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(VENICE COMMISSION)

NORTH MACEDONIA

DRAFT LAW

ON THE JUDICIAL COUNCIL (*)

() Text prepared on the basis of the translation of the texts provided by the authorities*

**DRAFT LAW
ON THE JUDICIAL COUNCIL**

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

- (1) Political organization and activity in the Council are forbidden.
- (2) The members of the Council must not carry out any party activity while performing functions in the Council.
- (3) The Council through its work shall prevent the political influence in the judiciary.

Council status

Article 4

- (1) The Council shall have the capacity of a legal entity.
- (2) The head office of the Council shall be in Skopje.

Seal of the Council

Article 5

- (1) The Council shall have a seal.
- (2) 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.
- (3) 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

- (1) 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.

(2) Members of the Council by function participate in the work of the Council without the right to vote.

(3) Members of the Council by function shall not participate in the work of the Council sessions on which initiated procedure for determining responsibility, election or dismissal of a judge or president of a Court are being discussed and decided upon.

Term of office of the Members of the Council

Article 7

(1) The members of the Council elected by the judges have a six-year term of office with the right to another term after the expiration of at least six years following the termination of the previous term of office at the Judicial Council.

(2) The members of the Council elected by the Parliament of the Republic of Macedonia have a six-year term of office with the right to another term.

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

(4) 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 is elected, shall last six years.

(5) Term of office of a member of the Council elected from amongst judges shall cease if he is dismissed from judicial function.

Selection and termination the President of the Council's term of office

Article 8

(1) The work of the Council is chaired by a President.

(2) The Council President has a deputy, who deputes him in his absence.

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

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

(5) 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 A MEMBER OF THE COUNCIL

Announcement for a member of the Council

Article 9

(1) The president of the Council, three months at 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 a member of the Council from among judges,

- notify the president of the Assembly of the Republic of Macedonia to publish an announcement for election of a member of the Council who is being elected by the Assembly, and
- notify the president of the Republic of Macedonia to propose the Assembly a candidate for member of the Council.

(2) In the case of an early termination of the term of office referred to in Article 7 paragraph 4 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

(1) 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 who speak an official language other than Macedonian language.

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

(3) At least 30 days should pass from the day of publishing the announcement to the day of voting.

Conditions for election of a member of the Council

Article 11

- Any judge who exercises the office of a judge in 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 six years of service as a judge and

- has a positive assessment in the performance of the judicial office,
- has a reputation, has integrity in the exercise of the office as a member of the Council, and has social skills for exercise of the judicial office, for which integrity tests and psychological tests are taken,
 - in the last five years, with a legally valid decision, a disciplinary measure reduction of the salary in the amount of 15% to 30% from the monthly salary has not been pronounced.

(2) Any person who meets the following requirements in 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 himself by scientific or professional work or by public activities,
- not to be convicted with an effective court decision for the criminal offense misuse of official duty and authorizations or other criminal offence with unconditional imprisonment of at least six months that makes him unworthy to perform his function as a Council member 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.

(3) On a proposal of the President of the Republic of Macedonia, the Assembly of the Republic of Macedonia may select a person who meets the following requirements in the moment of selection for a member of the Council:

- 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 himself by scientific or professional work or by public activities,

- not to be convicted with an effective court decision for the criminal offense misuse of official duty and authorizations or other criminal offence with unconditional imprisonment of at least six months that makes him unworthy to perform his function as a Council member, 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.

(4) In the cases referred to in paragraphs (2) and (3) of this Article, a person who at the moment of the announcement performs a judicial or public prosecutor's office or a person who has been dismissed from a judicial or public prosecutor's office shall not be elected as a member of the Council, except for cases when the European Court of Human Rights has established violation of the Convention in the dismissal procedure, or a person who in the last four years was an MP, a member of the Government, or held office in a political party.

(5) The members of the Council elected by the Parliament, as well as the members elected by the Parliament that were proposed by the President of the Republic of Macedonia, are from among the university law professors, lawyers, former Constitutional Court judges, international judges and other prominent lawyers.

Psychological test and integrity test

Article 12

(1) 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 their social skills.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) The form and the content of the psychological test and the test of integrity are regulated by the Judicial Council.

Candidacy

Article 13

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

(2) The candidate shall attach to the application the following:

- 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 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 applies.

Commission for preparation of lists of candidates

Article 14

- (1) The Council, from among its members, shall form a three-member Commission for preparation of the candidate lists (hereinafter: Commission).
- (2) 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 publish them on the Council's web-site.
- (3) 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 communities that are not majority in the Republic of Macedonia, for the whole territory of the Republic of Macedonia.
- (4) Candidates who are not registered on the candidate lists shall have the right to an appeal to the Council within 48 hours of publication of the lists.
- (5) The Council at a session shall decide upon the complaints and it shall determine the candidate lists referred to in paragraph 3 of this Article.
- (6) The Council shall submit the determined candidate lists to the Commission on Conducting Elections of Member of the Council from among the judges, within 15 days from the expiry of the announcement.

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

Article 15

- (1) The Council shall establish the Commission for Conducting Elections of Members of the Council from among the judges (hereinafter: Selection Commission).
- (2) The Selection Commission consists of a president, two members and their deputies.
- (3) The president of the Selection Commission, one member and their deputies are elected by the Association of Judges of the Republic of Macedonia, and one member and his deputy are elected from among the representatives of the associations and foundations that have been working for more than five years in the field of human rights and rule of law.
- (4) Thirty days before the vote for Council members from the ranks of judges, the Council on its web-site publishes a call to associations and foundations to nominate one candidate for a member of the Selection Commission.
- (5) The deadline for application of candidates for members of the Selection Commission from among associations and foundations is ten days from the day of the publication of the call.
- (6) Candidate for a member of the Selection Commission may be a person who has completed legal studies with acquired 300 ECTS or VII/1 degree and who has not been convicted with a final judicial decision for a criminal offense to unconditional imprisonment of at least six months.
- (7) The Council shall determine the fulfillment of the conditions referred to in paragraphs (3) and (6) of this Article and shall establish a list of candidates for the Selection Committee, out of which two members and their deputies shall be elected by lot.
- (8) If upon the call referred to in paragraph (4) of this Article there are no candidates who meet the requirements to be members of the Selection Committee, the Council shall refer to the Bar Association of Macedonia to propose candidates for a member and / or a deputy of the Selection Committee who fulfill the conditions referred to in paragraph (6) of this Article.
- (9) The Selection Committee prepares the election material, establishes electoral boards and conducts the election of members of the Council from the ranks of judges.

Article 16

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

Election from appellate regions

Article 17

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 be 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,
- two members are elected from among the judges that belong to all the communities that are more than 20% of the population in the Republic of Macedonia by all the judges that are registered in the Judicial Electoral Directory and
- one member is elected from among the judges that belong to all the communities that are less than 20% of the population in the Republic of Macedonia by all the judges that are registered in the Judicial Electoral Directory.

Judicial Electoral Directory

Article 18

(1) The Judicial Electoral Directory shall be kept by the Judicial Council and it shall contain the following data:

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

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

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

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

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

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

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

Article 19

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

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

(3) The elections at the polling places shall be conducted by an Electoral Board formed on the base of a decision by the Election Commission.

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

(5) 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.

(6) 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 20

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,
- candidates lists,
- an excerpt from the Judicial Electoral Directory, and
- other material necessary for voting.

Ballot paper

Article 21

(1) The general ballot paper shall contain:

- title of the ballot paper,
- polling place and name of the polling place,
- serial number which is on the part that remains with the ballots, and
- name and surname of the candidates in alphabetical order.

(2) The special ballot paper shall contain:

- title of the ballot paper,
- polling place and name of the polling place,
- serial number which is on the part that remains with the ballots,
- name and surname of the candidates in alphabetical order,
- data on the nationality of the candidates, and
- the court where the candidate is being nominated from.

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

Delivery of the electoral material

Article 22

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

Conducting the voting

Article 23

(1) The voting shall be conducted during a working day.

(2) The voting shall start at 8.00 and shall last until 15.00 without interruptions.

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

(4) 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 Macedonia and the single special list.

(5) The judges shall identify themselves with the judicial identification card and shall vote secretly.

(6) The polling place shall be closed at 15.00, and the voting of the judges who are in the premises shall be allowed.

(7) 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 but cannot open the ballot box until 15.00 when all the polling stations are closed.

Minutes on the voting

Article 24

(1) Upon closing the polling place, the Electoral Board shall make minutes on the course and results of the voting until 18.00 at latest and it shall notify the Election Commission thereof.

(2) 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.

(3) 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.

Irregular ballot paper

Article 25

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, or in any other unambiguous way one cannot with certainty determine the will of the voter.

Election result

Article 26

(1) 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, and it has to ensure, through the web portal of the Council, that the public directly follows the summarizing of the election result, and if direct broadcast, from technical reasons, cannot be provided, it is necessary a recording of it to be provided and the next day at the latest to be uploaded on the web portal.

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

(3) 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.

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

(5) The form and the content of the form of the certificate shall be agreed by the Minister of Justice.

Procedure for protection of the candidate's right to vote

Article 27

(1) Each candidate may within 5 hours after the end of the voting to submit an objection to the Election Commission about the course of voting for member of the Council.

(2) Each candidate can file an objection to the procedure for summing up and determining the results of the voting within 5 hours from the announcement of the results of the voting for member of the Council to the Election Commission.

(3) The Election Commission shall be obliged to make a decision within 12 hours after the receipt of the complaint referred to in paragraphs (1) and (2) of this article.

(4) Against the decision of the Election Commission referred to in paragraph (3) of this Article, within 24 hours from the receipt of the decision one may submit lawsuit for initiation of an administrative dispute before the competent court.

(5) Regarding the lawsuit referred to in paragraph (4) of this Article, the court decides within 48 hours from the day of its receipt.

Procedure for protection of the voter's right of a voter

Article 28

(1) Each voter, who has been violated the right to vote in the procedure during the conduct of the voting, may file an objection to the Election Commission within 5 hours after the end of the voting.

(2) The Election Commission shall be obliged to make a decision within 12 hours after receiving the objection.

(3) Against the decision of the Election Commission, within 24 hours from the receipt of the decision, a lawsuit may be filed for initiating an administrative dispute in front of the competent court.

(4) Regarding the lawsuit referred to in paragraph (3) of this Article, the court decides within 48 hours from the day of its receipt.

Session of the Assembly at which members of the Council are being elected

Article 29

(1) The election of the Member of the Council 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.

(2) 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 30

(1) The elected members of the Council and the *ex officio* members shall give a solemn statement in front of the President of the Assembly of the Republic of Macedonia.

(2) 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".

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

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

Constitution of the Council

Article 31

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

(2) The constitutive session shall be convened by the president of the previous Judicial Council, and if the constitutive session is not convened within the deadline referred to in paragraph 1 of this Article, the members of the Council shall gather on the thirtieth day of the election at 10.00 and constitute the Council.

(3) 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 32

(1) The term of office of a member of the Council shall terminate:

- upon the expiry of the time for which he is elected;
 - upon his request;
 - if he is dismissed from the judicial office in accordance with the law and;
 - if he 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 unfit to perform the duties of a member of the Council.
- if it is determined that he permanently lost the ability to perform the office, and
- he is elected to another public office or profession.

(2) 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.

(3) In the case referred to in paragraph 1, line 3 of this Article, the mandate shall terminate with the validity of the decision for dismissal of the judge from the judicial office.

(4) 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.

(5) 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.

(6) 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 33

(1) 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 32 paragraph 1 item 4 of this Law,
- if a procedure for disciplinary responsibility of a member of the Council has been initiated

(2) The decision on temporary removal from the office of a member of the Council is adopted by the Council by at least eight votes, whereas the Council member against whom the proceeding was initiated shall be exempted from the session and the voting.

Exemption of a Council member

Article 34

(1) Member of the Council shall not participate in the work of the Council in procedures in which it is decided upon election of a judge, president of a judge, candidate for a judge or candidate for a president with whom he is:

- 1) in marital or extramarital union,
- 2) relation between relatives in straight line to any degree, and side line to fourth degree,
- 3) relation between relatives with in-laws to second degree,
- 4) relation of adopted child or adopted parent or person with whom he lives in the same family union.

(2) Member of the Council elected from among the judges shall not participate in the work of the Council when a procedure for establishment of his responsibility as a judge or Council member has been initiated.

(3) The member of the Council is obliged to cease his work in the procedures of Council's competence in the moment of acknowledgement of existence of the reasons of paragraph 1 of this Article and to inform the Council about it.

(4) Apart from the cases provided for in paragraph (1) of this Article, if the member of the Council in the course of performing his function finds out about circumstances that may raise doubt about his impartiality, he is obliged to immediately inform the Council which will adopt the appropriate decision.

(5) If the member of the Council does not act in accordance with paragraph 3 of this Article, a disciplinary procedure for him may be initiated.

Basis for submitting a request for a disciplinary procedure for a member of the Council

Article 35

(1) A justified request for initiation of a disciplinary accountability procedure for a member of the Council may be submitted to the Judicial Council by at least 20 judges or at least four members of the Judicial Council with a right to vote, if the member of the Council:

- affects the independence of judges and exerts pressure on decisions on certain cases;
- neglects and does not perform his function in the work of the Council;
- if he refuses to file a statement of assets and interests in accordance with law; or
- has violated the rules for exemption in situations in which the member of the Council knew or should have known about the existence of one of the grounds for exemption provided for by law.

(2) The member of the Council shall be dismissed from office in accordance with the grounds stipulated in paragraph (1) of this Article if the violation is committed:

- with intent or obvious negligence by the fault of a member of the Council without justified reasons and
- the injury caused severe consequences.

(3) The procedure for determining the responsibility of a member of the Council shall be conducted in accordance with the provisions of this Law that regulate the procedure for responsibility of a judge or president of a court.

(4) The decision for dismissal of a member of the Council shall be adopted by the Council with at least eight votes of the members with the right to vote, whereas at least two members elected by the judges and two members elected by the Assembly of the Republic of Macedonia must vote for the dismissal.

(5) The term of office of a member of the Council shall cease on the day when the decision on the dismissal of a member of the Council is taken.

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

Article 36

(1) The Council shall have the competence to:

- select and dismiss judges,
- select and dismiss the presidents of the courts,
- determine termination of the judicial office,
- select and dismiss lay judges,
- follow and assess the work of the judges,
- to decide on the disciplinary responsibility of a member of the Council,
- decide on the disciplinary liability of a judge, or president of court,
- 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 per courts,
 - review and assess the quarterly and annual reports on the work of the courts and shall publish them publicly on its web-site, 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.
- (2) At least once per month, the Council is obligated to hold a session to discuss separately 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.
- (3) The session of the Council referred to in paragraph 2 of this Article shall be public.
- (4) The Council adopts an annual work program and action plan no later than 15 December in the current year for the following year.

Annual work programme

Article 37

The annual work programme of the Council includes:

- measures and activities to promote 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 38

- (1) The Council shall review and decide on issues within its competence at a session.
- (2) The president of the Council shall convene and chair the sessions.
- (3) The president shall be obliged to convene a session on a proposal of at least five members of the Council.
- (4) Unless otherwise determined by this Law, a session can be held if the majority of the total number of members having voting rights is attending.
- (5) The proposal of the agenda shall be determined by a majority vote of the total number of members having voting right.
- (6) 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.

(7) 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 39

(1) The sessions of the Council shall be public.

(2) 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 vote of the total number of members of the Council having voting rights.

(3) 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.

(4) 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.

(5) 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 web-site of the Council.

(6) Records shall be taken, as well as audio recording for the work during the session of the Council. The adopted minutes shall be published on the web-site of the Council.

President of the Council

Article 40

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 41

The members of the Council, with a voting right in exercising the office of a member of the Council are equal in their rights and obligations.

Article 42

A member of the Council during his term of office may not be elected as a judge, a judge in a higher court or a president of a court or judge of the Constitutional Court of the Republic of Macedonia.

Rights, obligation and responsibilities of a Member of the Council

Article 43

(1) 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.

(2) The Minister of Justice and the President of the Supreme Court as members 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 in matters referred to in Article 6, paragraph 3 of this Law.

Rules of Procedure of the Council

Article 44

(1) The Council shall adopt Rules of Procedure by at least eight votes.

(2) 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.

(3) 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 judicial positions in the basic courts

Article 45

(1) The Council shall with a decision, based on analysis determine the number of vacant judicial positions in the basic courts in the Republic in Macedonia, taking into consideration the total number of vacant judicial positions in the basic courts, as well as the projection regarding the need of vacancies which shall be filled upon the completion of the initial training.

(2) The decision referred to in paragraph 1 of this Article shall be adopted by the Council with at least seven 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 46

(1) 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.

(2) The necessary specialization (in the criminal, civil, economic, administrative area or another 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.

(3) 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 basic court

Article 47

(1) 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.

(2) 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 training of the Academy for Judges and Public Prosecutors, after the training completion.

(3) A judge of a basic court who has applied for the announcement of a judge for another basic court may be elected by the Council if a candidate from the Academy for judges and public prosecutors did not apply for the announcement.

Criteria for the election of a judge of a higher court

Article 48

(1) 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.

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

1) expert knowledge and specialization in the field and participation in continuous training;

- 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,

- 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;

- 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;

- capability for written and verbal expressing, observed from the prepared decisions and professional judicial proceeding;

- undertaking additional work when performing judicial office by participating in procedures to resolve backlog of cases;

- undertaking additional work when performing judicial office by means of mentorship, education, and alike;

- relationship with the assistant and the court administration,

9) length of judicial service.

(3) 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 judicial office in order to assess the level of satisfaction of the judge's work (personal, leadership and social competence).

(4) The president of court on the base of the held session of judges shall deliver the opinion to the Council.

(5) The manner of the candidates' ranking is regulated by the Council by-law.

(6) 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 49

(1) 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.

(2) The candidate that has won at least eight votes of the total number of Council members having voting rights shall be selected a judge.

(3) Each member of the Council having a voting right shall be obliged, publicly, at a session of the Council, to elaborate his decision on selection of a judge.

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

(5)The candidate who is not selected as a judge shall have the right to appeal in front of the Council **for deciding upon appeal of** the Supreme Court of the Republic of Macedonia within a period of eight days as of the day of receipt of the information.

Adequate and Equitable representation in the selection of judges and presidents of courts

Article 50

(1) When the Council selects a judge and a president of a basic 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 49 of this Law and there should be majority of the votes of the attending members that belong to the communities that are not majority in the Republic of Macedonia.

(2) When the Council selects a president or a judge at 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 51

(1)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.

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

(3)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.

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

(5)The candidate who is not elected as a president of a court shall have the right to an appeal before the Council for deciding upon an appeal of the Supreme Court of the Republic of Macedonia within a period of eight days as of the day of the information receipt.

Re-announcement of a selection

Article 52

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 were given a negative evaluation, it shall be decided to re-advertise the election of a judge or president of a court.

Selection and dismissal of lay judges

Article 53

(1)The Council shall select and dismiss lay judges, on a proposal of the president of the competent basic court and appellate court.

(2)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.

(3) 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 Macedonian language, it shall decide with the majority of the votes of the attending members and there must be majority of votes of the present members that belong to the communities that are not a majority in the Republic of Macedonia.

Termination of the judicial office

Article 54

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:

- on a request from the judge;
- if he permanently loses the capability to perform the judicial office;
- if he meets the requirements for age retirement;
- if, by an effective verdict, he is sentenced to unconditional imprisonment of at least six months for a crime or has been banned from performing a profession, occupation or duty,
- if he 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 55

The Council shall adopt a decision on termination of the judicial office, when he 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 56

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

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

(3)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 office or by the president of the higher court or by Supreme Court of the Republic of Macedonia at a general session.

(4)The procedure for initiation and determination of the permanent loss of ability shall be closely regulated by a by-law adopted by the Council.

Termination of judicial office by fulfilling the conditions of age pension

Article 50

(1)The judicial office shall terminate with fulfillment of age pension requirements in accordance with the law, whereby the judge can extend the mandate in accordance with the regulations on labor relations by submitting a statement to the Judicial Council.

(2)The Council shall determine the termination or extension 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 or misdemeanor

Article 58

(1)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 unconditional imprisonment of at least six months or has been imposed a misdemeanor sanction ban on performing a profession, occupation or duty for a crime related to the abuse of judicial office, upon the effectiveness of the verdict that imposes this punishment, i.e. a misdemeanor.

(2)The first instance court that has reached the decision referred to in paragraph 1 of this Article shall without delay submit to the Council a copy of the judgment.

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

Article 59

(1)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.

(2) 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 60

The judgeshall be dismissed from the judicial office:

1) for committing serious disciplinary violation prescribed by law, makes him disreputable for performance of the judicial office, and

2) due to unprofessional and in bad faith exercise of the judicial office, determined by law.

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

Article 61

(1)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 later than three years as of the day of commission of the violation.

(2)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 of the judge or the president of the court in accordance with the regulations on personal data protection.

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

(4)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 62

(1) The reasoned 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, in which court he 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.

(2) 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 63

(1)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 is determined by name order and who, within five days of receipt of the application, assesses whether it is timely and complete and forward it to the Council for further action.

(2) The Council is obliged to act upon the request within seven days and if it finds that it is untimely or incomplete, it will reject it with a decision.

(3) When the Council decides that the request is timely and complete from the members with a right to vote by lot, it shall establish a Commission for determining the responsibility of a judge or a president of a court (hereinafter: the Commission) composed of three members, two of which are from among the members elected by the judges, and one is from among the members elected by the Assembly of the Republic of Macedonia. The president of the Commission is elected from among the members of the Commission.

(4) A member of the Council who is the submitter of the request cannot be a rapporteur, nor a member of the Commission referred to in paragraph 3 of this Article.

(5) When the Council determines responsibility of a judge or president of a court belonging to communities that are not a majority in the Republic of Macedonia in the Commission referred to in paragraph 3 of this Article, one member must be a member of the communities that are not the majority in the Republic of Macedonia.

(6) The Commission is obliged to complete the procedure within three months from the date of receipt of the request.

Gathering data and evidence

Article 64

(1) The Commission shall obtain data and evidence of interest in determining the situation regarding the request.

(2) If the data and evidence referred to in paragraph 1 of this Article are found with a state body, a body of the local self-government unit or person or legal person entrusted with exercising public authorizations they shall be obliged, without compensation, to submit them to the Council within the deadline specified in the request referred to in paragraph 1 of this Article.

(3) If the Commission determines the existence of grounds for initiating a procedure, it shall submit a draft decision to the Council which is obliged to decide within seven days for rejection or acceptance of the draft decision.

Delivery

Article 65

(1) If a decision has been taken to accept the proposal and initiate a procedure under Article 64, the Commission shall submit the request and the evidence personally to the judge or the president of the court against which it has been filed, through the archive of the court in which it performs the judicial office or with a registered shipment at the home address.

(2) If the judge is not found at the place of delivery referred to in paragraph (1) of this Article, a written notification of the place and time for the withdrawal of the request shall be made, and it shall be considered as a proper delivery.

(3) The judge or president of the court may respond in writing to the allegations in the request or to give an oral statement within eight days of receiving the request.

(4) A judge or president of a court against whom a claim has been filed shall have the right to a defense counsel who informs her/him and provides him for the hearing.

(5) Together with the response to the request, the judge or the court president shall provide all the evidence on the base of which he shall base his response to the request.

(6) The judge or the president of the court in the reply to the request shall be obliged to indicate the address to which the letter will be sent in the course of the procedure in a written procedure with a registered consignment, as well as the electronic address where the written submission will be sent electronically.

(7) If the judge or the president of the court is not found at the address stated in the reply to the request where the delivery of the letter is to be made, the supplier will leave a written notification for arrival on a certain day and hour in a certain Council premises to receive the letter. If the judge or president of the court does not act upon the notification, it is considered that the delivery was done on the day and hour indicated in the notice.

(8) Delivery by electronic means shall be performed in accordance with the provisions of the Law on Civil Procedure.

Report of the Commission

Article 66

(1) 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 or imposing a measure because of established responsibility of a judge or a president of a court.

(2) If the Commission proposes imposing of a measure because of the responsibility of a judge or a president of a court, in its report it will submit a decision proposal regarding the type of the disciplinary measure or decision proposal for dismissal of a judge or president of the court.

(3) The report should contain all documents and acts that, during the procedure, the Commission has had 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 decision making by the Council.

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

Temporary suspension

Article 67

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

Hearing regarding the request

Article 68

(1) At the hearing in front of the Council, the president of the Commission shall elaborate the report with the proposed decision.

(2) The Council shall have a hearing to discuss the Commission's report and after the completion of the hearing, it shall decide on stopping the procedure or pronouncement of a measure because of established responsibility of a judge.

(3) The president and the members of the Commission shall participate in the hearing in front of the Council, but they will be exempted from voting for the final decision.

(4) If a member of the Council was the submitter of the request, he will not be present at the hearing of the Council and he will be exempted from voting on the final decision.

(5) The decision of paragraph 2 of this Article shall be adopted by at least seven votes from the total number of members of the Council with voting right, and in relation to paragraphs 3 and 4 of this Article.

(6) If the judge, or the president of the court against whom the procedure for establishment of responsibility has been initiated, in the course of the procedure submits a request for termination of judicial function, the Council shall note termination of the judicial function and it shall continue with the procedure until a final decision has been adopted which shall be part of the judicial personal file of the judge, i.e. the president of the court.

Decisions of the Council

Article 69

- (1) The Council, by at least seven votes of the total number of members with voting rights, decides on the proposal-decision to stop the procedure or to pronounce a measure because of established existence of a judge's responsibility or a president of a court.
- (2) When the Council determines that there is no basis for liability, it shall stop the procedure with a decision.
- (3) When a decision has been taken to stop the procedure, the decision for temporary suspension from the performance of the judicial office shall be rendered out of force.
- (4) When the Council determines that there are grounds for responsibility of the judge or the president of the court for a committed disciplinary violation, it will impose a disciplinary measure prescribed by law with a decision.
- (5) When the Council determines that the judge or the president of the court committed a more serious disciplinary violation or unprofessional and unethical performance of the judicial office, under the conditions determined by law, he will be dismissed with a decision.

Procedure for deciding upon a draft decision on pronouncing a disciplinary measure

Article 70

- (1) The Council shall decide by at least seven votes of the total number of members entitled to vote regarding the proposed decision on the imposition of a disciplinary measure contained in the Commission's report.
- (2) If the Council fails to reach a decision on the imposition of a disciplinary measure proposed by the Commission, a vote is taken on other disciplinary measures, starting with the more difficult towards the easier.
- (3) By reaching a decision to impose a disciplinary measure, the voting is interrupted.
- (4) If after a vote on each of the disciplinary measures, no decision has been taken by at least seven voting members, the voting shall not be repeated, unless at the same session a proposal from the total number of members for repeating the voting on one of the measures has not been submitted.
- (5) If the Council does not decide on a disciplinary measure, in the case of paragraph 4 of this Article, the procedure shall be stopped.
- (6) If at least seven members of the Council with voting rights consider that during the course of the procedure evidence has been established about the existence of any of the legal grounds for dismissal of a judge or a president of a court, they may suggest that the Council votes on the dismissal of a judge or president of the court.

Procedure for deciding upon a draft decision on dismissal

Article 71

- (1) The Council shall decide with at least eight votes of the total number of members entitled to vote on regarding the proposed decision on the dismissal of a judge or president of a court.
- (2) By reaching the decision on dismissal, the judge or the president of the court temporarily moves away from the performance of the judicial office i.e. president of a court until the final decision of the procedure.
- (3) In the event that the Council failed to reach a decision on the dismissal of a judge or president of a court, but found that there are grounds for liability, the Council conducts a vote for imposing a disciplinary measure, starting from more difficult towards easier, in accordance with the provision from Article 70 of this Law.

Returning of documents

Article 72

If the Council, during the discussion upon the proposal for a decision, with at least seven votes of the members of the Council with voting rights assesses that further elaboration of the case is needed, it may only once 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 73

(1) The decision referred to in Article 69 of this Law shall be prepared within a period of 10 days as of the day of its adoption and shall compulsorily contain an introduction, disposition, explanation, and legal instruction.

(2) 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.

(3) The delivery of the decision referred to in paragraph (2) of this Article shall be performed in accordance with Article 65 from this law.

Right to an appeal

Article 74

(1) The right to appeal to the Council for deciding upon an appeal at the Supreme Court of the Republic of Macedonia (hereinafter: Appeal Council) against the decision of the Council shall be granted to the judge or the president of the court for whom the procedure for establishment of responsibility has been initiated, within eight days from the day of the receipt of the decision.

(2) The Appeal Council is composed of nine members, out of which three are judges of the Supreme Court of the Republic of Macedonia, one judge from each appeal court and two judges from the court from which the judge against whom the procedure is being conducted. The members shall be selected publicly by system of drawing at a general session of the Supreme Court of the Republic of Macedonia, i.e., a session of all the judges of the respective court, no later than 10 days from the day of the appeal receipt.

(3) The Appeal Council shall, at the latest within 30 days from its establishment, decide upon the appeal in such a way that it can confirm or revoke the decision of the Council, recognizing the legality of the procedure.

(4) If the Appeal Council revokes the decision, the Council shall repeat the procedure in the part of the committed violation and it shall adopt a final decision which will be published on its website.

(5) The President of the Supreme Court of the Republic of Macedonia and a judge/president of a court participant in the proceedings before the Council cannot be a member of the Appeal Council referred to in paragraph 2 of this Article.

Re-opening of the procedure on a final judgment of the European Court of Human Rights in Strasbourg

Article 75

(1) 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.

(2) 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.

(3)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.

(4)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.

(5)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.

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

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

(8)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.

(9)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.

(10)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.

(11) 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 76

During the procedure in front of the Council, the judge or the president of the court against whom a procedure is conducted shall have the right to a 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 and of a president on a court

Article 77

(1) Monitoring of the work of the judge and of the president of the court is being made through ordinary and extraordinary assessment.

(2) The judge is assessed on the base of the total results of the achieved success in the work through the established qualitative and quantitative criteria, pursuant to provisions of this law.

Aim of monitoring and assessment

Article 78

(1) The aim of monitoring and assessment is affirmation of the judiciary and of a president of a court as an independent and autonomous power, strengthening personal motivation of judges, securing further professional development of judges on the base of their personal and professional capabilities without any influence, as well as strengthening of the independence and impartiality of judges in execution of their function.

(2) Monitoring and assessment of the work of a judge is being made without interference of the independence and autonomy of judges in completion of their work.

Ordinary and extraordinary assessment

Article 79

- (1) Ordinary assessment of the judge and the president of the court is conducted once every four years, concluding end of June present year, for the work of the judges and the president of the court for the previous four years.
- (2) Extraordinary assessment of the work of the judge and president of the court is being made in case the judge applies for election to another court, to a higher instance court, election of a president of a court or member of the Council.
- (3) If the judge or president of the court applies for a judge of higher court or president of a court, he will not be assessed in the present year for the year before, in case he was regularly assessed.

Methods of monitoring and assessment

Article 80

- (1) Assessment of the work of the judge is being made on the base of overall results, through quantitative and qualitative assessment of the work of the judge.
- (2) The Council shall determine the form and the content of the form containing data and information about the work of the judge and the work of the president of the court, in accordance with the criteria determined by this Law, in which data is being provided for the work of the judge and the president of the court on monthly basis.
- (3) Integral part of the form of paragraph 2 of this Article is the instruction on the manner for filling the form, prepared by the Council.

Elements for calculating the grade

Article 81

- (1) The sum of the results obtained from the qualitative and quantitative criteria is considered as the basis for calculation of the judge's performance. The qualitative criteria in terms of the quantitative are in the ratio of 60% versus 40% in the formation of the final grade.
- (2) When calculating the judge's assessment, the effective working time is being taken into account. The manner of calculating the judge's effective working hours shall be agreed by the Council and shall be published on the Council's web-site.
- (3) For qualitative criteria, a judge can get a maximum of 120 points, and for the quantitative criteria, a judge can get a maximum of 80 points.

Qualitative criteria regarding the judicial work

Article 82

The qualitative criteria for assessing the work of the judge are:

- the quality of running the court procedure in which it is assessed: the ability to argumentation, readiness to conduct the hearing, compilation of minutes and hearing of parties, readiness to make procedural decisions, as well as the ability to resolve conflicts.
- quality of prompt handling of court cases in relation to: respecting the legal deadlines for undertaking procedural actions in the procedure, respecting the legal deadlines for adopting, publishing and drafting the decisions, the duration of the court procedure; and
- quality of the judge's work in the part of the number of reversed decisions due to a serious violation of the procedure in relation to the total number of resolved cases.

Determining the fulfillment of qualitative criteria

Article 83

- (1) The quality of conducting a court procedure is determined by inspecting five randomly selected cases by an automated computerized court case management system and five cases determined by the judge during the evaluation period by commissions.
- (2) The quality of the prompt handling of court proceedings is evaluated through insight into the data from the automated computerized court case management system.

(3) The inspection referred to in paragraph 1 of this Article for the evaluation of the work of the candidate for a judge shall be conducted by commissions from five members of judges of all appeal courts, i.e. the directly higher court.

(4) The commissions referred to in paragraph 3 of this Article for the evaluation of the work of judges shall be established by the Council, by random choice, in a manner regulated by a by-law enacted by the Council.

The work of the commission

Article 84

(1) Each member of the committee referred to in Article 83 of this Law, shall evaluate the work of the judge in each case, and the final evaluation is obtained as the average value of all individual assessments in each case by each member.

(2) The Commission submits to the Council a mid-range elaborated grade.

(3) The assessment grades are from 1 to 10, where 10 is the highest grade.

(4) The forms and assessment methodology referred to in this Article shall be adopted by the Council on the base of an opinion of the general session of the Supreme Court of the Republic of Macedonia.

Maximum points for qualitative criteria

Article 85

For the qualitative criteria of Article 82 of this Law, the judge may receive 120 points at most.

Scoring of qualitative criteria

Article 86

(1) The quality of the procedure is scored according to the following table

| Average evaluation by the Commission on the quality of the procedure | Points |
|--|--------|
| From 8-10 | 60 |
| From 5-8 | 40 |
| From 3-5 | 25 |
| Under 3 | 0 |

• The quality in the prompt handling of court cases is scored according to the following table:

| | Points |
|---|--------|
| - complied with deadlines in more than 90% to 100% of the cases | 35 |
| - complied with deadlines in more than 70% to 90% of the cases | 25 |
| - complied with deadlines in more than 50% to 70% of the cases | 15 |
| - complied with deadlines in less than 50% of the cases | 0 |

(3) The quality of the judge's work in the part of the number of reversed decisions due to significant violations of the procedure in relation to the total number of resolved cases in the period in which it is assessed shall be scored according to the following table:

| Percentage of annulled decisions in relation to the total number of resolved cases | Points |
|--|--------|
| Up to 5% | 25 |
| From 5% to 10% | 20 |
| From 10% to 15% | 15 |
| From 15% to 20% | 10 |
| More than 20% | 0 |

Orientation number of cases

Article 87

(1) The Council adopts a methodology with indicators for determining the complexity of the case according to the legal area, the complexity of the matter and the type of courts, according to the degree and the real competence, on the base of a previously obtained positive opinion by the Supreme Court of the Republic of Macedonia and shall publish it on its web-site page.

(2) Each year, the Council determines, with a decision, the orientation number of cases to be resolved by the judge monthly based on the methodology referred to in paragraph (1) of this Article and the opinion at a session of judges, i.e. the general session of the Supreme Court of the Republic of Macedonia.

Quantitative criteria**Article 88**

- The quantitative criteria for the performance of the judge are:

- the scope of his work, which is valued by the number and type of resolved cases in relation to the orientation number of cases to be solved by the judge monthly obtained from the Automatic Judicial and Information System for Case Management.

- the quantity of the judge's work in the section of altered decisions made in relation to the total number of resolved decisions.

(2) If the number of resolved cases by certain types of cases in relation to the envision orientation number is 100%, it is considered that the judge has met the quantitative criteria and is valued at 60 points.

(3) The higher or lower number of resolved cases in relation to the envision orientation number of cases is evaluated in such a way that for each 1% more or less started, the number of points referred to in paragraph 3 of this Article increases or decreases by 0.5 points.

(4) The quantity of work of the judge in the part of the reversed and altered decisions is assessed through an insight into the automated computerized court management system by taking into account only the number of decisions against which legal remedies are allowed and they are reversed due to serious violation of procedure or altered due to misapplication of substantive law.

Valuation according to the number of altered decisions made in relation to the total number of resolved cases**Article 89**

The work of the judge according to the number of altered decisions made in relation to the total number of resolved cases in the period in which he or she is evaluated shall be scored according to the following table:

| Percentage of altered decisions in relation to the total number of resolved 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 |

Special cases of assessment of the work of the judge**Article 90**

(1) If the judge's work is such that his decisions are not subject to supervision of a higher court i.e., no legal remedies have been declared against them, the judge shall receive a maximum of 100 points according to the criteria of this law and the judge's assessment methodology.

(2) If a former judge of an international court has applied for election of a judge, the candidate shall receive a positive evaluation.

Assessment of the judge's work

Article 91

2) On the base of the obtained score set according to the qualitative and quantitative criteria for evaluating the work of the judges, the Council shall evaluate the judges with the following grades:

- 1) Positive assessment if the judge receives more than 100 points,
- 2) Negative assessment if the judge receives less than 100 points.

Assessment of a president of a court who has undertaken a responsibility to judge cases**Article 92**

- 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 in terms of evaluating the quantitative criterion 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 evaluation as president of a court if as president of the court he is evaluated with a positive grade, but the total number of points may not exceed 200 points.

Quantitative criteria for evaluating the work of the president of a Court**Article 93**

Quantitative criteria for assessment of a president of a court's work as president is data obtained from the automated computerized court management system through a percentage of resolved cases in relation to received cases at the court level.

Qualitative criteria for evaluating the work of the president of the court**Article 94**

(1) The qualitative criteria for assessing the work of the president of the court as president of the court are:

- implemented work program with an action plan,
- the application of the Court Rules of Procedures which is assessed by reviewing the reports of regular and extraordinary controls by the higher court, the Council and the Ministry of Justice,
- the functioning of the automated computerized court case management system, which is assessed by reviewing the reports from the regular and extraordinary controls by the higher court, the Council and the Ministry of Justice,
- the quality of the decision taken in the court administration, which is determined through inspection in five randomly selected cases by the automated computer system for managing court cases and five cases determined by the president of the court during the evaluation period, valued over the legal basis, comprehensibility and clarity of the language in the decision, clear argumentation of all facts, circumstances and evidence, and
- public relations and transparency in the work, which are assessed through insight into the court's web-site (court declarations, published decisions, analyzes and reports on the work of the court, etc.) and free access to public information.

(2) The data for determining the results referred to in paragraph 1 of this Article shall be provided from the annual report on the work of the court which was examined at a general session by the Supreme Court of the Republic of Macedonia, the program of work of the president of the court, reports from the regular and extraordinary controls by the higher court, the Council and the Ministry of Justice.

(3) When assessing the work of the president of the court, the circumstances that had an impact on the realization of the program of work are taken into consideration, and to which the President could not act.

(4) The commission referred to in paragraph 1 indent 4 of this Article shall be established by the Council and shall be composed of five members of the immediate superior court.

(5) The forms and assessment methodology referred to in this Article shall be adopted by the Council on the base of a general opinion of the Supreme Court of the Republic of Macedonia.

Scoring quantitative criteria

Article 95

The percentage of resolved cases at court level in relation to received cases is scored according to the following table:

| Percentage of resolved cases in relation to received items | Points |
|--|--------|
| More than 110% | 40 |
| From 105% to 110% | 35 |
| From 100% do 105% | 30 |
| From 90% to 100% | 20 |
| Under 90% | 0 |

Scoring of qualitative criteria

Article 96

(1) The realized program of work of the president of the court shall be scored in accordance with the assessment of the commission for assessment of the percentage of realized activities by years, according to the following table:

| Percentage of completed work program | Points |
|--------------------------------------|--------|
| 81% -100% | 60 |
| 51% - 80% | 30 |
| Under 50% | 0 |

(2) Application of the Court Rules of Procedure (Annual Work Schedule, Exemption of Judges, Transfers of Items, etc.) shall be scored in accordance with the following table:

| Application of the Court Rules of Procedure | Points |
|---|--------|
| There are no inconsistencies in the reports of the regular and extraordinary controls by the higher court, the Judicial Council and the Ministry of Justice | 40 |
| There are established inconsistencies in the reports of the regular and extraordinary controls by the higher court, the Judicial Council and the Ministry of Justice, and they are exceeded in accordance with the recommendations and deadlines of the reports | 20 |

(3) The functioning of the automated computerized court case management system shall be scored in accordance with the following table:

| Functioning of the automated computerized court case management system | Points |
|--|--------|
| Consistent legal functioning of the automated computerized court case management system | 20 |
| Inconsistencies in the legal functioning of the automated computer system for managing court cases by a competent authority have been established, and they have been overcome in accordance with the recommendations and deadlines in the reports | 10 |

(4) The quality of the decision taken in the court administration (the legal basis, the comprehensibility and the clarity of the language in the decision, the clear argumentation of all the facts, circumstances, and evidence) are assessed according to the following table:

| Average assessment by the Commission on the quality of the decision taken in the court administration | Points |
|---|--------|
| From 8-10 | 20 |
| From 5-8 | 15 |
| From 3-5 | 10 |
| Under 3 | 0 |

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

| Average evaluation by the Commission on the quality of published information | Points |
|--|--------|
| From 8-10 | 20 |
| From 5-8 | 15 |
| From 3-5 | 10 |
| Under 3 | 0 |

(6) The president of the court for the achieved quality of work as president of the court is assessed with a maximum of 160 points.

Assessment of a president of a court

Article 97

The Council evaluates the president of the court as president of the court with the following grades:

- positive evaluation, over 100 points
- negative assessment, below 100 points

Decision to evaluate**Article 98**

(1) The Council shall make a reasoned decision on the assessment of the work of the judge and the president of the court.

(2) The decision referred to in paragraph 1 of this Article shall be submitted to the judge or the president of the court for which the assessment procedure was conducted within eight days from the day of its adoption.

(3) The judge or the president of the court have the right to object to the assessment they received within a period of eight days from the day of receiving the decision from paragraph 1 of this article.

(4) The Council shall, within seven days, discuss the complaint and issue a decision rejecting or accepting the opposition or decision for reassessment.

(5) Against the decision referred to in paragraph 4 of this Article, and against the decision taken in the re-evaluation, the judge i.e. the president of the court shall not have the right to object or appeal.

Reassessment**Article 99**

(1) If the judge or the president of the judge are not satisfied with the final evaluation that they have received, they may request a reassessment.

(2) The request for reassessment is submitted to the Council within eight days of the day of the receipt of the Decision for assessment of the judge.

(3) The Council is obliged, within 30 days from the day of receipt of the request for re-evaluation, to reassess the work of the judge and the president of the court.

(4) The reassessment of the work of the judge and the president of the court shall be carried out on the base of a report from the Commission composed of three members of the Council, in which the persons who were a member of the Commission who proposed the judge's assessment during the first evaluation cannot be members.

(5) Against the decision for reassessment made by the Council, the judge and the president of the court shall have no right to appeal.

**Proposition of judges of the Constitutional Court
of the Republic of Macedonia****Article 100**

(1) The Council 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 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.

(2) The proposal referred to in paragraph 1 of this Article shall be adopted by the Council with at least eight votes, and in a manner and procedure determined by the Rules of Procedure of the Council.

Decision to withdraw the immunity of a judge and to decide upon a request for detention

Article 101

- (1) The Council shall decide to revoke the immunity of a judge in cases determined by law, at a session of the Council by a majority vote of the total number of members with a right to vote.
- (2) The Council at the session decides upon the request for approval of the detention of a judge, i.e., after the notification that the judge has been detained.
- (3) The procedure in which the Council decides to revoke the judge's immunity is urgent and it is conducted within 24 hours of the request, i.e. the notification for detention.

Report on operation

Article 102

- (1) The Council shall submit an annual report for its operation to the Assembly of the Republic of Macedonia by 30 April in the current year for the previous year at the latest.
- (2) The report referred to in paragraph 1 of this Article shall be published on the web-site of the Council.
- (3) The report shall contain data on:
 - the number of appointed and dismissed 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,
 - material and financial condition in the courts,
 - condition of the courts pursuant to the annual reports of their work,
 - information about the work on the objections and proposals of the citizens and institutions for the work of the judges and the courts.
- (4) 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 about the achievement of the independence and autonomy of the judiciary.
- (5) The report also contains data on the extent of implementation of the Annual Work Programme of the Council by items.
- (6) The Council shall adopt the report on its operation by at least eight votes and shall submit it to the Assembly of the Republic of Macedonia for review and adoption.
- (7) After the adoption of the work report, the Council shall submit it to all courts in the Republic of Macedonia.
- (8) If the Assembly does not adopt the report, it shall be a base for initiation of a discussion before the bodies that have elected the members of the Judicial Council for assessment of their work in the Council.

VI. EXPERT SERVICE OF THE COUNCIL

Professional service

Article 103

- (1) The Council shall have an expert service which carries out administrative, expert technical, organizational, information, research and financial affairs for purposes of the Council.
- (2) The expert service shall be managed by a secretary general.
- (3) The Council shall adopt regulations on the internal organization and systematization of the working positions.
- (4) Adequate and 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.
- (5) The secretary general shall be present during the sessions of the Council without the right to vote and is able to propose items on the daily agenda.

Status of the employees in the Professional service of the Council

Article 104

- (1) The secretary general and the employees in the Professional service of the Council have status of administrative servants.
- (2) The secretary general shall be elected by the Council with majority of votes of the total number of members of the Council with the right to vote.
- (3) 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 have eight years of work experience after passing the bar exam.
- (4) For the issues related to the employment relation of the employees in paragraph (1) of this article, the provisions of the Law on Administrative Servants, the general regulations on work relations and this law apply.

CENTER FOR ICT**Article 105**

- (1) In the Council a Center for information and communication technology, analytics and statistics is set up (in the rest of the text: Centre for ICT), 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.
- (2) The Center for ICT 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.
- (3) The Center for ICT coordinates the activities of other information centers in the judiciary to improve the software and hardware solutions in the judiciary.

VII. FUNDS FOR OPERATION**Article 106**

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 107

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

VIII. TRANSITIONAL AND FINAL PROVISIONS**Article 108**

The Council is obliged to adopt the by-laws prescribed in this law within three months of the day of entrance into force of this law.

Article 109

- (1) The procedures for election of a judge of a higher instance court or president of a court or member of the Council, that have been initiated up to the entrance into force of this law, will finish pursuant to the provisions of the Law on Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no.60/06, 150/10, 100/11, 20/15, 61/15, 197/17 and 83/18).
- (2) The procedures for dismissal of a judge or president of a court that have been initiated up to the entrance into force of this law, will finish pursuant to the provisions of the Law on Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no.60/06, 150/10, 100/11, 20/15, 61/15, 197/17 and 83/18).
- (3) The procedures for establishment of responsibility of a judge or president of a court, that have been initiated up to the entrance into force of this law, will finish pursuant to the provisions of the

Law on Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no.60/06, 150/10, 100/11, 20/15, 61/15, 197/17 and 83/18).

(4) The automatic computer system for management of court cases in the courts will be adjusted pursuant to provisions of this law within 18 months of the day of entrance into force of this law.

(5) Until the adjustment of the automatic computer system for management of court cases with the provisions of this law, the present automatic computer system for management of court cases shall be applied in the courts.

Article 110

As of the day this Law enters into force the Law on Republic Judicial Council ("Official Gazette of the Republic of Macedonia" no.60/06, 150/10, 100/11, 20/15, 61/15, 197/17 and 83/18) shall cease to be valid.

Article 111

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".