



Rome/The Hague, February 16th 2011

Dear Mr Barroso,

MEDEL and the Dutch Foundation Rechters voor Rechters/Judges for Judges are deeply concerned with regard to the way recent reforms of Serbia's judicial system were implemented.

We are referring, in particular, to the bills amending the laws on the judiciary, which were submitted to the Parliament on 21st December 2010, then adopted on 29th December and entered into force the next day.

It is understood that these legislative amendments were submitted to the Council of Europe's Venice Commission and the European Commission for their comments.

Unclear however is whether these institutions were indeed able to comment on these bills before they were speeded through the Parliament.

Only a few weeks before the EC SERBIA 2010 PROGRESS REPORT (SEC (2010) 1330) called once again attention to the fact that "*the re-appointment procedure of judges and prosecutors in had major shortcomings and was non-transparent. The two Councils (High Judicial Council and the State Prosecutorial Council) responsible were elected under a transitory composition and did not apply objective criteria. Judges and prosecutors were not heard during the procedure and did not receive adequate explanations for the decisions. This puts into question the independence of the judiciary and may give room for political influence.*"

The election process for the two Councils is now ongoing. The strong criticism on the unconstitutionality of these recent legislative changes however, not only by the professional associations but also voiced in a unique united appeal by leading Serbian Professors of law and highly respected individual law experts (see annex), can not be put aside easily and should be heard:

- *'The right to vote of non-reappointed judges (more than 800) and prosecutors (around 200) in the elections for the High Judicial Council and State Prosecutorial Council is precluded, although the final decision on their status has not been rendered yet. Unreasonably short deadlines are set for the elections of the members of the High Judicial Council and State Prosecutorial Council and a new procedure for their election is envisaged which can not give legitimacy to the dramatically shaken reputation of these bodies.'*

The establishing of a truly independent, professional, efficient, transparent judiciary, that is available to all, is and should be the main goal of reforming Serbia's judiciary.

But it is highly questionable whether this new legislation - that also envisages a transfer of the cases of the dismissed members of the judiciary that are currently pending in the Constitutional Court to the two new Councils - will indeed be a next step towards an independent judiciary and form a remedy for the serious shortcomings in the re-appointment procedure of judges and public prosecutors.

We look forward to hearing from you on this important matter.

Yours sincerely,

Vito Monetti
President of Medel

Tamara Trotman
Vice-president Judges for Judges