Strasbourg, 19 March 2008

CDL-AD(2008)006
Or. Engl.

Opinion no. 464 / 2007

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

OPINION

ON THE DRAFT LAW ON THE HIGH JUDICIAL COUNCIL OF THE REPUBLIC OF SERBIA

Adopted by the Venice Commission at its 74th Plenary Session (Venice, 14-15 March 2008)

on the basis of comments by
Mr Pierre CORNU (Switzerland, Expert for the Directorate for Legal Co-operation of the Directorate General of Human Rights and Legal Affairs of the Council of Europe)
Mr James HAMILTON (Substitute Member, Ireland)
Mr Guido NEPPI MODONA (Substitute Member, Italy)

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1. By letter dated 11 December 2007, the Strategy Implementation Secretariat of the Ministry of Justice of the Republic of Serbia requested an opinion on the draft Law on the High Court Council (CDL(2008)013).

2. The present opinion is prepared jointly with the Directorate for Legal Co-operation of the Directorate General of Human Rights and Legal Affairs of the Council of Europe on the basis of comments by Mr Pierre Cornu, Mr James Hamilton and Mr Guido Neppi Modona, who were invited to act as rapporteurs. Their comments figure in documents CDL(2008)019, 020 and 021 respectively.

3. On 21 February 2008, Mr Pierre Cornu, Mr James Hamilton, Mr Jean-Jacques Heintz and Mr Guido Neppi Modona accompanied by Ms Tanja Gerwien and Ms Ana Rusu from the Secretariat, visited Belgrade in order to discuss the draft Law on the High Court Council as well as the draft laws on Judges and the Organisation of Courts, which are the subject of an opinion in document CDL(2008)033. At this meeting, they met with representatives of the Ministry of Justice, the Working Group for drafting laws related to the organisation of the judiciary and the Judges Association of Serbia. This meeting settled a number of outstanding questions by the rapporteurs regarding the draft laws.

4. This opinion was adopted at the 74th Plenary Session of the Venice Commission (Venice, 14-15 March 2008).

INTRODUCTION

5. This draft Law is described as the "High Court Council Act". However, since the English term used in the Constitution of the Republic of Serbia is "High Judicial Council", this Opinion will use the latter term.

6. The draft Law on the High Judicial Council was prepared within the context of the Serbian National Judicial Reform Strategy, which was adopted by the National Assembly of the Republic of Serbia in May 2006, to reform the justice system.

7. The introduction of a High Judicial Council is welcome. It gives a body composed of a majority of judges the competence that will allow the judicial power to exercise its internal functions independently and autonomously, without the interference of other authorities.

8. As stipulated by Paragraph 1.3 of the European Charter on the Statute for Judges, the High Judicial Council (hereinafter, the "Council") should be an *"…authority independent of the executive and legislative powers within which at least one half of those who sit are judges elected by their peers following methods guaranteeing the widest representation of the judiciary"* and which will have to intervene, in particular, in the appointment and assignment of judges.

9. In this Opinion, reference will be made to the Constitution of the Republic of Serbia, which was adopted by the National Assembly on 30 September 2006, as a number of key provisions in relation to the High Judicial Council are already regulated in the Constitution. For instance, Article 153 of the Constitution provides for the Council's status, constitution and election. It is defined as an independent and autonomous body which is to provide for and guarantee the independence and autonomy of courts and judges. It is to have eleven members consisting of three *ex officio* members, the President of the Supreme Court of Cassation, the Minister of Justice and the President of the authorised committee of the National Assembly, as well as eight electoral members elected by the National Assembly, in accordance with the law. Of these eight electoral members six are to be judges holding the

position of permanent judge, of which one is to be from the territory of autonomous provinces, and two are to be respected and prominent lawyers who have at least fifteen years of professional experience, of which one shall be a solicitor and the other a professor at a law faculty. The tenure of office of members is to be five years, except for the members appointed *ex officio*. The Council is to appoint and dismiss judges and to propose to the National Assembly the election of judges in the first election to the position of judge. It is to propose to the National Assembly the election of the President of the Supreme Court of Cassation as well as presidents of the courts in accordance with the Constitution and the law. It is to participate in the proceedings of terminating the tenure of office of the President of the Supreme Court of Cassation and presidents of courts in the manner stipulated by the Constitution and the law as well as perform other duties specified by the law.

10. The Venice Commission was critical of these arrangements in its Opinion no. 405/2006 on the Constitution of Serbia adopted at its 70th Plenary Session on 17-18 March 2007, describing the composition of the Council as flawed. It stated that at first sight, the composition seemed pluralistic, but that this appearance was deceptive:

> *"All these members are elected, directly or indirectly, by the National Assembly. The six judges are not to be elected by their peers but by the National Assembly, the lawyer not by the Bar Association but by the National Assembly, the professor not by the law faculty but by the National Assembly. The judicial appointment process is thus doubly under the control of the National Assembly: the proposals are made by the High Judicial Council elected by the National Assembly and the decisions are then made by the National Assembly itself. This seems a recipe for politicisation of the judiciary and therefore the provisions should be substantially amended."* (CDL-AD(2007)004, paragraph 70).

11. The draft Law on the High Judicial Council has attempted to address these issues by providing a procedure whereby the National Assembly would, in respect of each vacancy, be presented with one name only of a person elected by the authorised nominators (i.e. the judges or the lawyers' association or faculties). The National Assembly would be entitled to reject the candidate in which case another election would take place. It will be interesting to see whether this solution will be adopted.

DRAFT LAW ON THE HIGH COURT (JUDICIAL) COUNCIL

General provisions

Status of the Council – Independence and Autonomy

Article 2

12. This provision states the independence and autonomy of the Council. Although this is necessary, it could be more detailed, for instance by referring to the constitutional framework, notably Article 153 of the Constitution that covers the status, constitution and election of the High Judicial Council.

13. The second paragraph sets out the judicial power's links with other institutions and the fact that contacts will have to be upheld between the Council and these institutions, whether or not they are state bodies. The wording of this provision could be improved because as it stands, it gives the impression that the Council is going to spend a large part of its time on these contacts and/or organising international events, which is misleading. International relations should only play a minor role in the Council's activities.

14. For these reasons, the provision should be revised and should only mention co-operation with other state bodies and institutions insofar as this is necessary for the Council's activities.

Funds for the work of the Council

Article 3
15. This provision sets out that the Council is to be financed by the state budget. This solution is welcome, as any other solution would endanger the Council's independence.

16. According to the second paragraph of this provision, the Council does not have the competence to defend its budget in front of parliament. It is the government that decides, as it receives the draft budget from the Council. Although this solution has been adopted in a number of other democratic countries and is therefore in line with European standards, it could be a source of conflict between the government and the Council. In such a case the government would be less enthusiastic in obtaining the means necessary for the Council to carry out its activities with the possible result that the activity could be rendered more difficult or even impossible to carry out.

17. In some countries, the Council (or equivalent bodies) has obtained the power to defend its own budget in front of parliament, which provides further independence from the government. But this solution would require a constitutional amendment.

Article 4
"The ordering authority for implementing the financial plan of funds for the work of the Council from the Republic budget is the president of the Council."

18. This Article deals with the concrete use of the budget. The fact that the president of the Council is the *"ordering authority"* for implementing the budget is not a problem, especially as it would be contrary to the autonomy of this institution to give such a power to an external or internal administrator.

Composition of the Council

Article 6
19. Article 153 of the Constitution provides for eleven members of the Council, out of which six are judges, without specifying from which courts they are drawn. Article 6 of the draft Law spells out in detail the exact composition of the Council, which provides for a large majority of judges (six out of eleven members). Such a composition of the Council is necessary in order to avoid the independence of the judiciary being endangered by political manoeuvres.

20. The presence of the President of the Supreme Court of Cassation is welcome, as is the representation of the government by the Ministry of Justice and of parliament by the president of the parliamentary commission on legal affairs (see also comments on Article 19 below).

21. However, out of these eleven members, eight are elected by the National Assembly of whom six are judges – two are prominent lawyers with at least fifteen years professional experience, one attorney-at-law and the other professor of law. The problem is not the composition of the Council, but that a majority of its members are appointed by the National Assembly without a qualified majority. This could be problematic.

President and deputy president of the Council

Article 7

22. This provision sets out two alternatives: (1) to entrust the chairmanship of the Council to the President of the Supreme Court of Cassation and to give the Council members the power to elect the deputy chairman from among the judge members or (2) to give the Council itself the power to elect the chairman and the deputy chairman from among the judge members.

23. Whether the Council should be chaired by the President of the Supreme Court of Cassation or should select its own chairperson is an open question. The Judges Association of Serbia suggested that the Council members elect their own chairperson, which might be a good solution and could provide greater independence for the Council. However, since the President of the Supreme Court of Cassation is an *ex officio* member of the Council, the possibility of electing a judge other than from the highest level of the judiciary for the position of President of the Council seems unreasonable.

Relationship with other bodies

Article 8

"Courts and other government authorities, as well as judges and court presidents, are required to act on Council's requests for submission of information, documents and other material related to performance of tasks from the Council's purview."

24. It would be useful to know whether the authority of the Council to request information and documents is subject to any limitations. Furthermore, who defines whether the information requested by the Council from another authority falls within the Council's competence? These questions should be addressed.

Status of members

Immunity

Article 9

25. In Europe, several different solutions co-exist with respect to the criminal immunity of members of state authorities. Some states grant a broad form of immunity to judges, while others treat them as regular citizens.

26. Granting immunity to members of the Council guarantees their independence and allows them to carry out their work without having to constantly defend themselves against, for instance, unfounded and vexatious accusations.

27. The second paragraph of this provision however is unclear. On the one hand, immunity for expressed opinions within the Council is granted, but on the other hand, it seems that exception is made with respect to the criminal offence that the content of such opinions could constitute. There seems to be a contradiction: if immunity does not apply to criminal offences such as defamation, it is difficult to understand what it applies to. This should be clarified.

28. The approval by the Council required to detain one of its members offers an additional guarantee, but it should not be an absolute power.

Emoluments

Article 10

29. This Article provides that the emoluments of Council members are to be one-third of the emoluments of a judge of the Supreme Court of Cassation.

30. It seems that only those Council members who are judges will be working there on a full-time basis and not the *ex officio* members nor those members who are attorneys-at-law and law professors. However, this is not entirely clear from the draft Law.

31. If only the Council members who are judges work full-time, the emoluments provided by this Article will be paid in addition to the judicial salary. However, this is not entirely clear from the draft Law either and should be clarified.

Term of office

Article 11
"The term of office of Council members is five years, except for members by virtue of office.

Elected members of the Council may not be elected to the Council in the next subsequent term of the Council.

During the term in the Council a judge-member may not be elected judge of a higher court or president of a court."

32. The second paragraph should be revised: if a member leaves his or her functions, he or she will be replaced by a new member. If the new member starts only one or two years before the end of the period of five years, he or she should be able to be re-elected for a complete term of five years. This would avoid too many changes occurring within the Council that could disrupt the development of a regular and consistent practice with respect to the decisions of the Council.

Competence and manner of work of the Council

Competence

Article 12
33. Article 154 of the Constitution gives the Council all powers concerning the legal status of the judges (transfer, promotion, disciplinary measures, etc.), among them to *"propose to the National Assembly the election of judges in the first election to the post of judge",* and the election of the President of the Court of Cassation and the presidents of other courts.

34. Article 12 sets out the competence of the Council, which generally corresponds to those that can be found in the laws of other states on this issue. The functions are very important, including the election of judges, taking decisions on the dismissal of judges, the disciplining of judges, the selection of a disciplinary board, decisions on legal remedies in disciplinary proceedings, defining standards of behaviour for judges, allocating the court budget, determining the general framework for the internal organisation and work of courts, and appointing lay judges. None of this is dealt with in any detail in the draft Law which, apart from stating what these functions are in this Article, says nothing more about them.

35. The obligation to provide an annual report to the National Assembly seems reasonable.

36. The information provided to the public on the activities of the Council will also assist in rendering the judges' work at the Council more transparent. It will notably allow the public to see that there are sanctions against judges that have committed disciplinary offences etc.

37. The bulk of the draft is concerned with the election of the members of the Council. A number of these matters are dealt with in the draft Law on Judges. However, some of the provisions appear quite obscure. For example, it is quite clear that the evaluation of judges is of crucial importance for the continuation of judges in office, and yet it is not at all clear how exactly this function is to be carried out (see also the comments on Article 53 below).

Manner of work

Article 13

38. The requirement for transparency cannot go so far as to force the Council to deliberate in public in general. It is important that the members can express themselves freely on certain issues, and public debates might hinder such free debates on certain issues, as the members may fear that their comments, for instance, might appear in the press.

39. However, the Council should have the power to debate publicly if it deems that a certain issue would be sufficiently interesting. Such a decision could be made by a qualified majority.

40. The following wording might be suggested:

As a principle, the Council works in closed session.

The Council may decide to work in public session. The decision to work in public session requires a majority of eight votes.

On issues that relate to status rights and the status of judges, the Council works in public session only at the request of the judge whose rights are being deliberated on.

Council sessions are convened by the chairperson at least once a month and for any further sessions, at the chairperson's initiative or at the motion of a minimum of three Council members.

A quorum in the Council is obtained with the presence of a minimum of six Council members.

Working Bodies

Article 14

"To discharge tasks from its purview the Council establishes separate working bodies for nominating and appointing judges, performance evaluation of judges, disciplinary, court budget, training, statistics, analysis and reporting, international co-operation, media relations and other issues from the Council's purview."

41. There seems to be an impressive number of working bodies. Taking into account the immensity of the task that lies ahead for the Council, the latter might be authorised to invite non-members to participate in certain working bodies, either permanently or on a case-by-case basis.

Decision Making

Article 15

"The Council takes decisions in closed session.

Decisions of the Council are taken by majority vote of all members.

Decisions on election, promotion, transfer, assignment, dismissal of a judge, dismissal of elected member of the Council, and other issues regarding the material status of judges and courts under the competence of the Council by law, require a majority of minimum seven votes of Council members.

Decisions of the Council on status rights of judges must be reasoned.

Reasoned decisions of the Council on termination of a judge's function include the legal grounds for termination of judge's function and facts on which the determination of the existence of grounds for termination is made."

42. The second paragraph should explain that decisions are made by the majority of the members present and not of all Council members (except if this is the second solution foreseen).

43. A qualified majority – seven votes – for certain decisions seems to be adequate.

Procedure for election of members of the High Court (Judicial) Council

General Requirements

Representation of Courts

Article 19

44. This Article provides that one of the members of the Council must be from the Supreme Court of Cassation, one from the Commercial Courts, one from the Administrative Courts, one from the Appellate Courts, the Organized Crime Court and the War Crimes Court, one from the First Instance Courts of General Jurisdiction (Municipal and District Courts) and one from the Misdemeanour Courts.

45. Taking into account the comments made by the Judges Association of Serbia (26 December 2007), the Supreme Court of Cassation should have 33 judges, the Commercial Courts around 240 judges, the Administrative Court 40, the Appellate Courts 221, and the Municipal and District Courts together nearly 1,600 judges. This means that the courts that have most of the judges will be underrepresented by comparison with the higher courts and will not secure a balanced representation of all judges. The suggestion made by the Judges Association of Serbia was to select the elected members following the criteria of the degree (first-instance and second-instance) and types of courts (courts of general and special jurisdiction), and to adopt a procedure of indirect elections. Both recommendations should be taken into consideration.

46. A different system is envisaged for the first election of the Council (see comments on Article 67 below).

Authorised nominators

Article 21

47. The rules provided for in this draft Law for the election of the Council members seem, at first sight, to be very complicated. However, this may be the only means by which to entrust the judiciary with direct power to elect its representatives to the Council (despite the wording of Article 153 of the Constitution).

48. The National Assembly should not be given a real choice of candidates and the *"authorised nominators"* should only propose one candidate per vacant position. In this way, the National Assembly will have a right of veto. This seems to be the only solution which would avoid political considerations being taken into account in the nomination of the Council members.

49. It was clarified at the meeting in Belgrade that the intention is to allow the Council to nominate only one candidate for each vacancy, being the candidate with the most votes, although this does not seem to be very clearly expressed in the text. This represents an ingenious attempt to get around the risk of politicisation as a result of an election by the National Assembly which was criticised by the Venice Commission in its Opinion 405/2006.

50. It remains to be seen whether the draft Law will be held to be compatible with Article 153 of the Serbian Constitution.

Requirements for Candidacy

Article 22

51. It is vital that the members of the Council have sufficient practical experience to carry out their work. Therefore, the requirement of seven years' experience provided in this Article seems adequate.

52. As regards the necessity for a candidate to obtain the support of ten colleagues, please see comments to Article 67 below.

Electoral rights of judges (Article 22) and Standing Electoral Directory of Judges (Article 23)

53. It is not necessary to create an electoral register or directory for the judges who are allowed to vote in the Council elections. It is difficult to see how a president of a court could ignore a colleague in the distribution of ballot papers or how an individual who is not a judge would obtain such a ballot.

Procedure (Articles 28-40)

54. The candidature and election procedure has been set out in great detail. It might have been easier for the draft Law to merely cover the main principles, such as the deadline for the registration of candidates, the list of candidates and the counting of votes. The Council could then deal with the details in a published text.

Article 31

55. According to this Article, the Election Commission (which is a sub-commission of the Council) determines the final list of candidates. This Article does not, however, clarify how this is done. Does the Commission have some choice in the matter or must every person who has ten nominators appear on the ballot paper? It seems that what happens then is that each elector can only vote for one candidate by circling the number before his or her name. This needs to be clarified.

Decision on nomination of candidates for elected members (Articles 41-45)

Articles 41 and 43

56. Article 41 provides that *"the Council shall issue a decision on nomination of candidates for the Council based on the record of election results".* The ballot is to be held again if the two or more leading candidates receive an equal number of votes.

57. Article 43 provides that the Council is to submit its final decision on nomination of candidates from among judges to the National Assembly. It seems that the authorised authorities, i.e. the Council, the Bar Association and professors of law, only present a number of candidates equal to that of vacant seats. This might be clarified.

Election and taking of office (Articles 46-52)

58. The National Assembly's right to veto should not have as a consequence that seats in the Council remain vacant. A subsidiary procedure should therefore be introduced for the cases in which parliament refuses to elect a proposed candidate (Article 47). This is a heavy procedure as it means that the nomination process would have to start all over again. Such a consequence cannot be avoided in the system chosen by this draft Law.

59. Another possibility is that in case of a parliamentary veto, the second candidate on the list be automatically elected.

Procedure for termination of office of the members of the High Court (Judicial) Council

Grounds and Time of Termination

Article 53
60. As is the case with any other job, the termination, retirement, resignation, dismissal and death bring about the end of the working relationship with the Council. However, the provision says nothing on the procedure to follow in order to evaluate a member of the Council's capacity to work (whether mental or physical affected by illness or accident). This could create legal conflicts that are difficult to solve.

61. Proceedings should therefore be provided that deal with these types of situations. All members of the Council should be able to seize the Council with a request to open such proceedings against another member.

Early Termination of the Term of Office

Article 54
62. The third paragraph that fixes the term of office of a new member to five years seems to contradict Article 11 paragraph 2 which provides that a member cannot be re-elected for a new term. This should be revised.

Procedure for dismissal

Reasons

Article 55
63. The definition of a member failing to perform his or her duty or his or her conviction of a criminal offence needs to be clarified. The notion of *"fail to perform a duty"* can cover many situations and could apply to a person who has made a mistake in the drafting of a decision or who was ill for several months etc.

64. *"Criminal offence",* depending on what the Serbian criminal law provides, could refer to serious offences, in which case there is no problem. However, if this notion is not clearly covered by the law, clarification is needed, because not all criminal offences necessarily justify the dismissal of a member from the Council.

Instituting Proceedings (Article 59) and Dismissal (Article 60)

Article 59
"The Council shall take the decision to institute dismissal proceedings within 15 days of receiving the initiative.

The decision to initiate the proceedings may order the measure of suspension until the conclusion of the dismissal proceedings.

An elected member shall be allowed to make a statement on all the allegations relevant for taking the decision on dismissal."

Article 60
"The Council shall take a decision on dismissal within 30 days of initiating the proceedings.

The member whose dismissal is under deliberation does not take part in taking of the decision referred to in para 1."

65. The procedure set out in these two Articles is unusual. Nothing is provided for the verification of allegations made in a denunciation. It may happen that the facts are not clear from the outset requiring further investigation.

66. The deadlines provided, notably the one for thirty days for the Council to deal with a dismissal from the moment the decision to start proceedings is made, seems to mean that the Council has to deliberate immediately on the basis of the information at its disposal, without being able to carry out an investigation to verify the facts. The result might be inadequate due to the unreasonable time constraints.

67. These provisions should be revised.

Director and Staff

Article 64
68. This Article provides that a director be appointed to manage the office and that he or she is appointed for a period of five years and must have a law degree and a minimum of ten years professional experience.

69. It is clear that the members of the Council cannot deal with the administration of this body on their own. Therefore, the nomination of a director is welcome, however the need for a professional experience of ten years might be revised.

Transitional and final provisions

First Election of the Members of the High Judicial Council

Article 67
70. This Article is in the transitional provisions of the draft Law and proposes that, in the first election, there should be one member from the Supreme Court of Serbia, one from the Commercial Courts, two from District Courts and two from the Municipal Courts. One of the District Court and one of the Municipal Court representatives are to be from the territory of autonomous provinces.

71. It is not clear how this selection of representatives from the autonomous provinces is to be effected in practice, since the population of the autonomous provinces is quite a small part of the population of Serbia as a whole. It seems also that this provision would allow for no representation for the Administrative Courts, the Appellate Courts or the Misdemeanour Courts.

72. In relation to elections by judges of the Municipal and District Courts, an election which allows a person to be a candidate with only ten nominators could potentially throw up a very large number of candidates and it would be possible for somebody to obtain the largest number of votes without in fact having a particularly large percentage of the total vote. Consideration might be given to providing for election by means of a transferable vote in which voters would rank the candidates in order of preference, and at the count the lowest candidates would be successively eliminated and their votes transferred to the next available preference until one candidate had a majority of the votes still in play. Such a system would also be less likely to throw up an equality between the two highest candidates when the transfer process was complete.

73. In its comments of 26 December 2007, the Judges Association of Serbia makes some interesting points about the difficulties caused by the fact that most judges will know only the other judges working in their own district or region. As a result they propose a system of indirect election, since otherwise they see elections as inevitably being dominated by judges based in Belgrade. This argument put by the Association of Judges seems to have merit, though the solution to the problem is not immediately obvious.

CONCLUSION

74. The Constitution of Serbia seems to have created an obstacle for the independence of the judiciary and introduced a risk of politicising it by having the National Assembly elect the members of the High Judicial Council without a qualified majority.

75. The draft Law on the High Judicial Council attempts to resolve this problem by giving a powerful role to the judges in the election of the majority of the Council, albeit at the risk of creating a constitutional conflict between the National Assembly and the judiciary.

76. In principle, the draft Law on the High Judicial Council is acceptable. However, the following recommendations should be taken into account, notably:

- Article 2 on the independence and autonomy of the Council should be revised and only mention the co-operation with other state bodies and institutions if this is necessary for the Council's activities and Article 3 should allow the Council to defend its budget in front of parliament;
- the Council's authority to request information in Article 8 should be further specified;
- There is a contradiction in Article 9 paragraph 2 regarding the immunity with respect to expressed opinions that needs to be clarified;
- Article 10 should clarify whether or not the Council members work there on a full-time basis;
- Article 11 paragraph 2 should be clarified to explain how members who leave the Council are replaced and how this affects the five-year term of office;
- Article 12 on competences lists them without providing any further details. This Article should be further developed. Article 13 should be reworded to allow the Council to decide when to hold open or closed sessions.
- Article 15 paragraph 2 on decision making should clarify that decisions are made by a majority of the members present and not of all the members of the Council;

- Article 19 on the representation of courts should be revised to create a fairer representation of all judges in the Council;
- Article 21 on the authorised nominators should be revised and parliament should be given a veto power over the authorised nominators' proposed candidate for each vacant position;
- The creation of an electoral register or directory, under Article 23, for judges allowed to vote in the Council election should be abandoned;
- Article 31 should clarify how the Election Commission determines the final list of candidates;
- Article 47 on the election of members should introduce a subsidiary procedure to cover situations in which parliament refuses to elect a candidate proposed by the authorised nominators;
- Article 53 on grounds and time of termination should include a provision that explains the procedure to follow to evaluate a Council member's capacity to work;
- Article 54 paragraph 3 and Article 11 paragraph 2 seem to contradict each other with respect to the term of office, this needs to be resolved;
- Article 55 on reasons for dismissal of a member needs to be clarified with respect to the definitions of "performance of duty" and "criminal offence";
- Articles 59 and 60 on instituting dismissal proceedings and dismissal need further explanation on how allegations in a denunciation are verified and whether and how investigations are carried out. The short deadlines should be extended;
- Article 64 provides that the director to be appointed is required to have a ten year professional experience. This should be revised.

77. It is clear that there can be no fully satisfactory resolution of all the issues mentioned in this Opinion, short of an amendment of the Constitution itself. Nonetheless, a number of issues mentioned above can also be settled on the level of ordinary legislation.

78. The Venice Commission and Directorate for Legal Co-operation of the Directorate General of Human Rights and Legal Affairs of the Council of Europe are aware that it was a difficult task for the drafters to prepare this Law on the High Judicial Council and congratulate them on their good work.

79. Both remain at the disposal of the Serbian authorities for any further assistance.

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