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The Permanent Mission of the Republic of Serbia to the United Nations Office and other International Organizations at Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, Special Procedures Branch, and, in reference to the communication sent by the Special Rapporteur on the independence of judges and lawyers, ref. **OL SRB 3/2026** dated 24 March 2026, has the honour to enclose herewith the response from the Government of the Republic of Serbia.

The Permanent Mission of the Republic of Serbia to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 27 March 2026



Office of the United Nations High Commissioner for Human Rights
Special Procedures Branch
Palais des Nations, 1211 GENEVA 10

Response to the Special Rapporteur on the independence of judges and lawyers

(Communication Ref. OL SRB 3/2026)

We wish to thank you for your letter of 25 March 2026 informing us of your views on the recently adopted amendments to the set of judicial laws.

The Republic of Serbia expresses its gratitude to the United Nations for its continued comprehensive cooperation, in particular in the field of the judiciary. As has been repeatedly noted, the Republic of Serbia remains fully committed to strengthening the independence, autonomy, accountability and efficiency of the judicial system, in accordance with the Constitution of the Republic of Serbia, European and other international standards.

In this regard, allow us to note that the legislative changes to which the comments refer are fully based on the constitutional amendments adopted in 2022 and do not change the constitutional framework governing the independence of the judiciary and the autonomy of the public prosecutor's office.

In this regard, we particularly emphasize that:

- no new powers of the executive branch have been introduced in relation to the judiciary;
- the composition, competences and basic role of the High Judicial Council (High Council of the Judiciary) and the High Prosecutorial Council remain unchanged in their constitutional core;
- the amended normative framework does not foresee the possibility of political influence on individual judicial or prosecutorial decisions.

First of all, as a candidate country for membership of the European Union, we emphasize that communication regarding judicial laws has always been good and regular between the institutions of the Republic of Serbia and the European Commission. As a state and as an executive authority, our goal is to remain transparent and open in communication on all important topics. An additional indicator of such an approach is the set of ten laws that has been sent to the European Commission. In this way, we affirm our readiness to reach optimal normative solutions through joint consultations, which fully reflect European standards, remain within the framework of the Constitution of the Republic of Serbia and ensure the necessary results.

When it comes to the adopted amendments and supplements to judicial laws, it is first of all necessary to make a distinction between the procedure for adopting laws and the competence for proposing laws. When the Government of the Republic of Serbia works on draft laws, they are sent to the European Commission, a public debate process is organized, i.e. transparent processes are implemented, and in that case the Government Rules of Procedure are applied as the relevant bylaw, which also regulates the public debate process.

However, in this particular case, the Rules of Procedure of the National Assembly apply. The Rules of Procedure of the National Assembly do not require a mandatory public debate and provide that the following are authorized to propose laws: the Government, a Member of

Parliament, 30,000 citizens and the Government of the Autonomous Province – a total of four authorized proposers.

Given the application of these rules of procedure when proposing amendments to judicial laws, the procedure was different, i.e. it took place without organizing a public debate and communication with the European Commission.

None of the adopted provisions introduces new powers to the executive branch or changes the constitutional position of judges or prosecutors. All guarantees remain intact, in accordance with the Venice Commission standards regarding the institutional and functional independence of the judiciary.

Certain interventions, such as the provisions relating to the secondment of public prosecutors, further strengthen the independence of the public prosecution service, as decision-making authority is transferred from the Supreme Public Prosecutor/Prosecutor General to the High Prosecutorial Council, which undoubtedly contributes to greater democratic legitimacy in decision-making.

Furthermore, the participation of the Minister of Justice in the work of the High Prosecutorial Council in no way implies the existence of any political pressure, especially considering that the Minister of Justice is one of the 11 members of this body, and that decisions are made by quorum. In addition, the difference in the participation of the Minister of Justice in the High Prosecutorial Council on the one hand, and the non-participation in the work of the High Judicial Council on the other hand lies in the fact that public prosecutors in the Republic of Serbia are autonomous, while judges are independent. Here we are not talking only about a terminological difference, but about a crucial difference that has been defined through the normative framework of the Republic of Serbia for decades.

The adopted amendments to the set of judicial laws are predominantly technical in nature and do not encroach on the position of public prosecutors, assistant public prosecutors or other holders of the public prosecutorial function, but also of judges or assistant judges. They do not change the status rights, powers or procedural guarantees, but rather improve the organizational and functional aspects of work. Moreover, the proposed amendments further strengthen the position of public prosecutors in relation to the Chief Prosecutor, through a more precise regulation of mutual relations and greater clarity regarding accountability and autonomy in their conduct, thereby contributing to a more efficient and balanced functioning of the public prosecutorial system.

The amendments to the Law on the Public Prosecutor's Office arise from an analysis of the previous application of the law adopted for the purpose of harmonization with the constitutional changes confirmed in the referendum. Their main goal is to strengthen the efficiency, accountability and functional hierarchy in the work of the public prosecutor's office. The amendments specify the competence for deciding on objections to binding instructions, substitution and devolution, by returning the decision-making to the framework of the immediately higher prosecutorial hierarchy, thus eliminating the anomalies observed in practice. In the same way, deciding on objections to the annual work schedule is entrusted to the immediately higher public prosecutor, which is in line with the principle of accountability within the prosecutor's office. In order to prevent the blockage of the work, especially in smaller prosecutor's offices, the reappointment of an acting Chief Public Prosecutor is allowed, as well

as the re-election of the Chief Public Prosecutor in the same prosecutor's office. The proposed amendments also provide for more flexible temporary secondment of public prosecutors, while strengthening the role of the High Prosecutorial Council, as well as a clearer delineation of responsibilities between the Collegium and the Chief Public Prosecutor. Overall, these amendments contribute to a more stable, efficient and constitutionally aligned functioning of the public prosecutor's office.

The amendments to the Law on the High Prosecutorial Council were made with the aim of harmonizing this law with the proposed amendments to the Law on the Public Prosecutor's Office, in order to ensure consistency and a uniform arrangement of competences in the public prosecutor's office system. The amendments precisely delimit competences, by harmonizing certain issues related to objections against binding instructions, substitution and devolution with new solutions by which the immediately superior Chief Public Prosecutor decides on these issues. The law is predominantly of a legal-technical and organizational nature and does not introduce new competences of the High Prosecutorial Council, but rather removes provisions that are no longer in line with systemic solutions in the field of public prosecution. The proposed amendments do not encroach on the constitutional position of the High Prosecutorial Council, nor on the status, powers and procedural guarantees of public prosecutors, but rather contribute to greater clarity of internal relations and accountability in the system.

We take this opportunity to draw attention to the fact that the Venice Commission, in its Opinion on the draft laws relating to the public prosecution service of 2022, stated the following (paragraph 103): “the public prosecutors may, with their written consent, be temporarily assigned to another public prosecutor’s office of the same or lower level for a maximum of one year, without the possibility of re-assignment to the same public prosecutor’s office”. This provision was singled out and discussed by practically all the interlocutors in Belgrade. These secondments are indeed considered to be a powerful tool to reward or sanction public prosecutors... (paragraph 108)

Furthermore, the power to order such transfers is given in the revised draft Law to the Prosecutor General, and not to the HPC (as in the original draft). This solution further increases the power of the PG in the prosecutorial system, so the original solution – with the HPC deciding on those issues – may be maintained.”

The adopted amendments to the Law on Organization and Jurisdiction of Government Authorities for Suppression of Cybercrime aim to more precisely regulate the position and methods of operation of the special department for combating cybercrime within the Higher Public Prosecutor's Office in Belgrade, in order to eliminate practical problems arising from insufficiently clear valid solutions. The amendments clearly establish that this is a special department of the public prosecutor's office, and not a special prosecutor's office as an independent body, thereby ensuring greater legal certainty and clearer relations within the public prosecutor's system. The law specifies the competences, methods of governance and responsibilities of the head of the special department, as well as the relationship with the Chief Public Prosecutor of the Higher Public Prosecutor's Office in Belgrade and the Supreme Public Prosecutor/Prosecutor General, which contributes to more efficient and coordinated proceedings in cybercrime cases. The proposed solutions are predominantly technical and organizational in nature and do not encroach on the status, powers or procedural guarantees of public prosecutors and other holders of the public prosecutorial function, but rather improve

the functional aspects of work and more clearly regulate internal accountability. The amendments do not affect the constitutional position of the public prosecutor's office or existing systemic solutions.

Regarding the adopted amendments to the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices, we emphasize that they aim to promote the efficiency, accessibility and functionality of the judicial system, by adapting the judicial and public prosecutor's office network to real demographic, territorial and organizational circumstances. The law is a systemic and timely measure to alleviate the excessive caseload burden of judicial bodies, primarily in Belgrade, and to create conditions for faster and more efficient proceedings of courts and public prosecutor's offices. A special reason for the adoption of the law is the excessive workload of the Third Basic Court in Belgrade, which has been facing an extremely large number of cases for many years, which objectively makes it difficult for citizens to exercise their right to a trial within a reasonable time. The establishment of the Fourth Basic Court and the Fourth Basic Public Prosecutor's Office in Belgrade ensures a more even distribution of cases, better organization of workflow and greater accessibility of judicial bodies to citizens. The law also takes into account the future significant increase in the number of cases in the Surčin area, as a result of infrastructural, investment and urban development in connection with EXPO 2027, which requires timely adjustment of the judicial network. The establishment of a court unit in Kosjerić, within the Basic Court in Požega, improves access to justice for citizens in more remote areas, reduces the costs and time of the proceedings and strengthens legal certainty. The law regulates in detail the transitional period, the status of judges, public prosecutors and employees, as well as the takeover of cases, property and archives, thus ensuring continuity of workflow and legal certainty for the parties. The proposed amendments do not in any way affect the already adopted constitutional amendments, nor do they call into question the systemic solutions contained in the judicial laws. Their scope remains within the existing constitutional and legal framework, without encroaching on the competence, independence and autonomy of judicial function holders. This is a targeted and limited intervention, aimed exclusively at improving the efficiency of the work of judicial bodies and the faster and more effective exercise of citizens' rights. The start of the application of the law is scheduled for 1 July 2026, in order to provide sufficient time for all necessary organizational and technical preparations.

Finally, the adopted amendments to the Law on Judges stipulate that the president of the court, after the expiration of his/her term, may be re-elected to the same position for another term. The aim of this solution is to ensure continuity and stability in the governance of the courts, bearing in mind that the practice to date has shown good results. The president of the court plays a key role in the internal organization and efficiency in the functioning of the court, as he/she is responsible for personnel planning, the assignment of judges and employees, as well as for the implementation of organizational and reform processes. These tasks have long-term effects and require knowledge of the specifics of the functioning of the court. Enabling another term prevents the interruption of initiated processes and the loss of institutional knowledge, while the decision on re-election remains within the exclusive competence of the High Judicial Council. In this way, it is ensured that only presidents who have demonstrated expertise, responsibility and results in their work may continue in that role. The proposed amendment does not undermine the principle of oversight and responsibility, but rather contributes to greater efficiency, consistency and stability of the internal governance of the courts.

With regard to the disciplinary liability of judges and public prosecutors, we take this opportunity to clarify that the provisions on disciplinary liability are part of the set of judicial laws adopted in February 2023. In order to fully implement these solutions, the High Prosecutorial Council adopted the Rulebook on the Disciplinary Bodies of the High Prosecutorial Council and Disciplinary Proceedings ("Official Gazette of the Republic of Serbia", No. 33/24 of 18 April 2024), while the High Judicial Council adopted the Rulebook on the Procedure for Determining Disciplinary Liability of Judges and Presidents of Courts (published in the "Official Gazette of the Republic of Serbia", No. 24/2024 of 22 March 2024). In the drafting of this by-law framework, as well as of the Constitutional Amendments and the set of judicial laws, the Councils were provided with expert support by the Council of Europe Office in Belgrade, and the "maturity" of the aforementioned adopted by-law framework was also assessed by engaged experts from the Council of Europe. This is particularly important considering that the assessment of legal solutions is provided by the Venice Commission, which is a body of the Council of Europe.

The same applies to the part of the normative framework that regulates the existence of a mechanism for preventing undue influence on the work of judges and public prosecutors, which has been established in both Councils. The Councils, also with the support of the Council of Europe Office in Belgrade, adopted by-laws for the closer implementation of legal solutions relating to undue influence on the work of judges and public prosecutors. In this regard, the High Judicial Council adopted the Rulebook on the Protection of Judges and Courts from Undue Influence (published in the "Official Gazette of the Republic of Serbia", No. 110/2023 of 8 December 2023), and the High Prosecutorial Council adopted the Rulebook on the Procedures of the High Prosecutorial Council in Relation to Undue Influence on the Work of Holders of the Public Prosecutorial Function and the Public Prosecutor's Office ("Official Gazette of the Republic of Serbia", No. 1/24 of 5 January 2024).

We note that the latest amendments to the set of judicial laws have not resulted in any changes in this regard.

Finally, allow us to point out the fact that the Republic of Serbia, upon the adoption of the law, requested the preparation of a post ante analysis by the Venice Commission. In this regard, the rapporteurs of the Venice Commission visited the Republic of Serbia from 16 to 18 March and on that occasion spoke with all relevant stakeholders. The opinion of this body of the Council of Europe is expected in April 2026 and, as we have repeatedly emphasized, we are ready to make all potential corrections within the established normative framework in accordance with the opinion of the Venice Commission, of which we will certainly inform you.