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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

SERBIA

DRAFT AMENDMENTS TO THE LAW ON JUDGES AND
THE LAW ON THE PUBLIC PROSECUTOR'S OFFICE
RELATING TO THE JUDICIAL ACADEMY
(OPTION 2)

- **The proposal which is aligned with the alternative version of the Draft Law on the Judicial Academy**

DRAFT LAW AMENDING THE LAW ON JUDGES

Article 1

In the Law on Judges ("Official Gazette of the RS", No. 10/23), Article 51 is amended to read:

„Article 51

The expertise and competence of a candidate for a judge who is elected at the judicial office for the first time shall be determined by a certificate of completion of prior training at the Judicial Academy.”

Article 2

A candidate for a judge who is elected at the judicial office for the first time and who completed prior training at the Judicial Academy by the entry into force of Article 1 of this law shall not be obliged to take the exam referred to in Article 51, Paragraph 1 of the Law on Judges ("Official Gazette of the RS ", No. 10/23), and the final grade of prior training at the Judicial Academy shall be taken as a measure of expertise and competence.

The provision of Article 51, Paragraph 3 of the Law on Judges ("Official Gazette of the RS", No. 10/23) shall apply, even after the entry into force of Article 1 of this law, to a candidate for a judge who is elected at the judicial office for the first time in a basic or misdemeanor court, and who, in accordance with the Law on the Judicial Academy ("Official Gazette of the RS", No. 104/09, 32/14 - CC and 106/15), was admitted to initial training, started the initial training or completed the initial training by the date of the entry into force of this article of the law.

The provisions of Article 51, para. 1, 2 and 4 of the Law on Judges ("Official Gazette of the RS", No. 10/23) shall apply, even after the entry into force of Article 1 of this law, to a candidate for a judge who is elected at the judicial office for the first time, and who, by the date of the entry into force of Article 1 of this law passed the exam referred to in Article 51, Paragraph 1 of the Law on Judges ("Official Gazette of the RS", No. 10/23).

The provisions of Article 51, para. 1, 2 and 4 of the Law on Judges ("Official Gazette of the RS", No. 10/23) shall apply, even after the entry into force of Article 1 of this law, to a candidate for a judge who is elected at the judicial office for the first time from among judicial assistants, who is employed on the date of the entry into force of this article of the law.

Article 3

This law shall enter into force on January 1, 2029, except for the provision of Article 2, which shall enter into force on March 1, 2025.

OVERVIEW OF THE PROVISION OF THE LAW ON JUDGES BEING AMENDED

Article 51

~~The expertise and competence of a candidate for a judge who is elected at the judicial office for the first time shall be verified at an exam organized by the High Judicial Council.~~

~~The performance at the exam shall be expressed by a grade from 1 to 5.~~

~~A candidate for a judge who is elected at the judicial office for the first time in a basic or misdemeanor court and who completed the initial training at the Judicial Academy shall not be obliged to take the exam organized by the High Judicial Council, and the final grade at the initial training at the Judicial Academy shall be taken as a measure of expertise and competence.~~

~~The High Judicial Council shall stipulate the program and the method of taking the exam, which evaluates the expertise and competence of the candidate for a judge.~~

THE EXPERTISE AND COMPETENCE OF A CANDIDATE FOR A JUDGE WHO IS ELECTED AT THE JUDICIAL OFFICE FOR THE FIRST TIME SHALL BE DETERMINED BY A CERTIFICATE OF COMPLETION OF PRIOR TRAINING AT THE JUDICIAL ACADEMY.

DRAFT LAW AMENDING THE LAW ON PUBLIC PROSECUTOR'S OFFICE**Article 1**

In the Law on Public Prosecutor's Office („Official Gazette of the RS", No. 10/23), Article 84 is amended to read:

„Article 84

The expertise and competence of a candidate for a holder of a public prosecutor's office who is elected for a public prosecutor for the first time shall be determined by a certificate of completion of prior training at the Judicial Academy.”

Article 2

A candidate for a holder of a public prosecutor's office who is elected for a public prosecutor for the first time and who completed prior training at the Judicial Academy by the entry into force of Article 1 of this law shall not be obliged to take the exam referred to in Article 84, Paragraph 2 of the Law on Public Prosecutor's Office ("Official Gazette of the RS", No. 10/23), and the final grade of prior training at the Judicial Academy shall be taken as a measure of expertise and competence.

The provision of Article 84, Paragraph 4 of the Law on Public Prosecutor's Office ("Official Gazette of the RS", No. 10/23) shall apply, even after the entry into force of Article 1 of this law, to a candidate for a public prosecutor who is elected for a public prosecutor for the first time in a basic public prosecutor's office, and who, in accordance with the Law on the Judicial Academy ("Official Gazette of the RS", No. 104/09, 32/14 - CC and 106/15), was admitted to initial training, started the initial training or completed the initial training by the date of the entry into force of this article of the law.

The provisions of Article 84, para. 1, 2, 3 and 5 of the Law on Public Prosecutor's Office ("Official Gazette of the RS", No. 10/23) shall apply, even after the entry into force of Article 1 of this law, to a candidate who is elected for a holder of a public prosecutor's office for the first time, and who, by the date of the entry into force of Article 1 of this law passed the exam referred to in Article 84, Paragraph 2 of the Law on Public Prosecutor's Office ("Official Gazette of the RS", No. 10/23).

The provisions of Article 84, para. 1, 2, 3 and 5 of the Law on Public Prosecutor's Office ("Official Gazette of the RS", No. 10/23) shall apply, even after the entry into force of Article 1 of this law, to a candidate who is elected for a holder of a public prosecutor's office for the first time from among prosecutorial assistants, who is employed on the date of entry into force of this article of the law.

Article 3

This law shall enter into force on January 1, 2029, except for the provision of Article 2, which shall enter into force on March 1, 2025.

OVERVIEW OF THE PROVISION OF THE LAW ON PUBLIC PROSECUTOR'S
OFFICE BEING AMENDED

Article 84

~~In the procedure of election of a holder of a public prosecutor's office, the expertise and competence of a candidate who is elected for a public prosecutor for the first time in a public prosecutor's office shall be individually assessed.~~

~~The expertise and competence of a candidate shall be assessed at an exam organized by the High Prosecutorial Council.~~

~~The performance at the exam shall be expressed by a grade from 1 to 5.~~

~~A candidate for a public prosecutor who is elected for a public prosecutor in a basic public prosecutor's office and who completed the initial training at the Judicial Academy shall not be obliged to take the exam organized by the High Prosecutorial Council, and the final grade at the initial training at the Judicial Academy shall be taken as a measure of expertise and competence.~~

~~The High Prosecutorial Council shall stipulate the program and the method of taking the exam, which evaluates the expertise and competence of the candidate.~~

THE EXPERTISE AND COMPETENCE OF A CANDIDATE FOR A HOLDER OF A PUBLIC PROSECUTOR'S OFFICE WHO IS ELECTED FOR A PUBLIC PROSECUTOR FOR THE FIRST TIME SHALL BE DETERMINED BY A CERTIFICATE OF COMPLETION OF PRIOR TRAINING AT THE JUDICIAL ACADEMY.