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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

LAW

**AMENDING AND SUPPLEMENTING THE CONSTITUTION
OF BULGARIA**

TEXT ADOPTED

**by the National Assembly of Bulgaria
on 16 December 2015**

**subsequent to the Venice Commission Opinion n° 816 / 2015
(see CDL-REF(2015)025 and CDL-AD(2015)022)**

[English version provided by the Bulgarian authorities]

**LAW AMENDING¹ AND SUPPLEMENTING
THE CONSTITUTION OF THE REPUBLIC OF BULGARIA
(SG. ISSUE 56 of 1991)**

Promulgated SG. issue 100 of 18 December 2015

§ 1. In Art. 84, item 16 a second sentence shall be created: "The National Assembly may hear and adopt other reports of the Prosecutor General on the activities of the Prosecutor's Office on the application of the law, combating crime and implementation of penal policy".

§ 2. In Art. 129 the following amendments shall be made:

1. In Para. 1, after the words "office" the words "respectively by the Judges and the Prosecutors Chamber of" shall be added.

2. In Para. 2, first sentence, after the words "upon a proposal from" the words "the Plenum of" shall be added.

3. In Para. 3 in the text before point 1, after the words "by a decision of the" the words "Judges or respectively the Prosecutors Chamber of", shall be added.

§ 3. In Art. 130 the following amendments and supplements shall be made:

1. In Para. 3, after the words "National Assembly" the words "by a majority of two-thirds of the Members of Parliament" shall be added and a second sentence shall be created: "The Members of the Supreme Judicial Council are elected under the conditions of Art. 130a, Para. 3 and 4 and in accordance with procedures determined by law."

2. Paragraphs 5, 6 and 7 shall be repealed.

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

"Art. 130a (1) The Supreme Judicial Council carries out its duties through the Plenum, Judges and Prosecutors Chambers.

(2) The Plenum shall consist of all the members of the Supreme Judicial Council. The Plenum of the Supreme Judicial Council:

1. shall adopt the draft budget of the judiciary;

2. shall adopt a decision for termination of the mandate of an elected member of the Supreme Judicial Council, under the conditions of Art. 130, Para. 8;

3. shall organize the qualification of the judges, the prosecutors and investigators;

4. shall decide on general for the judiciary organizational issues;

5. shall approve the annual reports pursuant to Art. 84, item 16;

6. shall manage the real estate properties of the judiciary;

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

8. shall execute other powers determined by law.

(3) the Judges Chamber of the Supreme Judicial Council shall have 14 members and shall include the Chairpersons of the Supreme Court of Cassation and the Supreme Administrative Court, six members elected directly by the judges, and six members elected by the National Assembly.

(4) the Prosecutors Chamber of the Supreme Judicial Council shall have 11 members and shall include the Prosecutor General, four members elected directly by the prosecutors, one member elected directly by the investigators, and five members elected by the National Assembly.

(5) The Chambers according to their competence:

1. shall appoint, promote, transfer and remove from office the judges, prosecutors and investigators;

2. shall make regular appraisals of the judges, prosecutors, investigators and administrative heads of bodies of the judiciary and resolve issues for acquisition and restoration of tenure status;

¹ The Law is adopted by the 43rd National Assembly on 16 December 2015 and is stamped with the official seal of the National Assembly.

Stamped with the State seal.

3. shall impose the disciplinary sanctions “demotion” and “dismissal from office” of judges, prosecutors, investigators and administrative heads of bodies of the judiciary;
4. shall appoint or dismiss the administrative heads of bodies of the judiciary;
5. shall decide on organizational issues of the activity of the relevant system of bodies of the judiciary;
6. shall execute other powers determined by law.

Art. 130b. (1) The sessions of the Plenum of the Supreme Judicial Council shall be chaired by the Minister of Justice. The Minister of Justice shall not participate in the voting.

(2) The Judges Chamber of the Supreme Judicial Council shall be chaired by the Chairperson of the Supreme Court of Cassation. The Prosecutors Chamber of the Supreme Judicial Council shall be chaired by the Prosecutor General. The Minister of Justice may attend the sessions but he shall not participate in the voting.

(3) The Chief Inspector may attend the sessions of the Plenum of the Supreme Judicial Council and the sessions of the Judges and the Prosecutors Chambers of the Supreme Judicial Council, but he/she shall not participate in the voting."

§ 5. Former Art. 130a shall become Art. 130c and the following amendments shall be made to it:

1. In item 1 the words "for consideration" shall be deleted.
2. Point 2 shall be repealed.

§ 6. Article 131 shall be repealed.

§ 7. In Art. 132a, Para. 6 a new second sentence shall be created: "The Inspectorate shall carry out checks on the integrity and conflict of interest of judges, prosecutors and investigators, it shall examine the completeness and authenticity of the property declarations, it shall carry out checks for circumstances undermining (damaging) the prestige of the judiciary and the events related to violation of the independence of judges, prosecutors and investigating magistrates", and the current second sentence shall become third sentence.

§ 8. In Art. 150, Para. 4 shall be created:

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

Transitional and Concluding Provisions

§ 9. The National Assembly within three months of the entry into force of this Law shall adopt the laws connected with the implementation of Art. 130a and 130b.

§ 10. The mandate of the elected members of the Supreme Judicial Council as to the date of entry into force of this law shall expire.

§ 11. (1) Within one month from the entry into force of the laws, connected with the implementation of Art. 130a and 130b, the Supreme Judicial Council shall allocate the members of the Council, elected by the National Assembly, in the judges and the prosecutors chambers of the Supreme Judicial Council.

(2) In the event that, within the period referred to in paragraph 1 the Supreme Judicial Council does not allocate the members elected by the National Assembly in the judges and the prosecutors chambers, the National Assembly shall allocate them by a decision.