

Ref: CommHR/DM/sf 018-2020

Mr Luca BECCARI
Minister for Foreign Affairs of San Marino

Strasbourg, 8 September 2020

Dear Minister,

Over the past months, I have received several communications from representatives of the Sammarinese judiciary regarding their concerns about the independence of the judiciary in San Marino. I also took note of your exchange with the Secretary General of the Council of Europe.

I would like to underline that the independence of the judiciary is the cornerstone of the rule of law which is the absolute precondition for the enjoyment of human rights. As established in Council of Europe standards, judicial councils are essential to safeguard this independence. They must be firmly established by law, which would preclude measures retroactively affecting their composition, and the majority of their members should be elected by their peers. These standards also provide that objective, pre-established criteria must be used for the allocation of cases to individual judges and that no case should be withdrawn from a judge without valid reasons.

In my country work, I take any allegation regarding interference with the judiciary by the executive and the legislative powers as a very serious matter, not least because of the impact of such allegations on the perception of the independence of the judiciary by the wider public. This is the reason I am writing to you now to express my concerns about the allegations I have been receiving.

In my view, the best way to address these allegations and allay any concern of political interference in judicial matters would be to make full use of the assistance and expertise of the relevant Council of Europe bodies, and notably the Venice Commission and the Consultative Council of European Judges (CCJE) to assess the institutional setup affecting the independence of the judiciary in San Marino, and if necessary, to reform it in accordance with their recommendations. I am also aware that the Group of States against Corruption (GRECO) is expected to adopt its relevant evaluation report on San Marino very soon. I call on the authorities of San Marino to refrain from taking any further steps that may fuel such allegations pending the adoption and publication of that report, and before any possible recommendations included in it are properly implemented.

I look forward to a constructive dialogue on human rights issues with you and your government.

Yours sincerely,



Dunja Mijatović