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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

OPINION

**ON THE DRAFT ACT
TO AMEND AND SUPPLEMENT THE CONSTITUTION
(IN THE FIELD OF THE JUDICIARY)**

OF THE REPUBLIC OF BULGARIA

**Adopted by the Venice Commission
at its 104th Plenary Session
(Venice, 23-24 October 2015)**

on the basis of comments by

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I. Introduction

1. On 29 July 2015, the President of the National Assembly of the Republic of Bulgaria, Ms Tsetska Tsacheva, requested the opinion of the Venice Commission on the Draft Act to Amend and Supplement the Constitution of the Republic of Bulgaria (hereinafter: "the Draft amendment")¹.
2. Mr Gstöhl, Mr Hirschfeldt and Mr Neppi Modona have been invited to act as rapporteurs for this opinion.
3. On 15-16 September 2015, a delegation of the Commission composed of Mr Gstöhl, Mr Neppi Modona accompanied by Ms Chisca from the Secretariat, visited Sofia. It held a number of meetings with State authorities, the Supreme Judicial Council, representatives of the Supreme Court of Cassation, the General Prosecutor's Office, the Constitutional Court, the professional associations of judges and prosecutors and representatives of the civil society. The Venice Commission is grateful to the Bulgarian authorities for the excellent organisation of the visit and to the various stakeholders for their cooperation during the visit.
4. The present opinion is based on the English translation of the Draft amendment, as provided by the Bulgarian authorities. Since the translation may not accurately reflect the original version on all points, some of the issues raised may find their cause in the translation rather than in the substance of the provisions concerned
5. The present opinion was discussed in the Sub-Commission on the Judiciary on 22 October 2015 and adopted by the Commission at its 104th plenary session.

II. Preliminary Remarks

A. Scope of the Draft amendment

6. As indicated in the request letter, the Draft amendment, initiated by the President of the National Assembly of Bulgaria (hereinafter NA) and a number of deputies, cover several issues in the field of the judiciary:
 - a. structural and organisational changes of the Supreme Judicial Council (SJC): division of the SJC into two Chambers (one for judges and one for prosecutors and investigators, involving, compared to the situation under the current constitutional regulation, a change in the proportion of SJC members elected by the profession - judges and prosecutors/investigators - and those SJC members elected by the National Assembly) with separate and independent career and disciplinary functions in relation to judges, prosecutors and investigators; reduced functions of the Minister of Justice with respect to the SJC;
 - b. strengthening the Inspectorate with the SJC through new functions, aiming at ensuring accountability and integrity of the judiciary (inspections for conflict of interests for judges, prosecutors and investigators, verification of property disclosure declarations, checks for actions likely to undermine the prestige of the judiciary and to affect the independence of judges, prosecutors and investigators);

¹ CDL-REF(2015)025, *Draft Act to Amend and Supplement the Constitution of the Republic of Bulgaria*, Strasbourg, 31 July 2015

- c. opening access of the Supreme Bar Council to the Constitutional Court (when a law infringes human rights and freedoms) as a way to provide citizens with better safeguards for their rights and freedoms.

B. Background

7. According to the Bulgarian authorities (in the request letter transmitted to the Commission and the accompanying Explanatory Note) the Draft amendment submitted to the Venice Commission for assessment are a new, important step in the process of constitutional reform of the Bulgarian judiciary. Obviously, one of the main tasks – and a longstanding challenge - of the reform process has been to provide the adequate structural and organisational mechanisms and guarantees for a fair and independent justice system. Previous steps include in particular: the Constitutional Reform of 2003 - focused on the statute of the magistrates; the amendments made in 2006 with a view to specifying the functions of the Prosecutor's office as an investigating authority and the functions of the Ministry of Justice with regard to the judiciary; and the Constitutional Reform of 2007, aiming at specifying the functions of the Supreme Judicial Council with regard to qualification, promotion and disciplinary proceedings of the magistrates.

8. The Venice Commission was involved very early in this process and has given several opinions on the reform of the Bulgarian judiciary. In this context, the Commission emphasised, among other key pre-conditions for an independent, efficient and accountable justice system, the necessity to make changes to the role of the Minister of Justice in relation to the judiciary, to reconsider the role and functioning of the Supreme Judicial Council and to provide conditions, including within the SJC, for the "external" independence (effective separation of competences related to judges and prosecutors (and investigative magistrates) within the judicial authority).

9. As emphasised by the Bulgarian authorities, the current amendments are intended to address subsisting shortcomings in the organization and the operation of the SJC and bring this institution fully in line with international and European standards and the best practices in the field. Particular attention has been paid, in this context, to the recommendations made by various international partners, including the Venice Commission in its 2008 Opinion on the Constitution of Bulgaria and its 2009 Opinion on Draft amendment to the law on judicial power².

10. Last but not least, the present Draft amendments also find their reason in the effort to comply with the commitments taken by Bulgaria upon accession to the European Union in 2007. A Cooperation and Verification Mechanism (CVM) had been set up by the European Commission in order to follow up the progress made with the judicial reform, the fight against corruption, and tackling organized crime³.

11. It is to be welcomed as a sign of Bulgaria's commitment to undertake this new stage of reform, that the amendments submitted for consideration have the political support of a significant part of the Bulgarian political spectrum, both from the current majority and from the opposition. In addition, corresponding changes to the Act on the Judicial Power are being prepared. It seems clear however, from the criticism expressed both domestically and internationally, that further important steps are indispensable for an efficient and successful reform of the Bulgarian judiciary. This seems in particular to include, as a crucial component

² See CDL-AD(2008)009, *Opinion no. 444/2007 on the Constitution of Bulgaria*; CDL-AD(2009)011, *Opinion no. 515/2009 on the Draft Law Amending and Supplementing the Law on Judicial Power of Bulgaria*.

³ See Report from the Commission to the European Parliament and the Council, on Progress in Bulgaria under the Co-operation and Verification mechanism (January 2015) at http://ec.europa.eu/cvm/docs/com_2015_36_en.pdf ; see also the 4th Evaluation Report by the Group of States against Corruption (GRECO) at: http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/Eval%20IV/GrecoEval4%282014%297_Bulgaria_E_N.pdf

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of the reform process, a thorough transformation of the State Prosecution Service, for the purpose of improving its efficiency and accountability, as well as the functional autonomy of individual prosecutors.

C. The amendment of the Constitution

12. Under Article 154 of the Bulgarian Constitution (Constitution of the Republic of Bulgaria, hereinafter CRB), the process of amending the Constitution may be initiated by one quarter of the members of the National Assembly (NA) or the President of Bulgaria.

13. As stipulated by Article 155 CRB,

“(1)A constitutional amendment shall require a majority of three quarters of the votes of all Members of the National Assembly in three ballots on three different days.

(2) A bill which has received less than three quarters but more than two-thirds of the votes of all Members shall be eligible for reintroduction after not fewer than two months and not more than five months. To be passed at this new reading, the bill shall require a majority of two-thirds of the votes of all Members.”

14. According to 153 CRB, *“the National Assembly shall be free to amend all provisions of the constitution except those within the prerogatives of the Grand National Assembly”*. The five prerogatives of the Grand National Assembly are listed in an exhaustive manner in Article 158 CRB⁴ and they include also the power to decide on *“any changes in the form of State structure or form of government”*. In such cases, elections for the Grand National Assembly (composed of 400 elected members) need to be convened through a resolution of the National Assembly supported by two-thirds of the votes of all MPs, and the mandate of the National Assembly expires at the date when the elections are held (see Articles 153-163 CRB).

15. When the current initiative for amending the Constitution was announced, there were concerns in the Bulgarian society with regard to that fact that the proposed composition of the SJC, a constitutionally based authority, would entail a constitutional change coming under the competence of the Grand National Assembly. In particular, the question was raised as to whether the future composition of the SJC and the envisaged quotas of members elected by the profession (judges and prosecutors respectively) and of members elected by parliament in the future SJC Chambers would affect the constitutional model (the form of government) currently in place in Bulgaria. Obviously, convening the Grand National Assembly would delay and make the reform process much more difficult.

16. It is recalled in this regard that the Constitutional Court of Bulgaria has already interpreted the terms used in Article 158.3 CRB (*“changes in the form of State structure or form of government”*) in its Decision No. 3/2003 (Constitutional case No. 22/2002)⁵ and subsequently in its Decision No 8/2005 (Constitutional case No. 7/2005).

⁴ „1. adopt a new Constitution; 2.resolve on any changes in the territory of the Republic of Bulgaria and ratify any international treaty envisaging such a change; 3.resolve on any changes in the form of State structure or form of government; 4.resolve on any amendment to Art. 5, paras 2 and 4 and Art. 57, paras 1 and 3 of this Constitution; 5. resolve on any amendment to Chapter nine of the Constitution.”

⁵ In its Decision, the Constitutional Court inter alia stated (*emphasis added*) that: **“The form of government in the sense of art. 158, item 3 of the Constitution should be interpreted expansively.** This notion is defined not only by the character of the state as parliamentary or president republic or monarchy. In it is included also the system of supreme state institutions, established by the Great National Assembly through a number of constitutional texts further developing the parliamentarism – National Assembly, president and vice-president, Council of Ministers, Constitutional Court and the bodies of the judicial power (Supreme Court of Appeal, Supreme administrative Court, prosecutor’s office, investigation and Supreme Judicial Council), their existence, their place in the respective power, the organisations, the conditions, the way of formation and their mandate. In the form of government are included also the activities and authorities, assigned to these institutions by the Constitution, as far as with their change is impaired the balance between them observing the basic principles, on which is established the state – people’s sovereignty, supremacy of the basic law, political pluralism, the division

17. The delegation of the Venice Commission was informed that, in this connection, a group of 114 Bulgarian MPs had requested the Constitutional Court (case No 7/2015) to give a binding interpretation of Articles 153 and 158.3 CRB in relation to the phrase “*change of the form of government*”, taking account the proposed structural and organisational changes of the SJC. On 17 September 2015, the Constitutional Court rejected the motion for interpretation of the Constitution as inadmissible and dismissed the case, which, in concrete terms, means that the current process of amending the Constitution may be pursued within the framework of the National Assembly.

III. Analysis

A. The Supreme Judicial Council

18. The proposed amendments deal for their most part with some critical issues raised by the organisation and operation of the Supreme Judicial Council, issues which have already been examined by the Venice Commission in its previous opinions⁶, starting in 1999:

- 1) the unitary structure of the current SJC, which governs at the same time the legal status of judges, prosecutors and investigating magistrates;
- 2) the role of the Minister of Justice, entrusted with the presidency of the SJC and significant powers (that interfere with the independence of the judiciary);
- 3) the election of eleven members of the SJC by the National Assembly with a simple, instead of qualified majority.

1. Current organisation and operation of the SJC

19. As stipulated by Article 130 CRB, the present SJC is one single body for judges, prosecutors and investigating magistrates, composed of 25 members, out of which 11 are elected by the bodies of the judiciary, 11 by the National Assembly with simple majority among practicing lawyers, and three are *ex officio* members: the Chairman of the Supreme Court of Cassation, the Chairman of the Supreme Administrative Court and the Prosecutor General.

20. The meetings of the SCJ are chaired by the Minister of Justice, who is not entitled to vote but has, under current Article 130 CRB, a series of important competences : to propose a draft budget of the judiciary and submit it to the Supreme Judicial Council for consideration; to ensure the management of the property of the judiciary; to make proposals for appointment, promotion, demotion, transfer and removal from office of judges, prosecutors and investigators; to participate in the organisation of the training of judges, prosecutors and investigators.

2. Proposed format and functioning of the SJC

21. The draft constitutional amendments change the structure and the functioning of the SJC. According to a new Article 130a, the SJC will be divided into two separate chambers with distinct powers: one for judges, chaired by the Chairperson of the Supreme Court of Cassation, which will consist of 13 members, six elected by the General Meeting of the Judges, five elected by the National Assembly, and two members *ex officio*, the President of

of powers, the state of law and the independence of the judicial power.

⁶ See *Opinion on the Reform of the Judiciary in Bulgaria*, CDL-INF(1999) 005; *Opinion on the Constitutional Amendments Reforming the Judicial System in Bulgaria*, CDL-AD(2003)16; *Opinion on the Constitution of Bulgaria*, CDL-AD(2008)009; *Opinion on the Draft Law Amending and Supplementing the Law on Judicial Power of Bulgaria*, CDL-AD(2009)011.

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the Supreme Court of Cassation and the President of the Supreme Administrative Court; and the other for prosecutors (including the investigating magistrates), chaired by the Prosecutor General and composed of 12 members: four elected by the General Meeting of the Prosecutors, one by the General Meeting of Investigating Magistrates, six by the National Assembly, and one member *ex officio*, the Prosecutor General.

22. There will still be a Plenum of the two Chambers, chaired by the Minister of Justice without the right of vote. The Minister of Justice may also attend the sessions of the two Chambers (new Article 130b).

23. Each Chamber will decide, according to its competence relating to judges, prosecutors and investigating magistrates respectively: on appointment, promotion, transfer and removal from office; on disciplinary sanctions of demotion and dismissal from office; on appointment of administrative managers in the bodies of the judiciary and on organisational issues of the “relevant system of bodies of the judiciary” (new Article 130a.5).

24. Paragraph 6 of Article 130a provides the new body of the SJC Plenum, which consists of all 25 members of the two Chambers, with the following competencies:

- adoption of the draft budget of the judiciary and submission to the NA;
- decision on the termination of the mandate of elected members of the SJC;
- organization of the qualification of judges, prosecutors and investigating magistrates;
- general organizational issues of the judiciary;
- approval of the annual reports of the bodies of the judiciary;
- management of the real estate properties of the judiciary.

25. In addition, the Plenum will be the competent body to make proposals to the President of the Republic for the appointment and dismissal of the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General (new Article 130a.7 and corresponding Draft amendment to Article 129 CRB).

26. New Article 130b provides that the Sessions of the Plenum are chaired by the Minister of Justice, who does not participate in the voting. In his/her absence, the Plenum is chaired by the President of the Supreme Court of Cassation.

i. Division of the SJC in two distinct Chambers

27. In the opinion of the Venice Commission, the proposal to divide the SJC into two separate Chambers while maintaining a Plenum with a certain number of competences is highly welcome and in line with the Commission’s recommendations in its 2007 Opinion on the Constitution of Bulgaria⁷ and its 2009 Opinion on the Draft Law amending the Law on the Judicial Power of Bulgaria⁸.

28. While there is no common European model for such self-government bodies of the judiciary, the new structure with two separate Chambers, having the purpose to separate judges on the one side, from prosecutors and investigating magistrates on the other side, is a significant step towards the goal of strengthening the independence and the transparency of the judiciary. In particular, under the new SJC setting, prosecutors and investigators members will no longer be in a position to intervene in the decision-making on “staff” issues of judges, which represents an important guarantee for the independence of the latter. In former socialist countries, there is a legacy of too powerful prosecution systems, which

⁷ CDL-AD(2008)009, Opinion on the Constitution of Bulgaria, §§ 33-40; see also Explanatory memorandum to Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the Role of Public Prosecution in the Criminal Justice System, pages 15-17.

⁸ CDL-AD(2009)011, Opinion on the draft Law amending and supplementing the Law on Judicial Power of Bulgaria, § 34

endanger the independence of the judges. Prosecutors should not have a say in the appointment, career and discipline of judges. The Venice Commission therefore favours the separation of bodies deciding on these issues relating to judges and prosecutors respectively. This can be achieved by dividing the respective council or by introducing separate chambers in a single council, as proposed in Bulgaria.⁹

29. However, for reasons of legal clarity and consistency, and from a systematic point of view, the manner in which the proposed constitutional amendments - and related provisions in the current text of the Constitution - are formulated could be further improved. First, it is recommended that the two Chambers and the SJC Plenum be provided for in separate Articles. Second, it would be preferable that the organisation, competence and functioning of the Chambers and of the Plenum, respectively, be regulated under a single Article of the Constitution.

30. New Article 130, devoted to the two Chambers, could consist by and large of the first five paragraphs of the new Article 130a (providing for the definition of the JSC, the competences and the composition of the two Chambers, with reference to an ordinary law for the regulation of the election procedure of their members), and paragraph 2 of the new Article 130b (on the Chairpersons of the two Chambers).

31. As for the Plenum, a new single Article could consist of paragraph 6 of Article 130a (providing the definition and the competencies of the Plenum), and paragraph 1 of Article 130b (on the Chairperson of the Plenum).

32. Should the Venice Commission recommendations on the distribution of competences between the Chambers and the Plenum be implemented by the Bulgarian legislator, the content of the paragraphs stipulating the competences of the Chambers and of the Plenum should be amended accordingly (see comments below).

33. Also, current Article 130 of the Constitution still refers to the JSC as a unitary body. Consequently it should be removed, and its content partially transferred (paragraph 2 on eligibility criteria for membership to the SJC, paragraph 4 on the term of the mandate, and paragraph 8 on grounds for the termination of the mandate) to a new single Article devoted to the Plenum (see above point 31).

ii. Composition of the Chambers

34. According to the Draft amendment, the Plenum of the SJC will continue to have a total of 25 members with three *ex officio* members. The Judges Chamber will be composed of thirteen members including the Chairpersons of the Supreme Court of Cassation and the Supreme Administrative Court. Six members will be elected by the General Meeting of the Judges and five members will be elected by the National Assembly (see new Article 130a.2). The Prosecutors Chamber will have twelve members, including the Prosecutor General. Four members will be elected by the General Meeting of the Prosecutors, one by the General Meeting of the Investigation Magistrates and six members by the National Assembly (see new Article 130a.3).

35. The delegation of the Venice Commission learned that the proposed division in two Chambers has found good acceptance in Bulgaria (within the representatives of the authorities, the judicial profession and civil society). However, the proposed proportion of judges elected by judges, and prosecutors elected by prosecutors in their respective Chamber, compared to that of the lay members of the SJC, is a less consensual issue.

⁹ CDL-AD(2013)014, Opinion on the draft law on the amendments to the Constitution strengthening the independence of judges and on the changes to the constitution proposed by the constitutional assembly of Ukraine, §§ 39-43; see also CDL-AD(2010)042, Interim Opinion on the Draft Law on the High Council for judges and Prosecutors (of 27 September 2010) of Turkey , §72

36. If the number of judges elected by their peers is considered by some stakeholders as acceptable, a part of the profession considers that the proposed composition involves the risk of a SJC dominated by members elected by a political body, a factor likely to affect both the independence of the Council and that of the judiciary in general.

37. As to the number of prosecutors elected by prosecutors, the proposal has been met with strong criticism amongst prosecutors, as being too low to guarantee the independence of the Chamber from an external influence.

38. As already pointed out by the Venice Commission in one of its first opinions relating to the Bulgarian judiciary, there is no standard model for democratic states to follow in setting up their judicial councils as long as the function of such a council falls within the aim to ensure the proper functioning of an independent judiciary.¹⁰ Therefore, the Venice Commission in earlier opinions did not recommend a single model for the composition of judicial councils.¹¹

39. The Commission however favours systems where *“a substantial element or a majority of the members of the Judicial Council should be elected by the Judiciary itself. In order to provide for democratic legitimacy of the Judicial Council, other members should be elected by Parliament among persons with appropriate legal qualification taking into account possible conflicts of interest.”* In the Commission’s view, a mixed composition including members who are outside the profession of judge or prosecutor is more likely to favour transparency and independence in the operation of the council.

40. From this perspective, the present Draft amendment providing for a mixed composition of the two Chambers (judges/prosecutors elected by their peers and lay members elected by the National Assembly) should be welcomed. The Commission would also recommend that, through subsequent regulations on the election of the Chambers’ members, a proportional and fair representation of all levels of courts/of the prosecution service be ensured¹².

41. As to the quota of judges/prosecutors members of judicial council/their chambers, the Venice Commission, although in favour of a substantial proportion of judges/prosecutors elected by the profession, also considers that *„an overwhelming supremacy of the judicial component may raise concerns related to the risks of “corporatist management”*.¹³

42. On the other hand, in its *Recommendation CM/Rec(2010)12) to members states on judges: independence, efficiency and responsibilities*, the Committee of Ministers takes a different approach when stating that: *“[n]ot less than half the members of such councils should be judges chosen by their peers from all levels of the judiciary and with the respect of pluralism inside the judiciary”* (paragraph 27).

43. Within the parameters of the Recommendation of the Committee of Ministers, it belongs to the Bulgarian legislator to decide, following appropriate consultations with the various stakeholders, in the specific context of Bulgaria, which percentage of the judges elected by their peers should be represented notably in the Judges Chamber.

44. To avoid perceptions within the judicial profession, and other circles within the Bulgarian society, that the lay members would bring a political element into the SJC, the Commission underlines its repeated recommendation to introduce the requirement for a qualified majority

¹⁰ Venice Commission, Opinion on the Reform of the Judiciary in Bulgaria, CDL-INF(1999)005, § 28.

¹¹ Report on Judicial appointments by the Venice Commission, CDL-AD(2007)028, § 28, and Report on the independence of the judicial system, Part I: The independence of judges, CDL-AD(2010)004, §§ 28-32

¹² See Interim Opinion on the Draft Law on the State Prosecution Office of Montenegro, CDL-AD(2014)042, § 45

¹³ Report on Judicial appointments by the Venice Commission, CDL-AD(2007)028, §§ 28-30

for the election of these members by the National Assembly (see further comments on this issue below).

45. In addition, for a well-balanced judicial council, the Venice Commission finds it important to include, among its members elected by the Parliament, qualified lawyers belonging to other professional categories (law professors, defence lawyers) and representatives of the civil society. Even if these persons are elected by Parliament, active politicians and notably members of Parliament itself should be excluded as member of the judicial council. Such a system on the one hand would help to avoid the risk of a corporatist management of the judicial council and self-perpetuating government of the judiciary, and on the other hand would enable, within the council, a wider range of professional qualifications and the presence of the “users” of the judicial system. From this perspective, the Commission recommends that the requirements for the election of SJC lay members by the National Assembly be better specified to provide conditions for representatives of the legal profession other than judges and prosecutors to be elected (see current Article 130.2).

iii. Election of the SJC members

46. When commenting on the Bulgarian SJC in its previous opinions¹⁴, the Venice Commission has already pointed out that the system in place for the election of the “parliamentary” component of the SJC (11 members of the Supreme Judicial Council elected by the National Assembly by simple majority) was giving rise to a risk of politicisation of this body and has repeatedly recommended its revision. Already in 2002, the Commission had stressed that “[t]he composition of the Supreme Council of Justice should be depoliticised by providing for a qualified majority for the election of its members.”¹⁵

47. In spite of the above-mentioned recommendations of the Venice Commission, and notwithstanding the conclusions of its general reports on the judiciary, the current Draft amendment do not address the issue of the majority, which implies that the present voting rule remains unchanged. The Bulgarian Constitution actually does not contain any provision for the required majority to elect the SJC members; hence, it is assumed that this majority, both in Parliament and in the General Meetings of the Judges, Prosecutors and Investigating Magistrates is to be understood as a simple majority. In concrete terms, this means that the party or the coalition of government parties having the majority in the National Assembly are in a position to elect by themselves (as already happened in the past), all eleven SJC members from the “parliamentary quota”.

48. In the Explanatory Note to the Draft amendment (see p. 3), the drafters however express their view that “a high degree of consensus amongst the political forces should be sought at the selection of members of the Supreme Judicial Council from the Parliament quota.” The Venice Commission recommends taking up this view and enforcing it by introducing a requirement for a qualified majority such as, for example, a two-thirds majority, as it is already the case, under current Article 132a (paragraphs 2 and 3), for the Chief Inspector and the inspectors of the inspectorate to the SJC.

49. The issue of the number of judges or prosecutors members of the SJC Chambers elected by their peers would be of less weight, if the election by the National Assembly would be linked to a qualified majority; this would allow for a larger base of consensus on the persons to be elected, even if some retain that a qualified majority requirement, in the

¹⁴ See Opinion on the Constitution of Bulgaria, (CDL-AD(2008)009), §§ 24-26; Opinion on the draft Law amending and supplementing the Law on Judicial Power of Bulgaria, CDL-AD(2009)011, § 14; Opinion on the Draft Law on Amendments to the Judicial System Act of Bulgaria, CDL-AD(2002)015, § 5; Report on Judicial Appointments, CDL-AD(2007)028, § 32; see also Opinion on the Draft amendments to three constitutional provisions relating to the Constitutional Court, the Supreme State Prosecutor and the Judicial Council of Montenegro, CDL-AD(2013)028, § 12

¹⁵ Opinion on the Draft Law on Amendments to the Judicial System Act of Bulgaria, CDL-AD(2002)015, §5

present configuration of the Bulgarian parliament, could lead to a series of bargains in order to reach agreement or could result in a deadlock situation. In the ideal case such “bargains” lead to the election of truly independent candidates as should be the case in a mature democracy. In the event of “political horse-trading”, at least the candidates of the majority and opposition will “even out” political influence.

50. The delegation of the Venice Commission was informed about difficulties to achieve a qualified majority in the Bulgarian Parliament. The Commission acknowledges that the political context can lead to serious problems in this respect. However, it should be possible to overcome these difficulties through carefully designed anti-deadlock mechanisms, which are conducive to achieve consensus.

51. A simple system would be, for instance, a three-fifth majority requirement after three voting rounds, followed, if needed, by the absolute majority of the members of the National Assembly. More complex systems could be devised, including for instance involving the intervention of the President of the Republic or proposals for candidates from neutral bodies. The Venice Commission welcomes the openness noted during the Rapporteurs’ visit to Sofia, among some interlocutors, including during talks at the National Assembly, with regard to the recommendation to introduce a qualified majority requirement. The Commission is ready to work with the Bulgarian authorities on developing such anti-deadlock systems.

iv. Division of competences within the SJC

52. In the proposed Article 130.a.5 and 130.a.6, the competences of the Chambers and of the SJC Plenum, respectively, are stipulated. The competences of the Chambers are, respectively: to appoint, promote, transfer and remove from office judges, prosecutors and investigating magistrates; to impose disciplinary sanctions (“demotion” and “dismissal from office”); to appoint the administrative managers in the respective bodies of the judiciary; to decide on organisational issues of the relevant bodies of the judiciary and to provide standpoints on bills within the scope of their competence.

53. Under new Article 130.a.6, the Plenum of the SJC, consisting of all the members of the two Chambers and chaired by the Minister of Justice, shall:

- adopt the draft budget of the judiciary and submit it to the National Assembly;
- pass a resolution for the termination of the mandate of an elected member of the Supreme Judicial Council (after resignation or final judicial act for a committed crime, permanent inability to perform duties for more than one year or removal from office or deprivation of the right to pursue legal profession);
- organize the qualification of the judges, the prosecutors and the investigating magistrates;
- decide in general for the judiciary organizational issues; approve the annual reports of the bodies of the judiciary;
- manage the real estate property of the judiciary.

54. In addition, under new Article 130.a.7 and corresponding provisions of new Article 129, the Plenum shall make a proposal to the President of the Republic for the appointment and the dismissal of the Chairperson of the Supreme Court of Cassation, the Chairperson of the Supreme Administrative Court and the Prosecutor General.

55. As already mentioned, while there are different practices in this field (including systems involving two separate bodies, a council for courts and judges and a council for prosecutors), the proposed division of the SJC into two Chambers is a positive step, in line with previous recommendations of the Venice Commission. It is however crucial that in its operation, such a structure does not interfere with the principle of independence for courts and judges and, more generally, with the principle of external independence of the different professions of the judiciary, not only from other authorities within the state, but also from each other. In its

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opinions, the Venice Commission emphasised that the combination of powers (such as powers of appointment and discipline) in relation to judges, prosecutors and investigators is problematical and should be reviewed¹⁶.

56. From this perspective, the proposed distribution of competences between the SJC Chambers and the Plenum appears highly disputable. In more concrete terms, the welcomed choice to establish within the SJC two separate Chambers for judges and prosecutors should also imply to transfer to the Chambers some of the competencies attributed, by paragraph 6 of new Article 130a, to the Plenum.

57. In particular, the power to adopt a resolution on the termination of the mandate of an elected member of the SJC seems sensitive, as the grounds for resignation in some of the situations must be assessed in substance. Also, the power to “organise the qualification” respectively of judges and prosecutors/investigating magistrates could open up for a too far-reaching application which might also have an impact on the independence of judges.

58. Furthermore, the proposal, in new Article 130.a.6.7, to maintain with the Plenum the present SJC power to make the proposals to the President of the Republic for the appointment and dismissal of the President of the Supreme Court of Cassation and the President of the Supreme Administrative Court constitute, for the same reasons, an issue of concern. This is a very sensitive and important matter, where the respect of principle of separation of powers must be demonstrated to the society. Judges must enjoy independence in respect of their functions and prosecutors enjoy autonomy in theirs.¹⁷

59. In view of the above comments, it is recommended to review the Draft amendment to provide for re-allocation of the competences mentioned in new Article 130a.6.2 and 130a.6.3 to the respective SJC Chamber. It is only for matters of common interest of the judiciary that the Plenum should retain competences.

60. Also, new Article 130a.6.7 should be redrafted in such a way (and new paragraph 2 of Article 129 be modified accordingly) as to attribute directly to the relevant Chamber the competence to make proposals to the President of the Republic for the appointment/dismissal of the President of the Supreme Court of Cassation and the President of the Supreme Administrative Court or, respectively, of the Prosecutor General. As a way to help to depoliticize the appointment of the Presidents of the two Supreme Courts by the President of the Republic, an alternative option could be to entrust the general meetings of judges in the two Courts with the task of making proposals for the position of President of the respective court. As regards the proposal for the position of Prosecutor General, the implementing legislation may provide for the involvement of the Ministry of Justice in the nomination procedure. As already stated by the Venice Commission, in view of the importance of the prosecution of crime in the orderly and efficient functioning of the state, it is reasonable for a Government to have some involvement in the appointment for this position. Furthermore, professional, non-political expertise of persons who would be respected by the public and trusted by the Government may also be involved in the selection process.¹⁸

61. To ensure that the constitutional provisions regulating the role, composition and competencies of the SJC are properly harmonised, further technical changes are suggested. The present Article 130 remains unchanged. This calls however for a few remarks: with the creation of two Chambers of the SJC the Draft amendment in Article 129.2 introduces the

¹⁶ Opinion on the draft Law amending and supplementing the Law on Judicial Power of Bulgaria, CDL-AD(2009)011, § 14.

¹⁷ See Opinion N° 12(2009) of the Consultative Council of European Judges (CCJE) and Opinion N° 4 (2009) of the Consultative Council of European Prosecutors (CCPE) on “Judges and prosecutors in a democratic society”, Bordeaux declaration on “Judges and Prosecutors in a democratic society”, §3

¹⁸ See CDL-AD(2010)040, Report on European Standards as regards the Independence of the Judicial System: Part II - the Prosecution Service, §34; see also CDL(1995)073rev., chapter 11

term of “Plenum of the Supreme Judicial Council”. It would be coherent to use this new term whenever the draft amendment refers to the Supreme Judicial Council with both Chambers united under a common chair (in the draft amendment, that of the Minister of Justice). New Article 130a deals with the new composition of the SJC and the election of the members of each Chamber and refers also to the Chambers’ *ex officio* members. Therefore current Article 130, which still refers to the election of the members of the SJC, should be reviewed and harmonised with new Article 130a. For the sake of clarity, it may be suitable to merge present Article 130 with the draft new Article 130a. Also, put aside the issue of the secret ballot (see comments below), current Article 131 should be modified so as to refer in its first part, instead of the SJC, to the Chambers of Judges and Prosecutors.

v. Voting rules - the transparency principle

62. Current Article 131 of the Constitution provides that the SJC resolutions on “staff” matters (appointment, promotion, demotion, transfer or removal of judges, prosecutors or investigating magistrates) shall be passed by a secret ballot. Otherwise the decisions are taken by public voting (see Judiciary System Act, Chapter 2, Article 34.2). The sessions are public with certain exceptions (Judiciary System Act, Article 33.4), and resolutions adopted in a closed session shall be announced publicly (Judiciary System Act, Article 33.5).

63. In the Venice Commission’s view, the work of judicial councils should be as transparent as possible; they should be accountable to the public, including through widely disseminated reports and information. This is of particular importance for the Bulgarian SJC, in the light of its (current and proposed) organisation and composition and of the need for increased public trust in its operation and efficiency.

64. The principle of transparency is also of key importance when dealing with individual cases. From this perspective, decisions of the SJC Chambers and Plenum, including on disciplinary matters, should demand the open vote of their members and the accountability of their decisions. At the same time, equal attention should be paid to the judges’ right, in the context of disciplinary proceedings, to a fair hearing and to proceedings determined in accordance with established standards and judicial conduct, as recognised by the UN Basic Principles on the Independence of the Judiciary.¹⁹

3. Powers of the Minister of Justice

65. The competencies of the Minister of Justice are provided for in new Article 130c. The Minister retains under the Draft amendment important powers:

- to propose the draft budget of the judiciary and submit it to the SJC for consideration;
- to make proposals for appointment, promotion, demotion, transfer and removal from office of judges, prosecutors and investigators;
- to participate in the organisation of the training of judges, prosecutors and investigators.

66. The previous power to “manage the property of the judiciary” has been revoked and transferred to the Plenum of SJC (new Article 130a.6.6). However, this should be reconsidered. The main task of judicial councils is to deal with the appointment, careers and discipline of judges and prosecutors. Experience from other countries shows that the

¹⁹ See UN Basic Principles on the Independence of the Judiciary, Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, Articles 17 and 19. See also Opinion N° 3 of the CCJE on the principles and rules governing judges’ professional conduct, in particular ethics, incompatible behaviour and impartiality, §§ 66 and 68

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competence to deal also with property can completely overburden the judicial council, which turns into an administrative body and cannot focus on its main tasks.

67. In addition, according to new Article 130.b.1, the meetings of the SJC Plenum shall be chaired by the Minister of Justice, without the right to vote. A quasi-identical provision exists in Article 130.5, unchanged. Moreover, new Article 130b.2 allows the Minister's presence in the meetings of the Chambers, without however explicitly stating whether he/she has a voting right or not in this context.

68. As it follows from the above-mentioned provisions, the Minister of Justice has and will continue to have in the future, even if his/her power is not properly decisional, a significant influence: in the SJC Plenum and in the two Chambers, by his/her mere presence, and on the career of judges and prosecutors by his right of initiative.

69. In the view of the Venice Commission, the principle of a Minister of Justice chairing a judicial council is disputable, especially given that, as stipulated in the current Judiciary System Act (Chapter 2, Article 32), the Minister of Justice shall "set up" the sessions. Entrusting the Minister with the presidency of the SJC Plenum (and perhaps also the mere participation to the meeting of the two Chambers) is likely to interfere with the autonomy and independence of the judiciary from the political power. Even the appearance of such influence has to be avoided in order to ensure public trust in the judiciary.

70. This matter triggered critical remarks by the Venice Commission in its 2008 Opinion on the Constitution of Bulgaria, reiterated in its 2009 Opinion on Draft amendment to Law on Judicial Power of Bulgaria²⁰, in which the Commission stated that „[a]lthough it would be preferable if the Minister did not act as chair, a reduced role for the Minister would represent a step in the right direction“. Also, according to the Venice Commission, at least when proposals made by the Minister are being discussed - and, under the Draft amendment, there are still two important matters on which she/she will make proposals to the SJC - the latter should not chair the Council.²¹

71. The current constitutional amendments should thus be the occasion, in order to ensure a more democratic legitimacy and credibility of the SJC before the public, to entrust the Chairmanship of the Plenum to a SJC member, possibly to a lay member, elected from among the members of the Plenum with a qualified majority of two-thirds, as recommended in previous opinions of the Venice Commission²². As stated by the Commission in its Report on judicial appointments, such a solution could bring about a balance between the necessary independence of the Chair and the need to avoid corporatist tendencies within the SJC.²³ In any event, it is recommended, in this connection, to remove the provision in the current Judiciary System Act enabling the Minister of Justice to *approve* the agenda of the SJC.

72. Furthermore, among the powers of the Minister of Justice, provided for in Article 130c, the proposals for appointment, promotion, demotion, transfer or removal from office of judges, prosecutors and investigators, as well as the participation in the organisation of the training of judges, prosecutors and investigators, should be removed. These competencies could interfere with the independence of judges and the autonomy of prosecutors and investigating magistrates. To sum up, the Minister of Justice should be given the powers to propose the draft budget of the judiciary and to submit it to the SJC for consideration, to provide the facilities and to organise the services necessary for the functioning of the

²⁰ Opinion on the draft Law amending and supplementing the Law on Judicial Power of Bulgaria, CDL-AD(2009)011§ 14. See also Article 7 of the Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia: "Neither the State President nor the Minister of Justice should preside over the Council. The president of the Judicial Council should be elected by majority vote from among its members."

²¹ See CDL-AD(2008)009, §§ 29-32.

²² See Opinion on two Sets of Draft amendments to the Constitutional Provisions relating to the Judiciary in Montenegro, CDL-AD (2012)024, §22

²³ See Report on Judicial appointments by the Venice Commission, CDL-AD(2007), § 35

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judiciary, and, possibly, as a useful outside oversight in order to avoid corporatist tendencies within the judiciary and the SJC itself, to promote disciplinary sanctions before the Chambers of Judges and Prosecutors. The implementing legislation might also provide for the involvement of the Minister of Justice in the appointment of administrative heads (but not of actual prosecutors or investigators) in the prosecutorial system. On the other hand, court property should be a competence of the Minister.

73. The possibility for the Minister of Justice to attend the meetings of the Chambers (new Article 130b.2) should also be reconsidered. When discussing for instance the draft budget of the Judiciary, the Minister may be invited to individual and specific points of the agenda, but not to the meetings in general. In any event, the concerned provisions should be rephrased to explicitly state that the Minister has no voting right, both as regards the SJC Plenum and the Chambers.

74. The Venice Commission has taken note that, within the stakeholders in Bulgaria, the powers of the Minister of Justice are not currently perceived as threatening the independence of the SJC and seem to be well accepted mainly because a certain practice of handling the competences has been established over the years and these powers may have been exercised in a reasonable manner. It should be pointed out however that the purpose of the current process of amending the Bulgarian Constitution is a thorough and long-term reform of the SJC, meant to address shortcomings and challenges in the operation of this institution and related distrust in the Bulgarian society. It is recalled that, in its 2014 Report on Bulgaria under the Cooperation and Verification Mechanism, the European Commission noted that *“the SJC is today not widely regarded as an autonomous and independent authority able to effectively defend the judiciary’s independence vis-à-vis the executive and parliamentary branches of government”*.

75. It is understood that there is always a need for cooperation between the Minister of Justice and the SJC. The necessary links between the competencies of the Minister of Justice and the SJC could be specified by the implementing legislation. This interaction is even more important during reform-periods and in particular when the Minister plays the role of a leading stakeholder for those reforms. The Venice Commission however encourages the Bulgarian authorities to reconsider the concept of the interaction of the Minister of Justice with the SJC in the light of the above comments.

B. The Inspectorate to the Superior Judicial Council

76. Under Article 132a of the Bulgarian Constitution, an Inspectorate was established to the Supreme Judicial Council with the function to *“inspect the activity of the judiciary bodies without affecting the independence of judges, court assessors, prosecutors and investigating magistrates while performing their duties”*. The Chief Inspector and inspectors (elected by the National Assembly, for four year terms - with a much welcomed two-thirds majority) shall be independent and obey only the law while performing their duties (Article 132a.6 CRB).

77. The proposed amendment to Article 132a adds a new sentence to paragraph 6 of this Article detailing, and giving constitutional basis to, the powers of the Inspectorate: *“[t]he Inspectorate shall check integrity and conflict of interest of judges, prosecutors and investigating magistrates, it shall examine the completeness and authenticity of the property declarations, it shall check for circumstances undermining (damaging) the prestige of the judiciary and the events related to violation of the independence of judges, prosecutors and investigating magistrates”*. As it follows from the Explanatory Note to the Draft amendment, this addition aims at enhancing the capacity of the Inspectorate to exercise its powers and its efficiency and the new powers are introduced to provide a real mechanism to prevent conflict of interest and undue influence in the judiciary.

78. This amendment, aiming obviously to address critical issues of integrity within the Bulgarian judicial system, is a welcome step towards a more independent, transparent and

accountable justice system. Of course, the efficiency and the prestige of the Inspectorate will be dependent on the integrity, professionalism and commitment of its members.

79. It must be stressed at the same time that this amendment deals with important and sensitive issues concerning the rights of judges.²⁴ It is true that the principle that the inspectors must not affect the independence of judges while performing their duties is already stated in the present Constitution. Nevertheless, in view of the level of detail of the constitutional provisions referring to the inspectors' tasks, the clause referring to the independence of judges and the rights of the judge in disciplinary matters could also be further detailed.

80. More generally, it should be pointed out that the competence of the inspectors and how the investigations are performed constitute a central part of the disciplinary system. It is therefore difficult, especially knowing that the amendment of the Judiciary System Act is in preparation, to assess this specific part of the system without studying the whole disciplinary system.

81. Adequate consideration should also be given to the co-ordination of the proposed constitutional provisions - and related implementing legislation - with any further ongoing legislative processes of relevance for the activities of the Inspectorate, such as the one related to the implementation of the Anti-Corruption Strategy (which might introduce additional mechanism to address issues of integrity and conflict of interest).

C. Access of the Supreme Bar Council to the Constitutional Court

82. The Draft amendment adds a new paragraph 4 to Article 150 CRB allowing the Supreme Bar Council²⁵ to "*approach the Constitutional Court with a request for declaring as unconstitutional a law which infringes human rights and freedoms*", alongside the Ombudsman who, since 2006, may also approach the Constitutional Court to challenge the constitutionality of a law violating human rights and freedoms.²⁶ It may be presumed that there will be further legislation to provide modalities for the Supreme Bar Council to deal with this new mechanism (according to Article 134 CRB, the organisation and manner of activity of the bar is established by law). The current system gives within the judiciary the power to raise questions of constitutionality only to the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court, and the Prosecutor General, as it often happens within judiciary systems hierarchically organised.

83. The Explanatory note to the Draft amendment suggests that the new access should work as an alternative to direct access to the Court, without encountering the risk of overburdening the constitutional justice with an unmanageable number of insignificant questions. This amendment is an improvement for the protection of the human rights and freedoms. Even if it constitutes only an indirect approach to the Constitutional Court, it introduces an additional safeguard to the protection of these rights and freedoms. It is recalled that, as stated by the Venice Commission in its 2010 Study on Individual Access to Constitutional Justice²⁷ "*Indirect access to individual justice is a very important tool to ensure*

²⁴ It is recalled in this connection that the rights of the judge in disciplinary matters (of which the tasks of the inspectors are a part) are expressly stated in the *UN Basic Principles on the Independence of the Judiciary* devoted to disciplinary matters (the right to a fair hearing and to proceedings determined in accordance with established standards and judicial conduct). See Article 17.

²⁵ Under Article 134 CRB, "*the bar shall be free, independent and autonomous. It shall assist citizens and legal entities in the defence of their rights and legitimate interests*".

²⁶ Under the current constitutional provisions (Article 150 (1)), "one-fifth of all Members of the National Assembly, the President, the Council of Ministers, the Supreme Court of Cassation, the Supreme Administrative Court or the Prosecutor General" are entitled to file a motion with the Constitutional Court. By virtue of the same provision, "[a] challenge to competence pursuant to para 1 item 3 of the preceding Article may further be filed by a municipal council".

²⁷ CDL-AD(2010)039rev., paragraph 3

respect for individual human rights at the constitutional level. The existing choices are broad and many possibilities coexist. An advantage of indirect individual access is that the bodies filing complaints are usually well-informed and have the required legal skills to formulate a valid request. They can also serve as filters to avoid overburdening constitutional courts, selecting applications in order to leave aside abusive or repetitive requests.”

84. However, the increase of constitutional justice by enlarging the possibilities of getting to the Constitutional Court for individual citizens and courts is of very high importance and should remain a goal to reach. In its above-mentioned report, the Venice Commission pointed out in relation to systems where only the highest courts are authorised to bring preliminary requests before the Constitutional Court, that “[w]hile this is an effective tool to reduce the number of preliminary questions and consistent with the logic of exhaustion of remedies (the individual should follow the ordinary sequence of courts), this leaves parties to proceedings in a potentially unconstitutional situation for a long period of time if lower courts are obliged to apply the law even if they have serious doubts as to its constitutionality. From the viewpoint of human rights protection, it is more expedient and efficient to give courts of all levels access to the constitutional court²⁸.

85. One might therefore see as a key issue, without neglecting the risk of overburdening the Constitutional Court and the need for efficient filtering mechanisms, the question whether to enhance the overview of the constitutionality of the laws by giving the power to raise questions of constitutionality to judges at all levels who are sometimes called to apply, in the course of a proceeding, a law they deem unconstitutional. The Bulgarian authorities should consider, as another option strongly supported by the Venice Commission²⁹, a system combining direct and direct access to the Constitutional Court. A carefully designed constitutional complaint, including appropriate filter and a clear definition of constitutional matters to be decided by the Constitutional Court would provide a high level of protection of human rights, without overburdening the Constitutional Court.

IV. Conclusions

86. The Venice Commission welcomes the current efforts in Bulgaria to reform by way of constitutional amendment the Supreme Judicial Council as the key institution for an efficient and independent judicial system and finds that the proposed amendments bring an improvement to the existing framework.

87. The draft constitutional changes on the Inspectorate to the Supreme Judicial Council are commendable, as part of the efforts made to prevent and address more efficiently problems of integrity and conflict of interests within the judiciary, and to enhance public trust in the justice system. Also, the proposal for a an indirect constitutional complaint of citizens, by enabling the Supreme Bar Council to approach the Constitutional Court for constitutionality review, is a positive step in the direction of providing individuals with increased possibilities to defend their rights.

88. The Venice Commission notes that some of the proposed amendments reflect recommendations contained in its previous opinions on the Bulgarian judiciary. This concerns mainly the proposal to divide the Superior Judicial Council, as a self-governing body of the Bulgarian judiciary, into two separate Chambers - one for judges and one for prosecutors and investigating magistrates - with mixed composition (judges/prosecutors elected by their peers and lay members elected by the National Assembly and, as *ex officio* members, the Chairpersons of the Supreme Court of Cassation and the Supreme

²⁸ Idem, paragraph 62

²⁹ Idem, paragraph 3

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Administrative Court and, respectively, the Prosecutor General) and separate functions over the concerned professions.

89. The Commission nevertheless notes that, in spite of its previous recommendations, with regard to certain important aspects of the organisation and the operation of the Supreme Judicial Council, the draft amendments do not go far enough. Also, the Venice Commission considers that some proposals need to be clarified or further improved. The main recommendations by the Commission concern the following points:

- to introduce a qualified majority requirement and anti-deadlock mechanisms for the election of SJC lay members by the National Assembly; to provide conditions, through specific election rules, for a proportional and fair representation, in the SJC Chambers, of all levels of courts/ the prosecution service;
- to reconsider the division of competencies between the SJC Plenum and the two Chambers with a view to ensuring full respect of the principle of independence of the different professions of the judiciary from each other (in particular, the Plenum's powers to adopt a resolution on the termination of the mandate of an elected member, to organise the qualification of judges and prosecutors/investigating magistrates, and to make proposals to the president of the Republic for the appointment/dismissal of the Chairpersons of the Supreme Court of Cassation and the Supreme Administrative Court and, respectively, the Prosecutor General, should be re-allocated to the competent Chamber);
- to provide for the adoption by open vote of decisions of the SJC Chambers and Plenum, including on disciplinary matters, while guaranteeing the judges' right to a fair hearing;
- to reconsider the role of the Minister of Justice in relation to the SJC in the light of the risk of an undue interference with the independence of judges, prosecutors and investigating magistrates: in particular, the role of the Minister as Chair of the Plenum and the Minister's powers in connection to individual career issues and the organization of the training of judges, prosecutors and investigating magistrates should be abolished;
- to provide wider access to the Constitutional Court, by giving the power to raise questions of constitutionality to judges at all levels when they are called to apply laws deemed unconstitutional and by introducing direct individual complaints, selected by filters of admissibility.

90. The Commission also considers important, for the sake of legal clarity and consistency, that the final text of the draft amendments and other relevant provisions of the Bulgarian Constitution be duly harmonised, for instance by providing the constitutional framework for the two Chambers and the SJC Plenum in separate articles.

91. Finally, it will be important to ensure co-ordination and consistency between the present constitutional amendments and other ongoing relevant legislative processes, in particular the (pending) process of amendment of the Judiciary System Act.

92. The proposed constitutional changes are aiming at improving the general frame for the Bulgarian judicial system. However, their impact of the intended (overall) reform of the judiciary cannot yet be fully estimated, as this depends on how the implementation on the level of general legislation is intended and will be shaped.

93. The Venice Commission remains at the disposal of the Bulgarian authorities for any assistance they may require in the reform process.