



*Crna Gora*  
*Agencija za sprječavanje korupcije*

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Pursuant to Articles 78 and 79 of the Law on Prevention of Corruption (Official Gazette of Montenegro, Nos. 53/14 and 42/17) and Article 10 of the Statute of the Agency for Prevention of Corruption, acting ex officio, the Agency for Prevention of Corruption issues the following:

**OPINION ON THE PROPOSAL FOR THE LAW ON PUBLIC PROSECUTOR'S OFFICE NO. 23-2/21-2 (EPA: 133 XXVII) AND THE PROPOSAL FOR THE LAW ON PROSECUTOR'S OFFICE FOR ORGANISED CRIME AND CORRUPTION NO. 23-2/21-2 (EPA: 127 XXVII)**

Upon examining the texts of the proposed laws, and taking into account their social impact as systemic laws governing the independence of the judiciary, as the ultimate and most important guarantor of democratic functioning of institutions as well as guarantor of legal security of citizens, the Agency recognizes the need to implement the entire legislative process in terms of involving the professional and international public, in order to prepare the relevant legal matters so that the proposed legislative solutions would reflect the public interest, and to minimise the space for favoring individual interests at the expense of the public interest.

Given the importance and role of the Prosecutorial Council, as a body whose scope of competencies includes election, appointment, promotion, transfer, sentencing and removal from office of prosecutors, which is of key importance for the prosecutors' careers, the Agency is of the opinion that it is necessary to minimise political influence in the election of members of the Prosecutorial Council, and calls for consideration of the proposed provisions which stipulate that all members of the Prosecutorial Council are to be directly or indirectly elected by the Parliament of Montenegro, ie that the majority of members of the Prosecutorial Council are to be elected directly by the Parliament of Montenegro (Supreme Public Prosecutor and 5 prominent jurists). This in order to create the conditions necessary for Montenegro's accession to the European Union as well as to meet international principles underpinning that the independence of prosecutors is inseparable from the rule of law.

In relation to the Proposal for the Law on the Prosecutor's Office for Crime and Corruption, which, in addition to changing the name of the body and office holders in the said body, does not contain departures from the current Law on Special Prosecution, except for the update in Article 48 referring to the status of

the chief special prosecutor and special prosecutors who, with the eventual adoption of the said proposed law, would have the status of unallocated prosecutors, the Agency is of the opinion that the intent of the law proponents does not comply with the international standards in this area which protect the permanence of the prosecutorial tenure and do not support amendments to the existing laws, the sole purpose of which is to deprive holders of public powers of their functions, without first calling into question their abilities in procedures established by law, thus, *inter alia*, denying them the opportunity to challenge the termination of their mandate before the competent courts.

## EXPLANATORY NOTE

### I PROCEDURE

The Law on Prevention of Corruption governs the power of the Agency for the Prevention of Corruption (hereinafter: the Agency) to:

- “take the initiative to amend the laws, other regulations and general acts, in order to eliminate the possible risk of corruption or to bring them in line with international standards in the field of anti-corruption;
- give opinions on draft laws and other regulations and general acts for the purpose of their alignment with international standards in the field of anti-corruption;...”

pursuant to Article 78, paragraph 1 of the Law on the Prevention of Corruption.

Also, Article 79 of the same Law stipulates that the Agency may, on its own initiative or at the request of an authority, company, legal person, entrepreneur or natural person, give an opinion for the purpose of improving the prevention of corruption, reducing the risk of corruption and strengthening the ethics and integrity in authorities and other legal persons, which includes an analysis of the risk of corruption, measures to eliminate the risk of corruption and corruption prevention.

In its Opinions, the Agency may refer to the provisions of the Constitution and relevant laws, but not in the sense of assessing constitutionality and legality, but in the sense of applying and achieving the purpose of Article 79 of the Law on Prevention of Corruption.

The Agency has decided to conduct the procedure *ex officio* on the basis of Articles 78 and 79 of the Law on Prevention of Corruption, particularly appreciating the importance of the Law on Public Prosecutor’s Office and the

Law on Special Public Prosecutor's Office and taking into account their social impact as systemic laws governing the independence of the judiciary, and drafted the Opinion on the Proposal for the Law on Amendments to the Law on Public Prosecutor's Office No. 23-2/21-2 (epa: 133 XXVII) and the Proposal for the Law on Prosecutor's Office for Organised Crime and Corruption No. 23-2/21-2 (epa: 127) XXVII), which were submitted to the Parliament of Montenegro on February 3<sup>rd</sup>, 2021. Additionally, the Agency also considered the importance of these two regulations recognized through the Action Plan for Chapter 23 - Judiciary and Fundamental Rights, as one of the strategic and reform documents in the justice area with clear goals and measures, the implementation of which shall result in the completion of Montenegro's integration process into the European Union.

## II EXPLANATION OF GENERAL PRINCIPLES

As a reminder, in July 2013, constitutional changes were adopted with the view of reducing political influence on the appointment of high officials in the judiciary by providing transparent procedures and merit-based elections with the introduction of a qualified majority and unblocking mechanism in the Parliament. These constitutional changes introduced the Prosecutorial Council as a constitutional category with the task of ensuring, through the exercise of its powers, the independence of the Public Prosecutor's Office, entrusting it with a wide scope of competencies, including election, appointment, promotion, transfer, sentencing and removal from office of prosecutors. These powers are crucial in terms of the prosecutors' careers, and the composition, election, mandate, organisation and manner of work of the Prosecutorial Council are further regulated by law.

Due to the importance of adopting this regulation, and in order to create a functional framework that will provide the necessary basis for strengthening the independence of the judiciary, the law provided, *inter alia*, the introduction of a unified system of election of state prosecutors at the state level and the introduction of an objective system of promotion based on merit and taking measures to strengthen the accountability of public prosecutors. In the process of drafting the text of the regulations, all relevant international partners were consulted, including experts from the European Commission and the Venice Commission.

Aware of the importance of the laws in question, the Agency has examined all the available documents relating to this issue, from the perspective of its jurisdiction.

In addition to the analysis of the law proposals, as well as international standards in this area, a lack of the public element in the process of proposing the laws was observed at the very beginning, both in terms of organising public debates and consulting the professional public. This particularly bearing in mind that public debates, ie enabling the participation of the interested public in the preparation of laws, especially as important as these, are an important preventive mechanism in the fight against corruption.

Organising public debates and public consultations in all phases of the legislative procedure, and during the preparation of laws that significantly change the way an issue is governed, or in the specific case when it comes to issues that may be of special interest to the public, is advisable as well as necessary. In this way, the proponent enables the crystallization of solutions that determine the public interest and improve the quality of the regulation itself, thus reducing the space for favoring individual interests at the expense of the public interest to a minimum.

### III ANALYSIS OF THE PROPOSAL OF THE LAW ON AMENDMENTS TO THE LAW ON STATE PROSECUTOR'S OFFICE NO. 23-2/21-2 (EPA:133 XXVII) ARTICLE 4

Article 18 of the Law on State Prosecutor's Office ("Official Gazette of Montenegro", Nos. 11/15, 42/15, 80/17, 10/18 and 76/20) prescribes the composition of the Prosecutorial Council:

„The Prosecutorial Council shall have a President and ten members.  
President of the Prosecutorial Council shall be the Supreme Public Prosecutor.  
Members of the Prosecutorial Council shall include.

- 1) five Public Prosecutors who hold a permanent office and have at least five years of experience in the exercise of prosecutorial office, of which four working at the Supreme Public Prosecutor's Office, Special Public Prosecutor's Office and High Public Prosecutor's Offices, and one working at the Basic Public Prosecutor's Offices, who shall be appointed and relieved from office by the Conference of Public Prosecutors;
- 2) four prominent jurists appointed and relieved from office by the Parliament of Montenegro (hereinafter: the Parliament) at the proposal of the competent working body;
- 3) one representative of the state administration body in charge of justice (hereinafter: the Ministry of Justice), appointed by the Minister of Justice from among the employees of the Ministry of Justice.

No member of the Prosecutorial Council shall be elected from among the Public Prosecutors whose performance was rated as not satisfactory or who were subject to a disciplinary sanction.

The composition of the Prosecutorial Council shall be promulgated by the President of Montenegro.

Administrative assistance to the Prosecutorial Council shall be provided by the Secretariat of the Prosecutorial Council.”

The Proposal for the Law on Amendments to the Law on State Prosecutor's Office No. 23-2 / 21-2 (EPA: 133 XXVII) in Article 4 envisages the amendment to the said Article of the Law as follows:

#### Article 4

In Article 18, paragraph 3, item 1 is amended as follows:

„1) four Public Prosecutors who hold a permanent office and have at least five years of experience in the exercise of prosecutorial office, of which one each from the Supreme Public Prosecutor’s Office, Special Public Prosecutor’s Office and High Public Prosecutor’s Offices, and two working at the Basic Public Prosecutor’s Offices, who shall be appointed and relieved from office by the Conference of Public Prosecutors;”

In item 2, the word: “four” is replaced by the word: “five”.

Paragraph 5 is amended as follows:

"The composition of the Prosecutorial Council shall be promulgated by the President of the Parliament of Montenegro."

Comparing the text of the current law and the proposed amendments, it is concluded that the cited amendments envisage that the composition of the Prosecutorial Council is to be diminished by two, and that the number of prominent jurists who are members of the Prosecutorial Council is to be increased by two. Furthermore, it was proposed that the composition of the Prosecutorial Council is to be proclaimed by the President of the Parliament of Montenegro instead of the President of Montenegro, as has been done pursuant to the current regulation.

The reasons for passing this law are justified by the need to improve the results of the work of the Prosecutorial Council, which directly affect the functioning of the public prosecutor's organisation, but also the fulfillment of conditions required for Montenegro's accession to the European Union. These reasons justify the intent to amend the composition of the Prosecutorial Council, which should contribute, *inter alia*, to faster fulfillment of the conditions for Montenegro's accession to the European Union.

In such a system, with the powers and composition of the Prosecutorial Council, as envisaged by the proposed law, there are a number of deficiencies, which

leads to the risk of political pressure during the processing of cases, especially when it comes to cases involving politicians or persons which politicians have an interest to protect. Specifically, the decision in Article 4 of the cited proposed law envisages that the members of the Prosecutorial Council be directly or indirectly elected by the Parliament of Montenegro, ie. that four state prosecutors and one representative of the state administration body responsible for judicial affairs are to be elected by the Parliament of Montenegro indirectly, and the Supreme Public Prosecutor and 5 prominent jurists directly. In this way, a wide scope of powers of the Prosecutorial Council consisting of the election, appointment, promotion, transfer, sentencing and removal from office of prosecutors, become directly exposed to the influence of the executive and legislative authorities.

Bearing in mind the Prosecutorial Council's powers, the proposed legislative solution makes space for political influence on appointments and promotions when it comes to this profession, thus creating a serious threat to the autonomy, independence and impartiality of the prosecutorial office. In addition, the cited solution is conducive to the fact that persons who do not belong to the prosecutorial system, are not familiar with the prosecutor's work and its nature, would have the opportunity to make very important decisions regarding the legality of prosecutors' work and ultimately influence their work ...

All international partners involved in the rule of law state as an imperative that in every democratic society it is necessary to ensure independence of the work of the prosecution service and freedom in acting or decision-making without external interference. Also, it is necessary that the prosecutor's office, within the powers determined by the Constitution and the law, be inviolable in performing the entrusted tasks and protected from any external influence. Prosecutors are at the forefront of the prosecution of severe crimes and therefore have an essential role to play in safeguarding public security and protecting the rule of law. Accordingly, it is necessary for them to use their great procedural powers in the interest of legal security of citizens, and to perform their work in accordance with the principles of independence and freedom of action. Ways to limit the interference of political power in the election of prosecutors should be sought in terms of their direct participation in the election procedure.

The independence of prosecutors is inseparable from the rule of law, and the Venice Commission itself stresses the need to minimise political interference in the election of members of the Prosecutorial Council.

One of the relevant international standards supporting the need for independence of the prosecutor's office is also the United Nations Convention against Corruption (Law on Ratification of the United Nations Convention against Corruption (Official Gazette of Serbia and Montenegro - International

Agreements, No. 11/2005)), which, as an international instrument relevant in the area of prevention of corruption, in Article 11, relating to measures regarding the judiciary and the prosecution, provides that:

“Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

Measures to the same effect as those taken pursuant to paragraph 1 of this Article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.”

The Declaration, called the “Bordeaux Declaration”, contained in the Opinion, which was jointly adopted by the CCJE and the CCPE on 8 December 2009, states that “The independence of the public prosecution service constitutes an indispensable corollary to the independence of the judiciary. The role of the prosecutor in asserting and vindicating human rights, both of suspects, accused persons and victims, can best be carried out where the prosecutor is independent in decision-making from the executive and the legislature and where the distinct role of judges and prosecutors is correctly observed.” The independence of public prosecutors is indispensable for enabling them to carry out their functions. Independence strengthens their role in a state of law and in society, and it is also a guarantee that the justice system will operate fairly and effectively and that the full benefits of judicial independence will be realised (Declaration, paragraphs 3 and 8).

Recommendation Rec(2000)19 of the Council of Europe Committee of Ministers on the role of public prosecution in the criminal justice system, which explicitly emphasizes the relationship between judges and public prosecutors, as well as general principles that are crucial in ensuring that these relations contribute to the unambiguous and correct performance of tasks of judges and public prosecutors. This recommendation particularly stresses the State's obligation to “take appropriate measures to ensure that the legal status, the competencies and the procedural role of public prosecutors are established by law in a way that there can be no legitimate doubt about the independence and impartiality of the court judges.”

The Report of the European Commission for Montenegro for 2020, in Part 2.2 Rule of Law and Fundamental Rights, Chapter 23: Judiciary and Fundamental

Rights states that: “Montenegro remains moderately prepared to apply the EU *acquis* and the European standards in this area and has made limited progress overall. Last year’s recommendations regarding the judiciary have only been partially met. Challenges remain, in particular with regard to the independence, professionalism, efficiency and accountability of the judiciary. It is essential that Montenegro does not reverse earlier achievements in the judicial reform.”

For this reason, the principles established through the reform of the legislative framework, as well as previous achievements, should be enhanced in order to achieve better results in this area, but particular caution and comprehensive analysis are needed in order to adopt the best possible legislative solutions in order to safeguard the prosecution system from political influence and interference and create an environment in which prosecutors can exercise the entrusted competencies in accordance with the principles of independence and freedom of action.

#### IV PROPOSAL FOR THE LAW ON PROSECUTOR’S OFFICE FOR ORGANISED CRIME AND CORRUPTION NO. 23-2/21-2 (EPA:127 XXVII) – ARTICLE 48

Considering that the Proposal for the Law on Prosecutor's Office for Organised Crime and Corruption establishes, in the addition to changing the name of the body and office holders in the said body, an update compared to the Law on Special Public Prosecutor's Office (Official Gazette of Montenegro, Nos. 10/15 and 53/16), which refers to the status of the Chief Special Prosecutor and special prosecutors, who would have the status of “unallocated” prosecutors if the proposed law were eventually adopted, an analysis of the said article of the proposed law is provided below.

#### “Article 48

With the enactment of this Law, the Chief Special Prosecutor and special prosecutors elected in accordance with the Law on Special Public Prosecutor's Office (Official Gazette of Montenegro No. 10/15 and 53/16) have the status of “unallocated” prosecutors.

Until the election of the heads of the Prosecutor's Office for Organised Crime and Corruption, the Supreme Public Prosecutor's Office will undertake actions that allow no delay in cases that were under the jurisdiction of the Special Public Prosecutor's Office.

The Prosecutorial Council shall, within six months from the entry into force of this Law, allocate the state prosecutors referred to in paragraph 1 of this Article within the Public Prosecutor's Office, in accordance with the decision on the number of state prosecutors.



The consent of the unallocated state prosecutor is not required for the allocation of state prosecutors referred to in paragraph 1 of this Article.”

The Explanatory Note, which is an integral part of the cited law proposal, states, *inter alia*, that “the Special State Prosecutor's Office made its greatest achievements in persecuting political dissidents and opponents of the former regime, while the expected results in the fight against corruption and organised crime were lacking.” Because of all this, it is necessary to begin drafting the Law on Prosecutor's Office for Organised Crime and Corruption, with whose adoption Montenegro will acquire real institutional foundations for combating organised crime and corruption.”

This update certainly does not correspond to the need to adopt a new text of the law, bearing in mind that the proposal of the new law makes almost no amendments to the existing law, ie apart from the cited Article 48, it amends only the name of the body and office holders in that body.

The loss of public office, which is recognised as the only update in the proposed law, was also recognised in the judgment of the European Court of Human Rights in the application *Baka v. Hungary*, no. 20261/12, judgment of 27 May. 2014, which refers to the termination of the mandate of the President of the Supreme Court of Hungary. Namely, on that occasion the European Court of Human Rights found that the applicant's premature termination was not conditional on the questioning of his ability to exercise his office before the Hungarian authorities, and that the applicant had not had the opportunity to challenge the termination of his term before the Hungarian courts which it in itself constituted a violation of his right of access to a court.

Also, GRECO in its Second Compliance Report of Fourth Evaluation Round on Montenegro (on Corruption prevention in respect of members of parliament, judges and prosecutors) (Strasbourg 2-6 December 2019) states that “GRECO assessed positively that the disciplinary framework for prosecutors had been further strengthened, and that the rules for disciplinary proceedings had been modified and sufficiently explained. Regarding the second part of the recommendation, GRECO noted that the publication of information concerning disciplinary proceedings against prosecutors in the Annual Report of the Public Prosecutor's Office responded to a need for greater transparency, but stressed that a systematic form of disclosure of details in a public record was required.”

Also, in its Report on Fourth Evaluation Round on Montenegro (on Corruption prevention in respect of members of parliament, judges and prosecutors (Strasbourg, 15-19 June 2015), it is stated: “Codes of ethics are in place for both prosecutors and judges, but more needs to be done to enhance integrity and

accountability mechanisms within the judiciary. Although legislative reform has also been pursued to strengthen the discipline regime over judges and prosecutors, doubts remain as to the quality and effectiveness of the control performed over misconduct and conflicts of interest in the judiciary... The independence of the Public Prosecution Office is enshrined in the Constitution and further guaranteed by the Law on Public Prosecution Office which establish that the Public Prosecution Office is an independent public body which prosecutes the perpetrators of criminal offences and, in performing its duties, it proceeds according to the Constitution, laws and international treaties. The Law on Public Prosecution Office (as amended in February 2015) prescribes that the office of prosecutor must be exercised in an impartial and objective manner... Prosecutors may be removed from office if they have been sentenced of a criminal offence which renders them unfit to exercise their prosecutorial office, if they exercise the prosecutorial office unprofessionally or in a unconscionable manner, or if they have permanently lost the ability to exercise the office. The law also contains clarifications on what is meant by unprofessional and unconscionable behavior, especially for addressing a specific situation in which a corrupt prosecutor may choose to obstruct criminal proceedings simply by not prosecuting the perpetrators in a timely or effective manner. The prosecutor who has been released from duty may appeal the decision before the Administrative Court.... GRECO recommends significant enhancement and further development of mechanisms for providing guidance and advice on ethics and prevention of conflicts of interest for prosecutors.”

The existing Law on the Public Prosecutor's Office establishes a Disciplinary prosecutor who conducts the investigation and represents the indictment, specifies the disciplinary offences of state prosecutors, which are subdivided into minor, severe and most severe disciplinary offences. Disciplinary proceedings for minor and severe disciplinary offences are conducted by the Disciplinary panel, which consists of a president appointed from among prominent jurists and two members appointed from among prosecutors. Disciplinary proceedings for the most severe disciplinary offences are conducted by the Prosecutorial Council. Among the authorised proposers for initiating disciplinary proceedings is the Commission for Monitoring the Application of the Code of Ethics for Public Prosecutors, through which the Prosecutorial Council, as a body supervising the work of prosecutors, is able to submit a proposal for determining disciplinary liability of prosecutors, which was not possible before. This indicates that the prosecutor's organisation has an accountability system established on objective criteria, so the Agency is of the opinion that existing mechanisms should be used to improve the work of public and special prosecutors, contrary to the proposer's intention to determine the status of “unallocated prosecutors” for the Chief Special Prosecutor and Special Prosecutors by enacting the Law on the Prosecutor's Office for Organised Crime and Corruption. In addition to that, the

said solution could lead to the interruption of the work process in cases under the subject matter jurisdiction of the Special Public Prosecutor's Office, which could have consequences for the course and implementation of proceedings in the area of organised crime and corruption, as stated in the proposed law, the Supreme State Prosecutor's Office shall, until the election of the head of the Prosecutor's Office for Organised Crime and Corruption, take only actions that allow no delay in cases within the jurisdiction of the Prosecutor's Office. Bearing in mind the gravity of the criminal offences which the defendants are charged with by the Special Public Prosecutor's Office, and the fact that these are very complex legal cases in majority of which detention is ordered as a security measure for defendants in the proceedings, this change will unequivocally lead to the violation referred to in Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which also regards the length of detention. Namely, respecting the case law of the European Court of Human Rights, the Supreme Court of Montenegro took the view that if the prosecutor did not take perform evidentiary actions during the investigation, that the custody of the defendants would not be extended, and in these circumstances it is certain that no evidentiary action would be performed (Case Kr.no. 53/2019 "Assessing that the extension of the defendant's detention was unfounded, the Supreme Court also took into consideration the case law of the European Court of Human Rights, which in the judgment Stögmüller v. Austria -1969 stated that Article 5 § 3 of the Convention stipulates that detention may not exceed reasonable time. In this regard, §4 of the said judgment states, inter alia, that the court: "...is necessarily required, when examining whether Article 5 § 3 has been complied with, to consider and assess the reasonableness of ... "detention and ..." the seriousness of the departure from the rule of respect for individual liberty.". This further means, as stated in §5 of the same judgment, that "... Article 5 § 3 of the Convention ... stipulates that detention may not exceed a reasonable time ... and implies that there must be special diligence and the conduct of criminal proceedings in cases involving detainees." Therefore, the Public Prosecutor's Office in this particular case did not display the necessary promptness in terms of completing the investigation, which was required by Article 174 paragraph 2 of the CPC and Article 5 paragraph 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and thus caused the investigation and detention to be of unreasonable duration, contrary to the standards of the case law of the European Court of Justice when it comes to justifying the reason for departure from the rule of respect for individual liberty. The defendant, who is in custody, cannot suffer the harmful consequences of the unjustified delay of the proceedings by the Public Prosecutor's Office (which in the investigation phase is solely responsible for the urgent carrying out of evidentiary actions... " )

## V CONCLUDING REMARKS

Upon examining the texts of the proposed laws, and taking into account their social impact as systemic laws governing the independence of the judiciary, as the ultimate and most important guarantor of democratic functioning of institutions as well as guarantor of legal security of citizens, the Agency recognizes the need to implement the entire legislative process in terms of involving the professional and international public, in order to prepare the relevant legal matters so that the proposed legislative solutions could reflect the public interest, and to minimise the space for favoring individual interests at the expense of the public interest. Only good and fair legal solutions can make our judicial system independent and strong ... thus directly protecting the public interest and increasing public confidence in the work of the competent institutions.

Bearing in mind the importance and role of the Prosecutorial Council, as a body whose scope of competencies includes election, appointment, promotion, transfer, sentencing and removal from office of prosecutors, which is of crucial importance for the prosecutors' careers, the Agency is of the opinion that it is necessary to minimise political influence in the election of members of the Prosecutorial Council, and calls for consideration of the proposed provisions which stipulate that all members of the Prosecutorial Council are to be directly or indirectly elected by the Parliament of Montenegro, ie that the majority of members of the Prosecutorial Council are to be elected directly by the Parliament of Montenegro (Supreme Public Prosecutor and 5 prominent jurists). This amendment is certainly not proposed in order to create the conditions necessary for the accession of Montenegro to the European Union and to meet international principles underpinning that the independence of prosecutors is inseparable from the rule of law.

In relation to the Proposal for the Law on the Prosecutor's Office for Organised Crime and Corruption, which, in addition to changing the name of the body and office holders in the said body, does not contain departures from the current Law on the Special Prosecutor's Office, except for the update in Article 48 referring to the status of the chief special prosecutor and special prosecutors who, with an eventual adoption of the said proposed law, would have the status of "unallocated" prosecutors, the Agency is of the opinion that the intent of the law proponents does not comply with the international standards in this area which protect the permanence of the prosecutorial tenure and do not support amendments to the existing laws, the sole purpose of which is to deprive holders of public powers of their functions, without first calling into question their abilities in the procedures established by law thus, *inter alia*, denying them the

opportunity to challenge the termination of their mandate before the competent courts.

If the said proposals of the Law on the Prosecutorial Council and Law on the Prosecutor's Office for Organised Crime and Corruption are adopted, the political influence on the Public Prosecutor's Office, whose work should be independent and autonomous, and will also put individual before the public interest, which is unacceptable for a democratic society such as is represented by all member states of the European Union, to which Montenegro aspires.

DIRECTOR  
Jelena Perović