

**LAW ON THE REPUBLIC JUDICIAL COUNCIL
OF THE REPUBLIC OF
MACEDONIA**

**LAW ON THE REPUBLIC JUDICIAL COUNCIL
OF THE REPUBLIC OF
MACEDONIA**

1. General Provisions

Article 1

With this law is arranged the organization of the Republic Judicial Council and, the duties within it's scope of activities, established by the Constitution.

Article 2

The Republic Judicial Council (hereinafter referred to as The Council) in accomplishment of duties within it's scope of activities contributes to achieve the court functioning and to provide judicial independence and integrity without interfering in the work of courts.

Article 3

Within the scope of it's activities The Council discharges jobs and duties independently, based on and, within the frames of The Constitution and the Law.

Article 4

The Council keeps informing the Assembly of the Republic of Macedonia about some questions for which it believes that might have significance and be of some interest for implementation of The Law and providing juridical independence of the courts.

Article 5

It is forbidden any political organizing and activities of the kind in the courts.

Article 6

The Council has it's seal with engraved the name and headquarters.

On the building where The Council is settled is placarded the full name of the Council.

**II. ORGANIZATION AND SCOPE OF
ACTIVITIES**

Article 7

The Council is consisted of 7 members elected by the Assembly of the Republic of Macedonia, four of them are judges and the other three from another branches.

Article 8

A Chairman of the Council is elected from among the members of the Council, for a period of 3 years, without right to be re-appointed.

The election of the Chairman of the Council is made at the First Meeting of the Council.

A session is held by a senior member of the Council until the election of a Chairman.

Each member is entitled to nominate a candidate for a Chairman of the Council.

The choice is made in accordance with the nominated candidate order, by open balloting.

The Council may decide the choice to be made by a secret ballot.

The candidate who is elected must have the large majority of votes from the total number of the Council member.

Article 9

To a member of the Council his function ceases when he submits a resignation.

A member of the Council may be dismissed if sentenced to jail for at least 6 months for a committed offence or if he finally loses his capability of holding his office which is established by the Council on bases of examination results and the opinion of the competent Health Commission.

Article 10

The Council works in sessions.

The Council can authorize one of the members, concerning questions of the Council scope, to hold review on the judge's work or to undertake some actions against him and to give report to the Council in written form.

Proposals and decision about the work of the Council are established and confirmed by the Council with majority of votes from all the members of the Council, unless otherwise stated by this Law.

Article 11

During a session when a judge is to be appointed or dismissed, the Minister of Justice and the Chairman of the Supreme Court of the Republic of Macedonia give their opinion.

Article 12

Questions about a procedure and the way of operation of the Council are established by the Rules of Procedure of the Council and in accordance with this Law.

1. Nomination, Appointment and Dismissal of Judges

a) Election of Judges

Article 13

The council for a choice of a judge nominates a person with a highest educational grade and working qualities and experience, from the candidates who fulfill the prescribed conditions for employment, who had applied for a position announced in advertising newspapers, placed by the Assembly of the Republic of Macedonia, concerning the election of a judge.

The nomination, under Paragraph 1 of this Article, is confirmed by the Council, on bases of data for the result achieved favorably by the candidates, the working qualities and recommendations obtained by the court about the professional and working qualities for each candidate who had applied, coming from the court, the enterprise or from some other place where he has been employed, from the court where this choice is made, from the Higher Court or the Supreme Court of the Republic of Macedonia.

The Council establishes a nomination for choice of a judge for the Higher Court on bases of impartial estimation of the candidate's professional and moral qualities, professional competency and experience exercised during his previous work.

The council proposes persons for nomination of Judges in the same number as is determined previously for one post although even many more candidates had applied for the same post.

Article 14

When a nominated candidate, for a choice of a judge, does not obtain the majority of votes, at the Assembly of the Republic of Macedonia, the Council nominates a new person, for a choice of a judge.

As long as the Council is of the opinion that no one of the candidates meets the conditions for nomination of a judge, the Council informs the Assembly of the Republic of Macedonia and, the Assembly of the Republic of Macedonia places another advertisement for a choice of a judge, for the court concerned.

b) Dismissal of Judges

Article 15

The Council has the right to dismiss a judge when one of the conditions, established by the Constitution, is fulfilled in a way determined by this Law, such as follows:

- of his own free will
- achieving the age for retirement on pension
- if punished for criminal offence and to serve a sentence (unsuspended), for at least 6 months.

The Council proposes dismissal of a judge within a period of 30 days from the day when one of the conditions of Paragraph 1 of this Article is fulfilled.

Article 16

The Council proposes dismissal of a judge, of his own free will, without asking for the reasons.

Article 17

The Council proposes dismissal of a judge in case of achievement the age for retirement on pension, determined by Law, if asked by a judge personally, on his own initiative, or other competent body.

Article 18

The Council proposes dismissal of a judge when the judge is punished for criminal offence and has to serve sentence (unsuspended) for at least 6 months imprisonment, after the sentence incriminated upon him comes into force.

The Court of First Instance furnishes the Council with a copy of the verdict by which the judge is punished for committed criminal offence.

2. Establishing of a Proposal for Dismissal of a Judge from Judicial Position

Article 19

The Council establishes a proposal for dismissal of a judge from judicial position and proposes the Assembly (Parliament) of the Republic of Macedonia dismissal of a judge when one of the conditions, set by the Constitution, is fulfilled in a procedure and a way determined by this Law such as:

- if a judge has lost his psycho-physical ability to hold judicial office
- carelessness over his duties
- violation of discipline, set by law, making him undeserving to hold judicial office.

a) Establishing of lost psycho-physical ability to hold judicial office

Article 20

The Council establishes the everlasting lost psycho-physical ability to hold judicial office based on documentation with findings and opinion by a competent Health Commission.

Procedure for establishing of lost psycho-physical ability to hold judicial office is initiated by the Council through official channels, when it happens to discover by itself about it, or on the Court Vice-President proposal, where the judge is working or on the Chairman of the Higher Court proposal.

b) Establishing of unskilled and unconscious holding of judicial office

Article 21

The Council establishes a proposal for dismissal of a judge for his unskilled and unconscious holding of judicial office, when during a procedure based upon data presentation and the inspection made into the work of a judge, will state:

that the judge has failed to satisfy vocational skills, that will influence the quality of working, the promptness and the number of resolved cases, in his making efforts in his work and disciplinary responsibility of the judge.

Before confirmation of the proposal for dismissal of a judge, the Council acquires opinion from the court where the judge works and from the General Meeting of the Supreme Court of the Republic of Macedonia and justification of the proposal for dismissal of a judge based on the grounds of Paragraph 1 of this Article, previous work of the judge, the results achieved in his work and his attitude towards the function he is practicing.

c) Establishing of Heavy Disciplinary Offence

Article 22

The Council establishes a proposal for dismissal of a judge owing to a disciplinary offence, prescribed by law, when during a procedure has been established that the committed offence makes the judge inconvenient for holding judicial position.

The proposal for dismissal of a judge according to Paragraph 1 of this Article, is confirmed by the Council after carrying out of a decision for disciplinary responsibility of a judge.

3. Decision making on Disciplinary responsibilities of a Judge

Article 23

The Council brings a disciplinary suit in order to establish disciplinary responsibilities of a judge when certainly there is suspicion that a judge has committed heavy disciplinary offence, prescribed by law, that makes the judge undeserving of holding judicial position.

During bringing a disciplinary action, the Council will ask the judge to give his argument regarding the proposal for bringing of disciplinary suit. Up to the moment of bringing the disciplinary suit, the procedure is kept in secret without undermining the reputation of the judge.

The Council makes decision about the disciplinary responsibilities of a judge on bases of state of affairs that will be confirmed by a Commission intended for establishing of facts about the disciplinary responsibilities of a judge (hereinafter called The Commission).

Article 24

The Commission is consisted of 3 members of the Council from which one is the Chairman of the Commission.

The Council nominates members and some number of deputies for a period of 3 years.

Article 25

A proposal for bringing disciplinary suit for establishing of disciplinary responsibilities of a judge may be submitted by the Chairman of the Court, the Chairman of Higher Court and the General Session if the Supreme Court of the Republic of Macedonia.

With exception of the provisions, in paragraph 1 of this Article proposal for bringing a disciplinary suit for establishing of disciplinary responsibilities of a Supreme Court judge, may be submitted only by the General Session of the Supreme Court of the Republic of Macedonia.

Article 26

A proposal for bringing a suit for establishing disciplinary responsibility of a judge delivered to him within 15 days from the day of finding out the committed heavy offend.

A procedure for establishing a disciplinary responsibility of a judge is started within 30 days after reception of the proposal.

Starting and holding disciplinary suit becomes out of date in terms determined by legal provisions for labor relations, for starting and conducting disciplinary suits.

Article 27

A judge is submitted with a proposal for starting procedure in order to establish disciplinary responsibility and an invitation for hearing before the commission.

The submitter of the proposal is invited to the hearing as well who is supporting the starting of the procedure.

Article 28

The Commission takes up questioning the judge, gathering necessary papers, making inspections into them and other insights in order to establish facts and circumstances regarding disciplinary responsibilities of a judge.

After carrying the proceeding out the Commission either confirms whether a judge has committed heavy disciplinary offence that makes him unworthy for running judicial position or stops it.

Proceeding for establishing of disciplinary offence of a judge is to be carried out legally and up to dated and in way without undermining the honor and dignity of a judge.

Article 29

Against a decision of the Commission for confirmed disciplinary offence, a judge and submitter of proposal for carrying proceedings out, may lodge and appeal to the Council within 8 days after reception of the decision.

Article 30

The Council makes decisions about an appeal with two thirds of votes from the total number of its members.

Article 31

Against a decision of the Council by which has been confirmed disciplinary responsibility of a judge for committed disciplinary offend, that makes him unworthy for running judicial position, a judge may seek for judicial protection from the Supreme Court of the Republic of Macedonia, for which can be decided in an administrative procedure.

4. Evaluation of vocational skill and conscience of judges in holding their offices

Article 32

The Council takes steps in evaluation vocational skill and conscience of judges when data for achieved number of resolved cases the quality and promptness of their work lead to a recognition that the judicial function is not discharged skillfully, consciously and professionally at all.

A question for evaluation of vocational skill and conscience of judges in discharging their judicial function, besides the Council may be placed by the chairman of respective Court, the Higher Court Chairman and the General Session of the Supreme Court of the Republic of Macedonia.

Article 33

The Council makes evaluation of skill and conscience of judges in discharging their judicial function even when a judge is a candidate for a choice to a Higher Court or for Court Chairman.

Article 34

The Council, in order to carry out Articles 32 and 33 of this law gathers data from the Ministry of Justice about the results achieved number of cases resolved, the quality and promptness in running the posit of judge in respective courts.

Upon a request of the Council, courts are obliged to furnish the Council with data about the result achieved by judges in a way determined by the Rule Book of the Council.

Article 35

Provisions of Articles 13 to 34 of this law about nominations and dismissal, disciplinary responsibility and evaluation of vocational skill and conscience of judges are referred to a Court Chairman as well.

5. Nomination of Judges for the Constitutional Court of the Republic of Macedonia

Article 36

The Council, from among eminent lawyers, highly evaluated by their work and their contribution to development of scientific and theoretical thought in the judiciary system, to the Assembly of the Republic of Macedonia, nominates two candidates for choice of a judge for the Constitutional Court of the Republic of Macedonia.

The provision of Paragraph 1 of this Article is confirmed by the Council with two thirds of votes in manner and procedure established by the Standing Orders.

III. Secretary, Expert Associates and other Staff

Article 37

The Council is consisted of Secretary, Expert Associates and other staff needed for execution of experts, administrative, technical and other duties. The number of expert associates and other staff and their duties is established by common enactment for administration and operation and for post and job classification.

Article 38

For a Secretary and Expert Associate can be nominated a Bachelor of Laws who fulfills the common conditions for employment in state bodies with passed judiciary examination.

IV. PROVIDING OF FUNDS

Article 39

The funds for administration and operation of the Council are provided by the Republic budget.

Article 40

Salaries for the members of the Council and the Secretary of the Council are fixed by the Law.

Salaries for the expert associates and the other staff are fixed by a common enactment of the Council in accordance with the Law and the Collective Agreement.

V. TRANSITIONAL AND FINAL PROVISIONS

Article 41

The Rule Book will be brought by the Council within 15 days of the constitution of the Council.

General enactments for organization and operation and for systematization of posts and jobs of the Council and procedure for disciplinary responsibility of judges will be brought within 30 days from the establishment of the Council.

Article 42

This Law comes into force on the 8th day from the day of its announcement in the "Official Gazette of the Republic of Macedonia".