

LAW

No. 8136 of July 31, 1996, as amended by law no. 9414 of May 20, 2005

ON THE MAGISTRATES' SCHOOL OF THE REPUBLIC OF ALBANIA

In reliance on article 16 of law no. 7491 of 29 April 1991 "On the major constitutional provisions," on the proposal of the President of the Republic,

**THE PEOPLE'S ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

DECIDED:

**CHAPTER I
PURPOSE AND DUTIES OF THE MAGISTRATES' SCHOOL**

Article 1

The Magistrates' School is created. It is a public budgetary institution and has the status of a legal person.

The Magistrates' School enjoys administrative, academic and financial autonomy for the realization of the purposes and duties designated in this law.

The seat of the Magistrates' School is in Tirana.

Article 2

The Magistrates' School assures the professional formation of magistrates (judges, prosecutors).

Professional formation includes the program of initial formation of candidates for magistrate and of continuing formation of judges and prosecutors in office.

In conformity with the law or at the request of the interested institutions, depending on free capacities that are created by the activity for initial and continuing formation of magistrates and the respective funds put at its disposition by the responsible institutions or donors, the Magistrates' School also realises activities of the professional formation of employees of the judicial administration as well as other legal professions related to the system of justice.

Article 3

The Magistrates' School has its own budget, a separate line in the state budget.

For the exercise of activities and in the service of its mission, the Magistrates' School has the right to obtain and use other income, realised from

- a) financing or donations obtained according to law from foreign or local natural or legal persons or institutions;
- b) the sale of its publications and published works;
- c) payment from third parties for formation activities organised by it or other professional services offered by it;
- ç) movable and immovable property that it has under administration;
- d) other lawful sources.

Article 4

The funds, income and property of the Magistrates' School serve the performance of its activity and functioning. This includes:

- a) the pay of the teaching staff, specialists, those responsible for internships and the administrative personnel;
- b) compensation of the candidates for magistrate;
- c) the performance of work or services, as well as the purchase of objects for purposes of the activity of the school
- ç) other activity approved by the Steering Council in the framework of the purpose of the School.

CHAPTER II

MANAGEMENT AND ORGANISATION OF THE MAGISTRATES' SCHOOL

Article 5

The management organs are:

- (a) the Steering Council;
- (b) the Director of the School;
- (c) the Pedagogical Council;
- (d) the disciplinary commission.

Article 6

1. The Steering Council of the Magistrates' School consists of:

- a) the President of the High Court, who at the same time serves as Chairman of the Steering Council;
- b) the General Prosecutor, who at the same time serves as deputy chairman of the Steering Council;
- c) the Deputy Chairman of the High Council of Justice;
- ç) two judges and two prosecutors with experience, who are designated respectively by the High Council of Justice and by the General Prosecutor;
- d) two representatives designated by the Minister of Justice;
- dh) the Chairman of the National Chamber of Advocacy;
- e) the Dean of the Faculty of Law at the University of Tirana;

- ë) the Director of the Magistrates' School;
- f) the persons responsible for initial and continuous training;
- g) two students elected by secret voting from the Assembly of candidates for magistrate who are following the initial formation.

The members of the Steering Council according to letters “ç” and “d” stay in office for a four year period, except when they resign, no longer exercise the duty that was the reason for their appointment as members of the Council, or are released from this duty by decision of the organ that designated them.

2. The Steering Council has these duties:

- a) It follows the implementation of the criteria for the acceptance of the candidates who will follow the program of initial formation and announces their final list;
- b) It decides on the criteria and the rules for selecting the teaching body, appoints them and releases them from duty on the proposal of the Director of the School;
- c) Within the budget, it defines the organisational structure and the criteria of appointment of the administrative personnel.
- ç) It approves and follows the implementation of the Internal Regulations of the School and the annual program of its activities;
- d) On the proposal of the Director, it determines the teaching plan, regulates the relations between subjects for joint and separate preparation of the candidates according to the profiles of judge and prosecutor;
- dh) It proposes the draft budget and examines the reports of the Director on the realisation of the budget and the expenditures of income.
- e) It submits annual reports to the High Council of Justice and the General Prosecutor on the results achieved and the directions of work for the future.

3. The Steering Council meets at least once every three months. The time, place and issues on the agenda of the meeting are set by the Chairman. No fewer than three members of the Council or the Director of the School also have the right to ask for a meeting of the Steering Council and the inclusion of issues on the agenda. The Council meets no later than 15 days from the submission of a written request.

Meetings are valid when no less than half of the members take part in them.

Decisions are taken by a majority of votes and, when the votes are equal, the vote of the chairman is determinative.

Article 7

The Director of the Magistrates' School is appointed by the High Council of Justice on the proposal of the Steering Council from the ranks of judges and prosecutors with no less than 10 years work seniority or from the ranks of distinguished jurists who have exercised the profession of jurist for no fewer than 15 years.

The appointment is made for a four year period with the right of re-appointment for only one other four year mandate.

The Director of the Magistrates' School may be discharged by the High Council of Justice for the commission of a crime, for physical or mental incapacity, for acts and conduct that seriously discredit his position and figure or for professional insufficiency.

The pay of the Director of the School is equal to that of a judge of the High Court.

The Director of the Magistrates' School has these duties:

1. He represents the Magistrates' School before public and private organs.
2. He draws up and proposes a draft of the Internal Regulations of the School, the draft annual plan of its activity and amendments to them.
3. He implements the duties that come from the laws, from decisions of the Steering Council and from the recommendations of the High Council of Justice.
4. He seeks funds from the state, donations from societies and individuals and administers the income in an independent manner, according to the principal directions defined by the Steering Council according to the conditions specified in article 4.
5. He takes measures for the publication of literature and texts.
6. He leads the pedagogical body, co-ordinates the work with them, asks for and approves teaching programs for each subject and checks their implementation and the quality of the teaching, and proposed candidates for pedagogue to the Steering Council.
7. He proposes the appointment, release or discharge from duty of the teaching staff and appoints and removed the employees of the administrative personnel of the School.

The financial-administrative activity of the institution is realised by the Chancellor of the School, under the authority of the Director. He is appointed and discharged, and his work description is prepared, by the Steering Council.

The labour relations of the employees of the administrative personnel are regulated according to the provisions of the Labour Code.

Article 8

1. Judges and prosecutors may also be accepted and may serve in the functions of Director and internal pedagogue of the Magistrates' School.

2. The acceptance and appointment of judges or prosecutors is done without a competition, after the consent has been given, respectively, by the High Council of Justice or the General Prosecutor, according to the request and proposals of the Steering Council of the Magistrates' School.

3. The period of exercise of the functions mentioned in point 1 of this article is recognised as a period of work seniority as a judge or prosecutor for purposes of the requirements of the professional career provided in the legal provisions on the

organisation of the judicial power, the High Court, the Constitutional Court and the prosecutor's office.

4. Judges or prosecutors who serve in the functions mentioned in point 1 of this article are re-appointed judges or prosecutors, without a competition, on their request.

5. For purposes of pay, the Director of the School is equivalent to a judge of the High Court; the internal pedagogues are equivalent to a judge of the Tirana Court of Appeals; the Chancellor is equivalent to the Chancellor of the Court of First Instance, Tirana.

Article 9

1. The pedagogical council is chaired by the Director of the School and consists of:

- a) the internal teaching personnel and the heads of the principal subjects of a formative and professional nature determined by the Steering Council;
- b) one judge and one prosecutor designated by the Steering Council from among the members of the Council.

2. The duties and rules for the functioning of the pedagogical council are set in the Internal Regulations of the Magistrates' School.

Article 10

The pedagogical council meets on the request of the Director of the School.

Meetings of the pedagogical council are held when no less than half of the members take part in it, and decisions are taken by majority vote. When the votes are equal, the vote of the chairman is determinative.

CHAPTER III DISCIPLINE

Article 11

1. The disciplinary commission is chaired by the Director of the School and includes:

- a) one judge and one prosecutor, designated by the Steering Council of the School, who are not members of the pedagogical council;
- b) two full-time pedagogues of the School designated by the pedagogical council;
- c) two of the candidates for magistrate elected every year by secret voting, from the Assembly of the candidates for magistrate.

2. The disciplinary commission has the competence to exercise the functions of a disciplinary organ, taking disciplinary measures in writing against candidates for

magistrate who violate the rules of discipline set out in this law and in the respective regulations.

The disciplinary commission meets on the request of the Director of the School or upon the submission of a written request by interested persons.

Meetings of the disciplinary commission are held when no less than half of the members take part in them.

Article 12

1. Disciplinary violations that may be committed by candidates for magistrate are defined in the regulations of the School. The disciplinary measures given for these violations are:

- a) reprimand;
- b) written reprimand;
- c) reprimand with warning;
- ç) transfer from the place of internship;
- d) reduction in pay up to the amount of 30 per cent for a period of from three to six months;
- dh) expulsion from the school..

2. The disciplinary measures provided in letters “a,” “b,” and “c” are given by the Director of the School, while those provided in letters “ç,” “d” and “dh” are given by the disciplinary commission on the proposal of the Director of the School or of not fewer than three of the members of the disciplinary commission.

3. No disciplinary measure may be given without first hearing the person who is to be punished.

4. The disciplinary measures given by the Director of the School may be appealed to the disciplinary commission, while those given by the latter may be appealed to the Court of Appeals of Tirana within 10 days from the date they are communicated. An appeal made does not suspend the implementation of the disciplinary measure for the first and second year.

5. A disciplinary measure may not be given when one year has passed from the commission of the violation.

6. The disciplinary measures given according to letters “a” and “b” of point 1 of this article are expunged after one year from the date they were given.

7. Detailed rules in connection with a disciplinary proceeding are set by the Steering Council of the School.

8. The procedures and the decisions taken for a disciplinary proceeding of candidates for magistrate are reflected in their personal file.

CHAPTER IV FUNCTIONING OF THE MAGISTRATES' SCHOOL

Article 13

The school year opens on the first Monday of the month of October and ends on June 30 of the succeeding year.

The competition procedures are held during the month of September.

Article 14

The initial formation of candidates includes a three year period consisting of:

- a) one year, a theoretical program with various subjects of the law;
- b) one practical year under the care of a pedagogue of the School and under the direction of a judge or prosecutor with high qualification;
- c) one year of active practice following less complicated cases under the direction of a judge or prosecutor (period of professional internship).

The theoretical program according to letter a) of article 14 is the same for all candidates, while the practical year and the year of professional internship are conducted according to the profiles of judge or prosecutor that the candidate has selected.

The director of the school posts the list of where the judges and prosecutors will conduct the internship, the responsible magistrates and the names of the candidates for each court and prosecutor's office.

Article 15

The internal and external pedagogues are appointed by the Steering Council on the proposal of the director according to the criteria determined by the Council.

For general subjects, external pedagogues who have exercised duty for a long time as judge, prosecutor, lawyer and pedagogue may be activated. For specific subjects, specialists of those fields are activated.

Pedagogues are prepared for the subjects that they conduct themselves and are assisted through courses, seminars or colloquia held periodically.

Article 16

The following takes place for the acceptance of candidates:

In conformity with the list of vacant places determined by the High Council of Justice for candidates for judge and by the General Prosecutor for candidates for prosecutor, the Director of the School makes an announcement for the submission of applications of the candidates, making known the documents that should accompany the application, the end date for submitting them and the list of subjects that will serve as the basis for the testing of the candidates.

Candidates should present these documents:

- a) a copy of the diploma as a jurist
- b) a list of the marks received in higher education
- c) an application expressing the desire of the candidate himself for the profile selected of judge or prosecutor.

Article 17

Candidates undergo a competition, which is given in writing before a jury consisting of five persons designated by the Steering Council.

At the end of the competition, a list of the winners is issued, which is approved by the Steering Council. The candidates who are accepted are obligated to attend the program regularly and to respect the regulations of the School.

Article 18

During the period when they are following the program, candidates receive compensation equal to 50% of the pay of a judge of the district court for the first two years of the program.

A candidate who is expelled or who leaves the School in an unjustified manner is obligated to return the compensation received during the period when he was following the theoretical program and the pre-professional internship.

Article 19

At the end of the period provided in letter “b” of article 14 of this law, according to the evaluation made by the pedagogical council of the School, the candidates for magistrate, according to the designated profiles, are provisionally appointed to perform a professional internship as judge and prosecutor by the President of the Republic on the proposal, respectively, of the High Council of Justice and the General Prosecutor.

Article 19/1

The evaluation of the pedagogical council is done in five levels:

- a) outstanding;
- b) very good;
- c) good;

- d) satisfactory;
- e) unsatisfactory.

The rules and the procedures for evaluation are defined in the Internal Regulations of the Magistrates' School.

Article 20

The final evaluation of the candidates is done by the pedagogical council on the basis of the theoretical results and the practical results of the internship.

On the request of the Director of the School, the chairman of the court or the director of the prosecutor's office where the internship is conducted assigns judges or prosecutors who, after checking the work of the intern, submit evaluation reports about him.

The Directorate of the School sends the data of the evaluation process to the President of the Republic for making their final appointment to vacant positions in conformity with the level of their evaluation by the School, after the proposals made respectively by the High Council of Justice for judges and the General Prosecutor for prosecutors.

When these places are lacking, those who are awaiting appointment earn the pay and other rights respectively of a judge or prosecutor.

In the absence of free places, a candidate for judge or prosecutor, with his consent, may work in the judicial administration or the administration of the prosecutor's office, in the Ministry of Justice or as a clerk in the High Court until a place for a judge or prosecutor opens.

Article 21

During the professional internship period, the candidates enjoy the same rights and have the same obligations as magistrates.

Article 22

Appointed magistrates who, without good cause, do not appear for duty, resign or ask to leave office before five years have passed from their appointment are obligated to return to the Magistrates' School the compensation that they have received during the period provided in letters "a" and "b" of article 14 of this law, in proportion to the time of non-fulfilment of the obligation.

The return of the compensation according to the second paragraph of article 18 and the first paragraph of this article is done by order of the Director of the School, which constitutes an executive title and is executed by the execution office.

Article 23

Supplementary Formation

Judges and prosecutors of the courts and prosecutor's offices of first instance and those of the courts of appeal undergo continuous formation.

The period of continuous formation should not exceed more than 20 days a year and no more than 60 days during five years.

The program of continuous formation is drawn up by the Director of the School after having first received the opinion of the President of the High Court, the General Prosecutor, the Ministry of Justice, the High Council of Justice and the pedagogical council of the School. The program of continuous formation is approved by the Steering Council of the School.

Participation in these trainings is obligatory.

The expenses of travel and board for these activities are covered by budgetary funds provided for this purpose, respectively by the funds of the Office of Administration of the Judicial Budget, the Office of the General Prosecutor and other legal sources predetermined for those activities.

Article 24

Proposals for the participation of each judge and prosecutor in the specific activities of continuous formation are made to the Director of the Magistrates' School, respectively, by the chairman of the court of first instance or court of appeals and by the director of the prosecutor's offices at those courts.

On the proposal of the Director of the Magistrates' School, the High Council of Justice for judges and the General Prosecutor for prosecutors approve lists with the names of the persons who will take part in continuous training for at least a one year period, according to the respective activities determined in the program of continuous formation.

Article 25

Judges and prosecutors who take part in continuous formation are furnished with a certificate issued by the Director of the School. A copy of the certificate is put into the personal file of the judges and prosecutors.

Article 26

Every law and substatutory act that is in conflict with this law is repealed.

Article 27

This law is effective 15 days after publication in the Official Journal.

**Promulgated with decree no. 1581 of August 14, 1996
of the President of the Republic of Albania, Sali Berisha**

**Amended with decree no. 4620 of June 6, 2005
of the President of the Republic of Albania, Alfred Moisiu**