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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

REPUBLIC OF MOLDOVA

LAW No. 120 of 23 September 2021
FOR AMENDING THE CONSTITUTION
OF THE REPUBLIC OF MOLDOVA

Republic of Moldova

GOVERNMENT

**LAW No. 120of
23-09-2021**

for amending the Constitution of the Republic of Moldova

Published : 01-10-2021 in the Official Gazette No. 238 art. 274

Parliament adopts this constitutional law.

Art. I. - The Constitution of the Republic of Moldova (republished in the Official Monitor of the Republic of Moldova, 2016, No. 78, Art. 140), as amended, is hereby amended as follows:

1. In Article 116:

paragraph (2) shall read as follows:

"(2) The judges of the courts shall be appointed in office, under the law, until they reach the age limit, by the President of the Republic of Moldova, on the proposal of the Superior Council of Magistracy. The President of the Republic of Moldova may reject once the candidacy proposed by the Superior Council of Magistracy."

paragraphs 3 and 4 are repealed;

paragraph (5) shall read as follows:

"(5) Decisions on the appointment of judges and their careers must be taken on the basis of objective criteria based on merit and a transparent procedure, in accordance with the law. The promotion or transfer of judges shall be made only with their consent."

the article shall be supplemented by paragraph (5¹) with the following content:

"(5¹) Judges have only functional immunity under the law."

2. Article 121 shall be supplemented by paragraph (1¹) with the following content:

"(1¹) In the process of drafting, approving and amending the budget of the courts, the advisory opinion of the Superior Council of Magistracy is requested. The Superior Council of Magistracy has the right to submit proposals to Parliament on the draft budget of the courts."

3. Section 2 of Chapter IX shall be supplemented by Article 121¹ with the following content:

"Article 121¹

Role

The Superior Council of Magistracy is the guarantor of the independence of the judicial authority."

4. Article 122 shall read as follows:

**"Article 122
Composition**

(1) The Superior Council of Magistracy shall consist of 12 members: six judges elected by the General Assembly of Judges, representing all levels of courts, and six persons of high professional reputation and personal integrity, with experience in law or other relevant field, who are not active in the legislative, executive or judicial bodies and are not politically affiliated.

(2) The procedure and conditions for the election, appointment and termination of the mandate of the members of the Superior Council of Magistracy are established by law. Members of the Superior Council of Magistracy may be dismissed, under the conditions provided by law.

(3) Candidates for the office of member of the Superior Council of Magistracy who are not judges shall be selected by competition, on the basis of a transparent procedure, on the basis of merit, and shall be appointed by Parliament with the vote of three fifths of the elected members.

(4) If the appointment of candidates who are not judges to the office of member of the Superior Council of Magistracy in accordance with paragraph 3 has failed, the procedure and conditions for their appointment shall be established by law.

(5) Members of the Superior Council of Magistracy shall be elected or appointed for a term of six years, without the possibility of holding two terms."

5. In Article 123, paragraph 1 is added: "The Superior Council of Magistracy shall exercise its powers directly or through its specialised bodies."

Art. II - (1) This Law shall enter into force on the expiry of 6 months from the date of its publication in the Official Gazette of the Republic of Moldova.

(2) Judges whose initial term of appointment as a judge has not expired on the date of entry into force of this Act shall be deemed to have been appointed until they reach the age limit by operation of this Act.

(3) The members of the Superior Council of Magistracy from among the judges in office on the date of entry into force of this Law shall serve until the expiry of the term for which they were elected. Ex officio members shall cease to hold office on the date of entry into force of this Law. The term of office of the incumbent full professors on the date of entry into force of this Act shall be confirmed for a total period of six years by a vote of three-fifths of the elected members.

(4) Within 3 months from the date of publication of this Act, the Government shall submit to Parliament proposals for bringing the legislation into line with this Act.

PRESIDENT OF THE PARLIAMENT Igor GROSU

No. 120. Chisinau, 23 September 2021.