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JUDICIARY IN THE SERBIAN CONSTITUTION OF 2006 AND A CRITICAL REVIEW OF DRAFT AMENDMENTS[**]

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This article analyzes the position of judiciary in the Constitution of the Republic of Serbia. Legal norms on the organization of judiciary are one of the most important segments of constitutional matter, having in mind that for the functioning of democracy it is important to ensure complete independence of the judiciary from so-called "political authorities" – legislative and executive. The independence of the judiciary can only be ensured by the constitution. However, the Serbian Constitution of 2006 has taken a different stand on this part of constitutional matter, giving the legislator a wide authority to regulate substantive issues relating to the judiciary (election and dismissal of judges), which largely subordinates judicial power to the legislative. First, the constitutional norms on judiciary will be analyzed in this paper. The Serbian Constitution contains five key issues related to the independence of judiciary. Further analysis will include proposed amendments to the Constitution. Ministry of Justice's Working Version of the Draft Amendments to the Constitution has not adequately solved any of five problems. Finally, useful conclusions about the position of the judiciary in the Republic of Serbia will be drawn.

Key words: The *Serbian Constitution of 2006. – "Ministry of Justice's Working Version of the Draft Amendments to the Constitution". – Separation of powers. – Judiciary. – Judicial independence.*

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1. INTRODUCTION

One of the basic requirements for rule of law is an independent judiciary. Unlike the two political powers – legislative and executive – whose relationship rests on "checks and balances", the judicial branch has to be independent of any political influence. This can be ensured only by the constitution, as both legislative and executive branches are subjected to the constitution. So the supreme law must protect the judicial branch from the possibility of influence by the political powers. This means that the constitution itself must turn off any possibility of the legislative or executive violating the constitutionally guaranteed status of judiciary. An independent judiciary "maintains the balance" in the system of government, since its role is to prevent the abuse of authority. That is why James Bryce concluded long time ago that there is no better proof of the validity of a rule than the work of its judicial system.[1]

In order to ensure a proper position of the judiciary in the constitutional system, the Serbian Constitution of 2006 provides ample of constitutional principles regarding judicial power: autonomy and independence of courts, constitutionality and legality, obligatory nature of court decisions, collegiality of conducting trials, system of mixed jury, public hearing before a court, permanent tenure of judicial office, judicial immunity and incompatibility of judiciary function with other functions, actions or private interests (Art. 142, 145, 146, 149–152 of the Constitution).

However, the Serbian Constitution of 2006 has not properly regulated the matter that regulates the independence of the judiciary, because it entrusted the legislator with too much power in the field of substantive issues relating to the judiciary, especially in relation to the election and dismissal of judges. Thus, the Constitution greatly subordinated the judiciary to the political branches. Excessive powers of the National Assembly could produce unacceptably high politicization of the judiciary and even jeopardize its independence in the future.

2. JUDICIARY IN SERBIAN CONSTITUTION OF 2006

Serbian Constitution of 2006 contains five key issues related to the independence of judiciary. The first one is the incorrect definition of the principle of separation of powers, which stipulates that the judiciary, which should be independent from political authorities, is in relationship of "balance and mutual control" with them (Art. 4.3). "Mutual control" and "independence" are mutually exclusive principles. Another issue is

[1] Dž. Brajs, *Savremene demokratije*, III, Beograd 1933, 88.

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the great influence of political authorities, primarily the National Assembly, in the election of judges. Thirdly, the author of the constitution has failed to prescribe a basis for termination of judicial office and dismissal of judges, so the legislature has too much influence on the judiciary, because the National Assembly has complete freedom to provide grounds for termination of judicial office and dismissal of judges. The fourth issue is politicized composition of the High Judicial Council, which is defined as an "independent and autonomous body" (Art. 153 of the Constitution), but it is apparent that there is nothing left of this proclaimed independence and autonomy, since all eleven of its members are elected, in a direct or indirect manner, by a political authority – the National Assembly. Finally, the name of the highest court in the Republic, i.e. the Supreme Court of Cassation (Art. 143 of the Constitution), is contradictory.

2.1. Separation of powers and independence of the judiciary

The basic achievements of modern constitutionalism are the two principles: the principle of popular sovereignty and the principle of separation of powers. Modern rule of law, therefore, rests on two grounds: first, all the power comes from the citizens, and they exercise it either directly or through their freely elected representatives, and second, three main functions of state power (legislative, executive and judicial) have different holders. When the principle of the separation of powers is accepted, the three basic functions of state power are exercised by three branches, among which there is no organizational or functional subordination. "The principle of separation of powers is said to be nothing but the principle of the division of labor applied to the organization of the state."[2] The legislative and executive power have political content, because their holders are elected or appointed on the basis of political criteria. On the other hand, the judicial authority requires extraordinary professionalism and legal education for its exercise, and because of that judges should be selected primarily on the basis of professional criteria. Judicial independence is the concept that judiciary needs to be kept away from other branches of government. The constitution must condemn any possibility of parliament, the government or the head of state in any way violating the independent status of the judiciary.

The Serbian Constitution of 2006 accepts the principle of rule of law (Art. 3). That principle is defined in its "classical" form, as it was determined by prominent British constitutionalist Albert Venn Dicey long ago,[3] because the Constitution stipulates that it shall be exercised through

[2] R. Marković, *Ustavno pravo*, Beograd 2014, 177.

[3] A.V. Dicey, *An Introduction to the Study of the Law of the Constitution*, Palgrave Macmillan UK, London 1979, 193–194.

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free and direct elections, constitutional guarantees of human and minority rights, separation of powers, independent judiciary and observance of the Constitution and the Law by the authorities. When it comes to the separation of powers (Art. 4), the Serbian Constitution provides that "government system shall be based on the division of power into legislative, executive and judiciary", while relations between three branches of powers shall be based on "balance and mutual control", but judiciary shall be independent. This provision clearly shows that the principle of separation of powers is accepted in its "soft" form, typical for a parliamentary system of government. But the constitutional provision on mutual control between different authorities is in direct contravention with the following paragraph of Article 4 of the Constitution, which prescribes that the judicial power is independent. Namely, one branch cannot be at the same time independent and under the control of other two branches of government. "In fact, it should be said that the relationship between legislative and executive power is based on 'balance and mutual control', and that the judicial power is independent (...)".[4] In that case, the norm contained in Article 145 of the Constitution, which stipulates that judicial decisions cannot be subject to extrajudicial control, and that "the court's decision can be reconsidered an authorized court in the a legal proceeding prescribed by the Law," would receive its full meaning.

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2.2. Election of judges – between law and politics

Creators of the 2006 Constitution tried to maintain the appropriate solutions of the 1990 Constitution of the Republic of Serbia, and at the same time eliminate its shortcomings. However, they succeeded only partially. Some parts of the constitutional matter remained intact, and among those that were changed are norms on the organization of the judiciary.

One of the main shortcomings of the Serbian Constitution of 1990, which has often been heavily criticized, is the election of judges by the National Assembly. In this way, the Constitution has largely subordinated the judicial power to the political one. According to the current constitutional norm, the election of judges for the permanent performance of judicial function is entrusted to a special body of judicial administration –the High Judicial Council. However, the problem is that judges "beginners" – judges elected for the first time to office, whose mandate lasts three years – are elected by the National Assembly (although, at the proposal of the High Judicial Council – Art. 147 of the Constitution). In this way, the role of the High Judicial Council in the process of election of judges is largely marginalized, since after three years that body can

[4] R. Marković, "Ustav Republike Srbije iz 2006 – kritički pogled", *Anali Pravnog fakulteta u Beogradu* 2/2006,9.

elect a judge for permanent office only from among candidates previously elected by the political authority, i.e. parliament. The situation is further exacerbated by the constitutional norm according to which the National Assembly elects the presidents of all courts, including the president of the Supreme Court of Cassation (Art. 144 of the Constitution). It is clear that despite the introduction of a special body that should ensure the independence of the judiciary, i.e. the High Judicial Council, the current Constitution of Serbia fails to eliminate the influence of political authorities on the election of judges and this influence remains significant.

One way to promote judicial independence is by granting life tenure or long tenure for judges, which ideally frees them to decide cases and make rulings according to the rule of law and judicial discretion. The Constitution of 2006 introduced an exception to the principle of permanent tenure (Art. 146.2 of the Constitution), because a person who is elected a judge for the first time is be elected for the period of three years. The principle of permanent tenure of judicial office is one of the strongest means of protecting the judiciary from the executive, which often has pretensions to the election of judges and the decision-making process. Permanent tenure of office gives judges the ability to resist the influence of political authorities and to perform the function professionally. When a judge strives for his/her own position because of the possibility of re-election, he/she cannot be independent in the application of law, but, consciously or unconsciously, hears the will of political and financial powers. However, part of theory considers that this deviation in the case of newly elected judges has its purpose and it is not always seen as a disadvantage. Moreover, the European Court of Human Rights has taken the view that the solution, according to which judges should undergo a "trial period", does not threaten the independence of judges, but that this period should be slightly longer – five or six years.[5] In contrast, in its opinion on the Constitution of Serbia of 2006, the Venice Commission commended the duration of the probationary term of office for judges, stressing that its suggestions had been adopted.[6] However, regardless of the length of the period, this solution has one undeniable shortcoming: judges on "probation" are trying to recommend themselves to the High Judicial Council, a body dependent on parliament.

2.3. Termination of judicial office and dismissal of judges

In general, one of the main problems in the current Serbian Constitution is that the constitution-maker had no sense of the issues to

[5] *Le Compte, van Leuven and De Meyere v. Belgium* (1981) and *Incal v. Turkey* (1998)

[6] European Commission for Democracy through Law, Opinion on the Constitution of Serbia, CDL-AD(2007)004, paragraph 64.

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be regulated in detail by the Constitution. Therefore, some important institutions are not defined precisely enough, while on the other hand, the Constitution has found the place for certain norms that should be the subject of laws or regulations. When it comes to the judiciary, a good illustration of this problem is the absence of provisions that would regulate termination of judicial office and dismissal of judges. The framers of the Constitution, without any logic, left the regulation of these issues to the legislator. “The manner in which the Constitution regulated termination of mandate and dismissal of judges indicates that regulation of these issues is largely left to the law, and that important and extremely sensitive issues for status of judges and status of courts in the constitutional system did not get the status of constitutional matter.”[7] Constitution stipulates that “the proceedings, grounds and reasons for termination of a judge’s tenure of office, as well as the reasons for the relief of duty of the President of Court shall be stipulated by the Law” (Art.148.3). In this way, the Constitution has undoubtedly made a step backwards to the previous Constitution and weakened the independent position of courts and judges, whose “fate” is now in the hands of parliament. According to R. Marković, “the deconstitutionalization of the grounds for termination of judicial office and dismissal of judges weakens the position of the judiciary as an independent branch of power in the system of government.”[8] The independence of the judiciary is highly endangered by this solution.

2.4. The politicization of the High Judicial Council

The High Judicial Council, although constitutionally defined as “an independent and autonomous body which shall provide for and guarantee independence and autonomy of courts and judges” (Art. 153.1), is not freed of the influence of political factors on its work. This is clearly seen from the current norms that govern the composition of this body, which has 11 members: three members *ex officio* and eight elected members. The High Judicial Council consists of the president of the Supreme Court of Cassation, the minister responsible for justice and the president of the authorized committee of the National Assembly, as members *ex officio*, and eight electoral members elected by the National Assembly, in accordance with the law. Two out of three members are purely political officials – the minister responsible for justice and the president of the authorized committee of the National Assembly. The third *ex officio* member, the president of the Supreme Court of Cassation, as well as other eight “elected” members (six judges holding permanent seats and two “respected and prominent” lawyers with at least 15 years of

[7] M. Pajvančić, *Komentar Ustava Republike Srbije*, Beograd 2009, 188.

[8] R. Marković (2014) 22.

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professional experience, one of which is a solicitor, and the other a professor at the faculty of law) are elected by political authority, i.e. the National Assembly. In summary, the High Judicial Council is heavily influenced by the parliament, which is a political body, since all its members are elected in parliament, in on way or another. The influence of political factors is enhanced by presence of a member of the Government (minister responsible for justice) and representative of the National Assembly (president of the authorized committee of the National Assembly). The original idea of constitutional framers was probably to establish a body that would impartially and independently make decisions in order to preserve the principle of independence of judiciary. However, this idea has lost its significance with the members of the High Judicial Council being chosen by the parliament and with the introduction of two purely political officials in its makeup.

2.5. The Supreme Court in the Republic of Serbia

The Serbian Constitution of 2006 has devoted little space to the organization of courts, assuming only that "judicial power in the Republic of Serbia shall belong to courts of general and special jurisdiction" (Art.143.1), whereby "provisional courts, courts-martial or special courts may not be established" (Art. 143.3). The Constitution delegates to the legislature the right to closely regulate the status of courts, because "establishing, organization, jurisdiction, system and structure of courts shall be regulated by the Law" (Art. 143.2). The only court whose existence is explicitly foreseen in the Constitution is the Supreme Court of Cassation, which is defined as "the supreme court in the Republic of Serbia" (Art. 143.4). The seat of the Supreme Court of Cassation is in Belgrade (Art. 143.5). The position of the highest court in the country is regulated by the Constitution only in principle, and the details are left to the legislator. The only question regulated in detail by the Constitution is position of the president of the Supreme Court of Cassation (Art. 144). President of the Supreme Court of Cassation is elected by the National Assembly, following the proposal by the High Judicial Council and the received opinion of the meeting of the Supreme Court of Cassation and competent committee of the National Assembly. The president of the Supreme Court of Cassation is elected for the period of five years and may not be reelected. Although it is not common in comparative law to precisely regulate organizational and technical issues related to courts in the constitution, it would be useful if this matter was regulated more comprehensively in order to give guidance to the legislature for defining details.

However, in these few provisions on the organization of courts, the framer of the Constitution made one almost intolerable terminological

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omission: the name of the highest court in the country – the Supreme Court of Cassation – is contradictory. Merging both terms ("supreme" and "cassation") into one name is extremely rare, unnecessary and contradictory, because both terms indicate the basic role of the highest court, that is either to abolish or reverse the decisions of lower courts. In comparative law, namely, there are two basic models of the organization of the highest court in the country. The first model (Supreme Court model) implies that the highest court decides on merits of the dispute, i.e. it resolves the dispute in a proper manner. The second model (Court of Cassation model) does not involve deciding on merits by the highest court, but only deciding on lawfulness of a lower court judgment, with the right to annul an unlawful judgment and return the case for a retrial. By calling the highest court of the Republic of Serbia the Supreme Court of Cassation, framer of the Constitution "combined" these two seemingly incompatible models and placed the legislator into an awkward position.

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3. MINISTRY OF JUSTICE'S WORKING VERSION OF THE DRAFT AMENDMENTS TO THE CONSTITUTION

The Ministry of Justice's Working Version of the Draft Amendments to the Constitution of the Republic of Serbia covered four of the five problems mentioned, but failed to offer a valid solution for any of them.

3.1. Separation of powers

The Working Version of the Draft Amendments does not mention the constitutional principle of separation of powers. If they wanted to appropriately correct the problematic constitutional norms on the judiciary, the authors of the constitutional amendments would have had to start from the constitutional principle of separation of powers. However, when analyzing proposed solutions regarding the election of judges and their dismissal, as well as the composition and manner of work of the High Judicial Council, it seems that the constitutional provision on the control of the judiciary by the political authorities (Art. 4.3 of the Constitution) expresses the position of the judiciary properly.

3.2. Election of judges

Ministry of Justice's Working Version of the Draft Amendments to the Constitution returns to the principle of absolute permanence of tenure of judicial office and provides that all judges are elected by the High Judicial Council. A judicial tenure lasts from the moment of appointment until retirement. In this part, proposed solutions deserve praise. However,

there are two key problems concerning the election of judges: the politicized composition of the High Judicial Council, and a "special training in a judicial training institution established by the law" as a mandatory condition for appointment to judicial office.

According to the current Constitution, the composition of the High Judicial Council is under the unacceptable influence of the National Assembly. The Working Version of the Draft Amendments proposes that the High Judicial Council is composed of ten members, of whom five judges elected by their peers and five are "prominent lawyers" elected by the National Assembly (Amendment IX). But this second half of members would have majority, because it is proposed that the president of the Council should have a "golden vote": the High Judicial Council adopts decisions by the votes of at least six members of the Council or the votes of a minimum of five members of the Council including the vote of the president of the High Judicial Council (Amendment XII), and "the president of the High Judicial Council shall be elected among members who are not judges" (Amendment XI). Therefore, members elected by the political authorities would have a key dominance over judges elected by their peers. This will be discussed in detail in section 3.4.

"Special training" in a "judicial training institution established by the law", as a mandatory condition for appointment to judicial office, is a key mechanism through which the political authorities, in particular the executive branch, would keep the judiciary under direct control. The Working Version of the Draft Amendments proposes that "as a judge in the courts with exclusively first-instance jurisdiction may only be elected a person who has completed special training in a judicial training institution established by the law" (Amendment IV, para. 2). Therefore, the Working Version of the Draft Amendments grants the "judicial training institution" a monopoly in "training" of future judges. Since there are no more provisions on the "judicial training institution", the National Assembly would have "carte blanche" to regulate its organization and functioning, as well as the ability to put it under direct control of the executive (as it is case with the existing Judicial Academy). In this way, the political authorities would in fact decide which candidates will receive "special training" at the "judicial training institution", thus essentially deciding which candidates will be elected in the future by the High Judicial Council. So the "judicial training institution" would make the first and the final selection of future judges and the High Judicial Council would be forced to "confirm" this "preliminary election" later, because the High Judicial Council would be limited to candidates who have completed that "special training". In this case judicial function would not be available to all law graduates under equal conditions, and this is not the way to ensure that lawyers with the highest level of expertise and integrity become judges.

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3.3. Termination of judicial office and dismissal of judges

The Working Version of the Draft Amendments to the Constitution (Amendment IV, para. 4 and 5) tries to eliminate the lack of the current Constitution and to prescribe (“constitutionalize”) the grounds for termination of judicial office and dismissal of judges. At first glance, the proposed solution is an improvement of the current constitutional text, as it fills a large constitutional gap. However, after analyzing of its content, it is clear that this is only another means by which the judiciary is placed under the control of political authorities.

The Working Version of the Draft Amendments proposes that a judicial tenure last from the moment of appointment until retirement (principle of permanent tenure), and “a judicial tenure of office shall terminate earlier upon personal request, in case of permanent disability for judicial function or in case of dismissal.” Termination upon personal request and case of permanent disability for judicial function are common grounds for termination of judicial office (Amendment IV, para. 4).

When it comes to the dismissal of judges, conditions for such termination of judicial office have to be defined precisely and must exclude every form of arbitrariness. Otherwise, the position of the judiciary as an independent branch of government would be jeopardized. According to the Working Version of the Draft Amendments “a judge shall be dismissed if he/she has been sentenced of imprisonment for a criminal offense; if he/she has been convicted for an act that renders him/her unworthy for the judicial function; if he/she incompetently performs the judicial function, or in case of imposing a disciplinary measure of termination of judicial function” (Amendment IV, para. 5). The last ground for dismissal, the disciplinary measure of termination of judicial function, would be a mechanism through which every judge could be dismissed at the initiative of political authority, since the Working Version of the Draft Amendments proposes that “disciplinary proceedings and the procedure for the dismissal of a judge and a president of the court may also be initiated by the minister in charge of the judiciary” (Amendment VIII, para. 3).

In short, in addition to the fact that the executive power would essentially decide on who *will be* a judge (when enrolling candidates in the “judicial training institution”), it would have a major impact on who *will not be* a judge through the procedure for dismissal of judges, in case of imposing a disciplinary measure of termination of judicial function. Besides, it is conceivable that the law might provide minor disciplinary offense as a ground for dismissal. These mechanisms of political control of the judiciary would completely jeopardize the principle of the independence of judiciary in the Republic of Serbia.

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3.4. The High Judicial Council

The composition of the High Judicial Council is undoubtedly one of the most criticized provisions of Serbian Constitution of 2006. For more than a decade, numerous objections have been made regarding the election of all its members by the National Assembly. So it was expected that constitutional framers would find a solution to make the Council truly independent. Unfortunately, the Working Version of the Draft Amendments did not meet these expectations. It prescribes (Amendment IX) that "the High Judicial Council shall be composed of ten members of whom five judges elected by their peers and five prominent lawyers elected by the National Assembly." Therefore, instead of the current norm, according to which the National Assembly chooses all the members of the High Judicial Council, the Working Version proposes a solution where the National Assembly chooses half of its members. It is clear that such solution keeps this body under strong influence of the parliament. However, in the current structure of 11 members of the High Judicial Council there are seven judges, who make up a majority of its composition, and according to the proposed solution they would make only half, and only by number, but not by influence.

So-called "prominent lawyers" do not have to be truly "prominent" among lawyers, because they become "prominent" after being elected to the parliament. In other words, the National Assembly promotes "ordinary" lawyers into "prominent" ones. Amendment IX stipulates: "The National Assembly shall elect five members of the High Judicial Council upon the proposal of the competent parliamentary committee after having conducted a public competition, by a three-fifth vote of all deputies. In case they are not all elected in this manner, the remaining deputies shall be elected within the next ten days by a five-ninth vote of all deputies, otherwise the election procedure is repeated after fifteen days, for the number of members who have not been elected." It appears that the procedure for choosing "prominent" lawyers is too complicated and does not ensure selection of truly respected members of the legal profession. Public competition is certainly not the way to come by the most distinguished lawyers, and its inclusion in the constitutional text represents an unnecessary spread of constitutional matter.

When analyzing the provisions on the president of the High Judicial Council and the decision-making process in that body, it becomes clear that the emancipation of the High Judicial Council from the influence of political authorities was not a goal of the Working Version of the Draft Amendments; the aim is obviously to preserve political influence on the judiciary, but in a hidden form. The Working Version suggests that "president of the High Judicial Council shall be elected among members who are not judges" (Amendment XI), as well as that "the High Judicial Council shall adopt decisions by the votes of at least six members of the

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Council or the votes of minimum five members of the Council including the vote of the president of the High Judicial Council, at a session where at least seven members of the Council are present" (Amendment XII). Therefore, in the case of equal distribution of votes, the vote of the president of the High Judicial Council is doubled. By giving the "golden vote" to the president of the High Judicial Council, the Working Version of the Draft Amendments has given a decisive advantage to members elected by the political authority. Furthermore, it should be emphasized that such confrontation of judges and "prominent lawyers" within the High Judicial Council is an extremely bad solution, because the decisions of this body should be undisputed and passed by a qualified majority. Therefore, the proposed solution is a complete failure.

3.5. The Supreme Court in the Republic of Serbia

The Working Version of the Draft Amendments (Amendment VI) suggests that the name of highest court in the Republic of Serbia should be changed to the Supreme Court. Here, at first glance, it seems that the Working Version proposes a solid solution. However, when the Working Version is analyzed deeper, it becomes clear that it is just an illusion. Unlike the current solution, according to which "the seat of the Supreme Court of Cassation shall be in Belgrade" (Art. 143.5 of the Constitution), the Working Version has omitted to define the provision on the seat of the Supreme Court (Amendment VI). The working version also proposes the complete deletion of the norms on the types of courts (Art. 143 of the Constitution), so it is clear that the Working Version has failed in the domain of court organization.

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4. CONCLUDING REMARKS

There is a discrepancy between proclaimed principles of separation of powers and independence of the judiciary in the Republic of Serbia. The laws governing the judicial authorities did not at any time support these two constitutional principles.[9] The constitutional position of the judiciary in Serbia today is such that it can hardly be regarded as independent, which is one of the basic elements of rule of law.[10] Hence, the constitutional reform should correct the mistakes made in the Constitution.

The Working Version of the Draft Amendments did not adequately solve any of five key issues related to the judiciary. Firstly, the separation of powers as one of the principles of the Constitution is not even

[9] R. Marković (2014), 517.

[10] M. Pajvančić, 15–16.

mentioned in the Working Version. Secondly, the election of judges is entrusted exclusively to the High Judicial Council, but that body is still not independent from political authorities. Additionally, a "special training" in the "judicial training institution" fully ties the hands of the High Judicial Council and completely trivializes the system of election of judges. Thirdly, the Working Version of the Draft Amendments proposes the "constitutionalization" of the legal grounds for termination of judicial office and dismissal of judges, but in a completely inappropriate manner. It envisages the "disciplinary measure of termination of judicial function" as one of the grounds, whereby disciplinary procedure can be initiated by the executive government. Fourthly, a completely changed composition of the High Judicial Council is proposed, but in its ten-member composition, the members elected by the National Assembly would prevail, which means that this body would continue to be under the decisive influence of the political authority. And fifthly, the Working Version proposes that the name of the highest court should be changed to the "Supreme Court", but it does not determine where its seat will be, and the existing provisions on the types of courts are erased and "deconstitutionalized".

In summary, the Working Version of the Draft Amendments contains too many possibilities for the influence of political authorities on the judiciary. The principle of the independence of the judiciary would undoubtedly experience a complete collapse thanks to strong control mechanisms in the hands of political authorities. Therefore, it seems that such a draft of constitutional amendments is incorrigible. The only valid and desirable solution would be to completely withdraw the Working Version of the Draft Amendments from procedure and to draft a completely new bill.

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