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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

LAW AMENDING
THE LAW ON COURTS*

*** Official translation**

“The Official Gazette of the Republic of Macedonia” № 83, dated 8 May 2018

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THE ASSEMBLY OF THE REPUBLIC OF MACEDONIA

Pursuant to Article 75 paragraph 1 and 2 of the Constitution of the Republic of Macedonia, the President of the Republic of Macedonia and the President of the Assembly of the Republic of Macedonia issue this

**DECREE
FOR PROMULGATION OF THE
LAW AMENDING THE LAW ON COURTS**

The Law on Courts, adopted by the Assembly of the Republic of Macedonia, on its session held on 02 May 2018, is hereby promulgated.

№ 08-2976/1
02 May 2018
Skopje

President of the
Republic of Macedonia
PhD **Gjorge Ivanov**
signature

President of the
Assembly of the
Republic of Macedonia
MoA **Talat Xhaferi**
signature

LAW AMENDING THE LAW ON COURTS

Article 1

In the Law on Courts (The Official Gazette of the Republic of Macedonia № 58/2006, 35/2008 and 150/10) in Article 7 after the word “electronically” shall be added after the word “distributed”, and the fullstop at the end of the sentence shall be deleted and replaced by a comma and the following words shall be added: “ through the automated computer system for the management of court cases, in accordance with the law”.

Article 2

The conjunction “and” following the word “civil”, in Article 12 paragraph 2 shall be replaced by a comma.

Article 3

The word “legal” in Article 13 paragraph 4 shall be added after the word “greater”.

Article 4

The word “suspending” in Article 18 paragraph 3 shall be replaced by the word “interrupting”. In paragraph 5, after the words: “Republic of Macedonia” the comma shall be replaced with a fullstop and the words at the end of the sentence shall be deleted.

After paragraph 5, a new paragraph 6 shall be added, and it shall read as follows:

“(6) When deciding, the court is obliged to apply the views expressed in final judgments of the European Court of Human Rights.”

Article 5

The word “minors” in Article 31 paragraph 1 indent 1 shall be replaced by the word “children”.

Article 6

In Article 37 paragraph 1, indent 1 shall be amended and it shall read as follows:

“define general views and legal opinions on issues of significance for provision of the unity by the application of the laws by the courts within three months, but not longer than six months at its own initiative or at the initiative of a president of a court or by an initiative of the sessions of judges or the session of the court divisions of the courts or by an initiative of lawyers and shall publish them on the web site of the Supreme Court of the Republic of Macedonia.”

Indent 10 shall be amended and shall read as follows:

“Conducts election of members of the Council deciding upon appeals against a decision of the Judicial Council of the Republic of Macedonia, in accordance with the law.”

The words “and exercise care for their” in indent 13 shall be replaced with the words “is responsible for monitoring their implementation”.

Paragraph 3 is amended, and shall read as follows:

“The Supreme Court of the Republic of Macedonia shall mandatorily publish the determined general views and legal opinions on issues of significance for provision of single application of the laws by courts on the web site of the Supreme court.”

After paragraph 3 a new paragraph 4 shall be added and it shall read as follows:

“The Supreme Court of the Republic of Macedonia shall submit an annual report on its work to the Judicial Council of the Republic of Macedonia not later than February of the current year for the previous year.”

Article 7

Article 42 is amended and shall read as follows:

“(1) Lay judges shall be elected and dismissed by the Judicial Council of the Republic of Macedonia under the conditions and in the procedure set by the law.

(2) Every adult citizen of the Republic of Macedonia who has completed at least secondary education, who is fluent in Macedonian language, has a reputation for exercising this function and is not older than 40 years, may be elected as a Lay judge.

(3) A juvenile trial Lay judge is elected from persons with experience in upbringing and education of young people.

(4) Upon completion of the election, the Lay judges should mandatorily attend specialized training, organized by the Academy for Judges and Public Prosecutors, after which the Academy shall issue a certificate for completed training to them.

(5) The content, duration and the delivery of the training referred to in paragraph (4) of this Article shall be defined by specialized programme for training of lay judges by the Academy for Judges and Public Prosecutors.”

Article 8

The words: “with at least eight GPA” and the words: “with a minimum eight GPA in both cycle of university studies” shall be deleted.

Indent 6 is amended, and shall read as follows:

- To be fluent in one of the three languages of the European Union that are used most often (English, French or German).”

After paragraph 1 new paragraph 2 is added, and shall read as follows:

“(2) The condition set in paragraph 1 indent 7 of this Article is required for enrollment of a candidate – judge for initial training at the Academy for Judges and Public Prosecutors, and the same is taken within the Enrollment examination at the Academy for Judges and Public Prosecutors.”

The paragraph 2 becomes paragraph 3.

Article 9

In Article 46 in paragraphs 1 and 2, the words “in the last year” shall be replaced by the words: “in two regular consecutive assessments.”

Article 10

In Article 47 paragraph 2, the words: “the last two years” shall be replaced by the words: “two regular consecutive assessment.”

In paragraph 4, the fullstop at the end of the sentence shall be replaced by a comma, and the following words shall be added: “which shall mandatorily comprise of measurable parameters as well as time frames for realization of the program objectives per calendar years.”

Article 11

Article 48 shall be deleted.

Article 12

In Article 52 paragraph 5 is amended and shall read as follows:

“The Judge cannot use his office or the reputation of the court to accomplish his personal interests.”

Article 13

In Article 67 paragraph 2 the words: “disciplinary procedure or dismissal procedure” shall be replaced by the words: “procedure for determining liability”.

Article 14

A new paragraph 1 is added in Article 68, and shall read as follows:

“Anyone shall have the right to lodge a written complaint to the President of the court due to improper or inappropriate behavior of a Judge in official relations with the parties that are contrary to the Code of Ethics and to receive a reply.”

Paragraphs 1 and 2 shall become paragraphs 2 and 3.

Article 15

In Article 71 paragraph 1, the words “for training” following the word “The Academy” shall be deleted.

Article 16

In Article 74 paragraph 3, the words “Entry into force of the decision on” shall be added after the words: “As of the date of”.

Article 17

In Article 75 paragraph 1 indent 1 is amended, and shall read as follows:

“ - if, during two regular consecutive assessments fails to meet the criteria for successful working due to the judges fault with no justified reasons, therefore receiving two negative assessment, and pursuant to the procedure set by the Law on the Judicial Council of the Republic of Macedonia”.

Indent 11 is amended and shall read as follows:

“ – If a decision is adopted by the European Court of Human Rights that confirms violation of Articles 5 and 6 of the European Convention on Human Rights.”

Article 18

Article 76 is amended and shall read as follows:

“(1) A serious disciplinary violation for which a procedure for disciplinary liability of a judge shall be initiated as grounds for dismissal shall be considered the following:

- 1) Membership in a political party (Article 52 paragraph 5);
- 2) Hinder supervision by a higher court over the work of the judge;

- 3) Taking advantage of his office and the reputation of the court to accomplish own personal interests;
- 4) More severe disturbance of the public order and peace causing harm to the reputation of the court and his own reputation, established by a final court decision;
- 5) Achieving non-satisfactory assessment within two consecutive regular assessments, carried by the Judicial Council of the Republic of Macedonia which shall be deemed as non-professional and negligent exercise of the judicial office;
- 6) Holding another public office, carrying out work or activity that is incompatible with the exercise of the judicial office;
- 7) Accepting gifts and other benefits related to the judicial office;
- 8) When deciding, fails to apply the views expressed in final judgments of the European Court of Civil Rights;
- 9) Discloses (reveals) confidential information that he became aware of acting upon cases or exercising his judicial office;

(2) For the disciplinary violation of paragraph 1 items 1), 3), 4), 6), 7), 8), and 9) of this Article, The President of the court is obliged to notify the Judicial Council of the Republic of Macedonia in writing, within eight days upon realization of the fact the violation has been committed, not longer than three months upon the day of the violation committed.

(3) For the disciplinary violation of paragraph 1 item 4 of this Article, the President of the court, where the final court decision has been adopted is obliged to notify the Judicial Council of the Republic of Macedonia as well as the President of the court where the judge is exercising his judicial office, immediately upon entrance into force of the said decision.

Article 19

Article 77 is amended and shall read as follows:

“(1) The following shall be deemed as disciplinary violation for which a disciplinary procedure is initiated to determine the disciplinary liability of a judge:

- 1) Violation of the rules of Judicial Code of Ethics causing disturbance of the reputation of the judicial office;
- 2) Causing severe disturbance of the courts' relations that significantly influences the exercise of judicial office;
- 3) Failing to fulfill mentoring obligations and professional qualification of associates;
- 4) Serious violation of the rights for absence from work;
- 5) Failure to fulfill the duty for continuous training;

- 6) Not wearing a judge's robe;
- 7) Failure to schedule the court sessions for no justified reasons on cases distributed to him that in work or in other manner shall stall the procedure or shall not consider the case for work due to which the criminal prosecution of the case shall become absolutely obsolete, or the execution of the criminal sanction for the offence shall become obsolete;

(2) For the disciplinary violation of paragraph 1 of this Article, the President of the court is obliged to notify the Judicial Council of the Republic of Macedonia in writing, within eight days upon realization that the violation has been conducted, not later than three months of the conducted violation.”

Article 20

In Article 78 paragraph 1, the conjunction “and” shall be replaced by a comma, and new indent 3 shall be added, that reads as follows:

“- referring to additional hours of professional training at the Academy for Judges and Public Prosecutors of the Republic of Macedonia, at least three hours within a period of three months and”.

New paragraph 2 is added after paragraph 1, that reads as follows:

“(2) If, by a decision that has entered into force, a judge is imposed a disciplinary measure – referral to professional training or decrease of the salary from 15% to 30% of the monthly salary, a judge may not be elected into a higher court, elected as a member of the judicial Council or a director of the Academy of Judges and Public Prosecutors, during the duration of the imposed measure.”

Article 21

In Article 79, paragraph 1 indent 6 is amended and shall read as follows:

“-failure to apply the provisions regarding the case management and distribution.”

After indent 6, new indent 7 is added, that shall read as follows:

“- violation of the provisions regarding the amendment of the Annual schedule for Judges.”

In indent 9, that becomes indent 10, at the end of the sentence, the words: “ paragraph (2) and” shall be deleted.

After indent 10, two new indents 11 and 12 shall be added, that read as follows:

- 2) Hinder supervision in the court pursuant to the law and
- Fails to lodge a proposal for commencement of a procedure determining liability of a judge pursuant to the law, while he knew or he was obliged to know about the existence of the legal reasons.”
- In item 3 the word “indent” is erased.

Article 22

In Article 84 paragraph 1 the word “positive” is added after the words: “upon previous”.

Paragraph 3 is amended, and reads as follows:

“Supervision over the application of provisions of the Court Rulebook shall be carried by the Ministry of Justice, while taking into consideration not to violate the autonomy and the independence of the judicial office, pursuant to the Plan on supervision, adopted by the Minister of Justice latest to December of the current year, for the next year.”

After paragraph 3 of this Article, three new paragraph are added – 4,5, and 6, that read as follows:

“(4) The supervision, mentioned in paragraph (3) of this Article shall be conducted by a Committee established by two representatives of the Ministry of Justice, Bachelors of Law with at least 10 years of experience in the service in legal affairs upon successful completion of the bar exam and two IT specialists that have been trained on the functionality and the manner of work of the automated computer system for the management of court cases.

(5) The Committee mentioned in paragraph (4) of this Article shall prepare report on the found state regarding the conducted supervision, containing suggested measures for removal of the found irregularities. A copy of the report shall be lodged to the court, the immediate court of higher instance, the Supreme Court of the Republic of Macedonia and the judicial Council of the Republic of Macedonia.

(6) The Minister of Justice may decide, upon his assessment, that it is required to include external experts to perform check-up of the functionality of the automated computer system for the management of court cases.”

Article 23

In Article 86 paragraph 1, the words: “Keeps Court Election Directory” are deleted.

In paragraph 3, the fullstop at the end of the sentence shall be deleted and the following words shall be added, that read as follows: “and they shall be treated by virtue of the regulation regarding protection of personal information.”

Paragraph 4 is amended and shall read as follows:

“The Ministry of Justice is user of the statistical information into the data base of the information systems in the courts.”

Article 24

In Article 99 paragraph 1 the words: “Information database for the Court Information System” shall be replaced by the words: “information technology competent for technical management with the automated computer system for the management of court cases and the database that originate from the courts work.”

After paragraph 4, new paragraph 5 shall be added, and shall read as follows:

“(5) It shall be mandatory for the Court IT specialists to be professionally educated at the Academy for Judges and Public Prosecutors.”

Paragraph 5 becomes paragraph 6.

Paragraph 6 is deleted.

Article 25

This Law shall enter into force on the eighth day following that of its publication in the “Official Gazette of the Republic of Macedonia”.