

REPUBLIC OF MACEDONIA  
MINISTRY OF JUSTICE

LAW OF THE COURTS

Skopje, August 1995

## LAW OF THE COURTS

### 1. BASIC PRINCIPLES

#### ARTICLE 1

Judiciary power shall be exercised by the Supreme Court of the Republic of Macedonia, courts of Appeal and courts of first instance established by this law.

#### ARTICLE 2

Courts are autonomous and independent state agencies. Courts judge on the basis of the Constitution, laws and international agreements ratified in accordance with the Constitution, guaranteeing the implementation of law and the protection of human freedoms and rights.

#### ARTICLE 3

The objectives and functions of the judiciary comprise:

- a) impartial application of the law disregarding the position and social status of parties;
- b) promotion of the protection and respect for human freedoms and rights, within the framework of the implementation of the judicial office, and
- c) legal security and creation of conditions for all individuals to live safely within the framework of the implementation of law.

#### ARTICLE 4

In the realization of its objectives and functions courts are related only to the Constitution, laws and international agreements ratified in accordance with the Constitution.

Courts make decisions on the basis of the Constitution, laws and international agreements ratified in accordance with the Constitution, taking into account the principles of justice and legal equity.

#### ARTICLE 5

The court, in a proceedings defined by law, makes decisions concerning:

- the rights of citizens, and legally based interests;
- disputes between citizens and other judicial persons;
- penalty liable deeds; and
- other issues which, by law, are placed within the sphere of competence of the court.

#### ARTICLE 6

Courts protect the freedoms and rights of the individual and of the citizen, as well as the rights of the other judicial persons, in so far as, according to the Constitution, this does not be within competence of the Constitutional Court of the Republic of Macedonia.

Citizens and other judicial persons shall be guaranteed court protection regarding the legality of the individual acts of the state administration, as well as of the other institutions carrying out public mandates.

#### ARTICLE 7

Everyone has a right to equal access before the courts in the protection of his/her rights and legally based interests.

Everyone has a right to a legal, impartial, fair and within reasonable time-limit trial.

Access before courts may not be limited to anyone owing to lack of financial resources.

#### ARTICLE 8

The court calls upon court incompetence only when competence of other state body to decide upon a specific request is explicitly provided for by law.

The court cannot reject a request for the accomplishment of a certain right on the grounds that there is a gap in the law and is obliged to decide on the same.

## ARTICLE 9

No one is excluded from the judicial authority, except when cases of immunity before the judicial power are determined by the Constitution and international agreements ratified in accordance with the Constitution.

## ARTICLE 10

The procedure followed by the court is regulated by law.

The procedure followed by the court is especially based upon the following principles:

- legality,
- legal equity of the parties,
- equity,
- publicity,
- contradiction,
- two instances,
- sitting in a panel,
- freedom of speech,
- directness,
- right to a defense, that is representation,
- free assessment of the evidence,
- the establishment of material truth, and
- economy.

The principles of the procedures, the ways of their accomplishment and the possible deviation in separate principles are more precisely regulated by the law on the separate procedures.

## ARTICLE 11

Any form of influence on a judge in connection with the trial, and particularly public comment with a view on influencing the progress and outcome of the court procedure, is forbidden.

In the application of law, judges shall not be dependent on the legal opinion of the higher court.

## ARTICLE 12

The court shall submit an initiative to commence proceedings in order to determine the compliance of the law with the Constitution, in the case when a question about its compliance with the Constitution is brought forward in the proceedings.

In cases when the court considers that the law which should be applied in the case concerned is not in compliance with the Constitution, and the constitutional provisions

cannot be applied directly, it shall adjourn the proceedings until a decision is made by the Constitutional Court of the Republic of Macedonia.

The party has a right to an appeal against the decision with which the proceedings is adjourned. The procedure to the appeal is immediate.

#### ARTICLE 13

Court decisions are pronounced on behalf of the citizens of the Republic of Macedonia.

The effective court decision has inviolable affect.

The court decision may be changed or abolished only by a competent court and in a procedure regulated by law.

Court decision are obligatory to all judicial and physical persons and are of a higher instance in relation to the decisions of any other body.

Everyone is obliged to abide by the effective and executive court verdict under threat of legal sanctions.

#### ARTICLE 14

A judge makes impartial decisions on the basis of his/her free appraisal of the evidence and application of the law.

At the time of the decision-making any forms of limitation, influence, inducement, pressure, threat or interference, direct or indirect, cannot be made upon judges, regardless of whoever the subject and whatever the reason may be.

No one has a right in whatever way to limit or thwart the right of a judge to proclaim freely his/her decision.

#### ARTICLE 15

The review of court decisions or the alternation of court composition to influence the decision-making of the court may not be allowed with either law or act of the executive power.

Each body of the state power is obliged to abstain from any act or omission of action with which the reaching or execution of a court verdict is barred.

#### ARTICLE 16

Any state body is obliged, when that is placed within its competence, to ensure the execution of the court verdict.

Supervision on the execution of the court decisions is exercised by the court.

## ARTICLE 17

The execution of the effective and executive court verdict shall be carried out in the most efficient possible way, and may not be hindered by a decision from any other state body.

## ARTICLE 18

Courts are obliged to render mutual legal assistance.

A court of a higher instance may request from a court of a lower instance from its region, data in connection with the execution of laws and with the problems arising in the work of the court.

A court of a higher instance may not request data for a case for which a decision has not been made in the court of a lower instance, unless it is necessary for a timely decision-making.

## ARTICLE 19

Upon request by a court in the performance of its competence, state bodies and other judicial persons are obliged to provide it without delay with all the necessary data, papers, or documents at their disposal which are necessary at the proceedings.

The court is obliged to keep state, military, official, or business secrets of the data provided for by other state bodies or judicial persons.

Upon request by a state body, courts shall render legal assistance and provide for papers needed for the commencement of the proceedings, provided that their autonomy and independence is not barred.

## ARTICLE 20

Courts render legal assistance to foreign courts pursuant to the law and international agreements.

## ARTICLE 21

A judge is elected without restriction of his/her term of office.

## ARTICLE 22

There is one form of organization for the judiciary.

## ARTICLE 23

The court has a seal on which is stamped its name, place of residence, the coat of arms and the name of the Republic of Macedonia.

The name Republic of Macedonia, the name of the court, its headquarters, the coat of arms and the flag of the Republic of Macedonia must be put on the outside front building wall where it is settled.

## II. ORGANIZATION AND COMPETENCE

## ARTICLE 24

In the uniformed judicial system, the judicial power is exercised by courts of first instance, courts of Appeal and the Supreme Court of the Republic of Macedonia.

## ARTICLE 25

Courts of First Instance are established for the territories determined by the Law.  
Courts of First Instance may also judge outside of their headquarters on court-days.

## ARTICLE 26

Courts of Appeal are established for the territory of several courts of first instance determined by this Law.

## ARTICLE 27

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

The headquarters of the Supreme Court of the Republic of Macedonia is in Skopje.

## ARTICLE 28

Courts of first instance are established for the following territories:

1. Court of First Instance at Berovo for the territory of Berovo Municipality;
2. Court of First Instance at Bitola for the territory of Bitola and Demir Hisar Municipalities, with a department at Demir Hisar;
3. Court of First Instance at Vinica for the territory of Vinica Municipality;
4. Court of First Instance at Gevgelija for the territory of Gevgelija and Valandovo Municipalities, with a department at Valandovo;
5. Court of First Instance at Gostivar for the territory of Gostivar Municipality;
6. Court of First Instance at Debar for the territory of Debar Municipality;
7. Court of First Instance at Delcevo for the territory of Delcevo Municipality;
8. Court of First Instance at Kavadarci for the territory of Kavadarci Municipality;
9. Court of First Instance at Kicevo for the territory of Kicevo and Makedonski Brod Municipalities, with a department at Makedonski Brod;
10. Court of First Instance at Kocani for the territory of Kocani Municipality;
11. Court of First Instance at Kratovo for the territory of Kratovo Municipality;
12. Court of First Instance at Kriva Palanka for the territory of Kriva Palanka Municipality;
13. Court of First Instance at Kumanovo for the territory of Kumanovo and Kratovo Municipalities, with a department at Kratovo;
14. Court of First Instance at Krusevo for the territory of Krusevo Municipality;
15. Court of First Instance at Negotino for the territory of Negotino Municipality;
16. Court of First Instance at Ohrid for the territory of Ohrid Municipality;
17. Court of First Instance at Prilep for the territory of Prilep Municipality;
18. Court of First Instance at Radovis for the territory of Radovis Municipality;
19. Court of First Instance at Resen for the territory of Resen Municipality;
20. Court of First Instance at Sveti Nikole for the territory of Sveti Nikole Municipality;
21. Court of First Instance at Skopje I for the territory of Centar and Karpos Municipality;
22. Court of First Instance at Skopje II for the territory of Kisela Voda, Cair and Gazi Baba Municipality;
23. Court of First Instance at Struga for the territory of Struga Municipality;
24. Court of First Instance at Strumica for the territory of Strumica Municipality;
25. Court of First Instance at Tetovo for the territory of Tetovo Municipality;
26. Court of First Instance at Titov Veles for the territory of Titov Veles Municipality; and
27. Court of First Instance at Stip for the territory of Stip and Probistip Municipalities, with a department at Probistip;

In case of establishment of new municipalities, the territories of the courts determined by this Law shall remain unchanged.

## ARTICLE 29

Courts of Appeal are established for the following territories:

1. Court of Appeal at Bitola for the territories of the Courts of First Instance at Bitola, Kicevo, Krusevo, Ohrid, Prilep, Resen and Struga;
2. Court of Appeal at Skopje for the territories of the Courts of First Instance at Gevgelija, Gostivar, Debar, Kavadarci, Kratovo, Kriva Palanka, Kumanovo, Negotino, Skopje I, Skopje II, Tetovo and Titov Veles; and
3. Court of Appeal at Stip for the territories of the Courts of First Instance at Berovo, Vinica, Delcevo, Kocani, Radovis, Sveti Nikole, Strumica and Stip.

## ARTICLE 30

Courts of First Instance are competent to decide in the first instance on the matters under court jurisdiction, except on matters which are entrusted in the competence of other court.

Courts of first instance are also competent to decide in first instance on the extra trial matters, execution and security and certification of the deeds and registrations, unless by law competence is not entrusted to other bodies or institutions.

Courts of First Instance are also competent to decide in the first instance on violations, unless by law it is not determined that other bodies decide on certain forms of violations (customs, foreign exchange regulations, foreign-trade and tax) .

## ARTICLE 31

The department of a court of first instance exercises the competencies of a court of a first instance for the territory of the municipalities for which it has been established.

## ARTICLE 32

Courts of First Instance besides the competence determined by Article 30 of this Law, for the territories for which they have been established, are competent:

- a) to try in the first instance and to perform duties in a criminal procedure for crimes for which a prison term of over ten years is prescribed and
- b) for economic offences, properly and other civil and legal disputes in which as parties appear the municipalities, the City of Skopje, and the Republic, firms and other judicial persons, shop owners and other individuals performing registered economic activity, disputes of domestic judicial and foreign physical persons and between foreign physical and judicial persons, bankruptcy procedure, forced settling of debts and liquidation and the disputes arising from

it, disputes of status changes (division, merging, adjoining and organizing) and execution of the decisions of those courts, decides on the legality an individual act in the administrative-accounting disputes, for the protection due to illegal actions, recognition and permission to execute the decisions of foreign courts, as well as to perform the matters of international juridical aid if by law competence is not entrusted to another body.

The competence under subparagraph 1 of this Article will be exercised by the courts as follows: the Court of First Instance at Bitola also for the matters within the territory of the Court of First Instance at Resen; the Court of First Instance at Kumanovo also for the matters within the territory of the Courts of First Instance at Kratovo and Kriva Palanka; the Court of First Instance at Prilep also for the matters within the territory of the Court of First Instance at Krusevo; the Court of First Instance at Strumica also for the matters within the territory of the Court of First Instance at Radovis; the Court of First Instance at Stip also for the matters within the territory of the Court of First Instance at Sveti Nikole; the Court of First Instance at Kocani also for the matters within the territory of the Courts of First Instance at Berovo, Vinica and Delcevo; the Court of First Instance at Kavadarci also for the matters within the territory of the Court of First Instance at Negotino; the Court of First Instance at Gostivar also for the matters within the territory of the Court of First Instance at Debar; the Court of First Instance at Tetovo also for the territory of Tetovo Municipality; the Court of First Instance at Titov Veles for the territory of Titov Veles Municipality; the Court of First Instance at Gevgelija for the territory of Gevgelija and Valandovo Municipalities; the Court of First Instance at Kicevo for the territory of Kicevo and Makedonski Brod Municipalities; the Court of First Instance at Ohrid for the territory of Ohrid Municipality; the Court of First Instance at Struga for the territory of Struga Municipality; and the Court of First Instance Skopje I for the territory of Centar and Karpos Municipalities, and the Court of First Instance Skopje II for the territory of Gazi Baba, Kisela Voda and Cair Municipalities.

For keeping the Court Register are competent: the Court of First Instance at Bitola for the territory of the Court of Appeal at Bitola; the Court of First Instance Skopje I for the territory of the Court of Appeal at Skopje; and the Court of First Instance at Stip for the territory of the Court of Appeal at Stip.

In order to provide uniform evidence of the subjects recorded in the registers under paragraph 3 of this Article, on the basis of the data, the Collective Court Register is established for the territory of the Republic of Macedonia, and is kept by the Court of First Instance Skopje I at Skopje.

Courts of First Instance at Bitola, Skopje I and Stip are competent to decide on crimes against the armed forces, as follows: the Court of First Instance at Bitola for the territory of the Courts of First Instance at Kicevo, Krusevo, Ohrid, Prilep, Resen and Struga; the Court of First Instance Skopje I for the territory of the Courts of First Instance at Gevgelija, Gostivar, Debar, Kavadarci, Kratovo, Kriva Palanka, Kumanovo, Skopje II, Tetovo, Titov Veles and Negotino; the Court of First Instance at Stip for the territory of the Courts of First Instance at Berovo, Vinica, Delcevo, Kocani, Radovis, Sveti Nikole and Strumica.

The Court of First Instance Skopje II exercises supervision regarding the implementation of detention in Skopje Prison.

The Court of First Instance Skopje II executes sentences to imprisonment and juvenile school, security safeguards, compulsory psychiatric treatment after serving the sentence, and compulsory treatment of alcoholics and drug addicts, as well as substitution of the fine with a sentence to imprisonment pronounced by the Court of First Instance Skopje I.

#### ARTICLE 33

Courts of Appeal are competent to:

1. decide on appeals against the verdicts of the courts of first instance;
2. decide on conflicts of competence among courts of first instance within their territory;
3. exercise other duties determined by law.

#### ARTICLE 34

The Supreme Court of the Republic of Macedonia is competent to:

1. decide against the decisions of its councils in the second instance, when it is determined by law;
2. decide in a third and final instance on appeals against the decisions of the courts of Appeal and the decisions of its councils reached in the second instance, when it is determined by law;
3. decide in the first and second instance in administrative disputes, when it is determined by law, and in final decisions made in violation procedure;
4. decide on emergency legal remedies against the effective decisions of the courts and the decisions of its councils, when it is determined by law;
5. decide on conflicts of competency among the courts of first instance from the territory of different courts of Appeal, courts of Appeal and courts of first instance, courts of Appeal, and to decide on transferring the local competence of these courts; and
6. perform other duties determined by law.

The Supreme Court of the Republic of Macedonia decides on the legal remedies in a council composed of five judges, unless otherwise specified by another law.

#### ARTICLE 35

The Supreme Court of the Republic of Macedonia at a general session:

- determines principle attitude and principle legal opinion on questions of significance in order to ensure the uniformity of the implementation of the laws by the courts;

- provides appraisals of the proposed laws and other regulations when with them are arranged matters of importance to the work of the courts;
- considers issues regarding the work of the courts, the implementation of the laws and the court practice;
- establishes a Rule Book for the work of the courts;
- determines a program for the work of the courts;
- determines appraisals of the election and existence of grounds for discharging a judge;
- decides on requests for the protection of legality against the decisions of its councils; and
- considers the report for its work and the reports for the work of the other courts.

The principle attitudes and legal appraisals determined by the Supreme Court of the Republic of Macedonia at general sessions are compulsory for all the councils of the Supreme Court of the Republic of Macedonia.

### III. JUDGES AND JURY JUDGES

#### ARTICLE 36

Judicial office is exercised by judges.

Judges act in all matters which by law are placed under court jurisdiction.

Jury judges take part in a trial when that is determined by law.

#### ARTICLE 37

A judge exercises his/her judicial office at the court in which he/she has been elected.

A judge cannot be transferred from one court to another against his/her will.

The assignment of judges is executed by an annual working schedule.

A judge cannot be transferred from one court department to another against his/her will.

A judge of a court of Appeal and of a court of first instance may temporarily be moved, but for a period of six months at most, with his consent, to judge in another court of the same instance, or to a lower court, or from one to another department, in cases when owing to bar or dismissal of a judge from a case or owing to a considerably

increased extent of work, or complexity of matters, the regular work of the court concerned is endangered.

The transfer from one court to another is exercised by the Chairman of the higher court, and the transfer from one to another department by the Chairman of the court concerned.

Exclusively, a judge may temporarily be assigned to another court department, against his/her will, by decision of the Chairman of the Court, when the extent and the matter of the work of the court demands it.

A judge may request to be transferred from one department to another.

A judge may lodge an appeal against the assignment to another department and against the denial of the request for transfer to another department, to the Chairman of the Supreme Court of the Republic of Macedonia, which is obliged to come out for the appeal within seven days.

## 1. ELECTION AND DISMISSAL

### ARTICLE 38

Judges are elected and dismissed by the Assembly of the Republic of Macedonia, under terms and in a procedure determined by law.

### ARTICLE 39

The Assembly of the Republic of Macedonia elects and discharges judges on a proposal by the Republican Judicial Council.

Jury judges are elected and dismissed by the Assembly of the Republic of Macedonia on a proposal by the courts of first instance and courts of Appeal.

### ARTICLE 40

In the election of judges and jury judges there shall not be discrimination on the basis of sex, race, color of skin, national and social origin, political and religious beliefs, property and social status.

In the election of judges and jury judges, without violating the criteria determined by law it shall be attempted to ensure corresponding representation of nationalities in the Republic.

#### ARTICLE 41

The Assembly of the Republic of Macedonia determines the numbers of judges for each court, by decision, on a proposal by the general session of the Supreme Court of the Republic of Macedonia.

The Assembly of the Republic of Macedonia, on a proposal by the courts of first instance and courts of Appeal, determines the number of jury judges for each court.

#### ARTICLE 42

The Assembly of the Republic of Macedonia makes an announcement for the appointment of judges in the respective court of the “ Official Gazette of the Republic of Macedonia” and in the daily press, within 15 days of the date of the decision made to determine the number of judges, i. e. immediately after the post of a judge becomes vacant.

With the announcement the candidates interested are informed that they should submit an application to the Republican Judicial Council, within 15 days of the day of the announcement in the “Official Gazette of the Republic of Macedonia” .

#### ARTICLE 43

For a judge may be elected a citizen of the Republic of Macedonia, who fulfills the common conditions established by the law of employment in a body of the state administration who is a law graduate with passed judiciary examination, and with a respected reputation for discharging the judicial office.

For a judge in a court of first instance besides conditions under paragraph 1 of this Article, the candidate must have over five years working experience with confirmed positive results in law after passing the judiciary examination, and for a judge in a court of Appeal – over nine years.

For a judge in the Supreme Court of the Republic of Macedonia, besides conditions under paragraph 1 of this Article, the candidate must be a distinguished law expert and must have over 12 years working experience with confirmed positive results in law.

For a judge in the Supreme Court of the Republic of Macedonia may be elected a Full or Associate Professor who has taught over ten years a law subject connected with judicial practice.

## ARTICLE 44

The Assembly of the Republic of Macedonia elects a judge and Chairman of a court as proposed by the Republican Judicial Council.

The Assembly of the Republic of Macedonia informs the Republican Judicial Council, the Court, the elected judge, the Government of the Republic of Macedonia and the Supreme Court of the Republic of Macedonia about the results of the election.

## ARTICLE 45

The Chairman of a court is elected under terms, in a procedure, and in a way as the election of judges is carried out, for a term of four years from among the judges of the court concerned with a possibility to be reelected for the same office concerned, with a possibility to be reelected for the same office for another four years.

The Chairman of a court who will not be reelected for the same office, continues working as a judge of the court concerned.

## ARTICLE 46

For a jury judge may be elected an adult citizen of the Republic of Macedonia with finished high school at least, who is respected for discharging this office.

For trying juveniles jury judge must be a person with a long-term experience in the discipline and education of youth.

## ARTICLE 47

A jury judge is elected for a term of four years, and may be reelected.

## ARTICLE 48

Before taking office a judge or jury judge shall take an oath that reads as follows:

“ I swear that in the discharging of the judicial office I will abide by the Constitution, laws and international agreements ratified in accordance with the Constitution, judging legally, fairly, conscientiously, independently and responsibly, and defending the freedoms and rights of the individuals and citizens”.

Judges will take an oath before the Chairman of the Assembly of the Republic of Macedonia, and jury judges before the Chairman of the court in which they are elected.

## 2. RIGHTS, OBLIGATIONS AND IMMUNITY

### ARTICLE 49

Judges may establish associations in order to accomplish their interests, promote professional training, and protect the independence and autonomy of the judicial office.

### ARTICLE 50

The performance of a judge's office is incompatible with the post of a Representative, i. e. committee member, and with an office in the bodies of the Republic, municipalities and the City of Skopje.

A judge may not perform any other public office or professional activity, except other duties determined by law.

A judge may teach at university and take part in some scientific projects at university, with no right to a remuneration.

Consent to perform university activity under paragraph 3 of this Article is given by the court in which the judge concerned has been elected.

Consent to perform university activities may be given only if it does not damage the performance of the judicial office.

A judge may not be a member and exercise political function in a political party, and may not perform party or political activities.

### ARTICLE 51

A judge has a right and obligation to a continuous professional training during his/her term of judicial office.

From the provisions for funds it is compulsory that provisions are set aside for the professional training of judges.

### ARTICLE 52

Special rights of judges in the performance of their judicial office are considered to be the following:

- the right to enter and have free passage at the stations, airports, and ports, only by showing identification documents;
- the right to an official permit to carry a gun, and to supply appropriate ammunition;
- the right to free use of public transportation, by land or lake within the territory of the court district in which the judicial office is exercised, in cases of official need and in the case of Articles 37 paragraph 5 and 56 paragraph 2 and 3 of this Law;
- the right to a special protection of his/her personality, family and property, upon his/her request to the police in the place of residence always when there are serious reasons for his security.

For the special rights of paragraph 1 of this Article, the Minister of Justice passes regulations and acts.

#### ARTICLE 53

Judges sitting alone or in a panel are obliged to wear special judicial apparel (TOGA) , by which they are distinguished from the other participants in trial procedures.

The act on the appearance and conditions under which the apparel shall be worn is passed by the Minister of Justice.

#### ARTICLE 54

A judge while exercising his/her judicial office must not receive any presents from the parties or persons who, directly or indirectly, take an interest in the trial.

#### ARTICLE 55

Judges enjoy all the rights of employment they are entitled to under the law.

#### ARTICLE 56

Judges of courts of first instance shall live in the place of the headquarters of the court where they exercise their office.

As an exception a judge may live in other place within the region of the court he/she is elected to as a judge, provided that he/she may use an efficient regular public transportation, which is decided by the Chairman of the Court.

Judges of the Supreme Court of the Republic of Macedonia and courts of Appeal are exempt from the obligation under paragraph 1 of this Article, unless owing to justifiable

reasons connected with the service the Supreme Court of the Republic of Macedonia, i. e. the courts of Appeal decide otherwise.

In the cases when a judge, because of the needs of the service, exercises judicial office out of his/her place of residence he/she has a right to a remuneration for increased housing expenses.

The Minister of Justice passes a Book of Rules with which the amount and the way of payment of the remuneration under paragraph 4 of this Article is determined.

#### ARTICLE 57

A judge has a right to a remuneration for moving expenses of his/her own, or of the whole family, as well as to a remuneration in cases when he/she is elected, or temporarily transferred, to another court.

#### ARTICLE 58

A judge who does not own a private apartment in the headquarters of the court concerned, has a right to a suitable official apartment to utilize.

#### ARTICLE 59

Jury judges are entitled to a remuneration for the discharge of the duties as a jury judge.

The Minister of Justice establishes more detailed regulations as to the remuneration for jury judges.

#### ARTICLE 60

The annual leaves of the courts last from July 15 to September 1.

During the annual leaves only the necessary matters are executed, which are: investigations and trials in criminal matters in which the defendant is in detention and in criminal matters of parties living outside the Republic of Macedonia; adoption of temporary measures; bills of exchange and check protests and draft appeals; disputes for publishing a correction to announced information; tort matters; extra trial and executive matters in relation to the education and protection of children and obligations in alimony matters, arising from the law; registration of judicial persons; extra trial matters for keeping persons in a health facility; the making of an inventory of the property of the

testator; drawing up wills; acceptance of requests, and other matters determined by law which are considered to be necessary.

Except for the matters stated in paragraph 2 of this Article, the period of paragraph 1 of this Article is considered to be one when the court is in recess and the court notices are not delivered.

#### ARTICLE 61

Criminal charges for compensation of damage, or other charges by a party dissatisfied by the court decision, may not be brought against a judge or jury judge.

#### ARTICLE 62

The Republic of Macedonia is responsible for the damage that a judge or jury judge will bring about to citizens and juridical persons with illegal or improper action when exercising his/her office.

#### ARTICLE 63

The police may not enter the courtroom.

The police may enter the courtroom only when it is necessary in order to prevent common danger or when the Chairman of the court or a judge in case of absence of the Chairman calls them to prevent a commitment of a penalty liable deed.

#### ARTICLE 64

No one has a right to keep, hide, or open a court notice or other court parcel illegally if it is not addressed to him/her.

#### ARTICLE 65

Judges enjoy immunity.

A judge and a jury judge may not be called to account owing to his/her views and decision-making when court verdicts are reached.

A judge may not be detained without the approval of the Assembly of the Republic of Macedonia, unless caught committing a crime for which a prison term of at least five years is prescribed.

The proceedings for the decision-making concerning the immunity of a judge is immediate and is carried out after previously obtained appraisal by the Republican Judicial Council.

3. REMOVAL AND DISMISSAL FROM JUDICIAL OFFICE

ARTICLE 66

A judge is removed from exercising his/her judicial office while in detention.

ARTICLE 67

A judge is discharged of his/her office in cases determined by the Constitution, and in a procedure determined by law.

ARTICLE 68

All the appeals against a judge, in relation to his/her discharge of office, must be dealt with expeditiously and justly and the procedure shall be closed for the public.

The judge against which an appeal has been lodged is entitled to a reply.

ARTICLE 69

A judge may be discharged if he/she should commit a serious disciplinary offence, making him/her unsuitable to discharge a judge's office.

Serious disciplinary offences are considered to be the following:

- 1) more severe violation of public order and peace which undermines his/her reputation and the reputation of the court;
- 2) party and political activities;
- 3) performing a public office or profession;
- 4) provocation of a more serious deterioration in the relations at the court, which have a considerable influence on the performance of the judicial office; and

- 5) heavy violation of the rights of the parties and the other participants in the proceedings by which the reputation of the court and the judicial office is violated.

#### ARTICLE 70

A judge may be removed from carrying out a judge's office while being under investigation for a crime, when a disciplinary proceedings is being brought him/her, and when a procedure has been started against him/her for his/her dismissal.

A decision for removal from a judicial office is brought by the Republican Judicial Council on a proposal by the Supreme Court of the Republic of Macedonia, after previously made declaration by the judge.

#### ARTICLE 71

For a judge or a jury judge may not be elected person who is related to a judge or jury judge in the court concerned in direct or indirect line up to third degree, or is his/her spouse.

#### ARTICLE 72

The judge discharged realizes his/her rights on grounds of his/her work, in a way and under conditions established by the law.

#### ARTICLE 73

A jury judge is discharged if:

- 1) he/she so requests;
- 2) he/she permanently loses the capability of carrying out a jury judge's duties;
- 3) sentenced for a crime to a prison term of a minimum of six months ; and
- 4) unregularly or unethically exercising the duties of a jury judge.

The procedure concerning the dismissal of a jury judge is brought on a proposal by the Chairman of the court concerned.

#### ARTICLE 74

In cases when an inquiry is instituted or a disciplinary proceedings has been brought against a jury judge for his/her dismissal from office, the Chairman of the court shall not summon him/her to carry out a jury judge's office during the proceedings for his/her dismissal.

#### ARTICLE 75

The judge, the Republican Judicial Council, the court, the Government of the Republic of Macedonia and the Supreme Court of the Republic of Macedonia are informed of the dismissal from judicial office.

### IV. JUDICIAL ADMINISTRATION

#### ARTICLE 76

The affairs of the judicial administration are exercised by the Ministry of Justice.

For the performance of the affairs of the judicial administration, the Ministry of Justice contacts the Chairman of the court concerned.

#### ARTICLE 77

Within the sphere of competence of the judicial administration are: ensuring of general conditions for exercising the judicial power, and especially preparation of laws and other regulations from the field of the organization and work of the courts and the procedure before the same, the establishment of Rules of Procedure, taking care of the education and professional training of the personnel, the provision of material, financial, social and other conditions for the work of the courts, exercising the duties of international legal assistance, execution of the sentences pronounced for penalty liable deeds, gathering of statistical and other data for the work of the courts, examination of the petitions and complaints by citizens on the work of the courts referring to the delay of the court procedure or to the work of the court services supervision over the regular

performance of the duties in a court and realization of the Rules of Procedure, supervision over the realization of the regulations of court deposits and guarantees, as well as other administrative duties and affairs determines by law.

#### ARTICLE 78

The Minister of Justice establishes Rules of Procedure, after previous appraisal by the Supreme Court of the Republic of Macedonia.

With the Rules of Procedure are particularly arranged the internal organization of the courts, the way in which the courts work, the keeping of the record book and other books, handling documents, application forms, the work in international legal assistance and handling procedure for petitions, the summoning and allotment of jury judges, the appointment of constant court translators, interpreters and assessors, keeping statistics and evidence and professional training of the staff, as well as other issues of importance to the work of the courts.

The Ministry of Justice makes inspections regarding the implementation of the Rules of Procedure.

The Rules of Procedure prescribed the way, establishment and work of the common services in the court facilities where more courts are settled.

#### ARTICLE 79

The Ministry of Justice keeps a file on judges, independent court advisors, court advisors, expert associates, trainees, court officers, administrative and technical and other personnel in the courts.

The file includes data of the name and surname, date and place of birth, nationality, place of residence, education, level of education, expert title, knowledge of foreign languages, and other data determined by law.

Data of paragraph 2 of this Article are handed over by the courts to the Ministry of Justice, in a way regulated by the Minister of Justice.

Data put down in the file are an official secret and may be used only for executing this law, as well as the laws by which are established the rights, duties and responsibilities of judges and other personnel in the court.

#### ARTICLE 80

The person whose data are registered in the file has a right to inspect the data relating to him/her and to demand a correction provided that they are incorrect.

## V. COURT ADMINISTRATION

### ARTICLE 81

The Chairman of the Court represents the Court, organizes its work, and takes measures for the timely and regular performance of court affairs.

The Chairman of the Court ensures the implementation of the Rules of Procedure.

The Chairman of the Court determines the plan of the affairs after supplying appraisal from the sessions of the courts.

When determining the plan of the affairs it is ensured that judges as a rule perform duties in special branches: in criminal and juvenile matters, civil matters, executive matters, economic disputes, tort matters, disputes in working relations, and other more characteristic kinds of disputes in the sphere of the work of the court.

The judge designated by the annual working schedule shall do the deputy for the Chairman of the court.

### ARTICLE 82

For performing some administrative, financial, operational, manipulative and maintenance services, for more courts in the same area may be established joint services or may be determined personnel to perform these common duties and services.

### ARTICLE 83

In the courts are established court departments consisting of the judges who decide according to the specialization in the matters of the same legal area.

The work of a court department is managed by a Chairman – judge of the court department concerned, who is assigned by the annual working schedule.

At the session of the court departments are examined issues of interest to the work of all councils, that is all judges that compose the department, especially in relation to the implementation of the laws in respective areas, and standardization of the legal practice, as well as promotion of the method of work.

A session of the court departments is convened by the Chairmen of the departments when it will be established that there is not conformity in the implementation of the law among individual councils in the department.

#### ARTICLE 84

At the session of judges are examined issues of common interest in the work of the court, is established a program for work, are given appraisals about the annual program for the work of the judges, and appraisal about the candidates that are elected judges, unless otherwise determined by this Law.

The Chairman of the Court, at the session of the judges, may invite jury judges, when are examined issues concerning the participation of the judges in the trial.

#### ARTICLE 85

The Minister of Justice issues official identity cards to judges and official persons of the court and to official persons in the Ministry of Justice – Judiciary Sector.

The Minister of Justice regulates the form and procedure for issuing and taking away official identity cards by means of a Book of Rules.

#### ARTICLE 86

Judges, jury judges, court advisers, expert associates, trainees, assessors, interpreters, translators, and other persons participating in the procedures and out of them, are obliged to keep the official secret with no regard as to how they have found it out.

An official secret is considered to be everything that is defined as such by law or other regulation, and particularly:

- Everything that is defined as an official, i. e. business secret by a common act of a juridical person, other body, organization or institution;
- Information and documents specifically defined as an official, i.e. business secret by state bodies, other bodies, organizations or institutions;
- Information and documents determined as an official secret by the Chairman of the court or authorized court official; and
- Data on the voting of the members of a court council when deciding on separate matters.

## ARTICLE 87

The obligation to keep an official or business secret remains also after cessation of employment in the court.

The Chairman of the court may free a judge or other persons from the obligation of keeping an official or business secret, if in some cases there are justified grounds for that.

Decision to free a Chairman of a court from the obligation of keeping an official and business secret is made by the Chairman of the immediate higher court, and for the Chairman of the Supreme Court of the Republic of Macedonia – the general session of the same Court.

## ARTICLE 88

Because of the nature of the work in the courts, for efficient performance of the judicial office duties are organized.

The plan and the time of duration for the duties are determined by the Chairman of the appropriate court for every month that began.

For the accomplished duty a remuneration is paid.

The amount of remuneration for the duties is determined with an act by the Minister of Justice.

## ARTICLE 89

Information for the public through the media in connection with the procedure in a specific matter, as well as for the work of the court, is given by the Chairman of the court or the judge he/she authorizes for that purpose, considering not to damage the reputation, honor and dignity of personality, and if it is not to the disadvantage of the independence and autonomy of the court.

## ARTICLE 90

When being on strike the duties in relation to the fixed hearings and appearances in court, i.e. the public sessions shall be discharged in order to pass and submit all decisions within the legal time limit.

The court is obligated to function even when the court officials are on strike in procedures which by law are determined to be urgent, i.e. in matters which are necessary according to law and the character of the affairs.

## ARTICLE 91

At the Supreme Court of the Republic of Macedonia an information center is organized with an information basis on the judicial and informational system.

Courts of Appeal and Courts of first instance have information services, as special organizational units.

The Chairman of the court or a judge assigned by him/her manages the information center i.e. service.

The Ministry of Justice takes care in the establishment and maintenance of the uniform methodological and technological basis of the information system.

#### VI SECRETARY, INDEPENDENT COURT ADVISERS, COURT ADVISERS, EXPERT ASSOCIATES, TRAINEES AND OTHER PERSONNEL

#### ARTICLE 92

A court with more than seven judges shall have a Secretary. The Secretary of the court shall help the Chairman of the appropriate court in discharging the duties of the court administration.

A Secretary may be a law graduate who meets a common conditions of employment in a body of the State administration, determined by law, with a passed judicial examination.

A Secretary of the Supreme Court of Republic of Macedonia may be a person who meets a general terms under paragraph 3 of this article , and has worked in legal matters for seven years having taken the judicial examination.

#### ARTICLE 93

A fix number of independent court advisers , court advisers , expert associates, trainees and other personal is employed at the courts for the performance of professional, administrative, technical and other duties depending on the extent and needs of the court.

#### ARTICLE 94

An independent court adviser in a court of first instance or a court of Appeal may be a law graduate who meets a common terms for an employment in a body of the state administration determined by law, with a passed judicial examination, and who has worked in legal matters for three years having taken the examination.

In the Supreme Court of the Republic of Macedonia , an independent court adviser may be a person , who meets the terms under paragraph 1 of this Article, and has worked in legal matters for seven years having taken the examination.

#### ARTICLE 95

A court adviser in a court of first instance, or a court of Appeal , may be a law graduate who meets a general terms for employment in a body of the State administration, determined by law, who has passed the judicial examination, and has worked in a legal matters for two years having taken the examination.

A court adviser in the Supreme Court of Republic of Macedonia may be a person who meets a terms in the paragraph 1 of this Article, and has worked in legal matters for five years having taken the examination.

#### ARTICLE 96

An expert associate in a court of First Instance or in an Appellate Court may be a law graduate, who meets the terms for employment in a body of the state administration, set by law, with passed judicial examination.

In the Supreme Court of the Republic of Macedonia an expert associate may be a person who meets the conditions under paragraph 1 of this Article, and must have worked on legal issues for two years after passing the examination.

#### ARTICLE 97

A court trainee may be a law graduate, who meets the general conditions for employment in a body of the state administration, set by law.

Court trainees are employed in courts of first instance and in appellate courts and are assigned to all sectors of work in order to attain experience from each judicial area.

After passing the state examination the trainee is allotted to perform duties as an Expert Associate, if there is a vacant post according to the Act of Systematization.

To a trainee who, after two years of traineeship, shall not pass the state examination for a period of one year, ceases his/her status of a trainee in the court.

#### ARTICLE 98

The decision for the number of the independent advisers, court advisers, expert associates, trainees and other personnel in a court is made by the court concerned on the basis of the criteria established by the Minister of Justice.

## ARTICLE 99

The Supreme Court of the Republic of Macedonia appoints advisers of honor from among the scholarly researchers and law professors to research certain issues of interest to the work of the courts.

## VII. PROVISIONS OF FUNDS

## ARTICLE 100

Financing for work of the courts is provided by Republic Budget.

## ARTICLE 101

The amount of salaries and other compensation available for the personnel employed in the courts is determined by law.

## ARTICLE 102

The lump sum from deciding on criminal matters is determined by the court from one tenth up to one average salary in the Republic, paid out in the last month, and is established with regard to the duration and complexity of the procedure and the financial situation of the person who is obligated to pay the adjudged sum.

## VIII. JUDICIAL POLICE

## ARTICLE 103

Security of facilities, property, staff and the maintenance of order in the court is exercised by the judicial police.

## ARTICLE 104

As regards the performance of the jobs of the judicial police may be taken on person who, besides the common conditions for employment, must meet the following terms:

- 1) Not to be over 25 years of age if that is his first employment;
- 2) To be physically and psychologically capable of exercising the duties of the judicial police;
- 3) To have appropriate high school education and specialized course;
- 4) Served military service.

Check on the employment conditions and the employment is exercised by the Ministry of Justice.

#### ARTICLE 105

Members of the judicial police shall wear prescribed uniform with epaulet showing his /her rank and with other special epaulets and are armed pursuant to the regulation of discharging the service.

The Chairman of the court commands with the judicial police in the courts.

#### ARTICLE 106

While performing official duties, the members of the judicial police may use firearms in and around the court room in the following cases:

- 1) to protect the life of those present in the court room;
- 2) to prevent the escape of a person caught committing a crime who is prosecuted by official duty, if there are grounds of suspicion of him/her using firearms in or around the court room;
- 3) to fend an attack at close range jeopardizing their lives, and
- 4) to check an attack on the court.

In the cases under subparagraph 1 of this Article, the members of the judicial police will use firearms provided that the use of force, truncheon , or other means of force cannot ensured the official job.

#### ARTICLE 107

If the instrument of force and firearms have been used within appropriate limits and authorization , the responsibility of the member of the judicial police that has used the instruments or the firearms, is excluded.

#### ARTICLE 108

Salaries of the judicial police are larger by 20% than the average salaries of employees with corresponding qualifications determined by common enactment.

#### ARTICLE 109

The Government of the Republic of Macedonia adopts regulations concerning the armament and the equipment of the judicial police, ranks and conditions for obtaining the same, epaulets for ranks and uniforms.

The Minister of Justice is authorized to adopt the following regulations on:

- rules for exercising the jobs of the judicial police;
- use of firearms, truncheon and other means of force;
- the time of use of the apparel, shoes and particularly personal equipment;
- the psychological and physical abilities that the persons who are being taken on must possess;
- the material working with the objects of armament and special personal equipment ; and
- the internal relations in the judicial police.

#### IX. TRANSITIONAL AND CONCLUDING PROVISIONS

#### ARTICLE 110

The provisions of this Law on the organizations of the courts and the actual competence shall be enforced from July 1, 1996.

The municipal and district courts and the Supreme Court of the Republic of Macedonia, established by the former regulations, continue to work as courts of first instance, courts of Appeal and the Supreme Court of the Republic of Macedonia, according to the organization and competence regulated by this Law from July 1, 1996.

The department at Vinica shall continue to work as a Court of First Instance at Vinica from July 1, 1996.

The departments at Valandovo, Demir Hisar, Makedonski Brod and Probistip, shall begin with work after all the necessary conditions to begin working will be provided by the Ministry of Justice, and two years at the latest from the day of application of this Law.

Judges elected under the provisions of this Law shall start to work on the day set under paragraph 1 of this Article.

#### ARTICLE 111

The Commercial Court of the Republic of Macedonia, the Republican Magistrate Court, the municipal magistrate courts: Bitola, Demir Hisar, Krushevo, Prilep, Kratovo, Kriva Palanka, Makedonski Brod, Kumanovo, Debar, Kicevo, Ohrid, Resen, Skopje, Struga, Gostivar, Tetovo, Valandovo, Gevgelija, Kavadarci, Negotino, Titov Veles, Berovo, Vinica, Delcevo, Kocani, Probistip, Radovis, Sveti Nikole, Strumica and Stip, cease to work on June 30, 1996.

Until the cessation of the work of the Commercial Court of the Republic of Macedonia within the time-limit determined under Article 110 of this Law, for continuous execution of the work, the Supreme Court of the Republic of Macedonia may delegate the necessary number of judges from the district commercial courts in the Macedonian Commercial Court.

#### ARTICLE 112

The election of the judges in the courts of first instance and courts of Appeal under the provisions of this Law shall be executed one month at the latest before the application of this Law.

#### ARTICLE 113

Judges in the previous regular courts and the judges in the magistrate courts who shall not be elected judges according to the provisions of this Law shall be paid the compensation for salary within one year, unless at that time they start working somewhere else, or they meet the requirements for an old – age pension.

Judges who shall not be reelected, and lack 24 months length of service to meet the requirements for the right to a full old-age pension, from the day of the cessation of their judicial office have a right to a salary they would be entitled to for the performance of their judicial office, unless they have started working somewhere else or have accomplished the right to a full old-age pension.

During the term under paragraph 3 of this Article, a judge who shall not be reelected, on the summons by the Chairman of the court concerned, shall perform jobs within the sphere of an independent court adviser in the court where he/she has exercised the judicial office or in the court which has taken on the competencies of his/her court.

Judges under paragraph 3 of this Article, who shall reject the performance of jobs within the sphere of an independent court adviser in the corresponding court, or shall perform these jobs unconsciously cease to be employed.

#### ARTICLE 114

The special term set in Article 43 paragraph 2 of this Law, according to which a person to be elected a judge should have working experience with confirmed positive results in legal matters for a definite time, but after passing the judicial examination, shall not apply to persons who under previous regulations have exercised the duties of judges in the labour courts and to judges of the magistrate courts, and who, until the publication of the announcement for election of judges, have passed the judiciary examination, and meet the general and other special terms to be elected judges determined by this Law.

#### ARTICLE 115

From the day of the enforcement of this Law, personnel, equipment, inventory and other things, archives, documentation and instruments of labor of the municipal and district courts, commercial district courts, the Commercial Court of the Republic of Macedonia, the Republican Magistrate Court and all the municipal magistrate courts, and courts which cease to work pursuant to the provisions of this Law, are handed over to the courts within which jurisdiction matters of these courts have been transferred.

Personnel under paragraph 1 of this Article who shall not be employed in the courts established by this Law, are entitled to the rights on grounds of employment. to a certain extent, under conditions and in a way stipulated by Law.

#### ARTICLE 116

Cases of first instance for which on June 30, 1996 the proceedings before district courts has not been started or closed, or the time limit for legal remedy is running, as well as cases which had been decided but for which the decision had not been handed in to the party concerned, and for which the party concerned has a right to plead legal remedy, shall be passed to the local competent courts of first instance determined by this Law, in accordance with the rules of criminal and court proceedings.

Cases which on 30 June, 1996 shall be found to be in progress in the District Commercial Court of Macedonia, the Republican Magistrate Court, district commercial courts, and all municipal magistrate courts, shall be taken over by the real local competent courts of first instance and courts of appeals, set by this Law.

The Supreme Court of the Republic of Macedonia will complete cases which, by June 30, 1996 it has taken on as a court of appeal.

Criminal cases of the municipal court in Kicevo for which, on June 30 1996 the proceedings in the second instance before the District Court at Skopje have not been dismissed are handed over to the Court of Appeal at Bitola.

The Court of First Instance at Kocani, the criminal matters from the territory of the Court of First Instance at Vinica on which a decision has not been reached, shall pass to he Court of First Instance at Vinica.

The Court of First Instance in Stip, the criminal matters of juveniles within the territory of the Court of First Instance at Sveti Nikole for which, by the day of the coming into effect of this Law, a decision has not been made, shall pass to the Court of First Instance at Sveti Nikole.

Cases for which the proceedings before the municipal, district and the Supreme Court of the Republic of Macedonia has not been dismissed on June 30, 1996, shall be taken by the real local competent courts determined by this Law.

Directions for the way of taking over of cases are passed by the Minister of Justice.

#### ARTICLE 117

The Chairman of the Supreme Court of the Republic of Macedonia and the judges of the Supreme Court of the Republic of Macedonia elected under the former regulations having permanent term of office, continue their work as the Chairman of the Supreme Court of the Republic of Macedonia and judges of the Supreme Court of the Republic of Macedonia.

#### ARTICLE 118

The existing Court Rules of Procedure shall be applied until the adoption of the Rules of Procedure according to the provisions of this Law, if they are not in disagreement with the provisions of this Law.

The regulations, for the adoption of which is authorized the Minister of Justice under the provisions of this Law, shall be passed by June 30, 1996 at the latest.

#### ARTICLE 119

On the day of coming into force of this Law, cease to be valid: the former Law on the Regular Courts ( "Official Gazette of SRM", no. 10/78, 30/77, 9/78, 46/82, 11/87, 24/88, 10/90, 11/91 and "Official Gazette of the Republic of Macedonia" no. 55/91) , except the provisions on the organization of the courts and their real competence which cease on July 1, 1996, the former Law on the Magistrate Courts ( "Official Gazette of SRM" no. 6/85, 11/87, 24/88, 10/90 and 11/91) , and the provisions under Article 80 of the Law on the Offences concerning the real competence of magistrate courts( " Official Gazette of SRM" no. 43/84, 42/85, 50/87, 10/88, 36/89 and 7/90 and "Official Gazette of the Republic of Macedonia" no. 25/ 92, 63/92 and 12/94) .

## ARTICLE 120

This Law comes into effect on the 8<sup>th</sup> day of the day of its announcement in the “Official Gazette of the Republic of Macedonia”.