



Strasbourg, 9 March 2026

**CDL-AD(2026)003**

Or. Engl.

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**OF THE COUNCIL OF EUROPE**  
**(VENICE COMMISSION)**

**FINLAND**

**OPINION**

**ON**

**THE PROPOSED AMENDMENTS TO THE CONSTITUTION OF  
FINLAND REGARDING THE INDEPENDENCE OF THE JUDICIARY**

**Adopted by the Venice Commission  
at its 146<sup>th</sup> Plenary Session  
(Venice, 6-7 March 2026)**

**On the basis of comments by**

**Mr Eirik HOLMØYVIK (Member, Norway)  
Ms Regina KIENER (Member, Switzerland)  
Ms Angelika NUSSBERGER (Member, Germany)**

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## I. Introduction

1. By letter of 20 October 2025, Ms Leena Meri, Minister of Justice of Finland, requested an opinion of the Venice Commission of the Council of Europe on the proposed amendments to the Constitution of Finland regarding the independence of the judiciary.

2. Mr Eirik Holmøyvik, Ms Regina Kiener and Ms Angelika Nussberger acted as rapporteurs for this opinion.

3. On 5 and 6 February 2026, a delegation of the Commission composed of Mr Eirik Holmøyvik and Ms Angelika Nussberger, accompanied by Ms Simona Granata-Menghini, Secretary of the Commission, and Mr Khagani Guliyev and Ms Tone Sorfonn Moe from the Secretariat, travelled to Helsinki and had meetings with representatives of the Ministry of Justice, the Supreme Court, the Supreme Administrative Court, the Judicial Appointments Board, the Constitutional Law Committee of the Parliament, the Parliamentary Ombudsman and the Human Rights Centre, the Chancellor of Justice and the Prosecutor General's Office, as well as with professional and civil society organisations. The Commission is grateful to the Finnish authorities for the excellent organisation of this visit.

4. This opinion was prepared in reliance on the English translation of the relevant proposed amendments to the Constitution of Finland regarding the independence of the judiciary, prepared by the working group on constitutional guarantees for the independence of the judiciary ([CDL-REF\(2026\)005](#)). The translation may not accurately reflect the original version on all points.

5. This opinion was drafted on the basis of comments by the rapporteurs and the results of the meetings on 5 and 6 February 2026. The draft opinion was examined at the joint meeting of the Sub-Commissions on the Judiciary, on the Rule of Law and on Latin America on 5 March 2026. Following an exchange of views with Ms Johanna Suurpää, Director General of the Department for Democracy and Public Law, Ministry of Justice of Finland, it was adopted by the Venice Commission at its 146<sup>th</sup> Plenary Session (Venice, 6-7 March 2026).

## II. Background

6. On 1 February 2023, the Ministry of Justice of Finland appointed a working group on the protection of the rule of law and the development of the judicial system, tasked, *inter alia*, with assessing the needs to amend the Constitution of Finland and other legislation from the perspective of the independence of the judiciary and to propose the relevant legislative amendment projects.

7. On 12 February 2024, the working group appointed a separate working subgroup on constitutional guarantees for the independence of the judiciary to conduct the above assessment and prepare the proposals.<sup>1</sup> The term of this subgroup lasts until 31 December 2026.

8. The assessment of the subgroup is paying particular attention to the provisions of the Constitution in force concerning the number of judges in the highest courts, the right to remain in office, the procedure of appointing judges and safeguarding the independence of the prosecution service. The guarantees for the independence of the judiciary are being assessed in relation to the standards provided by international and EU law. The Venice Commission's instruments such as the Rule of Law Checklist and numerous reports and opinions of the Commission are also being used in the assessment.

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<sup>1</sup> Ministry of Justice Finland, Working Group on constitutional guarantees for the independence of the judiciary, [Working Group on Constitutional guarantees for the independence of the judiciary - Ministry of Justice](#)

9. The work of the subgroup is to result in a memorandum with proposals for legislative amendments. In that connection, the subgroup has prepared a comprehensive and detailed draft memorandum which mainly focuses on the provisions of the Constitution concerning the court administration, the number of judges in the highest courts, the right to remain in office, the procedure for appointing judges and safeguarding the independence of the prosecution service. The draft memorandum provides draft amendments to the Constitution, considering them in the light of different legislative alternatives with regard to the aim of the reform in strengthening judicial independence, compliance with international standards, as well as compatibility with the existing Finnish constitutional and legal system.

10. The Venice Commission is mindful that the draft memorandum does not constitute a government bill, and that the Finnish Constitution provides that, under normal procedures, a constitutional amendment requires the approval of two consecutive legislatures (Section 73). This draft memorandum has therefore been prepared at an early stage of the legislative process and will be further specified and supplemented on the basis of the subgroup's outputs and the feedback received regarding the draft proposals. The Venice Commission is of the view that this working-method for preparing legislation and constitutional amendments following a thorough work of a working group involving various stakeholders at an early stage of the legislative process is commendable and welcome.

11. The Venice Commission has been informed that the working group does not intend to restrict its work to the aspects of judicial independence examined in the draft memorandum. The working group intends to continue its work on the question of the independence of the legal profession and legal counsel. The Venice Commission welcomes this holistic approach and underlines the importance of the legal profession in upholding the rule of law and ensuring protection of human rights.<sup>2</sup>

12. During its mission to Helsinki, the Venice Commission delegation was informed that the question of constitutional review and its scope as defined by Section 106<sup>3</sup> of the Constitution had been removed from the mandate of the working group. In its 2008 Opinion on the Constitution of Finland, the Venice Commission recommended "to extend the judicial control of constitutionality beyond the cases of evident conflict with the Constitution"<sup>4</sup>: the decision to exclude Section 106 from the scope of the mandate of the working group represents a missed opportunity to address this matter. At the same time, the Venice Commission acknowledges that a change of Section 106 would imply a substantive change of the role of the Supreme Court and the Supreme Administrative Court, and would thus potentially affect decisive elements of the judicial reform such as the appointment of the judges.

### **III. Analysis**

#### **A. Scope of the opinion**

13. The Minister of Justice requested an opinion of the Venice Commission on the proposed amendments to the Constitution of Finland concerning the independence of the judiciary contained in the draft memorandum prepared by the subgroup.

14. In particular, the Minister of Justice asked the Venice Commission "*to give its opinion on whether the proposed amendments outlined in the draft are deemed appropriate and sufficient*

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<sup>2</sup> This approach is also in line with the purpose of the Council of Europe Convention for the Protection of the Profession of Lawyer of 15 May 2025 (signed by Finland on 9 December 2025) defending the rights of lawyers.

<sup>3</sup> Section 106 (Primacy of the Constitution) of the Constitution of Finland reads as follows: "*If, in a matter being tried by a court of law, the application of an Act would be in evident conflict with the Constitution, the court of law shall give primacy to the provision in the Constitution*".

<sup>4</sup> Venice Commission, [CDL-AD\(2008\)010](#), Opinion on the Constitution of Finland, para. 134.

*in order to safeguard the independence of the judiciary*". The Minister also asked the Venice Commission to assess the proposed draft amendments on the prosecution service in light of the following questions: "*How should the guarantees of the right to remain in office and protection against arbitrary dismissal for prosecutors - particularly the Prosecutor General and the Deputy Prosecutor General - be assessed in light of international standards on the independence of the prosecution service? What constitutional or legislative safeguards are recommended to ensure that the rights to remain in office of these high-ranking prosecutors is compatible with the principles of prosecutorial independence, accountability, and the rule of law?*"

15. The Venice Commission will not carry out a general examination of the Finnish judicial system in all its aspects, but will only address and limit its assessment to the following aspects of the independence of the judiciary which have been examined in the draft memorandum:

- the court administration (see paragraphs 23-32 below);
- the composition of the highest courts (see paragraphs 33-41 below);
- the procedure of appointment of judges (see paragraphs 42-67 below);
- the right of judges to remain in office (see paragraphs 68-79 below);
- the provisions concerning the prosecution service (see paragraphs 80-99 below).

16. The Venice Commission underlines that the present Opinion addresses only the topics listed above, limited to the proposed amendments to the Constitution. The following remarks should not be seen as an endorsement of what has not been commented upon.

## **B. Preliminary remarks**

17. The Venice Commission recalls at the outset that in analysing a constitution, the wording of the constitutional provisions must be taken into account as well as the constitutional traditions and constitutional "culture" of the state, especially if they show a long and consistent pattern. Often states have different traditions with respect to the weight that they give to the case-law, constitutional practice, and the *travaux préparatoires* in both the interpretation and in "fleshing out" the wording of the constitution. The Finnish tradition, as is the case for all the Nordic countries, places great weight on the *travaux préparatoires* when interpreting the constitution. These are usually regarded as primary interpretative data and are almost invariably followed by the courts. The Finnish constitutional tradition also heavily emphasises the continuity of development, and the role of practice of the Constitutional Law Committee of the Parliament. Finally, the principle of treaty conform construction, by which parliament is presumed not to legislate in conflict with Finland's international obligations, is constantly applied by both the courts and the Constitutional Law Committee. These points must be borne in mind, amongst other things, when assessing the text of the Finnish constitution.<sup>5</sup>

18. The Venice Commission further recalls that judicial independence is an essential condition for the right to a fair hearing and judicial independence is a prerequisite to the rule of law. Given its importance, the basic principle of judicial independence must be entrenched in any constitution and reflected in primary legislation.<sup>6</sup> The Venice Commission observes that the level of perceived judicial independence in Finland continues to be very high<sup>7</sup> and Finland is considered as one of the best performing countries in various surveys on the observance of the rule of law.<sup>8</sup> The Venice Commission notes that this system is built upon a combination of

<sup>5</sup> Venice Commission, [CDL-AD\(2008\)010](#), Opinion on the Constitution of Finland, para. 8.

<sup>6</sup> Venice Commission, [CDL-AD\(2025\)002](#), The updated Rule of Law Checklist, para. 101.

<sup>7</sup> European Commission's 2025 Rule of Law Report, Country Chapter on the rule of law situation in Finland, [SWD\(2025\)926](#), p. 4.

<sup>8</sup> For example, according to the World Justice Project's overall Rule of law score, Finland is ranked third out of 143 countries, after Denmark and Norway (2025) (see: [www.worldjusticeproject.org/rule-of-law-index/country/2025/Finland](http://www.worldjusticeproject.org/rule-of-law-index/country/2025/Finland)).

formal safeguards and informal safeguards entrenched in the political and legal culture and practice in Finland.

19. The Venice Commission has previously acknowledged that informal norms are crucial in sustaining the rule of law and states should strive to establish such informal norms and practices supporting the rule of law in their democratic and legal cultures.<sup>9</sup> The Venice Commission is of the view that the existence of such norms accepted not only by all the institutions, but also by the people is evidence of a strong rule of law culture in Finland.

20. However, the Venice Commission wishes to emphasise that cultural and societal support of the rule of law does not remove the need for formal safeguards. Recent rule of law developments in other countries have demonstrated that legal and political culture is not stable and can change rapidly.<sup>10</sup> Informal norms should complement and support and not substitute formal safeguards altogether. Experience from other countries has shown that in a polarised political context, informal norms sustaining the rule of law offer little resistance against powerful forces determined to use all available legal and constitutional provisions.<sup>11</sup>

21. During the visit to Helsinki, the interlocutors of the Venice Commission's delegation while not expressing any concern about a serious and immediate threat to the independence of the judiciary in Finland, supported a constitutional reform to further strengthen the independence of the judiciary, including to prevent any possible future rule of law backsliding. The Venice Commission observes that similar constitutional reforms have recently been conducted or initiated in other Nordic countries (Norway and Sweden), providing inspiration for the preparation of the present draft amendments to the Constitution of Finland.

22. The Venice Commission therefore welcomes the preparation of draft constitutional amendments for the purpose of strengthening the independence of the judiciary in a preventive manner, by introducing safeguards against possible future threats to the independence of the judiciary, or by enshrining existing legislative provisions concerning judicial independence in the Constitution.

### C. Administration of the court system

23. The proposed amendments (indicated in bold) to Section 98 (Courts of law) of the Constitution read as follows:

*"The Supreme Court, the Courts of Appeal and the District Courts are the general courts of law.*

*The Supreme Administrative Court and the regional Administrative Courts are the general courts of administrative law.*

***Further provisions on the general courts of law and administrative law shall be laid down by an act.***

*Special courts that exercise judicial powers in specific areas of competence shall be provided for by law.*

*Provisional courts shall not be established.*

***The administration of the court system shall be organised in a manner that safeguards the independence of courts and judges as further specified by an act."***

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<sup>9</sup> Venice Commission, [CDL-AD\(2023\)029](#), The Netherlands – Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on legal safeguards of the independence of the judiciary from the executive power, para. 9, and Venice Commission, [CDL-AD\(2025\)021](#), Chile – Opinion on the draft constitutional amendments in respect of the judiciary, para. 33.

<sup>10</sup> Venice Commission, [CDL-AD\(2025\)002](#), The updated Rule of Law Checklist, para. 19.

<sup>11</sup> Venice Commission, [CDL-AD\(2023\)029](#), The Netherlands – Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on legal safeguards of the independence of the judiciary from the executive power, para. 10.

24. The draft amendment to Section 98 (Courts of law) of the Constitution introduces two new provisions. The first provision indicates that “*further provisions on the general courts of law and administrative law shall be laid down by an act*” and the second provision provides that “*the administration of the court system shall be organised in a manner that safeguards the independence of courts and judges as further specified by an act*”.

25. The adoption of the first provision will ensure that further provisions on the general courts of law and the general courts of administrative law will be regulated by the legislature as an act of Parliament and not by means of a decree or other regulations. The Venice Commission welcomes this amendment which strengthens the independence of the judiciary.<sup>12</sup>

26. As regards the second provision, while Sections 3<sup>13</sup> and 21<sup>14</sup> of the Finnish Constitution guarantee judicial independence as a general constitutional principle, the current text of the Constitution does not contain any provision concerning the administration of the court system. The proposed amendment introduces a specific positive obligation to organise the administration of the court system “*in a manner that safeguards the independence of the courts and judges*”.

27. The Venice Commission observes that a similar constitutional provision was adopted in Norway in 2024<sup>15</sup> and was proposed by the government in Sweden in 2025.<sup>16</sup> The proposed amendment will primarily serve as a constitutional guarantee against future legislation that may weaken the independence of the court administration and will consolidate the independence of the judiciary enshrined in Sections 3 and 21 of the Constitution. The Venice Commission accordingly welcomes the proposed amendment.

28. At the same time, the Venice Commission observes that the Constitution does not refer to the National Courts Administration (hereinafter “the NCA”) which is in charge of the organisation and administration of the court system.<sup>17</sup> The absence of a constitutional status of this organ was justified by the draft memorandum on the grounds that “with regard to the permanence of the Constitution, it is not justified to give constitutional status to any given authority”.<sup>18</sup> The draft memorandum also indicated that “the proposed provision contains a reference to law ‘as further specified by an act’, by which the organisation of the independent administration of the court system is linked to specifying regulation to be implemented by means of an ordinary act”.<sup>19</sup> This approach reflects Finland’s concise constitutional style and aligns with Nordic practice.

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<sup>12</sup> See also: Venice Commission, [CDL-AD\(2013\)010](#), Opinion on the draft new Constitution of Iceland, para. 143, and Venice Commission, [CDL-AD\(2023\)029](#), The Netherlands – Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on legal safeguards of the independence of the judiciary from the executive power, para. 13.

<sup>13</sup> The relevant part of Section 3 (Parliamentarism and the separation of powers) of the Constitution of Finland reads as follows: “*The judicial powers are exercised by independent courts of law, with the Supreme Court and the Supreme Administrative Court as the highest instances.*”

<sup>14</sup> The relevant part of Section 21 (Protection under the law) of the Constitution of Finland reads as follows: “*Everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice.*”

<sup>15</sup> Article 91 of the [Constitution of the Kingdom of Norway](#) reads as follows: “*The authorities of the State shall ensure the independent administration of the courts.*”

<sup>16</sup> The text of the proposed amendment in Swedish is available on the website of the Government of Sweden: [www.regeringen.se/rattsliga-dokument/proposition/2025/04/prop.-202425165](http://www.regeringen.se/rattsliga-dokument/proposition/2025/04/prop.-202425165)

<sup>17</sup> Section 1 of Chapter 19a of the 2016 Courts Act provides as follows: “*The purpose of the National Courts Administration, which operates in the administrative branch of the Ministry of Justice, is to ensure a favourable operating environment for the courts and to develop, plan and support the activities of the courts. The National Courts Administration is an independent agency.*”

<sup>18</sup> [CDL-REF\(2026\)005](#), p. 73.

<sup>19</sup> *Idem*.

29. The Venice Commission points out that like other Nordic countries (Denmark, Iceland, Norway and Sweden), and also the Netherlands, Finland entrusts the general administration of the courts to an executive agency rather than a judicial council, and that the NCA lacks competencies regarding the career of judges (appointment, training, disciplinary liability or dismissal). Finland and the other Nordic countries follow a distinct model of judicial governance, where powers over court administration, judicial appointments, and judicial discipline are divided and placed in different independent bodies.<sup>20</sup> The Venice Commission has previously noted that it has no issue with the principle of creating an autonomous body that manages the resources of the judiciary.<sup>21</sup> The NCA is an independent agency established in 2020 and its highest body with decision-making powers is the board of directors, composed of eight members (out of 8 members 6 are judges and 2 are lay persons) appointed by the Government for a period of five years. However, there is little political discretion in the appointment process, since the Government can only choose between two candidates nominated by and from the judiciary itself. As a result, the appointment procedure for members of the board of directors complies with the relevant European standards requiring that at least half of the members of such a body should be judges elected by their peers.<sup>22</sup> At the same time, its composition does not appear to be well-balanced in terms of the number of lay members, which may raise concerns about the risk of corporatism (see paragraphs 62-63 below).

30. Furthermore, the work of the NCA has received a positive evaluation by the European Commission in its Rule of Law Reports of 2022<sup>23</sup> and 2023.<sup>24</sup> In 2023, the European Commission recorded that Finland had fully implemented the 2022 recommendation to continue developing initiatives by the NCA to support the work of courts, and highlighted the NCA's regular coordination with court leadership, judge-led networks, and the advancement of court digitalisation and workload tools, with stakeholders welcoming these initiatives.

31. At the same time, the Venice Commission fully shares the concerns expressed in the draft memorandum about the lack of regulation of the question of suspension or removal from office of the members of the NCA's board of directors by the relevant legislation and the need to adopt such a regulation in the 2016 Courts Act in a way that safeguards their independence.<sup>25</sup> The Venice Commission supports this approach, as it is of the view that even though the NCA has more limited competences compared to a typical judicial council, its important role for the functioning and efficiency of the courts suggests that safeguards of independence should be adopted. The Commission stresses that the 2016 Courts Act should at any rate be interpreted in light of the explicit independence requirement in the proposed draft amendment.

32. The Venice Commission recommends that the grounds for removal of the members of the NCA's board of directors should be specific, detailed and limited to incapability to perform the duties or due to serious misconduct.<sup>26</sup> The Venice Commission furthermore underlines that

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<sup>20</sup> For an comparative overview of court administration systems and the Nordic countries, see Ragna Aarli and Anne Sanders, 'Judicial Councils Everywhere? Judicial Administration in Europe, with a Focus on the Nordic Countries' (2023) 14(2) *International Journal for Court Administration* 3. DOI: <https://doi.org/10.36745/ijca.487>.

<sup>21</sup> Venice Commission, [CDL-AD\(2025\)021](#), Chile – Opinion on the draft constitutional amendments in respect of the judiciary, para. 66.

<sup>22</sup> Venice Commission, [CDL-AD\(2025\)021](#), Chile – Opinion on the draft constitutional amendments in respect of the judiciary, para. 36. See also: Committee of Ministers of the Council of Europe, Recommendation [CM/Rec\(2010\)12](#) on judges: independence, efficiency and responsibilities, para. 46, and *Denisov v. Ukraine* [GC], no. 76639/11, §§ 68-72, 25 September 2018.

<sup>23</sup> European Commission's 2022 Rule of Law Report, Country Chapter on the rule of law situation in Finland, [SWD\(2022\)526](#).

<sup>24</sup> European Commission's 2023 Rule of Law Report, Country Chapter on the rule of law situation in Finland, [SWD\(2023\)826](#).

<sup>25</sup> [CDL-REF\(2026\)005](#), p. 19.

<sup>26</sup> Venice Commission, [CDL-AD\(2023\)029](#), The Netherlands – Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on legal safeguards of the

the judicial and non-judicial members of the board of directors should have equivalent protection for their tenure.<sup>27</sup>

#### D. The definition of the number of judges in the highest courts

33. The proposed amendments (indicated in bold) to Section 100 (Composition of the Supreme Court and the Supreme Administrative Court) of the Constitution read as follows:

*“The Supreme Court and the Supreme Administrative Court are composed of the President of the Court and ~~the requisite number of Justices~~ **15-25 other permanent members**. The Supreme Court and the Supreme Administrative Court have a competent quorum when five members are present, unless a different quorum has been laid down by an Act.”*

34. Currently, Section 100 of the Constitution only determines the minimum number of judges in the two highest courts with regard to quorum (five judges). The total number of judges in the Supreme Court and in the Supreme Administrative Court is determined in the laws on the respective courts. Both courts are composed of a President and “at least” 15 other judges.<sup>28</sup> Provided that the budget allows, the current legislation thus permits the establishment of vacant positions and appointment of an indefinite number of judges to the highest courts. The parliament can also amend the law to reduce or increase the number of judges.

35. The proposed amendment to Section 100 fixes the number of judges for the highest courts, replacing the current wording “the requisite number of Justices” with the wording “15-25 other permanent members”.

36. The aim of the proposed amendment to Section 100 is to strengthen the independence of the highest courts, protecting them from any possible undue interference by way of increasing or decreasing the number of their members by a majority in power in parliament.<sup>29</sup> The issue of court “packing” and the reduction of number of judges are well known as means to change and influence courts and thus infringe on their independence.<sup>30</sup> The Venice Commission has previously recommended to fix the number of judges of a highest court in a law to avoid “packing” this court by new judges.<sup>31</sup> It thus welcomes a similar constitutional initiative in Finland as it provides an additional safeguard for the independence of the two highest courts.

37. There are no international standards pertaining to the number of judges in the highest courts and, in principle, the Finnish constitutional legislator is better placed than the Venice Commission to assess the appropriate needs of the relevant highest courts. The Commission observes that the minimum and maximum number of judges to be entrenched in the Constitution should reflect the specific tasks and roles of the highest courts in the Finnish judicial system to provide for the needed flexibility. On the one hand the number should not be set too low as to endanger the efficiency of these courts. On the other hand, it should not be

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independence of the judiciary from the executive power, paras. 52-56, and CCJE, Opinion No. 24 (2021), Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems, para. 38.

<sup>27</sup> CCJE, Opinion No. 24 (2021), Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems, para. 37.

<sup>28</sup> 2005 Law on the Supreme Court, Chapter 3, 10 § and 2006 Law on the Supreme Administrative Court, Chapter 3, 10 §.

<sup>29</sup> Similar constitutional amendments with the same aim have recently been adopted in Norway and Sweden. Article 88 of the Constitution of Norway, amended in 2024, provides that “*the Supreme Court shall consist of a Chief Justice and at least four and no more than 21 other Members*”. The amendment to the Constitution of Sweden, providing at least 12 and no more than 20 justices at the Supreme Court and at the Supreme Administrative Court, was also adopted at first vote in 2025 by Parliament which must have a second vote in 2026 and the amendment should enter into force on 1 January 2027.

<sup>30</sup> In that connection, see in particular: Report of the UN Special Rapporteur on the independence of judges and lawyers (safeguarding the independence of judicial systems in the face of contemporary challenges to democracy), 21 June 2024, p. 7, para. 25 ([A/HRC/56/62](#)).

<sup>31</sup> Venice Commission, [CDL-AD\(2017\)019](#), Armenia - Opinion on the Draft Judicial Code, para. 42.

set too high as to endanger the aim of protecting their independence or their role of ensuring the uniform application of the law in the judicial system. A further consideration is flexibility for the legislator to develop the role of the highest courts according to future needs which may require a larger body of judges. The Commission also notes that the functioning of a highest court with 15 judges is very different from a highest court with 25 judges. Therefore, the proposed number still leaves room for discretion.

38. The draft amendment to Section 100 must be read in conjunction with the draft amendment to Section 102 containing the procedure for appointment of judges of the highest courts. The latter gives a crucial role to the highest courts in the appointment procedure of their members since any proposal of appointment of new judges must come from the highest court concerned (see paragraphs 47-50 below). Such a system reduces the risk of potential court “packing” by manipulating the number of judges to be fixed in the range of 15-25, while providing the necessary flexibility for the highest courts to define their needs.<sup>32</sup> Furthermore, during the discussions that the Venice Commission held in Helsinki, the highest courts appeared satisfied with the proposed range of 15-25 judges and did not express concern in that regard.<sup>33</sup>

39. The Venice Commission observes that while the current wording of Section 100 does not differentiate between permanent and fixed-term members (“Justices”), the proposed wording of the amendments explicitly refers to “permanent members”. During the discussions with the relevant stakeholders, it was clarified that the provision is not limited to “permanent members” but is meant to cover all members of the two highest courts, including “fixed-term members” who will be appointed only when a permanent member of the highest court will not be able to exercise his or her functions. This interpretation would also follow from the wording read in conjunction with the *travaux préparatoires* of the amendments.<sup>34</sup>

40. Indeed, the Venice Commission notes that, although the proposed wording refers to “permanent members”, the intent, expressed in the *travaux préparatoires*, is to cover all members (permanent and fixed term) within the 15–25 range. Notwithstanding the importance of the *travaux préparatoires* in the Finnish constitutional culture, the proposed constitutional wording may thus permit divergent readings. To remove ambiguity and foreclose interpretations allowing to add fixed term judges beyond the cap, the Venice Commission recommends the authorities to remove the word “permanent”. This modification will also bring the text of the draft amendment to Section 100 into line with the draft amendment to Section 102 concerning the appointment of the judges of the highest courts which uses only “member”.

41. Lastly, the Venice Commission is aware that the highest courts have a well-established practice of using fixed-term judges only in exceptional cases, such as the extended absence

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<sup>32</sup> The relevant part of the draft memorandum reads as follows: “*This assessment concluded that, to accomplish the goals of the proposed regulation of number of members and to strengthen independence, it could only be possible to appoint fixed-term members to the highest courts when a public-service position is vacant. Furthermore, it should only be possible to appoint fixed-term members on the initiative of the court. This would safeguard the ability of the courts to perform their duties appropriately in situations where a permanent member is on a leave of absence, for example, or the public-service post is vacant for some other reason, while at the same time keeping the combined number of permanent and fixed-term members within the range of variation laid down in the Constitution. In addition, the provision proposed for section 102 of the Constitution, giving the highest courts the right of initiative in the appointment of members, would safeguard external independence and, as with tenured judges, prevent the appointment of fixed-term members on the initiative of an actor external to the court. The idea in the proposed regulation is that Justices could be appointed for a fixed-term only as acting Justices and only on the initiative of the court itself.*” (CDL-REF(2026)005, p. 24).

<sup>33</sup> Based on interaction with stakeholders and information received, the range of 15-25 judges seems to fit well within the current composition and needs of the two highest courts. The Supreme Administrative Court has 24 justices (Supreme Administrative Court, [www.kho.fi/en/index/organization/justices.html](http://www.kho.fi/en/index/organization/justices.html)) and the Supreme Court 20 justices (Supreme Court, [www.korkeinoikeus.fi/en/index/supremecourt/members.html](http://www.korkeinoikeus.fi/en/index/supremecourt/members.html)). In meetings, stakeholders emphasized that the interval should be the same for both courts and that 25 is sufficient, with the minimum serving to prevent diminishing numbers.

<sup>34</sup> CDL-REF(2026)005, p. 24.

of a permanent member. In addition, the limitation of the total number of judges to 25, the procedure of appointment of judges of the highest courts, including fixed-term judges, on the proposal of the highest court concerned and the well-established practice of limiting the use of fixed-term judges seems to adequately reduce the risk pertaining to fixed-term judges in the highest courts (see paragraphs 64-67 below).

### **E. The procedure of appointment of judges**

42. The proposed amendments (indicated in bold) to Section 102 (Appointment of judges) of the Constitution read as follows:

~~“Tenured judges are appointed by the President of the Republic in accordance with the procedure laid down by an Act. Provisions on the appointment of other judges are laid down by an Act.~~

**The president and other members of the Supreme Court and the Supreme Administrative Court are appointed by the President of the Republic in accordance with the proposal of the court concerned.**

**Other permanent judges are appointed by the President of the Republic in accordance with the proposal of an independent body on which judges make up the majority.**

**Notwithstanding the provisions of section 58, when the President of the Republic does not decide the matter in accordance with the proposal, the matter is referred back to the court or body that submitted the proposal for further preparation. The matter is then decided in accordance with the new proposal.**

**Further provisions on the appointment procedure are laid down by an act. Provisions on the appointment of other judges are laid down by an act.**

**Provisions on the procedure to nominate judges and members to supranational courts are laid down by an act.”**

43. In its opinion on the Constitution of Finland, the Venice Commission recommended that since the appointment of judges is of vital importance for guaranteeing their independence and impartiality, the procedure of appointment should be regulated in more detail in the Constitution.<sup>35</sup> Accordingly, the draft amendment to Section 102 of the Constitution regulating the procedure of appointment of judges is welcome.

44. As the Commission has previously observed, there is a great variety in the method by which judges are appointed in domestic legal orders within the European legal systems. No single model for the appointment of judges exists which could ideally comply with the principle of the separation of powers and secure full independence of the judiciary.<sup>36</sup> All systems should strive for a depoliticisation of judicial appointments and promote appointments according to the objective merits of the candidates. Undue influence and/or unfettered discretion of the other State powers in judicial appointments should be avoided. Conversely, involving only judges carries the risk of raising a perception of self-protection, self-interest and cronyism.<sup>37</sup> Moreover, Article 6 ECHR not only protects the independence of the individual judges but requires a system of judicial appointments that excludes arbitrary appointments.<sup>38</sup>

<sup>35</sup> Venice Commission, [CDL-AD\(2008\)010](#), Opinion on the Constitution of Finland, para. 112.

<sup>36</sup> Venice Commission, [CDL-AD\(2018\)028](#), Malta – Opinion on constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement, para. 30.

<sup>37</sup> Venice Commission, [CDL-AD\(2023\)029](#), The Netherlands – Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on legal safeguards of the independence of the judiciary from the executive power, para. 23.

<sup>38</sup> In particular, the Court held that “the Court is well aware that there are varying judicial appointment systems across Europe, and the mere fact that the executive, in particular, has decisive influence on appointments – as is the case in many States Parties, where the restraints on executive powers by legal culture and other accountability mechanisms, coupled with a long-standing practice of selecting highly qualified candidates with an independent state of mind, serve to preserve the independence and legitimacy of the judiciary – may not as such be considered to detract from the characterisation of a court or tribunal as one established “by law”. The concern here relates

45. The Venice Commission notes that in assessing the involvement of the executive/head of state what matters most is the extent to which they are free in deciding on the appointment. It should be ensured that the main role in the process is given to an independent body – for example, the judicial council where it exists. The proposals from the independent body may be rejected only exceptionally, and the executive/head of state would not be allowed to appoint a candidate not included on the list submitted by the independent body. As long as the executive/head of state is bound by a proposal made by an independent body, the appointment does not appear to be problematic.<sup>39</sup>

46. The draft amendment to Section 102 proposes two different procedures: for the appointment of the judges of the highest courts (the Supreme Court and the Supreme Administrative Court), and for the appointment of other permanent judges. The Opinion will thus examine these procedures separately.

### **1. The appointment of judges of the highest courts**

47. The proposed amendment to Section 102 provides that the President of the Republic appoints new members of the highest courts in accordance with the proposal of the court concerned (see paragraph 42 above). This amendment effectively gives the respective courts a decisive role in the selection of their own members. This seems to be a codification in the Constitution of the current legislation, according to which the Supreme Court and the Supreme Administrative Court provide a reasoned proposal on the candidates for a vacant position to the Government for transmission to the President of the Republic, who subsequently exercises the appointment power.<sup>40</sup> The authorities pointed out that the draft amendment's failure to mention the Government's role in the appointment procedure results from the minimalistic approach to drafting the proposed amendment.

48. Moreover, the appointment power of the President of the Republic is effectively limited by the proposals made by the highest courts. In addition, the proposed amendment provides for an anti-deadlock mechanism in case of the President's refusal to appoint the candidate proposed by the highest court concerned. In that case, the matter is referred back to the court that submitted the proposal for further preparation and the matter is then decided in accordance with the new proposal. In other words, the second presentation of the same appointment proposal is intended to be binding for the President of the Republic, which effectively limits the political discretion to a minimum.

49. The Venice Commission observes that the appointment model in Finland, which involves a high degree of judicial self-governance in the appointment of judges to the highest courts, is common in the Nordic countries. The Supreme Courts in Norway and Denmark also exercise a decisive influence on the appointment of their members by expressing their views on the candidates to the appointing body.<sup>41</sup> The Dutch Supreme Court has also a substantial influence as any new member is selected from a list of six candidates proposed by the Supreme Court itself.<sup>42</sup>

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*solely to ensuring that the relevant domestic law on judicial appointments is couched in unequivocal terms, to the extent possible, so as not to allow arbitrary interferences in the appointment process, including by the executive.*" (see *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, § 230, 1 December 2020).

<sup>39</sup> Venice Commission, [CDL-AD\(2025\)021](#), Chile – Opinion on the draft constitutional amendments in respect of the judiciary, para. 48.

<sup>40</sup> Section 7 of Chapter 11 of the 2016 Courts Act.

<sup>41</sup> In Norway the statement is made by the President of the Supreme Court. In Denmark the statement is made by the Supreme Court following a meeting of the plenary of the court.

<sup>42</sup> Venice Commission, [CDL-AD\(2023\)029](#), The Netherlands – Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on legal safeguards of the independence of the judiciary from the executive power, para. 20.

50. The Venice Commission notes that the Finnish model for appointments of the judges to the highest courts ensures a strong degree of depoliticisation and judicial self-governance. It is also clear that the model is well established in the Finnish judicial and legal system. During the discussions with various interlocutors in Helsinki, the Venice Commission delegation noticed that the Finnish model enjoys a high level of legitimacy among the majority of stakeholders. In principle, there is no issue with the codification and entrenchment in the Constitution of an appointment system that is already providing a high level of judicial independence and is based on existing legislation as well as on informal norms.

51. The Venice Commission however considers it necessary to note that while this decisive influence of the highest courts over candidates to be appointed by the President of the Republic ensures the highest courts' independence and reduces the risk of politicisation of the selection of candidates, it may also raise concerns about the risk of corporatism. European standards indeed require the participation of non-judge components in the appointment process, with the aim of ensuring accountability, hence democratic legitimacy and public trust in the judiciary.

52. Transparency is also a fundamental precondition of public trust. As the current procedure of selection of candidates by the Supreme Courts does not appear to offer a high degree of transparency, the Venice Commission recommends ensuring more transparency throughout the selection procedure of the candidates by the highest courts.

53. Moreover, the Venice Commission observes that while the draft amendment to Section 102 refers to Section 58 of the Constitution as regards the President's power of appointment,<sup>43</sup> it does not clearly regulate the exercise and the scope of the President's power of appointment. In particular, it does not appear to require a reasoned written decision for the refusal to appoint the judge proposed. The Venice Commission considers that the requirement that the appointing body should provide an explicitly and sufficiently reasoned written decision in the event of a refusal would enhance the transparency and accountability of the appointment process.<sup>44</sup>

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<sup>43</sup> Section 58 (Decisions of the President) of the Constitution of Finland reads as follows:

*"The President of the Republic makes decisions in Government on the basis of motions proposed by the Government.*

*If the President does not make the decision in accordance with the motion proposed by the Government, the matter is returned to the Government for preparation. In such a case, in matters other than those concerning confirmation of an Act or appointment to an office or position, the Government may present to the Parliament a report on the matter. Thereafter, the matter will be decided in accordance with the position adopted by the Parliament on the basis of the report, if this is proposed by the Government. (1112/2011, entry into force 1.3.2012)*

*Notwithstanding the provision in paragraph (1), the President makes decisions on the following matters without a motion from the Government:*

*(1) The appointment of the Government or a Minister, as well as the acceptance of the resignation of the Government or a Minister;*

*(2) The issuance of an order concerning extraordinary parliamentary elections;*

*(3) Presidential pardons and other matters, as specifically laid down by Acts, concerning private individuals or matters not requiring consideration in a plenary meeting of the Government; and*

*(4) Matters referred to in the Act on the Autonomy of the Åland Islands, other than those relating to the finances of the Åland Islands.*

*The appropriate Minister presents matters to the President. However, the appropriate government rapporteur presents a proposal concerning the alteration of the composition of the Government, where this concerns the entire Government.*

*The President makes decisions on matters relating to military orders in conjunction with a Minister, as provided for in more detail by an Act. The President makes decisions on military appointments and matters pertaining to the Office of the President of the Republic as provided by an Act.*

*Decisions on Finland's participation in military crisis management are made as specifically provided by an Act. (1112/2011, entry into force 1.3.2012)"*

<sup>44</sup> Report of the UN Special Rapporteur on the independence of judges and lawyers, 24 March 2009, p. 11, para. 33 ([A/HRC/11/41](#)).

54. Furthermore, there is no possibility for a candidate to obtain judicial review of a refusal of appointment. During the discussions with the interlocutors in Helsinki, the Venice Commission delegation was told that this absence of judicial review is in line with the Finnish constitutional culture. The Venice Commission delegation also learned that in practice the President of the Republic has almost never refused to appoint a candidate proposed for a judicial appointment. In addition, the Chancellor of Justice and the Parliamentary Ombudsman contribute to safeguarding the appropriate procedure in the appointment of judges by way of oversight.

55. The Venice Commission notes that, even if vacancies at the Supreme Court and the Supreme Administrative Court are publicly announced there is no open competition where the results could be reviewed by courts. This is understood as an essential feature of the Finnish system relying on the well-informed decision-making procedure within the two highest courts and the specific legal culture. While the Venice Commission learned that the Finnish Supreme Courts enjoy a high level of public trust, it would nonetheless emphasise that transparency in the selection and appointment of judges may make the judiciary more resilient with regard to public trust if, in the future, the political context and the views on the judiciary would become polarized.

56. The Venice Commission considers that these observations are also relevant to the procedure of the appointment of other permanent judges.

## 2. The appointment of other permanent judges

57. The proposed amendment to Section 102 of the Constitution (see paragraph 42 above) introduces a constitutional requirement that the appointment of permanent judges to courts other than the Supreme Court and Supreme Administrative Court are made by the President of the Republic “in accordance with the proposal of an independent body on which judges make up the majority”.<sup>45</sup> According to this amendment, the main role in the process is given to an independent body on account of the above-mentioned anti-deadlock mechanism (see paragraph 48 above). Therefore, as the head of state is bound by a proposal made by an independent body, this procedure of appointment does not appear to be problematic.<sup>46</sup> This amendment also establishes that the independent body in question must have a majority of judges. This provision is also in line with the relevant European standards requiring that at least half of the members of such a body should be judges elected by their peers.<sup>47</sup>

58. Furthermore, like the procedure for the appointment of the judges of the highest courts, the draft amendment concerning the procedure of appointment of other permanent judges codifies and entrenches in the Constitution an existing and well-functioning system of judicial appointments (see paragraph 47 above).

59. In addition, this constitutional amendment will prevent that the decisive influence by judges in the judicial appointments be abolished by an ordinary majority through a legislative amendment. This effort to solidify the existing formal and informal legal framework to prevent a future backsliding is to be welcomed.

60. However, the Constitution does not regulate the establishment and functioning of the Judicial Appointments Board (hereinafter “the JAB”) which exercises the functions of the

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<sup>45</sup> A similar constitutional amendment, adopted in Norway in 2024 (Article 90 of the Norwegian Constitution), reads as follows “*Judges are appointed by the King on the recommendation of an independent council.*”

<sup>46</sup> Venice Commission, [CDL-AD\(2025\)021](#), Chile – Opinion on the draft constitutional amendments in respect of the judiciary, para. 48.

<sup>47</sup> Venice Commission, [CDL-AD\(2025\)021](#), Chile – Opinion on the draft constitutional amendments in respect of the judiciary, para. 36. See also: Committee of Ministers of the Council of Europe, Recommendation [CM/Rec\(2010\)12](#) on judges: independence, efficiency and responsibilities, para. 46, and *Denisov v. Ukraine* [GC], no. 76639/11, §§ 68-72, 25 September 2018.

independent body referred to in the amendment. The Venice Commission has consistently advocated that the fundamental features of judicial councils or equivalent bodies should be established at the constitutional level.<sup>48</sup> It has expressed the view that constitutional guarantees should extend to the composition, powers and autonomy of the councils. The constitutional entrenchment of these elements is important in order not to expose the system of judicial governance to the imperatives of the prevailing politics, as otherwise, any new political majority could be tempted to change the system, which may be detrimental to the independence and efficiency of the judiciary.<sup>49</sup> While the Venice Commission acknowledges the Finnish and Nordic tradition of concisely worded constitutional provisions, the wording of this particular provision should also take into account the high threshold for Finnish courts to exercise constitutional review of legislation due to Article 106 of the Constitution. As Finnish courts can only exercise constitutional review if the law is in “evident conflict” with the Constitution, including more elaborate requirements for the JAB in the Constitution could provide an additional safeguard against legislation that could undermine its independence and efficiency. The Commission stresses that the 2016 Courts Act should at any rate be interpreted in light of the explicit independence requirement in the proposed draft amendment.

61. The Venice Commission observes that the JAB is currently composed of 12 members (9 judges and 3 lay members (a lawyer, a prosecutor and a professor of law))<sup>50</sup> and complies with the proposed constitutional amendment requiring a majority of judges as members.

62. However, the Venice Commission observes that while the composition of the JAB appears to be well-balanced as regards the representation of different types of judges and levels of the judiciary,<sup>51</sup> only 3 out of 12 members of the JAB are non-judicial members. It recalls that the non-judicial component fulfils an important balancing function. A large majority of judges may give rise to concerns about the risk of corporatist management or self-government. The inclusion of lay members is therefore broadly justified by the principle that the supervision of the quality and impartiality of the justice system extends beyond the interests of the judiciary itself.<sup>52</sup> In order to avoid corporatism and politicisation, there is a need to monitor the judiciary through non-judicial members of the judicial council. Corporatism should be counterbalanced by membership of other legal professions, the ‘users’ of the judicial system, e.g. attorneys, prosecutors, notaries, academics, and civil society.<sup>53</sup>

63. The Venice Commission considers that the role of non-judicial members within the JAB is even more important in the case of Finland where the judiciary already enjoys a high level of self-governance. The Venice Commission notes that while there are admittedly no legally binding standards imposing the establishment of a judicial council or a similar independent body responsible for judicial appointment,<sup>54</sup> the states which opted for the establishment of this kind of independent body should comply with the relevant standards in this field. Accordingly, the Venice Commission invites the authorities to consider increasing the representation of non-judicial members within the JAB.

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<sup>48</sup> See [CDL-PI\(2025\)002](#), Compilation of Venice Commission opinions and reports concerning courts, part IV, [CDL-AD\(2010\)004](#), Report on the independence of the judicial system, part I: The independence of judges, para. 32.

<sup>49</sup> Venice Commission, [CDL-AD\(2025\)038](#), Spain – Opinion on the manner of election of the judicial members of the general council of the judiciary, para. 27.

<sup>50</sup> [www.tuomioistuimet.fi/en/index/tuomioistuinelaitos/lautakunnat/tuomarin/tuomarinvalintalautakunnanjasenet.html](http://www.tuomioistuimet.fi/en/index/tuomioistuinelaitos/lautakunnat/tuomarin/tuomarinvalintalautakunnanjasenet.html)

<sup>51</sup> Venice Commission, [CDL-AD\(2023\)039](#), Bulgaria - Opinion on the draft Amendments to the Constitution, paras. 47-48.

<sup>52</sup> Venice Commission, [CDL-AD\(2025\)038](#), Spain – Opinion on the manner of election of the judicial members of the general council of the judiciary, para. 31.

<sup>53</sup> Venice Commission, [CDL-AD\(2018\)003](#), Republic of Moldova - Opinion on the Law on amending and supplementing the Constitution (Judiciary), para. 56.

<sup>54</sup> Venice Commission, [CDL-AD\(2025\)038](#), Spain – Opinion on the manner of election of the judicial members of the general council of the judiciary, para. 49.

64. Lastly, the Venice Commission notes that the amendment in question regulates solely the appointment of other permanent judges. The question of the appointment of “fixed-term judges” is thus regulated at the legislative level. In this regard, the Venice Commission notes that the 2016 Courts Act provides that judges can be appointed for a fixed term in case of a temporary vacancy at the court, or if necessary, due to the number or character of the cases before the court, or due to other special reasons.<sup>55</sup> The Venice Commission understands that the use of fixed-term judges prevails as a common practice in the lower courts in Finland, like in other Nordic countries, and that fixed-term judges allow the courts to handle unforeseen changes in their permanent composition or increases in their workload.

65. The Venice Commission reiterates that safety of tenure until retirement age is considered a key element in safeguarding the independence of judges.<sup>56</sup> The Venice Commission has been sceptical to a widespread use of temporary judges and has, with the notable exception of constitutional judges, consistently recommended that judges be appointed permanently until retirement.<sup>57</sup>

66. The Venice Commission considers that in cases where fixed-term judges are used, safety measures should be in place to prevent undue influence. Namely, the number of fixed-term members should not exceed that of permanent members, and clear rules should be established regarding situations in which fixed-term members may be called upon. The use of fixed term judges also raises an issue as regards their internal independence vis-à-vis their judicial superiors,<sup>58</sup> mainly the respective court presidents which are involved in their recruitment in the Finnish judicial system.

67. The Venice Commission invites the authorities to examine and review the rules on the appointment of fixed-term judges, ensuring that the necessary safeguards exist to protect the independence of the judiciary. These safeguards should include regulations on the maximum number of fixed-term judges which should not exceed the number of permanent judges, clear criteria for when the use of fixed-term judges is permissible, and respect for the internal independence of fixed-term judges.

#### F. The right of judges to remain in office

68. The proposed amendments (indicated in bold) to Section 103 (The right of judges to remain in office) of the Constitution read as follows:

*“A judge shall not be suspended from office, except by a judgement of a court **of law, and only when the judge has been convicted of an offence that demonstrates manifest unsuitability for judicial office.** In addition, a judge shall not be transferred to another office without his or her consent, except where the transfer **to another judicial office** is a result of a reorganisation of the judiciary.*

~~**Provisions on the duty of a judge to resign at the attainment of a given age or after losing capability to work are laid down by an Act.**~~

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<sup>55</sup> 2016 Courts Act, Chapter 12, 1 §.

<sup>56</sup> Committee of Ministers of the Council of Europe, Recommendation [CM/Rec\(2010\)12](#) on judges: independence, efficiency and responsibilities, para. 49.

<sup>57</sup> Venice Commission, [CDL-AD\(2010\)004](#), Report on the independence of the judicial system Part I: the independence of judges, para. 38. The UN Special Rapporteur on the independence of judges and lawyers also observed in that regard that “a short term for judges weakens the judiciary, affects their independence and their professional development” (Report of the UN Special Rapporteur on the independence of judges and lawyers, 24 March 2009, p. 16, para. 54 ([A/HRC/11/41](#))).

<sup>58</sup> Venice Commission, [CDL-AD\(2014\)007](#), Joint Opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft Law amending and supplementing the judicial code (evaluation system for judges) of Armenia, para. 15. Also, see Venice Commission, [CDL-AD\(2025\)047](#), Amicus curiae brief for the European Court of Human Rights in the case of *Kujit v. the Netherlands* on participation of additional judges in supreme court deliberations.

***Provisions on the termination of the public-service employment relationship of judges on the basis of reaching retirement age or losing the capability to work are laid down by an act. A provision on lowering the retirement age of judges cannot apply to existing public-service employment relationships.***

***More detailed provisions on the other terms of service of a judges in other respects are separately laid down by an Act.***

## **1. Security of tenure**

69. The draft amendment to Section 103 of the Constitution aims to strengthen the principle of irremovability of the judges, providing that a judge shall not be removed from office, except by a judgement of a court, and only when the judge has been convicted of an offence that demonstrates manifest unsuitability for judicial office (see paragraph 68 above).

70. It should be noted that the security of tenure is a fundamental guarantee of judicial independence<sup>59</sup> and the Venice Commission has consistently supported the principle of irremovability in constitutions.<sup>60</sup> Given the importance of tenure for the independence of judges, it follows that judges can only be removed due to exceptional circumstances. In particular, a permanent appointment should only be terminated in cases of serious breaches of disciplinary or criminal provisions established by law, or where the judge can no longer perform judicial functions.<sup>61</sup>

71. The draft amendment in question provides that a judge may be removed from office only by a court judgement and only when the judge has been convicted of an offence that demonstrates manifest unsuitability for judicial office (sanction provided for by Chapter 2, Section 10 of the Criminal Code). The requirement that a decision to remove a judge from office can only be taken by a court provides a safeguard against abuse and ensures the self-governance of the judiciary. During the discussions with the interlocutors, the Venice Commission learned that the initiative to institute criminal proceedings against judges lies with the Chancellor of Justice or the Parliamentary Ombudsman. This element constitutes an additional safeguard towards the influence of the executive power. Moreover, the criterion “manifest unsuitability” due to the conviction by a court establishes a high threshold, linking “manifest unsuitability” to a conviction for an offence.

72. The Venice Commission also observes that the 2016 Courts Act contains the relevant provisions concerning the competent courts deciding on removal from office and the possibility to obtain a judicial review of such a decision.<sup>62</sup> Accordingly, the Venice Commission considers that the draft amendment concerning removal of judges from office is in line with European standards and is welcome.

## **2. Transfer of judges**

73. The proposed amendment to Section 103 of the Constitution provides that “a judge shall not be transferred to another office without his or her consent, except where the transfer to “another judicial office” is a result of a reorganisation of the judiciary” (see paragraph 68

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<sup>59</sup> The Court considered the irremovability of judges during their term of office “as a corollary of their independence” (see *Maktouf and Damjanović v. Bosnia and Herzegovina* [GC], nos. 2312/08 and 34179/08, § 49, ECHR 2013 (extracts)) and found that “*this can hardly be reconciled with the particular consideration to be given to the nature of the judicial function as an independent branch of State power and to the principle of the irremovability of judges, which – according to the Court’s case-law and international and Council of Europe instruments – is a key element for the maintenance of judicial independence*” (see *Baka v. Hungary* [GC], no. 20261/12, § 172, 23 June 2016).

<sup>60</sup> Venice Commission, [CDL-AD\(2010\)004](#), Report on the independence of the judicial system Part I: the independence of judges, para. 43.

<sup>61</sup> Committee of Ministers of the Council of Europe, Recommendation [CM/Rec\(2010\)12](#) on judges: independence, efficiency and responsibilities, para. 50.

<sup>62</sup> [CDL-REF\(2026\)005](#), Section 2.1.7, pp. 31-33.

above). The new amendment clarifies that a judge could be transferred only to “another judicial office”. The Venice Commission welcomes this clarification. The Venice Commission has previously stressed that the transfer of a judge to another judicial office, without his or her consent, may be allowed only in exceptional cases,<sup>63</sup> such as cases of disciplinary sanctions or reform of the organisation of the judicial system.<sup>64</sup> The possibility of transfer as a result of a reorganisation of the judiciary is thus in line with European standards.

74. The Venice Commission also observes that there is no body specialised in the disciplinary proceedings against judges in Finland. However, the 2016 Courts Act does not provide for a possibility of transfer of judges as a disciplinary measure.<sup>65</sup> The Venice Commission also does not overlook the fact that there is no judicial ethics code valid for all judges in Finland. In this regard, it recommends elaborating a judicial ethics code as a self-regulatory instrument and distinct from disciplinary rules.<sup>66</sup>

75. The Venice Commission considers it necessary to draw attention to the need to provide the judge concerned with a legal remedy allowing to obtain a judicial review of the transfer decision. The Venice Commission notes that the Court’s case-law requires that the scope of such a judicial review should not only cover the transfer of a judge between two distinct courts,<sup>67</sup> but also between two divisions of the same court dealing with a different area of law.<sup>68</sup>

### 3. Retirement age of judges

76. The proposed amendment to Section 103 of the Constitution provides that “a provision on lowering the retirement age of judges cannot apply to existing public-service employment relationships”. This amendment aims to protect the judiciary from undue interference by way of changing the retirement age of the judges.<sup>69</sup>

77. The Venice Commission has repeatedly been critical of changes to the retirement age or term of office of judges, even as part of a general reform of the judiciary, in particular if such changes were made in haste and without convincing justification. Retroactive changes to the retirement age or term of office of judges affect the independence of judges and may, dependent on the number of judges affected, also have negative effects on the efficiency of a court.<sup>70</sup>

78. The Venice Commission has also repeatedly stated that it is important that the retirement age for judges should be clearly set out in the legislation. This is also necessary from the standpoint of legal certainty. Any doubt or ambiguity has to be avoided and a body taking

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<sup>63</sup> Venice Commission, [CDL-AD\(2010\)004](#), Report on the independence of the judicial system Part I: the independence of judges, para. 43

<sup>64</sup> Venice Commission, [CDL-AD\(2025\)021](#), Chile – Opinion on the draft constitutional amendments in respect of the judiciary, para. 54. See also: Committee of Ministers of the Council of Europe, Recommendation [CM/Rec\(2010\)12](#) on judges: independence, efficiency and responsibilities, para. 52.

<sup>65</sup> Chapter 15 of the 2016 Courts Act.

<sup>66</sup> Committee of Ministers of the Council of Europe, Recommendation [CM/Rec\(2010\)12](#) on judges: independence, efficiency and responsibilities, paras. 72-73; Venice Commission, [CDL-AD\(2024\)004](#), Bulgaria – Joint Opinion on the code of ethical conduct for judges, para. 17; and Venice Commission, [CDL-AD\(2016\)013](#), Kazakhstan – Opinion on the draft code of judicial ethic, para. 6.

<sup>67</sup> *Bilgen v. Turkey*, no. 15711/07, § 63, 9 March 2021.

<sup>68</sup> *Biliński v. Poland*, no. 13278/20, § 69, 15 January 2026. In that connection, see also the relevant case-law of the CJEU: *W.Ż. (Chamber of Extraordinary Control and Public Affairs of the Supreme Court – Appointment)* (C-487/19, 6.10.2021), §§ 114-119, and *Daka and Others* (joined cases C-422/23, C-455/23, C-486/23 and C-493/23, 1.08.2025), §§ 88-89.

<sup>69</sup> A similar constitutional amendment, adopted in Norway in 2024 (Article 90 section 2 of the Constitution of Norway), reads as follows: “*Before they reach the age of 70, judges may not be removed from office except by court judgment, nor can they be transferred against their will*”.

<sup>70</sup> Venice Commission, [CDL-AD\(2020\)016](#), Armenia – Opinion on three legal questions in the context of draft constitutional amendments concerning the mandate of the judges of the Constitutional Court, para. 28.

decisions on retirement should not be able to exert discretion. The absence of clear provisions could be used to exert pressure on the judge.<sup>71</sup>

79. The amendment prohibiting the retroactive application of a provision on lowering the retirement age of judges formalises the rule of law and the principle of good faith, by ensuring that no such legislation will be enacted. This amendment is in line with the international standards in the field, and is therefore to be welcomed.

### **G. The provisions concerning the prosecution service**

80. The proposed amendments (indicate in bold) to Section 104 (The prosecutors) of the Constitution read as follows:

~~“The prosecution service is headed by the highest prosecutor, the Prosecutor General, who is appointed by the President of the Republic. More detailed provisions on the prosecution service are laid down by an Act.~~

**The independent prosecution service is headed by the Prosecutor General as the highest prosecutor. The Prosecutor General and the Deputy Prosecutor General are appointed by the President of the Republic. The provisions concerning the Prosecutor General shall apply, mutatis mutandis, to the Deputy Prosecutor General. More detailed provisions on the prosecution service are laid down by an act.**

**The Prosecutor General cannot be removed from office except by a judgment of a court as laid down in section 103, subsection 1, or by termination of employment on the basis of unlawful conduct that demonstrates manifest unsuitability for the office. Provisions on the termination of employment of the Prosecutor General are laid down by an act.**

**Provisions on the ending of the public-service employment relationship of the prosecutor General on the basis of reaching retirement age or losing the capability to work are laid down by an act. A provision on lowering the retirement age of the Prosecutor General cannot apply to an existing public-service employment relationship.”**

#### **1. The independence of the prosecution service**

81. The Venice Commission notes that the functions of judges and prosecutors are clearly different, and that the independence of prosecutors is not of the same nature as the independence of judges.<sup>72</sup> While there is a general consensus in Council of Europe member states on the independence of the judiciary, there are different models concerning prosecutors.

82. The Venice Commission has emphasised that the difference in the level of independence between judges and prosecutors should not be used to undermine the role and status of the public prosecution service.<sup>73</sup> It has also observed that there is a widespread tendency in Council of Europe member states to make the prosecution service more independent from the executive rather than subordinating it to the executive.<sup>74</sup>

83. While there is no common standard on the organisation of the prosecution service, especially in respect of the authority required to appoint public prosecutors, or the internal

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<sup>71</sup> [CDL-AD\(2025\)029](#), Montenegro – Opinion on some questions relating to the procedure of early termination of the mandate of constitutional court judges due to age limits, para. 41.

<sup>72</sup> Venice Commission, [CDL-AD\(2010\)040](#), Report on the independence of the judicial system Part II: the prosecution service, para. 86.

<sup>73</sup> Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the law on the public prosecutor’s office, para. 24.

<sup>74</sup> Venice Commission, [CDL-AD\(2023\)029](#), The Netherlands – Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on legal safeguards of the independence of the judiciary from the executive power, para. 70.

organisation of the public prosecution service, sufficient autonomy must be ensured to shield prosecutorial authorities from undue political influence.<sup>75</sup> Although the prosecutorial service has to act on the basis of law, it should be given some discretion when deciding whether to initiate a criminal procedure or not by reference to the public interest.<sup>76</sup>

84. The Venice Commission observes that the first sentence of the proposed amendment to Section 104 of the Constitution provides that “the independent prosecution service is headed by the Prosecutor General as the highest prosecutor” (see paragraph 80 above). Like the proposed amendments regarding the judiciary, this part of the amendment codifies and entrenches in the Constitution the current legislation and practice on the independence of the prosecution service. According to existing legislation, and confirmed in meetings with interlocutors, the prosecution service is independent and the Minister of Justice or the Government may not give instructions as to whether or not to bring charges.<sup>77</sup> However, as indicated in the draft memorandum, the independence of the prosecution service can only indirectly be inferred from Section 27 subsection 3 of the Constitution, under which the Prosecutor General cannot serve as member of Parliament, or from an interpretation of Section 21 on the guarantees of a fair trial.

85. This part of the proposed amendment confirms the independence of the prosecution service at the constitutional level. It is in line with the tendency to make the prosecution service more autonomous.

## **2. The appointment of the Prosecutor General and the Deputy Prosecutor General**

86. The relevant part of the proposed amendment to Section 104 provides that “the Prosecutor General and the Deputy Prosecutor General are appointed by the President of the Republic” (see paragraph 80 above). It also provides that “the provisions concerning the Prosecutor General shall apply, *mutatis mutandis*, to the Deputy Prosecutor General”. The Commission notes that in the Finnish prosecution system the Prosecutor General and the Deputy Prosecutor General share equal top-level powers within the national prosecution service, which explains the application of the same provisions in respect of the status of the Prosecutor General and the Deputy Prosecutor General.

87. The Venice Commission has previously expressed the view that the guarantees of independence of the Prosecutor General in the performance of her/his functions, the method of her/his appointment, and the method of her/his removal from office should be enshrined in the Constitution.<sup>78</sup> Accordingly, definition of the procedure for appointment of the Prosecutor General and the Deputy Prosecutor General in the Constitution is welcome and in line with the Venice Commission’s recommendations.

88. When assessing different models of appointment of chief prosecutors, the Venice Commission has always been concerned with finding an appropriate balance between the

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<sup>75</sup> In that connection, the UN Special Rapporteur on the independence of judges and lawyers also recommended, with regard to the proper functioning of the prosecution, that “*the prosecutor and the prosecution service should be functionally autonomous from the legislative and executive branches, irrespective of the institutional structure; in this regard, States must ensure that prosecutors can perform their duties in an independent, objective and impartial manner so that criminal justice is not instrumentalized in service of Government aims*” (Report of the UN Special Rapporteur on the independence of judges and lawyers (safeguarding the independence of judicial systems in the face of contemporary challenges to democracy), 21 June 2024, p. 18, para. 72 ([A/HRC/56/62](#))).

<sup>76</sup> Venice Commission, [CDL-AD\(2025\)002](#), The updated Rule of Law Checklist, para. 113.

<sup>77</sup> Section 10 of the Act on the National Prosecution Authority. See [CDL-REF\(2026\)005](#), pp. 38 and 40.

<sup>78</sup> Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the law on the public prosecutor’s office, para. 21.

requirement of the democratic legitimacy of the process, on the one hand, and the requirement of depoliticisation, on the other.<sup>79</sup>

89. The Commission has called for the appointment of the Prosecutor General to be based on his/her objective legal qualifications and experience.<sup>80</sup> It has similarly underlined that appointment processes should be transparent, merit-based, and involve professional, non-political expertise.<sup>81</sup> It has also previously recommended that the Prosecutor General should be appointed permanently or for a relatively long period without the possibility of renewal at the end of that period.<sup>82</sup>

90. The Venice Commission observes that, as indicated in the draft memorandum, the President makes the appointment decision based on a proposal by the Government following a public competition.<sup>83</sup> During the discussions with the interlocutors, it was also clarified that the Prosecutor General is appointed on a permanent basis. Therefore, his or her period of office does not coincide with the appointing body's term in office, which is in line with the relevant standards.<sup>84</sup>

91. However, the Venice Commission observes that the proposed amendment does not provide further guidance for the nomination procedure. The Venice Commission notes that an appointment process which involves the executive and/or legislative branch of government has the advantage of giving democratic legitimacy to the appointment of the head of the prosecution service. However, in this case, additional safeguards may be needed in order to reduce the risk of politicisation of the prosecution service.<sup>85</sup> The Venice Commission has consistently recommended that excessive politicisation of the nomination of the Prosecutor General should be avoided through provisions requiring professional and non-political input as to the assessment of the professional qualifications of the candidate.<sup>86</sup>

92. This is particularly important in a system, such as the Finnish, where there is no Prosecutorial Council and the Prosecutor General enjoys wide powers.<sup>87</sup> In that connection, the Venice Commission invites the authorities to consider amending the provision so that it provides sufficient safeguards against possible politicisation of the appointment of the Prosecutor General. Such safeguards may be introduced at the constitutional level by stating that nominations should be based on objective legal qualifications, to be further regulated by an act. In particular, establishing clear criteria in the law regarding the objective legal qualifications and professional experience required for appointment can contribute to reducing the risk of politicisation of the office of the Prosecutor General, as this would demonstrate that

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<sup>79</sup> Venice Commission, [CDL-AD\(2022\)042](#), Serbia – Opinion on two draft laws implementing the constitutional amendments on the prosecution service, para. 109.

<sup>80</sup> Venice Commission, [CDL-AD\(2025\)028](#), Hungary - Opinion on the constitutional and legislative amendments concerning the requirements to be appointed Prosecutor General and Constitutional Court judge of Hungary, as well as the appointment and retirement of judges, para. 39.

<sup>81</sup> Venice Commission, [CDL-AD\(2010\)040](#), Report on the independence of the judicial system Part II: the prosecution service, paras. 34-35.

<sup>82</sup> *Ibid.*, para. 37.

<sup>83</sup> [CDL-REF\(2026\)005](#), p. 83.

<sup>84</sup> Venice Commission, [CDL-AD\(2010\)040](#), Report on the independence of the judicial system Part II: the prosecution service, para. 37.

<sup>85</sup> Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the law on the public prosecutor's office, para. 27.

<sup>86</sup> Venice Commission, [CDL-AD\(2019\)034](#), Republic of Moldova - Amicus curiae brief for the Constitutional Court of the Republic of Moldova on the amendments to the Law on the Prosecutor's Office, para. 21.

<sup>87</sup> As regards the Prosecutor General's important powers provided for in the Constitution, see: [CDL-REF\(2026\)005](#), p. 83.

candidates for such an important position are selected on the basis of their competencies and experience and not because of their political affiliation.<sup>88</sup>

### **3. The removal of the Prosecutor General from office and his/her retirement age**

93. The relevant part of the proposed amendment to Section 104 provides that “the Prosecutor General cannot be removed from office except by a judgement of a court as laid down in Section 103, subsection 1, or by termination of employment on the basis of unlawful conduct that demonstrates manifest unsuitability for the office. Provisions on the termination of employment of the Prosecutor General are laid down by an act. Provisions on the ending of the public-service employment relationship of the prosecutor General on the basis of reaching retirement age or losing the capability to work are laid down by an act. A provision on lowering the retirement age of the Prosecutor General cannot apply to an existing public-service employment relationship” (see paragraph 80 above).

94. The Venice Commission welcomes the provisions concerning the end of the public-service employment relationship of the Prosecutor General on the basis of reaching retirement age or losing the capability to work and the prohibition of the retroactive application of a provision on lowering the retirement age of the Prosecutor General. The Venice Commission is of the view that this part of the draft amendment strengthens the independence of the Prosecutor General by aligning his/her status with the status of judges.

95. As to the part of the draft amendment concerning the removal of the Prosecutor General from office, the Venice Commission observes that it provides two alternative grounds. The first refers to a criminal conviction and again aligns with the amendments concerning the status of judges, as set out in Section 103. This amendment strengthens the security of tenure of the Prosecutor General, consequently strengthening his or her independence. The Venice Commission welcomes this amendment.

96. However, the second ground is through an administrative procedure applicable to public officials in central government by termination of their employment on the basis of unlawful conduct that demonstrates manifest unsuitability for the office.

97. In this connection, the Venice Commission observes that the draft amendment is silent on which is the competent body entitled to take such a decision. According to information provided by the authorities,<sup>89</sup> there are currently three government bodies with powers to dismiss a public official appointed by the President of the Republic, such as the Prosecutor General. Within the Government, the matter may be decided by either the Ministry of Justice or, if it is considered a matter of general importance, by the Government Plenary Session, which includes the Prime Minister and other ministers. In addition, the President of the Republic has the competence to dismiss an official they have appointed, if the President wishes to reserve that power. The right to appeal depends on the decision-maker. A decision by the Ministry of Justice can be appealed to an administrative court, while a decision by the Government Plenary Session can be appealed to the Supreme Administrative Court. There is no right to appeal a decision by the President of the Republic.

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<sup>88</sup> Venice Commission, [CDL-AD\(2025\)028](#), Hungary - Opinion on the constitutional and legislative amendments concerning the requirements to be appointed Prosecutor General and Constitutional Court judge of Hungary, as well as the appointment and retirement of judges, para. 40.

<sup>89</sup> Written information provided after the meeting by the Ministry of Justice, supplementing and clarifying information already provided, see [CDL-REF\(2026\)005](#), section 2.2.3 (pp. 41-45).

98. The Venice Commission has previously expressed the view that the dismissal grounds for removal of the Prosecutor General must be legally precise, objective, and not open-ended.<sup>90</sup> The Venice Commission has also observed that while the grounds for dismissal must be prescribed by law, there should be a mandatory requirement that before any decision is taken, an expert body has to give an opinion whether there are sufficient grounds for dismissal.<sup>91</sup> Moreover, the Venice Commission has noted that the Prosecutor General should benefit from a fair hearing in dismissal proceedings.<sup>92</sup>

99. To safeguard the independence of the Prosecutor General and the Deputy Prosecutor General, the Venice Commission recommends that clear rules be provided on which authority has the power to dismiss and under what procedure. They should also ensure the right to judicial review.

#### IV. Conclusion

100. By letter of 20 October 2025, Ms Leena Meri, Minister of Justice of Finland, requested an opinion of the Venice Commission on the draft amendments to the Constitution of Finland regarding the independence of the judiciary.

101. This Opinion does not carry out a general examination of the Finnish judicial system in all its aspects and is limited to the aspects of the independence of the judiciary which have been examined in the draft memorandum prepared by a working group established by the Ministry of Justice. Therefore, this Opinion focuses on the draft amendments concerning the administration of the court system (Section 98), the composition of the highest courts (Section 100), the procedure of appointment of judges (Section 102), the right of judges to remain in office (Section 103) and the provisions concerning the prosecution service (Section 104).

102. The Venice Commission notes that the Finnish judicial system is based on a combination of formal and informal safeguards which are entrenched in the political and legal culture and practice in Finland. While the existence of informal safeguards constitutes a demonstration of a strong culture for the rule of law, as the Venice Commission has previously noted that, in a polarised political context, those informal safeguards offer little resistance against powerful forces which are determined to exploit all available legal and constitutional provisions.<sup>93</sup>

103. In this context, the Venice Commission particularly welcomes the Finnish authorities' intention to prepare the draft constitutional amendments to strengthen the independence of the judiciary in a preventive manner. The Venice Commission considers that the adoption of new safeguards and the codification of existing legislative provisions and practice at the constitutional level would contribute to prevent any future political majority from undermining the independence of the judiciary using the legislative tools. Furthermore, the codification of

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<sup>90</sup> Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the law on the public prosecutor's office, para 49-50, Venice Commission, [CDL-AD\(2010\)040](#), Report on the independence of the judicial system Part II: the prosecution service, para. 39, and Venice Commission, [CDL-AD\(2025\)028](#), Hungary - Opinion on the constitutional and legislative amendments concerning the requirements to be appointed Prosecutor General and Constitutional Court judge of Hungary, as well as the appointment and retirement of judges, para 31.

<sup>91</sup> Venice Commission, [CDL-AD\(2013\)025](#), Joint Opinion on the Draft Law on the Public Prosecutor's Office of Ukraine, para. 121.

<sup>92</sup> Venice Commission, [CDL-AD\(2010\)040](#), Report on the independence of the judicial system Part II: the prosecution service, para. 40. Moreover, the Court has already held in the cases regarding the premature termination of the term of office of a chief anti-corruption prosecutor (see *Kövesi v. Romania*, no. 3594/19, §§ 124-25, 5 May 2020) and the suspension of a prosecutor general (see *Stoianoglo v. the Republic of Moldova*, no. 19371/22, §§ 30-35 and 38-39, 24 October 2023) that the absence of any judicial control of the legality of the decision of removal cannot be in the interest of the State.

<sup>93</sup> Venice Commission, [CDL-AD\(2023\)029](#), The Netherlands – Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DG1) of the Council of Europe on legal safeguards of the independence of the judiciary from the executive power, para. 10.

existing legislative provisions and legal practice at the constitutional level would also ensure the continuity of the prevailing legal culture in the field of the independence of the judiciary.

104. Overall, the Venice Commission welcomes the proposed draft amendments which contribute to strengthen the formal basis of the independence of the judiciary at the constitutional level.

105. At the same time, the Venice Commission has identified a number of issues in the proposed draft amendments and makes the following key recommendations:

- (i) Adopting the relevant regulation concerning the security of tenure of the members of the National Courts Administration's board of directors in a way that safeguards their independence. In particular, the grounds for removal should be specific, detailed and limited to incapability to perform the duties or due to serious misconduct, and the judicial and non-judicial members of the board of directors should have equivalent protection for their tenure;
- (ii) Ensuring more transparency throughout the process by which the relevant highest court designates the candidate to be presented to the President of the Republic for appointment;
- (iii) Providing the regulation of the main features of the establishment and functioning of the Judicial Appointments Board at the constitutional level, thereby protecting its fundamental features from revision by ordinary legislation and reinforcing its independence;
- (iv) Increasing the representation of non-judicial members within the Judicial Appointments Board in compliance with the requirement of having a majority of judges as members;
- (v) Revising the legal framework concerning the fixed-term judges, to ensure its limited use and the existence of safeguards to protect the independence of the judiciary in the event of its use. Such safeguards should include regulations on the maximum number of fixed-term judges which should not exceed the number of permanent judges, clear criteria for when the use of fixed-term judges is permissible, and the appointment procedure for fixed-term judges which must respect their internal independence;
- (vi) Elaborating a judicial ethics code as a self-regulatory instrument and distinct from disciplinary rules;
- (vii) Ensuring that the relevant legal framework concerning the appointment of the Prosecutor General and the Deputy Prosecutor General provides sufficient safeguards against possible politicisation of their appointment. Such safeguards may include at the constitutional level the establishment of the principle that these appointments are based on objective legal qualifications and professional experience, to be further detailed in law;
- (viii) Providing clear rules on the authority which has the power to remove the Prosecutor General and the Deputy Prosecutor General from office by termination of their employment on the basis of unlawful conduct that demonstrates manifest unsuitability for the office and the relevant procedure, and ensure that the right to remedy and appeal is safeguarded.

106. The Venice Commission remains at the disposal of the Finnish authorities for further assistance in this matter.