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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**SERBIA**

**REVISED DRAFT LAW**  
**ON THE HIGH JUDICIAL COUNCIL**

**REVISED DRAFT**

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**ON THE HIGH JUDICIAL COUNCIL**

**I. GENERAL PROVISIONS**

Subject of the Law

Article 1

This law regulates the position, competencies, organisation and methods of work of the High Judicial Council (hereinafter: Council), the conditions and procedure for the selection of elected members of the Council, the term of office and termination of their functions, and the provision of conditions and funds for the work of the Council.

1. Position of the Council

Independence

Article 2

The Council is an independent state body that ensures and warrants for the independence of courts, judges, presidents of the courts and lay judges.

Within the scope of its competence, the Council cooperates with the High Prosecutorial Council, bodies of the Republic of Serbia, the Autonomous Province, units of local self-government or municipalities, public services, holders of public powers and other natural and legal entities, judicial councils of other countries and international organisations.

Funds for the work of the Council

Article 3

The funds for the work and functioning of the Council (hereinafter: the Council's budget) are provided in the budget of the Republic of Serbia, at the Council's proposal.

The Council independently disposes of the funds from the Council's budget.

The government cannot, without the consent of the president of the Council, suspend, delay or restrict the execution of the Council's budget.

The procedure for determining the Council's budget proposal is governed by this law.

Preparation of the Council's budget proposal

Article 4

The secretary of the Council prepares the Council's budget proposal in accordance with the law governing the budget system, and submits it to the working body of the Council responsible for financial issues (hereinafter: the Budget Commission).

The Budget Commission determines the Council's budget proposal and sends it to the president of the Council for submission to the ministry responsible for financial affairs for an opinion.

In relation to the proposal referred to in paragraph 2 of this Article, the minister responsible for financial affairs submits a reasoned opinion to the Council.

If the minister responsible for financial affairs has any objections regarding the submitted Council budget proposal, they will organise consultations with the president of the Council and the Budget Commission to reach an agreement.

If the minister responsible for financial affairs has no objections to the Council's budget proposal, or consent under paragraph 4 of this Article is achieved, the Council approves the final proposal of the Council's budget, which the ministry responsible for financial affairs includes without amendments in the draft law on the budget of the Republic of Serbia, and the Government without amendments in the proposed law on the budget of the Republic of Serbia.

If no agreement stipulated by paragraph 4 of this article is achieved, the Ministry responsible for financial affairs includes the final Council's budget proposal from paragraph 5 of this Article, without amendments, in the draft law on the budget of the Republic of Serbia, and the Government without amendments in the proposed law on the budget of the Republic of Serbia.

If no agreement is reached as stipulated by paragraph 4 of this Article, in the reasoning of the draft law on the budget of the Republic of Serbia, the Government gives the reasons why it considers that the Council's budget proposal is not acceptable.

The provisions from paragraphs 1 to 7 of this Article apply to the procedure for the proposal of budgetary funds under the competence of the Council prescribed by the Law on the Organisation of Courts.

#### Control of the Execution of the Council's Budget

##### Article 5

Control of the execution of the Council's budget, internal financial control and audit are carried out in accordance with the regulations governing the budget system, accounting and audit.

#### The seat and features of the Council

##### Article 6

The seat of the Council is in Belgrade.

The Council has a seal, which contains the name and coat of arms of the Republic of Serbia, and the name and seat of the body, in accordance with special laws.

#### Composition of the Council

##### Article 7

The Council has 11 members.

The members of the Council are six judges elected by the judges, four prominent lawyersattorneys elected by the National Assembly and the President of the Supreme Court, as a member elected according to function.

#### President of the Council

##### Article 8

The Council has a president who is elected by the Council from among the members of the Council, who are judges for a term of five years.

The president of the Council represents the Council, convenes and presides over the Council sessions, coordinates the work of the Council, ensures the implementation of the acts of the Council, and performs other duties in accordance with the law and acts of the Council.

#### Vice president of the Council

##### Article 9

The Council has a vice president who is elected from among the members elected by the National Assembly for a term of five years.

The vice president performs the duties of the president in case of their absence or incapacity.

Relationship with courts, other authorities, public authority holders, natural and legal persons, judges and presidents of courts

##### Article 10

The courts, other bodies of the Republic of Serbia, the Autonomous Province, the unit of local self-government, municipalities, public authority holders, natural and legal persons, as well as the judges and presidents of the courts, are obliged to act on the requests of the Council for the delivery of information, documents and other material related to the performance of the tasks within the competence of the Council.

The judges and presidents of the courts are under the obligation to act on the decisions of the Council.

## 2. Position of the members

#### Immunity

##### Article 11

Members of the Council cannot be held accountable for the opinions given in connection with the duties of a Council member and for voting when making Council decisions.

Members of the Council cannot be ~~detained~~deprived of liberty without the approval of the Council in proceedings initiated due to a criminal offence that they committed as members of the Council.

#### Removal from the post of Council member

##### Article 12

The member of the Council must be removed from that post for the term of the detention.

A Council member may be removed from that position until the completion of the procedure for determining the grounds for the removal.

The decision on the removal of a Council member is made by the Council.

The member of the Council whose removal is being decided upon is excluded from the decision-making process.

A member of the Council has the right to lodge an appeal ~~against the decision on removal~~with the Constitutional Court within three days from the day of receipt of the decision, which excludes the right to submit a constitutional ~~appeal-complaint~~.

The appeal ~~to the Constitutional court~~ does not delay the execution of the decision.

### Rights Ensuing from Employment

#### Article 13

An elected member of the Council shall exercise his/her employment rights in the Council in accordance with the regulations governing the employment rights of judges, unless otherwise provided by this law.

During the term of office, the employment rights of the elected member of the Council exercised prior to the appointment as a Council member are inactive.

Notwithstanding the provision of paragraph 2 of this Article, an elected member of the Council elected by the National Assembly, who is also a professor at the Faculty of Law, may exercise his/her rights from employment with the Faculty of Law.

### Salaries and compensation for work

#### Article 14

An elected member of the Council has the right to a basic salary equal to the basic salary of the President of the Supreme Court.

An elective member of the Council elected by the National Assembly who exercises the rights from an employment relationship at the Faculty of Law has the right to a monthly compensation for work in the Council in the amount of the difference between the salary of the member of the Council, calculated for full-time work without an increase based on the years of service and the salary he/she earns at the Faculty of Law.

A member of the Council, according to function, has the right to a monthly compensation for work in the Council in the amount of 30% of the basic salary from paragraph 1 of this Article.

The basic salary of the President of the Council is increased by 20%, and of the Vice President of the Council by 10%.~~5~~

An elected member of the Council has the right to salary compensation during absence from work and to compensation for expenses in cases prescribed by law, as well as the right to compensation for unused vacation, under the same conditions and in the same scope of rights as other employees of the Council.

### Job incompatibility

#### Article 15

An elected member of the Council from the order of judges cannot perform the function of a judge during the term of office in the Council.

A member of the Council elected by the National Assembly may not hold office in bodies of the Republic of Serbia, the Autonomous Province, or local units of self-government or public authorities, may not be a member of a political party or act politically in some other manner, engage in any paid public or private work, nor extend legal services or advice for compensation.

Other ~~a job functions, engagements~~ and ~~a private interest is activities are~~ also incompatible with the function of a member of the Council if they are contrary to the dignity and independence of a member of the Council, or harmful to the reputation of the Council.

The Ethics Committee of the Council decides which activities are contrary to the dignity and independence of a member of the Council, and which are harmful to the reputation of the Council.

The member of the Council may, outside of working hours, engage in teaching and scientific activities, for a fee, without special approval.

In cases stipulated by the law, a member of the Council may engage in teaching activities at a Judicial Academy during working hours.

Based on the approval of the president of the Council, a member of the Council, during working hours, may participate in the work of professional bodies established in accordance with special regulations and working groups for the preparation of laws and other acts.

An elected member of the Council cannot be appointed as a judge, the president of the court, or holder of a public prosecutor function during his/her term of office.

#### Term of office of the members

##### Article 16

The term of office of the Council members is five years, except for ex officio members.

An elected member of the Council may not be elected to such a function again.

Prior to the expiry of the term of office, the term of office of the member of the Council may expire at his/her personal request, or if he/she is convicted for a criminal offence punishable by imprisonment of at least six months.

The term of office of a member of the Council from the order of judges also ends with the termination of the office of a judge. The term of office of a member of the Council elected by the National Assembly ends if he/she permanently loses his/her ability to work.

## II. COMPETENCES AND METHODS OF WORK OF THE COUNCIL

### Competences

##### Article 17

The Council:

- 1) elects the judges and lay judges;
- 2)- decides on the termination of office of judges and lay judges;
- 3) elects the president and vice president of the Council;
- 4) appoints acting presidents of the Supreme Court and presidents of other courts;
- 5) elects the president of the Supreme Court and presidents of other courts;
- 6) decides on the termination of office of the president of the Supreme Court and presidents of other courts;
- 7)proposes candidates for judges of the Constitutional Court to the Supreme Court;

- 8) decides on the permanent relocation and temporary assignment of judges;
- 9) determines the number of judges and lay judges for each court;
- 10) decides on the removal of judges, presidents of courts and lay judges;
- 11) decides on the incompatibility of other functions, services and ~~private interest~~jobs with the function of judge and lay judge;
- 12) decides on the appeal in the process of evaluating the work of judges and presidents of courts;
- 13) determines the composition, duration and termination of the term of office of the members of the disciplinary bodies, appoints the members of the disciplinary bodies, and regulates the work and decision-making in the disciplinary bodies;
- 14) decides on the appeal in disciplinary procedures;
- 15) approves the permanent training programme for judges and court employees, and supervises the implementation of the programme;
- 16) determines the initial training programme for judges;
- 17) adopts the Code of Ethics;
- 18) considers and decides on the report of the Ethics committee on compliance with the Code of Ethics;
- 19) decides on the existence of undue influence on the work of judges and courts, and measures to prevent such undue influence;
- 20) performs judicial administration tasks within its jurisdiction;
- 21) decides on issues of immunity of judges and elected members of the Council;
- 22) proposes the scope and structure of the budget funds and supervises their spending, in accordance with the law;
- 23) decides on objections in the election procedure for members of the Council from among the judges;
- 24) collects and analyses statistical data, and adopts annual and long-term plans for the purpose of efficient management of the personnel, financial and material resources of the courts;
- 25) establishes the working bodies of the Council and elects and dismisses their members;
- 26) gives an opinion on amendments ~~and additions~~ to the existing or the adoption of new laws that regulate the position of judges, the organisation and activities of the courts, as well as other systemic laws applied by the courts or of significance for the performance of judicial function;
- 27) adopts an annual report on its work;
- 28) informs the public about its work;
- 29) cooperates with judicial councils of other countries and international organisations;

- 30) adopts the acts provided by law;
- 31) performs other competencies and activities provided by law.

#### Method of work

##### Article 18

The sessions of the Council are public, although the Council may decide to close the session to the public, ~~in accordance with the Constitution, a law and an act of the Council.~~ if the interests of public order or the protection of data confidentiality dictate it, as well as in cases determined by Law.

The Council sessions are convened by the president of the Council in cases foreseen by the Council's Rules of Procedure, or at the proposal of ~~the~~ at least three Council members.

The Council ~~holds a session~~ may meet when at least eight Council members are present.

#### Working bodies

##### Article 19

Working bodies of the Council are: the Commission for evaluating the work of judges and presidents of courts, the Election Commission, the Commission for monitoring the proper allocation of cases, the Budget Commission, the Ethics Committee and disciplinary bodies.

In order to protect against any improper influence on the performance of the judicial function, the Council appoints one member of the Council from among the judges to proceed in cases of improper influence on the work of judges and courts. The procedure of the elected member of the Council and the Council, in cases of improper influence, is regulated in more detail by the act of the Council.

In order to consider certain issues within its competencies, the Council may form other working bodies.

The establishment, composition and method of work of the working bodies are regulated in more detail by the act of the Council.

#### Decision-making

##### Article 20

The decisions of the Council are made by a majority of votes of all members.

Notwithstanding the provisions of paragraph 1 of this Article, the decision on the election of the president and vice president of the Council, on the appointment of acting president of the Supreme Court and presidents of other courts, on the election of the president of the Supreme Court and presidents of other courts, on the dismissal of the president of the Supreme Court and presidents of other courts and on the dismissal of judges, is made by the Council by a majority of eight votes.

The Council makes decisions by public vote, with the exception of decisions on the election of the president and vice president of the Council and the president of the Supreme Court, ~~when voting is~~ which are made by secret- ballot.

The decisions of the Council must be reasoned, unless otherwise stipulated by Law.

#### Article 21

The Council adopts the Council's Rules of Procedure, which regulate the method of work and decision-making of the Council.

#### Publication of acts and decisions of the Council

#### Article 22

The Council's Rules of Procedure, other general acts of the Council, decisions on the election or termination of office of a judge or president of the court, decisions on the election of the president and vice president of the Council, decisions on the election of Council members from among the judges, decisions on the termination of office of Council members, as well as other decisions of the Council determined by law shall be published in the "Official Gazette of the Republic of Serbia" and on the Council's website.

#### Publicity of work

#### Article 23

The Council prepares an annual report, which is published on the Council's website.

The Council's annual report is submitted to the National Assembly for information purposes.

The Council regularly informs the public about its work in the manner regulated by the Council's Rules of Procedure.

#### The Ethics committee

#### Article 24

The Ethics committee ensures compliance with the Code of Ethics.

The Ethics committee submits to the High Judicial Council an annual report on compliance with the Code of Ethics, and performs other duties in accordance with the act of the Council.

### **III. PROCEDURE FOR THE ELECTION OF COUNCIL MEMBERS**

1. The selection of candidates for members of the Council from among the judges

#### Decision on the commencement of the procedure

#### Article 25

The decision to commence the election of candidates for the members of the Council from among the judges is made by the president of the Council no later than six months before the expiry of the term of office of the elective members of the Council from among the judges. The decision from paragraph 1 of this Article is published in the "Official Gazette of the Republic of Serbia" and on the website of the Council, and is submitted to the president of the Election commission of the Council (hereinafter: the Election Commission).

#### Representation of courts

#### Article 26

Elective members of the Council from among the judges are elected from the following courts:

- 1) One from the Supreme Court;

- 2) One from the appellate courts and the Administrative Court;
- 3) One from the higher courts;
- 4) One from commercial courts and the Commercial Appellate court;
- 5) One from basic courts;
- 6) One from misdemeanour courts and the Misdemeanour Appellate court.

The conditions for candidacy for the members of the Council from among the judges

#### Article 27

The candidate for members of the Council from among the judges may be any judge.

A judge nominated by a session of all judges of one or more courts, according to the type and level of the court (Article 26) in which the judge performs his/her judicial function, may be elected as a member of the Council.

The session of all the judges of one court may nominate only one judge.

At the session of all the judges, the proposed candidates are voted for secretly.

A judge who is supported by at least 20 judges, according to the type and level of the court in which he/she performs the judicial function (Article 26), may be elected as a member of the Council. A judge may support only one candidate.

Notwithstanding the provisions of paragraph 5 of this Article, a candidate for an elective member of the Council from among the judges of the Supreme Court, the Misdemeanour Appellate Court, the Commercial Appellate Court and the Administrative Court acquires the status of a candidate by submitting an application.

The president of the court and the acting president of the court cannot be the candidates for election of Council members.

#### Voting right

#### Article 28

The judges choose the members of the Council on the basis of free, general, equal and direct electoral rights, by secret ballot.

No one has the right, on any grounds, to prevent or compel a judge to vote or to hold him/her accountable for voting.

The judge votes for only one candidate from the list of candidates of the type, i.e. degree of court in which he/she performs their judicial function (Article 26).

#### The Election Commission

#### Article 29

The process of nominating candidates for members of the Council from among the judges is organised and carried out by the Election Commission.

The Election Commission consists of the president and four members and their deputies, who are elected by the Council from among the judges, with their consent.

Deputy members of the Election Commission have the same rights and responsibilities as the members they replace.

Council members cannot be members and deputy members of the Election Commission at the same time.

The term of office for members of the Election Commission lasts five years, with the possibility of re-election.

Members of the Election Commission cannot run for election as members of the Council.

### Position of the Election Commission

#### Article 30

The Election Commission is independent in its work, and works on the basis of laws and regulations adopted on the basis of laws.

The Election Commission makes decisions by the majority vote of all members.

For its work, the Election Commission is responsible to the Council, which ensures the conditions for its work.

The courts are obliged to provide assistance to the Election Commission, and to provide it with the data necessary for its work.

### Election actions

#### Article 31

The Election Commission, after receiving the decision to commence the candidate nomination procedure, makes a decision on election activities and deadlines. The decision of the Election Commission is published on the website of the Council.

The President of the Election Commission submits to the presidents of the courts the decision on starting the candidate nomination procedure and the decision on election actions and deadlines.

The president of the court is obliged to make the decision on the commencement of the candidate nomination procedure and the decision on election activities and deadlines available to all judges in the court he/she manages, in an appropriate manner.

The president of the court is obliged to convene a meeting of all the judges for the purpose of proposing the candidates within the deadline determined by the decision of the Election Commission.

### Candidacy application

#### Article 32

The application for candidacy shall be submitted to the Election Commission within 30 days from the date of publication of the decision on the initiation of the procedure for nominating candidates for elected members of the Council in the "Official Gazette of the Republic of Serbia".

The candidacy application shall be accompanied by the following: a signed statement of the candidate on the acceptance of candidacy, the decision of the session of all the judges of the court or courts proposing the candidate, i.e. a form with the signatures of the judges who support the candidate, together with professional information about the candidate.

A candidate may withdraw his/her candidacy by submitting a written statement to the Election Commission no later than eight days from the date of determination of the final list of candidates.

#### Procedure upon application

##### Article 33

The Election Commission examines the timeliness, admissibility, and completeness of the application.

Untimely and inadmissible applications are rejected by a decision of the Election Commission.

Within 24 hours of receiving an incomplete application, the Election Commission will issue a conclusion inviting the candidate to complete the submitted application within 48 hours of receipt, with a warning that otherwise the application will be rejected.

~~Untimely, unallowed and incomplete application shall be rejected by the decision of the Election Commission.~~

#### Final list of candidates

##### Article 34

The Election Commission determines the final list of candidates within 15 days from the expiry of the deadline referred to in Article 32, Paragraph 1 of this law.

The Election Commission determines one final list of candidates for each degree and type of court (Article 26).

The order of candidates on the lists is determined according to the order of submission of candidacy applications to the Election Commission.

At the same time, the Election Commission publishes all the determined final lists of candidates, together with the personal and professional data and programmes prepared by the candidates, on the Council's website.

#### Presentation of candidates

##### Article 35

All candidates have an equal right to be presented to the judges.

The Election Commission determines the deadline for the presentation of candidates, which cannot be shorter than 60 days.

The Election Commission determines the schedule for the presentation of candidates in the seats of the appellate courts, and informs all judges about such a schedule according to the type and level of the court (Article 26).

The presidents of the courts are obliged to allow the judges to attend the presentations of the candidates in the seat of the appellate court in whose territory they are located.

The Election Commission, with the consent of the candidates, organises video recording of the presentation of candidates in the appellate courts, and publishes the videos created in this way on the Council's website.

Candidates are entitled to paid leave for the days when they are presenting themselves in the seats of the appellate courts.

The candidates have the right to present themselves directly to judges in other courts, according to the type and level of court (Article 26).

The Council provides compensation for the travel expenses of the candidates for the holding of presentations in the seats of appellate courts.

#### Election time and polling stations

##### Article 36

The Election Commission determines the date and time of the election, and informs all the presidents of the courts thereof ten days before the election.

The presidents of the courts will inform all the judges by a public notice about the day and time of the elections, no later than eight days prior to the elections.

Voting for candidates for elective members of the Council from among the judges is carried out at polling stations at courts designated by the Election Commission.

#### Polling stations and voting material

##### Article 37

The Election Commission is obliged to prepare voting materials for each polling station in a timely manner, namely: the list of judges that vote at the polling station, the required number of ballots and the established list of candidates.

The Election Commission appoints a polling committee for each polling station.

The polling committee consists of three judges who are not candidates for election.

The Election Commission organises training for the members of the polling committees.

#### Method of voting

##### Article 38

The established list of candidates on the day of voting must be prominently displayed at all polling stations and in all courts, according to the degree and type of court (Article 26) which chooses the candidate from that list of candidates.

Each judge casts a personal vote.

Voting is secret.

Voting is done on certified ballots.

The polling committee conducts voting in the court's premises designated in a timely manner by the president of the court. ~~Notwithstanding the provisions of Paragraph 5 of this Article, if a judge is unable to come to the polling committee for health reasons, at his/her request the Polling Committee may enable him/her to vote outside the polling committee~~

## Determining the results

### Article 39

~~After the closing of the polling committee, the Polling Committee shall without delay complete, sign and deliver the record of voting results to the Election Commission, which contains the number of judges with the right to vote at that polling committee, the number of ballots that have been inserted into the ballot box, the number of invalid voting ballots, number of valid ballots and number of votes received by each candidate.~~

The Election Commission determines the total number of judges and the number of judges who voted by polling stations, the number of unused, invalid and valid ballots, the number of votes received by candidates at individual polling stations, as well as the total number of votes received per candidate for each list of candidates.

The record of determining the results of the election, which is signed by all members of the Election Commission, is submitted to the Council.

## The right to complain

### Article 40

A judge has the right, through the Election Commission, to submit a complaint to the Council for a violation of electoral rights, or irregularities during the nomination of candidates, within 24 hours from when the violation of the electoral right or irregularity was committed.

The Council decides on the complaint by virtue of a decision within 48 hours from the receipt of the complaint, and delivers the decision to the person who submitted the complaint through the Election Commission. If the Council fails to adopt a decision on the complaint within the prescribed deadline, it is considered that the complaint has been adopted.

If the Council approves the complaint, it will invalidate the electoral action, i.e. the election, and the electoral action or election is repeated within ten days.

## The right to appeal

### Article 41

Against the decision of the Council by which the complaint was rejected or refused, the applicant may submit an appeal to the Administrative court within 48 hours of the publication of the decision.

Against the decision of the Council which adopted the objection, the candidate and any other judge may submit an appeal to the Administrative court within 48 hours from the publication of that decision.

The Administrative court shall decide on the appeal within 72 hours of receiving the appeal with case file.

If the Administrative court accepts the appeal and cancels the electoral action or the election, the corresponding electoral action or the election will be repeated in ten days at the latest.

The decision made in the appeal procedure is final and against it cannot be filed extraordinary legal remedies prescribed by the law governing administrative disputes.

## Publication of results

## Article 42

The judge who receives the highest number of votes, according to the type and level of the court (Article 26), is elected as a member of the Council.

If two or more candidates, according to the type and level of the court (Article 26), have the same highest number of votes, the elections are repeated for those candidates within 15 days.

After deciding on the complaint or the expiry of the deadline for submitting the complaint, the Council announces the final results of the voting, and delivers a decision confirming the election of the Council member.

## 2. Election of candidates elected by the National Assembly

### Article 43

The National Assembly elects four members of the Council among the prominent ~~lawyers~~attorneys with at least ten years of experience in the legal profession among the eight candidates proposed by the National Assembly's committee responsible for the judiciary (hereinafter: the Committee), after a public competition, with the votes of two thirds of all members of the Parliament.

### Conditions for the election of Council members

### Article 44

A person who, in addition to the conditions stipulated by Article 42 of this law, also meets the following conditions, may be elected as a member of the Council:

- 1) meets the general requirements for working in state bodies;
- 2) university education acquired through basic academic studies with at least 240 ECTS, or university education obtained through basic studies at the Faculty of Law for at least four years;
- 3) experience and knowledge of significance for the work of the judiciary;
- 4) worthiness for performing the function of a Council member;
- 5) not eligible for old-age pension;
- 6) non-performance of a judge or public prosecutor function;
- 7) has not exerted undue influence on the work of judges, courts or holders of the public prosecutor's function and the public prosecutor's office;
- 8) in his/her public appearances, he/she did not advocate positions that threaten the independence of the judiciary or the independence of the public prosecutor's office.

Worthiness implies moral qualities that the member of the Council should possess and conduct in accordance with those qualities. Moral qualities are: honesty, conscience, fairness, dignity, perseverance and exemplary behaviour, and behaviour in accordance with those characteristics implies safeguarding the reputation of the Council and the judiciary in the exercise of the function and beyond it, awareness of social responsibility, maintaining independence and impartiality, ~~r-integrity~~reliability and dignity in performing the function and beyond it, and ~~taking care about preserving confidence in the work and the authority~~assuming responsibility for a positive image of the work of the Council and the judiciarycourts in public.

During the election, special emphasis is placed on professional or scientificacademic work of importance for the work of the judiciary, as well as understanding of the judiciary and advocacy in professional work or public activity for the independence of the judiciary.

The procedure for the election of Council members elected by the National Assembly

#### Article 45

The National Assembly elects a member of the Council from among the prominent lawyers attorneys, after a public competition, at the proposal of the Committee, with the votes of two-thirds of all members of the Parliament.

The Committee proposes to the National Assembly twice the number of candidates than the number of Council members who are elected.

#### Opening of the public competition

#### Article 46

The public competition for the election of a member of the Council is announced by the decision of the President of the National Assembly no later than six months before the expiry of the term of office of the member of the Council.

If the term of office of a Council member is terminated before the end of the term for which he/she was elected, a public competition is announced within 15 days from the date of termination of office.

The public competition is published in the "Official Gazette of the Republic of Serbia", other media with national coverage in the Republic of Serbia, and on the websites of the National Assembly and the Council.

In the event that an insufficient number of candidates is registered for the public competition, a new public competition is announced within 15 days from the end of the deadline for the submission of applications for the previous public competition.

#### Submission of applications for a public competition

#### Article 47

Applications for a public competition are submitted to the Committee within 15 days of the announcement of the public competition in the "Official Gazette of the Republic of Serbia".

The application for the public competition contains information about the candidate and evidence of the fulfilment of the conditions for the election of a Council member. The detailed content of the application is regulated by the decision on the public competition.

#### Implementation of the public competition

#### Article 48

The public competition for the election of Council members is implemented by the Committee.

The Committee examines the applications for the public competition and the enclosed evidence on the fulfilment of the conditions for the election of a Council member.

Unauthorised, incomplete and untimely applications are rejected by the Committee.

The Committee may obtain data about the candidate from the authorities, organisations and legal entities in which the candidate has worked, as well as other data about the candidate that is significant for the election.

After examining the ~~unauthorised, incomplete and untimely~~ regularity of the applications, the Committee prepares a list of candidates who meet the conditions for election.

The Committee publishes the biographies of candidates who meet the conditions for election and the schedule of interviews with them on the website of the National Assembly.

At a public session, the Committee, with the participation of the general and expert public, considers the applications and submitted evidence, and conducts an interview with the candidates from the list referred to in paragraph 5 of this Article.

The interview with the candidates is broadcast directly via the media.

### Deciding on the proposal of candidates

#### Article 49

At a special session, the Committee decides on the proposal for double the number of candidates for the election of Council members than required, which proposal is then submitted to the President of the National Assembly within 90 days from the expiry of the deadline for the application ~~on public competition of candidates.~~

Each Committee member has the right to propose a candidate for the election of the Council member.

The Committee decides on the proposal from paragraph 1 of this Article by a majority vote of the total number of Committee members, and it shall consider the proposals for candidates for the election of the Committee members proposed by each Council member.

The President of the National Assembly may extend the deadline referred to in paragraph 1 of this Article by 30 days, based on the reasoned proposal of the Committee.

### Session for the election of Council members

#### Article 50

The President of the National Assembly convenes a session for the election of Council members.

The session is scheduled no sooner than 15 days from the receipt of the proposal for the election of the Council member, under the condition that the session must be held and completed within 30 days from the date of receipt of the proposal.

Before holding the session referred to in paragraph 1 of this Article, the Committee organises a public hearing for the purpose of presenting the candidate, attended by the representatives of the general and professional public.

At the session referred to in paragraph 1 of this Article, the National Assembly elects the Council members with the votes of two thirds of all members of the Parliament.

The National Assembly shall vote for each candidate individually, and four candidates with the highest number of votes shall be elected.

If several proposed candidates received the same, and at the same time the lowest number of votes sufficient for election, the election between those candidates shall be voted on again.

#### Commission for the election of Council members

##### Article 51

If the National Assembly fails to elect all the members of the Council who are to be elected within the period referred to in Article 49, paragraph 2 of this law, the remaining Council members, from among all the candidates who meet the conditions for election, are elected by a commission consisting of the President of the National Assembly, the President of the Constitutional Court, the President of the Supreme Court, the Supreme Public Prosecutor and the Ombudsman, by a majority of votes, within 30 days from the date of expiry of the deadline for the election by the National Assembly.

The President of the National Assembly convenes and presides over the session of the Commission.

Before the election of a Council member, the Commission considers the applications of all the candidates who meet the conditions for election at a public meeting, with the participation of the general and professional public.

The Commission conducts an interview with all the candidates who meet the conditions, which is open to the public and broadcast live through the media.

The decision on the election of a Council member is made by secret ballot and must be reasoned.

A member of the Commission may vote only for the number of candidates remaining for election for the Council.

If several proposed candidates received the same, and at the same time the lowest number of votes sufficient for election, the election between those candidates shall be voted on again.

If the Commission fails to reach a decision within the deadline referred to in paragraph 1 of this Article, a new public competition is announced for the election of a Council member for whom no election decision has been made.

The Commission, by a majority of votes, adopts the Rules of Procedure, which regulate the work in more detail.

Professional and administrative tasks for the needs of the Commission are performed by the National Assembly.

#### Publication of the decision on the election of a Council member

##### Article 52

The decision on the election of the Council member elected by the National Assembly is published in the "Official Gazette of the Republic of Serbia" and on the websites of the National Assembly and the Council.

### **3. Taking office by the elected member of the Council**

##### Article 53

The elected member of the Council takes office within 30 days from the date of publication of the decision on the election in the "Official Gazette of the Republic of Serbia".

If an elected member of the Council was elected before the expiry of the term of office of the previous Council member, the new Council member takes office within 30 days from the date of expiry of the term of office.

An elected member of the Council takes office at a ceremonial session of the Council.

If the elected member of the Council does not take office within the deadline prescribed by paragraphs 1 and 2 of this Article without a valid reason, it will be considered that they were not elected.

The Council makes a decision stating that a member of the Council has not been elected.

If a member elected by the National Assembly does not take office, the Council notifies the National Assembly thereof.

The Council, i.e. the National Assembly, shall announce the elections, i.e. a public competition for the election of a Council member, within 15 days from the day of the Council's decision from paragraph 5 of this Article.

#### IV TERMINATION OF OFFICE OF A COUNCIL MEMBER

##### Reasons for the termination of office

##### Article 54

The function of the President of the Supreme Court in the Council ends with the termination of the function of the President of the Supreme Court.

~~The function of a member of the Council ends with the termination of the function on the basis of which he/she became a member of the Council.~~

~~The function office of an electiveelected member of the Council ends at the expiry of the mandate. term of office.~~

Before the end of the term of office of an elected member of the Council, his/her function ends at the member's request, if he/she is convicted for a criminal offense and sentenced to a prison sentence of at least six months, if his/her citizenship of the Republic of Serbia is terminated, if he/she becomes a member of a political party, if he/she becomes unworthyundignified to perform the function of a member of the Council, or if he/she does not perform fails to participate in the functionwork of athe Council member in accordance with the Constitution and the law. without justifiable reason..

The function of an elected member of the Council from among the judges ends with the termination of the judicial function.

An elected member of the Council elected by the National Assembly ceases to be a member of the Council if he/she permanently loses his/her capacity to perform the function of a Council member or fulfils the general conditions for old-age pension.

The loss of ability to perform the function of a Council member is determined on the basis of the expert opinion and the opinion of a competent health institution.

The competent court is obliged to submit to the Council a ~~final court~~legally binding decision on the conviction of a member of the Council to a prison sentence of at least six months.

#### Decision on the termination of office of a Council member

##### Article 55

If an elected member of the Council requests the termination of his/her office, if he/she is convicted of a criminal offense to a prison sentence of at least six months, if his/her citizenship of the Republic of Serbia ceases, if he/she permanently loses his/her ability to perform the function of a Council member, or if he/she meets the general requirements for an old-age pension, the Council shall adopt a decision on the termination of the function of the Council member within 15 days at the latest from the day of learning the reason for the termination of the function.

The decision on termination of function referred to in paragraph 1 of this Article is made by the Council if the judicial function of an elected Council member from among the judges has been terminated.

#### Decision on the proposal for termination of function of a Council member

##### Article 56

The function of an elected member of the Council may be terminated before the expiry of the term of office if he/she becomes a member of a political party, if he/she becomes unfit to perform the function of a Council member, or if he/she does not perform the function of a Council member in accordance with the Constitution and the law.

A proposal for the termination of the function of a Council member may be submitted by a Council member for the reasons prescribed in paragraph 1 of this Article.

The member of the Council against whom the proposal was made for the termination of office has the right to be immediately informed about the proposal, to become familiar with the content of the proposal and the evidence, to provide explanations and evidence for their allegations either directly or through a proxy, and to ~~verbally~~personally present the allegations before the Council.

By virtue of a decision, the Council may reject the proposal or adopt the proposal and deliver a decision on the termination of the function of a Council member.

The member of the Council against whom a proposal is made for the termination of function of a Council member is excluded from the decision-making process.

#### Right to appeal to the Constitutional Court

##### Article 57

A member of the Council has the right to lodge an appeal against the decision on termination of office from Articles 54 and 55 of this Law with the Constitutional Court within 15 days from the day of receipt of the decision, which excludes the right to submit a constitutional ~~appeal~~complaint.

The Constitutional Court is obliged to deliver a decision on the appeal ~~with the Constitutional Court~~ referred to in paragraph 1 of this Article within 30 days from the day the appeal ~~with the Constitutional Court~~ was submitted ~~to the Constitutional Court~~.

The ~~appeal/complaint~~ from paragraph 1 of this Article does not delay the execution of the decision on the termination of office.

## V. ADMINISTRATIVE OFFICE

Activities, organisation and the method of work of the Council

### Article 58

An Administrative Office is established to perform professional, administrative and other tasks within the Council.

The organisation, tasks and method of work of the Administrative Office are regulated in more detail by an act of the Council.

The rights and obligations of employees in the Administrative Office are subject to the regulations governing the position of civil servants and officials.

### Secretary of the Council

#### Article 59

The Council has a secretary who is appointed for a period of five years, and may be reappointed.

The Secretary is appointed by the Council.

The Secretary manages the Administrative Office and is responsible for their work to the Council.

The secretary has the status of a civil servant in office.

The conditions for the appointment of the secretary are determined by an act of the Council.

### Assignment of a judge

#### Article 60

A judge may be assigned to the working bodies of the Council for the purpose of performing professional duties.

The decision on assignment is made by the Council, based on the obtained opinion of the president of the court in which the judge performs his/her function, with the written consent of the judge.

The assignment can last for a maximum of three years, ~~with no possibility of re-assignment to the Council.~~

## VI. TRANSITIONAL AND FINAL PROVISIONS

Election of members of the Council elected by the National Assembly

### Article 61

The President of the National Assembly, on the day following the publication of this law in the "Official Gazette of the Republic of Serbia", shall announce a public competition for the election of Council members from among the prominent attorneys.

The Committee for the Judiciary of the National Assembly is obliged to submit the proposal for eight candidates for Council members within 30 days from the date of expiry of the candidate application deadline.

If the National Assembly fails to elect all members of the Council within the prescribed deadline, the deadline for adoption of a decision by the commission referred to in Article 50 of this law on the election of the remaining Council members is 15 days from the date of expiry of the deadline for the decision of the National Assembly.

#### The date of constitution of the Council

##### Article 62

The date of constitution of the Council is considered the date when the decision on the election of all members of the Council elected by the National Assembly is published in the "Official Gazette of the Republic of Serbia".

#### Continuation of the exercising of powers

##### Article 63

The existing convocation of the High Judicial Council and the National Assembly will continue to exercise their powers, in relation to the judges and presidents of the courts that they have, according to the laws in force prior to the constitution of the Council.

#### Termination of the function of a member of the current convocation of the High Judicial Council

##### Article 64

The duties of the members of the existing convocation of the High Judicial Council shall cease on the date of the constitution of the Council.

Notwithstanding the provision of paragraph 1 of this Article, the members of the existing convocation of the High Judicial Council who were elected from among the judges shall continue to perform their duties as members of the Council until the end of their term of office.

#### Takeover of employees, rights, obligations, items, equipment, means of work and archives

##### Article 65

As from the date of its constitution, the Council shall take over the employees of the High Judicial Council, established in accordance with the Law on the High Judicial Council ("Official Gazette of the RS", no. 116/08, 101/10, 88/11, 106/15 and 76/21), as well as the rights, obligations, items, equipment, means of work and archives.

#### Election of the president and vice president of the Council

##### Article 66

The president and vice president of the Council are elected within 15 days from the day of constitution of the Council.

#### Deadline for the passing of by-laws

#### Article 67

By-laws prescribed by this law are adopted within one year from the date of constitution of the Council.

The by-laws adopted in accordance with the Law on High Judicial Council ("Official Gazette of the RS" no. 116/08, 101/10, 88/11, 106/15 and 76/21) shall apply until the adoption of the acts referred to in paragraph 1 of this Article, unless they are contrary to this law.

#### Termination of the Law on the High Judicial Council

#### Article 68

The Law on the High Judicial Council ("Official Gazette of RS", no. 116/08, 101/10, 88/11, 106/15 and 76/21) ceases to be valid on the day of the constitution of the Council.

#### Final provisions

#### Article 69

This law enters into force on the date of the constitution of the Council, with the exception of the provisions of Articles 42 to 52 and Articles 60 to 68 of this law, which enter into force on the date of the publication in the "Official Gazette of the Republic of Serbia".