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Protecting the right to request the recusal of a judge of the European Court of Human Rights

Written question No. 759 to the Committee of Ministers
by Ms Maja VUKIĆEVIĆ, Montenegro, Members not belonging to a Political Group

Following the report of the European Centre for Law and Justice (ECLJ) "NGOs and the Judges of the ECtHR", Parliamentary Assembly member Milan Knežević submitted a written question to the Committee of Ministers (No. 748 of 24 April 2020) about the measures the Committee intends to take in order to avoid conflicts of interest of some judges of the European Court of Human Rights.

Indeed, some judges sat in cases introduced or supported by the NGO they were collaborating with. Mr Knežević took the example of a case in which the judge Màrtiņš Mits sat in a situation of conflict of interest.

On 2 February 2021, nine days after the end of Mr Knežević's mandate at the Assembly, the Court declared inadmissible an application he had lodged (No. 54228/18). The judge Mits sat in this case. In the media, Mr Knežević questioned the impartiality of the Court in the case, since the judge Mits could have been motivated by revenge.

In its current practice, the Court deprives the parties of the possibility of requesting the recusal of a judge, since it generally informs them of the identity of the judges when the judgment is published. Therefore, a party cannot effectively request the withdrawal of a judge.

In order to allow recusals, the Court should inform the parties in advance of the composition of the formation of the panel which will decide their case, in accordance with the principle of the public nature of the proceedings provided for in Article 6 of the European Convention on Human Rights.

Ms Vukićević

To ask the Committee of Ministers:

What does the Committee of Ministers intend to do, in the process of the reform of the European Court of Human Rights, to protect the right of the parties to request the recusal of a judge?