

Pursuant to Article 131 paragraphs 4 of the Constitution of the Republic of Macedonia, the Assembly of the Republic of Macedonia at its session dated 7 December 2005, issue the:

DECISION

FOR PROCLAMATION OF THE AMENDMENTS XX, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX AND XXX TO THE CONSTITUTION OF THE REPUBLIC OF MACEDONIA

The amendments XX, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX and XXX to the Constitution of the Republic of Macedonia are hereby proclaimed,

Which the Assembly of the Republic of Macedonia adopted at its session held on 7 December 2005.

THE ASSEMBLY OF THE REPUBLIC OF MACEDONIA

No. 07-4542/1
7 December 2005
Skopje

PRESIDENT
OF THE ASSEMBLY OF THE REPUBLIC
OF MACEDONIA
signed by
Ljupco Jordanovski, PhD,

AMENDMENTS XX, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX AND XXX TO THE CONSTITUTION OF THE REPUBLIC OF MACEDONIA

These Amendments are an integral part of the Constitution of the Republic of Macedonia and shall enter into force on the day of their promulgation.

AMENDMENT XX

1. For offences determined by law, sanction may be imposed, by a state administration body, organization and any other institution carrying public mandates.
Court protection is guaranteed against final verdict for an offence, under conditions and procedure determined by law.
2. This amendment is an addendum to Article 13 of the Constitution of the Republic of Macedonia.

AMENDMENT XXI

1. The right to appeal against verdicts in first instance proceedings by a court is guaranteed.
The right to appeal or any other legal protection against individual legal acts adopted in first instance proceedings by an administration body, organization and any other institution carrying public mandates shall be determined by law.
2. This amendment replaces Article 15 of the Constitution of the Republic of Macedonia.

AMENDMENT XXII

1. Proposes two members of the Judicial Council of the Republic of Macedonia.
2. This amendment replaces line 5, Article 84 of the Constitution of the Republic of Macedonia.

AMENDMENT XXIII

1. The Prime Minister is granted immunity. The Assembly decides on his or her immunity.
2. This amendment replaces paragraph 3 of Article 89 of the Constitution of the Republic of Macedonia.

AMENDMENT XXIV

1. Proposes the Public Prosecutor of the Republic of Macedonia having previously obtained opinion by the Council of Public Prosecutors.
2. This amendment replaces line 12 of Article 91 of the Constitution of the Republic of Macedonia.

AMENDMENT XXV

1. Judiciary power is exercised by courts.
Courts are autonomous and independent. Courts judge on the basis of the Constitution and laws and international agreements ratified in accordance with the Constitution.

Emergency courts are prohibited.

The types of courts, their spheres of competence, their establishment, abrogation, organization and composition, as well as the procedure they follow are regulated by a law adopted by a two-thirds majority vote of the total number of MP's.

2. Clause 1 of this amendment replaces Article 98 of the Constitution of the Republic of Macedonia.

AMENDMENT XXVI

1. The term of office of a judge ceases

- if he/she so requests;
- if he/she permanently loses the capability of carrying out a judge 's office, which is determined by the Judicial Council of the Republic of Macedonia;
- if he/she fulfils the conditions for retirement;
- if he/she is sentenced for a criminal offence to a prison term of a minimum of six months;
- if he/she is elected or appointed to another public office, except when his/her judicial function rests under conditions determined by law;

A judge is discharged

- when he/she commits a serious disciplinary offense which makes him/her unsuitable to perform a judge 's office prescribed by law; and
- he/she performs her judicial duty unprofessionally and unethically under conditions stipulated by law.

2. Clause 1 of this amendment replaces paragraph 3 of Article 99 of the Constitution of the Republic of Macedonia.

AMENDMENT XXVII

1. A judge shall not be held responsible for an opinion given in the process of rendering a court decision.

A judge shall not be detained without the consent of the Judicial Council, except when caught in committing a criminal act for which a prison sentence of at least five years is prescribed.

2. The judicial function is incompatible with membership in a political party or with another public function or profession determined by law.

3. Clause 1 of this amendment replaces paragraph 2 of Article 100 of the Constitution of the Republic of Macedonia, and clause 2 of this amendment replaces paragraph 3 of Article 100 of the Constitution of the Republic of Macedonia.

AMENDMENT XXVIII

1. The Judicial Council of the Republic of Macedonia is an independent and autonomous institution of the judiciary. The Council shall ensure and guarantee the independence and the autonomy of the judiciary.

The Judicial Council is composed of fifteen members.

The President of the Supreme Court of the Republic of Macedonia and the Minister of Justice are ex officio members of the Judicial Council.

Eight members of the Council are elected by the judges from their own ranks. Three of them shall belong to the communities that are not majority in the Republic of Macedonia, insuring that equitable representation of citizens belonging to all communities shall be observed.

Three members of the Council are elected by the Assembly of the Republic of Macedonia with majority votes of the total number of MP's, and with majority votes from the total number of MP's who belong to the communities that are not majority in the Republic of Macedonia.

Two members of the Council are proposed by the President of the Republic of Macedonia and are elected by the Assembly of the Republic of Macedonia, and one of them shall belong to the communities that are not majority in the Republic of Macedonia.

The members of the Council elected by the Assembly of the Republic of Macedonia, on a proposal of the President of the Republic of Macedonia shall be from among University law professors, lawyers and other prominent jurists.

The members of the Council are elected for a term of six years, with the right to one re-election.

The criteria and manner of election, as well as the basis and the procedure for termination of the mandate and dismissal of a member of the Council shall be determined by law.

The office of a member of the Council is incompatible with membership in political parties and with performance of other public offices and professions determined by law.

2. This amendment replaces Article 104 of the Constitution of the Republic of Macedonia.

AMENDMENT XXIX

1. The Judicial Council of the Republic of Macedonia

- elects and dismisses judges and lay judges;
 - determines the termination of a judge's office;
 - elects and dismisses Presidents of Courts;
 - monitors and assesses the work of the judges
 - decides on the disciplinary accountability of judges;
 - has the right to revoke the immunity of judges;
 - proposes two judges for the Constitutional Court of the Republic of Macedonia from among the judges;
- and
- performs other duties stipulated by law.

On the election of judges, lay judges and court presidents, equitable representation of citizens belonging to all communities shall be observed.

The Council shall submit an annual report for its work to the Assembly of the Republic of Macedonia in form, content and manner determined by law.

2. This amendment replaces Article 105 of the Constitution of the Republic of Macedonia and deletes line 15 of paragraph 1, Article 68 of the Constitution of the Republic of Macedonia.

AMENDMENT XXX

1. The Public Prosecutor's Office performs his/her duties on the basis of the Constitution and law and the international agreements ratified in accordance with the Constitution.

The function of the Public Prosecutor's Office is performed by the Public Prosecutor of the Republic of Macedonia and by the public prosecutors.

The competences, establishment, termination, organization and functioning of the Public Prosecutor's Office is stipulated by law adopted by a two-thirds majority vote of the total number of MP's.

The Public Prosecutor of the Republic of Macedonia is appointed and dismissed by the Assembly of the Republic of Macedonia for a term of six years with the right to re-election.

The public prosecutors are elected by the Council of Public Prosecutors and their term of office shall have no restrictions.

In the election of public prosecutors, equitable representation of citizens belonging to all communities shall be observed.

The Council decides on dismissal of public prosecutors.

The competences, composition and structure of the Council, the term of office of its members, as well as the basis and the procedure for termination of the mandate and for the dismissal of a member of the Council is stipulated by law.

The basis and the procedure for termination of the mandate and dismissal of the Public Prosecutor of the Republic of Macedonia and of the public prosecutors are determined by law.

The function of the Public Prosecutor of the Republic of Macedonia and of a public prosecutor is incompatible with membership in a political party or with performance of any other public functions and professions stipulated by law.

Political organization and activity in the public prosecution is prohibited.

2. This amendment replaces paragraphs 2 and 3 of Article 106 of the Constitution of the Republic of Macedonia and deletes Article 107 of the Constitution of the Republic of Macedonia.