



Resolution of the IAJ

The International Association of Judges at its meeting in Istanbul on September 8th 2011 unanimously adopted the following

Resolution Concerning the Election of Judges in Serbia

1. The International Association of Judges views with great concern developments in the reorganisation of the judiciary in Serbia, especially the termination of office of judges and the election procedure for the position of judges.
2. In breach of international standards, the office of all judges including those who had permanent tenure was terminated at 31.12.2009 by a law on the regulation of the judiciary. All judges had to apply of new for the position of judge and undergo a procedure before the High Council of Justice. According not only to international observers such as the Council of Europe, OSCE, European Union and European Association of Judges but also two judgments of the Constitutional Court of Serbia, this procedure violated several fundamental rights of a fair trial.
3. At the end of 2010 another law on the regulation of the judiciary altered the jurisdiction for granting remedies against the decisions of the High Council of Justice. That law transferred from the Constitutional Court back to the High Council all of the pending cases in this matter, then numbering more than 800. After long negotiations with the Serbian Judges' Association, and international observers, the High Council of Justice, composed of newly elected members and four members of the old composition, who already were participating in the previous decisions (three members ex officio and one other member), issued a set of rules to be applied in the procedure for review of the decisions of the old High Council of Justice which were under challenge. The Serbian Association of Judges claims that in conducting the review procedure the High Council of Justice does not apply the rules previously established to guarantee a fair trial.
4. IAJ recalls that judges having permanent tenure should only be removed from office either after a disciplinary procedure which fulfils all guarantees of a fair trial or if the judge in question becomes unfit to perform the duties of the office of judge.
5. The IAJ therefore urges the Serbian authorities to address this incompatibility with international standards and to remedy the shortcomings mentioned above and redress all the personal disadvantages which those shortcomings entail for the judges concerned.

Istanbul 8 September 2011