

REPORT ON THE PUBLICITY OF WORK OF THE HIGH JUDICIAL COUNCIL AND THE HIGH PROSECUTORIAL COUNCIL

MAY 2023 – DECEMBER 2024

Sofija Mandić



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1. Context and goals of the report

The Judicial Research Centre (CEPRIS) published its first report on the publicity of work of the High Judicial Council and the State Prosecutorial Council in 2022¹. The report covered the period from April 2021 to February 2022. The end of the reporting period coincided with the referendum to amend the Constitution in the part on the position of the judiciary, which took place on January 16, 2022. After the Act on Amendments to the Constitution was enacted, which was promulgated in the National Assembly on February 9, 2022, the changes to the highest legal act entered into force. Then, the convocations of the High Judicial Council and the State Prosecutorial Council entered a transitional phase, awaiting the adoption of new judicial laws, primarily the Law on the High Judicial Council and the Law on the High Prosecutorial Council, which were supposed to enable the councils to implement new constitutional powers.

The Law on the High Judicial Council and the Law on the High Prosecutorial Council were enacted in January 2023, and their implementation started in May 2023, when new convocations of the High Judicial Council (HJC) and the High Prosecutorial Council (HPC) were constituted.²

In accordance with the amendments to the Constitution, the judicial councils have been entrusted with significant new powers, the most important being the selection of judges and public prosecutors, without the influence of the legislative and executive authorities. The Government of Serbia and the National Assembly have been excluded from the procedure for the election and dismissal of judicial office holders, except for the National Assembly's role in the election of the Supreme Public Prosecutor.

The fact that the judicial councils, which should ensure and guarantee the autonomy of the prosecutor's office and the judiciary, are entrusted with new competences has emphasised the need for the public to be objectively and timely informed about their work.

Although the interest of the public, and especially the media, in the work of the HJC and HPC is raising, it is still in serious disproportion with the influence of the judicial councils on the overall work of the judiciary. The goal of this report is to raise that interest, because the publicity of work of all public authorities, including those who manage the prosecutor's office and the court, is a necessary control mechanism on the course of establishing the rule of law.

¹ Available at <https://www.cepris.org/istrazivanje-i-analize/izvestaj-o-javnosti-rada-visokog-saveta-sudstva-i-drzavnog-veca-tuzilaca-april-2021-februar-2022-godine/>

² The State Prosecutorial Council was renamed in the amended Constitution into the High Prosecutorial Council.

Our goal, as it was the case with the first report, is to contribute to the improvement of the work of the HJC and HPC with constructive observations and suggestions and influence the improvement of their public performance, which would also contribute to an increased trust of the professional public and citizens in the judiciary.

2. Methodology of the data collection and analysis

CEPRIS has analysed publicly available data on the work of the HJC and HPC for the period since the current convocations were constituted in May 2023, until December 2024. Those are primarily the information regarding the publicity of the judicial councils' work available at the HJC and HPC websites, as stipulated by laws and by-laws. CEPRIS has also analysed data on the publicity, which is not an explicit obligation of the councils, but which makes an additional step towards citizens, and which facilitate understanding and access to information related to HJC and HPC.

In this report, in particular, the following has been monitored:

- implementation of previous recommendations;
- fulfilment of obligations regarding the publicity of work prescribed by laws and by-laws;
- way in which the councils report on the publicity of work and publish reports;
- manner of holding sessions and their publicity;
- publicity in selecting judges and prosecutors;
- availability and searchability of information on the councils' website;
- other activities that improve the publicity of the councils' work.

3. New Websites of the judicial councils

Both judicial councils launched new websites in 2024. In the previous report, it was emphasised that the previous pages were obsolete and that it was difficult to find even basic information about the work of the councils. Therefore, it should be welcomed that the councils addressed the deficiencies that were an obstacle to the realisation of the publicity of work.

However, the new websites still do not contain all the necessary data, and the data are poorly and randomly organised. Certain links of the new pages are non-functional (display an error) or link completely different documents and not the titled ones.

The new websites were launched with the financial support of the European Union and the Council of Europe, as indicated in the site headers. This shows that the councils do not have adequate budgetary resources to establish a basic level of publicity of work. The new websites need to be maintained and improved, so the budgets of the judicial councils should be sufficient to enable the councils to carry out these activities autonomously, independent of international donor aid.

4. Previous Recommendations for improving the publicity of work of the High Judicial Council

In the previous report, CEPRIS emphasised a few recommendations related to the publicity of work of the High Judicial Council. Before analysing other new aspects of the publicity of work, we believe it is necessary to assess whether important recommendations from the previous report have been implemented and, if so, to what extent.

4.1. Publish data on and biographies of all HJC members. The recommendation partially implemented.

Biographies of all current members are available on the HJC website, which was not the case before. However, the biographies are uneven, so some highlight the members' professional achievements, while the others insist on personal and family history or information not relevant for the council's work. CEPRIS believes that the biographies of HJC members should primarily be professional biographies showing that the member's actions, even before their election to the HJC, had been aimed at the basic constitutional competence of the Council - ensuring judicial independence. The *pro forma* publishing of biographies of all members is not enough, although it is a slight improvement compared to the previous period.

We find it commendable that the HJC published the composition of the previous three convocations of the Council in a visible place on the website. Such actions can be the beginning of a good practice because the public can see the composition and work of the body since its establishment, which contributes to a comprehensive overview of the work of the institution. The data and biographies of the members of the previous convocations should be uniform and relevant to the work they performed, as already mentioned concerning current members, and all former members (and not just some) should be presented to the public with a photo.

4.2. Publish materials considered by the Council together with minutes of the sessions. The recommendation not implemented.

The new HJC website has been significantly improved compared to the previous one, which primarily refers to the availability of data on the previous sessions. Data are available for the period 2015–2024 and it is possible to search them by each year. Also, for each year of work, it is possible to search by selecting from a separate drop-down menu with the categories of documents (Image 1). However, except the agenda, minutes and decisions made by the HJC, other discussed documents, i.e. materials that were decided upon or that were the basis for decisions at the session, cannot be found in that part of the website (mainly competitions, exams, exam grades, previous lists, conversations). The recommendation in the previous report referred exactly to that segment, and that is why it is deemed that the recommendation has not been implemented.

For example, if one or more candidates were elected to the position of judge at a Council's session, the public does not see the job announcement on the basis of which the decision was made, neither the composition of the election commission that decided on the ranking of the candidates, the proposed ranking list of the candidates, data on the expertise and qualifications of the candidate, data on the interview with the candidate (recording, transcript) etc. All these data should be available among the data related to the session, because based on those materials the members of the HJC made the decision that was presented to the public. Although some of the data can be found at different sites of the internet presentation, it is unrealistic to expect that either citizens, or the candidates who have the right to object or appeal against individual decisions of the Council could find these "dispersed" data.

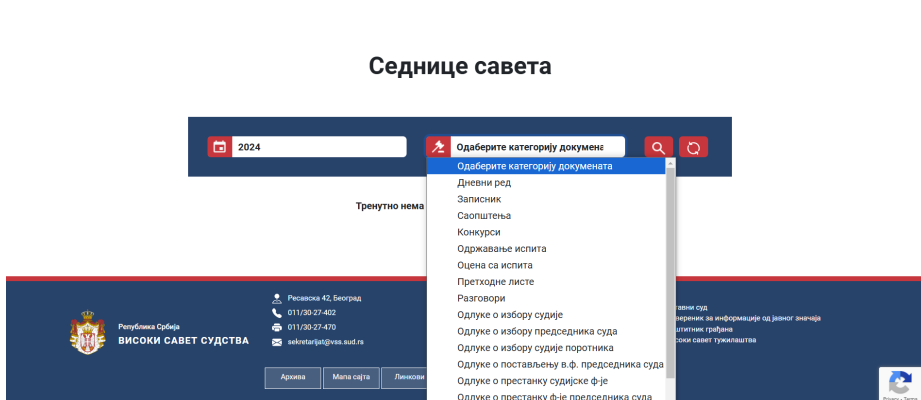


Image 1. Data on documents from HJC sessions

4.3. Attending the sessions of the HJC and all its bodies, in accordance with the law. The recommendation partially implemented.

The sessions of the HJC, including the sessions of the working bodies, are as a rule public. HJC sessions are announced on the website, which is not the case with sessions of working bodies whose work is equally important for the public, as decisions of interest to the judiciary and the public are made there. In principle, parties can express their interest in attending an HJC session, but not a meeting of the working bodies because their sessions are not announced.

However, there is no simple and clear instruction on how interested persons and representatives of the media can apply to attend HJC sessions in accordance with the provisions of the Rules of Procedure. It would be useful that in the section of the website "Publicity of Work" it were pointed out that attending the session is one of the ways of achieving the publicity of work and that it contains the contact e-mail address for those interested to apply to the Administrative Office for attendance, and the deadline by which such application should be submitted (prior to the beginning of the session). Also, it would be useful that HJC published a sample of the application for attending the meeting along with that information, similar to the request to access information of public importance, which will be discussed later. In theory, it is possible to express an interest in attending an announced session, but in practice it is difficult due to the lack of information on how to apply and the inability to attend meetings of the working bodies. Therefore, this recommendation is considered partially implemented.

4.4. The Law on the HJC and the Rules of Procedure of the HJC should stipulate the publicity of HJC decisions' data. The recommendation not implemented.

The Law on the HJC and the Rules of Procedure of the HJC prescribe that the sessions are public and that minutes of the sessions are recorded. The minutes include, *inter alia*, data on voting results³, and we can see that voting at a session of the Council is public information in the provisions of the Rules of Procedure, which stipulate that, when a decision of the Council is made by a majority of votes, the name and surname of the Council member is also entered in the minutes, indicating whether he voted "for", "against" or abstained from voting.⁴ The minutes of the session, with the specified data,

³ Rules of Procedure of the HJC, Art. 27 para 1

⁴ Rules of Procedure of the HJC, Art. 27 para. 2

are published on the Council's website.⁵ The only exception to this rule is the minutes of partially or completely closed to the public sessions, for reasons specified by law.

However, the HJC continued its earlier unfounded practice of blacking out voting data in the minutes of the sessions. Practically, it is because of the provisions of the previous Rules of Procedure, which in the meantime ceased to be valid, and whose legality and constitutionality were questionable. According to the previous solution, the Council votes in the non-public part of the session, even if a public session is held. That is, the data on the voting of HJC members were considered non-public, that is, unavailable to the public.

The bad practice of concealing voting data has continued, as evidenced by the example in Image 2. This brought into question the entire concept of the publicity of work of the HJC. Namely, members of the HJC must decide by public vote⁶ at public meetings and must be able to publicly stand behind their own decisions. Given that the bad practice has not been stopped even despite normative changes, this recommendation is considered not implemented.

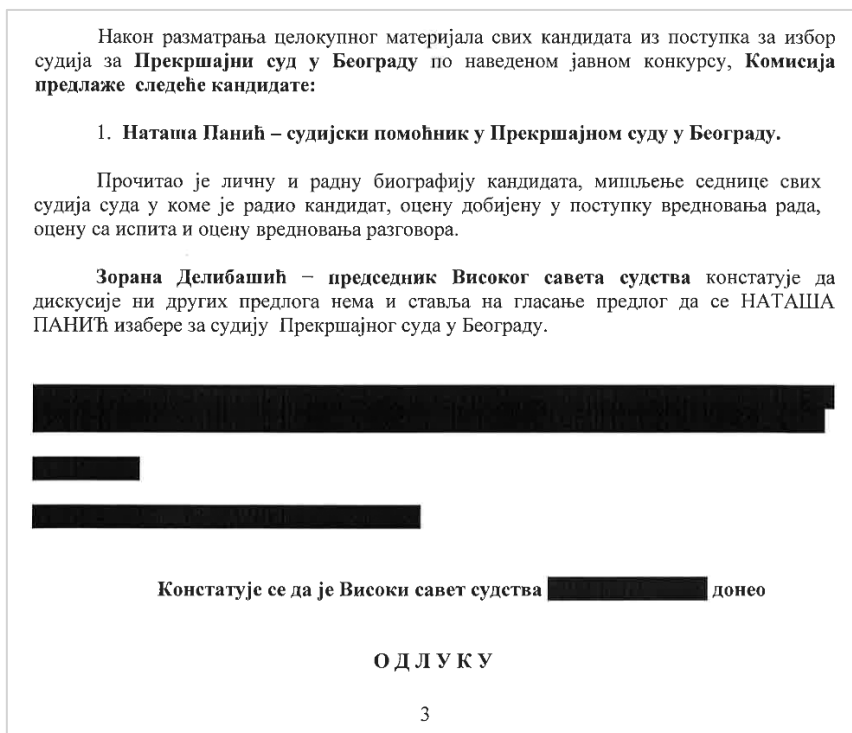


Image 2. Part of the minutes of 19th regular session of the HJC, on November 14, 2024

⁵ Rules of Procedure of the HJC, Art. 28

⁶ Law on the HJC, 20, and the Rules of Procedure of the HJC, Art. 23 para 1

4.5. The Law on the HJC and the Rules of Procedure of the HJC should enable regular recording of the sessions of the HJC and its bodies, according to the model of sessions of parliamentary committees. The recommendation not implemented.

Despite the recommendation, regular recording of the sessions of the HJC and its bodies is not guaranteed by the law. The Rules of Procedure of the HJC stipulate that the work of the Council is public as the sessions and their audio-visual recording are published on the Council's website, as well as the session agendas and minutes of the sessions.⁷ It is also stipulated that the audio-visual recording of the Council's session is posted on the Council's website within 24 hours.⁸ The transitional provisions of the Rules of Procedure of the HJC have postponed the implementation of the provisions on audio-visual recording until September 1, 2024. However, since that date, no audio-visual recordings have been published, nor is there a dedicated space on the site where the recordings would be published.

Given that the recommendation has not been applied despite the normative solutions that allow the recording of sessions and due to the fact that the provisions of the Rules of Procedure apply only to HJC sessions and not to all HJC bodies, the recommendation is considered not implemented.

4.6. Opening of the HJC for communication with the media and the public. The recommendation not implemented.

In the observed period, the members and the president of the HJC did not address the public either at regular time intervals or in special cases of potential particular interest of the public. In the observed period, the President of the Council, Zorana Delibašić, gave an interview to the newspaper *Politika*.⁹ Apart from that, no other public appearances of hers were noted.

On the website of the Council, it is not clearly indicated who the media and the public can communicate with if they have questions within the competence of the Council. The Council informed the public in the section "Publicity of Work", that it had adopted the Communication Strategy of the Council until 2020.¹⁰ Despite the fact that the deadline for the implementation of that strategy has expired, the links leading to the last two communication strategies (for the period 2016-2018 and 2018-2020) are not functional, that is, they lead to other information - about

⁷ Rules of Procedure of the HJC, Art. 5

⁸ Rules of Procedure of the HJC, Art. 29 para 4

⁹ <https://www.politika.rs/scc/clanak/557205/visoki-savet-sudstva-intervju-delibasic>

¹⁰ <https://vss.sud.rs/komunikaciona-strategija-visokog-saveta-sudstva>

interviews with candidates. It is similar with the model of the network of court spokespersons in Serbia, which displays a technical error when it opens.

Since there is no strategic communication with the public, either by individual members of the Council or by a spokesperson, this recommendation is considered not implemented.

5. Previous recommendations for improving the publicity of work of the High Prosecutorial Council (formerly the State Prosecutorial Council)

5.1. Publish data on and biographies of all HJC members. The recommendation not implemented.

In the section of the HPC website "About the Council", the subsection "Members of the Council", the names of the members of that body have been published, but not their biographies, which is why the recommendation is considered not implemented.

The HJC has published biographies of its members, and it would be appropriate for the HPC to do the same. Also, the HPC should, like the HJC, publish the composition of the previous SPC convocations, and hence open space for institutional memory within the Council's new web pages. This is particularly important for the HPC because the name of that judicial body has been changed, and there is a constitutional and legal continuity of the SPC and HPC competences and activities.

5.2. Minutes of HPC meetings should be published in a searchable format. The recommendation not implemented.

Minutes of HPC meetings are still being published in the form of scanned documents, and they are not in a searchable format. Hence, this recommendation is considered not implemented.

5.3. Together with the minutes, the materials considered by the Council should be published. The recommendation not implemented.

The new HPC's website, like the HJC's one, has improved compared to the previous period. Session data are easier to find and search by available categories. The reader can access all minutes for the period 2016-2024 and can search them by

each of those years and the type of session (regular, extraordinary). However, the minutes of the sessions in the observed period are not accompanied by the materials considered by the Council or discussed at the session. The HPC publishes the agenda of the meeting, the decisions, the minutes of the meeting, as well as the reasons for holding the meeting electronically or by telephone (if such a meeting took place). This recommendation is considered not implemented because other material has not been published with the agenda of the meeting, even though the materials must be provided to HPC members when the meeting is scheduled.¹¹

5.4. Data of the phone and web sessions of the HPC from the observed period and the minutes of those sessions should be published. The recommendation partially implemented.

Published data show the number of phone and web meetings, and the reasons for holding such meetings. The new HPC convocation held one phone and four electronic sessions in 2023, and no meeting minutes of the sessions were published. In 2024, 11 phone and as many as 21 electronic sessions (32 in total) were held, and meeting minutes for only a third of the sessions are available (10 in total). Given that the minutes of phone and electronic sessions are available for some sessions¹², but not for most of the sessions, the recommendation is considered partially implemented.

5.5. Interested persons should be allowed to attend the meetings of the HPC and its bodies, in accordance with the Law and the Rules of Procedure. The recommendation partially implemented.

The Rules of Procedure of the HPC stipulate that the work of the Council is public. However, interested persons can only attend the HPC session that takes place in the HPC premises. According to the Rules of Procedure, the session can be attended by interested persons and representatives of the media who apply to the Administrative Office no later than 24 hours before the session starts, up to the number of available seats, and according to the order of registration.¹³

It is good that the HPC decided to regulate in more detail the attendance of the meeting, so the Rules of Procedure determined the deadline and the method of application (the HJC did not do so). However, as we have emphasized several times,

¹¹ Rules of Procedure of the HPC, Art. 26 para 4

¹² Minutes of some electronic sessions do not contain e-votes of all participants of the e-session.

¹³ Rules of Procedure of the HPC, Art. 25 para 4

the publicity of work of the Council includes the work of all HPC bodies, not only HPC sessions. Since interested persons do not have access to all HPC bodies whose work should be public, the recommendation is considered partially implemented.

**5.6. Given the new constitutional powers of the Prosecutorial Council, the Law and the Rules of Procedure should enable regular recording of the sessions of the HPC and all its bodies, according to the model of parliamentary committees' sessions.
The recommendation partially implemented.**

The Law on the High Prosecutorial Council stipulates that the Council regularly informs the public about its work in the manner regulated by the Council's Rules of Procedure. That is, the Law does not prescribe the recording and publication of the sessions of the HPC and all its bodies, which was the basic recommendation.

The Rules of Procedure of the HPC, which is entrusted with the regulation of this issue, prescribes that the meetings of the Council are public. Publicity of the meeting is ensured by timely informing the public about the meeting, the possibility that interested persons attend and the establishment of technical possibilities for transmission, as well as by storing and publishing the image and sound remotely. Watching the Council's sessions in real time, as well as after, is made possible by technical means for image and sound transmission.¹⁴ We find it commendable if the HPC has committed to enabling real-time monitoring of the sessions, rather than just publishing a recording of the session afterwards. It is particularly important for public prosecutors, whose status issues are often discussed at hearings, to watch the hearings in real time. Thus, public prosecutors can be timely informed about the decisions that directly concern them. Also, the obligation to broadcast in real time completely substitutes physical presence at the meetings for other interested parties. That relieves the administrative office, which should otherwise receive requests and approve attendances. In addition, this solves the issue of lack of space for all interested persons, which was previously often an issue because the HPC does not have rooms spacious enough to accommodate more than a few interested persons. Broadcasting the sessions live makes the job easier for the media as well, at least for monitoring the content of the session, because the quality of the image is still not good enough to be used by the media (compared to the broadcast of parliamentary committee sessions).

On the front page of the HPC's website, there is a "Live" section, where one can easily find all published sessions from 2023 and 2024, since the entry into force of the decision on recording and publishing the sessions (Image 3).

¹⁴ Rules of Procedure of the HPC, Art. 25



Image 3. Live streaming of HPC sessions, visible in the upper right corner

Although all of the above is a significant improvement compared to the previous period, when there were no broadcasts of HPC (then SPC) sessions, we believe that the recommendation is partially implemented because the obligation to audio-visually broadcast sessions is not prescribed by the Law¹⁵ and because only the sessions of the HPC are transmitted, and not those of the working bodies, whose work is also public¹⁶ and often of crucial importance for decision-making process at the HPC session.

5.7. The Council and all members of the Council should be open to communication with the media and the public. The recommendation partially implemented.

The Rules of Procedure of the HPC stipulate that the Council carries out public relations through a spokesperson or a member of the Council designated for public relations.¹⁷ The names and contacts of those persons are not displayed in the Information Sheet, in the section of the website "Publicity of Work". Despite the provisions of the Rules of Procedure, representatives of the media are not able to contact one or more members of the HPC who would respond to inquiries within the jurisdiction of the HPC.

In the observed period, President Branko Stamenković most often appeared in public as a representative of the HPC, however in 2023 he appeared primarily as the

¹⁵ The Rules of Procedure of the HPC can be changed much more easily than the law and the procedure is not public.

¹⁶ Except for the sessions of the Commission for deciding on the objection against the mandatory instructions for work and action in a particular case, the objection against the decision on substitution and the objection against the decision on devolution, which are closed to the public.

¹⁷ Rules of Procedure of the HPC, Art. 7 para 4

cybercrime public prosecutor, and only secondarily as the president of the HPC. It was only at the end of 2024 that Stamenković stepped forward primarily as the president of the Council, addressing the public with a statement in which he stated that attempts to exert undue external influence on the work of the HPC continued. That comprised, he added, presentations of arbitrary or inaccurate information in public about the Council's work, which took the form of a negative campaign against that autonomous state body.¹⁸ In the statement, which was a response to objections to the work of the HPC that were publicly expressed by the chief public prosecutor of the Higher Public Prosecutor's Office in Belgrade, Nenad Stefanović, Stamenković, on behalf of the Council, called on all public prosecutors to contact the Council in the event of undue influence in accordance with the law in order to initiate the procedure for the protection against undue influence. That call was among the first open invitations to report undue influence on public prosecutors, but it was not published in a visible place on the Council's website.

Apart from Stamenković, in the observed period, several addresses of an elected member of HPC Predrag Milovanović, were also prominent. However, Milovanović appeared primarily as a public prosecutor, similar to Stamenković in 2023, and spoke about the situation in the public prosecutor's office in his own name and on behalf of the professional association to which he belonged. In some cases, Milovanović was presented and/or announced as a member of the HPC, but that affiliation was mostly secondary, and his appearances in the media cannot be considered an activity of the Council. These were mainly individual statements of the members of the Council, which only indirectly positively influenced the publicity of work of the HPC.

Given that the media communication has been improved compared to the previous period, but that no one has been designated as a media contact person and that the communication is still at the level of individual activities of a small number of HPC members, and not a strategic activity of the Council and all Council members, we consider that the recommendation has been partially implemented.

6. Publicity of work of the High Judicial Council

6.1. Publicity of work in the Law on the High Judicial Council and the Rules of Procedure of the HJC

Following the enactment of the Law on the High Judicial Council and the Rules of Procedure of the HJC, the regulations on the publicity of work of the HJC have been improved compared to the previous period. Informing the public about the

¹⁸ <https://n1info.rs/vesti/predsednik-visokog-saveta-tuzilastva-branko-stamenkovic-o-navodima-nenada-stefanovica/>

work of the Council¹⁹ is part of the basic competencies of the Council prescribed by the Law. The legislator decided that the publicity of work should not be a secondary or optional activity of the Council but one of its competences, in the same order as the election, dismissal or decision in the disciplinary procedure.

In addition to the Council's responsibility to inform, the publicity is also specifically prescribed as a *method of the Council's work*. We believe that it is important to distinguish between those two different aspects of the publicity - the publicity as a method of work and the publicity as a mandatory outcome of the Council's work. Sessions of the Council are public²⁰, and the Council may decide to close a session to the public, in accordance with the Constitution, the law and the act of the Council. The Law, as already pointed out, stipulates that the Council decides by open vote.²¹

The Law also stipulates that the Rules of Procedure of the Council, other general acts of the Council, the decision on the election or termination of the office of a judge or a president of the court, the decision on the election of the president and vice president of the Council, the decision stating the election of a member of the Council from among judges, the decision on the termination of the office of a member of the Council and other decisions of the Council determined by the Law are published in the *Official Gazette of the Republic of Serbia* and on the Council's website.²² We find it commendable that the acts are to be published on the website as well, according to the Law, because interested persons and the media cannot be expected to search legal databases and thus review the decisions.

Publicity of work as a principle of the Council's work is strengthened by the legal provision that the Council issues an annual report on the work that is published on the Council's website and that the Council regularly informs the public about its work in the manner regulated by the Council's Rules of Procedure.²³

Provisions of the Rules of Procedure of the HJC have also been improved compared to previous solutions. It has already been said that the Rules of Procedure prescribe mandatory audio-visual recording and publishing of sessions, and that the attendance and registration of interested persons to attend are regulated in more detail. Additionally, the Rules of Procedure prescribe in detail the ways in which the Council objectively and timely informs the public about its work:

- holds public meetings and their audio-visual recording;

¹⁹ Law on the HJC, Art. 27 para 1 point 17

²⁰ Law on the HJC, Art. 18 para 1

²¹ Law on the HJC, Art. 20 para 3

²² Law on the HJC, Art. 22

²³ Law on the HJC, Art. 23

- publishes on the Council's website the agenda of the session, the minutes and audio-visual recordings of the Council's sessions;
- publishes acts and decisions of the Council in the Official Gazette of the Republic of Serbia and on the Council's website, in accordance with the law;
- publishes other acts of the Council and the Council's working bodies on the Council's website, if this is not contrary to the law;
- publishes the schedule and calendar of activities on the Council's website;
- publishes the Information Sheet, in accordance with the law;
- regular updates of the Council's website;
- publishes the Council's three-year program and annual work plans on the Council's website;
- publishes the annual report on the Council's work and the annual reports on the work of the Council's working bodies on the Council's website;
- issues statements through the means of public communication (public statements);
- holds press conferences;
- publishes other information about the Council's activities and work on the Council's website.

The Rules of Procedure prescribe that the president of the Council, that is, a member of the Council or another person designated by the president of the Council, convenes a press conference to present annual reports on the work of the Council and in other cases that are of interest to the public.

Although the list of activities is comprehensive, the Council does not implement some of these activities. Activities that would enable closer and direct contact between the HJC and the public, such as the publication of audio-video recordings from the sessions, are generally not carried out. The same applies to organising press conferences. In the observed period, the HJC did not hold press conferences, even after the Council constituted in May 2023, but also in other cases of interest to the public. Therefore, the plans and results of the Council have remained unknown to the public. The public got informed mainly through the media.

6.2. Plans and reports on the work of the HJC

6.2.1. Three-year work program and annual work plan

The Rules of Procedure of the HJC stipulate that the Council adopts a three-year work program, and based on that work program, it adopts annual work plans

and monitors their execution. All those programs and plans are published on the Council's website.²⁴

At the time of publication of this report, the current convocation of the HJC has not published a new three-year work program, nor annual work plans based on which the Council should make annual reports. The strategic plan adopted by the previous convocation of the HJC for the period 2022–2025 can be found in the Strategic Documents ("Council Acts" section). However, neither the annual reports, nor the content of the website, do respond to the strategic priorities set by that Strategy, including Strategic Goal 4 - Transparent judiciary and Improved visibility and transparency of the work of the Council as part of Strategic Goal 5 - Functional High Judicial Council (image 4).

<p style="text-align: center;">IV Стратешки приоритети</p> <ol style="list-style-type: none"> 1. Независно и самостално судство 2. Стручно, одговорно и ефикасно судство 3. Унапређен статус судија и запослених у судству 4. Транспарентно судство 5. Функционалан Високи савет судства 	<p style="text-align: center;">Стратешки приоритет 5: Функционалан Високи савет судства</p> <p>Функционалност Савета директно зависи од сталног унапређења знања и вештина чланова Савета, као и одговарајућег броја и стручности запослених у Канцеларији. За њихов рад неопходно је обезбедити одговарајуће просторно-техничке и друге услове.</p> <table border="1" style="width: 100%;"> <tr> <td colspan="2">СТРАТЕШКИ ЦИЉ 5</td></tr> <tr> <td colspan="2">Јачање функционалности Савета стручним усавршавањем како изборних чланова, тако и запослених у Канцеларији, успостављањем материјалних и финансијских услова рада и побољшањем видљивости и транспарентности</td></tr> <tr> <td colspan="2">ОЧЕКИВАНИ РЕЗУЛТАТИ</td></tr> <tr> <td>1.</td><td>Унапређена знања и вештине чланова Савета</td></tr> <tr> <td>2.</td><td>Појачани административни капацитети Канцеларије</td></tr> <tr> <td>3.</td><td>Обезбеђени просторно-технички услови за рад Савета</td></tr> <tr> <td>4.</td><td>Побољшана видљивост и транспарентност рада Савета</td></tr> </table>	СТРАТЕШКИ ЦИЉ 5		Јачање функционалности Савета стручним усавршавањем како изборних чланова, тако и запослених у Канцеларији, успостављањем материјалних и финансијских услова рада и побољшањем видљивости и транспарентности		ОЧЕКИВАНИ РЕЗУЛТАТИ		1.	Унапређена знања и вештине чланова Савета	2.	Појачани административни капацитети Канцеларије	3.	Обезбеђени просторно-технички услови за рад Савета	4.	Побољшана видљивост и транспарентност рада Савета
СТРАТЕШКИ ЦИЉ 5															
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3.	Обезбеђени просторно-технички услови за рад Савета														
4.	Побољшана видљивост и транспарентност рада Савета														

Image 4. *Strategic priorities of the HJC 2022-2025*

Given the circumstances, it can be said that the new convocation of the Council failed to report on current strategic priorities and to approve new strategic documents on time.

6.2.2. Annual report and reports of working bodies

The Law on the HJC stipulates that the Council issues an annual report on its work, which is published on the Council's website, while the Rules of Procedure stipulate that, along with the report, annual (but also other interim) reports of working bodies are published – both of the working bodies required by law or other bodies formed by the Council.²⁵

Along with the annual report on the work of the Council, it should publish the reports on the work of its working bodies:

- Committee for evaluating the work of judges and court presidents,
- Election commission,
- Committees for monitoring the distribution of cases,

²⁴ Rules of Procedure of the HJC, Art. 32

²⁵ Rules of Procedure of the HJC, Art. 5 para 2 line 9.

- Budget commission,
- Ethics Committee and
- disciplinary authorities.

According to the Rules of Procedure, the Council issues a work report for the previous year no later than March 1 of the current year. That report contains information on the work of the Council, information on the work of the Council's working bodies and a conclusion on the fulfilment of the annual work plan and the degree of achievement of activities from public policy documents which are the responsibility of the Council. The Council submits the work report for the previous year to the National Assembly for their information, no later than March 15 of the current year and simultaneously publishes it on the Council's website.²⁶

At the time when this report is being published, annual reports on the work of the HJC from 2009 to 2023 have been available and such practice is in accordance with the law. These reports can be easily found already on the homepage of the website ("Report" section), but also in the "Publicity of Work" section, sub-topic "Report".

However, in terms of content, the Report on the work of the HJC for 2023 is similar to the Information Sheet of the HJC, which is published on a different basis and contains data on the public authority, its competences, organisation, operations and finances. The annual report does not provide new data on the work of the HJC compared to the Information Sheet, especially not those related to the accomplishment of previously set strategic goals. Therefore, in the future, the HJC should issue reports that are not exclusively of an informative and statistical nature, because that function is already covered by the Information Sheet.

Also, the reports of the working bodies of the HJC are not systematised that well on the website. For example, the report of the Disciplinary Prosecutor and the Disciplinary Commission is available in the "Disciplinary Authorities" section, not in the "Report" section. That report, as well as reports from other HJC bodies, should be available in one easy-to-find place. That might be the "Report" section on the homepage, which should be defined in the plural ("Reports") because the HJC must, in accordance with the Rules of Procedure and the Law, publish several reports.

While the annual reports of the HJC are available in accordance with the law, the last published reports of the disciplinary authorities (Disciplinary Prosecutor and Disciplinary Commission) are those of the year 2022. Other working bodies have not published a report for the year 2023 on the website either, although they were formed and/or acted during that year. The HJC should without delay, in accordance with the Law, publish the reports of all working bodies of the Council. Also, in the "Working Bodies" section of the website, the composition of the working bodies under Art. 19 of the Law on the HJC should be published. The current list of

²⁶ Rules of Procedure of the HJC, Art. 33

presented working bodies does not include the Commission for Monitoring the Proper Distribution of Cases and the Budget Commission, although those two commissions are part of the scope of working bodies, in accordance with the Law.

Also, to act in accordance with the Law and the Rules of Procedure, the HJC should publish all the accepted reports of the working bodies and provide a space for them to be published, as was done with the annual reports on the work of the HJC.

In the last published annual report on the work of the HJC for 2023, in the section on the publicity of work, scarce information are presented (Image 4).

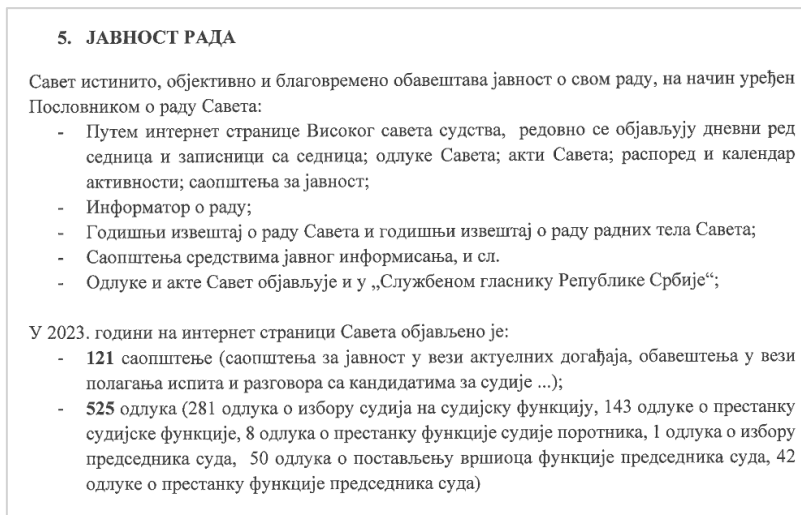


Image 4. *Publicity of work in the report on the work of the High Judicial Council for the year 2023*

The report shows that the HJC believes that the publication of announcements (among which the most numerous are technical announcements about exams and interviews with candidates) and the publication of the Council's decisions are sufficient concerning the publicity of work.

The report clearly lacks information about all other ways of achieving publicity, including information on why some of the ways of achieving publicity were not used (for example, press conferences or publication of audio-visual broadcasts of sessions). There is no information on the number of requests to attend the meetings submitted to the Council in 2023, the decisions on those requests, and the number of people who attended the Council meetings as observers.

In the work report for the year 2023, the data on the number of requests for access to information of public importance and reported complaints, i.e. lawsuits filed due to non-compliance with the requests, are not clearly stated. The HJC shows that a total of 76 requests were submitted and that 75 requests were partially or fully approved, but also that during the reporting year, 13 appeal procedures were

conducted due to the refusal or failure to act on requests for access to information.²⁷ It is not clear from the report how the requests and appeals are linked because that is presented inadequately in the report (for example, if 75 out of 76 requests were partially or fully accepted, it is not clear why 13 appeal procedures were conducted due to the lack of action of the authorities; if some cases were from 2022, etc.).

6.3. Publicity of HJC sessions

The publicity of the sessions is observed here first in the context of the way the sessions are held - whether the sessions take place in the premises of the HJC or they are electronic sessions, which is exceptionally permitted by the Rules of Procedure, when the decisions do not require discussion. In 2023, the HJC held 20 sessions in the HJC premises and six telephone sessions²⁸, and interested persons could attend most of the last year's sessions. We emphasize that the number of the sessions in 2023 as presented in the Report does not match the data on the sessions in the "Council Sessions" section. This section lacks data on extraordinary sessions, the agenda and decisions made at those sessions.

During 2024, 23 sessions were held in the HJC premises, and the number of sessions electronically increased significantly - as many as 11. In both years, about a third of all the sessions were phone or electronic and interested parties could not attend. Those sessions were effectively closed to the public (Image 5).

	In the HJC premises	Phone sessions	E-sessions	Total	Share of telephone and electronic sessions
2023. (since May) ²⁹	20	6	/	26	23 %
2024. ³⁰	23	/	11	34	32 %

Image 5. Percentage of HJC telephone and e-sessions in 2023 and 2024.

The increasing trend of e-sessions should be reduced, because that hinders the publicity of work of the Council.

6.4. Publicity of the information on the election of judges

When it comes to the election of judges and court presidents, the decisions of the HJC sessions and the data from the work report provide enough information about the elected judges in the observed period. Data are available

²⁷ Report on the work of the HJC for the year 2023, p. 31.

²⁸ The Rules of Procedure of the HJC, which were in force until mid-December 2023, permitted telephone sessions.

²⁹ Data from the Report on the work of the HJC for the year 2023, pp. 4-5

³⁰ Data on the number of sessions from the "Council Sessions" section, because the Report for 2024 was not approved and published.

on the total number of elected judges, the election competitions and the decisions on the election of each judge.

However, the key problem is still not resolved - the decisions on the election of judges are generic and almost identical for all candidates, except for the data from the biographies. The decisions state that the candidates who are selected are professional and qualified or that they "meet all the selection criteria ". Also, the data on the interviews are identical in the decisions, so all candidates "meet the criteria in terms of communication skills, readiness to perform the function of a judge and professional integrity." Given that the HJC decides from among several candidates in almost every competition, it is necessary to justify the decision on the choice of candidates by explaining how the candidate stands out in relation to the other candidates, but also by making it possible to differentiate between the candidates. Based on the decisions made by the HJC in the observed period, it is difficult to conclude why a certain candidate was elected and another was not, which is of crucial importance for the public trust in the objectivity of the election process.

Also, the HJC does not publish, on the website, nor in the report, data on the number of proceedings conducted before the Constitutional Court upon candidates' appeals against selection decisions. Such data, including the decisions of the Constitutional Court on the appeals, would provide important insights into the adequacy of the explanations. The HJC not only does not report on the decisions of the Constitutional Court, but in the Report for 2023 it has a negative attitude towards the legal possibility of submitting an appeal to the Constitutional Court by stating that this possibility "prolongs the entry in the office of the elected judge".³¹

6.5. Protection against undue influence

The Law on the High Judicial Council stipulates that the Council, in order to protect against undue influence on the performance of judicial functions, appoints a member of the Council from among judges to act in case of undue influence on the work of the judge and the court.³² The guiding idea of constitutional changes in the field of justice was to establish the mechanisms for the protection of holders of judicial functions from undue influence, especially political influence.

In the HJC's Report for 2023³³ the Council states that it has appointed a member to deal with cases of undue influence on the work of the judges and the courts but does not mention the name of the appointed judge (Image 6).

³¹ Report on the work of the HJC, p. 7

³² Law on the High Judicial Council, Article 19, para 2.

³³ Report on the work of the HJC, p. 17

▪ **Одлуке о непримереном утицају на рад судије и суда**

Законом о Високом савету судства („Сл. гласник РС“ бр.10/23), прописана је и надлежност да Савет одлучује о постојању непримереног утицаја на рад судије и суда и мери за спречавање непримереног утицаја, док је Законом о судијама, прописано право судије на подношење захтева за заштиту од непримереног утицаја Високом савету судства.

Савет је именовао члана Савета из реда судија за поступање у случају непримереног утицаја на рад судије и суда и донео Правилник о заштити судије и суда од непримереног утицаја („Сл. гласник РС“ бр.110/23) од 8. децембра 2023.године.

У току 2023. године, Савету је поднето седам захтева судија за заштиту од непримереног утицаја, који су достављени надлежном судији, у два предмета донета је одлука о обустави поступка, а за осталих пет поступак је у току.

Image 6. Data on the appointment of the member of the Council for the protection against undue influence from the Report

The Report also lacks information on the session when the appointment was made, so the name of the acting judge for the protection against undue influence can only be found by manual search of documents from each session in 2023. However, even when that is found, there is no decision on the appointment of the judge for cases of undue influence on the judges and the court among the adopted decisions for the session when the judge was appointed (5th regular session of the HJC of June 15, 2023), although that item was included in the agenda of the session (Image 7).

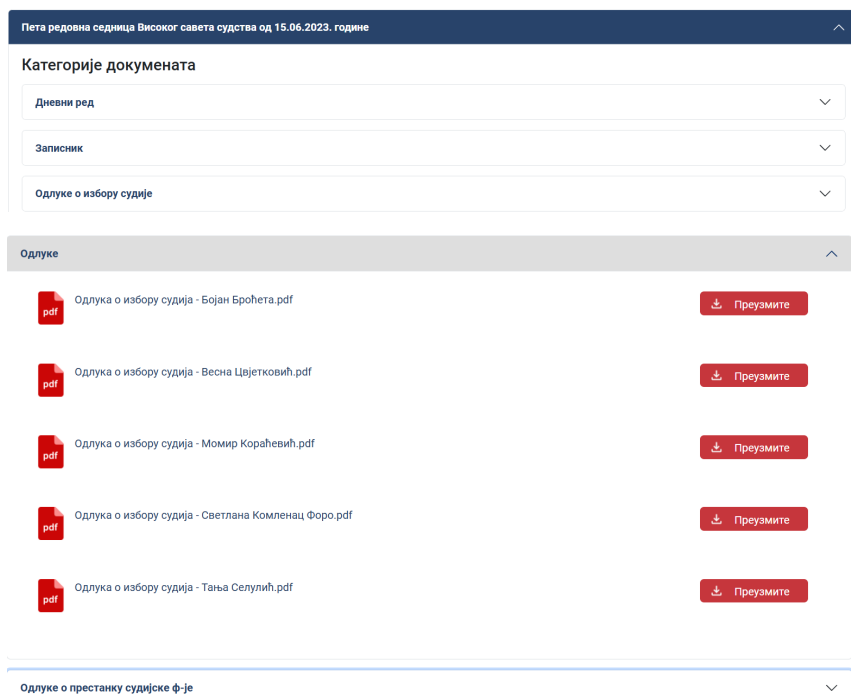


Image 7. The decisions made at the 5th regular session of the HJC, and no decision on the appointment of the judge to handle cases of undue influence

The only way for judges, as well as the public, to find out that judge Marija Arandelović Jureša was appointed to deal with cases of undue influence is to additionally search the minutes of the session and find the decision that Jureša was appointed³⁴. As already mentioned, the decision is not singled out, nor underlined to be easily accessible to the public (Image 8). Information about Jureša's appointment is not available in her biography on the Council's website either.

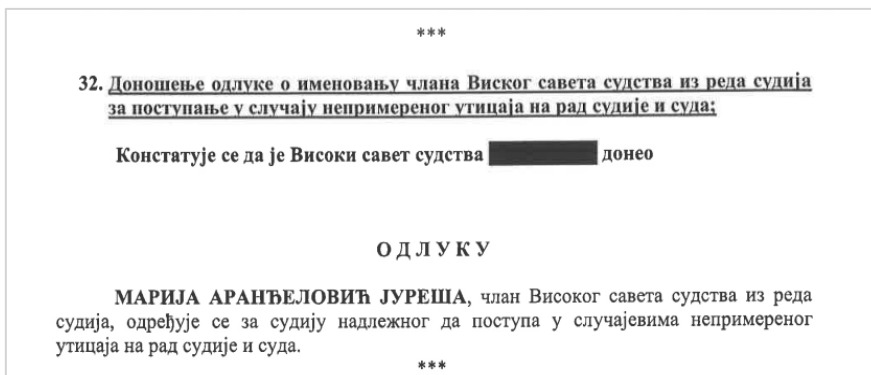


Image 8. *The decision on the appointment of judge Marija Arandelović Jureša, available only in the minutes of the HJC session of June 15, 2023*

The 2023 Report of the HJC, only scarce data are offered on applications for the protection against undue influence, especially given the importance of the topic. A total of seven requests received in 2023 can also be explained by the fact that judges have not been adequately publicly informed about who and how they may contact if they are subjected to undue influence.

As aforementioned, the notification of courts and judges about the election of the member of the Council in charge of protection against undue influence was completely neglected on the website of the HJC. The name of judge Arandelović Jureša and the special act regulating the protection against undue influence³⁵ should have been included in the section "Courts and Judges". The Council's failure to prominently publish the appointment of the judge and the procedure for reporting undue influence on the website certainly has a deterrent effect on judges facing undue influence or leaves them unaware that there is a mechanism for reporting the undue influence.

³⁴ The council uses the terms "appointment decision" and "designate a judge competent to act" when deciding, although the law requires a judge to be appointed to act in cases of undue influence.

³⁵ Rulebook on the Protection of Judges and Courts Against Undue Influence from December 8, 2023.

6.6. Availability and searchability of information on the website

It has already been pointed out that the new HJC website is far more organised and transparent than the previous one from the publicity point of view, being a principle of the work of the HJC.

However, there are still elements that need to be improved for the sake of comprehensibility of the published data for the non-legal public. Namely, in the section "About us", in the part on acts of the Council, the acts that are in force, as well as those that are no longer in force, are published. For example, the Rules of Procedure of the HJC are published both in the up-to-date version and in several older versions, so it is difficult for the reader, if he does not follow the work of the Council daily, to understand which act is in force at the time of the search. CEPRIS believes that HJC website should clearly separate the acts that are in force and the old ones.

Also, the acts of the Council are divided by the year of approval, which is indeed good as an additional search. However, to be able to search, the reader must know in which year a certain act was approved or to search through all the years. Hence, it is recommended that the Council publish a list of all valid acts of the Council, and that only as an additional search, the remaining acts get classified by the year of approval. If it deems necessary, the Council may publish previously valid acts in a specially marked section or archive.

The composition of all working bodies is not published on the Council's website, nor are their decisions published systematically. For example, the section related to the work of the Ethics Committee contains two decisions on the appointment of members of the Ethics Committee, so readers must investigate when they were made, whether they are still in force and, if so, to "collect" the members from both decisions, in order to have complete information about who the members of the Ethics Committee are. Alternatively, the information may be found in the report, but all the research would not be needed if the HJC published in the "Working Bodies" section the updated names and surnames of the members of all working bodies, just like for HJC members, (in this case, the appointment decisions need not be removed, but can be a useful additional source of information about when the members were elected).

6.7. Other steps that improve the publicity of work

When it comes to additional activities that improve the publicity of work, we find it commendable that the HJC, in the section "Publicity of Work", in the part "Requests for access to information of public importance", published a form by which citizens can submit a request to that body, thereby significantly facilitating the use of that right (Image 9).

РЕПУБЛИКА СРБИЈА
ВИСОКИ САВЕТ СУДСТВАБЕОГРАД
Ресавска 42**ЗАХТЕВ**
за приступ информацији од јавног значаја

На основу члана 15. став 1. Закона о слободном приступу информацијама од јавног значаја („Службени гласник РС“, бр. 120/04, 54/07, 104/09, 36/10 и 105/21), од горе наведеног органа захтевам:*

- ☐ обавештење да ли поседује тражену информацију;
- ☐ увид у документ који садржи тражену информацију;
- ☐ копију документа који садржи тражену информацију;
- ☐ достављање копије документа који садржи тражену информацију: **
- ☐ поштом
 - ☐ електронском поштом
 - ☐ факсом
 - ☐ на други начин:*** _____

Овај захтев се односи на следеће информације:

(навести што прецизнији опис информације која се тражи као и друге податке који олакшавају проналажење тражене информације)

Тражилац информације / Име и презиме

У _____,

Адреса

Други подаци за контакт

дана _____ 20____ године

Потпис

* У кућици означити крстићем, која законска права на приступ информацијама желите да остварите.

** У кућици означити начин достављања копије докумената.

*** Када захтевате други начин достављања, обавезно уписати који начин достављања захтевате.

Image 9. *A request form for access to information of public importance*

As already noted in section 4.3 of this report, the Council should publish the request form for attending a session.

We find it commendable that the Council has proactively published, on the front page (section "Courts and judges"), and graphically displayed the network of courts of general and special jurisdiction and that it has published data on acting judges that are searchable by their name and surname and the court where they act.

7. Publicity of work of the High Prosecutorial Council

7.1. Publicity of work in the Law on the High Prosecutorial Council and the Rules of Procedure of the HPC

Following the enactment of the Law on the High Prosecutorial Council and the Rules of Procedure of the HPC, just as in the case of the HJC, the regulations on the publicity of work improved. Informing the public about the work of the Council is among the basic competences of the Council prescribed by the Law ³⁶, and the publicity of work was established as a way of functioning of the HPC.³⁷

The Rules of Procedure of the HPC stipulate that the work of the Council is public. The public nature of the Council's work is based on the legal assumption of legitimate interest and the public's right to know, the principle of equality and the prohibition of discrimination against journalists and public media. The Council keeps public relations through a spokesperson, or a member of the Council designated for public relations.³⁸

The publicity of the Council's work is achieved by:

- timely publication of general acts on the Council's website and in the *Official Gazette of the Republic of Serbia*;
- enabling journalists and other interested persons to follow the Council sessions if they are not closed to the public;
- providing information of sessions closed to the public in accordance with the law;
- issuing official announcements;
- publishing data from records, reports and decisions in the media as needed;
- in another way.

Publicity is ensured by timely announcing sessions to the public, providing an opportunity for interested persons to attend, and by establishing technical possibilities for the transmission, storage and publication of images and sound, as already pointed out. It is possible to monitor the Council's sessions in real time, as well as later, by use of technical means for image and sound transmission.³⁹

³⁶ Law on the HPC, Art. 17

³⁷ Law on the HPC, Art. 18

³⁸ Rules of Procedure of the HPC, Art. 7

³⁹ Rules of Procedure of the HPC, Art. 25

We can see that the rules of procedure for the work of the two councils differ slightly in terms of the way in which the publicity of work is achieved. Although the HJC lists several ways of achieving publicity, the HPC allows for other ways of achieving the publicity, so the list of activities for the promotion of publicity remains open.

In the observed period, the HPC significantly improved the publicity of its work for one reason only - because it applied to a greater extent the provisions of its own rules of procedure, primarily those related to the recording of sessions. Other recommendations on improving the publicity, as we saw in section 5 (Previous recommendations for improving the work of the High Prosecutorial Council), remained partially or completely not implemented.

7.2. Plans and reports on the work of the HJC

7.2.1. Five-year work program and annual work plan

The Rules of Procedure of the HPC stipulate that the Council assumes a five-year work program. Based on the work program, the Council adopts annual work plans and monitors their implementation.⁴⁰

The annual work plan has a programmatic character and it: defines the current situation in the areas that are the scope of the annual report; determines short-term and medium-term goals in accordance with defined long-term goals; determines deadlines and ways of measuring the outcomes; plans short-term and medium-term program activities from the point of view of established goals, including timeframe of the implementation; justifies individual implemented activities from the point of view of established goals; measures the degree of achievement of goals; plans programs of further activities; determines the annual work schedule, including training programs and the implementation of the communication strategy of the Council and public prosecution offices. The Council prepares an annual plan for a current year no later than December 25 of the current year.⁴¹

Despite the normative framework, HPC has not published either the five-year work program or the annual work plan for 2024 and 2025 in the "Documents" section, in the part "Strategic documents", although they should have been adopted and published (Image 10). In that section, the Council has not even reported on the status of the strategic documents but left that space "empty". As we have seen, a similar deficiency in the strategic approach to work exists in the case of the other judicial council.

⁴⁰ Rules of Procedure of the HPC, Art. 45

⁴¹ Rules of Procedure of the HPC, Art. 46

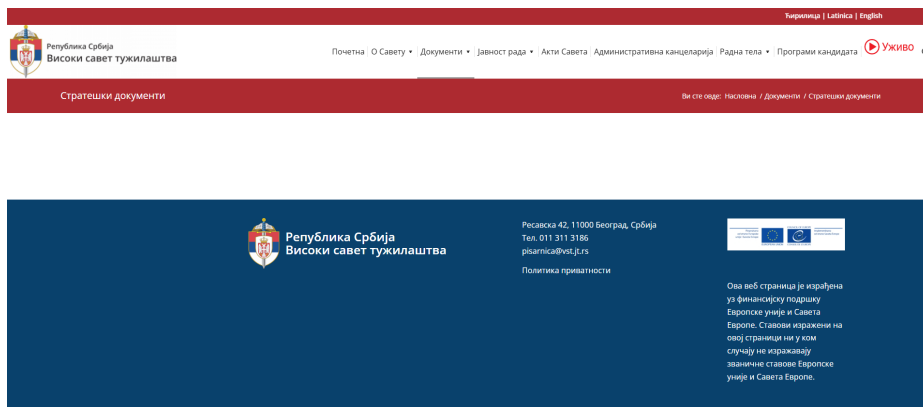


Image 10. Lack of strategic documents in the relevant section of the website

7.2.2. Annual report and reports of working bodies

The Rules of Procedure stipulate that the Council issues an annual report on its work, which is published on the Council's website.⁴² The Council also considers and decides on the report of the Ethics Committee on compliance with the Code of Ethics⁴³

In the "Publicity of work" section of the website, in the "Reports" sub-section, annual reports on the work of the HPC (formerly SPC) from 2009 to 2023 are available. However, they are not adequately systematised. For example, in the 2016 section, reports for 2015, 2014, 2013 and 2009-2012 are available. That section of the website should be edited so that the search options match the relevant content.

In the section "Publicity of Work", sub-section "Work Reports", the last annual report of HPC - for the year 2023 is available. The two sections on reporting ("Reports" and "Work Reports") are confusing, especially because they have the same content. In the "Work Reports", all annual reports of HPC and SPC published so far should be placed, while in the "Reports" section the ones of working bodies of the HPC.

In the last published work report for 2023, the HPC does not report specifically on the publicity of work, except in the section on the protection of personal data, where only the number of requests for access to information of public importance is stated. In that part, the report should be improved and provide more detail on the publicity of work, including data on attendance of interested people at sessions, the number of views of recorded sessions, etc.

⁴² Rules of Procedure of the HPC, Art. 23

⁴³ Law on the HPC, Art. 17 para 1 point 18

7.3. Publicity of HPC sessions

In the evaluation of the previous recommendation on improving the publicity of the sessions, it has already been mentioned that the HPC has improved the publicity of work through the normative framework, but also practically - by broadcasting the sessions live and making them available in a visible place on the website.

However, what is worrying and should be considered in 2025 is the ratio of in-person meetings in the premises of the HPC and e-meetings when the public is absent, contrary to the meetings held in the premises of the HPC.

Let us recall that in 2023 the new convocation of the HPC had five phone and three e-sessions, and that in 2024 it had 11 phone and as many as 21 e-sessions (Image 11). As with the HPC data, we emphasize that the number of meetings held during 2023 in the work report does not match the data on the number of phone meetings and e-meetings in the "Meetings" section, and that these data should be harmonised, in accordance with the number of actual meetings and the decisions made at those meetings.

	Sessions in the HPC premises	Phone sessions	E-sessions	Total	Share of phone and e-sessions
2023. (since May) ⁴⁴	10	5	3	18	44 %
2024. ⁴⁵	9	11	21	41	78 %

Image 11. *Percentage of phone and electronic HPC sessions in 2023 and 2024*

The percentage of phone and e-sessions, especially in 2024, when two-thirds of the sessions were held from the distance, should not be the way to further develop the HPC as a judicial institution of the highest rank. If the sessions "migrate" to an electronic format (i.e., e-mail voting), the principle of publicity of work of the HPC will be thoroughly hindered.

Although in 2023 and 2024 some sessions met the requirement to be held electronically because the agenda did not require discussion and review of material (for example, sessions to confirm that public prosecutors terminated the function due to retirement), the sessions that required discussion and review of material were also held electronically - primarily sessions when acting officials or selected members of the HPC were appointed (for example, at the electronic session of

⁴⁴ Data from the HPC Work Report for 2023, p. 9-14

⁴⁵ Data on the number of the meetings in the "Meetings" section, because the Work Report for 2024 has not been adopted and published.

December 27, 2024, the president and members of the Appeals Commission of the Public Prosecutor's Office were appointed).

Therefore, it follows that in the coming period, the number of e-sessions should not undermine the improvement of the publicity, which was achieved normatively, and to a certain extent in practice by broadcasting HPC sessions.

7.4. Publicity of the information on the election of prosecutors

In the annual work reports for 2023 and 2024, we may find information about competitions for the selection of public prosecutors and the total number of elected public prosecutors. At the 9th regular meeting of the HPC scheduled for December 24, 2024, which was not held due to the lack of quorum, the HPC president offered the consolidated data on the number of candidates elected by the HPC in 2023 and 2024 – a total of 187 public prosecutors were elected in 53 public prosecutor's offices, and the number of vacant positions in public prosecutor's offices was 132.

However, as in the case of the HJC, the data related to the selection decisions are almost uniform, except for the candidates' biographies. Such selection has caused numerous appeals to the decisions of the HPC submitted to the Constitutional Court. The work report for 2023 only sporadically mentions the number of appeals on election decisions submitted to the Constitutional Court, without any specific reporting on the outcome of the proceedings. It would be necessary that the decisions of the Constitutional Court, which are the mechanism for controlling the actions of the judicial councils, are analysed in more detail in future reports and are available on the HPC website, as this would improve the publicity of the Council's work in the part that concerns the legality of the work of the HPC.

7.5. Protection against undue influence

The rules of procedure stipulate that, in order to protect the autonomy of the public prosecutor's office and the holders of the public prosecutor's function and to inform the public about undue influence on their work, the Council appoints a member of the Council from among public prosecutors to deal with cases of undue influence on the work of the holders of the public prosecutor's function and the public prosecutor's office, and the manner of his action is regulated by a special act. Once a year, the Council informs the public if there is undue influence on the work of the holder of the public prosecutor's function or the public prosecutor's office. In the case of undue influence on the work of the holder of the public prosecutor's

function or the public prosecutor's office, the Council can also address the public in an extraordinary manner.⁴⁶

On the HPC website, similar to the case of the HJC, the commissioner for autonomy is on the list of working bodies in the section of the page with the same name, however, we cannot see who the appointed person is, and there is neither a comprehensibly presented procedure for reporting undue influence nor an invitation to report undue influence to the public prosecutor. It should be clearly pointed out that the function of the commissioner for autonomy is performed by elected member of the HPC Milan Tkalc, who is not even mentioned in the "Council Members" section as a person who performs this function.

In the last published report of the commissioner for autonomy for the year 2023, which was approved and published by the HPC, commissioner Tkalc reports that he has received 33 cases that year and each of those cases is briefly described, which is positive. However, in none of those cases did the commissioner establish or state that he believed there was undue influence and in almost every case he only called on all participants in the proceedings to refrain from the acts that could be qualified as undue influence. Thus, the commissioner chose the "middle way" course, limiting his positions and explanations to the level of general recommendations, without qualifying specific actions in an unambiguous way.

Consequently, in 2023, but also in 2024, the commissioner did not address the public regularly to report on inappropriate influences on the holders of public prosecutor's office. All this, together with the invisibility of the commissioner himself and the procedure for reporting illegal influence, gives the impression that the public prosecutor's offices work without any external or internal pressure, although such influence was the cause of constitutional and legal changes and the appointment of the commissioner within the HPC. Also, sometimes it is clear *prima facie*, just by observing the media content and the statements of political officials, that the high state officials exert undue influence on the prosecutor's office, but there is no adequate institutional response to it by the HPC.

In 2023 and 2024, the Commissioner did not address the public, was not publicly engaged, did not invite public prosecutors to report undue influence, and did not initiate procedures for the protection against undue influence, which he is empowered to do according to the Rules of Procedure of the HJC in connection with the undue influence on the work of the holder of the public prosecutor's function and the public prosecutor's office.

⁴⁶ Rules of Procedure of the HPC, Art. 9

7.6. Availability and searchability of information on the website

As already pointed out, although the current HPC website is more transparent than the previous one, much content on the page is still missing (minutes, materials), while some content is arranged in a way that is illogical (e.g. two sections on work reports with the same content). Also, certain pages are "blank" and show "no articles found".

For the sake of better clarity, the announcements addressed to the wider public should be separated from the announcements of tenders or other internal HPC activities. At this moment, it is not possible to separate the public announcements from the announcements about the daily activities of the Council, being general and individual ones. Therefore, the content should be searched by different categories (press release/notification of activity or action).

Therefore, despite better clarity and infrastructure of the website, HPC should be more seriously devoted to publishing all the content, in accordance with the legal framework and by-laws, and in the way that the content is presented and searched in logical sections.

7.7. Other steps that improve the publicity of work

As in the case of the HJC, we find it commendable that the HPC has published a network of public prosecutor's offices. It would be good if the HPC used the example of the HJC and published the names of the acting prosecutors in each of the prosecutor's offices. Also, it would be good if, like the HJC, the HPC published a request form for access to information of public importance and a request form for attending HPC sessions.

8. Conclusions

Following the enactment of the Law on the High Judicial Council, the Law on the High Prosecutorial Council, and the rules of procedure for both bodies in 2023 and 2024, the normative framework related to the publicity of work of both councils has been improved. A prescribed competence of both councils is to inform the public, and the publicity is particularly prescribed as a general way of work for both councils. Those two different aspects of the publicity and the more significant normative improvement of the publicity of work are largely the result of the Council of Europe experts' work. They participated in drafting of all the mentioned acts and facilitated the discussion of the working groups that drafted the acts. Also, the presence and comments of observers from the National Convention on the European

Union (NCEU) during the adoption of most by-laws contributed to improving the provisions on the publicity of work of both councils.

Although the normative framework has been significantly improved, and both councils got new websites thanks to international donors' assistance, the publicity of work in practice has not followed the normative framework.

In this report, we see that most of the previous recommendations on the publicity have not been implemented or have remained partially implemented, even though part of the CEPRIIS recommendations have meanwhile become a formal obligation of the councils.

Minutes, important decision-making materials are still missing from the publicly available data. The HJC has not prevented the public from accessing data on decision-making at public sessions. There is no information on persons in charge of public relations and persons in charge of protection against undue influence at both councils. Information is not clearly displayed on the website about the procedures for reporting undue influence and calls to report undue influence on holders of public prosecutor's or judicial functions.

The websites lack strategic multi-year programs and annual plans of the councils, and thus the annual reporting is reduced to reporting on activities and not on strategic goals and results.

The councils generally carry out activities that keep the public at a "safe distance", and not those that would enable closer and direct contact between the judicial councils and the public, such as regular or extraordinary press conferences. The HJC also avoids broadcasting the Council's sessions, even though it has decided to make them public according to its own act.

The result of all the above is that, due to the media presence, citizens know who heads the legislative and executive power, but the majority have never seen the presidents and members of the highest judicial bodies (except those mentioned in this text). Citizens do not recognize the names and faces of the holders of the highest judicial positions, nor their roles in a democratic society.

The greatest progress in the observed period has been the broadcasting of HPC sessions. However, in the following period, it should not be allowed that an increasing number of e-sessions of the HPC ruins the achieved improvement in the publicity. Such a tendency to disrupt the publicity was already noticed in 2024, when more than two-thirds of the sessions were electronic.

In the following period, which is also the reporting period on the work in 2024, the councils should consistently apply the binding regulations on the publicity of work. Additionally, the councils should genuinely accept the publicity as one of the necessary ways for the judicial branch of government to establish authority among citizens and become a government in the true sense of the word.

9. Recommendations

9.1. Recommendations for improving the HJC's publicity of work

- Relevant and uniform biographies of HJC members and the composition and biographies of members of all HJC working bodies should be published.
- Along with the minutes, the materials on which the members of the Council decide should be published.
- Interested persons should be allowed to attend the sessions of the HJC and all its bodies, in accordance with the law. The reports on the publicity of work should include data on requests to attend meetings and decisions on those requests.
- Registration forms to attend sessions with the instructions and deadlines for registration should be in a visible place on the website accessible to the interested persons.
- The provisions of the Law on the High Judicial Council and the Rules of Procedure of the HJC should be consistently applied and the voting results at each session of the HJC should be published in the minutes (the information should not be blacked out).
- In accordance with the Law and the Rules of Procedure, it is necessary to regularly record and publish recordings of the sessions of the HJC and all its bodies and designate a special place on the website for the content, according to the model already applied by the HPC.
- HJC should be open to communication with the media and the public, primarily by regular and extraordinary press conferences.
- In accordance with the Law and Rules of Procedure, the HJC should publish a three-year work program and an annual work plan.
- HJC should issue annual work reports based on the annual work plan, which do not include the data that should be in the Information Sheet.
- All HJC reports should be published, visible and available in one place on the HJC website.
- Decisions on the selection of candidates should be justified to show that the selected candidate stands out compared to the other candidates.
- Data should be published on the number of proceedings conducted before the Constitutional Court based on candidates' appeals against election decisions and Constitutional Court decisions based on the reported appeals.

- The name of the appointed judge responsible for cases of undue influence and information on the procedure for reporting undue influence should be published in a visible place on the website.
- The Council should publish a list of all valid acts of the Council and publish outdated acts in a specially marked section or archive.

9.2. Recommendations for improving the HPC's publicity of work

- It should be prevented that numerous e-sessions disrupt the improvement in the publicity achieved by broadcasting HPC sessions.
- Biographies of all HPC members should be published.
- All HPC meeting minutes should be published in a searchable format.
- Along with the minutes, the materials on which the members of the Council decide should be published.
- Minutes of all phone and e-meetings of the HPC in the observed period should be published.
- Interested parties should be allowed to attend meetings of all HPC bodies whose work is public, in accordance with the Law and the Rules of Procedure.
- Regular recording of HPC sessions and all its bodies by law should be prescribed.
- The Council should establish strategic media and public communication, in accordance with the Law and the Rules of Procedure.
- The five-year work program and relevant annual work plans should be published.
- Annual reports should reflect the implementation of annual plan activities.
- The annual report should be improved so that it reports in more detail about the work of the HPC to the public.
- The publication of annual reports on the work of HPC (formerly SPC) should be organised so that the search corresponds to the content on the website.
- Decisions on the selection of candidates should be justified to show that the selected candidate stands out compared to the other candidates.
- Data should be published on the number of proceedings conducted before the Constitutional Court based on candidates' appeals against election decisions and Constitutional Court decisions based on the reported appeals.
- The name of the appointed prosecutor responsible for cases of undue influence and information on the procedure for reporting undue influence should be published in a visible place on the website.

It would be useful if the HPC uses the example of the HJC and publishes the names of the acting prosecutors in each of the prosecutor's offices and publishes the request form for access to information of public importance and the request form for attending HPC sessions.