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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**DRAFT LAW OF UKRAINE
AMENDING THE CONSTITUTION OF UKRAINE**

**Draft Initiated by
People's Deputies of Ukraine
V. F. Yanukovych, O. V. Lavrynovych et al.**

(Unofficial translation)

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Law of Ukraine amending the Constitution of Ukraine

The Verkhovna Rada of Ukraine hereby r e s o l v e s :

- I. To make the following amendments to the Constitution of Ukraine (the *Vidomosti Verkhovnoi Rady Ukrainy*, 1996, No. 30, p. 141; 2005, No. 2, p. 44):
 1. To supplement article 22 with the following paragraph:
'No legal act worsening the situation of citizens shall create any rights or duties or be subject to enforcement. No person shall be legally liable for failure to execute such acts.'
 2. To add the words 'and health' after the words 'right to life' in the paragraph 1 of article 27
 3. To replace the words 'seventy-two' in paragraph 3 of article 29 with the words 'twenty-four', and add the words 'lawful and reasoned nature' after the words 'court decision in regard of'.
 4. To insert the following paragraph after paragraph 1 of article 34:
'No one shall prosecuted for their convictions'.
 5. To supplement article 40 with the following paragraph:
'Anyone who violates the citizen's right to individual or collective written petitions or personal petitions shall be liable under law'.
 6. To supplement article 43 with the following paragraph:
'Labour shall be remunerated in accordance with its amount and quality, social significance, and its rate may not be lower than the living wage.
Any citizen who is temporary out of work for reasons beyond their control shall be guaranteed right to public relief in accordance with the law'.
 7. To supplement article 49 by inserting the following paragraph after paragraph 1:
'The state shall guarantee the citizens provision of accessible, adequate and effective health care through state and municipal health care institutions'.
Paragraphs 2 and 3 shall thence become paragraph 3 and 4, respectively.
To add the words 'and tourism' after the word 'sports' in paragraph four'.
 8. In article 59:
To replace the word 'free of charge' in paragraph 1 with the words 'at public cost';
To strike off the words 'against accusation and to provide legal assistance in deciding cases in courts and other state bodies' from the second paragraph;
To supplement the following paragraph as paragraph 3:
'The counsel for defence shall be an advocate or an expert in the field of law alike'.
 9. In article 60, to add the words 'or unlawful' after the word 'criminal'.
 10. In article 63, to supplement the following paragraph after paragraph 1:
'Any procedural acts involving a witness shall be executed on condition that he has been afforded an opportunity to use legal assistance of a defence counsel'.

11. In article 67, to strike off the word 'All'.
12. In article 77:
To add the words 'based on proportional system with open ticket' to the first paragraph';
To insert the following paragraph after paragraph 2:
'A political party which has received a majority of votes relative to other political parties but insufficient to secure a constitutional majority in the Verkhovna Rada of Ukraine shall have two hundred and twenty-six seats in the parliament'.
Paragraph 3 shall thence become paragraph 4.
13. In article 80:
To strike off paragraph one;
To strike off the words 'with the exception of liability for insult or defamation';
To state paragraph 3 as follows:
'a People's Deputy of Ukraine may not without consent of the Verkhovna Rada of Ukraine be detained or arrested until his conviction becomes valid'.
14. To strike off paragraph one of article 82.
15. To strike off paragraph of article 83.
16. In paragraph one of article 85:
To supplement subparagraph 2 with the words 'calling an all-Ukrainian referendum with a view to approval of a decision of the Verkhovna Rada of Ukraine on acceding an inter-state association';
To replace the words 'President of Ukraine, minister of defence of Ukraine, minister of foreign affairs of Ukraine' in paragraph 12 with the words 'coalition of Deputies' factions in the Verkhovna Rada of Ukraine, the Prime Minister of Ukraine', and to strike off the word 'other';
To strike off paragraphs 26, 27, and 34.
To regard thenceforth paragraphs 28–37 as paragraphs 26–31, respectively.
16. To strike off article 102.
17. In article 105:
To strike off paragraphs 1 and 2;
To strike off the words 'unless the President of Ukraine has been removed from his office by way of impeachment' from paragraph 3;
To insert the following as paragraph 3:
'The President of Ukraine may not without consent of the Verkhovna Rada of Ukraine be detained or arrested before he is convicted in court'.
18. In article 106:
To strike off subparagraphs 9–10 of paragraph 1;
To state subparagraph 15 of paragraph 1 as follows:
'13) address the Constitutional Court of Ukraine as respects constitutionality of acts of the Verkhovna Rada of Ukraine and those of the Cabinet of Ministers of Ukraine';
To strike off subparagraph 22 of paragraph 1.
To regard therefore subparagraphs 11–31 as paragraphs 9–28.
19. In article 108:
To insert paragraph 2 after paragraph 1, reading as follows:
'3) validity of conviction in his respect'.
To regard subparagraphs 3–4 as subparagraphs 4–5, respectively.

20. In article 111:
To replace the words 'in the event that he or she commits state treason or other crime.' in paragraph one with the words 'for commission of acts damaging the interests of Ukraine';
To strike off the words 'includes a special procurator and special investigators' from paragraph 3;
To strike off the words 'and proposals' from paragraph 4;
To replace the words 'on the accusation of the President of Ukraine' in paragraph 5 with the words 'removal of the President of Ukraine from office';
To strike off paragraph 6.
21. In article 114:
To replace the words 'President of Ukraine' in paragraph 2 with the words 'coalition of Deputies' factions in the Verkhovna Rada of Ukraine';
To strike off paragraph 3.
To regard thence paragraphs 4 and 5 a paragraphs 3 and 4;
To state paragraph 3 as follows:
'The members of the Cabinet of Ministers of Ukraine shall be appointed by the Verkhovna Rada of Ukraine upon nomination of the Prime Minister of Ukraine'.
22. To state article 118 as follows:
'Article 118. There shall be representative offices of the Cabinet of Ministers of Ukraine in the oblasts, and the cities of Kyiv and Sevastopol.
The composition of the representative offices of the Cabinet of Ministers of Ukraine shall be determined by the heads of the representative offices of the Cabinet of Ministers of Ukraine.
The heads of the representative offices of the Cabinet of Ministers of Ukraine shall be appointed and dismissed by the Cabinet of Ministers of Ukraine upon nomination of the Prime Ministers of Ukraine.
In the exercise of their powers the representative offices of the Cabinet of Ministers of Ukraine shall be accountable to and under control of the Cabinet of Ministers.
The head of a representative office of the Cabinet of Ministers of Ukraine shall suspend the effect of any decision of the relevant local council or its executive committee where such act has not been registered by the justice authorities for its incompatibility with the Constitution or laws of Ukraine, and at the same time seeks a court declaration of its illegality.'
23. To state article 119 as follows:
'Article 119 . The representative offices of the Cabinet of Ministers of Ukraine:
1) represent the Cabinet of Ministers of Ukraine at the local level;
2) supervise compliance of the executive committees of village, town, city, rayon and oblast councils with the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine and other executive authorities;
3) supervise implementation of the state socio-economical and cultural development programmes;
4) coordinate operation of territorial divisions of ministries and those of central executive authorities and support their interaction with the bodies of local government;
5) exercise other powers provided for by the Constitution and laws of Ukraine.'
24. In article 124:
To replace the word 'decisions' in paragraph 5 with the word 'acts';
To supplement paragraph 5 with the following paragraph:
'Judicial acts may be reversed or amended only by higher courts in accordance with the procedure established by law';

To insert the following paragraph as paragraph 6:

‘All judicial acts shall be published without fail in accordance with the procedure established by law. The State shall maintain a uniform public register of judicial acts and provide free access thereto to all citizens’.

25. In article 125,
To replace the words ‘courts of appeal and local courts’ in paragraph 3 with the words ‘local and appellate courts and the Supreme Court of Ukraine’.
26. To state article 126 as follows:
“**Article 126.** The Constitution and laws of Ukraine provide guarantees of independence and immunity of judges and ensure conditions for their unobstructed and efficient exercise of powers.
Exerting influence on judges in any manner and any interference with administration of justice shall be prohibited.
No judge may be detained or arrested without consent of the Verkhovna Rada of Ukraine before he is convicted by a court.
Judges of all instances shall be elected for a term of five years.
The judges of rayon, city, city district and oblast courts, save for those of the Kyiv and Sevastopol City Courts, shall be elected and revoked by the citizens of relevant rayons, cities, city districts or oblast, voting by secret ballot based on the universal, equal and direct suffrage.
The judges of the Supreme Court of Ukraine, the Constitutional Court of Ukraine, those of the Kyiv and Sevastopol city courts, and the Supreme Court of the Autonomous Republic of Crimea shall be elected to and revoked from the offices in national elections.
The powers of judges, the procedure of election and termination of powers of jurors shall be established by law.
The judges and jurors may be revoked only as warranted by law.
The state shall ensure personal safety of judges and their families.
The professional, social, and property rights and interests of judges shall be protected in accordance with the procedure established by law.”
27. In article 127:
To replace the words ‘administered by professional judges and, in cases determined by law, people’s assessors and jurors’ in paragraph 1 with the words ‘administered by professional judges and, in cases determined by law, jurors’;
To add the word ‘Professional’ before the word ‘Judges’, and replace the word ‘and’ after the word ‘teaching’ with the word ‘or’ in paragraph 2;
To replace the word ‘state language’ in paragraph 3 with the words ‘state languages’;
To strike off paragraph 4.
28. To set forth article 24 as follows:
“**Article 128.** The Chief Justice of the Supreme Court of Ukraine shall be elected to and dismissed from his office by a plenary session of the Supreme Court of Ukraine voting by secret ballot in accordance with the procedure set by law.
The president of any other court shall be elected by the judges of such court in accordance with the procedure set by law”.
29. In article 129:
To strike off the words ‘by a single judge’ and add the words ‘or by sole judge in accordance with the procedure set by law’ after the words ‘by a court of the jury’ in paragraph 2;

To replace the word 'before' in subparagraph 4) of paragraph 3 with the words 'in front of'¹;

To strike off subparagraph 5) of paragraph 3 and regard subparagraphs 6)–9) as subparagraphs 5)–8), respectively.

To state subparagraphs 7–8 as follows:

“7) ensuring complaint of a court decision by appeal and cassation, except in cases established by law;

8) the mandatory nature of court decisions;”

To supplement paragraph 3 with the following subparagraph 9):

“9) inevitability of punishment for making knowingly untrue acts and violation of the lengths of trial;»

To strike off the words 'in courts of specific judicial jurisdiction' from paragraph 4;

To state paragraph 5 as follows:

“Court proceedings in Ukraine shall be taken in the Ukrainian language or Russian language, or a majority language of a given territory, or in a language acceptable to the population of a given territory”.

30. In article 130:

To replace the words 'Expenditures for the maintenance of courts are allocated as a separate item' in paragraph 1 with the words 'Expenditures for the maintenance of courts are allocated as a separately'.

31. In article 131:

To state the first subparagraph of paragraph 1 as follows:

“appointment of elected judges into office and dismissal of judges from their office in cases provided for by law”;

To replace the words 'and judges of high specialised courts,' in the third subparagraph of paragraph 1 with the words 'of the Constitutional Court of Ukraine';

To replace the word 'twenty' in paragraph 2 with the words 'twenty-five', striking off the words 'Congress of Representatives of Higher Legal Educational Establishments and Scientific Institutions' and replacing the words 'three members to the High Council of Justice, and the All-Ukrainian Conference of Employees of the Procuracy — two members', with the words 'seven members';

To add the words 'President of the Constitutional Court of Ukraine' after the words 'Chairman of the Supreme Court of Ukraine' in paragraph 3.

32. In article 140:

To replace the words 'a voluntary association into one village community' in paragraph 1 with the words 'of a settlement, city or those forming one community'.

33. In article 141:

To replace the words 'for a four-year term [the head] of the village, settlement and city, respectively' in paragraph 2 with the words 'for a five-year term the mayor of the village, settlement or city or leader of the associated community, respectively';

To replace the words 'and lead the executive staff of the council' in paragraph 4 with the words 'and are at the same chairmen of the executive committees of such councils'.

34. In article 144:

To state paragraph 2 as follows:

¹ [*Translator's note*: This amendment concerns what is a matter of euphony in the usage of Ukrainian prepositions before certain syllables.]

“Any decisions of bodies of local self-government that have not been registered by the justice authority for reasons of non-conformity with the Constitution or laws of Ukraine shall be suspended by the head of the relevant oblast, Kyiv or Sevastopol City Office of the Cabinet of Ministers of Ukraine and, at the same time, appealed against in court.”

- II.** This Law takes effect on the date of its publication.

Arseniy Yatseniuk, Chairman of the Verkhovna Rada of Ukraine
People's Deputies of Ukraine