



# ENHANCING JUDICIAL AND PROSECUTORIAL ACCOUNTABILITY

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National Framework for  
Ethics and Discipline

POLICY STUDY





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## INTRODUCTION

Ethical and disciplinary accountability of judges and prosecutors are essential pillars in maintaining a just and accountable judicial system. Upholding professional standards and enforcing ethical rules and disciplinary measures ensures the integrity of the legal professions and safeguards public trust in the judiciary and state prosecution service. Montenegro has recognized the significance of this matter and has implemented significant reforms in the previous period, primarily aimed at establishing a comprehensive system aimed at regulating and promoting professional conduct among judges and prosecutors.

Nevertheless, there has been a consistent absence of tangible results in the area of judicial accountability. The European Union emphasizes the importance of establishing an independent judicial system as a crucial element of Montenegro's EU accession process. While acknowledging some positive steps taken by Montenegro to enhance judicial independence and professionalism, mainly through introducing a new legal framework that is mostly in line with European standards, the EU has also identified several areas of concern. This includes the need for further efforts to strengthen the accountability of the judiciary and ensure effective enforcement of ethical rules and disciplinary mechanisms. The 2022 European Commission Annual Report on Montenegro underscores that the track-record on judicial accountability remains limited highlighting that the system for detecting breaches of integrity rules needs to be made more effective, objective, consistent and credible.

Through this paper, we will present the concepts of judicial and prosecutorial ethics in Montenegro and examine existing frameworks and approaches in enforcing accountability mechanisms. By closely examining Montenegro's national framework for judicial ethics and discipline, this analysis will evaluate the effectiveness of the existing system, identify potential challenges, and offer recommendations for further improvement. The overall work effects of institutions and bodies involved in the judicial accountability system from 2016 to 2022 will be presented and analyzed.

The paper is structured into five chapters, each addressing specific aspects related to the legal and institutional framework, track-record, and concluding remarks on judicial and prosecutorial ethics and discipline. Chapters one and two provide an overview of the legal and institutional framework governing judicial and prosecutorial ethics and discipline. Both chapters examine the relevant laws, regulations, and bodies responsible for ensuring ethical standards and handling disciplinary matters within the judiciary and state prosecution service. Chapter three and four evaluate the performance and track-record of the ethical and disciplinary commissions for judges and state prosecutors. It analyses certain past cases, decisions, and outcomes to assess the effectiveness and efficiency of the working bodies in the system of judicial accountability. Finally, the final chapter presents concluding remarks based on the findings and analysis from the previous chapters. It highlights key observations, identifies areas for improvement, and provides recommendations to enhance the overall system of judicial and prosecutorial ethics and discipline.

## CHAPTER 1.

# THE LEGAL AND INSTITUTIONAL FRAMEWORK OF JUDICIAL ETHICS AND DISCIPLINE

### 1.1. JUDICIAL ETHICS

The imperative to uphold judicial ethics is an important component of the Strategy for Judicial Reform in Montenegro – 2019 - 2022.<sup>1</sup> One of the key goals of the Strategy is to strengthen the impartiality and integrity of judicial stakeholders through consistent adherence to the principles of random case allocation, application of recusal provisions, and observance of ethical codes. Elaborating on this strategic goal, the Strategy emphasizes that The Ethical Code for judges was adopted and the Commission for monitoring the implementation of the Code was established.

**The Code of Ethics for Judges<sup>2</sup>**, adopted by the General Conference of Judges in 2014 (and revised in 2015), outlines the ethical guidelines and behavioral standards that judges in Montenegro should abide by. The Code aims to protect, reinforce and elevate the prestige and honor of both the individual judge and the judiciary as a system. The Code incorporates the following key principles and doctrines:

- **Adherence to the Law:** Judges are required to undertake proceedings in accordance with the law, based on their independent judgement of facts. Their duty should be executed without any influence, partiality, or discrimination based on race, color, religion, nationality, age, marital status, sexual orientation, socio-economic status, political affiliation, or any other form of distinction.
- **Maintenance of Impartiality:** Judges should refrain from any actions that could cast doubt on their political neutrality and they should avoid situations of both professional and personal interactions with legal practitioners or others that could cause reasonable suspicion about their impartiality.
- **Preservation of Reputation:** Judges should strive to maintain and evolve behavior standards that safeguard the credibility of the courts and foster public trust in the judiciary, both within and outside of the courts. Judges should not exploit their profession, official position, or reputation for personal or another person's material gain, or to advance their own personal interests, the interests of their family members, or those of any other person. Judges should adhere to the court's dress code. They should strive to make sure that their public statements and reactions to societal events, whether in media, written articles, public events, lectures etc., comply with regulations and are in agreement with the provisions of this Code.
- **Upholding Integrity:** Acceptance of any gift by a judge is highly restricted compared to general public officials. Judges should refrain from receiving gifts and complimentary services from litigants and other process participants, as well as from anyone whose actions might trigger suspicions about their impartiality or objectivity. Judges should not allow their family members, court staff, or anyone else under the jurisdiction of the judicial office to accept a gift, loan, or favor in return for tasks that the judge is anyway obliged to

<sup>1</sup> "Strategy for the Judicial Reform in Montenegro - 2019 - 2022" available at: <https://eusluge.euprava.me/eParticipacija/GetFile.aspx?id=913>

<sup>2</sup> Code of Ethics for judges, available at: <https://udruzenjesudija.me/2013/12/10/kodeks/>



- perform or has already performed in his/her judicial capacity.
- **Respect for Confidentiality:** Judges should refrain from disclosing any information about specific cases to the media or interested parties unless they have been explicitly authorized to do so. Beyond court sessions and hearings, judges should avoid expressing opinions about the cases they are handling, or about other ongoing cases, legal procedures, or court rulings

The oversight of the implementation of the Code of ethics for judges is the responsibility of the Commission for the Code of Ethics for Judges (“the Commission”). It was established based on the Law on the Judicial Council and Judges<sup>3</sup>, which stipulates that anyone can approach this Commission to seek an opinion on whether a specific behaviour of a judge is in accordance with the Code of Ethics for Judges. The Commission is composed of a President and two members. The President of the Commission is elected by the General Conference of Judges, from among four lay-members of the Judicial Council. Concerning the remaining Commission seats, one member is chosen by the General Session of the Supreme Court, while the last seat is reserved for the President of the Association of Judges. The Commission’s members are elected for the period of four years. Besides overseeing the enforcement of the Code of Ethics, the Commission’s mandate includes following competencies: acting on any proposal to initiate proceedings for determining potential violations of the Code of Ethics for Judges; delivering opinions on whether a judge’s specific behaviour was in breach of the Code of Ethics for Judges; submitting suggestions to the Disciplinary Committee for initiating disciplinary liability in accordance with the Law; presenting an annual report of its activities to the Judicial Council and undertaking other tasks as detailed in the aforementioned Law and the Codes of Ethics for Judges.

## 1.2. JUDICIAL DISCIPLINE

Enhancing the disciplinary responsibility system of judges and state prosecutors stands as one of the pivotal operational objectives of the Judiciary Reform Strategy 2019-2022. The Strategy emphasizes that, through the enactment of the Law on the Judicial Council and Judges in 2015, a novel disciplinary accountability system for judges has been set in place. This system incorporates the establishment of the “disciplinary prosecutor” entity, responsible for conducting investigations and filing an indictment against any judge subject to disciplinary proceedings. The disciplinary prosecutor and his/her deputy is elected by the Judicial Council from among judges with at least 15 years of professional experience, based on the proposal of the General Session of the Supreme Court. It is important to underscore that the disciplinary prosecutor is not authorized to independently launch a disciplinary proceedings. Namely, its actions are contingent upon the receipt of a proposal to establish disciplinary responsibility of a judge, that can only be launched by the court president, the president of the directly superior court, the president of the Supreme Court of Montenegro, or the Commission for monitoring the implementation of the Code of Ethics for Judges.

In line with the Law on Judicial Council and Judges, Judges and court presidents as judges shall have disciplinary liability for minor, severe and the most severe disciplinary offenses.

<sup>3</sup> Law on Judicial Council and Judges, Official Gazette of Montenegro no. 11/2015, 28/2015 and 42/2018

Minor disciplinary offenses of a judge shall exist if he / she:

- Fails, without justified reason, to assume cases for work in the order in which they are received, in accordance with the law and the Court Rules of Procedure;
- Comes late or does not come to scheduled trials, hearings or sessions of the panel without justified reason;
- Does not attend mandatory training programs without justified reason;
- Does not meet the obligations of a mentor during initial training and training of trainees;
- Does not take statutory measures to respect the court and the parties to the proceedings.
- Severe disciplinary offences of a judge shall exist if he / she:
- Fails, without justified reason, to schedule trials or hearings in cases assigned to him / her for work, or delays the proceedings in another manner;
- Delays the proceedings or does not assume the case for work without justified reason, where, due to statute of limitations, such action results in barred criminal prosecution or barred enforcement of criminal sanctions for the criminal offence for which a prison sentence of at least one year is prescribed;
- Exceeds, without justified reason, the triple statutory deadline for making decisions in at least three cases;
- Fails to seek a recusal in at least three cases in which he / she knew there was a reason for his / her mandatory recusal in the course of one calendar year;
- Fails, without justified reason, to respect the programme for resolving backlog of cases or does not act upon the decision under a control request;
- Prevents supervision in accordance with the law;
- In the exercise of judicial office, or in a public place, brings himself / herself into a state or behaves in a manner that is not appropriate to the exercise of judicial office;
- Treats participants in court proceedings and court staff inappropriately;
- Discloses confidential information that he / she learned while acting in cases or performing a judicial office;
- Uses the judicial office to achieve his / her private interests and interests of his / her family or close persons;
- Accepts gifts or does not submit data on property and income in accordance with the regulations governing the prevention of conflicts of interest;
- Has been absent from work for five consecutive days without excuse;
- Publicly declare an opinion on the case that has not become final and enforceable.

The most severe disciplinary offenses of a judge shall exist if he/she:

- Has been convicted of an offence that renders him / her unworthy to perform judicial office;
- Performs the judicial office incompetently or unconscientiously.

The Law stipulates that 'incompetent or unconscientious performance of judicial office' shall exist if a judge:

- Without justified reason, does not achieve at least 50% of the results in terms of quantity of work in relation to the average quantity benchmarks in certain types of cases, as determined by the Judicial Council, unless the judge provides valid reasons for not achieving results in terms of quantity of work;
- Starts exercising parliamentary or other public office or professionally performing other

activities;

- Has been appraised with a not satisfactory grade twice in a row;
- Has been imposed disciplinary sanctions for severe disciplinary offenses twice.

The Law on Judicial Council and Judges outlines a range of disciplinary penalties, which include a warning, a monetary fine, a promotion prohibition, and dismissal. According to the Law, minor disciplinary infringements merit a warning or a fine amounting to 20% of the judge's salary for a duration of up to three months. Furthermore, more severe disciplinary violations call for a fine constituting 20% to 40% of the judge's salary for a period spanning three to six months, coupled with a ban on advancement. The Law stipulates that a ban on promotion shall imply that a judge may not be appointed to a higher court before the expiration of two years from the date of finality of the decision imposing a disciplinary sanction. Finally, the Law mandates that the most severe disciplinary offences are punishable by dismissal.

## CHAPTER 2.

# THE LEGAL AND INSTITUTIONAL FRAMEWORK OF PROSECUTORIAL ETHICS AND DISCIPLINE

### 2.1. PROSECUTORIAL ETHICS

The Code of Prosecutorial Ethics<sup>4</sup> envisages the core ethical standards for prosecutors in Montenegro. Its objective is to foster and uphold professional ethics among prosecutors, bolstering public trust in the judicial system and offering guidance to prosecutors facing ethical dilemmas. The Code of Ethics was adopted by the Conference of State Prosecutors in 2018, that consists of all the heads of state prosecution offices and state prosecutors in Montenegro. The Code was initially adopted in 2006, and subsequently revised in 2013 and 2014. The Code prescribes the following fundamental ethical principles:

- **Respect for the Constitution, laws, and ratified international agreements.** According to this principle, the state prosecutors are obliged to carry out prosecutorial functions lawfully and professionally, in line with the Constitution, laws, and ratified international agreements, ensuring timely and accurate execution of the duties of the state prosecutor, or tasks entrusted to them. In addition, prosecutors are obliged to pay special attention to the respect and protection of basic human rights as established by the Constitution and by the laws of the European Convention on Human Rights.
- **Respect for autonomy and impartiality.** In line with this principle, State prosecutors should epitomize high integrity and requisite professional knowledge. Given the nature of their function and exposure to public criticism, state prosecutors, in accordance with the law, must abstain from communication regarding the cases assigned to them. State prosecutors are responsible for the work in the case assigned to them and are independent in their work and decision-making, except in cases prescribed by law. Furthermore, state prosecutors discharge their duties honorably and with dignity, in a fair, impartial, objective, dedicated, and consistent manner.
- **Respect for reputation, integrity, and confidentiality.** While on duty and in their free time, state prosecutors will behave in such a way that ensures that they will follow instructions related to providing information to the public, adhering to internal rules on reporting the work of the state prosecutor and work on individual cases. Additionally, under this principle, the state prosecutors are obliged to refrain using their official position or the reputation to realize their rights or interests.
- **Respect for the role of the state prosecutors in relation to others.** This principle encompasses the mutual relations between the prosecutors, as well as their relationships with employees, the accused persons, the court, the police, citizens, and the media.
- **Prevention of conflicts of interest.** This principle stipulates that prosecutors shall refrain from engaging in activities and memberships in associations that would conflict with their official duties or could diminish their social and professional reputation, as well as the reputation of the State Prosecution Office. Furthermore, this principle stipulates that state prosecutors must not seek or accept any gift, improper benefit, service, or privilege for themselves or others that could influence or appear to influence the performance of their duties, and that they will refrain from engaging in free activities and memberships in associations that would conflict with their official duties.

<sup>4</sup> The Code of Prosecutorial Ethics, available at: [https://sudovi.me/static/tzsv/doc/ETICKI\\_KODEKS\\_DRZAVNIH\\_TUZILACA.pdf](https://sudovi.me/static/tzsv/doc/ETICKI_KODEKS_DRZAVNIH_TUZILACA.pdf)

The body responsible for monitoring the implementation of the Code of Ethics is the **Commission for the Code of Ethics for State Prosecutors**. The Commission consists of a president and two members. The president is elected by the Conference of State Prosecutors from among the members of the Prosecutorial Council who is not a state prosecutor, one member is elected by the general session of the Supreme State Prosecutor's Office from among the state prosecutors, and the other member is the president of the Association of State Prosecutors of Montenegro. The Commission is competent to oversee the implementation of the Code of Ethics for State Prosecutors and to act upon complaints and other sources of information about violations of the Code of Ethics for State Prosecutors. In addition, the Commission is in charge of providing an opinion on whether a specific conduct of a state prosecutor is in line with the Code of Ethics for State Prosecutors. The Commission is entitled to propose to the Prosecutorial Council to determine the disciplinary responsibility of state prosecutors if there is a reasonable suspicion that the state prosecutor has committed a disciplinary offense. The Commission reports on its performance to the Prosecutorial Council.<sup>5</sup>

## 2.2 PROSECUTORIAL DISCIPLINE

The issues related to the disciplinary accountability of prosecutors are regulated by the Law on the State Prosecution Service. In line with the Law, the Prosecutorial Council is in charge of rendering decisions the disciplinary liability of the state prosecutors and heads of state prosecution offices. Additionally, the Council is competent to elect the disciplinary prosecutor. The Law stipulates that state prosecutors and heads of state prosecution offices, shall have disciplinary liability for committing **minor, severe and the most severe disciplinary offenses**.

State prosecutor shall be considered to have committed a minor disciplinary offense if:

without any justified reasons he/she fails to take up cases according to the order in which they were received according to the Rulebook on the internal operations of the State Prosecution Services;

- he/she is unjustifiably fails to appear or is late for the scheduled hearings;
- he/she fails to attend mandatory training programs without any justified reason;
- he/she fails to fulfil mentoring responsibilities in the initial training and training of trainees.

State prosecutor shall be considered to have committed a **severe disciplinary offence** if:

- he/she unjustifiably fails to proceed in the cases within the time-limits defined in the law, and due to that the case is barred by time, the procedure cannot be conducted or there are other consequences stipulated in the law;
- he/she fails to recuse himself/herself in cases in which there is a reason for his/her recusal;
- he/she renders impossible the supervision which is required under the law;
- while performing prosecutorial function or while in a public place, he/she brings himself/herself into condition or behaves in a manner which is inappropriate for the prosecutorial function;

<sup>5</sup> The Law on the State Prosecutor's Office, Official Gazette of Montenegro no. 11/15, 42/15, 80/17, 10/18, 76/20, 59/21

- he/she treats participants in proceedings and employees of the state prosecution office in an inappropriate manner;
- he/she discloses information he/she has learned while handling cases or in discharging duties of the prosecutorial office;
- he/she uses prosecutorial function to act in his/her private interests and interests of his/her family and persons close to him/her;
- he/she accepts gifts or fails to disclose data on property and income in accordance with the legislation on prevention of conflict of interests;
- he/she is unjustifiably absent from the office for five consecutive days;
- he/she expresses in public his/her opinion about the case that has not become final.

Finally, the state prosecutor shall be considered to have committed **the most severe disciplinary offense if:**

- he/she is convicted of an offence which makes him/her unworthy of performing prosecutorial function;
- he/she performs prosecutorial function unprofessionally or unconscientiously.

The Law clarifies that it shall be deemed that the state prosecutor performs prosecutorial function unprofessionally and unconscientiously in the following situations:

- if he/she unjustifiably fails to achieve at least 50% of the results in terms of quantity of the work done which is measured against average quantity benchmarks in a specific type of cases set by the Prosecutorial Council, unless the state prosecutor can provide valid reasons for not achieving the quantitative results;
- if he/she starts holding the office of a Member of Parliament or any other public office or starts professionally dealing in some other activity;
- if he/she received the grade unsatisfactory twice in a row;
- if he/she was imposed disciplinary sanctions for severe disciplinary offenses two times.

The Law specifies that disciplinary sanctions shall include a **warning, monetary fine, prohibition of promotion and dismissal**. Disciplinary sanctions of warning and fine in the amount of 20% of the state prosecutor's salary for up to three months shall be imposed for minor disciplinary offenses, while fine in the amount of 20% to 40% of the state prosecutor's salary for three to six months and prohibition of promotion shall be imposed for committing severe disciplinary offenses. The Law stipulates that dismissal shall be imposed to the prosecutor for committing the most severe disciplinary offenses. Finally, prohibition of promotion is a disciplinary sanction where the state prosecutor may not be appointed to the state prosecution office of a higher instance before the expiry of two years from the day on which the decision imposing the disciplinary sanction on him/her became final.



**CHAPTER 3.****3. THE TRACK-RECORD OF THE JUDICIAL ETHICS AND DISCIPLINE**

In this section of the paper, we will examine the institutional implications resulting from the implementation of the ethical and disciplinary framework for judges between 2016 and 2022. This period coincides with the introduction of the new Law on the Judicial Council and Judges, which introduced a new system for ensuring judicial ethical standards and disciplinary responsibility. The focus will be on assessing the overall number of cases involving potential violations of ethical norms and principles by judges and evaluating the overall effectiveness of the judicial ethical and disciplinary accountability system.

**3.1. PERFORMANCE OF THE COMMISSION FOR THE IMPLEMENTATION OF THE CODE OF ETHICS FOR JUDGES**

During the period from 2016 to 2022, the Commission for the Implementation of the Code of Ethics for Judges received 107 initiatives to assess whether judges had violated the Code of Ethics. Out of this number, the Commission determined a violation of the Code in only 9 cases (8.4%). The majority of the initiatives were rejected or dismissed due to lack of jurisdiction, while a smaller number of initiatives were referred for further action to the disciplinary prosecutor. Since August 2022, the Ethical Commission faced operational challenges and was not functional. Following the formation of the new convocation of the Judicial Council, the General Conference of Judges did not have the necessary quorum to elect the president and one member of the Commission. Consequently, the Commission was unable to function effectively. In the period from 2016-2022, most of the initiatives for violation of the Code of Ethics for judges were related to judges of first-instance courts (basic courts and misdemeanor courts) - a total of 73 initiatives were launched against judges of first-instance courts. Interestingly, 5 initiatives were launched against the presidents of courts in Montenegro, as well as 10 initiatives against judges of the Supreme Court of Montenegro.

As a general observation, there appears to be an ongoing trend where decisions on rejecting initiatives for reviewing ethical conduct of judges are drafted without sufficient justification. These decisions are dominantly based solely on the statements of judges whose conduct is under review by the Ethics Committee. The Commission did not use additional evidence such as witness testimonies or examination of relevant documents is considered in the decision-making process. One of the most remarkable examples is the decision of the Commission to dismiss the initiative for a violation of the ethical code against the former President of the Commercial Court regarding an event (dinner) which, according to the initiative, was attended by 17 officials from that Court, and for which, according to the information provided, he "questionably settled a bill of nearly 500 EUR at a luxury restaurant". According to the allegations in the initiative, this bill was paid by a bankrupt company and signed by the former President of the Commercial Court. The decision in this case was solely based on the statement of the former President of the Commercial Court, and the Commission did not decide to call and hear any of the mentioned individuals who attended the event, nor did it analyze the paid bills as evidence. Simply put, the decision was solely based on the statement of the former President of the Commercial Court.<sup>6</sup> During 2022, the former President of the Commercial Court was arrested on suspicion of being the organizer of a criminal group whose

<sup>6</sup> See more: [https://pravosudje.me/static//sdsd/doc/EK\\_11-20.pdf](https://pravosudje.me/static//sdsd/doc/EK_11-20.pdf)

<sup>7</sup> See more: <https://balkaninsight.com/2022/05/09/montenegro-arrests-commercial-court-president-on-corruption-charges/>

aim was to commit the criminal offenses of abuse of office.<sup>7</sup>

In 2020, the Commission for the implementation of the Code of Ethics for judges has used its power to initiate disciplinary proceedings against judges in two cases. In one case, the proposal for disciplinary proceedings was rejected as unfounded, while the other was dismissed on formal grounds. In one of the two cases, the Commission did find a violation of the ethical code. Here, it should be highlighted that the Law on the Judicial Council and Judges and the Code of Ethics do not clearly distinguish between certain disciplinary offenses and violations of ethics. Some behaviors that are deemed disciplinary offenses, which can lead to 'more severe sanctions', are also considered violations of the Code of Ethics, which are not punished to the same extent. This overlap could potentially lead to confusion and possibly inconsistent enforcement of rules, as the same behavior could be interpreted in two different ways. **NGO Human Rights Action has continuously pointed out these shortcomings, but so far, the change in the law to define these offenses more clearly; preventing any arbitrary neglect in determining the responsibility of judges was not fulfilled.**<sup>8</sup>

During the reporting period, the Commission for the Implementation of the Code of Ethics for judges has developed its consultative function by issuing opinions upon request from judges and providing guidelines for judges on how to handle specific ethical dilemmas. Judges can consult the Commission when they face ethical dilemmas in their work, helping them make decisions that uphold the ethical standards of their profession. In recent years, five opinions based on requests made by judges have been issued. In addition, the Committee adopted four guidelines for the implementation of the Code of Ethics for Judges. These guidelines were created to provide clear and specific rules for judges and state prosecutors in Montenegro on some of the ethical questions related to their professional roles. They cover for example, the use of social media, which is a relatively new challenge for many professions, as well as the extent to which judges and prosecutors can engage in activities outside of their official duties, including political activities. All four adopted guidelines would be briefly presented:

**a) Guidelines on the issue of permissible limits of using social media accounts from the aspect of professional ethics of judges and state prosecutors<sup>9</sup>**

It is commendable that the Commission has adopted this guideline as one of the first guidelines of this kind in the Europe. The guidelines acknowledge that social networking services, such as Facebook, Twitter, Instagram, and LinkedIn, have become prevalent platforms for people to connect and share information globally. While judges are not specifically required to explain their reasons for using social media, the lack of regulation in the use of personal social media accounts by these professionals has been recognized as a concern. The purpose of the guidelines is not to prohibit judges from using social media but to provide guidance on their usage to protect the dignity of courts and the overall reputation of the judicial system. The ethical obligations placed on judges should be seen as an awareness that their behavior, both online and offline can influence public confidence in their impartiality and the judicial system as a whole. When creating personal accounts on social media, judges should consider privacy settings and ensure that their content is only accessible to approved individuals. They should also be aware that all information posted on social media can quickly become public, regardless of privacy settings. Judges should refrain from publishing content on social

<sup>8</sup> See more: <https://www.hracion.org/wp-content/uploads/2022/10/Analiza-postupaka-izbora-sudija-u-CG-2022-5.pdf> , page 38

<sup>9</sup> See more: <https://pravosudje.me/static/sdsv/doc/10868.pdf>



media that could call into question their personal impartiality in cases they handle or the reputation and authority of the judicial system. Expressing views that may raise suspicions of impartiality, such as opinions on societal groups, ongoing cases, or court proceedings, should be avoided. When using social media, judges should avoid making references to their professional roles and ensure that their comments are clear and precise to avoid the misinterpretation of their statements as official positions of the judicial system. Inappropriate language, vulgarity, or extremist comments on social media can damage the reputation of the judiciary and undermine the essence of a democratic society. To protect the dignity and trust in courts and state prosecutor's offices, judges should be cautious about sharing personal information, private-life photographs, and comments. Excessive disclosure of personal details can jeopardize their integrity and make them vulnerable to external pressures. Similarly, sharing real-time information about daily activities and movements should be avoided. While friendships on social media platforms like Facebook may not carry the same depth as real-life friendships, judges should be cautious about accepting friend requests from parties involved in legal proceedings to avoid any perception of bias. Judges should be aware of the risks associated with social media use, as a single misstep can not only violate professional ethics but also jeopardize their entire professional career.

**b) Guidelines on permissible activities that judges/state prosecutors can engage in besides their judicial/prosecutorial function<sup>10</sup>**

The guidelines specify the activities in which judges may engage outside their judicial or prosecutorial office. It emphasizes the need for judges and state prosecutors to assess the compatibility of these activities with their primary roles and responsibilities. They should refrain from engaging in any duties or activities that could lead to real, apparent, or potential conflicts of interest, as well as activities that may harm the reputation of their office or erode public confidence in the judicial system. However, the guidelines also acknowledge that judges are allowed to participate in activities in the scientific, educational, artistic, or copyright-protected fields. These activities should generally not be performed during working hours, unless permitted by law and as long as they do not interfere with the proper execution of their primary duties. Judges are permitted to engage in educational events as speakers, lecturers, or participants, as well as attend official, public, and ceremonial events open to the general public. It is important, though, to avoid events that may be connected to ongoing or past cases they handle. When accepting educational or professional engagements, they should consider potential conflicts of interest. Participation in permanent or temporary bodies established by the judiciary is allowed, provided it does not affect the judges' regular duties. Participation in bodies established by the executive or legislative branches is acceptable only if the topics relate to the judicial system, and judges must ensure that their impartiality, political neutrality, and independence are not compromised. Engagement in charitable organizations as volunteers is permitted, but assuming managerial positions or providing legal counseling during membership should be avoided.

**c) Guidelines on the issue of participation of judges and state prosecutors in political activities from the aspect of principles of independence and impartiality<sup>11</sup>**

<sup>10</sup> See more: <https://pravosudje.me/static/sdsv/doc/10869.pdf>

<sup>11</sup> See more: <https://pravosudje.me/static/sdsv/doc/10870.pdf>

The guidelines highlight that judges should not accept membership in political organizations or participate in any political activities, including electoral campaigns, demonstrations, fundraising, or similar initiatives. This prohibition extends to activities with political connotations, as they can be seen as expressing support or disagreement with a particular political idea, undermining the independence and impartiality of judges. While judges retain their right to freedom of expression, association, and assembly, certain restrictions are necessary to maintain public confidence in the impartiality and independence of the judicial system. It is important for judges and state prosecutors to distance themselves from current political issues and activities. Judges can exercise their political rights as citizens, including the right to vote. However, it is not recommended for them to attend political rallies during electoral processes to avoid compromising their independence and impartiality. If a judge has a family member who is an active politician, they should refrain from activities that may be perceived as public support for the political activity of that family member. Political gatherings should not be organized in the living premises of a judge. Judges should not provide donations to political parties. They should generally refrain from participating in political discussions, but in matters directly related to the functioning of the judicial system or fundamental aspects of justice administration, their input may be desirable. However, judges must be cautious as their public comments may be interpreted as representing the views of the judiciary as a whole. During the performance of their official duties, judges and state prosecutors should refrain from making any comments of a political nature.

#### **d) Guidelines on the right of judges to freedom of expression in the context of the principles of necessity and proportionality<sup>12</sup>**

The guidelines highlight that judges, like other citizens, have the right to freedom of expression. A Judges should not expect disciplinary sanctions for exercising their right to freedom of expression - Judges must be allowed to freely express their own opinions when making decisions without interference. Any limitations imposed by the state on judges' exercise of these rights are subject to general criteria under international law for such limitations, including necessity and proportionality. Restrictions on judges' exercise of these freedoms specifically related to their judicial functions should be determined by the judiciary or another independent body consisting mainly of judges. Not all violations of freedom of expression should result in disciplinary action. Initiating disciplinary proceedings for any unethical expression may have a chilling effect on the existence or expression of differing opinions within the system. Any proceedings against a judge based on the exercise of these freedoms must be conducted in accordance with Article 6 of the European Convention on Human Rights. Complete isolation from the community and society is neither realistic nor required of judges. Judges should particularly avoid political controversies. It is important to avoid using the judicial office to promote personal views and to avoid the impression of being captured by specific organizations or interests. Judges should refrain from expressing opinions on issues that may arise during a judicial proceeding and that could raise concerns about the impartiality of the judge.

Although the Commission has regularly submitted reports on its work to the Judicial Council during the period from 2016 to 2022, currently, there is no information available on the Judicial Council's website regarding the Ethics Commission's report for 2022. The fact

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<sup>12</sup> See more: [https://pravosudje.me/static//sds/doc/Smjernice\\_sloboda\\_izrazavanja.pdf](https://pravosudje.me/static//sds/doc/Smjernice_sloboda_izrazavanja.pdf)

that the Commission has been non-operational for over 10 months raises concerns and is likely to be subject to criticism in the upcoming report by the European Commission on Montenegro, particularly regarding the accountability of the judiciary. The Judicial Council should proactively address the issue of appointing missing members to the Conference of Judges in order to overcome this institutional blockage and resume the functioning of the Ethical Commission for Judges.

### **3.2. PERFORMANCE OF THE JUDICIAL COUNCIL IN ENFORCING DISCIPLINARY RULES FOR JUDGES**

In line with the provisions of the Law on the Judicial Council and Judges of 2015, a disciplinary prosecutor was established to ensure effective disciplinary proceedings for judges. The disciplinary prosecutor's role encompasses conducting thorough investigations and presenting the prosecution's case in disciplinary proceedings against judges. However, one of the biggest deficiencies of the disciplinary framework is that the disciplinary prosecutor does not possess the authority to independently initiate disciplinary proceedings against a judge. Instead, proceedings for establishing disciplinary responsibility can only be initiated by authorized individuals such as the court president, the president of the immediate higher court, the president of the Supreme Court of Montenegro, or the Commission for Monitoring the Implementation of the Code of Ethics for Judges. In this regard, it is crucial to fully endorse the recommendation put forth by the Human Rights Action (HRA), which suggests that the Law on the Judicial Council and Judges should grant the disciplinary prosecutor the authority to initiate disciplinary proceedings when he/she determines the existence of grounds for such action. Furthermore, it is proposed that this possibility should be extended to all members of the Judicial Council.<sup>13</sup> By incorporating these provisions into the law, it would ensure that the disciplinary prosecutor has the necessary power to take proactive measures in cases where disciplinary proceedings are warranted. This step would enhance the efficiency and effectiveness of the disciplinary process, promoting greater accountability and transparency within the judiciary.

In the period from 2016 - 2022, 48 initiatives have been submitted to determine the disciplinary responsibility of judges. This number dramatically increased during 2022, when 35 initiatives were submitted to determine the disciplinary responsibility of judges for failing to disclose their assets and income in accordance with the law regulating conflict of interest prevention. In certain years, such as 2018, no disciplinary proceedings were initiated to establish the disciplinary responsibility of judges. Based on this information, it can be concluded with certainty that the disciplinary framework for judges is not effective and that there is a need to enhance its effectiveness and overall efficiency.

In the past seven years, only four proposals to determine the disciplinary responsibility of judges have been accepted. In three cases, after establishing disciplinary responsibility for more serious disciplinary offenses, the following sanctions were imposed on the judges: in one case, a fine of 40% of their earnings for a period of 4 months, and in two cases, a fine of 20% of their earnings for a period of 3 months. In one case, where the judge was found responsible for a less serious disciplinary offense, a disciplinary sanction of 20% of their earnings for a period of 3 months was imposed. The Judicial Council has established

<sup>13</sup> See more: <https://www.hracion.org/wp-content/uploads/2022/03/Analiza-postupaka-izbora-sudija-u-CG-web-23-3-2022.pdf>, page 77

a practice of publishing anonymized decisions that determine the disciplinary responsibility of judges. However, it is concerning that the latest decision on determining the disciplinary responsibility of a judge in 2022, as well as the proposals and decisions rejecting/dismissing the establishment of disciplinary responsibility for judges, cannot be found on the website of the Judicial Council. The availability of such information is essential for ensuring transparency and public trust in the disciplinary process. It is important for the Judicial Council to promptly publish all documents and provide a comprehensive overview of the disciplinary proceedings for judges.

As already mentioned, in 2022, 35 initiatives were submitted to determine the disciplinary responsibility of judges for failing to disclose their assets and income in accordance with the law regulating conflict of interest prevention. The requirement for judges and prosecutors to disclose their assets is a vital measure aimed at promoting transparency and preventing corruption within the judiciary. However, the efficacy of the asset declaration process in terms of resulting disciplinary actions against judges is notably limited. Recent data reveals that the Agency for the Prevention of Corruption (APC) has initiated 102 administrative proceedings against judges in the past three years for providing incomplete or inaccurate information the asset declaration reports. Namely, based on information announced by HRA, judges failed to declare their or the total assets of their spouses; they failed to declare weapons, motor vehicles, fees for work in committees/expert bodies, loans, information on spousal ownership rights in business premises, and the spouse's share in legal entities, as well as immovable property (meadows, orchards, and forests).<sup>14</sup> The Law on Judicial Council and Judges explicitly states that failure to provide information on assets and income in accordance with the regulations governing the prevention of conflicts of interest constitutes a more serious disciplinary offense for a judge. In all the cases concluded in 2022, the Agency for the Prevention of Corruption (ACA) made a decision determining that judges had violated the Law on the Prevention of Corruption by failing to provide complete and accurate information on their assets. However, following the disciplinary proceedings before the Disciplinary Board of the Judicial Council, all the judges were acquitted of disciplinary responsibility. According to HRA's findings, there is an obvious discrepancy between the practices of the Judicial Council and the Prosecutorial Council when it comes to sanctioning non-compliance with asset reporting requirements, because the Disciplinary Committee of the Prosecutorial Council has taken a stricter stance, penalizing prosecutors by reducing their salaries by 20% for committing such disciplinary offenses. Human Rights Action (HRA) rightfully concludes that such decisions by the Disciplinary Board could have a deterrent effect on court presidents, discouraging them from initiating disciplinary proceedings on the same grounds in the future.<sup>15</sup> Effective mechanisms should be established to monitor and enforce compliance with asset disclosure requirements, and appropriate disciplinary measures should be implemented consistently and fairly. Such measures are essential for upholding the principles of transparency, accountability, within the judiciary and bolstering public confidence in its functioning.

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<sup>14</sup> See more: <https://www.hracion.org/wp-content/uploads/2022/10/Analiza-postupaka-izbora-sudija-u-CG-2022-5.pdf>, pages 32, 322  
<sup>15</sup>

## **CHAPTER 4.**

# **THE TRACK-RECORD OF THE PROSECUTORIAL ETHICS AND DISCIPLINE**

In this section of the paper, we will explore the institutional impact of implementing the ethical and disciplinary framework within the prosecutorial system from 2016 to 2022 in Montenegro. During this period, the new Law on State Prosecution Service was amended, introducing certain novelties in ensuring ethical standards and disciplinary responsibility among state prosecutors. Our analysis will primarily focus on assessing the overall number of cases involving potential breaches of ethical norms and principles by prosecutors and evaluating the effectiveness of the prosecutorial disciplinary accountability system as a whole. Additionally, this section will address specific observations regarding the existing legal framework governing prosecutorial accountability, along with offering recommendations for its enhancement and improvement.

### **4.1. PERFORMANCE OF THE COMMISSION FOR THE IMPLEMENTATION OF THE CODE OF ETHICS FOR STATE PROSECUTORS**

The Commission for the Implementation of the Code of Ethics for State Prosecutors is responsible for overseeing the adherence to and implementation of the Code of Ethics by state prosecutors. Its main role is to promote and ensure ethical conduct among prosecutors, monitor compliance with the Code of Ethics, and handle any issues related to the consultative role and promotion of professional standards. The commission may receive complaints or reports of ethical misconduct and initiate proceedings on determining breaches of ethical rules by state prosecutors. In line with the Law and the Code of ethics for state prosecutors, the Commission plays a crucial role in upholding the integrity and professionalism of state prosecutors and maintaining public trust in the prosecutorial system.

However, there has been a lack of consistent institutional impact in the implementation of the Code of Ethics for prosecutors and overall accountability improvements within the prosecution system. This has been highlighted by the European Commission in its recent annual reports for Montenegro, specifically emphasizing the limited effects in the field of judicial and prosecutorial accountability. Concrete data from the annual reports of the Prosecutorial Council support this conclusion. Over the past seven years, 44 initiatives were initiated to determine violations of the Code of Ethics for state prosecutors, and in only six cases (13%), a violation of the Code of Ethics for state prosecutors was established.

It is important to note that there were certain periods during which the Ethical Commission did not function at all. One such instance was after the adoption of amendments to the Law on the State Prosecutor's Office when the Ethics Commission was dysfunctional for over a year (August 2021 - September 2022) due to changes in the composition of the Prosecutorial Council. The absence of an operational Ethics Commission resulted in delays in addressing ethical complaints and eventual disciplinary proceedings against prosecutors. In addition, the dysfunctionality of the Ethical Commission created a 'perception of impunity' among prosecutors, as there was no active mechanism to address ethical violations.

Similar to the legal framework on judicial accountability, there is a lack of distinction between the formulations of certain disciplinary offenses and ethical violations in both the Law on



the State Prosecutor's Office and the Code of Ethics for state prosecutors. Descriptions of certain disciplinary offenses overlap with violations of the Code of Ethics, creating a situation where the same behavior can be interpreted as both a disciplinary offense and an ethical violation. The ambiguity in distinguishing between these categories allows for inconsistent interpretation and application of sanctions. Such a situation undermines legal certainty and may lead to subjective decision-making by the Ethical Commission. It also raises concerns about the fair and equal treatment of suspected perpetrators of ethical violations, as the same conduct can be subject to different decisions and legal consequences. It is indisputable that ethical responsibility entails lesser significance in terms of sanctions, and that an opinion on the violation of the ethical code cannot produce more severe consequences for the status of a state prosecutor, whereas disciplinary responsibility, in the case of identical unprofessional conduct, can result in dismissal. Therefore, it is necessary to work within the legal framework to establish a clear demarcation between ethical and disciplinary responsibilities, while also strengthening institutional mechanisms for the identification and processing of unethical behaviors. Serious consideration should be given to the consolidation of the competencies of the ethics and disciplinary commissions into a unified body, which would contribute to greater effectiveness and coherence in addressing cases of prosecutorial misconduct.

In the recent period, the Commission for the Implementation of the Code of Ethics for State Prosecutors prosecutors did not enhance its consultative role. Prosecutors are not encouraged to seek advice from the Commission when confronted with ethical dilemmas, enabling them to make decisions that uphold the ethical standards of their esteemed profession. However, in cooperation with the Commission for the Code of Ethics for Judges, the Commission has developed three guidelines to facilitate the implementation of the Code of Ethics for state prosecutors. These guidelines aim to provide explicit and precise directives for judges and state prosecutors in Montenegro, addressing various ethical concerns tied to their professional responsibilities. The adopted guidelines address the issue of permissible boundaries for using social media accounts, allowable professional activities that judges and state prosecutors can engage in alongside their judicial and prosecutorial functions, as well as the matter of judges and state prosecutors' participation in political activities from the standpoint of independence and impartiality principles. The guidelines have been elaborated upon in detail in the preceding section of this document.

#### **4.2. PERFORMANCE OF THE PROSECUTORIAL COUNCIL IN ENFORCING DISCIPLINARY RULES FOR JUDGES**

In line with the Law on State Prosecution Service the motion for establishing the disciplinary liability of the state prosecutor may be filed by the head of the state prosecution office, head of an immediately higher state prosecution office, Supreme State Prosecutor, Minister of Justice and Commission for the Code of Prosecutorial Ethics. It has to be highlighted that members of the Prosecutorial Council, as well as the Disciplinary Prosecutor, do not have the authority to initiate disciplinary proceedings. Upon submitting the motion, the disciplinary prosecutor shall conduct the investigation and present the indictment of establishing disciplinary liability of a state prosecutor. The disciplinary prosecutor is elected by the Prosecutorial Council for a period of two years from among the state prosecutors with at least ten years of professional experience. The procedure for establishing disciplinary liability for minor and severe disciplinary offenses shall be conducted before Disciplinary Panel, established by the Prosecutorial Council. The Panel shall comprise three members of the Prosecutorial Council, two of them from among the state prosecutors and one from among eminent lawyers who shall be the chairperson of the Panel. Supreme State Prosecutor may not be a member of the

Disciplinary Panel. The procedure for establishing disciplinary liability for the most severe disciplinary offences shall be conducted before Prosecutorial Council upon the indictment issued by the Disciplinary Prosecutor.

In the past seven years (2016-2022), a total of 22 proposals were submitted for the determination of disciplinary accountability of state prosecutors. Among these proposals, eight were accepted. It is noteworthy, based on publicly available data, that only one case has been pursued for establishing the responsibility of a prosecutor in the performance of their duties (due to failure to act within the prescribed legal deadlines). In that case, the decision rendered by the Disciplinary Panel regarding the disciplinary responsibility of a prosecutor did not withstand the scrutiny of the Supreme Court. The Supreme Court overturned the initial ruling of the Disciplinary Panel, which had found the prosecutor guilty. Subsequently, in a retrial before the Disciplinary Panel, the prosecutor was released for disciplinary responsibility. After this decision, the prosecutor expressed his intention to lodge criminal complaints against the disciplinary prosecutor and the president of the disciplinary council, alleging "abuse of official position." The other disciplinary cases have primarily focused on the non-declaration of assets and income, in accordance with obligations stipulated by laws regulating the prevention of corruption and conflict of interest. The determination of disciplinary responsibility for prosecutors has predominantly resulted in monetary fines amounting to 20% of their earnings over a three-month period.

In 2023, for the first time, the Minister of Justice initiated a disciplinary procedure against the head of a state prosecution office. The procedure, which garnered significant public interest. Namely, in the second half of April, Justice Minister filed a motion for the dismissal of Head of the Podgorica High Prosecutor's Office, citing suspicion of undue influence on Basic State Prosecutor in one case. During the assessment of this case, the Prosecutorial Council announced that competent authorities within the prosecutorial organization should take 'appropriate measures and actions within their jurisdiction to ensure consistent and unified adherence to the principle of autonomy of state prosecutors in their actions.' At the conclusion of the disciplinary investigation (beginning of June 2023), the Disciplinary Prosecutor has submitted a proposal to the Prosecutorial Council for the dismissal of the Head of the High Prosecutor's Office. The proposal alleges that she exerted undue influence by making a phone call to the Basic Prosecutor after midnight and requesting actions that were not in accordance with the law. At a closed session held on 15 June, the Prosecutorial Council rejected the motion filed by Disciplinary Prosecutor.<sup>16</sup> The Prosecutorial Council stated in a press release that the motion lacked a description of the legal norm violated or an offense that warranted her dismissal. Justice Minister criticized the decision of the Prosecutorial Council, considering it a 'dangerous precedent that could undermine the functional immunity of state prosecutors,' particularly concerning pressures they might face within the prosecution itself. The decision of the Prosecutorial Council has drawn criticism from the NGO Human Rights Action (HRA), who expressed their disappointment that the substantial allegations of undue influence by the head of the High Prosecutor's Office were dismissed due to formal deficiencies in the disciplinary indictment.<sup>17</sup>

During the reporting period, the Prosecutorial Council has implemented a commendable practice of publishing anonymized decisions regarding the determination of disciplinary

<sup>16</sup> See more: <https://pravosudje.me/tzsv/sadrzaj/M8Lm>

<sup>17</sup> See more: <https://rtnk.me/drustvo/hra-o-slucaju-lepe-medenice-ocekujemo-novi-optuzni-predlog/>

responsibility for prosecutors on its official website. This practice serves as a vital tool for promoting transparency, ensuring accountability, fostering legal consistency, and upholding public confidence in the prosecution service. It is essential that this practice continue, as it enables the public to gain insight into the disciplinary process and outcomes, thereby deterring potential abuses of power. Furthermore, the publication of these decisions establishes a valuable precedent that can guide future disciplinary proceedings. By providing guidance and serving as reference points for prosecutors and legal professionals, published decisions contribute to consistency and uniformity in the application of disciplinary measures.



## CONCLUDING REMARKS

Judicial ethics and discipline play a vital role in ensuring the integrity and credibility of the judicial system in Montenegro. Based on the conducted research regarding the implementation of the system of ethical and disciplinary accountability for judges and state prosecutors, the following conclusions can be drawn:

- A general observation is that the ethical and disciplinary framework for judges and state prosecutors **is not being sufficiently utilized to enhance accountability within the judiciary and state prosecution service** since its introduction in 2015. The measures at the disposal to the Judicial and Prosecutorial Councils, as well as the committees operating under these bodies, which are responsible for overseeing ethical conduct and disciplinary responsibility of judges and prosecutors, have not been effectively implemented in practice.
- It appears that within both the judiciary and the state prosecution, there is a prevalent **culture of 'silent solidarity' among judges and state prosecutors**, particularly those involved decision-making process regarding ethical and disciplinary responsibility. That 'silent solidarity' seems to prioritize the protection of self-interests over an internal awareness of the necessity to enforce rules of accountability and sanction those who violate professional conduct standards. As a result, the system of judicial and prosecutorial accountability is reduced to an extremely low number of proceedings initiated concerning the performance of judicial and prosecutorial functions.
- There is a **lack of consistency** in the implementation of ethical and disciplinary standards and rules among judges and state prosecutors. In some cases, similar unprofessional behaviors may receive different outcomes, leading to a perception of unequal treatment between ethical and disciplinary violations of judges and prosecutors. Furthermore, it is important to highlight the inconsistency in the actions of disciplinary committees when it comes to the disciplinary responsibility of judges and prosecutors in cases of non-disclosure of asset and income information in accordance with anti-corruption laws. While prosecutors face disciplinary sanctions for this disciplinary offense, judges are still outside the scope of disciplinary responsibility for non-disclosure of asset and income information.
- The current legal framework (the Law on Judicial Council and Judges and the Law on State Prosecution Service) **lacks a clear distinction between the definitions of specific disciplinary offenses and ethical violations** outlined in the codes of ethics for judges and prosecutors. The descriptions of certain disciplinary offenses often overlap with ethical violations, leading to a scenario where the same conduct can be interpreted as both a disciplinary offense and an ethical violation. Legal ambiguities should be clarified in two ways: first, through a detailed review of the disciplinary and ethical legal framework, including a revision of the codes of ethics for judges and prosecutors; and second, through a more consistent approach by ethical commissions in handling specific cases and establishing a database of precedents, decisions, opinions and guidelines. This can create a solid foundation for a unified approach to distinguishing between ethical violations and disciplinary offenses and misconduct.
- The work of ethical commissions lacks **proactivity and genuine efforts** to improve the ethical behaviour of judges and prosecutors. Frequent periods of the dysfunctionality of these commissions contribute to the overall inefficiency and ineffectiveness of the system of ethical accountability. Decisions and opinions of the commissions must be fully justified and reflect the entire process of investigating allegations of judicial/prosecutorial

misconduct, including hearings and the presentation of evidence from the party initiating the proceedings regarding the violation of the Code of Conduct. Overall, the track-record in the area of the ethical accountability for judges and prosecutors has been limited and require significant improvement in the future.

- The **consultative role of these commissions needs to be enhanced**, and concrete mechanisms for preventive action in the improvement of judicial and prosecutorial ethics should be defined. Training and education in this regard should play a crucial role, as well as direct communication between the commissions and judges and prosecutors regarding ethical dilemmas. The practice of developing specific guidelines for the application of ethical codes should be continued. This can contribute to greater effectiveness of the commissions and their preventive and consultative roles within the judicial system.
- The disciplinary framework needs to be more comprehensively reviewed. With a focus on improving the definitions of disciplinary offenses, particular attention should be given to **enhancing the clarity and precision in the definitions of disciplinary offenses** within the legal framework. This can be achieved through specific amendments to the Law on Judicial Council and Judges and the Law on State Prosecution Service, ensuring that the definitions are clear, comprehensive, and effectively address various types of disciplinary misconduct.
- The members of the Judicial and Prosecutorial Councils, as well as disciplinary prosecutors, **lack the authority to initiate disciplinary proceedings**, which weakens their role in the accountability system within the judiciary. Currently, the dominant role in determining judicial and prosecutorial disciplinary liability is held by the presidents of courts and heads of state prosecution offices, who de facto have been entrusted with the competencies of disciplinary prosecutors and conducting investigations in cases of unprofessional behaviour of judges and prosecutors. The legal framework in this area will require significant improvement.
- There is a clear need for improved training and education programs focused on ethics and professional conduct for judges and prosecutors. The Centre for Training in the Judiciary and the State Prosecution should cooperate with the Judicial Council and the Prosecutorial Council to develop a specialized curriculum for initial and in-service education programs for judges and prosecutors. This curriculum should specifically aim to strengthen integrity and professional behaviour. By implementing such programs, the judiciary and prosecution can ensure ongoing professional development and promote a strong culture of ethical conduct among judges and prosecutors.



