

## Venice Commission should take into account the state of democratic institutions when giving an opinion on constitutional amendments

Civil society organizations drew the attention of the Venice Commission delegation representatives to the fact that, when giving an opinion on the draft constitutional amendments concerning the judiciary, it is necessary to consider the state of democratic institutions, and the political context, having in mind that whether the constitutional changes will indeed ensure the independence of the judiciary depends on these two factors.

Representatives of the Venice Commission (European Commission for Democracy through Law Delegation) held a meeting with representatives of the Government of Serbia and the National Assembly, but also with civil society representatives and experts. The meetings took place as part of the Venice Commission's online mission, between September 28 and 30, aimed at collecting opinions on the draft act on changes to the Constitution of the Republic of Serbia in the field of the judiciary.

At the consultative meeting, CSOs pointed out that weak institutions, deteriorated division of power, and lack of pluralism discourage and raise doubt to the prospect that normative changes will in practice lead to the independence of the judiciary. Representatives of civil society also pointed out that certain solutions from the proposed amendments to change the Constitution call into question the principles of division of power and independence, and stressed the need for their harmonization with other parts of the Constitution. On the same occasion, they pointed out certain positive developments, such as the proposal to abolish the probationary three-year term for judges elected to the judicial position for the first time.

It should be emphasized that the process of consultations and collection of information for drafting the opinion of the Venice Commission is underway, and that **the opinion of the Commission will be publicly disclosed only after the end of this process, i.e. by the end of October 2021. Therefore, the information communicated by the Government of Serbia, stating that the Venice Commission praised the amendments to the Constitution in the field of the judiciary, should be received with scepticism because the opinion of the Commission is still in the drafting phase.**

Upon receiving the opinion, the text of the amendments to the Constitution and the draft Constitutional Law should be adjusted to the comments of the Venice Commission. Afterwards, the National Assembly must vote on and adopt, by a two-thirds majority, the act on changing the Constitution, and then call a referendum where the citizens will vote on the changes.

Additionally, the Venice Commission will assess the state of democracy in Serbia, at the request of the Parliamentary Assembly of the Council of Europe. The process of amending the Constitution will constitute a significant part of this assessment, while in the course of next year it is expected that a set of judicial laws, which should be harmonized with the Constitution, will be sent to the Commission for an opinion.

Let us remind you that, on September 24, the Venice Commission issued an [urgent opinion](#) on the Draft Law on the Referendum and People's Initiative, calling on the authorities to take into account [comments](#) put forward by civil society. Namely, at the end of July this year, civil society representatives [already expressed concerns](#) over worrying solutions within this Draft, which endanger the right to civic participation, and diminished the achieved level of human rights and liberties.

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