



COUNCIL OF EUROPE



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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

REPUBLIC OF MOLDOVA
DRAFT LAW ON AMENDING AND SUPPLEMENTING
THE CONSTITUTION

Law
on Amending and Supplementing the Constitution of the Republic of Moldova

The Parliament enacts the present constitutional law

Article I. - The Constitution of the Republic of Moldova, enacted on July 29, 1994 (Official Gazette of the Republic of Moldova, 1994, No.1), with further amendments, is amended as follows:

1. To the Article 116:

Paragraph 2 shall have the following content:

„(2) Judges of courts of law shall be appointed, according to the law, until the age limit has been reached, by the President of the Republic of Moldova, at the proposal of the Superior Council of Magistracy. The President of the Republic of Moldova may reject only once the nomination proposed by the Superior Council of Magistracy.”;

Paragraphs (3) and (4) are repealed;

Paragraph (5) shall have the following content:

„(5) Decisions on the appointment of judges and their career shall be adopted on the basis of objective and merit-based criteria, and in a transparent procedure, according to the law. The promotion or transfer of judges shall be done only with their consent.”

Shall be supplemented by paragraph (5¹) with the following content:

„(5¹) Judges shall have only functional immunity under the law.”

2. Article 121 shall be supplemented by paragraphs (1¹) și (1²), with the following content:

“(1¹) In the process of drafting, approving and amending the budget of the courts, the consultative opinion of the Superior Council of Magistracy is required. The Superior Council of Magistracy is entitled to present to Parliament proposals to the draft budget of the courts”.

3. Section 2 of Chapter IX shall be supplemented by Article 121¹, with the following content:

„Article 121¹
The Role

The Superior Council of Magistracy is the guarantor of independence of judicial authority”.

4. The article 122 shall have the following content:

„Article 122
Composition

(1) The Superior Council of Magistracy shall consist of judges, elected by the General Assembly of Judges, representing all levels of courts of law and from persons who enjoy a high professional reputation and integrity, with experience in the area of law, who do not work within the bodies of legislative, executive or judicial power, and are not politically affiliated.

(2) The procedure and requirements of electing or appointing the members of the Superior Council of Magistracy are established by law, which has to ensure that judges represent at least half of the members of the Superior Council of Magistracy.

(3) The members of the Superior Council of Magistracy shall be elected or appointed for a term of six years, without the possibility to hold two consecutive terms of mandates”.

5. The Article 123, paragraph (1) shall be supplemented by the sentence: "The Superior Council of Magistracy shall exercise its powers either directly or through its specialized bodies”.

Article II. – (1) Judges in regard of whom, at the date the present law take effect, the initial term of appointment as a judge has not expired, shall be considered appointed until reaching the age limit by the effect of the present law.

(2) Members of the Superior Council of Magistracy in position at the date the present law take effect shall exercise the mandate until the expiration of the term for which they have been elected or appointed.

Speaker of Parliament