Among the various socio-political problems that burden Poland today, economically speaking, the most important is the well-known phenomenon of brain drain. Specifically, the increase in the number of immigrants from abroad is accompanied by an increase in the number of Poles seeking their place under the sun in the West, most often motivated by higher earning opportunities. A side effect is the fact that fewer and fewer Polish citizens in their country today feel 'at home', leading to what in the context of Poland we most have the opportunity to hear in foreign media: the worrying rise in levels of nationalism, xenophobia and intolerance.

It remains to be seen whether and how Montenegro will identify the pros and cons of this system, and how it will adapt some of them to its example. What is certain and verifiable is that the statistical forecasts are indeed pessimistic: youth are rapidly leaving the country, the population is aging, and all this has resulted in a general decline in quality of life and standard of living.

For now, we are acting like we are in a position to scatter human resources - and are we really?



ANALYSIS OF THE TRANSPARENCY OF THE WORK OF JUDICIARY IN MONTENEGRO

THE WORK OF JUDICIARY MUST BE MORE TRANSPARENT



Prepared by: Milica Zindovic
Programme Assistant

Transparency is one of the bases of democratic state that indicates the level of accountability of public sector bodies, including the judiciary, towards citizens. In the judiciary, the significance of this postulate is recognized, but further efforts are needed to effectually implement it, through two-way communication, planned information and education, which would strengthen trust in the judiciary and promote the rule of law, as it was concluded at the recently held *Open Justice Conference* organized by the Centre for Civic Education (CCE) in Podgorica, with the support of the Ministry of Justice.

In the analyses of the same title, it was assessed that the legal framework addressing the issue of judicial transparency follows standards and good practices from comparable legal systems, but that in practice there is considerable room for improvement. Hence, the authors recommend a more proactive approach, which includes, inter alia, the publication of the Communication Protocol of Courts in Montenegro at www.sudstvo.me, encouraging judicial office-holders to participate in roundtables, panel discussions and the media, to contribute to the discussion on professional issues. It is further recommended that when designing a new judicial portal, the constitutional and legal competencies of the judicial authorities be adequately and responsibly described, and that the new judicial portal contains separate sections for announcements, separate sections for announcement of seminars, lectures, information on participation in professional and scientific meetings.

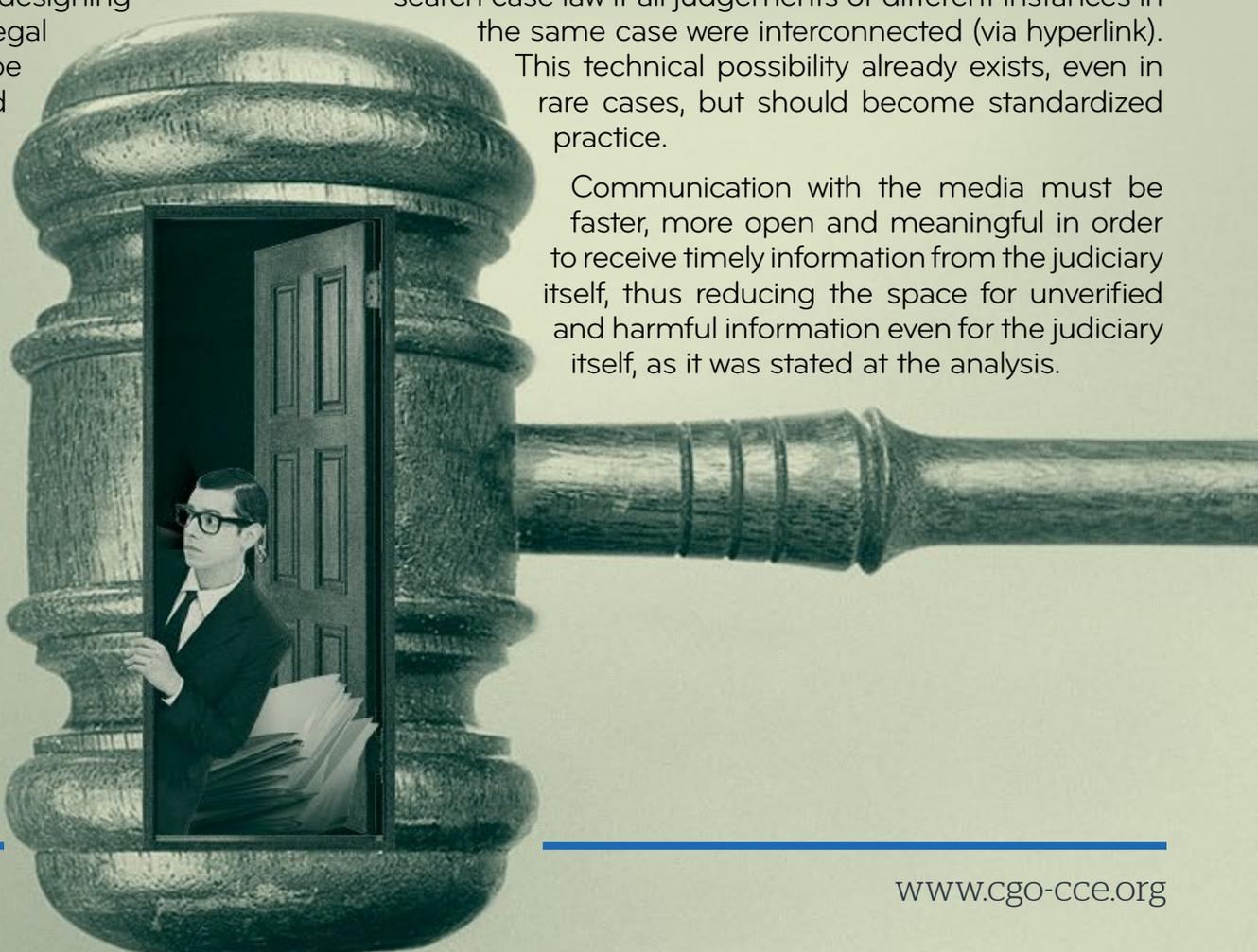
The importance of promoting positive effects achieved by the judicial authorities through the new portal is emphasized and it is recommended to have regular publication of simple infographics showing reduction in the number of backlog cases, reduction of the length of the proceedings, etc., as well as those related to the determination of disciplinary responsibility and violation of ethical rules, to make the public aware that judicial office holders are subject to this type of responsibility.

Concerning the annual reports on the work of the courts, the analysis found that some

courts were not up to date in their publication. Drastic example is the practice of the Basic Court in Bar, which does not have any published annual report on its website, under the heading 'annual report' since 2015. On the other hand, good example is the High Court for Misdemeanours of Montenegro, which, since the beginning of 2018, has been regularly updating quarterly, semi-annual and annual reports on its website. The Prosecutor's Offices regularly publish annual reports on their web site, and the only exception is the Basic Prosecutor's Office in Pljevlja, which does not have an annual report for 2018 published in the section intended for this purpose. There is still no information that judicial and prosecutorial reports are systematically analyzed and used for the purpose of governance and policy making, as indicated by the latest European Commission report for Montenegro. The authors also recommend improvements to the statistical parts of these reports, as well as standardization of the reporting of the judiciary and the prosecution.

The analysis shows that the courts are increasingly updating the final judgements. It has been noted that it would be easier to search case law if all judgements of different instances in the same case were interconnected (via hyperlink). This technical possibility already exists, even in rare cases, but should become standardized practice.

Communication with the media must be faster, more open and meaningful in order to receive timely information from the judiciary itself, thus reducing the space for unverified and harmful information even for the judiciary itself, as it was stated at the analysis.



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