


## LAW ON COURTS

### CONSOLIDATED TEXT <sup>1</sup>

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### Macedonian text

 Закон за судовите

### Albanian text

 Ligj për gjykatat

## I. BASIC PRINCIPLES

### Article 1

- (1) The judicial power shall be exercised by the courts in the Republic of Macedonia.
- (2) The courts shall be autonomous and independent state bodies.

### Article 2

- (1) The courts shall rule and establish their decisions on the basis of the Constitution, laws and international agreements ratified in accordance with the Constitution.
- (2) In the application of law, the judges shall protect the human freedoms and rights.

### Article 3

The goals and functions of the judicial power shall include:

- impartial application of law, regardless of the position and capacity of the parties,
- protection, respect and promotion of human rights and fundamental freedoms,
- provision of equity, equality, no discrimination on any ground, and
- provision of legal certainty based on the rule of law.

### Article 4

The court shall adjudicate in a procedure prescribed by law:

- on human and citizens' rights and legal interests,
- on disputes between citizens and other legal entities,
- on crimes and misdemeanors, and
- on other matters that, under law, fall within the competence of the court.

### Article 5

- (1) The courts shall protect the human and citizens' freedoms and rights and the rights of the other legal entities, unless under the Constitution they do not fall within the competence of the Constitutional Court of the Republic of Macedonia.
- (2) The citizens and the other legal entities shall be guaranteed judicial protection with regard to the lawfulness of individual acts of state administrative bodies or organizations and the other bodies exercising public powers.

### Article 6

- (1) Everyone shall be entitled to equal access to the courts with regard to protection of their rights and legal interests.
- (2) When deciding about citizens' rights and obligations and deciding about criminal liability, everyone shall be entitled to fair and public trial before an independent and impartial court established by law within a reasonable period of time.
- (3) No one can be limited the access to the courts with regard to protection of their fundamental rights and freedoms due to lack of material assets.

### Article 7

The cases that come before the court for decision shall be distributed among the judges according to the time of receipt of the case in the court, excluding any influence on the manner of distribution by the president of the court, the judge or the court administration.

### Article 8

- (1) The court shall invoke the lack of jurisdiction only when a law explicitly provides for authority of another state body to decide on a particular request.
- (2) The court cannot reject a request related to the exercise of a particular right by reason of a legal gap and shall be obliged to decide upon it, by invoking the general principles of law, unless explicitly prohibited by law.

### Article 9

No one shall be immune from the jurisdiction of the court, unless the Constitution and the international

agreements ratified in accordance with the Constitution establish cases of immunity from the jurisdiction of the court.

#### **Article 10**

(1) The procedure before the court shall be regulated by law and shall be based on the following principles:

- legality and legitimacy,
- equality of parties,
- trial within a reasonable period of time,
- fairness,
- publicity and transparency,
- contradiction,
- two instance procedure,
- sitting in a panel,
- oral hearings,
- directness,
- the right to defense, that is, representation,
- free evaluation of evidence, and
- economy.

(2) The laws on separate procedures shall in detail regulate the principles of the procedures, the manner of their conducting and the possible exemptions to certain principles.

#### **Article 11**

(1) The judge shall decide impartially by applying the law on the basis of free evaluation of the evidence.

(2) Any form of influence on the independence, impartiality and autonomy of the judge in the exercise of the judicial office on any grounds and by any entity shall be prohibited.

#### **Article 12**

(1) The work in the courts shall, as a rule, be performed in specialized court divisions.

(2) The specialized court divisions shall be established depending on the type and workload in the court, in the area of criminal law, juvenile crime, civil and commercial law, labor relations, and other more specific types of disputes within the scope of the work in the court.

(3) The judges shall specialize in a certain area within the specialized court division.

#### **Article 13**

(1) The court decisions shall be pronounced in the name of the citizens of the Republic of Macedonia.

(2) The legally valid court decision shall have undisputed legal effect.

(3) The court decision may only be amended or abolished by a competent court in a procedure prescribed by law.

(4) The court decisions shall be binding for all legal entities and natural persons and shall have greater force with regard to the decision of any other body.

(5) Everyone shall be obliged to obey the legally valid and enforceable court decision under threat of legal sanctions.

#### **Article 14**

Everyone shall be obliged to restrain from commission or omission of an action that obstructs the adoption or enforcement of the court decision.

#### **Article 15**

Any state body shall be obliged, when it falls within its competence, to ensure the enforcement of the court decision. The supervision of the enforcement of the court decisions shall be conducted by the court in accordance with the law.

#### **Article 16**

The enforcement of a legally valid and enforceable court decision shall be carried out in the fastest and most effective manner possible, and it cannot be obstructed by a decision of any other state body.

#### **Article 17**

No one, without being authorized thereof, shall be permitted to hold, conceal or open a court writ or another court communication not addressed to him/her.

#### **Article 18**

(1) The court shall raise an initiative for conducting a procedure to assess the compliance of the law with the Constitution when the procedure questions its compliance with the Constitution, and shall inform the next higher court and the Supreme Court of the Republic of Macedonia thereof.

(2) If the court deems that the law to be applied in a particular case is not in compliance with the Constitution, and the constitutional provisions cannot apply directly, it shall suspend the procedure until the Constitutional Court of the Republic of Macedonia adopts a decision.

(3) The party shall have the right to appeal against the decision suspending the procedure in the cases referred to in paragraph (2) of this Article. The procedure upon the appeal shall be urgent.

(4) If the court deems that the application of the law in a particular case is contrary to the provisions of an international agreement ratified in accordance with the Constitution, it shall apply the provisions of the international agreement, provided that they may be directly applied.

(5) In the particular cases, the court shall directly apply the final and enforceable decisions of the European Court of Human Rights, the International Criminal Court, or another court, the jurisdiction of which is recognized by the Republic of Macedonia, should the decision be proper for enforcement.

#### **Article 19**

(1) The courts shall be obliged to provide legal assistance to each other.

(2) The court of higher instance may require from the court of lower instance within its area data about the application of the laws, the problems emerging during the trial, the monitoring and harmonization of the court practice, the deferral of the procedure regarding particular cases, and other data, but it may inspect the work of those courts in another manner, as well as hold joint meetings in order to discuss the abovementioned matters.

(3) In the exercise of the powers referred to in paragraphs (1) and (2) of this Article, the court of higher instance cannot in any way exert influence on the independence and autonomy of the court of lower instance in the adjudication of particular cases.

#### **Article 20**

(1) On request of the court, in the exercise of its competence, the state bodies and other legal entities shall be obliged to submit all the necessary data, acts or documents at their disposal and required for the procedure, without any postponement.

(2) The court shall be obliged to protect the classified information with a certain degree of secrecy defined in accordance with the law, obtained from other state bodies or legal entities against unauthorized disclosure.

(3) On request of a state body and other legal entities, the court shall provide legal assistance and shall submit acts required to conduct the procedure, unless it obstructs its independence and autonomy.

#### **Article 21**

The courts shall provide legal assistance to foreign courts in a procedure determined by law, unless otherwise determined by an international agreement.

## **II. ORGANIZATION AND JURISDICTION**

### **1. Types of courts**

#### **Article 22**

The basic courts, the courts of appeal, the Administrative Court, the Higher Administrative Court, and the Supreme Court of the Republic of Macedonia shall exercise the judicial power within the judicial system.

#### **Article 23**

(1) The basic courts shall be established for one or several municipalities the territory of which is defined by this Law.

(2) In accordance with the actual jurisdiction, the basic courts shall rule in first instance and shall be established as courts with basic competence and courts with expanded competence.

(3) Specialized court divisions shall be mandatorily established within the basic courts with expanded competence to act upon particular types of disputes.

(4) The basic courts may have court departments, may try outside the court's seat, and may have court days outside the court's seat.

#### **Article 24**

(1) The courts of appeal shall be established for the territory of several courts of first instance defined by this Law.

(2) The seats of the courts of appeal shall be in Bitola, Gostivar, Skopje and Shtip.

#### **Article 25**

(1) The Administrative Court shall be established and shall exercise the judicial power on the whole territory of the Republic of Macedonia.

(2) The seat of the Administrative Court shall be in Skopje.

#### **Article 25-a**

(1) The Higher Administrative Court shall be established and shall exercise the judicial power on the whole territory of the Republic of Macedonia.

(2) The seat of the Higher Administrative Court shall be in Skopje.

#### **Article 26**

(1) The Supreme Court of the Republic of Macedonia shall exercise the judicial power on the whole territory of the Republic.

(2) The seat of the Supreme Court of the Republic of Macedonia shall be in Skopje.

#### **Article 27**

(1) The court shall have a seal containing the name of the court, its seat, the coat of arms, and the name Republic of Macedonia.

(2) The name Republic of Macedonia, the name of the court, the seat of the court, the coat of arms, and the flag of the Republic of Macedonia shall be displayed on the building wherein the court is situated.

(3) The seal of the court, the name and the seat of the court in the courts having seats on the territory of local self-government units where, in addition to the Macedonian language and its Cyrillic letter, another official language and letter is the language spoken by at least 20% of the citizens, shall be written, that is, displayed in that language and letter as well.

## 2. Territorial jurisdiction

### Article 28

(1) The basic courts shall be established for the following municipal territories:

1. Basic Court in Berovo, for the territory of the municipalities of Berovo and Pehchevo;
2. Basic Court in Bitola, for the territory of the municipalities of Bitola, Mogila, Novaci and Demir Hisar, with a Court Division in Demir Hisar;
3. Basic Court in Vinica for the territory of the municipality of Vinica;
4. Basic Court in Veles for the territory of the municipalities of Veles, Gradsko and Chashka;
5. Basic Court in Gevgelija for the territory of the municipalities of Gevgelija, Bogdanci, Dojran and Valandovo, with a Court Division in Valandovo;
6. Basic Court in Gostivar for the territory of the municipalities of Gostivar, Vrapchishte, Mavrovo and Rostusha;
7. Basic Court in Debar for the territory of the municipalities of Debar and Zhupa;
8. Basic Court in Delchevo for the territory of the municipalities of Delchevo and Makedonska Kamenica;
9. Basic Court in Kavadarci for the territory of the municipalities of Kavadarci and Rosoman;
10. Basic Court in Kichevo for the territory of the municipalities of Kichevo, Vraneshtica, Drugovo, Zajas, Oslomej, Plasnica and Makedonski Brod, with a Court Division in Makedonski Brod;
11. Basic Court in Kochani for the territory of the municipalities of Kochani, Zrnovci and Cheshinovo-Obleshevo;
12. Basic Court in Kratovo for the territory of the municipality of Kratovo;
13. Basic Court in Kriva Palanka for the territory of the municipalities of Kriva Palanka and Rankovce;
14. Basic Court in Kumanovo for the territory of the municipalities of Kumanovo, Lipkovo and Staro Nagorichane;
15. Basic Court in Krushevo for the territory of the municipality of Krushevo;
16. Basic Court in Negotino for the territory of the municipalities of Negotino and Demir Kapija;
17. Basic Court in Ohrid for the territory of the municipalities of Ohrid and Debarca;
18. Basic Court in Prilep for the territory of the municipalities of Prilep, Dolneni and Krivogashtani;
19. Basic Court in Radovish for the territory of the municipalities of Radovish and Konche;
20. Basic Court in Resen for the territory of the municipality of Resen;
21. Basic Court in Sveti Nikole for the territory of the municipalities of Sveti Nikole and Lozovo;
22. Basic Court Skopje I – Skopje for the territory of the municipalities of Centar, Karposh, Gjorche Petrov, Saraj, Kisela Voda, Aerodrom, Butel, Gazi Baba, Chair, Shuto Orizari, Chucher Sandevo, Sopishte, Studenichani, Zelenikovo, Petrovec, Ilinden and Arachinovo;
23. Basic Court Skopje II - Skopje for the territories of the municipalities of Centar, Karposh, Gjorche Petrov, Saraj, Kisela Voda, Aerodrom, Butel, Gazi Baba, Chair, Shuto Orizari, Chucher Sandevo, Sopishte, Studenichani, Zelenikovo, Petrovec, Ilinden and Arachinovo;
24. Basic Court in Struga for the territory of the municipalities of Struga and Vevchani;
25. Basic Court in Strumica for the territory of the municipalities of Strumica, Vasilevo, Bosilovo and Novo Selo;
26. Basic Court in Tetovo for the territory of the municipalities of Tetovo, Bogovinje, Brvenica, Zhelino, Jegunovce and Tearce, and
27. Basic Court in Shtip for the territory of the municipalities of Shtip, Karbinci and Probishtip, with a Court Division in Probishtip.

(2) The court department of the basic court shall exercise competences of a basic court for the territory of the municipalities for which it is established.

(3) In case of formation of new municipalities, the territories of the courts defined by paragraph (1) of this Article shall remain the same.

### Article 29

The courts of appeal shall be established for the following territories:

1. Court of Appeal in Bitola for the territory of the basic courts in Bitola, Krushevo, Ohrid, Prilep, Resen and Struga;
2. Court of Appeal in Gostivar for the territory of the basic courts in Gostivar, Tetovo, Kichevo and Debar;
3. Court of Appeal in Skopje for the territory of the basic courts in Veles, Gevgelija, Kavadarci, Kratovo, Kriva Palanka, Negotino, Skopje I – Skopje and Skopje II – Skopje, and
4. Court of Appeal in Shtip for the territory of the basic courts in Berovo, Vinica, Delchevo, Kochani, Radovish, Sveti Nikole, Strumica and Shtip.

## 2. Actual jurisdiction of courts

### Article 30

(1) The basic courts with basic competence for the territories for which they are established shall have jurisdiction to decide in first instance upon crimes and misdemeanors, as follows:

- on crimes for which the law defines an imprisonment sentence of up to five years as a primary sentence, if jurisdiction of another court is not foreseen for particular criminal cases,
- on criminal acts for which a special law establishes jurisdiction of a court with basic competence,
- to conduct investigation or investigative actions for criminal acts falling within its competence;
- on all types of misdemeanors, except for misdemeanors which by law are within the competence of a state administrative body or organization or another body exercising public powers, and
- on appeals and complaints against the procedures within the competence of these courts.

(2) The basic courts with basic competence shall have the jurisdiction to decide in first instance on civil disputes, as follows:

- disputes concerning property and other civil relations between natural persons and legal entities, the value of which does not exceed Euro 50.000 in Denar counter-value, unless competence is vested in another court by law,
- disputes for determination and contesting paternity, maternity, confirming the existence of marriage, marriage annulment and divorce,
- alimony,
- parenting and upbringing of children,
- hindering possession,
- lifelong support,
- compensation for a damage that does not exceed the amount of Euro 50.000 in Denar counter-value,
- securing and enforcement procedure,
- labor relations,
- inheritance disputes,
- non-contentious and inheritance matters,
- keeping records of deeds, and

- other matters defined by law.

### Article 31

(1) The basic courts with expanded competence, in addition to the competence defined in Article 30 of this Law for the territories for which they are established, shall have jurisdiction to decide on crimes, as follows:

- on crimes for which the law does not anticipate imprisonment sentence of more than five years and criminal cases and misdemeanors committed by juveniles,
- to conduct investigation or investigative activities for criminal acts within their competence,
- to act upon extradition cases,
- on appeals and complaints against the procedures that fall within their competence, and
- upon procedures related to international legal assistance determined by law.

(2) The basic courts with expanded competence, in addition to the competence defined in Article 30 of this Law for the territories for which they are established, shall have jurisdiction to decide on civil disputes, as follows:

- property and other civil disputes of natural persons and legal entities, the value of which exceeds Euro 50.000 in Denar counter-value, unless the law foresees competence of another court,
- commercial disputes in which both parties are legal entities or state bodies, as well as disputes on copyrights and other related rights and industrial property rights,
- bankruptcy and liquidation procedure,
- disputes for determination and securing coercive enforcement, and
- disputes between domestic legal and foreign entities that arise from their mutual commercial, that is, trade relations.

(3) The competence referred to in paragraphs (1) and (2) of this Article shall be exercised by the following courts: The Basic Court in Bitola covering the territory of the Basic Court in Resen as well; The Basic Court in Prilep covering the territory of the Basic Court in Krusevo as well; The Basic Court in Ohrid for the territory of the Basic Court in Struga; The Basic Court in Gostivar covering the territory of the Basic Court in Kicevo and Debar as well; The Basic Court in Tetovo for the territory of the Basic Court in Tetovo; The Basic Court in Kumanovo covering the territory of the Basic Courts in Kriva Palanka and Kratovo as well; The Basic Court in Kocani covering the territory of the Basic Courts in Berovo, Vinica and Delcevo as well; The Basic Court in Veles covering the territory of the Basic Courts in Gevgelija, Kavadarci and Negotino as well; The Basic Court in Strumica covering the territory of the Basic Court in Radovish as well, and The Basic Court in Stip covering the territory of the Basic Court in Sveti Nikole as well.

### Article 32

(1) A specialized court department competent for trying in organized crime and corruption for the whole territory of the Republic of Macedonia shall be established in the Basic Court Skopje I – Skopje. The specialized court department shall be competent to try for:

- crimes committed by a structured group of three or more persons that exists for a certain period of time and acts for the purpose of committing one or several crimes for which an imprisonment sentence of minimum four years is anticipated by law, with intend to obtain financial or other benefit directly or indirectly,
- crimes committed by a structured group or criminal organization on the territory of the Republic of Macedonia or other countries or when the crime is prepared or planned on the territory of the Republic of Macedonia or in another country,
- crimes for abuse of official position and power referred to in Article 353 paragraph 5, accepting bribe of significant value referred to in Article 357 and illegal mediation referred to in Article 359, all referred to in the Criminal Code, committed by an elected or appointed functionary, official or responsible person within the legal entity, and
- crimes for illegal manufacturing and distribution of narcotic drugs, psychotropic substances and precursors referred to in Article 215 paragraph 2, money laundering and other incomes from punishable crime of substantial value referred to in Article 273, terroristic threat to the constitutional order and security referred to in Article 313, offering bribe of greater value referred to in Article 358, illegal influence on witnesses referred to in Article 368-a, criminal association referred to in Article 394, terrorist organization referred to in Article 394-a, terrorism referred to in Article 394-b, crimes involving human trafficking referred to in Article 418-a, crimes involving smuggling migrants referred to in Article 418-b, trafficking juveniles referred to in Article 418-d, and other crimes against humanity and the international law referred to in the Criminal Code, regardless of the number of offenders.

(2) The Basic Courts in Bitola, Tetovo, Skopje II – Skopje and Shtip shall be responsible for keeping a court register of political parties, as follows: the Basic Court in Bitola for the territory of the Court of Appeal in Bitola, the Basic Court in Tetovo for the territory of the Court of Appeal in Gostivar, the Basic Court Skopje II – Skopje for the territory of the Court of Appeal in Skopje, and the Basic Court Shtip for the territory of the Court of Appeal in Shtip, and the Basic Court Skopje II – Skopje for keeping a single court register of political parties based on the data obtained from the competent courts.

(3) The Basic Court Skopje I – Skopje shall be a criminal court of basic and extended competence for the territory of the municipalities Center, Karposh, Gjorche Petrov, Saraj, Kisela Voda, Aerodrom, Butel, Gazi Baba, Chair, Shuto Orizari, Chucher Sandevo, Sopishte, Studenichani, Zelenikovo, Petrovec, Ilinden and Arachinovo.

(4) The Basic Court Skopje II – Skopje shall be a civil court with basic and extended competence for the territory of the municipalities Center, Karposh, Gjorche Petrov, Saraj, Kisela Voda, Aerodrom, Butel, Gazi Baba, Chair, Shuto Orizari, Chucher Sandevo, Sopishte, Studenichani, Zelenikovo, Petrovec, Ilinden and Arachinovo.

### Article 33

The courts of appeal shall be competent to:

- 1) decide upon appeals against the decisions of the basic courts on their territory;
- 2) decide upon conflict of competences between the courts of first instance on their territory and
- 3) carry out other activities defined by law.

### Article 34

The Administrative Court shall be competent to decide:

- upon the legality of individual acts adopted in the election procedure and on individual acts referring to elections, appointments and dismissals of holders of public offices, if defined by law, as well as on acts on appointment, designation and dismissal of managerial civil servants, unless otherwise defined by law,
- ~~abolished~~ <sup>2</sup>,
- upon a dispute resulting from the implementation and enforcement of the provisions of concession agreements, contracts for public procurements which are of public interest, and upon each contract to which one of the parties is a state body, an organization with public powers, a public enterprise, municipalities and the City of Skopje, and which is concluded in public interest or for the purpose of providing a public service (hereinafter: administrative contracts),
- against individual acts of state administrative bodies, the Government, other state bodies, municipalities and the City of Skopje, organizations established by law, and legal entities and other entities in the exercise of public powers (holders of public powers), when another legal protection is not provided for resolution in the

second instance against such act.

#### Article 34-a

The Higher Administrative Court shall be competent to:

- 1) decide upon appeals against the decisions of the Administrative Court;
- 2) decide in case of conflict of competences between the bodies of the Republic, between the municipalities and the City of Skopje, between the municipalities of the city of Skopje, and in disputes concerning conflict of competences between the municipalities and the City of Skopje and the holders of public powers, if anticipated by law, in case the Constitution or the laws do not anticipate other type of judicial protection, and
- 3) carry out other activities defined by law.

#### Article 35

The Supreme Court of the Republic of Macedonia shall be competent to:

- 1) decide in second instance against the decisions of its councils, when determined by law;
- 2) decide in third and last instance upon appeals against the decisions of the courts of appeal;
- 3) decide upon extraordinary legal remedies against the legally valid decisions of the courts and the decisions of its councils, when determined by law;
- 4) decide upon conflict of competences between the basic courts on the territory of different courts of appeal, conflict of competences between courts of appeal, conflict of competences between the Administrative Court and another court, conflict of competences between the Higher Administrative Court and another court, and to decide upon transfer of territorial competence among these courts;
- 5) decide upon a request of the parties and the other participants in the procedure for violation of the right to trial within a reasonable period of time, in a procedure defined by law before the courts in the Republic of Macedonia in accordance with the rules and principles determined by the European Convention for the Protection of Human Rights and Fundamental Freedoms and directed by the court practice of the European Court of Human Rights, and
- 7) carry out other activities determined by law. <sup>3</sup>

#### Article 36

(1) The party that considers that the competent court has violated its right to trial within a reasonable period of time, shall have the right to submit a request for protection of the right to trial within a reasonable period of time to the Supreme Court in the Republic of Macedonia.

(2) The request referred to in paragraph (1) of this Article may be submitted by the party in the course of the procedure before the domestic courts, and within a period of six months as of the day the decision becomes legally valid at the latest.

(3) The request referred to in paragraph (1) of this Article shall contain:

- data about the party submitting the request and its legal representative,
- data about the case and the procedure considered by the party to have violated the right to trial within a reasonable period of time,
- elaboration of the reasons for the alleged violation of the right to trial within a reasonable period of time,
- statement for claiming fair compensation, and
- signature of the party submitting the request.

(4) The Supreme Court of the Republic of Macedonia shall act upon the request that meets the criteria defined in paragraphs (2) and (3) of this Article within a period of six months as of its submission and shall decide whether the court of lower instance has violated the right to trial within a reasonable period of time, considering in the same time the rules and principles defined by the European Convention for the Protection of Human Rights and Fundamental Freedoms, and particularly the complexity of the case, the behavior of the parties in the procedure, and the conduct of the ruling court.

(5) If the Supreme Court establishes violation of the right to trial within a reasonable period of time, by a decision, it shall define a deadline for the court, in which the procedure is under way, to decide upon the right, obligation or criminal liability of the party submitting the request and shall rule fair compensation for the party submitting the request due to violation of its right to trial within a reasonable period of time.

(6) The fair compensation shall be borne by the Court Budget and shall be paid within a period of three months as of the day the decision of the Supreme Court becomes legally valid.

#### Article 36-a

(1) Upon receipt of the request referred to in Article 36 paragraph (1) of this Law, the Supreme Court of the Republic of Macedonia shall immediately, and within a period of 15 days at the latest, require from the court of first instance to submit a copy of the acts from the case file, and if necessary, a statement from the court of higher instance for the duration of the procedure conducted before it.

(2) The Supreme Court of the Republic of Macedonia shall decide upon the request referred to in Article 36 paragraph (1) of this Law in a panel of three judges in a non-public session, but as an exception, the court may decide to hear the party submitting the request and the representative of the court the procedure of which is subject of the submitted request.

(3) The dissatisfied party shall have the right, within a period of eight days as of the day of receipt of the decision, to file an appeal against the decision of the panel of the Supreme Court of the Republic of Macedonia to the Supreme Court to decide upon it, in accordance with Article 35 paragraph (1) point 1 of this Law.

#### Article 36-b

(1) The Supreme Court of the Republic of Macedonia, within a period of eight days as of the adoption of the legally valid decision, shall submit the decision to the Court Budget Council.

(2) Within a period of 15 days as of receipt of the decision referred to in paragraph (1) of this Article, the Court Budget Council shall request from the appellant or its attorney-in-fact to submit data about the bank account for payment of the funds ruled by the Supreme Court of the Republic of Macedonia.

(3) The appellant shall be obliged to submit the data referred to in paragraph (2) of this Article within a period of five days as of the day of receipt of the request.

(4) Failure to submit the data about the account by the appellant, in accordance with paragraph (2) of this Article, shall not be considered an obstacle to enforce the decision referred to in paragraph (1) of this Article.

(5) If the appellant does not submit the data about the bank account within the deadline referred to in paragraph (2) of this Article, the funds defined by the decision referred to in paragraph (1) of this Article shall

be transferred to a deposit account of the Court Budget Council.

(6) The Court Budget Council shall transfer the approved funds to the account of the appellant upon receipt of the data about the account.

(7) The funds of the deposit account referred to in paragraph (5) of this Article shall remain available to the appellant one year after their deposition at the most. If the appellant does not submit data about the account upon expiry of this period, the funds shall be returned to the Budget of the Republic of Macedonia.

### Article 37

(1) The Supreme Court of the Republic of Macedonia, at a general session, shall:

- define general views and legal opinions about issues of significance for provision of single application of the laws by the courts upon their own initiative or upon the initiative of the session of judges or the session of the court divisions in the courts and shall publish them on the web site of the Supreme Court of the Republic of Macedonia,
- give opinions upon draft laws and other regulations when they regulate matters of significance for the work of the courts,
- review issues concerning the work of the courts, the application of laws and the court practice,
- adopt a rulebook for its work,
- adopt a program for the work of the court,
- submit a proposal to the Judicial Council of the Republic of Macedonia for temporary transfer of a judge to another court,
- submit a request for initiation of a disciplinary procedure against a judge,
- submit a request for initiation of a procedure for determination of unprofessional and negligent exercise of the judicial office,
- raise initiative for initiation of a procedure with the Judicial Council of the Republic of Macedonia for determination of permanently lost ability to exercise the judicial office,
- appoint the composition of the Council for deciding upon appeals against a decision of the Judicial Council for dismissal of a judge or imposed disciplinary measure, in accordance with the law,
- decide upon requests for protection of the legality against the decisions of its councils,
- decide upon a request for recusal of the President of the Supreme Court of the Republic of Macedonia,
- review the report for its work and the reports for the work of the courts in the Republic of Macedonia in terms of efficiency and quality in work, bring conclusions upon them and exercise care for their implementation, and
- carry out other activities defined by law.

(2) The general views and legal opinions determined by the Supreme Court of the Republic of Macedonia at a general session shall be binding for all of the councils of the Supreme Court of the Republic of Macedonia.

(3) The Supreme Court of the Republic of Macedonia shall submit an annual report for the determined general views and legal opinions on issues of significance for provision of single application of the laws by the courts to the Judicial Council of the Republic of Macedonia and shall publish it on the web site of the court.

## III. JUDGES AND LAY JUDGES

### Article 38

(1) The judicial function shall be exercised by judges. The judge shall be elected with no limitation of the duration of the term of office.

(2) The judges shall act on all matters that under the law fall within the competence of the court.

(3) Lay judges shall participate in the trial when so determined by law.

### Article 39

(1) The judge shall exercise the judicial function in the court where he/she is elected.

(2) As a rule, the judge shall be elected to try in specific areas.

(3) The judge cannot be transferred from one to another court against his/her will.

(4) The assignment of judges shall be made by an annual work schedule defined by the president of the court upon a previously obtained opinion from the session of judges, that is, from the general session of the Supreme Court of the Republic of Macedonia, taking into consideration the decision of the judge for specialization in criminal, civil, commercial, administrative or another legal area.

(5) The length of judicial service and the results from the work shall be taken into consideration when appointing presidents of specialized departments and divisions.

(6) The judge cannot be transferred from one to another court division against his/her will.

(7) The judge may require transfer from one to another division.

(8) As an exception, the judge may be transferred to another court division against his/her will by a written, explained decision of the president of the court, upon previously obtained opinion from the general session of the Supreme Court of the Republic of Macedonia, when it is required by the increased workload and the subject of work of the court, but for a period of one year at the most.

(9) As an exception, the judge of a court of appeal and a basic court may be temporarily, and at the most for a period of one year, transferred to another court in the same or lower instance or from one to another specialized division when due to prevention or recusal of a judge, or due to significantly increased workload, reduced efficiency, or due to the complexity of the cases the day-to-day operation of the court comes into question.

(10) The temporary transfer of a judge referred to in paragraph (9) of this Article shall be made by the Judicial Council of the Republic of Macedonia and it shall immediately notify the president of the court from which the judge is transferred and the president of the court to which the judge is temporary transferred.

(11) The judge may file a complaint against the decision referred to in paragraphs (4) and (7) of this Article within a period of three days to the general session of the Supreme Court of the Republic of Macedonia, which is obliged to decide upon the complaint within a period of seven days.

(12) The judge may file a complaint against the decisions referred to in paragraphs (8) and (9) of this Article within a period of three days to the Judicial Council of the Republic of Macedonia, which shall be obliged to

decide upon the complaint within a period of seven days. The decision of the Judicial Council of the Republic of Macedonia shall be final.

#### Article 40

In case of abolishment or reorganization of a court, the Judicial Council of the Republic of Macedonia shall transfer the judge of such court to another court in the same or lower instance.

### 1. Election of judges and lay judges

#### Article 41

(1) The judges and presidents of the courts shall be elected and dismissed by the Judicial Council of the Republic of Macedonia under the conditions and in the procedure defined by law.

(2) The election, that is, dismissal of the judges and the presidents of the courts shall be published by the Judicial Council of the Republic of Macedonia in the "Official Gazette of the Republic of Macedonia" within a period of 15 days as of the day the election, that is, dismissal is completed.

#### Article 42

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

(2) Article 15 paragraph (4) line 3 and Article 16 of this Law referring to the psychological test and the integrity test shall also apply to the election of lay judges. <sup>4</sup>

(3) After the election, the lay judges shall mandatorily attend a specialized training organized by the Academy for Judges and Public Prosecutors.

(4) Upon completion of the training referred to in paragraph (3) of this Article, the lay judges shall take an exam for the completed training.

(5) If the lay judge fails to pass the exam referred to in paragraph (4) of this Article, his/her office shall be terminated, which the Judicial Council of the Republic of Macedonia establishes by a decision.

(6) Upon completion of the exam referred to in paragraph (4) of this Article, the Academy for Judges and Public Prosecutors, within a period of three days, shall submit to the Judicial Council of the Republic of Macedonia a list of lay judges who have failed the exam.

(7) The content, duration and delivery of the training referred to in paragraph (3) of this Article shall be defined by a specialized program for training of lay judges by the Academy for Judges and Public Prosecutors.

(8) The content and the manner of conducting the exam referred to in paragraph (4) of this Article shall be regulated by the Academy for Judges and Public Prosecutors.

#### Article 43

(1) Discrimination on grounds of gender, race, color of the skin, national and social background, political and religious belief, material and social position shall be prohibited in election of judges and lay judges.

(2) Equitable representation of the citizens from all communities shall be ensured when electing judges and lay judges without disturbing the criteria prescribed by law.

(3) A person who is related in vertical or horizontal line up to third degree or is a spouse of a judge or lay judge cannot be elected judge or lay judge in the same court.

(4) A person who is related in vertical or horizontal line up to third degree or is a spouse of a member of the Judicial Council of the Republic of Macedonia cannot be elected judge or lay judge.

#### Article 44

(1) The Judicial Council of the Republic of Macedonia shall by a decision define the number of judges in each court, upon previously obtained opinion from the general session of the Supreme Court of the Republic of Macedonia and opinion from the session of judges of the respective court.

(2) The Judicial Council of the Republic of Macedonia, on proposal of the sessions of the basic courts and the courts of appeal, shall by a decision define the number of lay judges for each court.

(3) The decisions referred to in paragraphs (1) and (2) of this Article shall be published in the "Official Gazette of the Republic of Macedonia".

#### Article 45

A person meeting the following requirements may be elected judge:

- to be a citizen of the Republic of Macedonia,
- to actively use the Macedonian language,
- to have capability for work and to have good general health condition, which is assessed by medical check-ups,
- to be a law graduate who has completed a four year higher education in law with a minimum eight GPA or a law graduate who has 300 credits acquired according to the European Credit Transfer System (ECTS), with a minimum eight GPA in both cycles of university studies, or who holds a validated diploma for acquired 300 credits from a foreign faculty of law,
- to have passed the judicial exam in the Republic of Macedonia,
- to actively use one of the official languages of the European Union, mandatorily the English language, which is certified by one of the following internationally recognized certificates:
  - 1) TOEFEL – at least 74 points of the computer-based exam, and a certificate not older than two years as of its issuance;
  - 2) IELTS – at least 6 points, and a certificate not older than two years as of the day of its issuance;
  - 3) TOLES – at least higher level;
  - 4) ILEC – at least B 2 Pass, and
  - 5) Cambridge Certificate – at least First Certificate in English FCE – B 2
- to work with computers, and
- to have reputation, integrity in the exercise of the judicial office and social skills for exercising the judicial



office, for which integrity and psychological tests are conducted.

(2) The required types of medical check-ups, the form and content of the psychological test and the integrity test, and the level of computer skills referred to in paragraph (1) lines 3, 7 and 8 of this Article shall be regulated by the Judicial Council of the Republic of Macedonia.

#### Article 45-a

(1) The psychological test, conducted by the Judicial Council of the Republic of Macedonia, shall aim at affirming the candidates for exercising the judicial office by checking their social skills.

(2) The integrity test that is conducted by the Judicial Council of the Republic of Macedonia shall be founded on the existing ethical and professional codes for exercising the judicial office and shall aim at checking the ethical and moral values of the candidate for exercising the judicial office, and shall consist of:

- test that is conducted in a written form and anonymously, based on the standardized list of questions, and
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(3) The Judicial Council of the Republic of Macedonia, when conducting the psychological test and the integrity test, shall be obliged to take into account 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 an independent and fully accredited professional institution for conducting 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 for exercising the judicial office that are applied in at least one of the member states of the European Union and the OECD.

#### Article 46

(1) Special requirements for election of a judge to a basic court, court of appeal and the Supreme Court of the Republic of Macedonia shall be as follows:

- a person who has completed the initial training in the Academy for Judges and Public Prosecutors can be elected judge to a basic court,
- a person who has a continuous length of service as a judge in a basic court of at least four years at the moment of signing up for election, who is assessed by the Judicial Council of the Republic of Macedonia with the highest positive mark in the last year and has the most points compared to the other candidates, in accordance with the law, or a judge of the Administrative Court or the Higher Administrative Court who is assessed by the Judicial Council of the Republic of Macedonia with the highest positive mark in the last year and has the most points compared to the other candidates, in accordance with the law, can be elected judge to a court of appeal, and
- a person who has a continuous length of service as a judge in a court of appeal of at least six years at the moment of signing up for election and who is assessed by the Judicial Council of the Republic of Macedonia with the highest mark in the last year and has the most points compared to the other candidates, in accordance with the law, or a judge in the Administrative Court or the Higher Administrative Court who is assessed by the Judicial Council of the Republic of Macedonia with the highest positive mark in the last year and has the most points compared to the other candidates, in accordance with the law, can be elected judge to the Supreme Court of the Republic of Macedonia.

(2) Special requirements for election of a judge to the Administrative Court and to the Higher Administrative Court shall be as follows:

- a person who has a continuous length of service as a judge in a basic court of at least four years at the moment of signing up for election and who is assessed by the Judicial Council of the Republic of Macedonia with the highest positive mark in the last year and has the most points compared to the other candidates, in accordance with the law, or a person who has a length of service of five years in legal matters within a state body with established results in the work or who is assessed with the highest positive mark in the last year, in accordance with the law, can be elected judge in the Administrative Court, and
- a person who has a continuous length of service as a judge in the Administrative Court of at least three years at the moment of signing up for election and who is assessed by the Judicial Council of the Republic of Macedonia with the highest positive mark in the last year and has the most points compared to the other candidates, in accordance with the law, or a person who has a length of service of six years in legal matters within a state body with established results in the work or who is assessed with the highest positive mark in the last year, in accordance with the law, can be elected judge in the Higher Administrative Court.

#### Article 47

(1) President of a court shall be elected from among the judges in the Republic of Macedonia, under the conditions, in the procedure and manner as when electing a judge in the respective court. The president of the court shall be elected for a period of four years, with the option to be re-elected to the same office for another four years.

(2) A judge who is assessed by the Judicial Council of the Republic of Macedonia with the highest positive mark in the last two years and has the most points compared to the other candidates, in accordance with the law, may be elected president of a court.

(3) The president of the court shall have the status and function of the first judge in the respective court.

(4) The candidate for president of the court shall attach a work program for the term of office along with the application and the other documents.

(5) Announcement for election of a president of a court shall be published by the Judicial Council of the Republic of Macedonia two months before the expiry of the term of office of the current president of a court. The Judicial Council of the Republic of Macedonia shall elect president of a court from among the candidates who meet the requirements within a period of two months at the most.

(6) The president of the court who is not re-elected in the same office shall continue to work as a judge in the court where he/she has previously exercised the judicial function.

#### Article 48

(1) An adult citizen of the Republic of Macedonia who has completed at least higher education, and who actively uses the Macedonian language, has reputation in the exercise of the referred function and is not older than 64 can be elected lay judge.

(2) Lay judge for trying against juveniles shall be elected from among the persons with experience in youth education.

#### Article 49

Lay judge shall be elected for a period of four years and may be re-elected.

#### Article 50

(1) Before taking the office, the judge and the lay judge shall take a solemn oath, which reads as follows:  
„I hereby state and swear that while exercising the judicial function I will 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, adjudicate lawfully, honestly, in good faith, independently and responsibly, and that I shall protect the human and citizen's freedoms and rights.”

(2) When giving the solemn oath, the judge shall wear a robe. The solemn oath shall be given by the judge individually in front of the Judicial Council of the Republic of Macedonia.

(3) The lay judges shall give the solemn oath in front of the president of the court where they are elected.

(4) The judge and the lay judge shall give the solemn oath in the Macedonian language and shall sign it in the Macedonian language and its Cyrillic letter.

(5) In the election of a judge and lay judge to the court situated on the territory of the local self-government unit where at least 20% of the citizens speak an official language other than the Macedonian language, the judge and the lay judge of that community shall give the solemn oath in the Macedonian language and shall sign it in the Macedonian language and its Cyrillic letter and in the language and letter of that community.

(6) Copy of the solemn oath shall be given to the newly elected judge and lay judge.

### IV. RIGHTS, OBLIGATIONS AND IMMUNITY

#### Article 51

Judges may found associations for exercising their rights and interests, improvement of professional development, and protection of the independence and autonomy of the judicial office.

#### Article 52

(1) The judicial office is incompatible with the office of a member of the parliament, that is, member of a council in the municipality, that is, the City of Skopje, and the offices in state bodies, the municipality and the City of Skopje.

(2) The judge cannot hold any other public office or practice a profession, except an office determined by law which is not contrary to his/her independence and autonomy in the exercise of the judicial office.

(3) The judge cannot be a member of a managing or supervisory board of a trade company or another legal entity established for the purpose of gaining profit.

(4) The judge may be an educator or may deliver lectures in the Academy for Training of Judges and Public Prosecutors and in a higher education institution and may participate in particular scientific projects.

(5) The Judicial Council of the Republic of Macedonia shall give consent for carrying out the activities in the higher education institution.

(6) The judge cannot be a member or hold a political office within a political party or carry out political or party activity.

#### Article 53

(1) If the judge is appointed or elected as member of the Judicial Council of the Republic of Macedonia or as judge to an international court, judge to the Constitutional Court or director of the Academy for Training of Judges and Public Prosecutors, his/her judicial office shall be in abeyance for the time of performance of the duty he/she is appointed to, that is, elected for.

(2) After the expiry of the term of office for which he/she is appointed for, the judge shall have the right to return to the court he/she has left in order to perform the other duty.

#### Article 54

The judge shall have the right and obligation to continuous professional development during the exercise of the judicial office in accordance with the law.

#### Article 55

(1) The judge shall have a court identification card, issued and revoked by the Judicial Council of the Republic of Macedonia.

(2) The Judicial Council of the Republic of Macedonia shall, by an act, prescribe the form and content of the court identification card, the manner of its issuance and revocation.

#### Article 56

(1) Special rights of the judge in the exercise of the judicial office shall be the following:  
- to enjoy special protection of his/her personality, of the family and property, upon personal request or on request of the president of the court made to the police in the place of living, every time when there are serious threats to his/her safety, and  
- to have official travel document.

(2) The special rights referred to in paragraph (1) line 1 shall also refer to a retired judge.

#### Article 57

(1) When trying, the judge shall be obliged to wear special clothes for a judge (A ROBE) to be distinguished

from the other participants in the procedure.

(2) The act for the appearance and the conditions for wearing the clothes for a judge referred to in paragraph (1) of this Article shall be adopted by the Minister of Justice.

#### **Article 58**

The judge cannot accept gifts or enjoy privileges and conveniences during the exercise of the judicial office.

#### **Article 59**

The judges shall enjoy all the rights under employment entitled to by law.

#### **Article 60**

(1) The amount of the salary of the judge shall be determined depending on:

- the type of court,
- the specialized court division (the type of cases it acts upon),
- the internal duties in the court (president of a: court, division, department and council),
- the length of service as a judge,
- the scientific and professional titles and specialization, and
- the achieved results in the performance of the judicial office.

(2) The salary of the judge during the exercise of the judicial office cannot be decreased, except in the cases determined by law.

(3) The amount of the salary of the judge shall be defined so as to provide the judge protection against pressures and influences when acting and deciding.

(4) The salaries and the other compensations of the judges shall be regulated by law.

#### **Article 61**

(1) When the judge, if necessary for the service, is temporarily posted to exercise the judicial office outside the place of residence, he/she shall be entitled to compensation for increased costs for accommodation or travel costs.

(2) The judge shall be entitled to compensation for moving in the case referred to in paragraph (1) of this Article for him/her or for his/her family, as well as to compensation in the cases of election or transfer to another court.

#### **Article 62**

(1) The judge who does not own an apartment in the area where the head office of the court is located, shall be entitled to use an appropriate business apartment.

(2) Until gaining the right referred to in paragraph (1) of this Article, the judge shall be entitled to compensation of the actual travel costs.

#### **Article 63**

The Judicial Budget Council shall decide upon the rights referred to in Articles 61 and 62 of this Law.

#### **Article 64**

(1) The lay judges shall be entitled to compensation for carrying out the activities of a lay judge.

(2) The Minister of Justice shall adopt detailed regulations on the compensations of the lay judges.

#### **Article 65**

(1) In the exercise of the judicial office, the judges shall enjoy immunity.

(2) A judge cannot be held criminally liable for a stated opinion and manner of deciding during the adoption of a court decision.

(3) A judge cannot be taken in without an approval from the Judicial Council of the Republic of Macedonia, unless caught in commission of a crime for which an imprisonment sentence in duration of at least five years is foreseen.

(4) The Judicial Council of the Republic of Macedonia shall decide upon revocation of the immunity of judges.

(5) The procedure for deciding about revocation of a judge's immunity shall be urgent.

#### **Article 66**

A lay judge cannot be held liable for a stated opinion and manner of deciding during the adoption of a court decisions.

#### **Article 67**

(1) The judge shall be suspended from exercising the judicial office while in custody, or while the procedure for the crime for which an imprisonment sentence of at least five years is foreseen is ongoing.

(2) The judge shall be suspended from exercising the judicial office in case of initiated disciplinary procedure or dismissal procedure.

(3) The decision to suspend the judge from exercising the judicial office in the case referred to in paragraphs (1) and (2) of this Article shall be adopted by the Judicial Council of the Republic of Macedonia.

#### **Article 68**

(1) The complaints related to the exercise of the judicial office have to be reviewed by the bodies to which they are submitted, fast and fair and without presence of the public in the procedure.

(2) The judge against whom the complaint is submitted shall reply within a time period defined by law.

#### **Article 69**

A procedure for damage compensation or another procedure cannot be conducted against a judge or a lay judge by a party that is not satisfied with the decision of the judge.

#### **Article 70**

(1) The Republic of Macedonia shall be held liable for a damage caused to the citizens or legal entities by a judge or lay judge in unlawful exercise of the office.

(2) In case of dismissal of a judge because of the caused damage referred to in paragraph (1) of this Article, the Republic of Macedonia, by means of a lawsuit, shall require the dismissed judge to return the amount of the paid damage referred to in paragraph (1) of this Article, in the amount defined by the court, in accordance with the law.

(3) After the dismissal of a judge who has caused a damage to citizens or legal entities by unlawful operations, in a period of eight days as of the legal validity of the decision on dismissal, the Judicial Council of the Republic of Macedonia shall notify the State Attorney's Office in order for it to undertake the measures referred to in paragraph (2) of this Article, within the framework of its competences defined by law.

#### **Article 71**

(1) Judicial scholarship shall be awarded to a judge for attending post-graduate studies in law and for specialized studies in law in the country, or abroad, that is, for professional qualification in another professional area related to the judicial work, which cannot be completed within the Academy for Training of Judges and Public Prosecutors.

(2) The funds for the judicial scholarship shall be provided from the Court Budget.

#### **Article 72**

(1) Annual leaves in the courts shall last from 15 July to 15 August.

(2) Only necessary activities shall be carried out in the courts of first instance during the annual leaves, such as: investigations and trials in criminal cases when the defendant is in custody and in criminal cases for parties who do not live in the Republic of Macedonia; cases for application of temporary measures; bills of exchange lawsuit; disputes for publishing a correction of already published information; urgent misdemeanor cases; non-contentious and enforceable cases about upbringing and protection of children and obligations in cases of child support resulting from a law; registration of political parties, non-contentious cases for retention of persons in healthcare institution; property inventory of the descendant, preparing testaments, receiving submissions, and other activities bind by preclusive deadlines set by law.

(3) During the annual leaves, the courts of appeal shall act upon appeals against decisions on the cases referred to in paragraph (2) of this Article and upon cases tried at non-public sessions.

(4) Except for the activities referred to in paragraphs (2) and (3) of this Article, the time period referred to in paragraph (1) of this Article shall be considered as time when the court is closed.

(5) The judge shall be entitled to annual leave in duration of 26 working days.

### **V. TERMINATION OF, AND DISMISSAL FROM A JUDICIAL OFFICE**

#### **1. Termination of the judicial office**

##### **Article 73**

(1) The judicial office of a judge shall terminate upon:

- personal request,
- permanent loss of the ability to exercise the judicial office, confirmed by the Judicial Council of the Republic of Macedonia,
- turning 64 years old,
- election or appointment to another public office, except when the judicial office is in abeyance under conditions defined by law, and
- conviction for a crime by a legally valid court verdict to an unconditional imprisonment sentence of minimum six months.

(2) The Judicial Council of the Republic of Macedonia shall establish termination of the judicial office in the cases referred to in paragraph (1) of this Article.

(3) As of the day of termination of the judicial office, established by the Judicial Council of the Republic of Macedonia on the grounds referred to in paragraph (1) of this Article, the judge's right to salary shall cease.

#### **2. Dismissal of a judge**

##### **Article 74**

(1) The judge shall be dismissed from the judicial office:

- due to serious disciplinary offence that makes him/her discreditable to exercise the judicial office prescribed by law and
- due to unprofessional and neglectful exercise of the judicial office under the conditions defined by law.

(2) Decision on dismissal of the judge shall be adopted by the Judicial Council of the Republic of Macedonia.

(3) As of the day of dismissal of the judge by the Judicial Council of the Republic of Macedonia on the grounds referred to in paragraph (1) of this Article, the judge's right to salary shall cease.

#### **3. Unprofessional and neglectful exercise of the judicial office**

### Article 75

(1) Unprofessional and neglectful exercise of the judicial office shall include insufficient professionalism or negligence of the judge that affect the work quality and efficiency, that is:

- if during one calendar year, the Judicial Council of the Republic of Macedonia establishes inefficient and unproductive conduct of the court procedure due to the judge's fault, if the judge, due to his/her fault, exceeds the legal deadlines for undertaking procedural activities, the legal deadlines for adoption, announcement or preparation of court decisions in more than five cases, or if during one calendar year, more than 20% of the total number of resolved cases are abolished or more than 30% of the total number of resolved cases are altered,
- unconscious, untimely or neglectful exercise of the judicial office in the conduct of the court procedure in particular cases,
- biased conduct of the court procedure particularly with regard to the equal treatment of the parties,
- acting upon cases contrary to the principle of trying within a reasonable period of time, that is, postponement of the court procedure without having a legal basis,
- unauthorized disclosure of classified information,
- public disclosure of information and data about court cases for which no legally valid decision is adopted,
- intentional violation of the rules of fair trial,
- abuse of the position or exceeding the official powers,
- violation of the regulations or in any other manner disturbance of the judge's independence in trying,
- severe violation of the rules of the Court Code that ruins the image of the judicial office, and
- if a decision is adopted by the European Court of Human Rights that confirms violation of the right to fair trial in accordance with Article 6 of the European Convention on Human Rights or a decision is adopted by the Supreme Court of the Republic of Macedonia that confirms violation of the right to trial within a reasonable period of time, as a result of the judge's action.

## 4. Serious disciplinary offence

### Article 76

(1) A serious disciplinary offence for which a procedure for disciplinary liability of a judge for dismissal is initiated shall be considered the following:

- 1) serious violation of the public order that demean the image of the judge and the court;
- 2) serious violation of the rights of the parties and the other participants in the procedure that demean the image of the court and the judicial office;
- 3) violation of the principle of non-discrimination on any ground, and
- 4) failing to achieve the expected results in the work for more than eight months without any justified reasons that is established by the Judicial Council of the Republic of Macedonia through the number of unresolved cases in relation to the guiding number of cases to be resolved by a judge on a monthly basis, defined by a decision of the Judicial Council of the Republic of Macedonia.

(2) The president of the court shall be obliged to notify the Judicial Council of the Republic of Macedonia about the disciplinary offences referred to in paragraph (1) points 1, 2, 3 and 4 of this Article within a period of eight days as of the day of committing the offence.

### Article 77

A disciplinary offence for which a disciplinary procedure is initiated to determine the disciplinary liability of a judge and to impose a disciplinary measure shall be deemed:

- 1) the violation of the defined order for acting upon cases;
- 2) disabling supervision of the judicial work by a court of higher instance;
- 3) indecent and inappropriate behavior at public places;
- 4) not wearing a robe;
- 5) accepting gifts and other benefits for the judicial work;
- 6) party and political activities (Article 52 paragraph (6));
- 7) holding another public office, carrying out work or activity that is incompatible with the exercise of the judicial office (Article 52 paragraphs (1), (2) and (3));
- 8) causing serious disturbance of the court's relations that significantly influence the exercise of the judicial office;
- 9) failing to fulfill mentoring obligations and professional qualification of associates;
- 10) serious violation of the rights for absence from work;
- 11) failing to fulfill the duty for continuous training, and
- 12) not reporting or concealing the material condition or a change in the material condition, in accordance with the law or not submitting a report about interests in accordance with the law.

## 5. Disciplinary measures

### Article 78

The Council may impose the following disciplinary measures for an established disciplinary offence by a judge:

- written warning,
- public reprimand, and
- salary decrease of 15% to 30% from the monthly salary of a judge for a period of one to six months.

### Article 79

(1) President of a court shall be dismissed from the office of a president, if in a procedure, the Judicial Council of the Republic of Macedonia establishes the following bases:

- abuse of the position and exceeding the official powers,
- unlawful and unintended use of court's funds,
- non-performance or delayed performance of the works of the court administration,
- influence on the independence of the judges related to adjudging in certain cases,
- cause serious disturbance in the court's relations that significantly affect the court's work,
- violation of the rules about case distribution,
- failure to achieve the work program,
- if the Judicial Council of the Republic of Macedonia assesses the president of the court with a negative mark, in accordance with the law, and
- does not notify the Judicial Council of the Republic of Macedonia about a serious disciplinary offence by a judge for which a procedure for disciplinary liability of a judge is initiated, in accordance with Article 76 paragraph (2) of the Law on Courts.

(2) By 1 March in the ongoing year at the latest, the president of the court shall be obliged to submit a report to the Judicial Council of the Republic of Macedonia concerning the implementation of the work program for the previous calendar year referred to in paragraph (1) line 7 of this Article.

(2) In case of milder violation on the grounds referred to in paragraph (1) line 3 of this Article, the president of the court may be imposed a disciplinary measure.

**Article 80**

(1) The office of a lay judge shall terminate upon:

- 1) personal request;
- 2) permanent loss of the ability to fulfill the duty of a lay judge;
- 3) conviction of a crime to an imprisonment sentence of at least six months;
- 4) unduly or negligent fulfillment of the duty of a lay judge, and
- 5) turning 60 years old.

(2) The procedure for termination of the office of a lay judge shall be conducted by the Judicial Council of the Republic of Macedonia on proposal of the president of the court.

**Article 81**

In case of an investigation conducted against a lay judge or a procedure initiated for termination of the office, the president of the court shall not call him/her to exercise the office of a lay judge.

**VI. JUDICIAL ADMINISTRATION****Article 82**

(1) The activities of the judicial administration shall be carried out by the Ministry of Justice.

(2) In order to carry out the activities of the judicial administration, the Ministry of Justice shall communicate with the president of the relevant court.

**Article 83**

(1) The scope of work of the judicial administration shall include provision of general conditions for exercising the judicial power, and in particular drafting laws and other regulations in the field of organization and work of the courts and the procedure before the courts, adoption of a Court Rulebook, responsibility for continuous training of the judges and the judicial service, provision of material, financial, safety, spatial and other conditions for operation of the courts, carrying out activities related to international legal assistance, enforcement of sentences imposed for crimes, collection of statistical and other data about the work of the courts, supervision over the efficient performance of the works in the court and implementation of the Court Rulebook, supervision of the implementation of the regulations on court deposits and guarantees, reviewing the complaints from the citizens about the work of the courts pertaining to delay of the court procedure or the work of the judicial services, as well as other administrative tasks and activities defined by law.

(2) For the purpose of reviewing the complaints of the citizens about the work of the courts pertaining to delay of the court procedure, the Minister of Justice shall form a commission composed of two representatives from the Ministry of Justice and one representative selected by the Supreme Court of the Republic of Macedonia, for which a report shall be prepared.

(3) The report referred to in paragraph (2) of this Article shall be prepared by the commission and shall be delivered to the Ministry of Justice in a period of 30 days as of the day of receipt of the complaint, and the Ministry of Justice shall deliver the report to the Judicial Council of the Republic of Macedonia within a period of three days as of the receipt at the latest.

(4) The manner of reviewing the complaints of the citizens about the work of the courts pertaining to delay of the court procedure shall be regulated by a bylaw adopted by the Government of the Republic of Macedonia on proposal of the Minister of Justice.

**Article 84**

(1) The Minister of Justice shall adopt a Court Rulebook, upon previous opinion from the general session of the Supreme Court of the Republic of Macedonia.

(2) The Court Rulebook shall regulate the internal organization of the courts, the manner of operation of the courts, the keeping of case records, as well as the keeping of entry books and other books, the treatment of the documents, forms, the work related to the international legal assistance and acting upon complaints, the calling up and assignment of lay judges, the assignment of regular court translators, interpreters and experts, the keeping of statistics and records and professional development of the personnel, the rules on special marks of the vehicles of the court, the information system of the court, the audio-visual recording of a hearing, as well as other issues significant to the work of the courts.

(3) The Ministry of Justice shall supervise the application of the Court Rulebook.

**Article 85**

(1) The Minister of Justice shall by a decision assign court translators and shall keep a directory thereof.

(2) The candidate to be assigned as a court translator should meet the following requirements:

- to have citizenship of the Republic of Macedonia,
- to actively use the Macedonian language,
- to hold a university degree,
- to hold a certificate for active use of a foreign language, and
- to have permanent, that is, temporary place of residence on the territory of the court where the court translator requires to be assigned.

**Article 86**

(1) The Ministry of Justice shall keep a Court Election Directory, shall keep records of the court police, the court translators and interpreters, and the experts.

(2) The records referred to in paragraph (1) of this Article shall contain data about the name and surname, date and place of birth, nationality, place of residence, education, type of education, professional degree, knowledge of foreign languages, as well as other data defined by law.

(3) The data referred to in paragraph (2) of this Article shall be submitted by the courts to the Ministry of Justice in the manner prescribed by the Minister of Justice.

(4) The data entered in the records may be used only for implementation of this Law, as well as the laws

determining the rights, duties and responsibilities of the judges and the other employees in the court, and they shall be handled in accordance with the regulations on personal data protection.

#### **Article 87**

The person whose data are entered in the records shall have the right to request inspection of the data referring to him/her and their correction in case they are not accurate.

### **VII. COURT ADMINISTRATION**

#### **Article 88**

(1) The president of the court shall represent the court, organize the work and take measures for well-timed and duly execution of court's activities.

(2) The president of the court shall ensure the application of the Court Rulebook.

(3) The president of the court shall define the schedule of the court's activities upon previously obtained opinion of the session of judges and the general session of the Supreme Court.

(4) The president of the court shall be substituted by a judge appointed by the president on the basis of the annual schedule for work, who in the last year is assessed with the highest positive mark and who has the most points compared to the other judges.

(5) Presidents of specialized court departments and their deputies, and presidents of court divisions and court councils shall be assigned from among the judges on the basis of the annual schedule for work.

#### **Article 89**

In case of dismissal or termination of the term of office of the president of the court, and until a new president of the court is elected, the Judicial Council of the Republic of Macedonia shall appoint an acting president of the court from among the judges who, in the last year, is assessed with the highest positive mark and has the most points compared to the other judges.

#### **Article 90**

In order to carry out particular administrative, financial, operative, manipulative and auxiliary activities and tasks for several courts on the same territory, joint services may be established or employees may be appointed for carrying out joint activities and tasks.

#### **Article 91**

(1) The judges in the courts where specialized court divisions are established shall be assigned according to their specialization in the legal area.

(2) The president of the division shall manage the work of the specialized court division.

(3) Issues of interest for the work of all councils, that is, judges within the composition of the division, and in particular with regard to the application of laws in particular fields, harmonization of the court practice and promotion of the working method shall be discussed on the session of the specialized court division.

(4) The session of a specialized court division shall be convened by the presidents of the divisions upon their own initiative or on request of the judges in the division or the president of the court when lack of harmonization between separate councils in the division regarding application of the law in particular is established.

#### **Article 92**

(1) The session of judges shall be composed of all the judges in the court.

(2) At the session, the judges shall discuss issues of general significance for the work of the court, shall define the work program and shall give opinion regarding the annual schedule for the work of the judges, and shall discuss the annual report for the work of the court and the Judicial Council.

(3) The president of the court may also invite lay judges at the session of judges when issues pertaining to the participation of lay judges in the trial are discussed.

#### **Article 93**

(1) Official identification cards shall be issued by the president of the court to the court servants.

(2) The Minister of Justice shall by a rulebook prescribe the outline and content of the form, and the manner of issuance and revocation of the official identification card referred to in paragraph (1) of this Article.

#### **Article 94**

(1) The judges, lay judges, higher court counselors, independent court counselors, court counselors, professional associates, court trainees, court experts, interpreters, translators and other persons participating in the procedure and apart of it shall be obliged to keep the classified information with an appropriate degree of secrecy defined by law from unauthorized disclosure, no matter how they have acknowledged it.

(2) The obligation to keep a classified information from unauthorized disclosure shall last in accordance with the law.

#### **Article 95**

(1) The president of the court may release the judge or the other persons referred to in Article 94 paragraph (1) of this Law from the obligation to keep classified information with an appropriate degree of secrecy determined by law.

(2) Decision on release from the obligation to keep classified information with appropriate degree of protection regarding the president of the court of lower instance shall be adopted by the president of the immediately

higher court, and regarding the president of the Supreme Court of the Republic of Macedonia, the general session of that court, in accordance with the law.

#### **Article 96**

(1) Due to the nature of the work in the courts, there shall be duty judges for the purpose of efficient exercise of the judicial function.

(2) The duty judge roster shall be defined by the president of the court for each month. Compensation shall be paid for fulfillment of the duty. The Minister of Justice shall define the amount of the compensation for the duty by an act.

#### **Article 97**

(1) The president of the court, a person responsible for public relations, shall give information to the public via the mass media about the work of the court, as well as information about the course of the procedure in a particular case.

(2) A public relations office shall be mandatorily established in the courts.

(3) The president of the court and the judge referred to in paragraph (1) of this Article shall give information to the public by taking into account not to demean the image, honor and dignity of the person and not to cause damage to the independence and autonomy of the court.

(4) The data about the number of the case, the judge, date, hour and court room where the hearing is to be held shall be published on a daily basis in every court, in a public and visible place.

(5) At least once a year, every court shall inform the public about the results of the work of the court and the judges.

(6) The parties and the other participants in the ongoing procedure cannot give information and assessment about the course, conduct and outcome of the procedure if the court has prohibited to give such information.

### **Work of the court during a strike**

#### **Article 98**

(1) During a strike of the court servants, the activities referring to scheduled hearings, that is, public sessions for adoption and submission of all the decisions within a legal deadline shall be carried out in the court.

(2) The court shall be obliged to work even while on strike in case of procedures defined by law as urgent, that is, for matters that are requisite in accordance with the law.

## **VIII. COURT INFORMATION SYSTEM**

#### **Article 99**

(1) Information technology center shall be established in the Supreme Court of the Republic of Macedonia containing a database for the Court Information System.

(2) The courts shall have information technology services, as separate organizational units.

(3) The courts shall be obliged to publish the adopted decisions on their web site within a period of two days as of the day of their preparation and signing, in the manner defined by law.

(4) The president of the court or a judge appointed by him/her shall manage the center, that is, the information technology service.

(5) The Ministry of Justice shall ensure implementation, maintenance and operation of the information technology system on a single methodological and technical base.

(6) A single information technology center containing a database of all judicial bodies shall be implemented in the Ministry of Justice.

(7) The Minister of Justice shall by an act define the manner of operation of the information technology system in the courts referred to in paragraphs (1) and (5) of this Article.

## **IX. COURT SERVICE**

#### **Article 100**

The court service shall be composed of the court servants, the persons employed in the courts carrying out technical and auxiliary activities and the court police.

#### **Article 101**

The status, rights, duties, responsibilities of the court service, the system for salaries and salary compensations of the court service, as well as the management of the court cases shall be regulated by law.

#### **Article 102**

The court service shall carry out the activities defined by law in accordance with the principles of legality, professionalism, responsibility, efficiency, economy and transparency.

#### **Article 103**

The court servants, within the framework of their responsibility, shall be obliged to provide the citizens efficient and lawful exercise of their constitutional freedoms, rights and interests in the procedures before the courts.

#### **Article 104**



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**Article 105**

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**Article 106**

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**Article 107**

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**X. FUNDS FOR OPERATION**

**Article 108**

The funds for operation of the courts shall be provided from the Court Budget, as a separate part of the Budget of the Republic of Macedonia, marked as "Judicial Power".

**Article 109**

(1) The amount of the salaries and the other compensations for the judges in the courts shall be defined by law.

(2) The amount of the salaries and the other compensations for the court servants and the other employees in the courts shall be defined by law and collective agreement.

(3) The salaries and the other compensations, as well as the weapons, equipment and uniform of the members of the court police shall be provided from the funds of the Budget of the Republic of Macedonia, marked as "Judicial Power".

**XI. COURT POLICE**

**Article 110**

The securing of the facilities, property, persons, and the maintenance of the order in the court shall be carried out by the court police.

**Article 111**

(1) The police cannot enter the court premises.

(2) The police may enter and stay in the court premises only when it takes in or secures a person. The police shall stay in the court premises when requested so by the judge for the period necessary to secure the person.

(3) The police may enter the court premises upon a call of the president of the court or a judge in case of absence of the president of the court, in order to prevent a crime or when it is urgent in order to prevent a public danger.

**Article 112**

The court police powers, rights and obligations, employment, disciplinary liability of the members of the court police, and other issues within the competence of the court police shall be regulated by law.

**Article 113** **7**

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**Article 117**

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**XII. TRANSITIONAL AND FINAL PROVISIONS**

**Article 119**

(1) The judges elected before the entry into force of this Law shall continue to exercise the judicial office.

(2) The Judicial Council of the Republic of Macedonia, within a period of 30 days as of the day this Law commences its application at the latest, shall adopt a decision on the number of judges in the Basic Court

Skopje I – Skopje and the Basic Court Skopje II – Skopje.

(3) The re-assignment of judges within the courts referred to in paragraph (2) of this Article shall be made by the Judicial Council of the Republic of Macedonia within a period of three months as of the adoption of the decision referred to in paragraph (2) of this Article at the latest, in accordance with the provisions of this Law, and considering the specialization of the judges in criminal and civil matters.

#### Article 120

The commencement of operation and the transfer of cases from the Supreme Court of the Republic of Macedonia to the Administrative Court shall be performed in accordance with the provisions of the Law on Administrative Disputes.

#### Article 121

The Ministry of Justice shall provide spatial conditions for the operation of the Administrative Court.

#### Article 122

The specialized court departments for trying in organized crime and the specialized court divisions within the courts shall be established in a period of 90 days as of the day of application of this Law.

#### Article 123

The re-assignment and the transfer of the cases from one to another court in line with the competences defined by this Law shall be made within a period of 120 days as of the day of application of this Law at the latest, in accordance with the Instructions on the Manner of Taking Over of Cases, adopted by the Minister of Justice within a period of six months as of the day of entry into force of this Law.

#### Article 124

(1) On the day of commencement of the application of this Law, the first instance cases for which a procedure has not been opened shall be taken over by a court of actual and territorial competence, in accordance with the provisions of this Law.

(2) The opened cases for which a first instance decision has been adopted shall be completed by the current courts of actual and territorial competence.

(3) The appealed cases that have been returned for re-decision shall be taken over by the court of actual and territorial competence in accordance with this Law.

#### Article 125

(1) The existing Court Rulebook shall apply until the adoption of a court rulebook in line with the provisions of this Law, unless it is contrary to the provisions of this Law.

(2) The Minister of Justice who, according to the provisions of this Law, is authorized to adopt the bylaws, shall adopt them within a period of six months as of the day of application of this Law.

(3) Until the adoption of the bylaws referred to in paragraph (2) of this Article, the bylaws adopted before the day of entry into force of this Law shall continue to apply.

#### Article 126

(1) Before acquiring the capacity of judge candidates for the first time in accordance with the Law on the Academy for Training of Judges and Public Prosecutors, the judges in the basic courts shall be elected in accordance with the requirements referred to in Article 43 paragraph (1) of the Law on Courts ("Official Gazette of the Republic of Macedonia" nos. 36/95, 45/95 and 64/2003) and should have a working experience with established results in legal matters after passing of the judicial exam of more than three years.

(2) In a period of three years as of the day of the first acquisition of the capacity of judge candidates in accordance with the Law on the Academy for Training of Judges and Public Prosecutors, the Judicial Council shall fill in 50% of the established vacant positions for judges in the basic courts with persons who meet the requirements for a basic court judge in accordance with paragraph 1 of this Article and who have not attended the initial training in the Academy for Training of Judges and Public Prosecutors.

#### Article 127

As of the day of application of this Law, the Law on Courts ("Official Gazette of the Republic of Macedonia" nos. 36/95, 45/95 and 64/2003) shall cease to be valid, except the provisions of Article 43 paragraph (1) of the referred Law which shall cease to be valid after the expiry of the time period determined in Article 126 of this Law.

#### Article 128

This Law shall enter into force on the eight day as of the day of its publication in the "Official Gazette of the Republic of Macedonia" and shall apply as of 1 January 2007.

#### PROVISIONS OF OTHER LAW

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

#### Article 45

The fulfillment of the requirement for ensuring minimum 8 GPA for a law graduate who has completed a four-year higher education in law or a law graduate who has acquired 300 credits according to the European Credit Transfer System (ECTS), having minimum 8 GPA in each of the two cycles of the university studies, or who holds a validated diploma for acquired 300 credits from a foreign law faculty as referred to in Article 15 paragraph (2) line 1 of this Law, the obligation for submission of internationally recognized certificate for foreign language referred to in Article 15 paragraph (4) line 1 of this Law and the requirement for conducting integrity and psychological tests referred to in Article 15 paragraph (4) line 3 of this Law shall apply as of 1 July 2013.

The special requirements for election of a judge in the basic courts referred to in Article 17 paragraph (1) line 1 of this Law shall commence to apply as of 1 January 2013.

In the period from 1 January 2012 to 1 January 2013, the Judicial Council of the Republic of Macedonia shall fill in 50% of the established vacant positions for judges in the basic courts with persons who fulfill the requirements in accordance with Article 45 of the Law on Courts ("Official Gazette of the Republic of Macedonia" nos. 58/2006 and 35/2008), who have not attended the initial training in the Academy for Judges and Public Prosecutors and who have working experience with established results in legal matters after passing the judicial exam of more than three years.

The special requirements for election of a judge in the courts of appeal and the Supreme Court of the Republic of Macedonia referred to in Article 17 paragraph (1) lines 2 and 3 of this Law shall apply as of 1 July 2013.

**Article 46**

The fulfillment of the requirement for ensuring minimum 8 GPA referred to in Article 15 paragraph (2) line 1 of this Law and the requirement for knowledge of a foreign language referred to in Article 14 paragraph (4) line 1 of this Law shall not apply to candidates for judges who have been admitted and who have completed the initial training in the Academy for Judges and Public Prosecutors ("Official Gazette of the Republic of Macedonia" no. 88/2010) and to judges elected before commencement of the application of this Law.

**Article 47**

The fulfillment of the requirement for higher education for election of a lay judge referred to in Article 19 paragraph (1) of this Law shall apply as of 1 January 2016.

Until the application of the requirement referred to in Article 19 paragraph (1) of this Law related to paragraph (1) of this Article, preference in the election of lay judges shall be given to the candidates with completed higher education.

**Article 48**

The Higher Administrative Court shall commence its operation in accordance with the provisions on the Law on Administrative Disputes.

The general requirements for election of judges referred to in Article 45 of the Law on Courts ("Official Gazette of the Republic of Macedonia" nos. 58/2006 and 35/2008) and the special requirements referred to in Article 17 paragraph (2) line 2 of this Law shall apply to the first election of judges in the Higher Administrative Court.

**Article 49**

Articles 43 and 44 of this Law shall commence their application as of the commencement of the application of the provisions of the Law Amending the Law on Court Service.