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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT ACT
TO AMEND AND SUPPLEMENT
THE CONSTITUTION
OF THE REPUBLIC OF BULGARIA

Draft

(Promulgated State Gazette (SG), issue 56 of 1991, amended issue 85 of 2003, issue 18 of 2005, issue 27 and issue 78 of 2006, issue 12 of 2007)

§ 1. The following amendments and supplements shall be made in Art. 129:

1. In Paragraph 1 the words “by the Supreme Judicial Council” shall be replaced by “respectively by the Judges and Prosecutors Chamber of the Supreme Judicial Council”.
2. In Paragraph 2, in sentence one, after the words “at the proposal of”, “the Plenum of” shall be added.

§ 2. New Art. 130a and Art. 130b shall be created:

"Art. 130a. (1) The Supreme Judicial Council shall consist of a Judges and a Prosecutors Chambers.

(2) The Judges Chamber shall have thirteen members and shall include the Chairpersons of the Supreme Court of Cassation and of the Supreme Administrative Court, six members elected by the General Meeting of the Judges and five members elected by the National Assembly.

(3) The Prosecutors Chamber shall have twelve members and shall include the Prosecutor General, four members elected by the General Meeting of the Prosecutors, one member elected by the General Meeting of the Investigating Magistrates and six members elected by the National Assembly.

(4) The sequence for proposal and the procedure for election of the members of the chambers of the Supreme Judicial Council shall be regulated by a law.

(5) Each of the Chambers shall decide according to its competence the following issues:

1. It shall appoint, promote, transfer and remove from office the judges, the prosecutors and the investigating magistrates;
2. It shall impose the disciplinary sanctions “demotion” and “dismissal from office” of judges, prosecutors and investigating magistrates;
3. It shall appoint the administrative managers in the bodies of the judiciary;
4. It shall decide on organizational issues of the relevant system of bodies of the judiciary;
5. It shall provide standpoints on bills within the scope of its competence;

(6) The Plenum of the Supreme Judicial Council shall consist of all its members and shall have the following powers:

1. It shall adopt the draft budget of the judiciary and shall submit it to the National Assembly for consideration;
2. It shall pass a resolution for the termination of the mandate of an elected member of the Supreme Judicial Council under the conditions of Art. 130, Para. 8;
3. It shall organize the qualification of the judges, the prosecutors and the investigating magistrates;
4. It shall decide on general for the judiciary organizational issues;

5. It shall approve the annual reports of the bodies of the judiciary pursuant to Art. 84, item 16;

6. It shall manage the real estate properties of the judiciary,

7. It shall make a proposal to the President of the Republic for the appointment and the dismissal of the Chairperson of the Supreme Court of Cassation, the Chairperson of the Supreme Administrative Court and the Prosecutor General.

Art. 130b. (1) The sessions of the Plenum of the Supreme Judicial Council shall be chaired by the Minister of Justice. He shall not participate in the voting. In event of absence of the Minister of Justice the Plenum of the Supreme Judicial Council shall be chaired by the Chairperson of the Supreme Court of Cassation.

(2) The Judges Chamber shall be chaired by the Chairperson of the Supreme Court of Cassation and the Prosecutors Chamber shall be chaired by the Prosecutor General. The Minister of Justice may attend the sessions."

§ 3. The present Art. 130a shall become Art. 130c and point 2 shall be repealed in it.

§ 4. In Art. 132a, paragraph 6 a new sentence shall be added after the first sentence "The Inspectorate shall check integrity and conflict of interest of judges, prosecutors and investigating magistrates, it shall examine the completeness and authenticity of the property declarations, it shall check for circumstances undermining (damaging) the prestige of the judiciary and the events related to violation of the independence of judges prosecutors and investigating magistrates." and the present second sentence shall become the third sentence.

§ 4. In Art. 133 the words "the Supreme Judicial Council" shall be replaced by the "Plenum of the Supreme Judicial Council, of the Judges and the Prosecutors Chambers".

§ 5. In Art. 150 paragraph 4 shall be added :

"(4) The Supreme Bar Council may approach the Constitutional Court with a request for declaring as unconstitutional a law which infringes human rights and freedoms."

PROPOSERS: