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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

SERBIA

REVISED DRAFT LAW ON JUDGES

REVISED DRAFT**REVISED DRAFT LAW ON JUDGES****I. GENERAL PROVISIONS**

Subject of the Law

Article 1

This law regulates the position of judges, incompatibility with the judicial function, valuation of work of the judges, the financial position of judges, the conditions and procedure for the appointment of judges, the termination of judicial office, the position of the President of the court, the position of lay judges and disciplinary responsibility of judges.

Independence

Article 2

A judge is independent in ~~his actions and decision taking~~ performing the judicial function.

A judge ~~adjudicates~~ shall adjudicate and render judgments on the basis of the Constitution, ~~ratified international treaty~~, laws and other generally accepted rules of international law and other general acts adopted in accordance with the law.

Permanence and Irremovability

Article 3

The judicial function is permanent. A judge performs his function in the court to which he is appointed.

A judge may not be ~~permanently~~ transferred or ~~temporary~~ assigned to another court without his consent, except in cases provided for by the Constitution and this law.

A judge may be assigned, with his consent, to work in the High Judicial Council, the ministry in charge of the judiciary, the Judiciary Academy or an international judicial organisation, in accordance with this Law.

Preserving Confidence in Independence and Impartiality

Article 4

A judge is required to preserve confidence in his independence and impartiality at all times.

A judge is required to conduct proceedings impartially according to his conscience, in accordance with his own assessment of facts and interpretation of law, ensuring fair hearings and compliance with procedural rights of parties guaranteed by the Constitution, law and confirmed international treaties, and in accordance with the generally accepted rules of international law.

Services, jobs and activities procedures incompatible with the judge's function are determined by law.

Judges shall adhere ~~on every occasion~~ at all times to the Code of Ethics adopted by the High Judicial Council, in order to promote the dignity of the judicial function and reputation of judges and the judiciary.

The Code of Ethics shall govern the principles of independence, impartiality, expertise, responsibility and dignity.

All state bodies and officials are required to preserve, with their actions and behaviour, the confidence in independence and impartiality of judges and courts.

Financial Independence

Article 5

A judge is entitled to a salary and pension commensurate with the dignity of the judicial function and ~~the degree of the judge's responsibility~~ of a judge.

The ~~amount of the judge's~~ salary and pension guarantees of a judge shall represent a guarantee of his independence and material security.

The salary of a judge shall be governed by this Law.

Immunity

Article 6

A judge cannot be held accountable for an opinion expressed within the ~~performance of the judicial function~~ court proceedings or ~~for~~ voting in ~~taking the process of judicial~~ passing a court decision, unless he/she commits a criminal offence of violation of law by a judge or public prosecutor.

A judge shall not be deprived of liberty in the legal proceedings initiated against him/her for a criminal offence committed while performing judicial function without the approval of the High Judicial Council.

Liability for damage

Article 7

The Republic of Serbia shall be responsible for the damage caused by a judge through unlawful or improper work.

If the Republic of Serbia, based on a final court decision or settlement reached before the court, has paid the damages from paragraph 1 of this Article, the Republic of Serbia may demand that a judge remunerate the compensation paid, if the damage was caused ~~intentionally~~ wilfully.

When a decision of the Constitutional Court or another court in the Republic of Serbia, the European Court of Human Rights or other international court concludes that human rights and fundamental freedoms were violated in the course of a court procedure, and that the judgment has been based on such a violation, or that judgement was omitted because of violation of the right to a trial within a reasonable time, the Republic of Serbia may demand that a judge remunerate the compensation paid, if the damage was caused ~~intentionally~~ wilfully.

The State Attorney's Office is under the obligation to initiate a civil procedure before the competent court for the remuneration of compensation paid under Articles 2 and 3 hereof, at the request of the minister in charge of the judiciary and against a prior opinion of the High Judicial Council. The High Judicial Council is obliged to provide its opinion within 30 days from the day of submission of the request for the opinion.

~~Upon the request of the minister responsible for the judiciary, the Republic Public Attorney is obligate to initiate a civil proceeding before a competent court for remuneration of the amount paid referred to in Paragraphs 2. and 3. of this Article, having obtained a prior opinion of the High Judicial Council. The High Judicial Council shall give an opinion within 30 days from the day of submission of the request for the opinion.~~

The right to association

Article 8

To protect their interests and preserve their independence, judges shall have the right to associate.

The right of professional association also includes participation in the activities of professional associations during working hours, if this does not interfere with work in the court.

Participation in the Adoption of Decisions of Significance for the Work of Courts

Article 9

A judge is entitled to take part in taking decisions of significance for the work of courts.

Right to Advanced Professional Education and Training

Article 10

A judge has the right and duty to attend advanced professional education and training at the expense of the Republic of Serbia, as stipulated by a separate law.

The training of judges is a structured process for acquiring and developing the theoretical and practical knowledge and skills required for the professional and efficient performance of judicial function.

Training is mandatory, pursuant to the law or a decision of the High Judicial Council, in case of change of specialisation, substantial changes in regulations, introduction of new work techniques, and in order to eliminate deficiencies in the work of a judge observed during the evaluation of the judge's work.

The content of the training programme is defined in relation to the professional experience of a judge.

Election and Termination of Office and the Number of Judges and Lay Judges

Article 11

The High Judicial Council decides on the election and termination of office of a judge and a president of the court, in accordance with the Constitution and this Law.

The High Judicial Council determines the number of judges and lay judges for each court.

The number of judges for misdemeanour courts, the Misdemeanour Appellate Court, and the Administrative Court shall also be determined for each department outside the seat of the court.

The High Judicial Council reviews the required number of judges and lay judges for every court every five years.

The High Judicial Council may even review the required number of judges and lay judges prior to the expiry of the five-year period, at its own initiative or at the proposal of a president of the court, the president of a directly superior court, the President of the Supreme Court or the Minister responsible for the judiciary.

Rights Ensuing from the Judge's Employment

Article 12

A judge shall exercise his/her employment rights in accordance with the regulations governing the employment rights of elected persons, unless otherwise provided by this law.

II. POSITION OF A JUDGE

1. Permanence of the judicial function

Concept

Article 13

The judicial function shall last continuously from the election to the judge's office until the end of career.

The judicial function may terminate under the conditions provided for by the Constitution and this Law.

Reduction of Number of Judges

Article 14

The judicial function shall not terminate if the number of judges is reduced in the court in which a judge exercises the judicial function.

Removal from judicial office

Article 15

A judge shall be removed from office if a detention order is imposed against him/her.

A judge may be removed from office when a proceeding for determining the reason for his/her dismissal or criminal proceedings for a dismissible offence has been initiated.~~instituted.~~

~~The court that ordered detention or before which a criminal proceeding have been initiated, is obliged immediately to inform the High Judicial Council about ordered detention or initiated criminal proceeding.~~

A judge may be removed from office if the judge has been instructed to undergo a mandatory medical examination to verify his/her ability to exercise the judicial function.

The decision on removal from judicial office is made by the High Judicial Council.

Duration of Removal

Article 16

A judge is removed from office until the revocation of detention, conclusion of ~~dismissal~~ proceedings for establishing the reasons for dismissal, conclusion of criminal proceedings or conclusion of the procedure aimed at determining the ability to exercise the judicial function.

The High Judicial Council may reinstate a judge prior to the conclusion of ~~dismissal~~ proceedings for establishing the reasons for dismissal of the judge or the conclusion of criminal proceedings.

Right to appeal ~~to the Constitutional Court~~

Article 17

~~Against the decision on removal a~~ judge may has the right to lodge an appeal with the Constitutional Court within three days from the day of receipt of the decision, which excludes the right to submit a constitutional ~~appeal-complaint~~.

The appeal ~~with the Constitutional Court~~ does not delay the execution of the decision.

2. Irremovability of judges

Concept

Article 18

A judge shall have the right to permanently perform his/her office in the court to which he/she is elected, except in cases prescribed by the Constitution and this law.

A judge may only be ~~with his/her consent permanently~~ relocated or ~~temporary~~ assigned from one court to another, to High Judicial Council, to the Ministry in charge of the judiciary, to the Judiciary Academy or to an international judicial organisation with his/her consent.

Such consent shall be given in writing, and must precede the decision ~~taking~~ on ~~permanent relocation, temporary assignment~~ or assignment.

Permanent Relocation

Article 19

A judge may be permanently relocated, with his/her written consent, to another court of the same type and the same or lower instance, if there is a need to urgently fill a vacancy which cannot be resolved by electing or ~~temporary~~ assigning a judge, provided that the presidents of both courts have given their consent.

Notwithstanding paragraph 1 of this Article, a judge may be ~~permanently~~ relocated to another court without his/her written consent, in case of the abolishment of a court or revocation of the prevalent part of the jurisdiction of the court to which he/she is elected.

The prevalent part of the court's jurisdiction is revoked if the necessary number of judges in the court is reduced due to a change in the substantive jurisdiction of the court, the establishment of a new court or a change in the area in which the court exercises its jurisdiction.

In case of the situation referred in paragraph 2 of this Article, a judge may only be permanently relocated to a court of the same instance which takes over the jurisdiction of the abolished court or a court whose prevalent part of jurisdiction has been revoked.

If the jurisdiction of the abolished court was taken over by two or more courts, i.e. the predominant jurisdiction of the court was taken over by one or more courts, when making a decision on the permanent transfer of a judge, the High Judicial Council takes into account the residence of the judge, the length of the judge's service and the type of work that the judge performed.

A judge continues to perform his/her function permanently at the court to which he/she is relocated.

The High Judicial Council adopts a decision on permanent relocation.

A judge has the right to lodge an appeal against the decision on permanent relocation with the Constitutional Court within 30 days from the day of receipt of the decision, which excludes the right to submit a constitutional ~~appeal~~ complaint.

Temporary assignment to another court

Article 20

A judge may be temporarily assigned to a court in which the absence, inability, exemption of judges or other reasons make the work of the court more difficult.

A judge may only be temporarily assigned to work in another court of the same type and the same or directly lower instance for a period not longer than one year, ~~without possibility to be temporarily assigned again to the same court.~~

Exceptionally, a judge may be temporarily assigned to an immediately superior court if the statutory requirements for the election as a judge of the court to which he/she is assigned are met.

The High Judicial Council, with a written consent of a judge, shall issue the decision on temporary assignment of the judge from paragraphs 1 to 3 of this Article.

Prior to the adoption of a decision on temporary assignment of the judge from paragraphs 1 to 3 of this Article, the High Judicial Council shall obtain an opinion from the session of all the judges of the court in which the judge is elected and to which the judge is ~~temporary~~ assigned.

Exceptionally, in case of revocation of the prevalent part of the jurisdiction of the court to which the judge is elected, a judge may be temporarily assigned to another court of the same level that took over the prevalent part of the court's jurisdiction without his/her written consent.

A judge has the right to lodge an appeal against the decision on temporary assignment with the Constitutional Court within 30 days from the day of receipt of the decision, which excludes the right to submit a constitutional ~~appeal~~ complaint.

Assignment to the High Judicial Council, the ministry in charge of the judiciary, the Judicial Academy or an international organisation

Article 21

A judge may be assigned to perform professional tasks in the High Judicial Council, the Ministry in charge of the judiciary, the Judicial Academy or an international judicial organisation.

The assignment referred to in paragraph 1 of this Article is carried out at the recommendation of the head of the High Judicial Council, the minister in charge of the judiciary, the director of the Judicial Academy or the head of an international judicial institution to which a judge is assigned, following an opinion obtained from the president of the court, wherein a judge holds office, with a written consent of a judge.

The assignment can last for a maximum of three years, ~~except the assignment in an international organization, which may last for a maximum of six years,~~ without the possibility of re-assignment to the same authority, institution, or ~~international~~ organisation from paragraph 1 of this article.

The decision on assignment is made by the High Judicial Council.

During the period of assignment, a judge may be relieved of his/her judicial function, based on a decision of the High Judicial Council.

If a judge is assigned to the Ministry in charge of the judiciary, it is mandatory that he/she be relieved of his judicial function.

3. Mutual independence of judges

Concept

Article 22

A judge ~~in performing his/her function~~ is free to hold his/her views, ~~to~~ determine facts, and ~~to~~ apply ~~regulations~~ the law in all matters under his/her deliberation.

A judge is not required to justify to anyone, even other judges and the president of the court, his/her understanding of the law, ~~determined~~the facts found and the application of ~~regulation-law~~, except in the reasoning of the judgment or when so particularly stipulated by law.

Immutability of Annual Tasks

Article 23

A judge is entitled to have his/her workload defined by the Annual ScheduleCalendar of Tasks, and not to have it changed during the year.

Exceptionally, due to the election of a new judge, extensive absence of a judge, considerably increased or decreased influx of cases in certain legal areas during the course of a year, or a vacated position of a judge, the legal area in which a judge proceeds may be changed during a year.

The Annual ScheduleCalendar of Tasks and changes thereof are determined with a view to needs of the court and the capacity of a judge to successfully perform allocated duties.

Random Allocation of Cases

Article 24

Cases are allocated to a judge according to a schedule that is independent of the personality of parties and circumstances of the legal matter.

Cases are allocated to a judge on the basis of the annual court schedule of tasks, taking into account the complexity of the case, pursuant to the Court Rules of Procedure, according to the order determined in advance for each calendar year, exclusively on the basis of the designation and the number of the case file.

No one has the right to establish panels of judges and allocate cases by bypassing the work schedule and the order of ~~admission of receiving the~~ cases.

~~Deviation~~

~~Derogation~~

Article 25

Derogation from the order of receiving cases is only possible in cases stipulated by the law, as well as in case of overburdening or justified preclusion of a judge, pursuant to the Court Rules of Procedure.

In accordance with the Court Rules of Procedure, a case may be taken from a judge: when due to his/her prolonged absence it is necessary to deliberate on cases that are urgent under the law or its essence, if efficient work of the court is jeopardised, if the judge was issued a final disciplinary sanction due to a disciplinary offence for unjustified procrastination, as well as in other cases stipulated by the law.

A case taken away from the judge, as referred to in paragraph 2 of this Article, shall be allocated to another judge in accordance with the Court Rules of Procedure.

Right to Objection

Article 26

A judge is entitled to raise objections to the derogation from the order of receiving cases or taking away cases, with the president of the directly superior court, within three days from the day of becoming aware thereof.

Any objection of a judge of the Supreme Court is deliberated by the General Session.

A party in the proceedings also has the right to object in respect of taking away of cases, within three days from the day of becoming aware thereof.

~~The objection shall be submitted through the president of the court, who may, in accordance with the objection submitted, change the decision on deviation from the order of admission of cases or subtraction of cases from the judge.~~

~~If the president of the court does not approve the objection, he is obliged to send the objection, with reasoning for rejecting the objection, to the president of a immediately higher court, or to the General Session of the Supreme Court, within three days from the day of receipt of the objection.~~

~~The decision on the objection shall be brought~~taken within 15 days from the date of submission.

Duty to Notify the President of the Immediately Superior Court

Article 27

A president of the court is required to notify in writing the president of the immediately superior court of any derogation from the order of received cases.

Notification of Duration of Proceeding

Article 28

A judge shall notify the president of the court of the reasons for failing to conclude the first-instance proceedings within a period of one year and shall notify the president of the court about the progress of proceedings every six months.

A judge shall give a notice of proceedings under legal remedy to the president of the court ever three months, stating the reasons why the proceeding has not been concluded.

The president of the court is required to notify the president of the immediately superior court about every first-instance proceeding that has not been concluded within two years, as well as about the reasons for such occurrences.

The president of the court is required to notify the President of the Supreme Court of every proceeding on legal remedy that has not been concluded within one year.

Time limits for notification in enforceable, non-contentious and other non-contestable matters are defined by the Court Rules of Procedure.

Duty to notify under this Article commences from the day of receiving the case in the court.

Right of a Judge to File a Complaint

Article 29

A judge may file a complaint with the High Judicial Council for violation of any right for which this Law does not provide a particular remedy.

The complaint is to be submitted to the person to whom the complaint relates, who then has three days from the date of receipt to provide his/her comments.

The High Judicial Council rules on the complaint within 15 days from the receipt of the complaint, and promptly notifies the president of the court, the president of the immediately superior court and the President of the Supreme Court of the decision about the complaint. If the complaint is founded, the High Judicial Council shall undertake measures to protect the rights of the judge.

An act of the High Judicial Council determines in detail the manner of submission of the judge's complaint and the actions taken by the High Judicial Council in relation to the complaint.

Right of a Judge to Protection Against Undue Influence

Article 30

A judge may submit a request with the High Judicial Council for protection against undue influence.

The manner of submission and the procedure against the request for protection against undue influence are regulated by an act of the High Judicial Council.

4. The relationship between judicial function and other functions, activities and procedures ~~job or private interest~~

The relationship between ~~and other function, job or private interest~~ functions, activities and procedure, and judicial function

Article 31

A judge may not hold ~~function~~ office in ~~other authority~~ bodies of the Republic of Serbia, ~~authority of autonomous province, Autonomous Province~~ local units of self-government, ~~city~~ municipality or public authorities, may not be a member of a political party or act politically in some other manner, engage in any paid public or private work, nor extend legal services or advice for compensation.

~~Incompatible with judicial function is also other function~~ Notwithstanding paragraph 1 of this Article, a judge may be a member of the Board of Directors and the Program Council of the Judicial Academy, in accordance with the law governing the Judicial Academy.

Other functions, activities or private interests, which are contrary to the dignity, reputation and independence of a judge, are also incompatible with judicial function.

The Ethics Committee decides which ~~job~~ activities or private interests are contrary to the dignity and independence of a judge and damaging to the reputation of the judicial function, on the basis of the Code of Ethics.

A judge may, outside of working hours, engage in teaching and scientific ~~and artistic~~ activities and be a member of a body for the verification of competencies, for a fee, without special approval.

In cases stipulated by the law, a judge may engage in teaching and ~~scientific~~ research activities in a Judicial Academy during working hours.

Exceptionally, a judge may be a member of the management body of the Judicial Academy, based on the decision of the High Judicial Council, in accordance with a special law.

Based on the approval of the president of the court, a judge may participate in the work of professional bodies established in accordance with special regulations and working groups for the preparation of laws and other acts.

A judge may be sent on a study and/or other professional visit abroad based on the decision of the High Judicial Council, following the opinion of the president of the court, where performance evaluation from a personal file of a judge and knowledge of foreign languages shall be particularly taken into account.

Procedure for ~~Deciding~~ Deliberation on Incompatibility

Article 32

A judge is required to notify the [president of the court and the High Judicial Council](#), in writing, of ~~another function, a job or any engagement or~~ private interest that may be deemed incompatible with judicial function.

~~The notification from Paragraph 1. president of this Article may be submitted to the court shall notify in writing the president of the immediately superior court and the High Judicial Council by and the president of the Supreme Court shall notify the High Judicial Council, about any person. such function, engagement or private interest.~~

The High Judicial Council initiates and leads the decision-making process on the incompatibility of the office with other offices, jobs or their private ~~interest in accordance with the act of the High Judicial Council. interests.~~

The High Judicial Council shall notify the judge, the president of the court and the president of the immediately superior court about the existence of incompatibility of the function or ~~private interest~~work with the judicial function.

The High Judicial Council shall be obliged to file a disciplinary report if they find that another function, engagement or private interest performed or held by the judge or the president of the court is incompatible with the function of a judge or the president of the court.

Implementation of other ~~regulation~~[regulations](#)

Article 33

Judges are public officials in the sense of the law that regulates the prevention of corruption and have all the obligations imposed on public officials as stipulated by such a law.

5. Evaluation of Judges

Judges and presidents of the courts whose work is being evaluated

Article 34

The work of all the judges and presidents of the courts must be regularly evaluated, except in case of judges and presidents of the Supreme Court and judges above the age of 60.

The work of judges above the age of 60 is evaluated at the personal request of the judge or at the proposal of the president of the court.

Purpose of Evaluation

Article 35

The purpose of evaluation is to evaluate, maintain and improve the quality of work, with the observance of independence of a judge, in order to strengthen public trust in the work of judges and the courts.

Rules of Evaluation

Article 36

Performance evaluation involves all aspects of work of the judge or the president of the court, with special emphasis on the work conditions.

Evaluation is conducted on the basis of publicised, objective and uniform ~~and comprehensive~~ criteria based on qualitative and quantitative indicators. ~~Performance evaluation shall not include the assessment of the work use of judges is performed on the basis of the following basic criteria: professional knowledge free judicial belief in evaluating evidence and ability to its application; the ability of analytical opinion and resolving legal issues; ability to make decisions within appropriate deadlines; arguing and interrogation skills; oral and written expression and argument ability; ability to organize the judge's work; the ability to perform the tasks of the leading position, if the judge is appointed to such a position; undertaking additional works and duties; interpreting regulations.~~

The criteria and evaluation indicators, the manner and the procedure for the performance evaluation of judges and/or presidents of the courts are set by the act adopted by the High Judicial Council.

Evaluation Procedure

Article 37

The evaluation procedure is based on the principles of fairness and equality, with the participation of the judge, i.e. the president of the court whose work is being evaluated.

In the evaluation procedure, the judge, i.e. the president of the court whose work is being evaluated, is provided with immediate access to data sources for evaluation, the right to self-evaluate the work, the right to comment on the proposed evaluation decision and the right to a legal remedy against the evaluation decision.

Bodies Competent for Evaluation and Legal Remedy against the Evaluation Decision

Article 38

The committees of the High Judicial Council evaluate the work of judges and presidents of the courts.

The committees consist of three elected judges, where the judges of the courts of higher instance evaluate the work of the judges and presidents of courts of lower instance.

The members of the committees from paragraph 1 of this Article are under the obligation to attend the training for the evaluation of work of judges as prescribed by the act of the High Judicial Council.

Against the decision on the evaluation of the work of the judge and the president of the court, an appeal can be filed to ~~a committee consisting of three members appointed by~~ the High Judicial Council ~~among the judges of the Supreme Court~~ within 15 days from the date of delivery of the decision.

No administrative dispute may be initiated against the decision of the ~~committee~~ High Judicial Council from paragraph 4 of this Article.

The procedure in the administrative proceedings shall be urgent.

The manner of work of the committee from paragraph 1 of this Article is determined by an act of the High Judicial Council.

Evaluation Period

Article 39

The work of the judges, i.e. the presidents of the court, is being regularly evaluated once every five years.

Exceptionally, based on the decision of the High Judicial Council, a judge and the president of the court may be evaluated outside the schedule.

Decision on the Evaluation of Judges

Article 40

The decision on performance evaluation is adopted based on a comprehensive analysis and assessment of the abilities and results of the work of the judge, i.e. the president of the court, according to the criteria and indicators prescribed by the act of the High Judicial Council from Article 36, paragraph 3 of this law.

The decision on the evaluation of judges, i.e. the presidents of the court, must be accompanied by an explanation.

The work of the judge, i.e. the president of the court, is evaluated with: “excellently performs the judicial function”, “successfully performs the judicial function”, “satisfactorily performs the judicial function”, “unsatisfactorily performs the judicial function”.

The decision on the evaluation is added to the personal file of the judge, i.e. the president of the court.

The decision on the evaluation represents the basis for the election and compulsory training of the judge, i.e. the president of the court.

6. Financial position of a judge

Base salary

Article 41

A judge has the right to a salary adequate for his/her elected position.

The salaries of judges are established on the basis of the basic salary.

The basic salary is determined by multiplying the coefficients for the calculation and payment of salaries with the base for the calculation and payment of salaries.

The base for the calculation and payment of the judge’s salary is determined by the Budget law [and cannot be less than the average net salary of an employee in the Republic of Serbia according to the last published data of the authority responsible for statistical affairs before the approval of the budget proposal for the next year.](#)

The coefficient for the calculation and payment of the salary is determined by classifying each judge into one of six salary groups.

The basic salary, according to this law, is a value that does not include a percentage for the evaluation of years of service.

A judge cannot receive a pension under special regulations in addition to his salary.

Salary groups of judges

Article 42

Judges are classified into six salary groups, expressed in coefficients.

The first salary group includes the judges of misdemeanour courts.

The second salary group includes the basic court judges.

The third salary group includes the judges of commercial courts, higher courts and the Misdemeanour appellate court.

The fourth salary group includes the judges of the Commercial Appellate Court, appellate courts, and the Administrative Court.

The fifth salary group includes judges of the Supreme Court.

The sixth salary group includes the President of the Supreme Court.

Coefficients

Article 43

The first salary group has the coefficient of 2.50.

The second salary group has the coefficient of 3.00.

The third salary group has the coefficient of 3.50.

The fourth salary group has the coefficient of 4.00.

The fifth salary group has the coefficient of 5.00.

The sixth salary group has the coefficient of 6.00.

Basic salary of the President of the Court

Article 44

The basic salary of a president of the court is determined by increasing the salary of a judge of such a court by:

- 10% in courts with up to 20 judges;
- 15% in courts with up to 40 judges;
- 20% in courts with up to 60 judges;

- 25% in courts with up to 80 judges;
- 30% in courts with more than 80 judges.

The provision from paragraph 1 of this Article does not apply to the President of the Supreme Court.

The basic salary of a judge permanently relocated, i.e. temporarily assigned to another court

Article 45

A judge who is permanently relocated, i.e. temporarily assigned to another court, the High Judicial Council, the Ministry in charge of the judiciary, the Judicial Academy, or an international judicial organisation is entitled to a basic salary of ~~the court from which is permanently relocated, temporarily assigned or assigned, or, if more favourable for the judge, he/she is entitled to a basic salary~~ judge of the court, ~~High Judicial Council, and/or the ministry~~ Ministry in charge of the judiciary, the Judicial Academy or an international judicial organisation to which the judge is permanently relocated, i.e. temporarily assigned ~~or assigned, if more favourable for the judge.~~

Increment to the Base Salary of a Judge

Article 46

The basic salary of a judge performing an office in a court where more than 10% of the judge's positions are unfilled or in which the scope of work is significantly increased can be increased by 10% to 50%, proportionally to the number of unfilled positions.

~~As unfilled judge positions are also considered the positions of judges who have been temporarily exempted from performing and/or the judicial function, that is, whose function has been vacated, due to election, appointment, temporary assignment to another court, or assignment to the High Judicial Council, the ministry responsible for justice, the Judicial Academy or international organization. scope of work increase.~~

The basic salary of a judge who handles criminal cases with an element of organised crime and war crimes, can be increased by up to 100%.

The decision on increasing the basic salary from paragraphs 1 and 2 of this Article shall be issued by the High Judicial Council.

The basic salary of a deputy president of the court shall be increased by 50% of the increase referred to in Article 44, paragraph 1 of this Law.

Compensation of salary

Article 47

Judges have the right to salary compensation during absence from work and to compensation for expenses in cases prescribed by law ~~or other regulation,~~ as well as the right to compensation

for unused vacation, under the same conditions and in the same scope of rights as other court employees.

III. ELECTION OF A JUDGE

1. Appointment Requirements

General Appointment Requirements

Article 48

A citizen of the Republic of Serbia who meets the general requirements for work in state bodies, who has graduated from law school, passed the bar exam, who is professional and worthy of exercising the judicial function can be elected as a judge.

Required Experience

Article 49

The required professional experience in the legal profession following the bar exam is:

- 1) two years for a judge of a misdemeanour court;
- 2) three years for a judge of a basic court;
- 3) six years for a judge of a higher court, a commercial court, and the Misdemeanour Appellate Court;
- 4) ten years for a judge of the Appellate Court, the Commercial Appellate Court and the Administrative Court;
- 5) twelve years for a judge of the Supreme Court.

Other Appointment Requirements

Article 50

Other requirements for the appointment of a judge include expertise, qualifications and worthiness.

Expertise implies the possession of the theoretical and practical knowledge necessary for the performance of the judicial function.

Qualifications imply the skills that enable the effective application of specific legal knowledge in solving the court cases.

Worthiness implies moral qualities that judges should possess and conduct in accordance with those qualities.

Moral qualities that judges should possess are: honesty, conscientiousness, fairness, dignity, perseverance and exemplary behaviour, and behaviour in accordance with these qualities means preserving the reputation of the judge inside and outside the service, awareness of social responsibility, maintaining independence and impartiality, reliability and dignity in the service and

outside of it and assuming responsibility for the internal organisation and a positive image of the judiciary in the public.

The criteria and standards for the assessment of expertise, qualification and worthiness are set by the High Judicial Council, in accordance with the law.

Determining the expertise and qualifications of a candidate for a judge who is elected for the first time

Article 51

The expertise and qualifications of a candidate for a judge who is elected for the first time is verified at the examination organised by the High Judicial Council.

Success in the exam is expressed in grades from 1 to 5.

A candidate for a judge who is elected for the first time to a position in the basic or misdemeanour court and who has completed initial training at the Judicial Academy is not required to take an exam organised by the High Judicial Council, but the final grade on initial training at the Judicial Academy is used as a measure of expertise and competence.

The High Judicial Council prescribes the programme and method of taking the exam, which evaluates the expertise and competencies of a candidate for a judge.

Prohibition of discrimination

Article 52

During the nomination of candidates for a judge and the selection of a judge, discrimination on any basis is prohibited.

When nominating judges and selecting judges, account is taken of the national composition of the population, the appropriate representation of members of national minorities and knowledge of professional legal terminology in the language of the national minority that is in official use in the court.

2. Appointment Procedure

Announcement of the public competition for the appointment of judges

Article 53

The High Judicial Council shall announce a public competition for the election of judges.

The public competition is published in the "Official Gazette of the Republic of Serbia", other media with national coverage in the Republic of Serbia and at the website of the High Judicial Council.

Submission of Applications

Article 54

Applications are submitted to the High Judicial Council within 15 days of the public announcement in the "Official Gazette of the Republic of Serbia".

The application is submitted along with evidence of eligibility.

By decision, the High Judicial Council establishes a three-member commission that determines the timeliness, admissibility and completeness of submitted applications.

Untimely, unauthorised and incomplete applications are rejected by the commission.

An objection against the decision referred to in paragraph 3 of this Article may be submitted to the High Judicial Council within three days from the date of delivery of the decision.

Timely, authorised and complete applications are submitted by the commission to the High Judicial Council for further procedure.

Obtaining data and opinions

Article 55

The High Judicial Council shall obtain the information and opinions about the expertise, qualification and worthiness of the candidate.

Data and opinions are obtained from authorities and organisations where the candidate worked in the legal profession.

For the candidates coming from a court, the data is obtained from the personal file of the candidate, with the obligation to obtain the opinion of the session of all the judges of the court in which the candidate has worked.

For candidates from the order of judges, in addition to the data and opinion from paragraph 3 of this Article, the opinion of the session of all judges of the immediately superior court must be obtained.

For candidates from the order of judges, the grades obtained in the evaluation procedure are taken into account.

During the selection of candidates from the order of judges, other activities of importance for the performance of the judicial function may also be taken into account.

For candidates who work as assistant judges, a performance evaluation must be obtained.

For candidates who have not worked as a judge before, the High Judicial Council will particularly evaluate the type of work they performed after passing the bar exam.

Before the election, a candidate has the right to review the opinions referred to in paragraphs 3 and 4 of this Article.

Interview with candidates

Article 56

Before making a decision on the appointment, the High Judicial Council conducts interviews with the registered candidates aiming to determine the candidate's communication skills, readiness to perform the judicial function and the professional integrity of the candidate.

The interview referred to in paragraph 1 of this Article is conducted and evaluated in accordance with the Act of the High Judicial Council that governs the procedure for candidate selection. ~~The publicity of the work is ensured in the procedure for the election of judges, which is regulated in more detail by the act of the High Judicial Council.~~

Ranking list of candidates

Article 57

The High Judicial Council compiles a ranking list of candidates for the appointment of judges based on the expertise, competence and worthiness of the candidates.

The ranking list under paragraph 1 of this Article is published on the website of the High Judicial Council.

Appointment Decision

Article 58

The High Judicial Council adopts a decision on the appointment to the judicial function, which must be explained.

The enacting clause of the decision referred to in paragraph 1 of this Article is published in the "Official Gazette of the Republic of Serbia", while the decision with the rationale is published at the website of the High Judicial Council.

Publicity of work

Article 59

The ~~Right~~ publicity of work during the judge appointment procedure is regulated in more detail by an act adopted by the High Judicial Council.

The ~~Appeal~~ right to appeal to the Constitutional Court ~~Against~~ against the ~~Decision~~ decision on ~~the Election~~ election to judicial function to the Judicial Function

Article 60

Against the decision on election to judicial function, the candidate can lodge an appeal with the Constitutional Court within 15 days from the date of publication of the decision in the "Official Gazette of the Republic of Serbia", which excludes the right to file a constitutional appeal.

The Constitutional Court is obliged to issue a decision on an appeal ~~to the Constitutional Court~~ within 30 days from the date of expiry of the deadline for filing an appeal with the Constitutional Court.

The Constitutional Court can reject the appeal ~~to the Constitutional Court~~ as ~~unbased unfounded~~ and confirm the decision on the election to judicial function or accept the appeal ~~to the Constitutional Court~~ and annul the decision on the election .

The decision from paragraph 1 of this article with an explanation is published in the "Official Gazette of the Republic of Serbia".

3. Taking Oath and Taking Office

Taking the oath

Article 61

Before taking up office, a judge shall take an oath before the ~~President of the Supreme Court and the President of the National Assembly~~ High Judicial Council.

A judge who is appointed to judicial function at another court does not have to repeat the oath.

Oath

Article 62

The oath reads as follows: „I solemnly swear on my honour that I will perform my duties in compliance with the Constitution and the law, according to the best of my knowledge and ability and only in the service of truth and justice".

Taking office

Article 63

An elected judge shall take up office at the ceremonial session of all judges of the court he/she has been appointed to.

The previous office of a judge at another court ends with taking up office in the new court.

The judge of a court of higher instance who has been elected president of a lower instance court may go back to the function of a judge of a higher instance court after the expiration of the term of office as a president of the court.

When a Judge is Deemed as Not Elected

Article 64

It is deemed that a judge has not been elected if he/she fails to take up office without justified reasons within 30 days ~~from the expiration of the deadline referred to in Article 60, Paragraph 1 of this law, that is, from the day of the publication of the decision of the Constitutional Court rejecting the appeal to the Constitutional Court on the decision on~~ of election ~~to judicial function;~~ .

In cases referred to in paragraph 1 of this Article, the High Judicial Council adopts the decision at the proposal of the president of the court.

A judge has the right to lodge an appeal against the decision of the High Judicial Council referred to in paragraph 2 of this Article with the Constitutional Court within 30 days from the day of receipt of the decision, which excludes the right to submit a constitutional ~~appeal~~ complaint.

By its decision, the Constitutional Court may reject the appeal ~~to the Constitutional Court as ungrounded~~ or accept the appeal ~~to the Constitutional Court~~ and cancel the decision of the High Judicial Council.

IV. TERMINATION OF JUDICIAL OFFICE

1. Reasons for the Termination of Judicial Office

Article 65

A judge's office ends at the request of the judge, at the end of his/her career, due to a permanent loss of working ability for judicial function, if their citizenship of the Republic of Serbia is cancelled, or if they are dismissed.

Termination of office at the judge's request

Article 66

A judge who wishes to resign shall submit a request in writing to the High Judicial Council.

The request may be withdrawn until such time as the judge's office is terminated against the decision of the High Judicial Council or until the expiry of the time limit provided by this law.

If the request for the termination of the office is not decided within 30 days, it is considered that the judge's office has ended after the expiration of the period of 30 days from the date of submission of the request.

In case referred to in paragraph 3 of this Article, the High Judicial Council shall adopt the document stating the termination of the judicial office.

In other cases, a judicial function terminates on the date specified in the decision of the High Judicial Council.

If a judge submits a request for the termination of office after a request for establishing the reasons for his/her dismissal was filed, the former shall not be taken into consideration before the procedure for establishing the reasons for the dismissal is completed.

End of career

Article 67

The office of the judge ends when the judge reaches the age of 65, by force of law.

Notwithstanding the provisions of paragraph 1 of this Article, the office of a judge of the Supreme court ends when the judge reaches the age of 67, by force of law.

Permanent loss of the ability to perform the judicial function

Article 68

The office of the judge terminates when, based on the opinion of the expert committee of the competent body, it is established that the judge is incapable of performing the office due to his/her health condition.

The High Judicial Council, acting ex officio or following the proposal of the president of the court, the president of the immediately superior court or the judge in question, shall issue a decision on referring the judge to a mandatory medical examination ~~for the evaluation of the working ability.~~

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The opinion of the expert committee of the competent body referred to in paragraph 1 of this Article shall be submitted to the High Judicial Council.

2. Dismissal of a judge

Reasons for Dismissal

Article 69

A judge is dismissed if convicted for an offence carrying imprisonment sentence of at least six months or if a disciplinary proceeding shows that the judge has committed a severe disciplinary violation which, in the opinion of the High Judicial Council, seriously damages the reputation of the judicial function or the public's trust in courts.

Procedure for establishing the reasons for dismissal of a judge due to a final conviction for a criminal offence

Article 70

The High Judicial Council initiates and manages ex officio the procedure to determine the reasons for the dismissal of a judge due to a final conviction for a criminal offence of imprisonment of at least six months.

The procedure referred to in paragraph 1 of this Article may be also initiated at the proposal of the president of the court in which the judge performs the judicial function.

The ~~president of the~~ court of first instance before which the criminal proceeding against the judge was held is under the obligation to promptly provide the High Judicial Council and the president of the court where the judge performs the judicial function with a final conviction.

Procedure for establishing the reasons for dismissal of a judge due to a serious disciplinary offence

Article 71

The High Judicial Council determines the facts on whether a serious disciplinary offence of a judge, determined by a final decision, is such that it seriously damages the reputation of the judicial office or the public trust in the courts.

The procedure referred to in paragraph 1 of this Article is initiated by the High Judicial Council ex officio or at the proposal of the Disciplinary Commission.

The High Judicial Council is obliged to conduct the procedure and make a decision within 3090 days from the date of initiation of the procedure for establishing the reasons for the dismissal of a judge.

The decision of the High Judicial Council made in the procedure referred to in paragraph 1 of this Article must be reasoned.

Position of the Judge in the Proceedings for ~~Determination of Reasons for Dismissal~~ establishing reasons for his/her dismissal due to a serious disciplinary offence of a Judge

Article 72

~~The~~ In the procedure referred to in Article 70 of this Law, the judge has the right to be informed immediately about the reasons for initiating the procedure, to become familiar with the case, the accompanying documentation and the course of the procedure, and to provide explanations and evidence for their allegations either directly or through ~~a representative~~ an attorney.

A judge has the right to present his/her allegations in person before the High Judicial Council.

Disciplinary proceedings are The procedure referred to in Article 70 of this Law urgent and closed to the public, carried out by applying all guarantees of fair hearing, unless the judge against whom the proceeding is instigated requests that the proceeding is open to the public.

3. Decision on Termination of Judicial Office

Competences for decision-making

Article 73

The decision on the termination of a judge's office is made by the High Judicial Council, after the procedure in which it determines the reasons for the termination of office.

The procedure referred to in paragraph 1 of this Article is initiated and conducted by the High Judicial Council ex officio.

The judicial function ends on the day specified by the High Judicial Council in its decision, except in the case referred to in Article 65, paragraph 3 and Article 66 of this law.

The decision on the termination of judicial function must be reasoned and it is published in the "Official Gazette of the Republic of Serbia" and at the website of the High Judicial Council.

Appeal to the Constitutional Court against the Decision on Termination of Judicial Office

Article 74

A judge has the right to lodge an appeal against the decision of the High Judicial Council on the termination of judicial function with the Constitutional Court within 30 days from the day of receipt of the decision, which excludes the right to submit a constitutional ~~appeal~~ complaint.

By its decision, the Constitutional Court can reject the appeal or accept the appeal and cancel the decision on the termination of judicial function.

The decision of the Constitutional Court is final and is published in the "Official Gazette of the Republic of Serbia".

V. PRESIDENT OF THE COURT

Requirements for the Election of the President of the Court

Article 75

Among the judges performing the judicial function at the court of the same or higher instance who possess clear managerial and organisational skills, based on the criteria set by the High Judicial Council, the president of the court may be elected.

Procedure for the Election of the President of the Court

Article 76

The High Judicial Council shall nominate the President of the Court.

The High Judicial Council announces a public competition for the election of the president of the court no later than three months before the expiry of the office for which the president of the court was elected, i.e. no later than 15 days from the date of the decision on the termination of the office of the president of the court, due to the termination of the judicial function, due to the election as a judge of another court, at a personal request, due to the dissolution of the court or due to the dismissal from the office of the president of the court.

Before making a decision on the appointment, the High Judicial Council conducts interviews with the registered candidates.

Before reaching a decision on the election of the president of the court, the High Judicial Council takes into account the grades obtained in the performance evaluation procedure, the proposed programme for improving the work of the court prepared by the candidate, the grade obtained at the interview and obtains an opinion on the registered candidates from the session of all judges of the court for which the president is being elected.

The decision of the High Judicial Council on the election of the president of the court must be reasoned and published in the "Official Gazette of the Republic of Serbia" and at the website of the High Judicial Council.

The publicity of work in the procedure of appointment of the president of the court is regulated in more detail by an act adopted by the High Judicial Council.

Termination of Judicial Office of the President of the Court

Article 77

A judge who is elected president of the court shall also perform judicial function in that court.

Term of Office

Article 78

The president of the court is elected for a five-year period ~~without the possibility of~~ and may be re-elected once again as the president of the same court.

The term of office runs from the day of taking up office by the president of the court.

Acting President of the Court

Article 79

When the term of office of the president of the court expires, the High Judicial Council shall appoint a judge who will perform the function of the president until such time as a new president takes up office, for a period no longer than ~~one year.~~ six months.

The same person cannot be appointed as the acting president of the court in the same court more than twice.

The High Judicial Council shall appoint a judge who will perform the function of the president of the Supreme Court, ~~after obtained the opinion of the General Session of the Supreme Court.~~

Termination of Office of the President of the Court

Article 80

Office of the president of the court ends due to the termination of a judicial function, his/her election as a judge of another court, upon personal request, due to the termination of a court, with the end of the term of office, and due to dismissal from the position of the president of the court.

The High Judicial Council decides on the termination of office of the president of the court.

When the term of office of the president of the court expires, the High Judicial Council shall promptly organise a procedure for the election of the president of the court.

Reasons for the Dismissal of the President of the Court

Article 81

The president of the court shall be dismissed in the case of major violation of obligations set out by the provisions governing the court administration, violation of the principle of independence of judges, violation of rules on the allocation of cases, departure from the rules that regulate the Annual Calendar of Judges, due to a serious disciplinary offence committed while performing the function of the president of the court or due to incompetence.

The president of the court is deemed incompetent to act as a president of the court if his/her performance is evaluated as „dissatisfactory“, based on the criteria and standards for the evaluation of the president of the court.

Proceedings to Establish the Reasons for Dismissal of the President of the Court

Article 82

~~Anyone may submit an initiative for the dismissal of the president of the court.~~

The proceedings for establishing the reasons for dismissal of the president of the court are initiated and conducted by the High Judicial Council ex officio.

The proposal for the initiation of the proceedings for establishing the reasons for dismissal of the president of the court may also be initiated upon the proposal of the president of the immediately superior court, the session of all judges whose president is concerned, the body responsible for performance evaluation of the president of the court, and the Disciplinary Commission.

Decision on Dismissal of the President of the Court

Article 83

The High Judicial Council decides on the dismissal of the president of the court, after conducting a procedure to determine the reasons for such a dismissal.

The President of the court has the right to be informed immediately about the reasons for initiating the procedure, to become familiar with the case, the accompanying documentation and the course of the procedure, and to provide explanations and evidence for their allegations either directly or through a proxy.

A president of the court has the right to present his/her allegations in person before the High Judicial Council.

A president of the court has the right to lodge an appeal against the decision of the High Judicial Council on the dismissal with the Constitutional Court within 30 days from the day of receipt of the decision, which excludes the right to submit a constitutional [appeal-complaint](#).

Position upon Termination of Office of the President of the Court

Article 84

The president of the court who is not re-elected, who is dismissed, or who resigns shall continue to carry out his/her judicial function he/she performed prior to such an appointment.

President of the Supreme Court

Article 85

The High Judicial Council shall elect the President of the Supreme Court among the judges of that court, after obtaining an opinion from the General Session ~~of the Supreme court.~~

The candidate for the president of the Supreme Court, together with the application for the public competition, submits a programme for improving the work of the courts in the Republic of Serbia, which is published on the website of the High Judicial Council, together with the data from the candidate's professional biography.

The president of the Supreme Court is elected to a five-year term of office without the possibility of re-election ~~for the president of the Supreme Court.~~

~~The president of the Supreme court takes the oath before the High Judicial Council and the National Assembly.~~

~~The function~~Office of the President of the Supreme Court shall end before the expiry of the term of office if he/she so requests, with the termination of the judicial function, or by dismissal based on the reasons prescribed by this law pertaining to the dismissal of the president of the court.

The High Judicial Council decides on the termination of office of the president of the Supreme court.

The High Judicial Council shall initiate the proceeding for ~~the~~[establishing the reasons for](#) dismissal of the president of the Supreme Court, ex officio or at the proposal of the General Session ~~of the Supreme court.~~

The High Judicial Council shall conduct the proceeding for ~~the~~establishing the reasons for dismissal of the president of the Supreme Court.

Application of Provisions on Judges to Presidents of the Court

Article 86

The provisions of this Law related to the election and dismissal of judges shall also apply to the election and dismissal of the president of the court.

The provisions of this Law related to the election and dismissal of the president of the court shall also apply to the election and dismissal of the president of the Supreme court.

Other provisions of this Law concerning judges shall also apply to the presidents of the courts.

VI. SPECIAL PROVISIONS ON LAY JUDGE

Prohibition of Discrimination

Article 87

Discrimination on any basis shall prohibited during the nomination for the election of a lay judge and the election of a lay judge.

When proposing for the election of a lay judge and electing a lay judge, account shall be taken of the national composition of the population, the appropriate representation of members of national minorities and the knowledge of the language of the national minority, in official use in the court.

Appointment Requirements and Duration of Office

Article 88

Any national of the Republic of Serbia of legal age who is worthy of the function of a lay judge may be appointed as a lay judge.

The lay judge cannot be a member of a political party or engage in political activities in any other way.

While appointing a lay judges, gender, age, profession and social status, knowledge, competence, and affinities for specific type of legal matter shall be taken into account.

A lay judge is appointed to a period of five years and may be re-appointed.

Appointment Procedure

Article 89

The High Judicial Council appoints lay judges ~~at the proposal of the Minister in charge of the judiciary,~~ based on a public competition.

The public competition for the election of a lay judge shall be published and conducted by the ministry in charge of the judiciary.- High Judicial Council.

The public competition referred to in paragraph 1 of this Article shall be published and conducted by applying the provisions of this law that regulate the appointment of judges.

Before the appointment, the High Judicial Council shall obtain the opinion from the court for which a lay judge is to be appointed.

A person of legal age, not older than 70 years at the time of appointment, may be appointed as a lay judge.

Oath

Article 90

A lay judge shall take an oath before the president of the court to which the lay judge is appointed.

The oath reads as follows: „I do solemnly swear that I will perform my duties in compliance with the Constitution and the law, scrupulously, dedicatedly, and impartially.”

Removal from office

Article 91

The president of the court shall remove a lay judge from office in case a criminal proceeding has been instituted against him/her for an offence due to which he/she may be dismissed, or if the proceedings for establishing the reasons for his/her dismissal have been instituted.

The removal will be in force until the completion of the proceedings.

Incompatibility ~~of the function of lay judge~~ with other ~~function, job or private interest~~functions, engagements and activities~~Article 91~~

Article 92

A lay judge may not be an attorney-at-law or extend legal services or advice for a fee.

With Other functions, engagements and activities are also incompatible with the function of a lay judge ~~are incompatible other function, job or private interest which if they~~ are contrary to the dignity and independence of a judge or harmful to the reputation of the court.

Termination of Office

Article 93

Office of a lay judge terminates if the court where he/she works is abolished, in case of dismissal or expiry of the term of office.

The office of a lay judge does not cease due to the end of career.

The proceedings to establish the reasons for the termination of office of a lay judge are initiated at the proposal of the president of the court, president of the immediately superior court and president of the Supreme Court, ~~or the minister in charge of the judiciary.~~

The High Judicial Council shall initiate and conduct the proceedings and take a decision.

Reimbursement and Rewards of Lay Judges

Article 94

A lay judge is entitled to reimbursement of costs incurred while performing the function, compensation for lost earnings and reward.

The High Judicial Council shall define the conditions and the amount of reimbursement and reward.

Implementation of Provisions on Judges

Article 95

The provisions of this law pertaining to judges shall also apply to lay judges.

VII. DISCIPLINARY RESPONSIBILITY OF JUDGES

Purpose of disciplinary liability

Article 96

Judges and presidents of the courts have disciplinary responsibilities.

The purpose of disciplinary responsibility is to ~~warn~~ admonish or ~~sanction~~ punish a judge, without jeopardising the judicial independence, for inappropriate behaviour or omissions in work that jeopardise the authority and impartiality of the court, with the aim of maintaining public trust in the judiciary.

Disciplinary offence

Article 97

A disciplinary offence is negligent performance of judicial function or conduct of a judge that is inappropriate for a judicial function, as prescribed by this Law.

The negligent performance of the judicial function and the function of the president of the court is any action that is contrary to the prescribed obligations and prohibitions in the performance of the function or in connection with the performance of the function.

Behaviour that is unworthy of judicial function represents the behaviour of judges and presidents of courts in the performance of their duties and outside of their duties, which undermines the reputation of the courts and citizens' trust in the judiciary.

Types of Disciplinary Offences

Article 98

Disciplinary offences are:

- 1) a violation of the principle of impartiality;
- 2) failure of a judge to request his/her exclusion in cases where there are reasons for exclusion or withdrawal foreseen by law;
- 3) unjustifiable delays in the proceedings or unjustified failure to schedule a hearing or search or unjustifiable delays in the drafting of decisions;
- 4) processing of cases in an order contrary to the order of reception;
- ~~5) unjustifiable failure to schedule a hearing or search;~~
- ~~6) frequent tardiness for hearings or searches;~~
- ~~7) unjustifiable delays in the proceedings;~~
- ~~8) unjustified non-compliance with the deadline for court action prescribed by the law regulating certain court proceedings;~~
- ~~9) unjustifiable failure to notify the president of the court about cases with prolonged proceedings;~~
- ~~10) obviously incorrect treatment of participants in court proceedings and the court staff;~~
- ~~11) unjustified and frequent disrespect of the working hours;~~
- ~~12) acceptance of gifts contrary to the regulations on the conflict of interest;~~
- ~~13) engaging in inappropriate relations with parties in proceedings and their legal representatives;~~
- ~~14) making comments about court decisions, proceedings or cases in the media in a manner contrary to law and the Court Rules of Procedure;~~
- ~~15) performing other function, job or private interest~~ 12) engaging in activities that are incompatible with a judicial function pursuant to the law;
- ~~16) unjustified non-attendance of mandatory training programmes;~~
- ~~17) provision of incomplete or incorrect information relevant for the work and decision-making of the High Judicial Council;~~
- ~~18) failure to act in accordance with the decision of the High Judicial Council on referral to a mandatory medical examination;~~
- ~~19) unauthorised release of information to the media about ongoing court proceedings;~~
- ~~20) unjustified~~ 17) failure of the president of the court to act in accordance with the measures adopted during the supervision;

~~2118)~~ unjustifiable ~~change in~~failure to act in accordance with the court's annual schedule of judges' activities, ~~and/or~~ the unjustified violation of the principle of random allocation of cases, contrary to the law;

~~2219)~~ undue influence on a judge in performance of the judicial function;

~~2320)~~ major violation of provisions of the Code of Ethics established by the Ethics Committee.

A severe disciplinary offence exists if the commission of a disciplinary offence referred to in ~~Paragraph~~paragraph 1, points 1) – 3), 9) 10), 12), 15), 17) – 20) of this Article has caused a serious disruption in the work of the court or in a severe damage to the dignity of the court or public trust in the judiciary, and in particular if malpractice of the judge results in the statute of limitations causing serious damages to the property of the party in proceedings, as well as in the case of repeated disciplinary offence.

A repeated disciplinary offence referred to in paragraph 2 of this Article exists if disciplinary responsibility of a judge has been finally established on two occasions. ~~The judge may be dismissed if he/she committed a serious disciplinary offence that, in the assessment of the High Judicial Council, seriously damages the reputation or the public's trust in the judiciary.~~

The provisions of paragraphs 2 and 3 of this Article shall not apply to the disciplinary offences referred to in paragraph 1, points 4), 5), 6) – 8), 11), 13), 14) and 16) of this Article.

The disciplinary offence of a judge shall not be stipulated by another law.

A judge shall not be responsible for a disciplinary offence committed due to an insufficient number of judges in the court, an increased flow of cases in the court, an insufficient number of court personnel, unsatisfactory spatial and technical conditions for work or other reasons that prevent the effective acting of the judge.

Disciplinary Measures

Article 99

Disciplinary measures are as follows: reprimand, salary reduction of up to 50% for a period not exceeding one year, prohibition of advancement to a court of higher instance for a period of up to three years.

A disciplinary measure is imposed in proportion to the gravity of the disciplinary offence.

A reprimand may only be issued in the case of a judge's first disciplinary offence.

Disciplinary measures of salary reduction of up to 50% and the prohibition of advancement to a court of higher instance for a period of up to three years may be imposed separately or cumulatively.

The disciplinary measures referred to in paragraph 4 of this Article may only be imposed cumulatively in case of a serious disciplinary offence.

Instituting Proceedings for Establishing Reasons for Dismissal

Article 100

If the disciplinary proceeding establishes the responsibility of a judge for a serious disciplinary offence by a final decision, the High Judicial Council ~~shall and/or the Disciplinary Commission may~~ institute a ~~dismissal~~ proceeding ~~if they establish that the committed offence seriously damages for establishing~~ the ~~reputation of the judicial function or the public's trust in courts.~~ reasons for dismissal.

In the procedure for establishing the reasons for dismissal of a judge referred to in paragraph 1 of this Article, the High Judicial Council shall evaluate whether the committed disciplinary offence seriously damages the reputation of the judicial function or the public trust in courts.

Disciplinary authorities

Article 101

Disciplinary authorities are: the Disciplinary Prosecutor, Deputy Disciplinary Prosecutors and the Disciplinary Commission, established by the High Judicial Council.

The High Judicial Council shall appoint the members of disciplinary bodies from among the judges.

The composition, conditions for appointment, term of office and the manner of the termination of office, the manner of work and decision-making in disciplinary authorities are governed by the act of the High Judicial Council, which is published in the "Official Gazette of the Republic of Serbia" and at the website of the High Judicial Council.

Disciplinary proceedings

Article 102

Any person may file a disciplinary complaint against a judge, i.e. the president of the court, to the disciplinary prosecutor.

The proposal for conducting disciplinary proceedings is submitted by the disciplinary prosecutor based on the disciplinary complaint or ex officio.

Disciplinary proceedings are conducted by the Disciplinary Commission at the proposal of the disciplinary prosecutor.

Disciplinary proceedings are urgent and closed to the public, carried out by applying all guarantees of fair hearing, unless the judge against whom the proceeding is instigated requests that the proceeding is open to the public.

The disciplinary proceeding is regulated by an act of the High Judicial Council.

Disciplinary proceedings expire within three years from the day when the disciplinary offence was committed.

Decisions of the Disciplinary Prosecutor

Article 103

The disciplinary prosecutor can reject the disciplinary complaint or accept it and submit a proposal for conducting disciplinary proceedings.

Position of a Judge in Disciplinary Proceedings

Article 104

The judge has the right to be informed immediately about the proposal of the disciplinary prosecutor, to become familiarised with the case and accompanying documentation and to provide explanations and evidence for his/her allegations either personally or through a proxy.

A judge has the right to present his/her allegations in person before the Disciplinary commission.

Decisions of the Disciplinary Commission

Article 105

After the disciplinary proceedings have been carried out, the Disciplinary Commission can reject the proposal of the disciplinary prosecutor or adopt the proposal and impose a disciplinary sanction.

[The decision of the Disciplinary Commission about the proposal of the disciplinary prosecutor shall be reasoned.](#)

Against the decision of the Disciplinary Commission, the disciplinary prosecutor and the judge against whom disciplinary proceedings are being conducted, may file an appeal with the High Judicial Council within eight days of the date of delivery of the decision.

Decisions of the High Judicial Council

Article 106

When deciding on an appeal, the High Judicial Council may confirm the first-instance decision of the Disciplinary Commission or reverse it.

The High Judicial Council shall decide on the appeal within 30 days from the date of submission of the appeal.

[The decision of the High Judicial Council on the appeal shall be reasoned.](#)

The decision of the High Judicial Council is ~~a~~ final and ~~an~~ administrative dispute may be initiated against ~~it~~ [such a decision.](#)

~~The final~~ [The procedure in the administrative dispute shall be urgent.](#)

[The legally binding](#) decision by which the disciplinary sanction was pronounced is entered in the personal file of the judge.

The decision by which the disciplinary sanction was pronounced is deleted from the judge's personal file after three years have passed since the decision became final.

Record of Disciplinary Proceedings

Article 107

The High Judicial Council keeps records of disciplinary proceedings against judges and presidents of courts.

The records referred to in paragraph 1 of this article contain: first and last name, unique citizen number and the name of the court in which he performs his/her duties, the disciplinary offense for which the procedure was conducted, the outcome of the procedure and the imposed disciplinary sanctions.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Continuation of performance of judicial functions by permanently elected judges

Article 108

Judges elected to a permanent position before the day of constitution of the High Judicial Council shall continue to perform the judicial function in the courts for which they were elected after the day of the constitution of the High Judicial Council.

Notwithstanding the provisions of paragraph 1 of this Article, the judges elected to a permanent position at the Supreme Court of Cassation before the day of constitution of the High Judicial Council shall continue to perform the judicial function at the Supreme court after the day of the constitution of the High Judicial Council.

Continuation of performance of judicial functions by judges elected for the first time

Article 109

Judges elected for the first time by the National Assembly from the date of entry into force of the Constitutional Law for the Implementation of the Act on Amendments to the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", number 115/21) until the day of constitution of the High Judicial Council shall continue, from the day of the decision of the High Judicial Council which states that their function becomes permanent, that they perform the judicial function at the courts for which they were elected.

Notwithstanding the provisions of paragraph 1 of this Article, the judges elected for the first time by the National Assembly from the date of entry into force of the Constitutional Law for the Implementation of the Act on Amendments to the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", number 115/21) until the day of constitution of the High Judicial Council within the Supreme Court of Cassation, shall continue, from the day of the decision of the High Judicial Council which states that their function becomes permanent, that they perform the judicial function at the Supreme Court.

Continuation of Office of the President of the Court

Article 110

Presidents of courts elected to office before the day of constitution of the High Judicial Council continue, in accordance with this law, from the day of constitution of the High Judicial Council, to perform the function of president of the court until the end of the term for which they were elected.

Notwithstanding the provisions of paragraph 1 of this Article, the court presidents elected before the entry into force of the Constitutional Law for the Implementation of the Act on Amendments to the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", number 115/21) continue in accordance with this law, from the date of constitution of the High Judicial Council, to perform the function of the president of the court until the end of the term for which they were elected and they can be elected to the position of the president of the court [one or two](#) more [times](#) in the same court in accordance with this law.

Continuation of Office of the President of the Supreme Court of Cassation

Article 111

The president of the Supreme Court of Cassation elected to the position of the president of the Supreme Court of Cassation before the entry into force of the Constitutional Law for the Implementation of the Act on Amendments to the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", number 115/21) continue in accordance with this law, from the date of constitution of the High Judicial Council, to perform the function of the president of the Supreme court until the end of the term for which they were elected and they can be elected to the position of the president of the Supreme court in accordance with this law.

Finalisation of the commenced procedures

Article 112

The proceedings initiated in line with the provisions of the Law on Judges ("Official Gazette of the RS" no. 116/08, 58/09 – Constitutional court, 104/09, 101/10, 8/12 – Constitutional court, 121/12, 124/12 – Constitutional court, 101/13, 111/14 – Constitutional court, 117/14, 40/15, 63/15 – Constitutional court, 106/15, 63/16 – Constitutional court, 47/17 and 76/21) which were not completed until the date of constitution of the High Judicial Council shall be finalised in line with the provisions of this law.

Decisions on the assignment of judges made before the day of constitution of the High Judicial Council are valid until the expiry of the assignment period.

Decisions on the assignment of acting presidents of courts made before the day of constitution of the High Judicial Council are valid until the expiry of the appointment period.

Deadline for Passing of By-laws

Article 113

By-laws prescribed by this law are adopted within one year from the date of constitution of the High Judicial Council.

The by-laws adopted in accordance with the Law on Judges ("Official Gazette of the RS" no. 116/08, 58/09 – Constitutional court, 104/09, 101/10, 8/12 – Constitutional court, 121/12, 124/12 – Constitutional court, 101/13, 111/14 – Constitutional court, 117/14, 40/15, 63/15 – Constitutional court, 106/15, 63/16 – Constitutional court, 47/17 and 76/21) shall apply until the adoption of acts referred to in paragraph 1 of this Article, unless they are contrary to this law.

Termination of validity of the [Law on Judges and provisions of other laws](#)

Article 114

As from the date of constituting the High Judicial Council, the Law on Judges shall cease to apply ("Official Gazette of the RS" no. 116/08, 58/09 – Constitutional court, 104/09, 101/10, 8/12 – Constitutional court, 121/12, 124/12 – Constitutional court, 101/13, 111/14 – Constitutional court, 117/14, 40/15, 63/15 – Constitutional court, 106/15, 63/16 – Constitutional court, 47/17 and 76/21).

[As from the date of constituting the High Judicial Council, Article 10 \(3\) and Article 383 \(7\) of the Civil Procedure Law \("Official Gazette of the RS" Nos. 72/11, 49/13 – CC, 74/13 – CC, 55/14,](#)

87/18 and 18/20), and Article 16 of the Law on Enforcement and Security (“Official Gazette of the RS” Nos 106/15, 106/16 – authentic interpretation, 113/17 – authentic interpretation, 54/19 and 9/20 – authentic interpretation).

As from the date of constituting the High Judicial Council, the procedures initiated in accordance with the provisions of the law referred to in paragraph 2 of this Article shall be suspended.

Final Provisions

Article 115

This law shall be published in the “Official Gazette of the Republic of Serbia” and enters into force on the day of the constitution of the High Judicial Council, with the exception of the provisions of Articles 108 through 115, which enter into force on the day of publication in the “Official Gazette of the Republic of Serbia”.