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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT DECISION

on determination and execution of the activities of the Standing composition of the High Judicial Council for the implementation of the Law on Amendments and Supplements to the Law on Judges, election of Deputy President of High Judicial Council and execution of the procedure for the nomination of candidates for the court presidents

AND

DRAFT DECISION

on determination and execution of the activities of the Standing composition of the State Prosecutorial Council for the implementation of the Law on Amendments and Supplements to the Law on Public Prosecution, election of the Deputy President of the State Prosecutorial Council

of SERBIA

DRAFT

Pursuant to the Article 30, paragraph 1 of the Rulebook of High Judicial Council ("Official Gazette of RS" no. 43/09), the High Judicial Council, on the session held on _____ March 2011, passes the following

DECISION

on determination and execution of the activities of the Standing composition of the High Judicial Council for the implementation of the Law on Amendments and Supplements to the Law on Judges, election of Deputy President of High Judicial Council and execution of the procedure for the nomination of candidates for the court presidents

1. This Decision determines, the activities of the Standing composition of the High Judicial Council for the implementation of the Law on Amendments and Supplements to the Law on Judges ("Official Gazette of RS" no.101/10), election of Deputy President of High Judicial Council and execution of the procedure for the nomination of candidates for the court presidents, as well as the deadlines for their execution.

2. The election of the Deputy President of the High Judicial Council, which shall be conducted within 15 days as of the date of the election of elective members of the Standing composition of High Judicial Council from the rank of judges.

3. Adoption of the legal act of the Standing composition of the High Judicial Council which shall regulate, in more details, the proceedings, method of conducting interviews with the complaint petitioners and a method of application of the existing criteria and measures for the evaluation of qualification, competence and worthiness of a judge in the proceedings for the review of the decisions of the First composition of High Judicial Council on the termination of judicial duty of judges elected pursuant to the previously applied laws, which shall be adopted within 15 days as of the date of election of elective members of the Standing composition of the High Judicial Council from the rank of judges.

4. Forming of temporary working bodies of the Standing composition of the High Judicial Council, in accordance with the Article 16 of the Law on the High Judicial Council, composed of elective members of the Standing composition of the High Judicial Council, which shall conduct the review procedure of decisions of the First composition of the High Judicial Council on the termination of the judicial duty, decisions on the election of judges, that is decisions on the nomination for the election of judges, which shall be formed within 15 days as of the date of the election of elective members of Standing composition of the High Judicial Council from the rank of judges.

5. The review procedure of the decisions of the First composition of the High Judicial Council on the termination of the judicial duty of judges elected pursuant to the previously applied laws shall be conducted until the 31 December 2011. Decisions in this procedure need to be reasoned, in accordance with the Law on High Judicial Council.

6. The review procedure of the decisions of the First composition of the High Judicial Council on the nomination for the election of first time elected judges to the judicial office shall be conducted until 31 December 2011.

7. The review procedure of the decisions of the First composition of the High Judicial Council on the election of judges to the permanent tenure shall be conducted until 31 December 2011.

8. Members of the High Judicial Council which participated in the delivery of decisions on termination of judicial duties of judges elected pursuant to the previously applied laws, decisions on the nomination for the election of first time elected judges to the judicial office, as well as the decision on the election of judges to the permanent tenure, shall recuse from participating in deliberation of questions and adjudication in the proceedings from points 5 to 7 of this Decision, in accordance with the provision of Article 13, paragraph 1, point 6 of the Rulebook of the High Judicial Council.

9. The procedure for the nomination of the candidates for the election of presidents of courts shall be conducted within 60 days as of the date of the announcement of a public notice.

10. The announcement of a public notice on the election of presidents of courts shall be published until 1 April 2011.

P R E S I D E N T

DRAFT

Pursuant to the Article 21, paragraph 1 of the Rulebook on the procedure of the State Prosecutorial Council ("Official Gazette of RS" no. 55/09), the State Prosecutorial Council, on the session held on _____ 2011, passes the following

DECISION

on determination and execution of the activities of the Standing composition of the State Prosecutorial Council for the implementation of the Law on Amendments and Supplements to the Law on Public Prosecution, election of the Deputy President of the State Prosecutorial Council

1. This Decision determines the activities of the Standing composition of the State Prosecutorial Council for the implementation of the Law on Amendments and Additions to the Law on Public Prosecution ("Official Gazette of RS" no.101/10), election of the Deputy President of the State Prosecutorial Council as well as the deadlines for their execution.
2. The election of the Deputy President of the State Prosecutorial Council shall be conducted within 15 days as of the date of the election of the elective members of the Standing composition of the State Prosecutorial Council from the rank of public prosecutors and deputy public prosecutors.
3. Adoption of the legal act of the Standing composition of the State Prosecutorial Council which shall regulate in more details, the proceedings, method of conducting of interviews with the complaint petitioners and method of application of the existing criteria and measures for the evaluation of qualification, competence and worthiness of public prosecutors and deputy public prosecutors in the proceedings for the review of the decisions of the First composition of the State Prosecutorial Council on the termination of the public prosecutorial duties of the public prosecutors and deputy public prosecutors elected pursuant to the previously applied laws, which shall be adopted within 15 days as of the date of the election of elective members of the Standing composition of the State Prosecutorial Council from the rank of public prosecutors and deputy public prosecutors.
4. Forming of temporary working bodies of the Standing composition of State Prosecutorial Council, in accordance with the Article 16 of the Law on the State Prosecutorial Council, composed of the elective members of the Standing composition of State Prosecutorial Council, which shall conduct the review procedure of decisions of the First composition of State Prosecutorial Council on the termination of the public prosecutorial duties, of decisions on election of public prosecutors and deputy public prosecutors, that is decisions on the nomination for the election of bearers of public prosecutorial duties, which shall be formed within 15 days as of the date of the election of elective members of Standing composition of State Prosecutorial Council from the rank of public prosecutors and deputy public prosecutors.

5. The review procedure of the decisions of the First composition of the State Prosecutorial Council on the termination of the public prosecutorial duties of public prosecutors and deputy public prosecutors elected pursuant to the previously applied laws shall be conducted until 31 December 2011. Decisions in this procedure have to be reasoned, in accordance with the Law on the State Prosecutorial Council.
6. The review procedure of the decisions of the First composition of the State Prosecutorial Council on the nomination for the election of first time elected deputy public prosecutors for the public prosecutorial office shall be conducted until 31 December 2011.
7. The review procedure of the decisions of the First composition of the State Prosecutorial Council on the election of public prosecutors and deputy public prosecutors on permanent public prosecutorial tenure shall be conducted until 31 December 2011.
8. Members of the State Prosecutorial Council, which participated in the delivery of decisions on the termination of the public prosecutorial duties of the public prosecutors and deputy public prosecutors elected pursuant to the previously applied laws, Decisions on the nomination for the election of first time elected deputy public prosecutors for the public prosecutorial office, as well as Decisions on the election of deputy public prosecutors on permanent public prosecutorial tenure shall recuse from participating in deliberation and adjudication in the proceedings from points 5 to 7 of this Decision, in accordance with the provision of Article 24, paragraph 2 of the Rulebook on the procedure of the State Prosecutorial Council.

PRESIDENT OF THE STATE
PROSECUTORIAL COUNCIL