**ENGLISH**

**Questionnaire of the Special Rapporteur on the independence of judges and lawyers**

1. Please indicate whether there is a national body or mechanism in charge of selecting, appointing, promoting, transferring, suspending or removing judges in your country.

What is the exact denomination of this body or mechanism? What are the legal basis for its establishment (e.g. constitutional provisions; ordinary law or other)?

**Yes. It is the Judicial Council of Montenegro.**

**Pursuant to Article 82, paragraph 1, Item 2 of the Constitution of Montenegro and Amendment IV, paragraph 1 to the Constitution of Montenegro, the 25th Parliament of Montenegro, at its sitting of the first extraordinary session in 2015, held on 26 February 2015, adopted the Law on the Judicial Council and Judges.**

**Following link is on line English version of mentioned Law- http://sudovi.me/podaci/sscg/dokumenta/2437.pdf**

2. Please provide information on the composition of the body or mechanism (number and qualifications of members), the procedure for the appointment of its members and the duration of their term of office.

**Composition of the Judicial Council, Article 127 of the Constitution of Montenegro (2007)**

**The Judicial Council shall have the president and nine members. The President of the Judicial Council shall be the President of the Supreme Court. Members of the Judicial Council shall be as follows: 1) four judges elected and dismissed from duty by the Conference of Judges; 2) two Members of the Parliament elected and dismissed from duty by the Parliament from amongst the parliamentary majority and the opposition; 3) two renowned lawyers elected and dismissed from duty by the President of Montenegro; 4) the Minister of Justice. The President of Montenegro shall proclaim the composition of the Judicial Council. The mandate of the Judicial Council shall be four years.**

**AMENDMENT VIII TO THE CONSTITUTION OF MONTENEGRO ( 2013)**

This Amendment shall replace the Article 127 of the Constitution of Montenegro.

**The Judicial Council shall have a president and nine members. The members of the Judicial Council shall be: 1) president of the Supreme Court; 2) four judges to be elected and released from duty by the Conference of Judges, taking into account equal representation of courts and judges; 3) four reputable lawyers that are elected and released from duty by the Parliament at proposal of the competent working body of the Parliament upon announced public invitation; 4) Minister in charge of judicial affairs. The President of the Judicial Council shall be elected by the Judicial Council from among its members who do not perform judicial functions, by two-third majority vote of the members of the Judicial Council. The Minister in charge of judicial affairs may not be elected the president of the Judicial Council. The vote of the President of the Judicial Council shall be decisive in case of equal number of votes. The composition of the Judicial Council shall be proclaimed by the President of Montenegro. The term of office of the Judicial Council shall be four years.**

**Responsibility of the Judicial Council Article 128**

The Judicial Council shall: 1) elect and dismiss from duty a judge, a president of a court and a lay judge; 2) establish the cessation of the judicial duty; 3) determine number of judges and lay judges in a court; 4) deliberate on the activity report of the court, applications and complaints regarding the work of court and take a standpoint with regard to them; 5) decide on the immunity of a judge; 6) propose to the Government the amount of funds for the work of courts; 7) perform other duties stipulated by the law. The Judicial Council shall decide by majority vote of all its members. In the procedures related to disciplinary responsibility of the judges, the Minister of Justice shall not vote.

**AMENDMENT IX**

The Judicial Council shall: 1) elect and release from duty the president of the Supreme Court; 2) elect and release from duty the president of the Judicial Council; 3) submit the Report on the Performance of the Judicial Council and the Overall Judicial Situation to the Parliament; 4) elect and release from duty the judge, the president of the court and the lay judge; 5) deliberate on the report on the court activities, applications and complaints regarding the work of the court and take a standpoint with regard to them; 6) establish the cessation of the judicial duty; 7) establish the number of judges and lay judges; 8) propose to the Government the amount of funds required for the work of courts; 9) perform other duties as stipulated by the law. The Judicial Council shall make decisions by majority vote of all its members except in the cases prescribed by the Constitution. The Minister in charge of judicial affairs shall not vote in the disciplinary proceedings related to accountability of judges.

**This Amendment shall replace the Article 128 of the Constitution of Montenegro.**

Please also provide information on the human and financial resources of this body or mechanism (e.g. number of employees and their qualifications; annual budget).

**SECRETARIAT OF THE JUDICIAL COUNCIL- Article 133 of Law on Judicial Council and Judges**

**Secretariat**

**With a view to professional performance of all financial, administrative, IT, analytical and other tasks of the Judicial Council and activities of mutual interest to the courts, the Secretariat of the Judicial Council shall be formed.**

**Secretary of the Secretariat Article 134**

**The Secretariat shall be managed by the Secretary. Secretary of the Secretariat shall be appointed and dismissed by the Judicial Council, on a proposal from the President of the Judicial Council, on the basis of a public announcement. Secretary of the Secretariat shall be appointed for a period of five years.**

**Responsibility Article 135**

**The Secretary of the Secretariat shall be responsible for his / her work to the Judicial Council. The office of the Secretary of the Secretariat shall terminate before the expiry of the time for which he / she was appointed through a resignation or dismissal. The Secretary of the Secretariat may be dismissed upon a reasoned proposal of the President or a member of the Judicial Council.**

**Number of employees is 41 in the Secretariat. Annual budget - 864.774,43 euros ( for 2017.)**

3. Please provide detailed information on the legislation and practice existing in your country in relation to:

(a) The selection and appointment of candidates for judicial offices and the criteria used for their selection and appointment (e.g. qualifications, integrity, ability and efficiency); **ARTICLE 37 AND 38 OF THE LAW ON JUDICIAL COUNCIL AND JUDGES**

(b) Condition of service and security of tenure of judges;

**Constitution Article 121- The judicial duty shall be permanent. The duty of a judge shall cease at his/her own request, when he/she fulfills the requirements for age pension and if the judge has been sentenced to an unconditional imprisonment sentence. The judge shall be released from duty if he/she has been convicted of an act that makes him/her unworthy of the judicial duty, if he/she performs the judicial duty in an 29 unprofessional or negligent manner or loses permanently the ability to perform the judicial duty. The judge shall not be transferred or sent to another court against his/her will, except by the decision of the Judicial Council in case of reorganization of courts.**

(c) Promotion of judges; **ARTICLE 72 OF THE LAW**

(d) Transfer of judges; **ARTICLE 86 OF THE LAW**

(e) Disciplinary proceedings against judges. **ARTICLES 108-122 OF THE LAW**

What is the role played by the national organ or mechanism with regard to the issues referred to above?

**The Judicial Council of Montenegro takes care of the implementation and application of all the provisions of the Constitution and reference laws related to the aforementioned issues and competencies.**

4. If the national organ or mechanism does not have a role to play in relation to any of these issues, please provide detailed information on legislation and procedure for:

(a) Judicial selection and appointment;

(b) Transfer and promotion of judges;

(c) Disciplinary proceedings against judges