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

**REPUBLIC OF MOLDOVA**

**REVISED DRAFT LAW ON AMENDING AND SUPPLEMENTING  
THE CONSTITUTION**

**Revised Law  
on Amending and Supplementing the Constitution of the Republic of Moldova**

The Parliament enacts the present constitutional law

**Art. I** - The Constitution of the Republic of Moldova, adopted 29 July 1994 (republished in Official Gazette of the Republic of Moldova, 2016, No.78, 140), with further amendments, is amended as follows:

1. To the Article 116:

Paragraph 2 shall have the following content:

„(2) Judges of courts of law shall be appointed, according to the law, until the age limit has been reached, by the President of the Republic of Moldova, at the proposal of the Superior Council of Magistracy. The President of the Republic of Moldova may reject only once the nomination proposed by the Superior Council of Magistracy.”;

Paragraphs (3) and (4) are repealed;

Paragraph (5) shall have the following content:

„(5) Decisions on the appointment of judges and their career shall be adopted on the basis of objective and merit-based criteria, and in a transparent procedure, according to the law. The promotion or transfer of judges shall be done only with their consent.”

Shall be supplemented by paragraph (5<sup>1</sup>) with the following content:

„(5<sup>1</sup>) Judges shall have only functional immunity under the law.”

2. Article 121 shall be supplemented by paragraphs (1<sup>1</sup>) și (1<sup>2</sup>), with the following content:

“(1<sup>1</sup>) In the process of drafting, approving and amending the budget of the courts, the consultative opinion of the Superior Council of Magistracy is required. The Superior Council of Magistracy is entitled to present to Parliament proposals to the draft budget of the courts”.

3. Section 2 of Chapter IX shall be supplemented by Article 121<sup>1</sup>, with the following content:

**„Article 121<sup>1</sup>  
The Role**

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

4. Article 122 shall have the following content:

**„Article 122  
Composition**

(1) The Superior Council of Magistracy consists of 12 members, six judges elected by the General Assembly of Judges, representing all levels of courts of law and six persons who enjoy a high professional reputation and personal integrity, who do not work within the bodies of legislative, executive or judicial power, and are not politically affiliated.

(2) The procedure and requirements for electing, appointing and terminating the mandate of the members of the Superior Council of Magistracy are established by law.

(3) The candidates to the position of members of the Superior Council of Magistracy who are not judges, are elected through a competition, based on a transparent procedure, based on merits and appointed by Parliament with the votes of three fifths of elected deputies.

(4) If the procedure of appointment, within the requirements of paragraph (3) failed, the candidates to the to the position of members of the Superior Council of Magistracy who are not judges, are appointed by Parliament with the vote of majority of elected deputies, but not earlier than 15 days.

(5) The members of the Superior Council of Magistracy are elected or appointed for a term of 6 years, without the possibility to hold two mandates. The members of the Superior Council of Magistracy cannot be revoked.

5. Article 123, paragraph (1) shall be supplemented with the sentence: "The Superior Council of Magistracy shall exercise its powers either directly or through its specialized bodies".

**Article II. – (1)** Judges in regard of whom, at the date the present law enters into force, the initial term of appointment as a judge has not expired, shall be considered appointed until reaching the age limit by the effect of the present law.

**(2)** Members of the Superior Council of Magistracy in office at the date the present law enters into force shall exercise their mandate until the expiration of the term for which they have been elected or appointed, save for the ex officio members whose office shall cease at the date the present law enters into force.

### **Speaker of Parliament**