



**Centar za građansko obrazovanje**  
**Centre for civic education**

Podgorica 01/03/2011

## **FULFILMENT OF EUROPEAN REQUESTS CANNOT BE REDUCED TO FORM**

**Centre for Civic Education (CCE) has sent its suggestions concerning the reform of the judicial system in Montenegro, in the context of recommendations from the Opinion of the European Commission, to the Committee on Political System, Judiciary and Administration of the Parliament of Montenegro.** The suggestions were previously sent in written form to the Ministry of Foreign Affairs and European Integration during the public debate about the Draft Action Plan for the Implementation of Recommendations from the Opinion of the EC. **At the same time, the CCE has informed the Committee that it is not going to take part in the consultative hearing on 4 March 2011, for which it has received an invitation.**

The reasons that have directed the CCE to decide in such a way can be summarised in the frivolity that followed the decision about the calls for participation, without previously determined methodology or open call to the expert and interested public to take part in something which will significantly affect the future relations of the European institutions towards Montenegro. **We consider that this process has been conducted contrary to the spirit of cooperation which should be established with the civil sector, and therefore it is unacceptable for us to legitimate that process by taking part in it.**

The CCE will continuously, through the set of activities and measures, contribute to the establishment of higher-quality social dialogue on various topics, thus influencing faster solving of number of problems that are slowing down Montenegrin society down in the EU integration process. But, the CCE cannot accept to be part of a farce in fulfilling someone's partial interests. Namely, the call from the Committee first came in an inadequate form, then in a professionally questionable communication it has been explained to us that there are no determined criteria for choosing the organizations which can y take part in the debate at the expert capacity, which creates an impression that other subjects have been discriminated by such an approach.

**The relations towards the reform of the judiciary system will either accelerate or slow down the construction of Montenegro as a state of developed democracy. Recognizing the need to include a wide range of social subjects in search for the best solution for the processes of the reform must not be reduced to purely putting a check sign next to certain technical parts, because that only causes more damage to the public interest.**



**Centar za građansko obrazovanje**  
**Centre for civic education**

The CCE expert team provided suggestions regarding the judiciary reform in Montenegro, which has been, through the recommendations from the Opinion of the EC, recognized as necessary and urgent. This reform **should enable changes in securing higher-quality constitutional and legal framework for establishing the independence of courts and judges, as a guarantee of the right to fair and objective trial within a reasonable time frame.**

Essentially, the suggestions are as follows:

- the President of the Supreme Court should be elected by the same procedure as the presidents of other courts by the Judicial Council or by a two-thirds majority vote of the members of the Parliament, which would at a large scale secure the transparency of the elections, independence and necessary control (constitutional obligation). **In case of actualization of the two-thirds solution, the Parliament would strengthen its control function and largely contribute to the development of the necessary legitimacy and confidence in the courts;**
- **judges of the basic and higher courts, chosen by the conference of those courts, must be represented in the Judicial Council;**
- **presidents of the courts can't be members of the Judicial Council;**
- **the Judicial Council should be given jurisdiction over determining the budget of each court, which would have to contain allocations for housing and other needs of the judges, as well as allocations for stimulating the work of judges and professional associates;**
- **to establish the obligation of the Judicial Council to submit a report about the work of the courts to the Parliament of Montenegro, with a legally prescribed methodology, for consideration. In that way, the judiciary is controlled and the public is informed about the work of the courts.**

Furthermore, the State Supreme Prosecutor should be organized in such a way that guarantees its essential independence. In that respect, it is necessary to regulate the composition, election procedure and jurisdiction of the Prosecutorial Council by the Constitution, analogous to the composition, election procedure and jurisdiction of the Judicial Council.

**With this approach, the CCE has shown that it wants to be a part of all those processes leading to democratization and europeization, taking over responsibility for active participation and producing concrete suggestions. However, the institutions have to come out from an authoritarian mind, and to start overcoming the gap between the proclaimed policies and practice if it is their goal that we, as a society, see measurable results and achieve essential consensus about the most important questions. European times carry a different**



*Centar za građansko obrazovanje*  
*Centre for civic education*

**system and responsibility which can't be foiled only by rhetorical promises anymore.**

Daliborka Uljarević  
Executive Director