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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

LAW ON THE JUDICIAL COUNCIL*
(CONSOLIDATED VERSION)

*** Official translation**

LAW ON THE JUDICIAL COUNCIL

CONSOLIDATED TEXT 1

I. BASIC PROVISIONS

Establishment

Article 1

This Law shall regulate the procedure for selection of the Judicial Council of the Republic of Macedonia, the manner of exercising its offices, the selection, the termination and the dismissal of a judge and a lay judge, the **procedure for establishment of responsibility of a judge of president of a court** establishment of unprofessional and bad faith in exercising the judicial office, the monitoring and assessment of the judges work, the manner of working and deciding, and other issues connected with the operation of the Judicial Council of the Republic of Macedonia.

Aim of establishment

Article 2

The Judicial Council of the Republic of Macedonia (hereinafter: the Council) shall be an autonomous and independent judicial body. The Council shall ensure and guarantee the autonomy and independence of the judicial authority, through performing its function in accordance with the Constitution and the laws.

Political activity

Article 3

Political organization and activity shall be forbidden in the Council.

The members of the Council must not carry out any party activity while performing the functions in the Council.

The Council through its work shall prevent the political influence in the judiciary.

Council status

Article 4

The Council shall have the capacity of a legal entity.

The head office of the Council shall be in Skopje.

Seal of the Council

Article 5

The Council shall have a seal.

The seal shall contain the name Republic of Macedonia, the coat of arms of the Republic of Macedonia, the name and the head office of the Council.

The name and the head office, the coat of arms and the flag of the Republic of Macedonia shall be displayed on the building where the head office of the Council is located.

II. COMPOSITION AND THE PRESIDENT OF THE COUNCIL

Composition of the Council

Article 6

The Council shall consist of 15 members, out of whom:

- the president of the Supreme Court of the Republic of Macedonia and the Minister of Justice shall be *ex officio* members;
- eight members of the Council shall be elected by the judges from among their ranks. Three of the elected members shall be members of the communities that are not in majority in the Republic of Macedonia, where the principle of equitable representation of citizens belonging to all the communities shall be observed;
- the Assembly of the Republic of Macedonia shall elect three members of the Council with a majority of votes from the total number of representatives, wherefore there has to be majority of votes of the representatives belonging to the communities that are not in majority in the Republic of Macedonia, and
- two members of the Council shall be proposed by the president of the Republic of Macedonia and elected by the Assembly of the Republic of Macedonia, one of whom shall be a member of the communities that are not in majority in the Republic of Macedonia.

The Minister of Justice as a member of the Council shall participate in the operation of the Council without a right to vote.

Term of office of the Members of the Council

Article 7

The term of office of the elected members shall be four years with a right to one re-election.

The term of office of the president of the Supreme Court of the Republic of Macedonia and Minister of Justice in the Council shall cease upon the termination of their terms of office.

The term of office of the member who is elected at additional elections, due to early termination of the term of office of the member of the Council in whose place he/she is elected, shall last six years.

President of the Council

Article 8

"The work of the Council is chaired by a President.

The Council President has a deputy, who deputies him/her in his/her absence.

The Council President and his/her deputy are elected from among the members of the Council by a majority vote of the members with a voting right, by secret ballot.

The term of office of the Council President and Vice President is for two years, without the right to re-election.

The Minister of Justice and the President of the Supreme Court of the Republic of Macedonia may not be elected as President and Vice President of the Council."

III. PROCEDURE FOR ELECTION OF MEMBER OF THE COUNCIL

Announcement for a member of the Council

Article 9

The president of the Council, three months at the latest, before the expiry of the term of office of the Council or a member of the Council, shall be obliged to:

- publish an announcement for election of member of the Council from among the judges,
- notify the president of the Assembly of the Republic of Macedonia to publish an announcement for election of members of the Council who are elected by the Assembly, and
- notify the president of the Republic of Macedonia to propose the Assembly a candidate for member of the Council.

In the case of an early termination of the term of office referred to in Article 7 paragraph 3 of this Law, the president of the Council shall act in accordance with paragraph 1 of this Article within 15 days upon the termination of the term of office of the Council member.

Duration of the announcement

Article 10

The announcement referred to in Article 9 of this Law shall be published in the "Official Gazette of the Republic of Macedonia" and in at least two daily newspapers, one of which is published in the language spoken by at least 20% of the citizens that speak an official language other than the Macedonian language.

The announcement shall last 15 days as from the day of publication in the "Official Gazette of the Republic of Macedonia".

At least 30 days should expiry from the day of publishing the announcement to the day of voting.

Requirements for a member of the Council from among the judges

Article 11

Any judge who exercises the office of a judge at the moment of publication of the announcement and meets the following requirements may apply to the announcement for selection of a member of the Council from among the judges:

- has at least five years of service as a judge and
- has the highest positive assessment in the last three years in exercising the office of a judge, given by the Council,
- has a reputation, has an integrity in the exercise of the office of a member of the Council, and has social skills for exercise of the judicial office, for which integrity tests and psychological tests are taken.

Any person who meets the following requirements at the moment of publication of the announcement may apply to the announcement for selection of a member of the Council on a proposal of the Assembly of the Republic of Macedonia:

- to be a citizen of the Republic of Macedonia,
- to be a law graduate with at least 15 years of work experience in the legal profession and a passed bar examination and who, in the practice of the legal professional, distinguishes him/herself by scientific or professional work or by public activities, and
- has a reputation, has an integrity in the exercise of the office of a member of the Council, and has social skills for exercise of the judicial office, for which integrity tests and psychological tests are taken.

The Assembly of the Republic of Macedonia may select a person who meets the following requirements at the moment of selection for a member of the Council on a proposal of the president of the Republic of Macedonia:

- to be a citizen of the Republic of Macedonia,
- to be a law graduate with at least 15 years of work experience in the legal profession and a passed bar examination and who, in the practice of the legal professional, distinguishes him/herself by scientific or professional work or by public activities, and
- has a reputation, has an integrity in the exercise of the office of a member of the Council, and has social skills for exercise of the judicial office, for which integrity tests and psychological tests are taken.

The form and the contents of the psychological test and the integrity test shall be regulated by the Judicial Council of the Republic of Macedonia.

Article 11-a

The aim of the psychological test which is administered by the Judicial Council of the Republic of Macedonia shall be to affirm the candidates for exercising the office of a member of the Council by checking the social skills.

The integrity test which is administered by the Judicial Council of the Republic of Macedonia shall be based on the existing ethical and professional codes for exercise of the office of a judge and shall aim at checking the ethical and moral values of the candidate for exercise of the office of a judges and shall include:

- a test which is taken in a written form and anonymously, based on the standard determined list of questions.

The Judicial Council of the Republic of Macedonia shall be obliged, during the psychological test and the integrity test, to take care for the protection of the personal data, reputation and dignity of the candidate, in accordance with the law.

The Judicial Council of the Republic of Macedonia shall engage experts from independent and fully accredited professional institution for the psychological test and the first part of the integrity test.

The psychological test shall be conducted on the basis of internationally recognized psychological tests that are used in at least one member state of the European Union and OECD.

Candidacy

Article 12

The candidates for a member of the Council from among the judges shall submit their candidacy to the Council in a written form.

The candidate shall attach the following to the application:

- a certificate for the length of service as a judge,
- biographical data on the vocational and professional development,
- assessments of the results in the work in **two regular consecutive evaluations** issued by the Council,
- data on the participation in vocational and professional education, issued by the Academy for Training of Judges and Public Prosecutors,
- a passed integrity test and psychological test and
- a statement indicating the list to which he/she applies.

Commission for preparation of lists of candidates

Article 13

The Council, from among its members, shall form a three-member Commission for preparation of the candidate lists (hereinafter: Commission).

The Commission shall prepare candidate lists out of the duly submitted candidacies of the candidates that fulfill the requirements referred to in Article 11 of this Law and shall submit them to the Council.

The candidate lists shall be prepared according to electoral units, as follows:

- as a general list for a candidate from the Supreme Court of the Republic of Macedonia,
- as a general list for a candidate from the appellate region Skopje, and the administrative courts;
- as a general list for a candidate from the appellate region Bitola;
- as a general list for a candidate from the appellate region Gostivar;
- as a general list for a candidate from the appellate region Štip, and
- as a single special list of candidates from among the judges that belong to all the communities that are not in majority of the population in the Republic of Macedonia, for the whole territory of the Republic of Macedonia.

The Council shall determine the candidate lists referred to in paragraph 3 of this Article.

The Council shall submit the determined candidate lists to the Commissions on Conducting Elections of Member of the Council from among the judges, within 15 days from the expiry of the announcement.

Commission on Conducting Elections of Members of the Council from among the judges

Article 14

The Council, from among its members, shall form a Commission for Conducting Elections of Members of the Council from among the judges (hereinafter: Election Commission).

The Election Commission shall be composed of a president, two members and their deputies.

The Election Commission shall prepare the electoral material, form electoral boards, and conduct the elections.

Article 15

A member of the Commission for preparing the candidates list cannot be a member of the Commission on Conducting Elections of Members of the Council from among the judges and *vice versa* .

Election of appellate regions

Article 16

In the election of the members of the Council from among the judges, the following representation of the members from all the regional appellate courts shall taken into consideration, as follows:

- one member is elected from the appellate region Skopje,
- one member is elected from the appellate region Bitola,
- one member is elected from the appellate region Gostivar,
- one member is elected from the appellate region Štip,
- one member is elected from the Supreme Court of the Republic of Macedonia, and
- three members are elected from among the judges that belong to all the communities that are not in majority of the population in the Republic of Macedonia, by all the judges that are registered in Judicial Electoral Directory.

Judicial Electoral Directory

Article 17

The Judicial Electoral Directory shall be kept by the Judicial Council and shall contain the following data:

- name and surname of the judge,
- personal identification number,
- court where he/she exercises the judicial office,
- the date of his/her first election as a judge,
- nationality,
- number of the official identification card, and
- place for a note.

The Judicial Council shall make the Judicial Electoral Directory available in the court and any judge shall have the right to request correction of the data within three days in a written form.

The Judicial Council shall decide on the request referred to in paragraph 3 of this Article by a decision within three days as of the day of its receipt. 2

An administrative dispute may be initiated against the decision referred to in paragraph 4 of this Article before the competent court within 24 hours as of the receipt of the decision.

The competent court referred to in paragraph 5 of this Article shall adopt a decision within 48 hours.

The Judicial Council shall close the Judicial Electoral Directory within 20 days as of the day of announcement of the elections at the latest.

Manner of conducting the elections of members of the Council from among the judges

Article 18

The elections of the members of the Council from among the judges shall be conducted in the same day.

The elections shall be conducted at polling places with number and head office in all court in the Republic of Macedonia, in accordance with the Law on Courts.

The elections at the polling places shall be conducted by an Electoral Board formed on the basis of a decision by the Election Commission referred to in Article 14 of this Law.

A candidate for a member of the Council cannot be a member of an Electoral Board.

The Electoral Board shall consist of a president and two members from among the judges and/or expert associates from the court and their deputies.

The Election Commission referred to in Article 14 of this Law shall be obliged to form the Electoral Board seven days before the voting day.

Electoral material

Article 19

The electoral material shall consist of:

- ballot boxes and voting booths,
- forms for minutes,
- booklet of ballots papers bound together, according to the excerpt from the Judicial Electoral Directory,
- an excerpt from the Judicial Electoral Directory, and
- other material necessary for voting.

Ballot paper

Article 20

The general ballot paper shall contain:

- title of the ballot paper,

- polling place and name of the polling place,
- serial number, and
- surname and name of the candidates in alphabetical order.

The special ballot paper shall contain:

- title of the ballot paper,
- polling place and name of the polling place,
- serial number,
- surname and name of the candidates in alphabetical order, and
- data on the nationality of the candidates, and
- the court wherefrom the candidate is being nominated.

The Election Commission shall prepare the form of the ballot in accordance with this Article.

Delivery of the electoral material

Article 21

The Election Commission shall hand in the electoral material to the president of the Electoral Boards the latest within 24 hours prior to conducting the elections, for which minutes shall be made.

Conducting the voting

Article 22

The voting shall be conducted during a working day.

The voting shall start at 8.00 a.m. and shall last until 3.00 p.m without interruptions.

The judges shall vote for one candidate from the general list from their appellate region and the single special list.

The judges of the Supreme Court of the Republic of Macedonia shall vote for a candidate from the general list of the Supreme Court of the Republic of Macedonian and the single special list.

The judges shall identify themselves with a judicial identification card and shall vote secretly.

The polling place shall be closed at 3.00 p.m., and the voting of the judges who are in the premises shall be allowed.

The Electoral Board can close the polling place before the expiry of the time referred to in paragraph 1 of this Article, if all of the judges registered in the excerpt of the Judicial Electoral Directory have cast their votes.

Minutes on the voting

Article 23

Upon closing the polling place, the Electoral Board shall make minutes on the course and results of the voting until 6.00 p.m. the same day at latest and shall notify the Election Commission thereof.

The following data shall be included in the minutes:

- total number of voters who cast their votes,
- total number of votes won by each candidate,
- number of irregular ballots, and
- note on the course of the voting.

The Electoral Board shall submit the minutes with the results of the voting and the other electoral material to the Election Commission within 24 hours after the closure of the voting at latest.

Irregular ballot paper

Article 24

The ballot paper shall be considered irregular if it is not filled in or if a greater number of candidates from the number that is being elected at the election unit has been circled.

Election result

Article 25

The Election Commission shall sum up the results of the polling place and determine the election results in the electoral units within 48 hours from the moment of closing the elections.

The candidate that has won the largest number of votes in the electoral units shall be considered an elected member of the Council.

If several candidates have won the same number of votes per one electoral list, the elections for these candidates shall be repeated within seven days from the voting day.

The Election Commission shall issue a certificate to the elected members of the Council from among the judges.

The design and the content of the form of the certificate shall be prescribed by the Minister of Justice.

Members of the Council elected by the Assembly of the Republic of Macedonia

Article 26

The members of the Council elected by the Assembly of the Republic of Macedonia, as well as the members elected by the Assembly of the Republic of Macedonia on a proposal of the president of the Republic of Macedonia, shall be elected from among the university

law professors, attorneys-at-law and other eminent law-graduates **except for a judge or public prosecutor who at the time of the announcement carries out the office of a judge or public prosecutor.**

Session of the Assembly of the Republic of Macedonia at which the members of the Council are elected

Article 27

The election of the Member of the Councils elected by the Assembly on a proposal of the competent working body of the Assembly of Republic of Macedonia and the election of the Member of the Council on a proposal of the president of the Republic of Macedonia from among the candidates that have applied to the announcement shall take place at same session.

The session of the Assembly of the Republic of Macedonia at which the members referred to in paragraph 1 of this Article are elected shall be urgent and it shall be held within 30 days from the day of the election of members of the Council elected by the judges.

Solemn statement

Article 28

The elected members of the Council and the *ex officio* members shall give a solemn statement before the president of the Assembly of the Republic of Macedonia.

The solemn statement shall read:

"I hereby declare and swear that I shall perform the office of a member of the Judicial Council of the Republic of Macedonia honestly, conscientiously and responsibly and that I shall abide by the Constitution of the Republic of Macedonia, the laws and the international agreements ratified in accordance with the Constitution of the Republic of Macedonia".

The solemn statement shall be signed by the newly elected members.

The elected members and the *ex officio* members of the Council shall give the solemn statement in Macedonian language and shall sign it in Macedonian language and its Cyrillic letter.

Out of force 3

The newly elected member shall be given a copy of the signed statement.

Constitution of the Council

Article 29

The constitutive session shall be held within 30 days from the election of the majority of the members of the Council.

The constitutive session shall be convened by the president of the previous Judicial Council.

The constitutive session shall be chaired by the oldest member of the Council, until president of the Council is elected.

Termination of the term of office of a member of the Council

Article 30

The term of office of a member of the Council shall terminate:

- 1) upon the expiry of the time for which he/she is elected;
- 2) on his/her request;
- 3) by fulfilling the conditions for old age retirement in accordance with law;
- 4) if he/she is sentenced by an effective court judgment for the criminal offence of misuse of official duty and powers in the carrying out of the function or another criminal offence to an unconditional imprisonment of at least six months, making him/her unfit to perform the duties of a member of the Council.
- 5) if it is determined that she/he permanently loses the ability to perform the office, and
- 6) he/she is elected to another public office or profession.

In the case referred to in paragraph 1 point 2 of this Article, the term of office shall terminate when the Council, that is the Assembly of the Republic of Macedonia accepts the resignation at a session.

In the case referred to in paragraph 1 point 4 of this Article, the term of office shall terminate as of the day of the effectiveness of the verdict.

In the case referred to in paragraph 1 point 5 of this Article, the term of office shall terminate when the Council establishes at a session the fulfillment of the requirements on the basis of the previously conducted procedure, that is when the Assembly of the Republic of Macedonia, on a proposal of the Council shall determine and vote fulfillment of a requirement termination of the office of a member of the Council elected in the Assembly.

In the case referred to in paragraph 1 point 6 of this Article, the term of office shall terminate upon the election to another office or profession.

Temporary removal from exercising the function of a member of the Council

Article 30-a

A member of the Council may be removed from exercising the office of a member of the Council if:

- a Bill of indictment is granted in the cases under Article 30 paragraph 1 item 4) of this Law.

The decision on temporary removal from the office of a member of the Council is adopted by the Council by a two-third majority vote from the total number of members with a voting right. The Council member against whom the proceeding was initiated shall be exempted from the session and the voting."

IV. COMPETENCE, ORGANIZATION AND MANNER OF OPERATION OF THE COUNCIL

Article 31

The Council shall have the competence to:

- select and dismiss judges,
- select and dismiss judges the presidents of the courts,
- determine the termination of the judicial office,
- select and dismiss the lay judges,
- follow and assess the work of the judges,
- decide on the disciplinary liability of the judges,
- determine unprofessional and reckless holding of the judicial office,
- determined the termination of the judicial office due to permanent capability to contract as a judge,
- decide on revoking the immunity of a judge,
- decide upon requests for approving detention for a judge,
- nominate two judges of the Constitutional Court of the Republic of Macedonia from among the judges,
- examine the annual report of the Supreme Court of the Republic of Macedonia regarding the determined fundamental principles and fundamental legal opinions upon issues of importance for the purpose of securing unity in the application of the laws,
- decide on the temporary suspension of a judge from the judicial office, **and a member of a council from performing the office of a member of a council,**
- determine the number of necessary judicial positions for the courts,
- review and assess the quarterly and annual reports on the work of the courts and to publish them publicly on its website, and,
- act upon complaints by citizens and legal entities for the work of the judges, the presidents of the courts and the courts,
- care for the reputation of the judges and the trust of the citizens in the judiciary,
- submit an annual report on the work,
- adopt the Rules of Procedure and other general acts regulating the work within its competence;
- determine an orientation number of cases which should be decided by a judge monthly, and
- carry out other activities determined by law.

The Council shall mandatorily, at least once a month, hold a session to deliberate separately over all complaints submitted by the citizens and the legal entities regarding the work of the judges, the presidents of the courts and the courts, as well as over delaying the court procedures, and shall decide on each complaint separately within 60 days as of the day of their receipt by the Council at the latest.

The session of the Council referred to in paragraph 2 of this Article shall be public.

The Council adopts an annual work programme and action plan no later than 15 December in the current year for the following year.

Annual work programme

Article 31-a

The Annual Work Programme of the Council shall include:

- **measures and activities to promote the independence of the judiciary,**

- measures and activities to increase the efficiency of the judiciary,
- plan for continuous monitoring of the work of the courts,
- projection of vacancies for judges and upholding the principle of adequate and equitable representation of the members of the communities that are not the majority in the Republic of Macedonia,
- monitoring of the recommendations and proposed measures from the analyses of quarterly and annual reports on the work of courts,
- other activities within its competence which it finds necessary to be contained in the Annual Work Programme of the Council.

Work at sessions

Article 32

The Council shall review and decide on issues within its competence at a session.

The president of the Council shall convene and chair the sessions.

The president shall be obliged to convene a session on a proposal of at least five members of the Council.

Unless otherwise determined by this Law, a session can be held if the majority of the total number of members having voting rights are attending.

The proposal of the agenda shall be determined by a majority vote of the total number of members having voting rights.

The invitation for a session with a proposal of the agenda and the materials shall be submitted to the members of the Council at least seven days prior to the session.

Due to urgent and pressing duties, the session of the Council can be scheduled and held in a shorter period than the period determined in paragraph 6 of this Article.

Transparency in the work

Article 33

The sessions of the Council shall be public.

The public can be excluded only with a decision of the Council due to protection of the reputation and integrity of a judge or a judge candidate. The Council shall decide on the exclusion of the public from the sessions with a two-thirds majority votes of the total number of members of the Council having voting rights.

In case the Council decides on exclusion of the public from the session, the president of the Council shall be obliged to inform the public about the reasons for such exclusion of the public and if a decision is adopted on such session by voting, the voting on the decision shall be public.

If the Council decides on election of a president of a court or election of a judge, the public cannot be excluded in any circumstances.

The Council shall prepare minutes of the voting on the decision referred to in paragraph 4 of this Article and it shall be published publicly on the website of the Council.

Minutes shall be kept **and audio recording shall be made** for the work of the session of the Council. The adopted minutes shall be published on the website of the Council.

President of the Council

Article 34

The president of the Council shall:

- represent the Council,
- chair and manage the sessions,
- participate in the work and the decision-making of the Council,
- sign the decisions, proposals and other acts of the Council and shall be responsible about their enforcement,
- be responsible for the enforcement of the Rules of Procedure of the Council and carry out other work determined by law and the Rules of Procedure.

Equality of the members of the Council

Article 35

The members of the Council having voting rights shall have equal rights and obligations while exercising the office of a member of the Council.

Article 35-a

A member of the Council during his/her term of office may not be elected a judge, a judge in a higher court or a president of a court.

Rights, obligation and responsibilities of a Member of the Council

Article 36

A member of the Council having a voting right shall have the following rights, obligations and responsibilities:

- to participate in the work and in the decision-making of the Council;
- to raise initiatives, give proposals and opinions on issues within in competence of work of the Council;
- to participate in the work of the bodies of the Council wherein elected;
- upon a conclusion of the Council to allow insight into the work of a judge and undertake other actions and report thereof to the Council;
- to be held responsible for violation of the Constitution and the law while performing the Council office, and
- to carry out other activities determined by this Law.

The Minister of Justice, as a member of the Council, shall have the same rights, obligations and responsibilities as the members having voting rights referred to in

paragraph 1 of this Article, except the right to decision-making referred to in paragraph 1 line 1 and upon a conclusion of the Council allowing insight in the work of a judge and undertaking other actions referred to in paragraph 1 line 4 of this Article.

Rules of Procedure of the Council

Article 37

The Council shall adopt Rules of Procedure by a two-third majority vote of the total number of members having voting rights.

The Rules of Procedure shall regulate the procedure and manner of operation of the Council, as well as other issues within the competence of the Council.

The Rules of Procedure shall be published in the "Official Gazette of the Republic of Macedonia".

V. SELECTION, TERMINATION AND DISMISSAL FROM THE OFFICE OF A JUDGE AND LAY JUDGES

Determining the vacant judge positions in the first instance courts

Article 38

The Council shall with a decision determine the number of vacant judge positions in the first instance courts in the Republic in Macedonia, taking into consideration the total number of vacant judge positions in the first instance courts, as well as the projection regarding the need of vacancies which shall be filled upon the completion of the initial training.

The decision referred to in paragraph 1 of this Article shall be adopted by the Council with majority of the votes of the total number of members having voting rights and submitted to the Academy for Judges and Public Prosecutors, until March 31st in the year the decision was adopted, at the latest.

Announcement for selection of a judge

Article 39

The Council shall adopt a decision on publication of an announcement for selection of a judge immediately after a judge position becomes vacant or after the need for opening a judge position is established.

The necessary specialization (in the criminal, civil, economic, **administrative** area or another more specific area within the scope of work of the court) for filling the vacant judicial position, and in accordance with the previously submitted request by the court to the Council by which filling the judicial position is required, shall be stated in the decision on publication of an announcement for selection of a judge.

The announcement shall be published in the "Official Gazette of the Republic of Macedonia" and in at least two daily newspapers, one of which is published in the language spoken by at least 20% of the citizens that speak an official language other than the Macedonian language.

Selection of a judge in a first instance court

Article 40

The Council shall select a judge in a first instance court from the list of candidates submitted by the Academy for Judges and Public Prosecutors that have applied to the announcement.

The Council shall select a judge in the first-instance courts in accordance with the order determined in the final ranking from among the candidates who have finished the initial training of the Academy for Judges and Public Prosecutors.

Selection of a judge in a higher court

Article 41

The Council shall select a judge in an Appellate Court, the Administrative Court, the Higher Administrative Court and the Supreme Court of the Republic of Macedonia from among the candidates who have applied to the announcement and who meet the requirements and criteria anticipated by the Law on Courts and this Law in a manner that it shall rank the candidates that have applied according to the necessary specialization for filling the vacant position of a judge.

The Council shall select as a judge the person of highest expert and professional qualities, with good reputation in exercising his/hers judicial office, on the base of the following criteria:

- 1) expert knowledge and specialization in the field and participation in continuous training;
- 2) attitude towards the work, taking into consideration the legal time periods for adoption, publication and preparation of the decisions, the ratio between the determined, abolished and altered decisions in relation to the total number of resolved cases, the number of resolved cases in relation to the orientation number of cases determined by the Council that the judge is to resolve monthly,
- 3) capability in resolving legal issues, taking into consideration the achieved level of regularity and legitimacy of judicial ruling and verification, foremost, during proceedings with legal means;
- 4) protection of the reputation of a judge and court, verified by the manner of presiding with cases, communication with parties and other organs, preservation of the independency, impartiality, confidentiality, importance and the relation towards work and out of it;
- 5) capability for written and verbal expressing, observed from the prepared decisions and professional judicial proceeding;
- 6) undertaking additional work when performing judicial office by participating in procedures to resolve backlog of cases;
- 7) undertaking additional work when performing judicial office by means of mentorship, education, and alike;
- 8) relationship with the colleagues and the court administration, and
- 9) capability in performing activities from a managing nature.

If the candidate is from among the judges, the Council shall obtain an opinion from the court and shall conduct an anonymous inquiry to the court employees wherein the candidate is performing his/her judicial office.

The president of court on the basis of the held session of judges shall deliver the opinion to the Council.

If the candidate for a judge of the Administrative Court, that is the Higher Administrative Court is not from among the judges, the Council shall obtain an opinion from the state body where the candidate has worked.

The manner of conducting the inquiry referred to in paragraph 3 of this Article shall be regulated by the Council

Decision on the selection of a judge

Article 42

The Council shall discuss and decide on the selection of a judge at a session, attended by at least two thirds of the total number of members of the Council having voting rights.

The candidate that has won the majority of the votes of the total number of Council members having voting rights shall be selected a judge.

Every member of the Council having a voting right shall be obliged, publicly, at a session of the Council, to elaborate his/her decision on selection of a judge.

The Council shall be obliged to inform every candidate about the decision on selection of a judge in writing.

The candidate who is not selected for a judge shall have the right to appeal with the Supreme Court of the Republic of Macedonia within a period of eight days as of the day of receipt of the information.

Equitable representation in the selection of judges presidents of courts

Article 43

When the Council selects a judge and a president of a first instance court and appellate court which is in the region of a local self-government unit where 20% of the citizens speak an official language other than the Macedonian language, it shall decide in accordance with Article 42 of this Law and there should be majority of the votes of the attending members that belong to the communities that are not a majority in the Republic of Macedonia.

When the Council selects a president or a judge of the Administrative Court, Higher Administrative Court and the Supreme Court of the Republic of Macedonia, it shall decide in accordance with Article 42 of this Law and there must be majority of the votes of the attending members that belong to the communities that are not a majority in the Republic of Macedonia.

Selection of the president of a court

Article 44

The Council shall select the president of a court from among the candidates who have applied to the announcement for selection of a court president with a two-thirds majority of votes from the total number of members of the Council having voting rights.

The Council shall select the person who meets the requirements and criteria determined in the Law on Courts for the position of a president.

Every member of the Council having a voting right shall be obliged to publicly, at a session of the Council, elaborate his/her decision on selection of a president of a court.

The Council shall be obliged to inform every candidate about the decision on selection of a president of a court in writing.

The candidate who is not selected for a president of a court shall have the right to appeal with the Supreme Court of the Republic of Macedonia within a period of eight days as of the day of receipt of the information.

Re-announcement of a selection

Article 45

If after the procedure conducted for election of a judge or president of a court the Council finds that no candidate has applied or all candidates who have applied in the two consecutive evaluations were given a negative evaluation it shall decide to re-advertise the election of a judge or president of a court.

Selection and dismissal of lay judges

Article 46

The Council shall select and dismiss lay judges, on a proposal of the president of the competent first instance court and appellate court.

The Council shall determine the number of lay judges, on a proposal of the president of the court wherefore the lay judges are being selected.

When the Council selects a lay-judge in a court which is in the region of a local self-government unit where 20% of the citizens speak an official language other than the Macedonian language, it shall decide with the majority of the votes of the attending members that belong to the communities that are not a majority in the Republic of Macedonia.

Termination of the judicial office

Article 47

The Council shall determine a termination of the office of a judge by a decision, when any of the requirements determined in the Constitution is fulfilled, in a manner determined by this Law, as follows:

1. on a request from the judge;
2. if he/she permanently loses the capability to perform the judicial office;
3. if he/she meets the requirements for age retirement;
4. if, by an effective verdict, he/she is sentenced to unconditional imprisonment of at least six months for a crime, and
5. if he/she is elected or appointed to another public office or profession, except in cases of abeyance determined by law, as of the day of election or appointment to another public office or profession.

Termination of the judicial office on a request of a judge

Article 48

The Council shall adopt a decision on termination of the judicial office, when he/she personally requests so, without particularly examining the reasons for the request.

Termination of the judicial office due to permanent loss of the ability for its performance

Article 49

The Council shall, with a decision determine the termination of the judicial office due to permanent loss of ability to perform the judicial office.

The court shall determine the permanent loss of the ability to perform the judicial office on the basis of documentation accompanied by a finding, assessment, and opinion of the competent health commission.

The procedure for determination of the permanent loss of ability to exercise the judicial function shall be initiated *ex officio* by the Council when it receives such information or when such an initiative has been raised by the president of the court where the judge exercises his/her office or by the president of the higher court or by Supreme Court of the Republic of Macedonia at a general session.

The procedure for initiation and determination of the permanent loss of ability shall be closely regulated by a Rulebook adopted by the Council.

Termination of the judicial office by reaching 64 years of age

Article 50

The judicial office shall terminate with reaching 64 years of age.

The Council shall determine the termination of the judicial office in accordance with paragraph 1 of this Article by a decision which shall be noted on the first following session.

Termination of the judicial office due to committed crime

Article 51

The Council shall, by a decision, determine the termination of the judicial office of a judge if the judge is sentenced for a committed crime to imprisonment of at least six months, upon the effectiveness of the verdict that imposes this punishment.

The first instance court that adopted the decision without any delay shall submit a copy of the verdict to the Council, sentencing the judge for a committed crime to imprisonment of at least six months.

Termination of the judicial office due to election or appointment to other public office

Article 52

The Council shall, by a decision, determine the termination of the judicial office, if the judge has been elected or appointed to other public office, except in case when abeyance of the office of a judge is anticipated by law, as of the day of the election or appointment.

The body that elected or appointed the judge to other public office shall be obliged to immediately submit the act on appointment, that is election to the Council.

Grounds for dismissal of a judge

Article 53

The judge, shall be dismissed from the judicial office:
1) for committing serious disciplinary violation prescribed by law, makes him/her disreputable for performing the judicial office, and
2) due to unprofessional exercise and bad faith in the exercise of the judicial office, determined by law.

Procedure for determination of liability of a judge or a president of a court

Article 54

The procedure for determination of liability of a judge or a president of a court (hereinafter: procedure), shall be initiated within a period of six months as of the day of discovering the committed violation, but not longer than three years as of the day of commission of the violation.

The procedure shall be urgent and confidential, shall be conducted without the presence of the public and by respecting the reputation and dignity of the judge or the president of the court, at the same time taking care to protect the personal data on the judge or the president of the court in accordance with the regulations on personal data protection.

Upon a request of the judge or the president of the court, the Council shall decide the procedure to be public.

Upon a request of the judge or the president of the court, a representative from the Association of Judges may also attend the session.

A request for initiation of a procedure for determination of liability of a judge or a president of a court

Article 55

The request for initiation of a procedure for determination of liability of a judge or a president of a court (hereinafter: a request) shall be submitted to the Council and shall contain: name and surname of the judge or the president of the court, address and place of residence, personal identification number, in which court he/she exercises the office,

description of the violation, legal term for the violation by stating the provisions of the Law on Courts, and proposed evidence that have to be exhibited at the discussion.

The evidence on which the request is based shall be submitted together with the request.

Commission for determination of liability of a judge or a president of a court

Article 56

The application filed for the establishment of responsibility of a judge or president of a court shall be communicated to the Council member-rapporteur (hereinafter: rapporteur) who assesses whether the application is timely and complete.

If the application is untimely and incomplete the rapporteur shall, with a proposed decision, submit it to the Council for further consideration which shall reject the untimely or incomplete application with a decision, and if the application is timely and complete the Council shall, from the members with a voting right by drawing lots, form a Commission for establishment of responsibility of a judge or president of a Court (hereinafter: the Commission) composed of a chairperson and two members, taking into account the composition of the Commission to include members of the Council elected by the judges and by the Assembly of the Republic of Macedonia.

If a Council member is the applicant, he/she may not be a rapporteur or member of the Commission referred to in paragraph 2 of this Article.

If the Council establishes the responsibility of a judge or president of a court who belongs to the communities that are not a majority in the Republic of Macedonia, the Commission must include one member who belongs to the communities that are not a majority in the Republic of Macedonia.

Delivery

Article 56-a

The Commission shall deliver the request and the evidence to the judge or the president of the court against whom the request is submitted personally.

The judge or the president of the court may respond to the allegations in the request in writing or may give an oral statement which is entered in minutes within a period of eight days as of the day of receipt of the request.

The judge or the president of the court against whom the request is submitted shall have the right to an attorney who he/she him/herself notifies and provides for the hearing.

Together with the response to the request, the judge or the president of the court shall submit all the evidence based on which he/she bases his/her response to the request or with which he/she denies the allegations and the evidence in the request.

The judge or the president of the court shall be obliged to write in the response to the request the address at which the writs are to be submitted during the procedure in writing, as well as the e-mail address at which the writs are to be submitted electronically.

The writs during the procedure shall be submitted by registered mail personally to the judge or the president of the court and electronically at the address stated in the response to the request referred to in paragraph 4 of this Article.

If the judge or the president of the court is not found at the address stated in the response to the request where the delivery of the writ is to be made, the person who delivers the writ shall leave a written notification for receiving the writ by which he/she is notified to come on a particular day and at a particular time in particular premises in the Council for the purpose of receiving the writ. If the judge or the president of the court does not act upon the notification, it shall be considered that the delivery is done on the day and at the time stated in the notification. The electronic delivery shall be made in accordance with the provisions of the Law on Litigation Procedure.

Obtaining data and evidence

Article 56-b

The Commission shall obtain data and evidence that are of interest for establishing the situation related to the determination of liability of the judge or the president of the court by a request.

If the data and the evidence referred to in paragraph 1 of this Article are found within a state body, a body of the local self-government unit or a natural person or a legal entity entrusted with public powers, they shall be obliged to submit them to the Council free of charge within the deadline set in the request referred to in paragraph 1 of this Article.

Hearing regarding the request

Article 56-c

The Commission shall schedule a hearing within a period of seven days as of the day of receipt of the response to the request from the judge or the president of the court.

The Commission shall work in plenary sessions and shall be headed by the president.

Invitation for a hearing

Article 56-d

The judge or the president of the court to whom the evidence are submitted and the submitter of the request are invited to the hearing.

If the judge or the president of the court who is duly invited does not come to the hearing, and he/she does not justify the absence, the hearing shall be held.

Hearing

Article 56-e

The evidence proposed by the submitter of the request, by the judge or the president of the court, as well as the evidence obtained by the Commission, shall be exhibited at the hearing.

The judge or the president of the court shall have the right to state him/herself regarding the evidence exhibited at the hearing orally on minutes or in writing.

Minutes

Article 56-f

Minutes shall be prepared of the actions taken at the hearing.

The minutes shall be kept by a person designated by the Council, from among the expert service of the Council.

The minutes shall contain in particular data on: the day, hour and place of holding the hearing, the president and the members of the Commission and the person keeping the minutes, the names of the persons attending, the statement of the judge or the president of the court, that is, his/her attorney, and the evidence that are exhibited.

The minutes shall be signed by the submitter of the request, the judge or the president of the court, that is, their attorney, the Commission and the person who keeps the minutes.

If any of the persons referred to in paragraph 4 of this Article do not sign the minutes, it shall be stated in the minutes.

In addition to the minutes, sound recording shall be made for the course of the hearing.

The minutes, that is, the sound recording shall be reviewed and attached to the minutes within a period of 48 hours, together with the transcript of the sound recording.

Report from the Commission

Article 56-g

The Commission, within a period of 15 days as of the day of ending the hearing, shall submit a report for the established situation on the request together with a proposal to the Council to decide on:

- stopping the procedure,
- imposing a disciplinary measure or
- dismissing the judge or the president of the court due to committed severe disciplinary violation which makes him/her unworthy for the judicial office or unprofessional and negligent exercise of the judicial office under the conditions determined by law.

The report should contain all documents and acts that, during the procedure, the Commission has have at disposal, the statement of the judge or the president of the court, the description of the actions taken, as well as the elaborated proposal for making a decision by the Council.

All documents related to the case must be available to the members of the Council.

Temporary suspension

Article 56-h

The Commission may, together with the proposed decision for the well grounded request, submit also to the Council a proposal for a decision to suspend the judge or the president of the court from exercising the judicial office, in accordance with the Law on Courts.

Article 57

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Article 58

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Article 59

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Discussion upon the request

Article 60

The president of the Commission shall elaborate the case and the proposal for a decision at the discussion upon the request before the Council.

The Council shall discuss the report of the Commission at a session and shall decide on the proposal for a decision.

The president and the members of the Commission shall participate in the discussion before the Council, but they shall be exempt from voting on the final decision.

If a member of the Council is the one that submitted the request, he/she **shall not attend the debate before the Council** and shall be exempt from voting on the final decision.

The decision referred to in paragraph 2 of this Article shall be adopted by the Council by a two-thirds majority of votes of the total number of members of the Council having the right to vote, taking into consideration paragraphs 3 and 4 of this Article.

If the judge, that is, the president of the court against whom a procedure for determination of liability is initiated, during the procedure, submits a request for termination of the judicial office, the Council shall stop the procedure by a decision and shall state termination of the judicial office, upon his/her request.

Decisions of the Council

Article 60-a

after the discussion is over, the Council may decide:

- to stop the procedure,

- to impose a disciplinary measure or
- to dismiss the judge or the president of the court due to committed severe disciplinary violation which makes him/her unworthy for the judicial office prescribed by law or unprofessional and negligent exercise of the judicial office under the conditions determined by law.

Stopping the procedure

Article 60-b

If the Council decides that there is no ground for liability of the judge or the president of the court, that is, no violation set out by the Law on Courts is committed, it shall make a decision on stopping the procedure.

Where a decision on stopping the procedure is adopted, in case decision on temporary suspension from exercising the judicial office has been adopted, such decision is put out of force.

Imposing a disciplinary measure

Article 60-c

If the Council establishes that the judge or the president of the court has committed a disciplinary violation determined by the Law on Courts, it shall impose a disciplinary measure in accordance with the law by a decision.

Decision on dismissal

Article 60-d

If the Council establishes that the judge or the president of the court has committed a severe disciplinary violation which makes him/her unworthy for the judicial office prescribed by law or unprofessional and negligent exercise of the judicial office under the conditions determined by law, it shall dismiss him/her by a decision.

If the Council adopts a decision on dismissal of the judge or the president of the court, the Council may, by a decision, temporarily suspend the judge, that is, the president of the court from exercising the judicial office, that is, the office of the president of the court until the effective completion of the procedure.

Return of documents

Article 60-e

If the Council, during the discussion upon the proposal for a decision, assesses that further elaboration of the case is needed, it may return the documents of the case to the Commission for further elaboration, together with instructions and directions, and the Commission shall be obliged to submit the report of the case together with all the actions which are additionally taken to the Council within a period of 15 days as of the day of submission.

Submission of a decision

Article 61

The decision referred to in Article 60 of this Law shall be prepared within a period of 15 days as of the day of adoption and shall mandatorily contain an introduction, disposition, explanation, and legal instruction.

A copy of the decision shall be submitted to the judge, that is, the president of the court, the submitter of the request and the president of the court where the judge exercises the office, that is, the president of the direct higher court.

The submission shall be made in accordance with Article 56-a of this Law.

Temporary suspension

Article 62

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Discussion in the Council

Article 63

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Discussion invitation

Article 64

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Article 65

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Altering the request

Article 66

Deleted 11

Minutes

Article 67

Deleted 12

Other committed disciplinary violation

Article 68

Deleted 13

Article 69

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Article 70

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Decisions of the Council

Article 71

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Termination of the procedure

Article 72

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Imposing disciplinary measures

Article 73

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Article 74

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Article 75

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Article 76

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Procedure for establishment of unprofessional and bad faith in the exercise of the judicial office

Article 77

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Request for the purpose of establishment of unprofessional and bad faith in the exercise of the judicial office

Article 78

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Content of the request

Article 79

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Commission for determining unprofessional and bad faith in the exercise of the judicial office

Article 80

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Article 81

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Article 82

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Article 83

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Discussion upon the request

Article 84

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Delivery of the decision

Article 85

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Temporary suspension

Article 86

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Discussion in the Council

Article 87

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Discussion invitation

Article 88

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Article 89

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Minutes

Article 90

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Other committed disciplinary violation

Article 91

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Article 92

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Decisions of the Council

Article 93

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Article 94

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Article 95

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Right to appeal

Article 96

The judge or the president of the court shall have the right to file an appeal against the decision of the Council with the Supreme Court of the Republic of Macedonia within a period of eight days as of the day of receipt of the decision.

The Council for adjudication upon appeals (hereafter: Appeal Council) is composed of nine members, of which three judges from the Supreme Court of the Republic of Macedonia, four judges from the courts of Appeal and two judges from the court to which belongs the judge against whom the procedure is conducted. The members are elected publicly by drawing lots at a plenary session of the Supreme Court of the Republic of Macedonia, that is, at a plenary session of all judges at the relevant court, within 10 days from the date of receipt of the appeal at the latest.

The Appeal Council shall, within 30 days at the latest from its set up, decide on the appeal in a way that it may uphold or repeal the decision of the Council.

In the reopened procedure the Council takes a final decision, appraising the guidelines of the Appeal Council.

The President of the Supreme Court of the Republic of Macedonia and a judge/president of a court participant in the procedure before the Council may not be a member of the Appeal Council referred to in paragraph 2 of this Article.

Reopening of the procedure on the occasion of a final judgment of the European Court of Human Rights in Strasbourg

Article 97

When the European Court of Human Rights finds a violation of a human right or fundamental freedoms envisaged under the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Additional Protocols, which the Republic of Macedonia has ratified, in accordance with the Constitution of the Republic of Macedonia, in a proceedings before the Council and the Supreme Court of the Republic of Macedonia, the judge or the president of the court whose right has been violated in the proceedings may, within a period of 30 days but within three years at the latest from the date the judgment of the European Court becomes final, apply to the Council for reopening of the proceedings.

The Council shall inform the Inter-Ministerial Commission for execution of the decisions of the European Court of Human Rights of the application filed, in accordance with the Law on Execution of the Decisions of the European Court of Human Rights.

The Council is obliged in the reopened procedure to comply with the legal positions stated in the final judgment of the European Court of Human Rights finding the violation of the human rights and fundamental freedoms.

The Council may, in accordance with Article 25 of the Law on Execution of the Decisions of the European Court of Human Rights, reopen the proceedings to eliminate the violation and the consequences arising from the violation.

The Council shall, from its composition, set up within 15 days a Commission of a chairman and three members to act on the filed application for reopening of the

proceedings in which the members of the Council who are members of the Inter-Ministerial Commission for Execution of the Decisions of the European Court for Human Rights may not be included.

The Commission shall assess whether the filed application is timely, complete and admissible.

If the application is incomplete, untimely or inadmissible, the Commission shall propose to the Council to reject it.

If the Commission finds that the application is timely, complete and admissible the Commission shall forward the case to the Council for further handling, which shall submit the case to the Appeal Council at the Supreme Court of the Republic of Macedonia for competent handling within three days.

The Appeal Council shall, within 15 days after receiving, act upon the case and repeal its decision and the decision of the Council, guided by the legal positions noted in the final judgment of the European Court for Human Rights finding the violation, and shall remit the case immediately, and three days at the latest, to the Council for reopening of the procedure.

The reopened procedure regarding the violation found shall be conducted in accordance with the provisions of this Law relating to the establishment of a responsibility of a judge or president of a court in which new evidence may be proposed and examined.

The unsatisfied party shall have a right to an appeal with the Appeal Council against the decision made in the reopened procedure, within 15 days from the date it received the decision.

Article 97-a

During the procedure before the Council, the judge or the president of the court against whom a procedure is conducted shall have the right of fair trial in accordance with the guarantees determined in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Criteria and procedure for monitoring and assessment of the work of the judge

Article 98

The monitoring of the work of the judge and the president of a court shall take place through regular and extraordinary evaluation.

The judge is evaluated according to the overall results from the performance achieved in the work through the established qualitative and quantitative criteria in accordance with the provisions of this Law.

Aim of monitoring and assessment

Article 99

The aim of the monitoring and assessment of the work of the judge shall be the affirmation of the judiciary as an independent and autonomous authority, the strengthening of the personal motivation of the judges, securing further professional

development of the judges on the basis of their personal and professional capabilities without any influence, as well strengthening the independence and the impartiality of the judge during the exercise of the judicial office.

The monitoring and the assessment of the work of the judge shall be conducted without disrupting the independence and the impartiality of the judge during the exercise of the judicial office.

Regular and extraordinary assessment

Article 100

Regular evaluation of the judge and president of a court shall be carried out every two years, by the end of June of the current year, for the work of the court, the judges and the president of the court in the previous two years.

Extraordinary evaluation of the work of the judge and president of a court shall be carried out in the case when a judge applies for election of a judge in a higher court, that is, election of a president of a court.

If the judge or president of a court applies for a judge in a higher court or president of a court, and in the current year they have already been evaluated for the previous year through regular evaluation, no extraordinary evaluation shall be carried out for them.

Methods of monitoring and assessment

Article 101

The assessment of the work of the judge shall be conducted on the basis of the total results of the judge by quantitative and qualitative assessment of the work of the judge, immediate monitoring, and additional and special criteria in connection with the exercise of the judicial office.

In accordance with the criteria stipulated in this Law, the Council shall determine the form and the content of the form containing data and information on the work of the judge and the work of the president of the court, wherein the data on the work of the judge and the president of the court shall be entered once a month.

An integral part of the form referred to in paragraph 2 of this Article shall be the Instructions on the manner of filling the form prepared by the Council.

Quantitative criteria

Article 102

The quantitative criteria regarding the work of the judge shall be:
- the data and the information received regarding the work of the judge through the Automated Court Case Management and Information System (ACCMIS) regarding the number, the type and the resolved cases in respect to the orientation number of cases that the judges is to resolve monthly.

Qualitative criteria regarding the judicial work

Article 103

Qualitative criteria for evaluating the work of the judge shall be as follows:

- quality of the judge's work in the number of repealed decisions for committed serious violation of the procedure in relation to the total number of decided standardised cases;
- quality of the judge's work in the number of modified decisions in terms of the total number of decided standardised decisions;
- quality in the conduct of the court proceedings (respecting legal deadlines for taking process actions in the proceedings, respecting legal deadlines for adoption, publication and drafting of the decisions, length of court proceedings and respecting the principle of a trial within a reasonable time);
- quality of the decision taken is determined by inspecting five cases selected randomly by the automated court cases management information system and five cases selected by the judge, in the evaluation period; and
- imposed disciplinary measure.

Article 104

The quality of the work of the judge regarding the repealed and modified decisions shall be evaluated by inspecting the automated court case management information system thereby taking into account only the number of decisions against which remedies are allowed and filed and they are repealed because of committed essential violation of the procedure.

The quality in the conduct of the court proceedings is evaluated by inspecting the data from the automated court case management information system which shows the active work on the case and the taking of all process actions and observing legal deadlines.

The quality of the decision taken is established by inspecting five cases selected randomly by the automated court case management information system and five cases selected by the judge, in the evaluation period, the ability for verbal and written expression is evaluated which is seen also through the juridical expert action (application of legal theory and practice, complexity of the case, etc.) by three-member commissions set up by drawing lots, at a session of judges from the competent higher court, that is, plenary session of the Supreme Court of the Republic of Macedonia.

An imposed disciplinary measure written warning, reprimand or reduction of salary is assessed with negative points only for one period of evaluation.

Orientation number of cases that the judge is to resolve monthly

Article 105

The orientation number of cases that the judge is to resolve monthly in the first-instance, the appellate, the Administrative court, the Higher Administrative court and the Supreme Court of the Republic of Macedonia shall be determined in accordance with the legal area, the complexity of the material wherein the case is and the type of courts in accordance with the real competence.

The Council adopts methodology with indicators for determining the complexity of the matter where the case is during determination of the orientation number of cases that the judge should resolve monthly in the first-instance, the appellate, the Administrative courts, the Higher Administrative court and the Supreme Court of the Republic of Macedonia, and posts it on its website.

The Council shall each year by a decision determine the orientation number of cases referred to in paragraph 1 of this Article and the necessary number of cases for the purpose of realization of the orientation number of case that judge is supposed to monthly resolve.

Elements for calculating an assessment

Article 106

The sum of the results of qualitative and quantitative criteria is taken as the basis for calculating the grade for the work of the judge.

Qualitative criteria in terms of quantitative ones are with the ratio of 60% versus 40% in the formation of the final grade.

In calculating the grade for the judge's work the effective time of work is considered. The manner of calculation of the effective time of work of the judge is prescribed by the Council and is posted on the website of the Council.

Article 107

For the quantitative criteria the judge may receive a maximum of 80 points.

If the number of decided cases in certain types of cases in relation to the projected approximate number is 100%, it is considered that the judge met the quantitative criteria and is valued with 60 points.

Greater or lesser number of decided cases in relation to the projected approximate number of cases is valued in a way that for every initiated 1% more or less, the number of points of paragraph 2 of this Article increases, that is, decreases by 0.5 points.

Article 108

For the qualitative criteria of Article 103 of this Law the judge may receive a maximum of 120 points.

Scoring of qualitative criteria

Article 109

Percentage of repealed decisions in relation to the number of decided standardised cases	Points

Up to 3%	50
From 3% to 6%	40
From 6% to 15%	30
From 15% to 20%	20
More than 20%	0

The quality of the work of the judge in the number of repealed decisions in terms of the total number of decided standardised cases in the period under evaluation is scored according to the following table:

The quality in the conduct of the court proceedings (respecting legal deadlines for taking process actions in the proceedings, respecting legal deadlines for adoption, publication and drafting decisions, length of court proceedings and respecting the principle of a trial within a reasonable time) is scored according to the following table:

	Points
- complied with deadlines in more than 90% to 100% of the cases	30
- complied with deadlines in more than 70% to 90% of cases	20
- complied with deadlines in more than 50% to 70% of cases	10
- complied with deadlines less than 50% of the cases	0

The quality of the work of the judge in the number of modified decisions in relation to the total number of decided cases in the period under evaluation is scored according to the following table:

Percentage of modified decisions in relation to the total number of decided standardised cases	Points
Up to 5%	20
From 5% to 10%	15
From 10% to 15%	10
From 15% to 20%	7
From 20% to 30%	4
More than 30%	0

The quality of the court decision taken is scored according to the following table:

Average grade from the commission for the quality of the taken court decision	Points
From 8 to 10	20
From 5 to 8	15
From 3 to 5	10
Less than 3	0

On the basis of qualitative criteria when being evaluated the judge may be given additional 5 points for published professional papers or prepared educational material for the needs of the Academy for Judges and Public Prosecutors.

The judge shall be given the points referred to in paragraph 5 of this Article if the sum of points based on quantitative and qualitative criteria is at least 140 points.

The judge who is imposed a disciplinary measure in conducted disciplinary procedure shall, in the period for which he/she is evaluated, have the number of points determined based on the criteria defined by this Law reduced for each measure imposed according to the following table:

Written warning	5 points
Public reprimand	10 points
Referral to additional hours of professional training	20 points
Reduction in salary	30 points

The judge in the period for which he/she is evaluated shall have the number of points determined based on the criteria defined by this Law reduced by 10 points if as a result of his acting a judgment was passed by the European Court of Human Rights finding a violation of the right to a fair trial under Article 6 of the European Convention on Human Rights or a decision was made by the Supreme Court of the Republic of Macedonia finding a violation of the right to a trial within a reasonable time.

The judge in the period for which he/she is evaluated shall have the number of points determined based on the criteria established by this Law reduced by 5 points for every time-barred case if the statute of limitations occurred as a result of the actions of the judge.

Article 110

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Article 111

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Article 112

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Article 113

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Special cases of assessment of the work of the judge

Article 114

If the work of the judge and his/her decisions are not subjected to a supervision by a higher court, that is legal remedies have not been raised thereon, the judge shall receive maximum 90 points according to the criteria under Article 109 paragraphs 1 and 3 of this Law, and shall be evaluated according to the criterion under Article 109 paragraph 2 of this Law.

An assessment regarding the work of the judge

Article 115

The assessment of the Council regarding the work of the judge can be positive or negative.

Article 116

Based on the sum of points according to the qualitative and quantitative criteria for monitoring and evaluating the work of judges, the Council shall evaluate the judges with the following grades:

- 1) positive grade, consisting of three levels:
 - satisfactory, if the judge receives 75.5 to 105 points;
 - good, if the judge receives from 105.5 to 140 points;
 - very good, if the judge receives more than 140.5 points; and
- 2) negative grade, unsatisfactory if the judge receives less than 75 points.

Assessment of a president of a court who has undertaken a responsibility to judge cases

Article 117

Monitoring and evaluation of the work of the president of the court who assumed responsibility for adjudicating cases shall be conducted in accordance with the provisions of this Law relating to the criteria and procedures for monitoring and evaluating the work of the judge, with that that in terms of evaluating the quantitative criterion under Article 107 paragraph 2 of this Law the approximate norm is valued at 70%.

The points obtained from the evaluation of the work of the court president as a judge shall be added to the points obtained in his/her evaluation as president of a court if as

president of the court he/she is evaluated at least with a grade good, but the total number of points may not exceed 200 points.

Quantitative criteria for evaluating the work of the president of a Court

Article 118

The quantitative criteria for evaluating the work of the president of a court as president of a court are a percentage of cases decided at the level of the court and the percentage of decided backlog of cases older than 3 years, which are received through the automated court case management information system.

Qualitative criteria for evaluating the work of the president of the court

Article 119

Qualitative criteria for evaluating the work of the president of the court shall be:

1. Realised work programme;
2. Consistent application of the Court Rules of Procedure (annual work schedule, exclusion of judges, redistribution of cases, etc.);
3. Operation of the automated court case management information system;
4. Quality of decisions taken in court administration; and
5. Public relations and transparency in work.

The data for determining the results referred to in paragraph 1 of this Article shall be provided from the annual report of the work of the court which is discussed at the plenary session of the Supreme Court of the Republic of Macedonia, the programme for work of the president of the court, the reports from regular and extraordinary controls by the higher court, the Council and the Ministry of Justice.

Article 120

Qualitative criteria for evaluation of the work of the president of a court, as president of a court shall be:

- realised work programme is evaluated by inspecting the work programme submitted in the election for president of the court;
- consistent application of the Court Rules of Procedure in particular as regards the procedure for adopting and amending the annual work schedule, respecting the specialisation of judges, procedure for exemption of a judge, reassignment of cases, etc., which is assessed through inspection into the reports from regular and extraordinary controls by the higher court, the Council and the Ministry of Justice;
- functioning of the automated court case management information system which is assessed through inspection into the reports from regular and extraordinary controls by the higher court, the Council and the Ministry of Justice;
- quality of a decision taken in court administration, which is determined through continuous inspection in five cases chosen randomly by the automated court cases management information system and five cases specified by the president of the court, in the period under evaluation, thereby assessing the legal ground, legibility and clarity

of the language used in the decision, clear argumentation of all the facts, circumstances and evidence; and

- public relations and transparency in the work, which are assessed by inspecting the website of the court (announcements about the work of the court, posted decisions, analyses and reports on the work of the court, etc.) and free access to public information.

Calculation of the evaluation of the work of the president of a court

Article 121

As a basis for calculating the grade for the work of the president of a court is taken the sum of the results obtained from the qualitative and quantitative criteria. The ratio of the qualitative criteria and quantitative criteria is 60% to 40% in the formation of the final grade.

In calculating the grade for the work of the president of a court the total effective working time of all judges in the court in the period under evaluation is taken, divided by a total of 11 working months per year, in the period under evaluation.

Scoring quantitative criteria

Article 122

The percentage of decided cases in the court in view of the approximate number of cases is determined through the sum of quantitative points of all judges in the court, divided by the average number of judges in the period under evaluation, for which the work of the president of the court is scored as president of the court according to the following table:

Percentage of decided cases in relation to the approximate number of cases	Points
More than 130%	40
From 111% to 130%	25
From 91% to 110%	15
From 70% to 90%	10
Less than 70%	0

Percentage of decided old cases	Points
More than 60%	40

50% - 60%	25
40% - 50%	15
15% - 40%	10
Less than 60%	0

The percentage of decided old cases is determined as the ratio between the number of decided old cases older than 3 years in relation to the total number of old cases older than 3 years in the court, according to the following table:

Scoring of qualitative criteria

Article 123

The realised work programme of the president of the court is scored according to the assessment of the commission for evaluation for a percentage of realised activities by years, according to the following table:

Percentage of realised work programme	Points
More than 90%	40
80% - 90%	30
60% - 80%	20
40% - 60%	10
Less than 40%	0

The consistent application of the Court Rules of Procedure (annual work schedule, exclusion of judges, reassignment of cases, etc.) is scored according to the following table:

Consistent application of the Court Rules of Procedure	Points
No inconsistencies were identified in the reports from the regular and extraordinary inspections by the higher court, the Judicial Council and the Ministry of Justice	20
Inconsistencies were found in the reports from the regular and extraordinary inspections by the higher court, the Judicial Council and the Ministry of Justice and they were overcome in accordance with the recommendations and deadlines noted in the reports	10

The operation of the automated court case management information system is scored according to the following table:

Operation of the automated court case management information system	Points
Consistent legal functioning of the automated court case management information system	20
Minor inconsistencies in the legal functioning of the automated court case management information system	10

The quality of a decision taken in court administration (legal ground, legibility and clarity of the language used in the decision, clear argumentation of all the facts, circumstances, evidence are assessed) is scored according to the following table:

Quality of a decision taken in court administration	Points
From 7-10 cases	20
From 4-7 cases	10
Less than 4 cases	0

The criterion public relations and transparency in work is scored according to the following table:

Public relations and transparency in work	Points
From 7-10 pieces of information (announcements, requests, etc.)	20
From 4-7 pieces of information (announcements, requests, etc.)	10
Less than 4 pieces of information (announcements, requests, etc.)	0

The president of a court is evaluated with maximum of 120 points for the quality of the work as president of a court.

Article 124

The grade of the Council for the work of the president of the court may be positive or negative.

Based on the sum of points for all criteria for monitoring and evaluating the work of the president of the court, the Council evaluates the president of the court as president of the court with the following grades:

- 1) positive grade, consisting of three levels:
 - satisfactory, if he/she receives from 141 to 155 points,
 - good, if he/she receives from 156 to 180 points, and
 - very good, more than 181, and
- 2) negative grade, if he/she receives less than 140 points.

Article 125

The monitoring and the assessment of the work of the judges and the president of the Court shall be conducted by the Council, upon a previously given proposal by a three-person commission formed among the members of the Council having voting rights.

Court opinion

Article 126

Prior to the assessment of the judge and the president of the court by the Council, taking into consideration the criteria referred to in this Law, an opinion shall be obtained from the Commission composed from the president of the court and two judges, elected **by drawing lots** on a session of judges in the court wherein the assessed judge is exercising his/her judicial office.

Article 127

Prior to the assessment of the work of the judge - president of a department, taking into consideration the criteria referred to in this Law, an opinion shall be obtained from a commission composed of the president of the court and two judges - presidents of other departments or section of judges elected **by drawing lots** on a session of judges in the court wherein the assessed judge - president of a department is exercising his/her judicial office.

Opinion from a higher court

Article 128

While assessing the work of a president of the court, an opinion from the president of the higher court shall be obtained, and besides the criteria referred to in this Law, the following data shall be taken into consideration:

- the non-performance of the late performance of the work of the judicial administration,
- the influence on the judges independence,
- severe violation of the relations in the court, which significantly influence in the performance of the court,
- non-implementation of the principle of publicity and transparency and relations with the public;
- violation of the rules regarding the distribution of the cases, and
- non-fulfillment of the work program.

The notification of the higher courts, the grievances, as well as the minutes and the conclusions after the conducted controls of the competent bodies, shall be taken into consideration when assessing the work of the president of the court.

Decision upon the assessment

Article 129

The Council shall adopt a decision for the assessment of the work of the judge and the president of the court, containing an explanation of the reasons thereon.

The decision for the assessment of the work of the judge and the president of the court for whom the procedure for assessment has been conducted shall be delivered to the judge and the president of the court, within a time period of eight days.

Reassessment

Article 130

Provided that the judge and the president of the court are not content with the assessment, they can request a new assessment to be conducted.

The request for reassessment shall be submitted to the Council within a time period of eight days as of the day of acceptance of the decision for the assessment of the judge.

The Council shall, within a time period of 30 days as of the day of accepting the request for assessment, be obliged to reassess the work of the judge and the president of the court.

The reassessment of the work of the judge and the president of the court shall be conducted on the bases of a report by a Commission composed of three members of the Council, wherein the persons who have assessed the judge during the first assessment cannot participate.

Article 131

The judge and the president of the court shall not have the right to an appeal against the decision for reassessment adopted by the Council.

Proposition of judges of the Constitutional Court of the Republic of Macedonia

Article 132

The Council shall from among the judges **with at least 15 years of experience as a judge**, upon a previously determined evaluation of their overall results in the work of and their contribution to the development of the expertise and theory, and of the legal system, shall propose to the Assembly of the Republic of Macedonia two candidates for selection as judges of the Supreme Court of the Republic of Macedonia.

The referred to in paragraph 1 of this Article shall be adopted by the Council with a two-thirds majority of the total number of members having voting rights and in a manner and procedure determined by the Rules of Procedure of the Council.

Revoking the immunity of a judge

Article 133

The Council shall decide on revoking the immunity of a judge, in cases determined by law, on a session of the Council with a majority of votes of the total number of members having voting rights.

Deciding upon a request for custody

Article 134

The Council on a session shall decide upon the request for approving custody of a judge, that is the notification that a judge is in custody.

The Council after the notification for the custody of a judge, who has not called upon their immunity, can decide to apply immunity to the judge, if they assess that this is necessary for exercising the judicial office.

If the Council does not approve custody, the judge shall be released immediately.

The procedure where the Council decides on revoking the immunity of the judge shall be urgent and it shall be conducted within 24 hours from the delivery of the request, the notification for custody.

Report on operation

Article 135

The Council shall submit an annual report on its operation to the Assembly of the Republic of Macedonia by 30 April in the current year for the previous year at the latest.

The report referred to in paragraph 1 of this Article shall be published **on the website of the Council.**

The report shall contain the data on:

- the number of appointed and discharged **presidents of courts**, judges and lay judges,
- the number of initiated and completed **procedures for establishing responsibility**,
- the situation regarding the personnel in the judiciary,
- assessment for the cooperation and the relations of courts with other judicial organs and the organs of the legislative and executive power,
- **on the situation in the courts according to the annual reports on their work**, and

The report shall also contain assessments on the work of judges and in the Republic of Macedonia regarding the quality and efficiency of their work, as well as other issues in regard to exercising the independence and comity of the judiciary.

The report also contains data on the extent of implementation of the Annual Work Programme of the Council by items.

The Council shall adopt the report on its operation by a majority vote of the total number of members having voting rights, and shall submit it to the Assembly of the Republic of Macedonia for review and adoption.

After the adoption of the work report, the Council shall submit it to all courts in the Republic of Macedonia.

If the Assembly does not adopt the report, it shall be a base for initiation of a discussion before the organs that have elected the members of the Judicial council for assessment of their work in the Council.

VI. EXPERT SERVICE OF THE COUNCIL

Article 136

The Council shall have an expert service **which carries out administrative, expert-technical, organisational, information and financial affairs.**

The expert service shall be managed by a secretary general.

The Council shall adopt regulations on the internal organization and systematization of the working positions.

Equitable representation of the citizens that belong to the communities that are not a majority in the Republic of Macedonia shall be ensured in the employment within the expert service of the Council.

Article 137

The Council shall from among the court servants or managerial administrative servants appoint a secretary general, on the basis of an open competition.

The candidates for secretary general, in addition to the general requirements for employment in a court, that is, the requirements determined in the Law on Administrative Servants, should also need to have eight years of work experience after the passed bar exam.

Article 137-a

In the Council a Centre for Information and Communication Technology, Analytics and Statistics is set up, that is responsible for the database for electronic files of judges, candidate lists for the election of judges and presidents of courts, evaluation of judges and court presidents and database for financial and material operations of individual users of the court budget.

The Centre is responsible for storing a replicated database about the Court Information System which is placed in the Supreme Court of the Republic of Macedonia and it is used in accordance with the provisions of this Law.

The Centre coordinates the activities of other information centres in the judiciary in order to improve the software and hardware solutions in the judiciary.

VII. FUNDS FOR OPERATION

Article 138

The funds for operation of the Council shall be provided from the Budget of the Republic of Macedonia, from the part marked as Judicial Authority.

Article 139

The salaries of the Member of the Councils, the Secretary General, and of the court servants shall be determined by the Law.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Article 69 41

The first election of members of the Judicial Council of the Republic of Macedonia, in accordance with this Law, shall be conducted by the Commission established by the Minister of Justice and the Supreme Court of the Republic of Macedonia composed of five members from the Ministry of Justice and four members from the Supreme Court of the Republic of Macedonia.

For the first selection of the members of the Council from among judges, the candidates for members of the Council from among the judges shall not be obliged to submit the data anticipated in Article 12 paragraph 2 line 3 of the this Law.

The Ministry of Justice shall be obliged to start the procedure for selection of the Judicial Council of the Republic of Macedonia within 30 days as from the day this Law enters into force of this Law.

The Council shall adopt the Rules of Procedure within 30 days as from the day of the constitution.

The acts for the internal organization and systematization of the activities and tasks of the Council shall be adopted within 30 days as from the day of the constitution of the Council.

The other acts anticipated by this Law shall be adopted within three months as from the constitution of the Council.

The Minister of Justice shall adopt the Rulebook on the design and content of the form of the certificate within 30 days as from the constitutive session of the Council.

Article 70

The term of office of the Republic Judicial Council shall last until the day of constitution of the Judicial Council of the Republic of Macedonia.

As of the constitution day of the Judicial Council of the Republic of Macedonia, the employees in the Republic Judicial Council shall continue to perform their work and their working activities in the Council, and with the adoption of the acts for the internal organization and systematization, they shall be assigned to the appropriate working positions.

Article 71

As of the day this Law enters into force the Law on Republic Judicial Council ("Official Gazette of the Republic of Macedonia" no.80/92, 50/99 and 43/2003) shall cease to be valid.

Article 72

This Law shall enter into force on the eighth day from the day of its publication in the "Official Gazette of the Republic of Macedonia", and shall start to apply as of 1st September, 2006.

PROVISIONS OF OTHER LAWS:

Law Amending the Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no. 150/2010):

Article 11

The procedure for regular assessment of the judges for year 2009 shall be finished in accordance with this Law within a time period of three months as of the day this Law enters into force.

The commenced procedures for the establishment of unprofessional and bad faith in the exercise of the judicial office shall be finished in accordance with the existing regulations and in accordance with this Law.

The judges shall be obliged within a time period of eight days as of the day this Law enters into force to submit in writing to the Judicial Council of the Republic of Macedonia an electronic address for the purpose of acceptance of the writs.

Provided that the judges do not act within the time period determined in paragraph 3 of this Article, the Information Center of the Supreme Court of the Republic of Macedonia, shall submit to the Judicial Council the electronic address for the purpose of acceptance of the writs within the time period determined in paragraph 3 of this Article.

Law Amending the Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no. 20/2015):

Article 30

The procedures that have been initiated up to the beginning of application of this Law shall end in accordance with the provisions of the Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" nos. 60/2006, 150/2010 and 100/2011).

Law Amending the Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no. 20/2015):

Article 31

This Law shall enter into force on the eight day as of the day of its publication in the "Official Gazette of the Republic of Macedonia" and shall start to apply upon the expiry of three months as of the day of entry into force of this Law.

Law Amending the Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no. 61/2015):

Article 10

The procedures that have been initiated up to the beginning of application of this Law shall end in accordance with the provisions of the Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" nos. 60/2006, 150/2010, 100/2011 and 20/2015).

Law Amending the Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no. 61/2015):

Article 11

This Law shall enter into force on the eight day as of the day of its publication in the "Official Gazette of the Republic of Macedonia" and shall start to apply upon the expiry of three months as of the day of entry into force of this Law.

Law Amending the Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no. 197/2017):

Article 15

This Law shall enter into force on the day of its publication in the "Official Gazette of the Republic of Macedonia".