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## GOVERNANCE INSTITUTIONS OF THE JUSTICE SYSTEM

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Date of last check: 14 October 2019

The unofficial consolidated version of the Law on Governance Institutions of the Justice System including

Initial Law no. 115/2016, dated 03.11.2016<sup>1</sup>

Decision no. 41/2017, dated 16.05.2017 of the Constitutional Court (CC)

Decision no. 78/2017, dated 12.12.2017 of the CC<sup>2</sup>

**Amending Law no. 47/2019, dated 18.07.2019<sup>3</sup>**

### REPUBLIC OF ALBANIA THE ASSEMBLY

#### LAW No. 115/2016

#### ON GOVERNANCE INSTITUTIONS OF THE JUSTICE SYSTEM

Pursuant to Article 81 paragraph 2 and Article 83 paragraph 1 of the Constitution, upon the proposal of a group of MPs,

#### THE ASSEMBLY OF THE REPUBLIC OF ALBANIA

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<sup>1</sup> Law no. 115/2016 adopted on 03.11.2016, entered into force on 16.12.2016.

<sup>2</sup> The CC Decision no. 41 dated 16.05.2017 entered into force on 24.05.2017 and repealed as incompatible with the Constitution of the Republic of Albania the following provisions: Article 5, Article 61, Article 103, Article 159, Article 169 para. 5; the CC Decision no. 78 dated 12.12.2017 entered into force on 26.12.2017 and repealed as incompatible with the Constitution of the Republic of Albania Article 76, paragraph 2 of this law. The repealed provisions are marked as follows: ~~repealed~~.

<sup>3</sup> **Law no. 47/2019 adopted on 18.07.2019 entered into force on 16.08.2019.**

**DECIDED:**

**PART I**

**CHAPTER I**

**GENERAL PROVISIONS**

**Article 1**

**Scope**

The scope of legal regulation of this Law is to determine the principles and rules regarding the organisation and functioning of the High Judicial Council, the High Prosecutorial Council, the High Justice Inspector, the Justice Appointments Council and the School of Magistrates.

**Article 2**

**Justice System Governance Principles**

The justice system in the Republic of Albania is governed based on the principles of independence, accountability, transparency and efficiency.

**PART II**

**HIGH JUDICIAL COUNCIL**

**CHAPTER I**

**COMPOSITION AND ELECTION OF MEMBERS OF THE HIGH JUDICIAL COUNCIL**

**SECTION 1**

**MEMBERS OF THE HIGH JUDICIAL COUNCIL AND THEIR STATUS**

**Article 3**

**Composition of the High Judicial Council and Mandate of Members**

1. The High Judicial Council is a collegial body composed of eleven members who serve on a full-time basis. Six members of the Council are judges from all levels of the judicial power. The other five members of the Council are jurists selected from the ranks of advocates, lecturers of law faculties and the School of Magistrates and representatives of civil society.



2. Judge members are elected by the General Meeting of judges from all levels.
3. The lay members that are elected from the ranks of advocates, from lecturers of law faculties and the School of Magistrates and the civil society are elected by the Assembly, based on a preliminary process of assessment of legal conditions and criteria in accordance with the rules provided in this Law.
4. The member of the High Judicial Council, unless circumstances for early termination of the mandate have been established, shall hold office for 5 years, with no right to consecutive re-election.

#### **Article 4** **Status of Members of the High Judicial Council**

1. A member of the High Judicial Council has the status of magistrate according to the provisions anticipated by the Law "On the Status of Judges and Prosecutors in the Republic of Albania", unless otherwise provided by this Law.
2. A member of the Council is entitled to the salary and benefits of the High Court judge.
3. A judge member of the Council is not subject to ethical and professional performance evaluation during the time serving as a member. His/her performance while serving as a member of the High Judicial Council shall be considered in case of transfer or promotion, as set out in the law regulating the status of judges and prosecutors.
4. A judge member, upon the end of the mandate, shall return to the previous job position. The mandate as the High Court judge or the Special Court judge shall be suspended, while assuming the function as a member of the High Judicial Council. A judge member of the Council cannot be transferred, promoted or delegated during the three years following the end of the mandate.
5. A lay member, who prior to the appointment, worked full time in the public sector, shall return to the previous job position or, if not possible, to an equivalent duty.

#### **Article 5** **Disciplinary Violations by Members of the High Judicial Council**

*(Amended by the CC Decision no. 41/2017 and Law no. 47/2019 Article 1)*

~~The provisions of the Law "On the Status of Judges and Prosecutors in the Republic of Albania" on disciplinary misconduct of magistrates shall apply, to the extent possible, even to the member of the High Judicial Council.~~



- 1. A member of the High Judicial Council commits a disciplinary violation, intentionally or due to negligence when, they:**
  - a) commit actions or omissions which constitute a failure to fulfil the duty, behave unprofessionally or unethically during or outside the exercise of the function, which discredit the position and the image of the member of the High Judicial Council or damage the public trust in the judicial system;**
  - b) while exercising the function, disregard the law or facts, intentionally, or by gross negligence.**
- 2. When determining if the action, omission or behaviour of the member of the High Judicial Council is considered as a disciplinary violation or an issue of the professional activity, the following shall be taken into consideration in any case:**
  - a) the degree of negligence;**
  - b) the frequency of the act or omission;**
  - c) the damage, the possibility of causing damage or the degree of the consequences that have come or may come from the action or omission; and****ç) any situation which is out of the control of the member of the High Judicial Council and which may be related to the non-functioning of the judicial system.**

#### **Article 5/1**

##### **Disciplinary Violations related to the Exercise of Function**

*(Added by Law no. 47/2019 Article 2)*

- 1. Disciplinary violations during the exercise of the function are in particular but not limited to the actions, omissions or behaviours of the member of the High Judicial Council, as follows:**
  - a) failure in filing a request for recusal of participation in the plenary or in the meetings of committees, when it is mandatory under the law, if the member of the High Judicial Council is or should have been aware of such circumstances;**
  - b) submission of a request by the member of High Judicial Council for recusal, if this action is:**
    - (i) not based on reasons provided by law;**
    - (ii) done deliberately aiming at creating unfair benefits for the subject of the administrative procedure or aims at avoiding the legal responsibility as a member of the High Judicial Council or that the case is assigned to another member of the High Judicial Council;**
    - (iii) not done immediately after being informed about the cause;**
  - c) interference or unfair influence on the exercise of the function of another member of the High Judicial Council;**
  - ç) unjustified or repeated non- fulfilment of functions;**
  - d) repeated delays or delays that bring serious consequences, or procrastinations of procedural actions and/or of procedural acts;**
  - dh) the action, omission or behaviour of the member of the High Judicial Council, which creates unfair benefits or damages to the subject of the administrative procedure;**
  - e) engagement of external persons in performing the duties assigned by law to the member or the delegation of duties or activities related to the exercise of the function as a member of the High Judicial Council;**
  - ë) unjustified absence on duty in accordance with this law, for more than 3 working days per year;**



- f) serious or repeated infringement of legal and sublegal provisions that govern the organization and functioning of the High Judicial Council;**
- g) failure to notify the Chairperson of the Council, and the competent authorities under the law, on interferences or other forms of influence by magistrates, lawyers, political officials, public officials or other subjects;**
- gj) breaching the rules of confidentiality and non-disclosure of information provided by the law in force, about which he/she is informed due to the function as a member of the High Judicial Council;**
- h) obstruction of the Council, the High Justice Inspector, or any other public bodies in the performance of their functions, according to the legislation in force;**
- i) failure to notify the Council for reasons that constitute a case of termination of the mandate of the member of the High Judicial Council;**
- j) failure to comply with legal obligations, that discredit the position and figure of the member of the High Judicial Council;**
- k) violation of the rules of incompatibility or on prevention the conflict of interest, according to the provisions of the legislation in force.**

### **Article 5/2**

#### **Disciplinary Violations outside the exercise of function**

*(Added by Law no. 47/2019 Article 2)*

**Disciplinary violations outside the exercise of function are in particular but not limited to the acts, omissions or behaviours of the member of the High Judicial Council, as follows:**

- a) use of the position as a member of the Council with the aim of achieving unjustified benefits for him/herself or for others;**
- b) exercise of activities outside the function, upon payment, by not complying with the rules provided by the legislation in force;**
- c) associating with persons who are under criminal investigation, are subject to criminal proceedings or with convicted and not rehabilitated persons, when they are not in close relationship with the member of the Council by blood or by law, or the establishment of inappropriate business relations with such persons;**
- ç) benefiting directly or indirectly gifts, favours, promises or preferential treatment of any kind, which are given because of the exercised function or due to the use of his/her position as a member of the Council, even when formalised with a legal action;**
- dh) other cases of behaviour that discredits the position and the image of the member and damages the public trust in the judicial system, performed outside of the exercise of duty.**

### **Article 5/3**

#### **Disciplinary violations due to commission of a criminal offence**

*(Added by Law no. 47/2019 Article 2)*

- 1. Disciplinary violations due to commission of a criminal contravention, are actions, omissions or behaviours, for which the member of the High Judicial Council has been convicted by a final decision and which by their nature discredit the position and image of the member of the High Judicial Council or seriously damage the public trust in the judicial system, based on the facts and circumstances established by the court.**
- 2. Disciplinary violations, because of the commission of a criminal contravention, are also actions, omissions or behaviours according to paragraph 1 of this Article,**

**despite the fact that the criminal offence is expunged, the criminal prosecution cannot be initiated or cannot continue, or the member of the High Judicial Council is rehabilitated or has benefited from the pardon and amnesty.**

- 3. The disciplinary measure of dismissal shall be imposed only when the sentence by final decision is given for the commission of a crime. In such a case, during the disciplinary procedure, the provisions of the law “On the status of judges and prosecutors in the Republic of Albania” shall be applied to the extent necessary.**

#### **Article 6**

##### **Disciplinary Proceedings**

*(Amended by the CC Decision no. 41/2017 and Law no. 47/2019 Article 3)*

1. Disciplinary violations by members of the High Judicial Council shall be investigated by the High Justice Inspector in accordance with the procedures and rules provided in the Law "On the status of judges and prosecutors in the Republic of Albania".
2. The Constitutional Court reviews complaints against decisions of the High Justice Inspector on archiving the complaint or closing the investigation against a member of the High Judicial Council.
3. The Constitutional Court shall decide on the suspension of a member of the High Judicial Council in the cases provided in the Constitution.
4. Disciplinary proceedings against members of the High Judicial Council shall be conducted by the Constitutional Court, which decides in accordance with **this law**, the Law “On the Constitutional Court in the Republic of Albania” and the Law “On the Status of judges and prosecutors in the Republic of Albania”.

## **SECTION 2**

### **ELECTION OF MEMBERS OF THE HIGH JUDICIAL COUNCIL**

#### **SUB-SECTION I**

##### **THE PROCEDURE FOR THE ELECTION OF JUDGE MEMBERS OF THE HIGH JUDICIAL COUNCIL**

#### **Article 7**

##### **Election of Judge Members of the High Judicial Council and Requirements to be elected**

1. The General Meeting of judges from all levels shall elect 6 (six) members of the High Judicial Council, under the following ratio:



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- a) Three of the elected judges are first instance judges. At least 1 (one) of them is a judge of first instance in a court outside Tirana.
  - b) Two of the elected judges are appellate judges. At least 1 (one) of them is judge in an appeal court outside Tirana.
  - c) One of the elected judges is a judge at the High Court.

2. Candidates must meet the following requirements:

- a) Have performed, at the time of application, the function of a judge for at least 10 (ten) years;
  - b) Are not, at the time of application, chairpersons of any court or members of the governing bodies of groups of interest, such as judges' associations, judges' unions, etc.;
  - c) Have been evaluated at least "very good" in the last two ethical and professional performance evaluations;
  - ç) Have no disciplinary measure in force;
  - d) Have not been previously sentenced by a final court decision for committing a criminal offence;
  - dh) Have not been members, collaborators or favoured by the former State Security before 2 July 1991 in the sense of the Law "On the right to information on documents of the former State Security of the People's Socialist Republic of Albania";
  - e) Not be collaborators, informants or agents of secret services;
  - ë) At the time of application, have no family members, in the sense provided in the Law "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first degree relatives who are incumbent Council members or candidates for members.
3. Every judge of the High Court who meets the legal requirements provided in paragraph 2 of this Article, shall be entitled to apply.
4. Every judge of first and appeal instance, who meets the legal requirements provided in paragraph 2 of this Article and obtains the support of at least 10 colleagues of the same instance of the judiciary, shall be entitled to apply.

**Article 8**  
**Support to Candidates**



1. The Chairperson of the High Court shall adopt the template of the individual declaration to provide support to candidates for members of the Council.
2. A judge may not support more than one candidate for each vacancy.

#### **Article 9**

##### **Call for Submission of Expression of Interest**

1. The Chairperson of the High Court shall, not later than 4 months before the date of expiry of the mandate of incumbent judge members of the High Judicial Council, launch the call for submission of expressions of interest by the judges interested in the position of a High Judicial Council member.
2. The Assembly may send a reminder to the Chairperson of the High Court regarding the obligations under paragraph 1 of this Article, and any other information deemed necessary for the starting date of the process for the selection of candidates and the calendar of actions.
3. The call for submission of expression of interest shall contain the deadline within which the expression of interest must be submitted, the electronic and mail address where the expression of interest shall be submitted and the supporting documents.
4. The call shall be published on the official website of the High Court and shall be sent to all judges to the official e-mail address.

#### **Article 10**

##### **Submission and Review of Expression of Interest**

1. Interested judges shall, within 15 days from the publication of the call for submission of expression of interest, express their interest through a request in writing addressed to the Chairperson of the High Court.
2. The expression of interest may be sent via the electronic address mentioned in the call for submission of expressions of interest or via the mail address of the High Court.
3. The interested persons shall, in addition to the request in writing, attach at least the following documents:
  - a) an updated Curriculum Vitae;
  - b) duly signed individual declarations of the judges who have given their support;



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- c) a self-declaration form according to the requirements of the law "On guaranteeing integrity of persons elected, appointed or performing public functions";
  - ç) a personal programme of goals and objectives that the candidate shall propose to follow-up, if elected;
  - d) a signed individual statement of legal liability of not having been a member or collaborator of intelligence services before 2 July 1991;
  - dh) a signed individual statement of legal liability of not being a collaborator, informant or agent of secret services;
  - e) Information on second-degree relatives (uncle/aunt, niece/nephew, grandparents and half-brother/sister and first-degree relatives of the spouse/cohabitant, parents, children and siblings, who actively practice the profession of advocate or are owners or executives in business entities, who are classified as large taxpayers by the tax authority. The High Judicial Council shall adopt and make available a template form to interested parties to provide this type of information;
  - ë) the list of related persons as set out in the Law "On Prevention of Conflict of Interest in Performing Public Functions".

#### **Article 11** **Verifying the Fulfilment of Legal Criteria**

1. The administration of the High Court, within seven days from the expiry of the period for submission of expressions of interest, under the responsibility of the Chairperson of the High Court, shall verify the criteria met by candidates in accordance with Article 7, paragraphs 2 and 4 of this Law and shall officially announce the candidates on the official website of the High Court.
2. The decision on disqualification of candidates who do not meet the legal requirements provided in Article 7, paragraphs 2 and 4, shall be taken by the Qualification Committee composed of the Chairperson of the High Court and two other judges of the High Court selected by lot from among the ranks of those who do not run as candidates. The lot on the election of members of the Qualification Committee shall be organized under the responsibility of the Chairperson of the High Court.
3. Disqualified candidates shall be immediately notified individually by a reasoned decision on the causes of disqualification.
4. If there are no candidates for one or more of the levels of the judiciary to be represented in the High Judicial Council in accordance with Article 147 of the Constitution and in accordance with this Law, the Chairperson of the High Court shall make a second call no later than three days from the



date of announcement of candidates on the official website of the High Court. In this case, the deadline for the submission of expressions of interest shall be 15 days from the date of the announcement of the second call.

5. If no candidates from the unrepresented instances of the judiciary apply following the second call, they will be elected by lot from among the ranks of judges who have applied for the vacancy. Every candidate who meets the criteria to be elected as a Council member and the criteria to be promoted or transferred to the unrepresented instances of the judiciary, has the right to apply for the respective vacancy.

#### **Article 12**

##### **Complaints against Disqualification Decisions**

1. Complaints against decisions for the disqualification of candidates for gross procedural violations shall be made at the Administrative Court of Appeal, not later than five days from the day of notification of the decision.
2. The Administrative Court of Appeal shall decide within seven days from the day of filing the complaint. Its decision is final and irrevocable.
3. The complaint does not suspend the conduct of the preliminary assessment and verification procedure carried out by the Qualification Committee as set out in Article 11 of this Law.

#### **Article 13**

##### **Calling the General Meeting for the Election of Judge Members of the High Judicial Council**

1. The Chairperson of the High Court, no later than two months before the expiry of the mandate of incumbent judge members of the High Judicial Council, shall call the General Meeting of judges of all instances to elect members of the Council.
2. The call for the General Meeting for the election of members of the Council shall be made through publication on the official website of the High Court; it shall be sent to all judges via the official e-mail address and in any other appropriate manner.
3. The call for the General Meeting of judges for the election of members of the Council shall indicate the date, venue and the time of the meeting.
4. Unless otherwise provided by this Law, the election of members of the Council shall be the only topic on the General Meeting agenda.

#### **Article 14**



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### Quorum

1. The participation in the General Meeting of judges for the election of members of the High Judicial Council is mandatory.
2. The General Meeting of judges for the election of members of the High Judicial Council shall take place in the presence of more than half of the total number of judges.
3. The number of participants in the General Meeting shall be recorded in a list of names signed by all participants.

### Article 15

#### General Meeting Called by the Members

1. If upon expiry of the period provided in Article 13, paragraph 1 of this Law, the General Meeting for electing members of the High Judicial Council has not yet been called, the meeting may be immediately called by 1/10 of the total number of judges.
2. Their request to call the General Meeting shall be submitted to the administration of the High Court.
3. Upon submission of the request, the Chancellor of the High Court shall immediately notify the judges by specifying the date, venue and the time of the meeting in the notice. The notification shall be sent to each judge via the official e-mail address.

### Article 16

#### Voting Process for Election of Members of the High Judicial Council

1. The voting for the election of members of the High Judicial Council from the General Meeting of judges shall be secret and individual.
2. The Chairperson of the High Court shall, not later than 2 days before the date of the General Meeting of judges for the election of judge members of the High Judicial Council, approve the template ballot paper, which contains the names of registered candidates.
3. The voting process shall be open to media and all other observers who are interested in attending the process. Observers shall be authorized in advance by the Chairperson of the High Court. The Minister of Justice, or persons authorised by him/her, two members of the parliamentary standing committee on legal affairs, one of whom from the opposition, may participate as observers in the General Meeting of judges for the election of judge members of the High Judicial Council without prior authorization.

4. A Voting Committee shall be established to administer the voting process consisting of three assistant magistrates of the High Court elected by lot. The lot on the election of members of the Voting Committee shall be organized under the responsibility of the Chairperson of the High Court.
5. The members of the Voting Committee shall, before the voting process starts, multiply and sign in advance a number of ballots equal to the number of judges present at the meeting. In case one or more ballots are spoiled, the Commission shall sign a number of ballots equal to the spoiled ballots and destroy the spoiled ballots in the presence of participants.
6. The Voting Committee administering the voting process shall be assisted by the administration of the High Court.
7. The General Meeting of Judges may, upon the proposal of the Chairperson of the High Court and in accordance with the provisions of this Law, adopt more detailed rules for the voting process and the election of members of the Voting Committee, at the beginning of the meeting.

#### **Article 17**

##### **Counting of Votes and Announcement of Results**

1. The Voting Committee members shall, upon the end of the voting process, under the responsibility of the Chairperson of the High Court, open the ballot boxes in the presence of all judges attending the meeting, count the votes and announce the preliminary voting result.
2. Ballot papers are divided into valid or invalid votes. Valid votes are only the ballot papers which clearly indicate a vote for one candidate only. Invalid votes are the ballot papers where:
  - a) The ballot paper does not have the same elements as approved by the Voting Committee;
  - b) Remarks are made on the ballot paper in favour of or against the candidates;
  - c) The ballot paper indicates a vote for more than one candidate;
  - ç) The ballot paper does not indicate a vote for any of the candidates;
  - d) It is not clear which candidate it has been voted for;
  - dh) The ballot paper indicates a vote for a person who is not registered as a candidate.

3. Votes deemed invalid shall be re-evaluated at the end of the counting process. In case of disagreements between members of the Voting Committee concerning the validity of votes, decisions shall be made at the end of the re-evaluation process by majority vote. Votes deemed valid at the end of the re-evaluation process shall be added to the respective candidates.
4. At the end of the voting process and the counting of votes, the Voting Committee members shall compile and approve a record indicating the number of participants, the total number of votes casted, the number of votes for each category of candidates, the number of invalid votes, where applicable, the number of votes for each candidate and the names of winning candidates. Cases of disputes among the members of the Voting Committee over the validity of votes and the way of settling them shall be indicated in the record. The record shall indicate even the number of ballot papers replaced due to them being spoiled.
5. At the end of the voting process, the candidates, who have received the highest number of votes, shall be deemed elected. If two or more candidates receive the same number of votes, the winner will be determined by lot between them.
6. The original minutes showing the number of participants in the General Meeting, the number of votes and the result of the vote count, signed by all Voting Committee members, shall be immediately sent to the High Court.
7. Decisions on the election outcome and announcement of winners, every intermediate decision and record shall be signed jointly by Voting Committee members. The decisions shall be publicly announced at the end of the General Meeting and shall be officially published on the official website of the High Court not later than 24 hours after the closure of the General Meeting. The decision announcing the winners shall be published in the Official Journal.

#### **Article 18**

##### **Complaints against Decisions of the General Meeting**

1. Complaints on the breach of the procedures related to the call on the General Meeting, verification of the participation, voting and the counting of votes, finding and announcing invalid votes and the declaration of the result during the General Meeting of judges for the election of members of the High Judicial Council shall be filed with the Administrative Court of Appeal, not later than five days following the date of publication of the decision on the official website of the High Court.
2. The Administrative Court of Appeal shall decide within seven days from the day of submission of the complaint. The court may decide on repeating the elections only upon establishment of the occurrence of procedural breaches foreseen in paragraph 1 of this Article and the impact or potential impact of the latter on the election results. The court decision is final and irrevocable.

3. In case the Administrative Court of Appeal decides to repeat the elections, they shall be held not later than seven days from the day of notification of the court decision.

## **SUB-SECTION II**

### **PROCEDURE FOR THE ELECTION OF MEMBERS OF THE HIGH JUDICIAL COUNCIL FROM ADVOCACY**

#### **Article 19**

##### **Preliminary Verification and Evaluation of Candidates for Members of the High Judicial Council from Advocacy and Requirements to be Elected**

1. The Assembly shall elect two members of the High Judicial Council from the ranks of advocates, who fulfil the conditions provided by the Constitution and by provisions of this Article.
2. An Independent Ad Hoc Commission shall be established in accordance with Article 23 of this Law for the preliminary verification of fulfilment of legal requirements by the candidates and for the preliminary assessment of their moral and professional integrity.
3. The advocates, who run as candidates for the position as member of the High Judicial Council, shall fulfil the following conditions:
  - a) be Albanian citizens;
  - b) have finished the second cycle of university studies in law with a diploma “Master of Science”, or a diploma unified with it or to have finished university studies in law abroad having obtained a diploma unified in accordance with the rules for recognition of diplomas, as provided by law;
  - c) be advocates licensed in accordance with the law;
  - ç) have regularly paid all the taxes and financial obligations to the Chamber of Advocacy;
  - d) have not less than 15 years of experience in the profession of jurist, out of which the last 10 years to have exercised the advocate’s profession without interruption;
  - dh) have been licensed to practice the profession at the High Court and/or the Constitutional Court in accordance with the Law “On the Profession of Advocate”;
  - e) have no disciplinary measure in force;



ë) have not been previously sentenced by a final court decision for committing a criminal offence;

f) have not held any political function in the public administration or leadership positions in political parties in the last 10 (ten) years;

g) have not been members, collaborators or favoured by the former State Security before 2 July 1991 in the sense of the Law "On the right to information on documents of the former State Security of the People's Socialist Republic of Albania";

gj) not be collaborators, informants or agents of secret services;

h) at the time of application, have no family members in the meaning of the Law "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first-degree relatives who are incumbent Council members or candidates for members;

i) have not been dismissed from a previous duty as judge, prosecutor or judicial police officer due to disciplinary measures;

j) not to be a candidate proposed by the corps of lecturers of law faculties and the School of Magistrates as well as by the civil society;

4. The advocates holding leadership positions in the chambers of advocates or in the governing bodies of groups of interest, such as advocates associations, advocates unions, shall resign from these positions in case they are elected as members of the High Judicial Council.

#### **Article 20**

##### **Call for Submission of Expression of Interest**

1. The Secretary General of the Assembly shall, not later than four months before the date of expiry of the mandate of incumbent advocate members of the High Judicial Council, announce the vacancies and the call for submission of expression of interest by advocates who fulfil the criteria provided in Article 19 of this Law. The announcement shall be made on the official website of the Assembly, the National Chamber of Advocacy, the Ombudsperson and in any other appropriate manner.
2. The call for submission of expression of interest shall contain the deadline within which the expression of interest must be submitted, the mailing and electronic address where the expression of interest shall be submitted and the documents that shall accompany it.

#### **Article 21**

##### **Submission of Expression of Interest**



1. Interested advocates shall, not later than 15 days from the announcement of the call for submission of expressions of interest, express their interest through a request in writing addressed to the Ombudsperson.
2. The expression of interest may be sent via the electronic address mentioned in the call for submission of expressions of interest and/or via the mail address of the Ombudsperson.
3. The interested persons shall, in addition to the request in writing, attach the following documents:
  - a) An updated Curriculum Vitae;
  - b) A personal programme of goals and objectives that the candidate shall propose to follow-up, if elected;
  - c) A self-declaration form in accordance with the requirements of the law “On the integrity of persons elected, appointed or performing public functions”;
  - ç) A statement of legal liability of not having been members or collaborators or favoured by the former State Security before 2 July 1991;
  - d) A statement of legal liability of not being collaborator, informant or agent of secret services.
  - dh) Corroborating documents by the National Chamber of Advocacy that prove that the candidate fulfils the conditions provided in letters “c” to “e” of Article 19 of this Law;
  - e) Any other document that proves the fulfilment of the legal requirements provided in Article 19 of this Law.

## **Article 22**

### **Review of the Expression of Interest**

1. For the receipt of expressions of interest and the accompanying documentation of the candidates, minutes shall be kept, indicating the number and type of documents submitted by the candidates. The minutes shall be signed by the candidate and the representative of the protocol office of the Ombudsperson.
2. The Ombudsperson shall, within five days upon submission of expressions of interest and the accompanying documentation, verify whether the documentation submitted is complete.
3. In case the documentation of candidates is not complete in order to assess the fulfilment of legal requirements as set out in the Constitution and in Article 19 of this Law, as well as the professional and moral criteria as set out in Article 34 of this Law, the Ombudsperson shall request the candidate to complete the documentation or submit additional documents. The notification to





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complete the documentation or to submit additional documents, shall be sent to the candidate through an official document or in the indicated email address not later than five days from the date of notification by the Ombudsperson.

4. Failure to submit the complementary documentation or additional documentation at the end of the 5-day deadline, shall not suspend the process of final registration of candidates and of accompanying documentation. In this case, the assessment of the candidate shall be made on the documentation of the file administered by the Ombudsperson.
5. The date on which the requested documentation has been completed, or the deadline set for the documentation to be completed, shall be considered as the day of submission and registration of the candidates and of the accompanying documentation to the office of the Ombudsperson. The final submission of documents shall be documented through a registration number given by the protocol office of the Ombudsperson.

### **Article 23**

#### **Composition of the Independent Ad Hoc Commission for the Preliminary Verification and Evaluation of Candidates**

1. The Independent Ad Hoc Commission for the preliminary verification and evaluation of candidates for members of the High Judicial Council shall be composed of:
  - a) The Ombudsperson;
  - b) The Chairperson of the Justice Appointments Council;
  - c) Two advocates, the youngest and the most senior advocate from the ranks of advocates fulfilling the conditions to be members of the High Judicial Council who do not run as candidates and were engaged in lecturing at the School of Magistrates or at the School of Advocacy during the last 5 years.
  - ç) A member selected from the Academy of Science representing the social sciences.
2. The Ombudsperson is the Chairperson of the Independent Ad Hoc Commission. The Chairperson of the Justice Appointments Council is the Deputy Chairperson of the Commission.
3. Participation in the meeting of the Commission for the preliminary verification and evaluation of candidates for members of the High Judicial Council is mandatory. The members who are absent, will be substituted by substitute members, who shall be elected in accordance with the provisions of Article 25 of this Law.
4. The meeting of the Commission shall be valid when more than half of its members are present.



#### **Article 24**

##### **The Function and Responsibilities of the Independent *Ad Hoc* Commission**

1. The Independent Ad Hoc Commission is an independent body, which makes the preliminary verification of legal requirements, the preliminary assessment of professional and moral criteria and the ranking of the candidates running for members of the High Judicial Council.
2. The Independent Ad Hoc Commission shall assume its functions abiding by the standards of due legal process and to the effect of ensuring a higher professional and moral quality in the composition of the High Judicial Council.
3. The Independent Ad Hoc Commission shall perform a joint procedure for the preliminary verification of the two categories of candidates for members of the High Judicial Council and the High Prosecutorial Council, in case the vacancies for the councils were created at the same time.

#### **Article 25**

##### **Election of Members and Substitute Members of the Independent Ad Hoc Commission**

1. The Ombudsperson shall, not later than two days from the day of submission of expressions of interest and registration of candidates, request from the National Chamber of Advocacy the list of advocates who fulfil the criteria provided for in Article 19, letters “c” to “e” to be members of the Independent Ad Hoc Commission, in accordance with the provisions of Article 23 paragraph 1 of this Law. The National Chamber of Advocacy shall send the list within five days from the date of request.
2. The Ombudsperson shall, after reviewing the list of advocates for the fulfilment of the criteria provided for in Article 19, invite the youngest and the oldest advocate by age among the advocates to serve as members of the Independent Ad Hoc Commission. In case one or both advocates invited do not consent to serve as members of the Independent Ad Hoc Commission, the Ombudsperson shall conduct the same procedure with the candidates following on the list, according to the criterion of age. The Ombudsperson shall also designate two substitute members, under the same procedure and on the basis of the same criterion.
3. The Ombudsperson shall, no later than two days from the date of the expression of interest, request the Academy of Sciences to send the list with the name of the member and substitute member for the Independent Ad Hoc Commission.
4. The Academy of Science shall, not later than five days from the day of submission of the request of the Ombudsperson send to the Ombudsperson the list with the names of the members elected by a simple majority of the Assembly of the Academy of Sciences.

5. In case the Ombudsperson has not exercised his responsibilities at the end of the period referred to in this Article, they shall be exercised by the deputy chairperson of the Ad Hoc Commission. Failure to exercise the competences in accordance with this Article within the time limits provided for in this Law, shall constitute disciplinary misconduct for the Ombudsperson.

#### **Article 26**

##### **Convening the Meeting of the Independent Ad Hoc Commission**

1. The Ombudsperson shall, not later than 10 days from the day of submission of expressions of interest and registration of candidates, convene the meeting of the Independent Ad Hoc Commission.
2. The meeting of the Commission shall be convened by way of announcement on the official website of the Ombudsperson and the invitation shall be sent to each of the members to the electronic address having been declared and per post.
3. The invitation to the meeting shall indicate the date, venue and time of meeting.
4. In case the Ombudsperson, upon the expiry of the term referred to in paragraph 1 of this Article, has not exercised his responsibilities, they shall be exercised by the Chairperson of the Justice Appointments Council.

#### **Article 27**

##### **The Meeting Venue and the Administrative Support**

1. The meeting of the Independent Ad Hoc Commission shall be convened by the Ombudsperson whenever it is necessary.
2. The Commission holds closed meetings.
3. The Commission holds its meeting in the Ombudsperson's offices.
4. The Ombudsperson shall provide the necessary organisational, administrative and financial support for the accomplishment of the function and tasks of the Ad Hoc Commission, provided in Article 24 of this Law.

#### **Article 28**

##### **Conflict of Interest and Incompatibility**

1. The member of the Commission, who is aware of a conflict of interest or of a legal hindrance for himself or for another member of the Ad Hoc Commission regarding a certain case, shall be obliged to



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declare the nature of interest or hindrance, not to attend the discussion of the respective case and not to participate in the decision making on the respective case.

2. The member of the Commission cannot attend the preliminary verification of the legal conditions, preliminary evaluation of the professional criteria and in ranking the candidates for members of the High Judicial Council, as long as between him and the candidate the following relationship exists:

a) Marital or cohabitation relationship;

b) Close kin relationship, including forebears and descendants, brothers, sisters, uncles, aunts, nephews and nieces, children of brothers and sisters; or

c) Close in-law relationship, including father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, stepson or stepfather.

### **Article 29**

#### **Recusal**

1. The Ad Hoc Commission member shall be obliged to recuse himself from participating in the process of preliminary verification of legal conditions, the preliminary evaluation of professional criteria and the ranking of candidates for members of the High Judicial Council, in the following instances, where:

a) He, his spouse/cohabitant or his children are debtors or creditors to the candidate or they have represented his interests in the past;

b) Disputes exist between him, his spouse/cohabitant or any of his relatives and the candidate.

2. The decision to accept the recusal of the member shall be made by the Chairperson of the Commission. Where the conflict of interest or the incompatibility affects the Chairperson of the Commission, the decision to accept the recusal shall be made by the Deputy Chairperson.

### **Article 30**

#### **Disqualification and Replacement of a Member**

1. The candidates may seek disqualification of a member of the Independent Ad Hoc Commission from participating in the process of the preliminary verification of legal conditions, the preliminary evaluation of moral and professional criteria and the ranking of candidates, not later than three days prior to the date of the Commission meeting, upon the existence of one of the cases provided for in Article 28 and Article 29 of this law and where the member does not recuse himself from the examination of the case.

2. The decision for the disqualification of the member shall be made by the Chairperson of the Commission. Where the disqualification of the Chairperson is requested, the decision shall be made by the Deputy Chairperson.
3. Where the disqualified, self-recused or absent member is the Ombudsperson, he/she shall be replaced by the Commissioner of the Ombudsperson, being most senior in age.
4. Where the disqualified, self-recused or absent member is the Chairperson of the Justice Appointments Council, he/she shall be replaced by the Deputy Chairperson of the Justice Appointments Council.
5. Where the disqualified, self-recused or absent member is one of the other members of the Commission, he/she shall be replaced by the substitute member, under the criteria provided for in Article 25 of this Law.

### **Article 31** **Verifying the Fulfilment of Legal Conditions**

1. The Independent Ad Hoc Commission shall, not later than 45 days from the date the deadline for submission of expression of interest expires, verify the legal conditions met by the candidates. To the effect of assuming their responsibilities for the preliminary verification of the legal conditions met by the candidates, the Commission shall be assisted by the administration of the Ombudsperson.
2. The Chairperson of the Commission, for the verification of the integrity of the candidate, shall immediately transmit the self-declaration forms to the General Prosecution Office, filled out by the candidates in compliance with the requirements of the law "On guaranteeing the integrity of the persons elected, appointed or performing public functions". The General Prosecution Office shall carry out the verification within 30 days of submission of the forms.
3. The Chairperson of the Commission shall, to the effect of verifying other legal conditions, send requests in writing to the address of private and public entities, as appropriate.
4. The Chairperson of the Commission, to the effect of checking the fulfilment of the conditions stipulated in letters "c" to "e" of Article 19 of this Law, if necessary, shall address the National Chamber of Advocacy for the accuracy of the information stated by the candidate.
5. The Commission shall, upon the completion of the preliminary verification procedure, immediately announce the names of candidates meeting the legal conditions to be members of the High Judicial Council on the official website of the Ombudsperson, the Assembly and of the National Chamber of Advocacy. At the same time, the Commission shall individually communicate the outcome of the verification of the declared data to the candidates.



6. The Independent Ad Hoc Commission shall assume its activity collegially and in compliance with the rules and procedures provided for in the legislation on the organisation and functioning of the collegial bodies, to the extent it has not been provided otherwise in this law.

### **Article 32**

#### **Complaints against Decisions on Exclusion of Candidates**

1. The complaints against the decisions on the exclusion of candidates shall, just for serious procedural infringements, be made before the Administrative Court of Appeal not later than five days from the day of notification of the contested decision.
2. The Administrative Court of Appeal shall decide within seven days from the day of submission of the complaint. Its decision is final and irrevocable.
3. The complaint shall not suspend the procedure for the preliminary evaluation and verification carried out by the Independent Ad Hoc Commission according to Article 33 of this law.

### **Article 33**

#### **Initiation and Deadline for Conducting the Preliminary Evaluation Procedure and the Ranking of Candidates**

1. The Independent Ad Hoc Commission, after the official announcement of the candidacies who meet the legal conditions, shall be immediately convened for the evaluation of professional and moral criteria of the candidates and shall make their ranking not later than 10 days from the day of the meeting.
2. The candidates, who have obtained the right to run as candidates upon a court decision in accordance with Article 32 of this Law, shall be evaluated along with the other candidates.
3. The Council shall stay convened up to the completion of the process of evaluation and the ranking of candidates.

### **Article 34**

#### **Professional and Moral Criteria for the Ranking of Candidates**

1. The Independent Ad Hoc Commission shall rank the candidates on the basis of their professional merits, based on:
  - a) The outcome of the professional and ethical evaluation of candidates on the activities they have performed in the past, as appropriate, or the results achieved in their employment



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experience, related to the assumption of functions in the relevant field in connection with the activity of the institution, which they run for;

b) Evaluation of the importance of academic works, scientific research, professional articles and speeches, publications, as well as the participation in scientific activities, participation in the process of drafting or consultation of legislation and any other professional commitment of the candidates along the last five years in the field of law;

c) Scores during the higher education cycles;

ç) Progress at work and participation in professional trainings and other certified courses in the country and abroad;

2. The Commission shall rank the candidates on the basis of their moral merits, based on:

a) The reputation that the candidate enjoys in the society and among colleagues;

b) The moral qualities such as honesty, accuracy in assuming the tasks, accountability, reliability, impartiality, dignity, tendency to assume responsibility, professional ethics, the use of all legal remedies for the loyal protection of the rights of persons represented by him;

c) The established commitment in pursuit of civil society causes.

3. The Commission shall rank the candidates on the basis of their organisational, leadership and management skills, based on:

a) The quality of the programme and the vision they submit;

b) The established skills to make decisions and take responsibilities based on the previous professional and social experiences;

c) Communication skills;

ç) The ability to work in teams and in multi-disciplinary or multi-cultural environments;

d) Public presentation skills.

4. For the evaluation of candidates, along with the criteria provided in paragraphs 1, 2 and 3 of this Article, the following shall be taken into account:

a) The academic titles held;



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- b) The long-term studies and trainings attended abroad;
  - c) The command of foreign languages.

5. The Commission shall interview the candidates and shall engage experts to verify the candidates' skills, specifically to verify the level of command of foreign languages.

6. The Ad Hoc Commission shall, in compliance with the provisions of this Chapter, approve the rules to further detail the criteria and determine their specific weight in the ranking of candidates.

7. In making the decisions for the ranking of candidates, the Commission shall act in accordance with the criteria provided in paragraphs 1 to 5 of this Article and shall draft a report providing grounds for such ranking.

### **Article 35**

#### **Selection of the Member of the High Judicial Council from the Ranks of Advocates**

1. The Chairperson of the Independent Ad Hoc Commission shall transmit to the Secretary General of the Assembly a list of names of the candidates who have obtained the highest scores, however, not more than 10 candidates and in any case no less than three times the number of vacancies. The list of names of the ranked candidates and the list of candidates who do not meet the legal conditions and criteria, as well as the evaluation report shall be registered on the register of the protocol of the Assembly of Albania. Attached to it shall be the original or certified copies of the documentation of each candidate, along with the inventory of the file.

2. The Secretary General of the Assembly shall, not later than 10 days from the day of submission of the list and associating documentation registered under paragraph 1 of this Article, verify, on the basis of the documentation submitted, whether the candidates meet the conditions provided for in the Constitution and Article 19 of this law. The Secretary General shall disqualify the candidates who, in his judgment, do not meet the conditions provided for in the Constitution and this law.

3. Where the documentation of a candidate is not comprehensive enough to assess the meeting of constitutional and legal conditions and professional and moral criteria under Article 19 paragraph 3 of this Law, the Secretary General shall request the candidate to complete the documentation or submit additional documents within five days. The notice to complete the documentation or submit additional documentation shall be sent to the candidate on the electronic address being stated.

4. Failure to submit the complementary documentation or additional documentation upon the expiry of the 5-day period does not suspend the process of final registration with the Assembly of the list of candidates and its associating documentation.





5. The date on which the required documentation is completed, or the deadline set for the completion of the documents shall be considered as the date of submission and registration with the Assembly of the list of candidates and associating documentation. The final submission shall be established by a registration number given by the protocol office of the Assembly.

6. The Secretary General shall evaluate the professional and moral criteria only of the candidates who meet the conditions to be members of the High Judicial Council, as provided for in the Constitution and this law. The evaluation of professional and moral criteria of candidates by the Secretary General shall be made under the criteria set forth in Article 34 of this Law.

7. The secretary General shall, upon the completion of the procedure provided in paragraphs 2 and 6 of this Article, draft the following documents:

- a) A list of names of the candidates who meet the conditions to be members of the High Judicial Council, as provided by the Constitution and this law;
- b) A list of names of the candidates who, in his judgement, do not meet the conditions to be members of the High Judicial Council, as provided by the Constitution and this law. The list of disqualified candidates shall indicate their names and the respective reasons of disqualification;
- c) A report in writing assessing the level of professional and moral criteria met by each candidate, relying on the process being conducted and the report prepared by the Independent Ad Hoc Commission.

8. Disqualified candidates shall be informed in writing, in person and in a reasoned way on the disqualification on their email address being stated.

9. The Secretary General shall send to the standing Committee responsible for legal affairs at the Assembly, within the next day following the day of drafting the documents referred to in paragraph 7 of this Article, the lists together with the report referred to in paragraph 7, letter “c” of this Article and the documentation for each candidate. The lists and the report shall be published on the official website of the Assembly not later than 10 days after the recording of the list of candidates with the Assembly;

10. The Secretary General shall be supported by the Assembly services when performing the tasks referred to in paragraphs 1 to 6 of this Article.

11. The Standing Committee responsible for legal affairs at the Assembly shall, not later than three days from submission of the list by the Secretary General, set up a subcommittee consisting of five MPs, three from the ranks of parliamentary majority and two from the ranks of parliamentary minority, for further evaluation and selection of candidates. The decision on establishing the subcommittee shall assign the chairperson of the subcommittee from among the members representing the

parliamentary majority and the deputy chairperson of the subcommittee from among the members representing the parliamentary minority. Where one of the parties does not nominate its representatives to the subcommittee, the standing Committee responsible for legal affairs shall establish the subcommittee representatives from other parliamentary groups, preserving the ratio between the parliamentary majority and the parliamentary minority. Where the establishment of the subcommittee is still not possible, the subcommittee shall be established with only the representatives of the parliamentary majority, however, with not less than 3 MPs.

12. The Chairperson of the subcommittee shall convene the meeting of the subcommittee on the following business day after the day of its establishment. Participation in the subcommittee meetings is mandatory. The meetings shall be held where more than half of the members are present. Where one or some of the members of the subcommittee do not attend the meeting, the subcommittee shall continue working with the members being present. In such a case, the subcommittee shall elect the members of the High Judicial Council by lot from the list referred to in paragraph 7, letter “a” of this Article.

13. The subcommittee, by at least four votes, may decide that candidates who are disqualified by the Secretary General be included in the list of candidates who meet the conditions to be members of the High Judicial Council, as provided by the Constitution and this law. In this event, the subcommittee shall publish the reasoning of this decision on the official website of the Assembly. The subcommittee shall merge into a single list the list of candidates meeting the criteria sent by the Secretary General and the candidate or candidates included by the subcommittee under this paragraph, where applicable. The list obtained in this way shall be considered the list of candidates for voting.

14. Upon the completion of the procedure referred to in paragraph 13 of this Article, the subcommittee shall select the candidate for member of the High Judicial Council through an open voting procedure for all the candidates based on alphabetical order. The candidates who receive at least four votes of the subcommittee members shall be considered approved. Where at the end of the voting process, none of the candidates have received the minimum of four votes, the candidate shall be elected by lot. In the lot shall be included those candidates who are part of the voting list under the provisions of paragraph 13 of this Article. If no decision has been made in accordance with the provisions of paragraph 13, in the lot shall be included those candidates who are part of the list referred to in paragraph 7, letter “a” of this Article.

15. The subcommittee, not later than three days from its establishment, shall include in a list two candidates selected by the advocacy, two candidates from the ranks of lecturers and the candidate from the civil society and shall send it to the Speaker of the Assembly through the chairperson of the subcommittee. The list of candidates shall be accompanied by a report on the result of assessment of professional and moral criteria conducted by the subcommittee.

16. The Assembly shall, within 10 days, approve the list of candidates by 2/3 of all members. In case the required majority is not reached, the subcommittee will approve a new list, according to the procedure set out in paragraphs 12, 13 and 14 of this Article, within two days from the voting in the



plenary session. The candidates of the first list shall not be excluded from the selection process in the subcommittee in the second round. The new list shall be submitted to the Speaker of the Assembly and put to vote in the next sitting of the Assembly, but not later than seven days from the submission of the list. The Assembly shall approve the list of candidates by 2/3 of all members. In case the Assembly fails to reach the 2/3 majority in the second voting, the subcommittee shall approve a new list, according to the procedure set out in paragraph 12, 13 and 14 of this Article, within two days from the latest voting in the plenary session. The candidates of the second list shall not be excluded from the selection process in the subcommittee in the third round. The new list shall be submitted to the Speaker of the Assembly and put to vote in the next sitting of the Assembly, but not later than seven days from the submission of the list. The Assembly shall approve the list of candidates by 2/3 of all members. In case the Assembly fails to reach the 2/3 majority even in the third voting, the candidates of this list shall be considered elected.

17. The decision of the Assembly to approve the list of candidates shall be published in the very next issue of the Official Journal.

18. In case of an early termination of mandate of the member of the High Judicial Council from the ranks of advocates, the Assembly shall elect immediately a new member from the list of candidates for voting, according to paragraph 13 of this Article. In this case, the procedures and time periods referred to in paragraph 14 of this Article shall apply, upon the verification of availability of candidates to serve in the High Judicial Council.

19. The standing Committee responsible for legal affairs at the Assembly shall approve a regulation on the organisation and functioning of the subcommittee for the selection of candidates for members of the High Judicial Council, which shall contain rules on the manner of selection of members of the subcommittee, voting method in the subcommittee, drawing of the lot, the verification of availability of candidates according to paragraph 15 of this Article.

### **SUBSECTION III**

#### **PROCEDURE FOR THE ELECTION OF MEMBERS OF THE HIGH JUDICIAL COUNCIL FROM AMONG THE LECTURERS OF LAW FACULTIES AND THE SCHOOL OF MAGISTRATES**

##### **Article 36**

##### **Election of Members of the High Judicial Council from among the Lecturers of Law Faculties and the School of Magistrates**

1. The Assembly shall elect two members of the High Judicial Council from the corps of lecturers of law faculties and the School of Magistrates.



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2. Candidates proposed pursuant to paragraph 1 of this Article must fulfil the following conditions:

- a) Be Albanian citizens;
- b) Have not less than 15 years of professional experience as jurist;
- c) At the time of application, be full-time lecturers for not less than five years in a Law Faculty of a Higher Education Institution (HEI) or full-time or part-time non-magistrate lecturers at the School of Magistrates;
- c) Be academic staff of the category “professor” or “lecturer”;
- d) Not to be a rector or director of the School of Magistrates at the time of application;
- dh) Have no disciplinary measure in force;
- e) Have not been previously sentenced by a final court decision for committing a criminal offence;
- ë) Have not held any political functions in the public administration or leadership positions in political parties during the last 10 years before the application;
- f) Have not been members, collaborators or favoured by the former State Security before 2 July 1991 in the sense of the Law “On the right to information on documents of the former State Security of the People’s Socialist Republic of Albania”;
- g) Not be collaborators, informants or agents of intelligence services;
- gj) At the time of application, have no family members in the meaning of the Law "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first-degree relatives who are incumbent Council members or candidates for members.

3. Each of the higher education institution (HEI) having, as main units in their composition, Faculties of Law accredited according to the rules of legislation in force, shall select not more than three candidates from among the ranks of the full-time academic staff, provided that they are not proposed by the ranks of advocates or civil society organisations.

4. The School of Magistrates shall select not more than one candidate from the ranks of incumbent non-magistrate full-time lecturers and from the part-time lecturers, provided that they are not incumbent magistrates, advocates or employed full-time in civil society organisations.



5. Every member of HEI academic staff, who meets the conditions mentioned in paragraph 2 of this Article and ensures the support of at least three lecturers of the academic staff eligible to vote, shall be entitled to run as a candidate.

6. Every lecturer of the School of Magistrates, who meets the conditions mentioned in paragraph 2 of this Article and ensures the support of at least three lecturers eligible to vote, shall be entitled to run as a candidate.

7. The HEI Rector and the Director of the School of Magistrates shall approve the template form for supporting the candidates for members of the High Judicial Council. The template form shall be signed by the academic staff member or the lecturer of the School of Magistrates eligible to vote, who decides to support the candidate. The academic staff member or the lecturer of the School of Magistrates eligible to vote may support only one candidate.

8. All full-time academic staff members, including the "assistant lecturer" category staff, and all full-time and part-time non-magistrate incumbent lecturers of the School of Magistrates shall be entitled to support candidates and vote for the selection of candidates of the respective institutions.

#### **Article 37**

##### **Call for Submission of Expression of Interest**

1. The Secretary General of the Assembly shall, not later than four months before the date of expiry of the mandate of incumbent lecturer members of the High Judicial Council, announce the vacancies on the official website of the Assembly and in any other appropriate manner.

2. The Rector of the HEI comprising a Faculty of Law and the Director of the School of Magistrates shall, not later than seven days from the announcement of the vacancies, announce the calls for submission of expressions of interest by academic staff members and the lecturers of the School of Magistrates, who meet the criteria provided for in Article 36, paragraph 2 of this Law.

3. The call shall be announced on the official website of the HEI, the Faculties of Law, the School of Magistrates and it shall be sent to every academic staff member and lecturer of the School of Magistrates on their electronic address.

4. The call for submission of expressions of interest shall contain the deadline within which the expression of interest must be submitted, the mailing and electronic address where the expression of interest shall be submitted and supporting documents.

5. Failure to announce the call within the legal deadline shall constitute disciplinary misconduct for the rector of the HEI and the Director of the School of Magistrates.

#### **Article 38**

##### **The Call for Submission of Expression of Interest Announced by the Minister of Justice**



1. If the Rector of the HEI comprising a Faculty of Law or the Director of the School of Magistrates fail to announce the call for submission of expressions of interest, upon the expiry of the time period mentioned in paragraph 2 of Article 37 of this Law, the call shall be announced immediately by the Minister of Justice.

2. In this case, the call shall be announced on the official website of the Ministry of Justice and shall be sent to the electronic address of every member of the academic staff of the Faculty of Law of the HEI and every lecturer of the School of Magistrates.

### **Article 39**

#### **Submission and Handling of Expressions of Interest**

1. The interested lecturers shall, within 15 days from announcement of the call for submission of expressions of interest, express their interest through a request in writing addressed, as appropriate, to the deanery of the Faculty or to the Director of the School of Magistrates. A copy of the request and accompanying documentation, as appropriate, shall be sent to the Rector of the HEI and the Head of the Steering Council of the School of Magistrates.

2. The expression of interest may be sent to the electronic or mail address indicated in the call for submission of expressions of interest by registered mail or to the official electronic address, as appropriate, to the Dean of the Faculty or the Director of the School of Magistrates.

3. The interested persons shall, in addition to the request in writing, attach the following documents:

- a) An updated Curriculum Vitae;
- b) A personal programme of goals and objectives that the candidate shall propose to follow-up, if elected;
- c) A self-declaration form according to the requirements of the law “On guaranteeing the integrity of persons elected, appointed or performing public functions”;
- ç) A statement of legal liability of not having been members, collaborators or favoured by the former State Security before 02 July 1991, in the sense of the Law “On the right to information on documents of the former State Security of the People’s Socialist Republic of Albania”;
- d) A statement of legal liability of not being collaborators, informants or agents of secret services;
- dh) Any other document that certifies the fulfilment of the legal requirements provided for in Article 36 of this Law.

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#### **Article 40**

#### **Verifying the Fulfilment of Legal Criteria**

1. The Deanery of the Law Faculty shall, within 7 days on the expiry of the period for submission of expression of interest, convene in a special meeting to verify the fulfilment of legal conditions by candidates.
2. The verification of fulfilment of legal conditions and of the support shall be the only topic in the agenda of the meeting of the Deanery.
3. The meeting of the Deanery shall be valid when more than half of its members are attending. Failure to participate without due cause in the meeting of the Deanery for the verification of legal criteria and the support of candidates for members of the High Judicial Council, shall constitute disciplinary misconduct for the Deanery members.
4. The meeting of the Deanery shall make decisions by majority vote of present members.
5. The Deanery members, who run as candidates, shall not take part in the meeting and shall not vote. In case the Dean runs as a candidate, his tasks shall be performed by one of the Deputy Deans.
6. At the end of the meeting, the Dean shall officially announce the candidates, displaying them at the notice board of the University or the Law Faculty or in another visible place and shall submit the list of candidates to the Rector of the HEI, accompanied by a report explaining the fulfilment or non-fulfilment of conditions by each candidate.
7. Disqualified candidates shall be notified individually in writing by a reasoned decision on the causes for the disqualification.
8. The rules laid down in paragraphs 1 to 7 of this Article shall apply also to verify the fulfilment of the legal criteria by the candidates of the School of Magistrates. In this case, the responsibilities provided for by this Article on the Deanery of the Faculty, shall be exercised by the Meeting of the Pedagogical Council of the School of Magistrates. The responsibilities provided for by paragraph 6 of this Article on the Dean of the Faculty shall be exercised by the Director of the School of Magistrates. The list of candidates shall be forwarded to the Chairperson of the Steering Council of the School of Magistrates by the Director of the School of Magistrates.

#### **Article 41**

#### **Complaints against Disqualification Decisions**

1. Complaints against decisions of the Deanery or Pedagogical Council of the School of Magistrates on the disqualification of candidates for gross procedural misconduct shall be made respectively to the



Rector of the HEI and the Chairperson of the Steering Council of the School of Magistrates, not later than five days from the day of notification of the decision.

2. The Rector of the HEI and the Chairperson of the Steering Council of the School of Magistrates shall decide within seven days from the filing of the complaint.

#### **Article 42**

##### **Selection of Candidates from Law Faculties and the School of Magistrates**

1. The Dean of each Law Faculty shall, not later than 80 days before the expiry of the mandate of incumbent lecturer members of the High Judicial Council, call the meeting of the Academic Staff Assembly to select the candidates of that Law Faculty. The Dean of the Law Faculty shall immediately and officially notify the Rector of the HEI on the calling of the meeting of the Academic Staff Assembly.

2. The meeting of the Academic Staff Assembly of the Faculty to select the candidate shall be called through publication on the official website of the HEI and the notice shall be sent to each academic staff member on the electronic address.

3. The call for the meeting of the Academic Staff Assembly of the Faculty concerning the selection of the candidate shall indicate the date, venue and time of the meeting.

4. Selection of the candidate for member of the High Judicial Council shall be the only topic of the agenda of the meeting of the Academic Staff Assembly.

5. The number of participants in the meeting of the Academic Staff Assembly shall be recorded in a nominal list signed by all the present participants.

6. Failure to call the meeting of the Academic Staff Assembly within the deadline mentioned in paragraph 1 of this Article shall constitute disciplinary misconduct for the Dean of the Faculty.

7. The rules laid down in paragraphs 1 to 6 of this Article for the selection of candidates from the law faculties or law departments shall also apply for the selection of candidates from the School of Magistrates. In this case, the responsibilities provided for by this Article on the Dean of the Faculty shall be exercised by the Director of the School of Magistrates. The responsibilities provided for by this Article on the Academic Staff Assembly shall be exercised by the Pedagogical Council of the School of Magistrates.

#### **Article 43**

##### **Quorum**





1. Participation in the meeting of the Academic Staff Assembly or the Pedagogical Council of the School of Magistrates for the selection of candidates for members of the High Judicial Council is mandatory.
2. The meeting of the Academic Staff Assembly or of the Pedagogical Council of the School of Magistrates for selection of candidates shall be held in the presence of more than half of the members.
3. The number of participants in the meeting of the Academic Staff Assembly or the Pedagogical Council of the School of Magistrates shall be recorded in a nominal list signed by all present participants.

#### **Article 44** **Voting process**

1. The voting for selection of the candidate for member of the High Judicial Council from the Academic Staff Assembly of the Faculty shall be secret and individual.
2. The voting process shall be open to media and all other observers who are interested in attending the process. Observers shall be authorised in advance by the Rector of the HEI.
3. A Voting Committee to administer the voting process shall be established consisting of members of academic staff not running as candidates. In assuming its functions, the Voting Committee shall be assisted by the faculty administration.
4. The Minister of Justice, two members of the Standing Committee responsible for legal affairs, one of whom from the opposition, the Rector of HEI or persons authorised by them, may participate as observers in the meeting of the Academic Staff Assembly for selection of the candidate for member of the Council at faculty level, without prior authorization.
5. The Rector of HEI shall, not later than two days before the date of the meeting of the Academic Staff Assembly, approve the template of the ballot papers, which shall contain names of registered candidates.
6. The members of the Voting Committee shall, before the voting process starts, multiply and sign in advance a number of ballots equal to the number of members of the Academic Staff Assembly present at the meeting. In case one or more ballots are spoiled, the Committee shall sign a number of ballots equal to the spoiled ballots and destroy the spoiled ballots in the presence of participants.
7. Each member of the Academic Staff Assembly shall withdraw a ballot paper, mark it secretly in the voting booth and cast it in the ballot box. The vote will be considered valid, when it clearly expresses the will to support only one candidate.
8. The rules laid down in paragraphs 1 to 7 of this Article for the voting process by the Academic Staff Assembly of the Faculty shall also apply for the voting process by the Pedagogical Council of the School



of Magistrates. In this case, the responsibilities provided for by paragraphs 2 and 5 of this Article on the Rector of the HEI shall be exercised by the Chairperson of the Steering Council. In case of elections in the School of Magistrates, a Voting Committee shall be established, which is elected by lot from the members of the Pedagogical Council. In assuming its functions, the Voting Committee shall be assisted by the administration of the School of Magistrates. In the event of an impossibility to attend, the members of the Voting Committee shall be substituted by other members of the Pedagogical Council elected by lot.

9. The Minister of Justice or persons authorised by him, two members of the Standing Committee responsible for legal affairs, one of whom from the opposition, may participate as observers in the meeting of the Pedagogical Council for selection of the candidate of the School of Magistrates, without prior authorization of the Chairperson of the Council.

#### **Article 45**

##### **Counting of Votes and Announcement of Results**

1. The members of the Voting Committee shall, at the end of the voting process, open the ballot box in the presence of all members of the Academic Staff Assembly or of the Pedagogical Council present at the meeting. One of the members of the Voting Committee shall read out loud the result of each ballot paper and the voting result.

2. Votes deemed invalid shall be re-evaluated at the end of the counting process. In case of disagreements between members of the Voting Committee concerning the validity of votes, decisions shall be made at the end of the re-evaluation process by majority vote. Votes deemed valid at the end of the re-evaluation process shall be added to the respective candidates.

3. Invalid votes are the ballot papers where:

- a) The ballot paper does not have the same elements as approved by the Voting Committee;
- b) Remarks are made on the ballot paper in favour of or against the candidates;
- c) The ballot paper indicates a vote for more than one candidate;
- ç) The ballot paper does not indicate a vote for any of the candidates;
- d) It is not clear for which candidate it has been voted for;

dh) The ballot paper indicates a vote for a person who is not registered as a candidate in the ballot paper.

4. At the end of the voting process and the counting of votes, the Voting Committee members shall compile a record indicating the total number of participants, the total number of votes, the number of



invalid votes, where applicable, the number of votes for each candidate and the names of selected candidates. Cases of disputes over the validity of votes and the way of settling them shall be indicated in the record. The record shall indicate even the number of ballot papers replaced due to them being spoiled.

5. At the end of the voting process, candidates, who have received the highest numbers of votes, shall be deemed selected. If two or more candidates receive the same number of votes, the winner will be determined by lot between them.

6. The original record showing the number of participants in the meeting of the Academic Staff Assembly or the Pedagogical Council of the School of Magistrates, the number of votes and the result of the vote count, signed by all Voting Committee members, shall be immediately sent, respectively, to the Rector of HEI or Chairperson of the Steering Council of the School of Magistrates.

7. Decisions of the election outcome and the announcement of winners, every intermediate decision and record shall be signed by Voting Committee members. The decisions shall be publicly announced at the end of the meeting of the Academic Staff Assembly or the Pedagogical Council of the School of Magistrates.

#### **Article 46**

##### **Complaints against Decisions of the Academic Staff Assembly or Pedagogical Council**

1. Complaints against the breach of the procedures relating to the call on the meeting, verification of participation, the voting, the counting of votes, the finding and announcement of invalidity and the announcement of the result during the meeting of the Academic Staff Assembly of the HEI or of the Pedagogical Council of the School of Magistrates, shall be made to the Administrative Court of Appeal.

2. The Administrative Court of Appeal shall decide within seven days from the date of submission of the complaint. The Court may decide on the repetition of the meeting of the Academic Staff Assembly and the Pedagogical Council of the School of Magistrates only in case the procedural infringements foreseen in paragraph 1 of this Article are proved to have occurred in a way that affected or may have affected the election results. Its decision is final and irrevocable.

3. In case the Administrative Court of Appeal decides to repeat the elections, they shall be held not later than seven days from the day of notification of the court decision.

#### **Article 47**

##### **The Meeting of the Academic Staff Assembly Called by the Rector of the HEI**

1. If the Dean of the Law Faculty, upon expiry of the period mentioned in Article 42, paragraph 1 of this Law, fails to call the meeting of the Academic Staff Assembly for selection of the candidate for member of the High Judicial Council, the meeting shall be called by the Rector of the HEI.

2. In such a case, the meeting of the Academic Staff Assembly to select the candidate shall be called through publication on the official website of the HEI and the notice shall be sent to each academic staff member on their electronic address.

3. Failure to call the meeting shall constitute disciplinary misconduct for the Dean of the Law Faculty.

#### **Article 48**

##### **Calling the Special Meeting of Heads of Institutions for the Final Selection of Candidates**

1. The Secretary General of the Assembly shall, not later than 60 days before the date of the expiry of mandate of the incumbent lecturer members of the High Judicial Council, call a special meeting in which shall take part the Chairperson of the Steering Council of the School of Magistrates, the Director of the School of Magistrates, the rectors of HEIs offering study programmes in Law and the deans of Law faculties. The call shall be published on the official website of the Assembly and shall be sent personally to the electronic addresses of the above-mentioned subjects.

2. The call for the special meeting for the selection of candidates shall indicate the date, venue and time of the meeting.

3. Selection of candidates for members of the High Judicial Council shall be the only topic in the agenda of the special meeting.

4. The number of participants in the special meeting shall be recorded in a nominal list signed by all the present participants.

5. Before the voting, the candidates selected by HEIs and the candidates selected by the School of Magistrates shall present their programmes to the special meeting.

6. The special meeting of the heads of the institutions shall carry out a joint procedure for both categories of candidates for members of the High Judicial Council and High Prosecutorial Council, in case the vacancies for the Councils were created at the same time.

#### **Article 49**

##### **Quorum**

1. Participation in the special meeting to elect the members of the High Judicial Council is mandatory.

2. The special meeting for the election of candidates shall be held in the presence of more than half of the members.

3. The number of participants in the special meeting shall be recorded in a nominal list signed by all the present participants.



## **Article 50**

### **Voting Process**

1. The voting for selection of candidates for members of the High Judicial Council from the special meeting shall be secret and individual.
2. The special meeting shall vote for all candidates preliminarily selected by HEIs and the School of Magistrates.
3. The representatives of the public HEIs and the School of Magistrates shall vote for the candidates of the public HEIs and the School of Magistrates. The representatives of the non-public HEIs shall vote for the candidates of the non-public HEIs.
4. The voting process shall be open to media and all other observers who are interested in attending the process. Observers shall be authorized in advance by the Secretary General of the Assembly.
5. A Voting Committee shall be established to administer the voting process consisting of lecturers of public and non-public HEIs and the School of Magistrates, who do not run as candidates. The Voting Committee shall be assisted in its work by the administration of the Assembly.
6. The Minister of Justice or persons authorised by him, two members of the Standing Committee responsible for legal affairs at the Assembly, one of whom from the opposition, may participate as observers in the voting process, without prior authorisation.
7. The Secretary General of the Assembly shall approve two template ballot papers, not later than two days before the date of the special meeting. One template ballot paper shall contain names of all candidates proposed by public HEIs and the School of Magistrates. The other template ballot paper shall contain names of all candidates proposed by non-public HEIs.
8. The Voting Committee members shall, before the voting process starts, multiply and sign in advance a number of ballots equal to the number of present members. In case one or more ballots are spoiled, the Committee shall sign a number of ballots equal to the spoiled ballots and destroy the spoiled ballots in the presence of participants.
9. Each participant shall withdraw a ballot paper, mark it secretly in the voting booth and cast it in the ballot box. The vote shall be considered valid, when it clearly expresses the will to support only one candidate.

## **Article 51**

### **Counting of Votes and Announcement of Results**



1. The Voting Committee members shall, at the end of the voting process, open the ballot box in the presence of all participants present at the meeting. One of the members of the Voting Committee shall read out loud the result of each ballot paper and the voting result.

2. Votes deemed invalid shall be re-evaluated by the Voting Committee at the end of the counting process. In case of disagreements between members of the Voting Committee concerning the validity of votes, decisions shall be made at the end of the re-evaluation process by majority vote. Votes deemed valid at the end of the re-evaluation process shall be added to the respective candidates.

3. Invalid votes are the ballot papers where:

- a) The ballot paper has not the same elements as approved by the Voting Committee;
- b) Remarks are made on the ballot paper in favour of or against the candidates;
- c) The ballot paper indicates a vote for more than one candidate;
- ç) The ballot paper does not indicate a vote for any of the candidates;
- d) It is not clear for which candidate it has been voted for,
- dh) The ballot paper indicates a vote for a person who is not registered as a candidate.

4. At the end of the voting process and the counting of votes, the Voting Committee members shall compile a record indicating the total number of votes, the number of invalid votes, where applicable, the number of votes for each category of candidates, the number of votes for each candidate and the names of selected candidates. Cases of disputes over the validity of votes and the way of settling them shall be indicated in the record. The record shall indicate even the number of ballot papers replaced due to them being spoiled.

5. The seven candidates from public HEIs or the School of Magistrates and three candidates from non-public HEIs who have received the highest numbers of votes, shall be considered selected. If two or more candidates receive the same number of votes, the winner will be determined by lot between them. If there are not sufficient candidates from the non-public HEIs to meet quotas set out in this paragraph, the vacancies shall be filled by candidates from public HEIs.

6. The decision announcing the candidates shall be published on the official website of the Assembly.

7. The original record showing the number of participants in the special meeting of the rectors and deans and the result of the vote count, signed by all Voting Committee members, shall be officially sent to the Assembly.



8. Besides the list with the names of the selected candidates, the Special Meeting drafts an assessment report of the level of fulfilment of the ethical and professional criteria of the candidates. The assessment of the ethical and professional criteria of the candidates shall be made by applying, to the extent possible and with the necessary changes, the requests of Article 34 of this Law.

#### **Article 52**

##### **Complaints against Decisions of the Special Meeting**

1. Complaints against the breach of the procedure relating to the call on the meeting, verification of the participation, voting and the counting of votes, finding and announcing invalid votes and declaring the result during the Special Meeting shall be filed with the Administrative Court of Appeal, not later than five days following the date of publication of the decision on the official website of the Assembly.
2. The Administrative Court of Appeal shall decide within seven days from the day of submission of the complaint. The court may decide to repeat the special meeting only upon establishment of the occurrence of procedural breaches anticipated in paragraph 1 of this Article and the impact or potential impact of the latter on the election results. Its decision is final and irrevocable.
3. In case the Administrative Court of Appeal decides to repeat the elections, they shall be held no later than seven days from the day of notification of the court decision.

#### **Article 53**

##### **Selection of the Member of the High Judicial Council from the Ranks of Lecturers of Law Faculties and the School of Magistrates**

1. Candidates selected by the special meeting according to the provisions of Article 48 and the assessment report according to Article 51 paragraph 8 of this Law shall be forwarded to the General Secretary of the Assembly in a list of names of the candidates that have received the highest scores, but not more than 10 candidates and in each case not less than three times the number of vacancies. The list and the evaluation report shall be recorded in the register of the protocol office of the Assembly of Albania. The original or certified copy of the documentation of each candidate together with the inventory of the respective file shall be enclosed with the list.
2. The rules provided for in Article 35, paragraph 2 to paragraph 19, of this Law shall be applicable even for the selection of the member of the High Judicial Council from the corps of lecturers of Law Faculties and the School of Magistrates.

#### **SUB-SECTION IV**



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**PROCEDURE FOR THE ELECTION OF THE HIGH JUDICIAL COUNCIL MEMBER REPRESENTING THE  
CIVIL SOCIETY**

**Article 54**

**Election of the Member of the High Judicial Council Representing the Civil Society and  
Conditions to be Elected**

1. The Assembly shall elect one member of the High Judicial Council from the civil society organisations registered under the relevant legislation, who work in the field of justice system or human rights and have implemented projects in this field at least in the last five years.
2. Candidates from the civil society must meet the following conditions:
  - a) Be Albanian citizens;
  - b) Have finished the second cycle of university studies in Law with a diploma “Master of Science”, or a diploma unified with it or to have finished university studies in Law abroad and have received a diploma recognised in accordance with the rules for recognition of diplomas, as provided by law;
  - c) Have at least 15 years of professional experience as jurist;
  - c) Have a prominent social profile, high moral integrity and high professional qualification in law and human rights;
  - d) At the time of application, be employed or engaged full-time or part-time for at least five consecutive years with a civil society organisation in fields related to justice system or human rights;
  - dh) At the time of application, have not actively practised the profession of advocate for at least two years, except for those engaged in organizations or clinics that offer legal aid free of charge in view of the organization;
  - e) Not to be candidates proposed by advocacy or corps of lecturers of Law Faculties;
  - ë) Have not been previously sentenced by a final court decision for committing a criminal offence;
  - f) Have not held political functions in the public administration or leadership positions in political parties in the last 10 years;
  - g) Have not been members, collaborators or favoured by the former State Security before 02 July 1991 in the sense of the law “On the right to information on the documents of the former State Security of the People’s Socialist Republic of Albania;





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- gj) Not to be collaborators, informants or agents of intelligent services;
- h) At the time of application, have no family members in the meaning of the Law "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first degree relatives who are incumbent members of the High Judicial Council or candidates for members.
3. Representatives from the ranks of civil society organisations shall resign from any leadership or management position in those organisations, if elected as member of the High Judicial Council.
4. Every civil society member, who meets the conditions mentioned in paragraph 2 of this Article and who has the support of at least three civil society organisations working in fields related to the justice system or human rights, shall be entitled to run as a candidate.
5. The Secretary General of the Assembly shall approve the template form for supporting the candidates for members of the High Judicial Council from civil society. The template form shall be signed by the legal representative of each of civil society organisations, which decide to support one colleague.

#### **Article 55**

##### **Call for Submission of Expression of Interest**

1. The Secretary General of the Assembly shall, not later than four months before the date of expiry of the mandate of the incumbent member of the High Judicial Council from civil society, announce the call for submission of expressions of interest by civil society candidates interested in the position of the member of the Council.
2. The call shall be published on the official website of the Assembly.
3. The call for submission of expressions of interest shall contain the deadline within which the expression of interest must be submitted, the mailing and electronic address where the expression of interest shall be submitted and supporting documents.

#### **Article 56**

##### **Submission and Review of Expression of Interest**

1. Civil society members shall, not later than 15 days from the launch of the call for submission of expressions of interest, express their interest through a request in writing addressed to the Ombudsperson.



2. The expression of interest may be sent to the electronic address indicated in the call for submission of expressions of interest.

3. The interested persons shall, in addition to the request in writing, attach at least the following documents:

- a) An updated Curriculum Vitae;
- b) A personal programme of goals and objectives that the candidate shall propose to follow-up, if elected;
- c) A self-declaration form according to the requirements of the law “On guaranteeing the integrity of persons elected, appointed or performing public functions”;
- ç) A statement of legal liability of not having been member or collaborator of the former State Security before 02July 1991 in the meaning of the law “On the right to information for the documents of the former State Security of the People’s Socialist Republic of Albania;
- d) A statement of legal liability of not being collaborator, informant or agent of any secret services;
- dh) Any other document that approves the fulfilment of the legal conditions provided for in Article 54 paragraph 2 of this Law.

4. The names of civil society candidates and the original or certified copies of the documentation submitted by them shall be recorded in the register of the protocol office of the Ombudsperson.

5. The protocol office of the Ombudsperson shall receive the expression of interest and the supporting documentation of candidates and provide them with a written certificate acknowledging receipt of the expression of interest and of the supporting documentation.

6. The Ombudsperson shall, within five days from the registration of the candidates and supporting documentation, verify whether the documentation submitted by the candidates is complete. If the candidate’s documentation is incomplete to assess the fulfilment of constitutional and legal criteria and professional and moral criteria in accordance with Article 54 paragraphs 2 and 3 of this Law, the Ombudsperson shall request the candidate to complete the documentation or submit additional documents within five days. The notification to complete the documentation or submit additional documentation shall be sent to the email address indicated by the candidate, within five days from the day of the notification from the Ombudsperson.

7. Failure to submit supplementary or additional documentation within the time limit of five days, shall not suspend the process of final registration of the candidates and their supporting documentation. In this event, the candidate shall be assessed on the basis of the documentation in the file deposited with



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and administered by the Ombudsperson.

8. The date of completion of the requested documentation or the deadline set for completion of the documents shall be considered as the day of submission and registration of candidates and of the supporting documentation to the Ombudsperson's Institution. The final submission shall be documented by a registration number given by the protocol office of the Ombudsperson.

9. The Ombudsperson shall, not later than 10 days from the day of registration of the candidates and of the supporting documentation according to paragraph 5 of this Article, review and verify the legal conditions and criteria met by each candidate as provided for in the Constitution and Article 54 of this Law, through an open and public process.

10. The Ombudsperson shall, within three days from announcement of submission of expressions of interest for a member of the High Judicial Council from civil society, publish the call for expressions of interest for members of the Civil Society Commission for the preliminary verification by civil society organisations, according to the provisions of Article 54 paragraph 1 of this Law. The call shall be published on the official website of the Ombudsperson and in one of the newspapers of the highest circulation. The notification shall be sent to all civil society organisations to their official electronic addresses. The expression of interest must be submitted by civil society organisations within seven days and it must contain the relevant documentation that certifies the fulfilment of the criteria provided in Article 54 paragraph 1 of this Law and those provided in this paragraph.

11. The Ombudsperson shall, within 10 days, verify the criteria met by the organisations that have expressed the interest to be part of the preliminary verification Commission of the civil society. In case more than five organisations that have expressed the interest meet the criteria envisaged in paragraph 10 of this Article, the first meeting of this Commission shall select by secret vote the organisations that will be members of this Commission. The five organisations that will take more votes shall be considered elected as members of the Civil Society Commission. In case of a tie, the voting will be repeated between the organisations with equal number of votes.

12. The Chairperson of the civil society Commission for the preliminary verification shall be elected from the ranks of the Commission. A civil society organisation shall be represented by its legal representative. The person substituting the legal representative shall be as a substitute member of this Commission, upon the authorisation by the legal representative.

13. The failure of the Ombudsperson to assume the powers under this law, within the set time frame, shall consist a disciplinary violation and, it is always the Chairperson of the Justice Appointments Council who assumes the powers foreseen in this Article, within 3 days of the expiry of the time frame set out for the Ombudsperson in this Law.

14. In the events of conflicts of interest, incompatibility or withdrawal of a member of the Commission, the legal regulations contained in Articles 28 and 29 of this Law shall apply to the extent possible.



15. The civil society Commission shall conduct a joint procedure for the preliminary verification of both categories of candidates for member of the High Judicial Council and High Prosecutorial Council in the event of establishment of the vacancies for the Councils at the same time.

#### **Article 57**

##### **Preliminary Verification of Fulfilment of Legal Requirements by the Civil Society Commission attached to the Ombudsperson**

1. The civil society Commission for the preliminary verification verifies whether the candidates of the civil society for member of the High Judicial Council meet the legal conditions and criteria, in accordance with the legal provisions of Article 54 of this Law.
2. The civil society Commission, upon the completion of the preliminary verification procedure, shall immediately announce the names of candidates, who meet the legal conditions and criteria to be members of the High Judicial Council, on the official website of the Ombudsperson and the Assembly. The civil society Commission shall individually communicate the outcome of the verification of meeting or not meeting the legal conditions to the candidates, as well as the causes for their disqualification.
3. Appeals against decisions on the disqualification of candidates only for serious procedural infringements shall be addressed to the Administrative Court of Appeal not later than 5 days from the day of the announcement of the contested decision. The Administrative Court of Appeal shall decide within 7 days from the day of submission of the complaint. Its decision is final and irrevocable. The appeal does not suspend the preliminary evaluation and preliminary verification conducted by the civil society Commission, under this Article.
4. The civil society Commission conducts the preliminary verification of professional and moral criteria of the candidates and ranks them in a list in accordance with the provisions of Article 34 of this Law. The civil society Commission shall organise a public hearing with each of the candidates meeting the legal formal criteria. The candidates shall, in the course of public hearing, display their programme. The process of public hearings is open to the media and all other observers expressing an interest to attend the process.
5. Members of the civil society Commission shall vote individually and secretly on the ranking of candidates.
6. The civil society Commission shall carry out its activity collegially, according to the rules and procedures provided for in the legislation on the organisation and functioning of collegial bodies, unless otherwise provided in this law.

#### **Article 58**

##### **Election of the Member of the High Judicial Council from Civil Society Representatives**



1. The Chairperson of the civil society Commission shall submit to the Secretary General of the Assembly a list with the names of not more than 10 candidates who have received higher scores, and in any case no less than three times the number of vacancies. The list and the evaluation report shall be recorded in the register of the protocol office of the Assembly. An original copy or certified copy of the documentation of each selected candidate together with the inventory of the respective file shall be enclosed with the list.
2. The rules provided in paragraph 2 to paragraph 19 of Article 35 of this Law are applicable even for the selection of the member of the High Judicial Council from the ranks of civil society representatives.

## **CHAPTER II**

### **ORGANISATION AND THE MEETING OF THE HIGH JUDICIAL COUNCIL**

#### **SECTION 1**

##### **Organisation of the High Judicial Council**

#### **Article 59**

##### **Chairperson of the High Judicial Council**

1. The Chairperson and the deputy chairperson of the High Judicial Council shall be elected at the first meeting of the Council from the ranks of lay members by simple majority of votes of the members. They hold office until the end of the term as a Council member.
2. The Chairperson of the Council shall benefit the salary and the benefits of the Chairperson of the High Court.
3. The Chairperson of the High Judicial Council shall exercise the following powers:
  - a) Be responsible for the proper functioning of the Council and efficient performance of its duties in accordance with the law;
  - b) Prepare, call and chair the Council meetings;
  - c) Oversee and direct the administration of the Council;
  - ç) Represent the Council in relations with third parties;
  - d) Ensure cooperation with other institutions;



- dh) Report to the Assembly on the situation in the judicial system and take measures for the publication of the report;
- e) Propose the heads of the standing committees and assign the heads of ad hoc committees of the Council;
- ë ) Perform any other tasks assigned by law.

**Article 60**  
**Deputy Chairperson**

The Deputy Chairperson shall exercise all competences of the Chairperson in the absence and incapability of the latter and in the cases of temporary incapability of the Chairperson.

**Article 61**  
**Plenary Meeting of the High Judicial Council**

*(Amended by the CC Decision no. 41/2017 and Law no. 47/2019 Article 4)*

1. ~~The High Judicial Council is organised and performs its activity in committees or plenary meetings. The competences of the Council which are not mentioned in paragraph 2 of this Article shall be exercised by the committees. The competences mentioned in paragraph 2 of this Article shall be exercised by the Plenary Meeting, based on proposals of the respective Committees.~~
2. The Plenary Meeting of the High Judicial Council shall exercise the following competences:
  - a) ~~Adopt sub-legal normative acts, pursuant to this law or other laws, with general binding effect on all judges, judicial administration, private individuals and public bodies;~~
  - b) ~~Adopts acts governing the internal procedures of the Council;~~
  - c) ~~Appoint and promote judges based on the proposal of the Career Development Committee;~~
  - ç) ~~Impose the disciplinary measure of dismissal against judges of the Anti-Corruption and Organised Crimes Court by 2/3 of the votes, upon the proposal of the Disciplinary Committee;~~
  - d) ~~Review complaints against decisions of the committees, except for decisions quashing the decisions of the High Justice Inspector to archive the complaints or close investigation, according to paragraph 14, Article 62 of this Law.~~
  - dh) ~~Adopt general non-binding guidelines.~~
  - e) ~~Approve detailed rules on the functioning of the administration of the Council;~~



~~ë) Approve the composition of the standing committees, ad hoc committees and detailed rules for their activities.~~

~~3. All the members of the Council shall attend the Plenary Meeting. A Council member shall not be involved in decision-making of the Plenary meeting for the following topics of the agenda:~~

~~a) In case of a decision on a disciplinary issue, the member who has submitted a request to the High Justice Inspector, based on which disciplinary proceedings have been initiated;~~

~~b) Members of the committee who have taken a decision on a disciplinary issue, foreseen in paragraph 13, Article 62 of this Law.~~

**1. The High Judicial Council is organised and performs its activity in committees or plenary meetings.**

**2. The High Judicial Council shall assume the following competences in the plenary meeting:**

**a) appoints, evaluates, promotes and transfers judges of all levels;**

**b) decides on the disciplinary measures on judges of all levels;**

**c) proposes to the President of the Republic candidates for judges of the High Court, in accordance with the law;**

**ç) approves the rules of judicial ethics and monitors their observation;**

**d) directs and manages the activity at the administration of the courts;**

**dh) proposes and administers its own budget and the budget of the courts;**

**e) informs the public and Assembly on the situation of the judicial system;**

**ë) approves normative sublegal acts, implementing this law or other laws, of general binding impact on all the judges, judicial administration, private persons and public bodies;**

**f) approves acts on the regulation of the internal procedures of the Council;**

**g) approves the Code of Ethics of the Council;**

**gj) examines the decisions of the committees, as applicable;**

**h) approves non-binding instructions;**

**i) approves detailed rules for the functioning of the administration of the Council;**

**j) approves the composition of the standing committees, ad hoc committees, as well as detailed rules on their functioning.**

**3. All the members of the Council shall attend the plenary meeting. A member of the Council shall not attend the decision-making of a plenary meeting or committees for the following issues of the agenda:**

**a) in the event of a decision regarding a disciplinary issue, when the member has submitted with the High Justice Inspector the request, based on which the disciplinary proceeding has been initiated;**

**b) where as a member of the committee has made a decision on the disciplinary issue, provided in paragraph 13 of Article 62 of this law.**

**4. The committees shall perform other activities in accordance with the internal regulation.**

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**Article 62**

**Standing Committees of the High Judicial Council**

1. The standing committees of the High Judicial Council exercise the activity and make decisions in their respective fields provided for in paragraph 3 of this Article or they propose to the plenary meeting of the Council the approval of decisions that are within the competence of the latter, in accordance with Article 61 of this Law.
2. After electing the Chairperson, the Council shall take a decision on the composition of the standing committees, including the substitute members. In each case, a judge member can only be substituted by another judge member. A lay member can only be substituted by another lay member. More detailed procedures and criteria for this decision are regulated by the Council.
3. The High Judicial Council is composed of the standing committees as follows:
  - a) Strategic Planning, Administration and Budget Committee;
  - b) Disciplinary Committee;
  - c) Committee of Ethical and Professional Performance Evaluation;
  - ç) Career Development Committee.
4. Each Committee shall consist of three members. Two substitute members shall be appointed to each Committee. The assignment of members and substitute members of the committees shall be made by keeping in mind the need to ensure a fair division of workload and the respect for the requirements and relationship between judge members and lay members provided for in paragraphs 5 to 12 of this Article and, to the possible extent, the preferences of the members;
5. A member of the Council may be a member in no more than two standing committees. A member of the Council may not be a chairperson in more than one standing committee. This rule shall not apply to substitute members and to ad hoc committees;
6. The committees elect their respective chairpersons in their first meeting by majority vote and based on the proposal of the Chairperson of the Council. The Chairperson of the Council shall be the chairperson of the committees he/she is part of.
7. Members of the Committee of Ethical and Professional Performance Evaluation may not be members of the Career Development Committee.
8. The Strategic Planning, Administration and Budget Committee shall consist of two lay members and one judge member.
9. The Disciplinary Committee shall consist of two judge members and one lay member.



10. The Committee of Ethical and Professional Performance Evaluation shall consist of two judge members and one lay member.
11. The Career Development Committee shall consist of two judge members and one lay member.
12. Committee members shall perform their functions attached to the committees for two years and a half from the date of the election. At the end of this period, the composition of committees shall be renewed in accordance with the procedure provided for in paragraph 2 of this Article.
13. An ad hoc committee consisting of two lay members and one judge member shall be set up to consider the complaints against decisions of the High Justice Inspector to archive the complaint or close the investigation against a judge. The composition of this committee is determined by lot under the auspices of the Chairperson of the Council. The decisions of the ad hoc committee are final and may not be appealed before the Plenary Meeting of the Council.
14. The High Judicial Council may establish ad hoc committees to address specific matters.
15. Committees shall decide by a majority of votes in the presence of all members.
16. Within January of each calendar year, each standing committee shall present in the plenary meeting of the Council, an annual report on its activities with the findings and relevant recommendations. The report shall be published on the official website of the Council.

### **Article 63** **The Rapporteur**

1. In all cases where the plenary meeting or High Judicial Council committees review and approve individual administrative acts relating the professional status of specific judges or specific officials of the judicial administration, one of the members of the committee shall serve as a rapporteur.
2. Each member of the committee, including the chairperson of the committee, may be a rapporteur. The rapporteur is assigned by lot taking into account the workload and the skills of each member according to the procedure and more detailed rules adopted by the Council. The Chairperson of the Council may not be a rapporteur.
3. The rapporteur shall be responsible for the development of individual administrative proceedings and in particular for the following:
  - a) Review of the documentation submitted by subjects of administrative procedure;
  - b) Preparation of the draft administrative act;

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- c) Coordination with the chairperson of the committee to prepare the meeting of the committee;
  - d) Coordination with the chairperson of the Council to prepare the plenary meeting of the Council;
  - e) Notifications for the subjects of administrative proceedings.
4. The rapporteur, in the exercise of his/her responsibilities, shall be assisted by the administrative staff of the High Judicial Council.

#### **Article 64**

#### **Engagement of Judges in the Activity of the High Judicial Council**

The High Judicial Council may engage, as experts for specific matters or fields, even the sitting judges. Sitting judges provide their services voluntarily and free of charge.

#### **Article 65**

#### **Right to Seek Information**

1. Every public authority, natural or legal person shall cooperate with the High Judicial Council by making available information or documents required by the Council to perform its functions.
2. Every public authority, natural or legal person shall attend or send representatives to plenary meetings or Council Committees in order to present evidence and testify in connection with any matter that is related to the assumption of the functions of the Council.

### **SECTION 2**

#### **PLENARY MEETING OF THE HIGH JUDICIAL COUNCIL**

#### **Article 66**

#### **Calling the plenary meeting of the High Judicial Council**

1. The High Judicial Council shall meet whenever necessary, but not less than once a month.
2. The Chairperson of the Council shall decide on the date and time of the meeting.
3. The Chairperson may call other meetings when deemed necessary for the operation of the Council;
4. The meeting of the Council may be called upon the request of at least three members of the Council by determining in the request the issues to be discussed in the meeting. The



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Chairperson shall decide on the date and time of the meeting not later than 7 days from the submission of the request.

5. The Chairperson shall assure the observation of the procedures for the notification of every member in writing not later than seven days before each meeting of the Council.
6. The notice shall be accompanied by the agenda, draft decisions proposed to be made during the meeting, along with any data, draft act and legal advice, as well as any other information or act that shall be considered in the meeting or subject to the discussions in the meeting;
7. The rules foreseen in paragraph 6 of this Article shall not constitute an impediment to approve requests for changing the content of a draft decision that accompanies the agenda.
8. Each decision of the Council constituting an individual administrative act regarding the professional status of specific judges or specific officials of the judicial administration shall be signed by every member present in the meeting, in accordance with what has been agreed. The refusal by a member to sign the content of the decision shall not constitute a reason for invalidation of the act. The other acts shall be signed by the Chairperson of the Council.
9. In cases where the Council makes individual administrative decisions regarding the professional status of specific judges or specific officials of the judicial administration, the dissenting member may request that his/her opinion be annexed to the decision of the Council. In this case, the member is responsible for drafting and submitting the dissenting opinion within the deadline set by the Council for the transcription of the decision.

#### **Article 67** **Agenda**

1. The Chairperson of the High Judicial Council shall set the agenda of the Council's plenary meeting.
2. A particular issue shall be added to the agenda, when requested in writing to the Chairperson by at least three members of the Council, not later than 4 days before the meeting.
3. If at least 6 members attending a meeting of the Council decide, that an issue, which has not been included in the agenda, should be discussed as well as be given a solution in the meeting, the issue shall be added to the agenda.

#### **Article 68** **Quorum and Decision-Making in the High Judicial Council**



1. Participation in the plenary meeting of the High Judicial Council is mandatory. In any case, the necessary quorum for the holding of plenary meetings of the High Judicial Council shall be reached when not less than seven members are present.
2. The High Judicial Council shall decide by a majority of votes of the members present. The voting is open.
3. A member of the Council present at the meeting may not renounce the vote, unless legal obstacles exist such as conflict of interest or other obstacles in the meaning of this Law, the law on conflicts of interest or the Code of Administrative Procedures.
4. The Administration shall take notes and record the votes of the members of the Council.
5. The Chairperson is the last member to vote in connection with an issue.
6. In the event of a tie, the Chairperson's vote shall be a casting vote.
7. Every member of the Council shall be liable for the vote and entitled to make a brief oral or written statement on the reasons for the vote.

#### **Article 69**

##### **Documentation of the Plenary Meeting of the High Judicial Council**

1. The Chairperson shall be responsible for ensuring that the administration takes all necessary measures that every plenary meeting of the High Judicial Council be properly documented through:
  - a) Audio recording;
  - b) Minutes of the meeting with a summary of discussions.
2. The audio recording of the plenary meeting shall be made public on the official website of the Council within 24 hours from the day of the meeting. Prior to the publication, under the Chairperson's responsibility, the administration shall edit the material by deleting any reference to concrete names, except for the names of the members of the Council and the names of the judges against whom the disciplinary measure of suspension and dismissal has been taken.
3. The minutes of the meeting with a summary of discussions shall be published on the official website of the Council, after being approved by the next plenary meeting of the Council. Even in this case, under the Chairperson's responsibility, the administration shall delete any reference to concrete names, except for the names of the members of the Council and the names of the judges against whom the disciplinary measure of suspension and dismissal has been taken.

4. Under the direction and supervision of the Chairperson, the administration shall keep the minutes of the meeting with a summary of discussions of every meeting, writing down at least the following information:
  - a) members present in the discussions for each issue of the agenda;
  - b) issues of the agenda, including issues added under Article 67, paragraph 2 and 3, of this law;
  - c) self-recusal of members of the Council and relevant reasoning;
  - ç) main aspects of issues discussed and proposals for decisions;
  - d) the voting outcome, the voting manner for each member and the reasoning of the vote by each member, and
  - dh) decisions.
5. The minutes with the draft summary of discussions of the meeting shall be signed by the Chairperson and made available to all members, within five days following the day of the meeting.
6. Each member of the Council present in the meeting may note inaccuracies in the content of the summary minutes and ask the Chairperson, through a request in writing, for the inaccuracies to be corrected. The summary minutes of the Council meeting shall be corrected only, if the audio recording confirms the inaccuracy, in the following ways:
  - a) upon the order of the Chairperson on the basis of a request submitted in accordance with paragraph 6 of this Article, or
  - b) upon decision of the Council in the following meeting.
7. The Administration shall take the measures that audio recordings of the Council meetings and the summary minutes be stored for not less than 10 years, in accordance with the Law “On Archives”.

#### **Article 70**

##### **Application by Analogy of the Rules for the Council Committees**

1. Provisions of Articles 66 to 69 of this Law on the calling of the meeting, the agenda, the quorum, the decision-making and the documenting of the plenary meeting of the High Judicial



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Council shall also apply, to the extent possible and with the respective amendments, to the meetings of the committees of the High Judicial Council.

2. The High Judicial Council shall adopt detailed rules for the organization and functioning of the committees.

#### **Article 71**

##### **Relationship of the High Judicial Council with the Minister of Justice**

1. The Minister of Justice coordinates the development and implementation of state policies and cross-cutting strategy of the justice sector. The Minister of Justice is responsible for preparing the draft legal acts in the justice field in relation to which he/she takes even the opinion of the High Judicial Council.
2. The Minister of Justice may file a complaint before the High Justice Inspector for the alleged disciplinary misconduct of judges and it may request the High Justice Inspector to conduct institutional and thematic inspections in courts.
3. The Minister of Justice may participate in the joint meeting of the High Judicial Council and High Prosecutorial Council.
4. The Minister of Justice or persons authorised by him may participate as observers in the General Meeting of judges, meeting of the General Council of the National Chamber of Advocacy, Academic Staff Assembly and Steering Council of the School of Magistrates, Special Meeting of the Heads of Institutions for the selection of judge members of the High Judicial Council.
5. The High Judicial Council shall cooperate with the Minister of Justice in order to ensure the compatibility of budget and strategic planning of the judicial system as adopted by the Council, with the state policies and cross-cutting strategy of the justice sector.
6. The Minister of Justice may exercise the above-mentioned rights personally or through a representative authorised in writing by him/her.
7. In the exercise of his/her functions, the Minister of Justice shall have full access to the statistical data generated from the management system regarding cases dealt with by the courts.

#### **SECTION III**

##### **CONFLICT OF INTEREST**



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**Article 72**  
**Conflict of Interest**

The Council member, present at the meeting of the committee or the plenary meeting, who is aware of a conflict of interest or legal obstacle to himself/herself or to another member regarding the issues on the agenda, shall be bound to as follows:

- a) declare the nature of the interest or obstacle;
- b) not participate in the discussion of the relevant issue;
- c) not participate in voting on the respective issue.

**Article 73**  
**Incompatibility due to Participation in the Proceedings**

A member of the High Judicial Council may not participate in the consideration of disciplinary proceedings against a judge, neither in the disciplinary committee nor in the plenary meeting, when he has given advice or has expressed any opinion on the issue that is subject to disciplinary proceedings, due to the quality as a judge, prosecutor, inspector, witness, representative of the parties, expert or in any other capacity.

**Article 74**  
**Incompatibility due to Family, Kinship or Marriage Relations**

A member of the High Judicial Council may not participate in the meetings of the committees or plenary meeting of the Council considering disciplinary proceedings against a judge, in the decision-making on the promotion, transfer and secondment of a judge and neither be a rapporteur for professional and moral assessment of a judge as well as in any other administrative proceedings related to the status of a judge or other functionaries of the judicial system, whose status is administered by the Council, if the following relationship exists between them:

- Marital or cohabitation relationships;
- Close kinship relationship including ancestors, descendants, brothers, sisters, uncles, aunts, nephews, nieces, children of brothers and sisters;
- Close relations by marriage including father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepson, and stepfather.

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**Article 75**  
**Recusal**

1. A member of the High Judicial Council is obliged to recuse himself/herself from participation in the meetings of the committees or plenary meeting of the Council considering disciplinary proceedings against a judge, in the decision-making on the promotion, transfer or secondment of a judge and neither be a rapporteur for professional and moral assessment of a judge as well as from any other administrative proceedings related to the status of a judge or other functionaries of the judicial system whose status is administered by the Council, in the following cases:
  - a) When he/she, the spouse/cohabitant or the children are debtors or creditors in relation to the subject of the proceedings, or that is to be evaluated or promoted, transferred or seconded, or that have represented his/her interests in the past;
  - b) When the advocate or representative of the subject of the administrative proceeding is a close relative to him/her or of his/her spouse /cohabitant;
  - c) When there are disputes between him/her, his/her spouse / cohabitant or any of his/her close relatives and the subject of the proceeding, or that is to be evaluated, promoted, transferred or seconded;
  - ç) When he/she or any of his/her relatives or spouse / cohabitant has been damaged by the actions or acts of the subject of the administrative proceeding, which have caused the initiation of disciplinary proceedings;
  - d) When a close relative of him/her or of his/her spouse / cohabitant has filed the complaint to the High Justice Inspector, the investigation of which has led to the initiation of disciplinary proceedings.
2. The decision on accepting the recusal of a member shall be made by the Chairperson of the Council. In case of recusal of the Chairperson, the decision on its acceptance shall be made by the Deputy Chairperson.

**Article 76**  
**Exclusion of a Member**

*(Amended by the CC Decision no. 78/2017 and Law no. 47/2019 Article 5)*

1. The proceeded judge or civil servant or his/her legal representative, or the High Justice Inspector may request the exclusion of a member of the Council from participating in the consideration of an administrative procedure only in the preliminary stage of the process, when there exists one



of the reasons provided for in Article 75 of this Law and when the member does not recuse him/herself from the case review.

~~2. The decision to exclude a member shall be made by the Chairperson of the Council. When the exclusion of the Chairperson of the Council is requested, the decision shall be made by the Deputy Chairperson.~~

**2. The decision on excluding a member from the examination of a case in the committee or plenary hearing, shall be made by the Council, pursuant to the rules set out in Article 72 of this Law. Where the exclusion of the Chairperson of the Council is requested, the meeting shall be presided over by the Deputy Chairperson of the Council.**

#### SECTION IV ORGANISATION OF THE ADMINISTRATION OF THE HIGH JUDICIAL COUNCIL

##### Article 77 Administration of the Council

1. The administration shall assist the High Judicial Council with the realisation of the mission and functions of the Council.
2. The Administration of the Council shall be headed by the Chairperson of the High Judicial Council and it shall regularly report to him/her.
3. Staff members of the High Judicial Council shall have the status of civil servants in accordance with provisions of the law “On Civil Servants” or they shall be judges seconded to the Council under provisions of the law “On the status of Judges and Prosecutors in the Republic of Albania”.
4. The Law “On Civil Servants” shall apply to the staff the High Judicial Council, unless otherwise provided by this Law.
5. Civil servants may be invited to participate in meetings of the Council or committees and as well as ask to take the floor with no right to vote.
6. The High Judicial Council shall employ administrative employees under the rules laid down in the Labour Code.

##### Article 78 Secretary General



1. The Secretary General of the High Judicial Council is the highest administrative functionary of the Council.
2. The Secretary General shall be recruited in accordance with the procedures provided for in the law "On Civil Servants".
3. The Director of the unit for general legal issues shall replace the Secretary General in cases of absence or temporary incapacity of the latter.
4. The Secretary General of the Council or his/her substitute is entitled to access any document that is considered in the meetings of the committees or in the meeting of the Council, to take part in meetings of the committees or in the meeting of the Council with no right to vote, as well as propose to include in the agenda issues related to administrative aspects and their staff.

**Article 79**  
**Organisation of the Administration**

1. The administration of the High Judicial Council shall be divided, at least, in the following units:
  - a) support unit for general legal issues;
  - b) support unit for each standing committee of the Council;
  - c) support unit for the administration of the budget of the Council and the judicial budget;
  - ç) the Office of the Ethics Advisor;
  - d) support unit for public relations and publications;
  - dh) support unit for information technology;
  - e) support unit for the training of judges and judicial civil servants.
2. Regarding the administration, the Council shall decide on the following:
  - a) the structure of the administration and the structure of each unit;
  - b) establishment of other organizational units within the administration;
  - c) definition of duties and responsibilities of all organizational units of the administration and individual positions;

- ç) procedural rules under which the administration operates in such a way as to provide efficient and effective support to the Council and its Committees.

**Article 80**  
**Conflict of interest**

1. Provisions of the Code of Administrative Procedure and the law “On preventing the conflicts of interest in assuming public functions” over impartiality of the public administration shall apply to the administrative staff of the High Judicial Council.
2. The Chairperson of the Council shall be responsible for making decisions on the exclusion from decision making or confirmation of civil servants in the event of conflict of interest.

**CHAPTER III**  
**FUNCTIONS OF THE HIGH JUDICIAL COUNCIL.**

**Article 81**  
**Strategic planning**

1. The High Judicial Council, in cooperation with the Minister of Justice shall draft, approve and implement a strategic plan for the judicial system in line with the objectives of this Law and in coordination with the strategy of the justice sector.
2. The strategic plan, in harmony as regards the timeline with the sector strategy of the Ministry, must:
  - a) define the mission and main values of the judiciary;
  - b) analyse the profile of the judiciary;
  - c) define strategic issues;
  - ç) define priorities;
  - d) define the monitoring, the assessment and reporting framework of the strategy.
3. The Strategic Plan shall be followed by an action plan, including operational objectives, activities, financial and other impacts, as well as the indicators of achievements.

**Article 82**

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### Reporting to the Public and to the Assembly

1. The High Judicial Council shall, not less than once per year, report to the Assembly on the situation in the judicial system during the previous calendar year. The report shall describe the activity of the Council and its Committees and it shall contain recommendations for necessary improvements.
2. The report shall be submitted to the Assembly not later than 1 May of each year. The report shall be published on the official website of the Council and in any other way that the Council shall deem appropriate.
3. The Council shall respond to the request of the Assembly to present the report and answer questions about it.
4. Recommendations conveyed in the resolution adopted by the Assembly regarding the annual report of the High Judicial Council shall be binding to be considered by the Council to the extent they do not affect the independence of this institution.
5. The Council shall report in any other case it shall deem necessary or upon the request of the Assembly.

### Article 83 Judicial Ethics

1. The High Judicial Council shall be responsible for adopting the standards of judicial ethics and rules of conduct of judges and observing compliance with them. In particular, the Council shall perform the following duties:
  - a) publish the standards of ethics and rules of conduct for judges;
  - b) review rules from time to time and, amend them, if necessary;
  - c) analyse the degree of implementation/observance of rules of ethics and publicly report the findings.
2. The Council shall assign one Ethics Advisor from the ranks of judges, who meets legal requirements to be a member of the High Court and has the experience and knowledge on ethics matters. The Ethics Advisor shall serve for a 5-year period, with the right to only one reappointment.
3. The Council may, due to work needs, decide that the Ethics Advisor serves on full-time basis. In this case, the Council shall follow the secondment procedure for the assignment of the Ethics Advisor.

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4. The Ethics Advisor shall perform the following tasks:

- a) give advice, upon the request of any judge on the most appropriate behaviour in and outside of the court, in the event of ethical uncertainties;
  - b) may ask for the opinion of the Council on certain issues relating to the conduct of judges in general, but not in relation to specific persons;
  - c) elaborate, publish, and continuously update an informative manual, which shall reflect questions and answers relating to ethical questions, based on the best international standards and practices and relevant decisions of the Council;
  - ç) ensure, in collaboration with the School of Magistrates, the initial and continuous training on issues of ethics;
  - d) report in writing, not less than once a year, before the Council in relation with his/her activity.
6. The salary of the Ethics Advisor shall be determined based on the law “On the Status of Judges and Prosecutors in the Republic of Albania”.
7. The Ethics Advisor is bound to preserve confidentiality, refraining from disclosing any information to the structures of the governance bodies of the judiciary that exercise the competence to inspect and evaluate.
8. The Council shall provide the necessary support with human and financial resources to enable the activity of the Ethics Advisor.

#### **Article 84**

##### **Determining the Territorial Jurisdiction and the Size of Courts**

The High Judicial Council shall carry out the functions relating to the determination of territorial jurisdiction and the size of courts based on the law on the organisation of the judicial power.

#### **Article 85**

##### **Recruitment, Appointment of Judges and Proposal of Candidates for High Court Judges**

1. The High Judicial Council shall collaborate with the School of Magistrates for the recruitment of candidate judges in accordance with this Law and the Law “On the Status of Judges and Prosecutors in the Republic of Albania” and shall appoint judges after graduation from the School of Magistrates.



2. The Council shall propose the candidate judges for positions at the High Court to the President of the Republic in accordance with the Constitution and the Law “On the Status of Judges and Prosecutors in the Republic of Albania”.

3. Criteria for the selection of candidates for members of the High Court shall be specified in the Law “On the Status of Judges and Prosecutors in the Republic of Albania”

#### **Article 86**

##### **Career Development and Discipline**

Pursuant to the Law “On the Status of Judges and Prosecutors in the Republic of Albania”, the High Judicial Council shall be responsible for the following issues with respect to all judges, except for the judges of the Constitutional Court:

- a) appointment;
- b) assignment in position;
- c) transfer;
- ç) promotion;
- d) secondment and reappointment;
- dh) ethical and professional performance evaluation;
- e) imposition of disciplinary measures and suspension;
- f) any other tasks assigned by law.

#### **Article 87**

##### **Public Attitudes**

The Council, ex officio or based on the requests of judges, may make public statements to protect certain judges when it deems that their human rights are in danger of being violated due to the performance of their duty or that the performance of their legal functions is being endangered or may be endangered as a result of actions or positions of any public or private entity.

#### **Article 88**

##### **Continuous Training of Judges**

The High Judicial Council shall cooperate with the School of Magistrates in relation to the continuous training of judges and it shall perform the following tasks.

- a) keep contacts with the School of Magistrates with regard to the continuous training of judges;
- b) advise the School of Magistrates about the continuous training program for judges;



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- c) Decide on judges' requests concerning the continuous training in the School of Magistrates;
  - ç) monitor and report publicly in relation to the training effectiveness;
  - d) perform any other tasks assigned by law in the field of training of judges.

**Article 89**  
**Administration of Courts**

The High Judicial Council shall ensure the organisation and functioning of services, which are related to the judicial administration, by exercising the following powers:

- a) design and follow up implementation of policies for judicial administration;
- b) monitor and manage the case-load of judges and courts, the duration of proceedings and other aspects of judicial administration, based on data gathered through the case management system, in order to improve the productivity of courts, or decrease the case-load of judges and the workload of judicial civil servants;
- c) adopt standard internal rules of the court.

**Article 90**  
**Human Resources in Courts**

1. The High Judicial Council shall be responsible for following up issues of human resources in courts. In particular, the Council shall perform the following duties:

- a) enter information and update the Central Staff Registry for judicial civil servants and administrative employees of the courts;
- b) publish and declare an open competition for vacancies in the judicial civil service, and the initiation of procedures for promotion and lateral transfer.
- c) appoint the chancellor of the court and the legal assistants and take disciplinary measures against them.
- ç) approve and update the rules of procedure relating to the status of judicial civil servants as defined in the law "On the Organisation of the Judicial Power in the Republic of Albania";



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- d) assign its representative in the Council of the Court according to the provisions of the law “On the Organisation of the Judicial Power in the Republic of Albania”;
  - dh) cooperate with the School of Magistrates for the initial and continuous training of chancellors, advisors and legal assistants according to the stipulations of this law and “On the Organisation of Judicial Power in the Republic of Albania”;
  - e) ensure the initial and continuous training of judicial civil servants, except for chancellors, advisors and legal assistants, according to the stipulations of this law and the law “On the Organisation of the Judicial Power in the Republic of Albania”;
  - ë) approve the Code of Ethics for judicial civil servants after consulting the Courts' Councils;
  - f) ensures the proper administration of real estate of courts in cooperation with the Chairperson of the Court and the Court Council;
  - g) set up the Restructuring Committee in case of closure or restructuring of the courts;
  - gj) ensure the creation and functioning of the system of judicial archive and its management and administration;
  - h) perform any other competences foreseen by law.

2. The High Judicial Council shall be informed by the courts of any information necessary to fulfil its responsibilities.

#### **Article 91**

##### **Access to Justice and Public Relations**

1. The High Judicial Council shall be responsible for maintaining relationship of the judiciary with the public. In this context, the Council shall perform the following tasks:
  - a) create, develop, and maintain an electronic portal on the Internet, in order to provide adequate information on access to justice, including detailed information on the structure of the judiciary and special courts, the nature and purpose of judicial proceedings, legal aid, the average duration of cases, court fees, alternative means of dispute resolutions and other issues of public interest;
  - b) provide that each court has its unique space in the portal on the Internet and is allowed to publish on it data for the court and court cases;





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- c) take measures that the public and stakeholders be informed on the activities of courts and special judicial matters;
  - ç) approve and update, after consultation with the Courts' Councils, the standard press guidelines.
2. The Council shall assign one of its members to perform duties in connection with public relations.
  3. The High Judicial Council shall appoint at least one judge for the media for any appellate jurisdiction. In those cases, where the communication with the public cannot be performed by him/her, the service shall be performed by the press service of the Council;
  4. The School of Magistrates shall provide training for Council members, judges dealing with the media, the Council administration and judicial civil servants involved in public relations activities.
  5. Public relations services shall be performed based on principles of the right of access to information, taking into account the protection of human dignity, privacy and personal data, reputation and the presumption of innocence.

#### **Article 92**

##### **Information Technology Electronic System**

1. The Council of Ministers shall approve rules for general state policies for the information technology system for the justice system, among others providing for:
  - a) Protective measures, thus ensuring access only for the justice system bodies, unless the data are of statistical nature, or it has been otherwise provided by law;
  - b) Ensuring full access for the High Justice Inspector to the data contained in the entire information technology system in connection with the High Judicial Council, courts, High Prosecutorial Council and prosecution offices;
  - c) Guaranteeing the protection of personal data and confidentiality, as well as possibility for each person to have a due legal process or the possibility of a public authority to conduct a criminal investigation;
  - ç) For the organisation and functioning of the information technology centre for the system of justice with one of the justice institutions and determining its powers.



2. In compliance with the general policies in the field of technology and security of information, the High Judicial Council shall, in cooperation with the information technology Centre for the justice system, be responsible for:

- a) Developing or participating in the development of the information technology electronic system for use in courts;
- b) Managing, coordinating, monitoring and supervising the use of information technology in courts.
- c) Determining the applicable information technology electronic system of cases and ensuring that the system be used in every court;
- ç) Establishing rules for the functioning and security of the electronic case management system and the protection of personal data saved and used by the system;
- d) Maintaining the information technology electronic system of cases in accordance with the rules laid down in letter “b”, paragraph 2 of this Article;
- dh) Providing technical assistance to the courts on the use of the electronic case management system;
- e) Updating the system periodically to ensure the implementation of functional requirements of courts, the Council and other bodies within the judicial system, as well as to reflect amendments to procedural laws;
- ë) Ensuring the accuracy and security of data and personal data protection;
- f) Ensuring that the information technology electronic system of cases generates statistical information necessary for the work of the High Judicial Council and other bodies, which are in compliance with European standards on work indicators of the judiciary, such as the clearance rate, number of cases per judge, the average duration of cases and the duration of ongoing cases in relation to the average duration, etc.;
- g) Setting rules for the mandatory use of the electronic case management system by courts, the unification of data entry and data accuracy.

**Article 93**  
**Opinions on Legislation**



1. The High Judicial Council shall be responsible for expressing opinions and making propositions regarding amendments to the legislation that may affect the work of the judiciary and any other matter that is within the responsibility of the Council.
2. In particular, the Council shall perform the following duties:
  - a) examine the application of rules of civil, criminal or administrative judicial proceedings;
  - b) make recommendations for changing rules of civil, criminal or administrative judicial proceedings;
  - c) give a response to requests made by ministers to give an opinion on a draft law or any other matter that may affect the judicial system or courts; and
  - ç) may give opinions on a draft law or any other matter that may affect the judicial system or courts, submitting it to a minister or any other body.
3. The Council shall propose to the Minister of Justice to launch the initiative for legislative changes with respect to any matter that is under its responsibility.

**Article 94**  
**Internal Rules of the Courts**

1. The High Judicial Council shall adopt standard rules for the internal functioning of the courts.
2. The internal rules of courts shall contain rules about the structure of the courts, efficiency and quality of justice provided in these courts.
3. The standard rules for the structure shall contain at least the following arrangements:
  - a) Standard organisational structure of courts of all instances;
  - b) Standard description of tasks and responsibilities for each category of employees of the courts.
4. Standard rules for the efficiency of justice shall include provisions on:
  - a) Standard time limits for adjudicating various types of court cases, including, where appropriate, the deadline for the main stages of the procedure, the execution of decisions, keeping in mind the judicial organization and procedural rules;
  - b) Standard rules to be used by the courts to determine the deadlines taking into account the complexity of the cases with the goal of continuously improving the case

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- management system;
- c) Standard actions to be taken in cases where examination of cases exceeds the deadlines;
  - ç) Standard rules for monitoring the duration of suspension resulting from the omission of the parties or the courts;
  - d) Standard rules for monitoring and dissemination of data for the court staff and all users of the courts;
  - dh) Guideline on keeping judicial statistics;
  - e) Guideline on an active role of judges in case management;
  - ë) Guideline on monitoring adjournments of hearing sessions;
  - f) Models of judicial decisions;
  - g) Guideline on the use of audio visual technology in the judicial process;
  - gj) Guideline on the use of information technology and the taking of evidence in courts;
  - h) Creation of mechanisms to solve functional problems and balanced distribution of workload between judges and courts;
5. Standard rules on the quality of justice indispensably include, inter alia, even the following adjustments:
- a) Development of surveys on the assessment of court services by court users;
  - b) Development, testing and use of indicators for the quality of judicial services;
  - c) Measures to improve the quality of work of judicial experts;
  - ç) Measures to improve access to justice;
6. The High Judicial Council may conduct pilot studies in cooperation with courts in order to enhance the quality and efficiency of the courts.

**Article 95**  
**Annual Budget of the Council and Courts**



1. The High Judicial Council and the judicial system are funded from the state budget and other lawful resources.
2. The annual budget of the High Judicial Council and judicial system is part of the state budget and follows all the procedures of drafting and implementation foreseen in the respective legislation.
3. The High Judicial Council is responsible for drafting the annual and mid-term budget in consultation with the Ministry of Justice and Ministry of Finance.
4. The High Judicial Council participates in the meeting of the Assembly where the draft budget of the judicial system is discussed.
5. The High Judicial Council is responsible for monitoring costs, distributing funds and keeping accurate accounts according to the provisions of the legislation in force on the budget system in the Republic of Albania.

**Article 96**  
**Court Budget Implementation**

1. The High Judicial Council shall, in pursuance of the competences provided for in Article 95 of this Law, perform the following tasks:
  - a) assist courts in drafting their draft annual budgets;
  - b) collect and analyse data on the implementation of the budget and the revenues obtained by courts;
  - c) supervise and advise the courts on appropriate and efficient techniques and procedures related with their financial management;
  - ç) set standards of best practices and performance targets in relation with financial administration of courts;
  - d) provide training for judicial staff on financial management of courts;
  - dh) undertake projects aiming at improving the financial management of courts;
  - e) take further steps designed to facilitate effective and consistent fund-raising for the courts;
  - ë) Cooperate and ask for funds from other local and international agencies in relation to Council functions.



2. In order to implement the tasks provided in the first paragraph of this Article, the Judicial Budget Administration Unit shall be established as an integral and functional part of the Council.
3. The Judicial Budget Administration Unit shall have the following competences:
  - a) examine and determine budget needs of all components of the judiciary in cooperation with financial sectors of courts at all instances;
  - b) process financial indicators relating to courts' requirements and activities;
  - c) control the use of funds given to courts by their destinations.
4. Regarding the activity of the Judicial Budget Administration Unit, the Council shall exercise the following competences:
  - a) approve the draft annual and mid-term budget proposed by the Unit for each court instance and submit it for consideration and approval to the competent authority in accordance with the provisions of the respective legislation;
  - b) audit and monitor the use of allocated funds and analyse courts' requirements for funds that may arise during the budget year.
5. Funds made available to the Council and the courts shall be used for the following purposes:
  - a) salaries and social insurances of the members and staff of the Council, as well as of the judges, judicial civil servants and other employees of the courts;
  - b) meeting the needs for operating costs of the Council and courts, as well as for other judicial activities;
  - c) building or refurbishing court buildings and other investments;
  - ç) covering court costs connected to the provision of mandatory legal aid in cases stipulated in specific legal provisions.

#### **CHAPTER IV RULES AND ACTS OF PROCEDURE**

##### **Article 97 Acts of the High Judicial Council**



1. The High Judicial Council shall, when exercising its functions, issue the following acts:
  - a) individual administrative acts regarding the professional status of individual judges or individual officials of the judicial administration;
  - b) collective administrative acts regarding the status of all judges or judicial administration officials;
  - c) sub-legal normative acts, pursuant to this law or other laws, with general binding effect on all judges, judicial administration, private individuals and public bodies;
  - ç) acts regarding the approval of the internal procedural rules. Specifically, the procedural rules may include provisions regarding the coordination of activities of the committees, engagement of experts in the activity of the Council, distribution and assignment of responsibilities of the administration, the necessary quorum for committees' meetings, rules on the publication of information on proceedings of the Council, etc.
  - d) non-binding instructions.
2. Under no circumstances shall the Council provide instructions regarding the settlement of a concrete judicial case or group of cases;
3. The High Judicial Council shall apply the Code of Administrative Procedure of the Republic of Albania in any other case or situation that is not expressly provided for by this Law.

#### **Article 98**

##### **Notification and publication of acts of the High Judicial Council**

1. The notification of the administrative individual acts of the High Judicial Council regarding the status of judges or judicial civil servants shall be made in one or more of the following ways:
  - a) directly or to the legal representative, when they are present at the moment of announcement of the act;
  - b) by registered mail to the work address of the recipient;
  - c) to the electronic mail address deposited officially by the subject of the administrative act;
2. The individual administrative acts of the Council regarding the status of judges or judicial civil servants shall be made public on the official website of the Council, followed with the respective reasoning, after being edited to ensure the anonymity of the subjects, except for cases foreseen otherwise in the law "On the status of judges and prosecutors in the Republic of Albania".

3. The notification of collective administrative acts regarding the status of all judges or officials of the judicial administration shall be made through publication on the official website of the Council. These acts shall enter into effect on the date of their publication on the official website of the Council.
4. The sub-legal normative acts shall be published on the official website of the Council and in the Official Journal. They shall enter into effect on the date of their publication in the Official Journal. Where the sub-legal normative act amends another act, the amended act shall be published in the consolidated version on the official website of the Council.
5. This Article shall apply even to the other acts issued by the Committees of the Council.

### **Article 99** **Review Procedure**

1. Where an individual administrative act has been issued by the Committee, the interested subjects are entitled to seek the annulment, amendment or consolidation by the plenary meeting of the Council.
2. The request for review is made in writing. It shall be handed over not later than 10 (ten) days from the day of notification of the interested party, in compliance with the requirements of this article.
3. The request may be based on the following grounds:
  - a) the decision has been based on material and factual errors;
  - b) a severe procedural error has occurred.
4. The applicant may not submit new claims or evidence during the hearing of the matter by the plenary meeting of the Council, unless the interested party proves that it has not been and might not have been aware of these facts before.
5. The plenary meeting of the Council shall examine and decide on the requests within 30 (thirty) days from the day of submission.
6. The request shall not be admitted, if it has not been submitted within the time limit and in the format required under this Law. The applicants shall be notified on the rejection and grounds of rejection of their request for review.



7. The Council, in these cases, shall hold its meetings in-camera. Exceptionally, the Council may hold hearings with the subjects of the proceedings, when this is required as a result of new evidence, under paragraph 4 of this Article.
8. Based on the conclusion of consideration of the request for review, the Council shall determine whether the request for review should be admitted or dismissed. In the event of admission, the Council shall adopt an amended administrative decision. Amendments can be made only to the extent requested by the interested subject.
9. The Council may annul an individual administrative act even ex officio, upon establishing the conditions provided for in paragraph 3 of this Article.

#### Article 100

#### Appeal against Decisions of the High Judicial Council

*(Amended by Law no. 47/2019 Article 6)*

1. An appeal may be filed to the Administrative Court of Appeal against the individual administrative act of the Council, **within 15 days from the date of the notification**, unless otherwise provided for in **the** Law. The individual administrative acts imposing disciplinary measures on judges may be appealed against before the Constitutional Court.
2. The administrative acts of general binding effect shall be subject to the review by the Constitutional Court regarding their compatibility with the Constitution and international agreements and to the review of the Administrative Court of Appeal regarding their compatibility with the law.

### PART III

#### HIGH PROSECUTORIAL COUNCIL

#### CHAPTER I

#### COMPOSITION AND ELECTION OF MEMBERS OF THE HIGH PROSECUTORIAL COUNCIL

##### SECTION I

##### MEMBERS OF THE HIGH PROSECUTORIAL COUNCIL AND THEIR STATUS

#### Article 101

#### Composition of the High Prosecutorial Council and Mandate of Members



1. The High Prosecutorial Council is a collegial body composed of eleven members who serve on full-time basis. Six members of the Council are prosecutors from all levels of the prosecution service. The other five members of the Council are jurists who are not prosecutors, selected from the ranks of advocates, law professors and representatives of civil society.
2. The prosecutor members are elected by the General Meeting of prosecutors of all levels.
3. The non-prosecutor members being elected from the ranks of advocates, the ranks of the teachers of law faculties and the School of Magistrates as well as civil society are elected by the Assembly, upon a preliminary evaluation process of legal conditions and criteria, under the rules provided for in this law.
4. The member of the High Prosecutorial Council, unless circumstances for early termination of the mandate have been established, shall hold office for 5 years, with no right to consecutive re-election.

#### **Article 102**

##### **Status of Members of the High Prosecutorial Council**

1. The member of the High Prosecutorial Council has the status of magistrate according to the provisions of the Law "On the Status of Judges and Prosecutors in the Republic of Albania", unless otherwise provided by this Law.
2. The member of the Council is entitled to the salary and benefits of the High Court judge.
3. The prosecutor member of the Council is not subject to ethical and professional performance evaluation during the time serving as member. Their performance during the period of service as Council members shall be taken account of in the event of transfer or promotion under the law "On the Status of Judges and Prosecutors in the Republic of Albania".
4. The prosecutor member shall, at the end of the mandate, be returned to the position previously held. The mandate of a special prosecutor shall be suspended during the time he/she is assuming the function as member of the High Prosecutorial Council. The prosecutor member of the Council cannot be transferred, promoted or delegated during 3 years after the expiry of mandate.
5. The non-prosecutor member, who prior to appointment was working full time in the public sector, shall be returned to the previous position or, if not possible, to equivalent positions.

#### **Article 103**

##### **Disciplinary Misconduct by Members of the High Prosecutorial Council**

*(Amended by the CC Decision no. 41/2017 and Law no. 47/2019 Article 7)*



~~The provisions of the Law "On the Status of Judges and Prosecutors in the Republic of Albania" on disciplinary misconduct of magistrates apply, to the extent possible and with the necessary changes, even to the member of the High Prosecutorial Council.~~

**1. A member of High Prosecutorial Council commits a disciplinary misconduct, intentionally or due to negligence when they:**

**a) commit actions or omissions which constitute a failure to fulfil the duty, behave unprofessionally or unethically during or outside the exercise of the function, which discredit the position and the image of the member of the High Prosecutorial Council or damage the public trust in the prosecutorial system;**

**b) while exercising the function, disregard the law or facts, intentionally or by gross negligence.**

**2. When determining if the action, omission or behaviour of the member of High Prosecutorial Council shall be considered as a disciplinary misconduct or an issue of professional activity, the following shall be taken into consideration in every case:**

**a) the degree of negligence;**

**b) the frequency of the act or omission;**

**c) the damage, the possibility of causing damage or the degree of the consequences that have come or may come from the action or omission; as well as**

**ç) any situation which is out of the control of the member of the High Prosecutorial Council and which may be related with the non-functioning of the prosecutorial system.**

### **Article 103/1**

#### **Disciplinary Violations in Relation to the Exercise of the Function**

*(Added by Law no. 47/2019 Article 8)*

**1. Disciplinary violations during the exercise of the function are in particular but not limited to the actions, omissions or behaviours of the member of the High Prosecutorial Council, as follows hereunder:**

**a) Failure in filing a request for recusal of participation in the plenary or in the meetings of committees, when it is mandatory under the law, if the member of the High Prosecutorial Council is or should have been aware of such circumstances;**

**b) Submission of a request by the member of the High Prosecutorial Council for recusal, if this action is:**

**(i) not based on reasons provided by law;**

**(ii) done deliberately aiming at creating unfair benefits for the subject of the administrative procedure or aims at avoiding the legal responsibility as a member of the High Prosecutorial Council or that the case is assigned to another member of the High Prosecutorial Council;**

**(iii) not submitted immediately after being informed about the cause;**

**c) Interference or unfair influence on the exercise of the function of another member of the High Prosecutorial Council;**

**ç) Unjustified or repeated non- fulfilment of the functions;**

**d) Repeated delays or delays that bring serious consequences, or procrastinations of procedural actions and/or of procedural acts;**

**dh) The action, omission or behaviour of the member of the High Prosecutorial Council, which creates unfair benefits or damages to the subject of the administrative procedure;**

- e) **Engagement of other persons in performing the duties assigned by law to the member or delegation of duties or activities related to the exercise of the function as member of the High Prosecutorial Council;**
- ë) **Unjustified absence on duty in accordance with the provisions of this law, for more than 3 working days per year;**
- f) **Serious or repeated infringement of legal and sublegal provisions that govern the organization and functioning of the High Prosecutorial Council;**
- g) **Failure to notify the Chairperson of the Council, as well as competent authorities under the law, on interferences or other forms of influence by magistrates, lawyers, political officials, public officials or other subjects;**
- gj) **Breaching the rules of confidentiality and non-disclosure of information, provided by the legislation in force, about which he/she is informed due to the function as a member of the High Prosecutorial Council;**
- h) **Obstruction of the Council, the High Justice Inspector, or any other public body in the performance of their functions, according to the legislation into force;**
- i) **Failure to notify the Council for reasons that constitute a case of termination of the mandate of the member of the High Prosecutorial Council;**
- j) **Failure to comply with legal obligations, that discredit the position and image of the member of the High Prosecutorial Council;**
- k) **Violation of the rules on incompatibility or on the prevention of the conflict of interest, according to the provisions of the legislation in force.**

#### **Article 103/2**

##### **Disciplinary Violations outside the exercise of the function**

*(Added by Law no. 47/2019 Article 8)*

**Disciplinary violations outside the exercise of the function are in particular but not limited to the actions, omissions and behaviours of the member of the High Prosecutorial Council, as follows:**

- a) **use of the position as a member of the Council with the aim of achieving unjustified benefits for him/herself or for others;**
- b) **exercise of activities outside the function, upon payment, by not respecting the rules provided by the legislation in force;**
- c) **associating with persons who are under criminal investigation, are subject to criminal proceedings or with convicted and not rehabilitated persons, when they are not in close relationship with the member of the Council by blood or by law, or the establishment of inappropriate business relations with such persons;**
- ç) **benefiting directly or indirectly gifts, favours, promises or preferential treatment of any kind, which are given because of the exercised function or due to the use of his/her position as member of the Council, even when formalised with a legal action;**
- d) **other cases of behaviour that discredits the position and the image of the member and damages the public trust in the prosecutorial system, performed outside of the exercise of duty.**

#### **Article 103/3**

##### **Disciplinary violations due to commission of a criminal offence.**

*(Added by Law no. 47/2019 Article 8)*



1. **Disciplinary violations due to commission of a criminal contravention, are actions, omissions or behaviours, for which the member of the High Prosecutorial Council has been convicted with a final decision and which by their nature discredit the position and image of the member of High Prosecutorial Council or seriously damage the public trust in the prosecutorial system, based on the facts and the circumstances accepted by the court.**
2. **Disciplinary misconducts due to the commission of a criminal contravention are also actions, omissions or behaviours according to paragraph 1 of this Article, despite the fact that the criminal offence is expunged, the criminal prosecution cannot be instituted or cannot continue, or the member of High Prosecutorial Council is rehabilitated or has benefited from the pardon and amnesty.**
3. **The disciplinary measure of dismissal may be imposed only when the sentence by final decision is given for the commission of a crime. In this case, during the disciplinary procedure, the provisions of law “On the status of judges and prosecutors in the Republic of Albania” shall be applied for as much as it is necessary”.**

#### Article 104

##### Disciplinary Proceedings

*(Amended by Law no. 47/2019 Article 9)*

1. Disciplinary violations by members of the High Prosecutorial Council shall be investigated by the High Justice Inspector in accordance with the procedures and rules provided in the law "On the Status of Judges and Prosecutors in the Republic of Albania".
2. The Constitutional Court considers complaints against decisions of the High Justice Inspector on archiving the complaint or closing investigations against a member of the High Prosecutorial Council.
3. The Constitutional Court shall decide on the suspension of a member of the High Prosecutorial Council in the cases provided for in the Constitution of the Republic of Albania.
4. Disciplinary proceedings against members of the High Prosecutorial Council shall be conducted by the Constitutional Court, which decides in accordance with **this law**, the Law “On the Constitutional Court” and the Law “On the Status of Judges and Prosecutors in the Republic of Albania”.

## SECTION 2

### ELECTION OF MEMBERS OF THE HIGH PROSECUTORIAL COUNCIL

#### SUB-SECTION I



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**PROCEDURE FOR THE ELECTION OF PROSECUTOR MEMBERS OF THE HIGH PROSECUTORIAL  
COUNCIL**

**Article 105**

**Election of Prosecutor Members of the High Prosecutorial Council and Requirements to be elected**

1. The General Meeting of prosecutors of all levels shall elect 6 (six) members of the High Prosecutorial Council under the following ratio:
  - a) Three of the elected prosecutors shall be first instance prosecutors. At least 1 (one) of them shall be a prosecutor of a prosecution office attached to a court of first instance outside Tirana.
  - b) Two of the elected prosecutors shall be prosecutors of the prosecution offices attached to courts of appeal, including the Special Prosecution Office for combatting corruption and organised crime. At least 1 (one) of them shall be a prosecutor of a prosecution office attached to a court of appeal outside Tirana.
  - c) One of the elected prosecutors shall be a prosecutor attached to the General Prosecution Office.
  
2. Candidates must meet the following requirements:
  - a) at the time of application, have performed the function of prosecutor for at least 10 (ten) years;
  - b) at the time of application, should not be chairpersons of any prosecution office or members of governing bodies of groups of interest, such as prosecutors' associations, prosecutors' unions, etc.;
  - c) have been evaluated at least "very good" in the last two ethical and professional performance evaluations;
  - ç) have no disciplinary measure in force;
  - d) have not been previously sentenced by a final court decision for committing a criminal offence;
  - dh) have not been members or collaborators or favoured by the former State Security before 2 July 1991 in the sense of the law "On the right to information for the documents of the former State Security of the People's Socialist Republic of Albania";
  - e) not be collaborators, informants or agents of secret services;
  - ë) at the time of application, have no family members in the meaning of the Law "On the

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Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first degree relatives who are incumbent Council members or candidates for members.

3. Every prosecutor attached to the General Prosecutor Office who meets the legal requirements provided in paragraph 2 of this Article, shall be entitled to apply.

4. Every prosecutor of first and appeal instance, who meets the legal requirements provided in paragraph 2 of this Article and obtains the support of at least 10 colleagues of the same instance of the prosecution service, shall be entitled to apply.

#### **Article 106**

##### **Support to Candidates**

1. The Prosecutor General shall adopt the sample of individual declaration to provide support to candidates for members of the Council.
2. A prosecutor may not support more than one candidate for each vacancy.

#### **Article 107**

##### **Call for Submission of Expression of Interest**

1. The Prosecutor General shall, not later than 4 months before the date of expiry of the mandate of incumbent prosecutor members of the High Prosecutorial Council, launch the call for submission of expressions of interest by the prosecutors interested in the position of a High Prosecutorial Council member.
2. The Assembly may send a reminder to the Prosecutor General regarding the obligations under paragraph 1 of this Article, and any other information deemed necessary for the starting date of the process of selection of candidates and the timetable of actions.
3. The call for submission of expressions of interest shall contain the deadline within which the expression of interest must be submitted, the mailing and electronic address where the expression of interest shall be submitted and supporting documents.
4. The call shall be published on the official website of the General Prosecution Office and it shall be sent to all judges in the official e-mail address.

#### **Article 108**

##### **Submission and Review of Expression of Interest**



1. Interested prosecutors shall, within 15 days from the launch of the call for submission of expressions of interest, express their interest through a request in writing addressed to the Prosecutor General.
2. The expression of interest may be sent via the electronic address mentioned in the call for submission of expressions of interest or via the mailing address of the General Prosecution Office.
3. The interested persons shall, in addition to the request in writing, attach at least the following documents:
  - a) An updated Curriculum Vitae;
  - b) Duly signed individual declarations of the prosecutors who have given their support;
  - c) A self-declaration form according to the requirements of the law "On the integrity of persons elected, appointed or performing public functions";
  - ç) A personal programme of goals and objectives that the candidate shall propose to follow-up, if elected;
  - d) A signed individual statement of legal liability of not having been member or collaborator of intelligence services before 2 July 1991;
  - dh) A signed individual statement of legal liability of not being a collaborator, informant or agent of secret services;
  - e) Information on second degree relatives, uncle/aunt, niece/nephew, grandparents and half-brother/sister, and first-degree relatives of the spouse/cohabitant, parents, children and siblings, who actively practice the profession of advocate or are owners or executives in business entities, which are classified as large taxpayers by the tax authority. The High Prosecutorial Council shall adopt and make available a template form to interested parties to provide this type of information;
  - ë) A list of related persons within the meaning of the Law "On Prevention of Conflict of Interests in Performing Public Functions".

#### **Article 109**

#### **Verifying the Fulfilment of Legal Criteria**

1. The administration of the General Prosecution Office, within seven days from the expiry of the period for submission of expressions of interest, under the responsibility of the Prosecutor General, shall verify the criteria met by candidates in accordance with Article 105, paragraphs 2





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and 4 of this Law and shall officially announce the candidates on the official website of the General Prosecution Office.

2. The decision on disqualification of candidates who do not meet the legal requirements provided in Article 105, paragraphs 2 and 4, shall be made by the Qualification Committee composed of the Prosecutor General and two other prosecutors of the General Prosecution Office selected by lot from among the ranks of those who do not run as candidates. The lot on the election of members of the Qualification Committee shall be organized under the responsibility of the Prosecutor General.
3. Disqualified candidates shall be immediately notified individually in writing by a reasoned decision on the causes for the disqualification.
4. If there are no candidates for one or more of the levels of the prosecution service to be represented in the High Prosecutorial Council in accordance with Article 149 of the Constitution and in accordance with this Law, the Prosecutor General shall make a second call not later than 3 days from the date of announcement of candidates on the official website of the General Prosecution Office. In this case, the deadline for submission of expressions of interest shall be 15 days from the date of announcement of the second call.
5. If no candidates from the unrepresented instances of the prosecution service apply following the second call, they will be elected by lot from among the ranks of prosecutors who have applied for the vacancy. Any candidate, who meets the criteria to be elected a Council member and the criteria to be promoted or transferred to the unrepresented instances of the prosecution service, has the right to apply for the respective vacancy.

#### **Article 110**

##### **Complaints against Disqualification Decisions**

1. Complaints against decisions for the disqualification of candidates shall, only in connection with serious procedural infringements, be made to the Administrative Court of Appeal, not later than 5 days from the day of notification of the decision.
2. The Administrative Court of Appeal shall decide within 7 days from the day of depositing the complaint. Its decision is final and irrevocable.
3. The complaint shall not suspend the conduct of the preliminary evaluation and verification conducted by the Qualification Commission, under Article 109 of this Law.

#### **Article 111**

##### **Calling the General Meeting for the Election of Prosecutor Members of the High Prosecutorial Council**



1. The Prosecutor General shall, not later than two months before the expiry of the mandate of incumbent prosecutor members of the High Prosecutorial Council, call the General Meeting of prosecutors of all instances to elect members of the Council.
2. The call of the General Meeting for the election of members of the Council shall be made through publication on the official website of the General Prosecution Office, it shall be sent to all prosecutors via the official e-mail address and in any other appropriate manner.
3. The call for the General Meeting of prosecutors for the election of members of the Council shall indicate the date, venue and time of the meeting.
4. Unless otherwise provided by this Law, the election of members of the Council shall be the only topic on the General Meeting agenda.

#### **Article 112**

##### **Quorum**

1. The participation in the General Meeting of prosecutors for the election of members of the High Prosecutorial Council is mandatory.
2. The General Meeting of prosecutors for the election of members of the High Prosecutorial Council shall take place in the presence of more than half of the total number of prosecutors.
3. The number of participants in the General Meeting shall be recorded in a list of names signed by all participants.

#### **Article 113**

##### **General Meeting Called by the Members**

1. If upon expiry of the period provided for in paragraph 1 Article 111 of this Law, the General Meeting for electing members of the High Prosecutorial Council has not yet been called, the meeting may be immediately called by 1/10 of the total number of prosecutors.
2. Their request to call the General Meeting shall be submitted to the administration of the General Prosecution Office.
3. Upon submission of the request, the Secretary General of the General Prosecution Office shall immediately notify the prosecutors by specifying the date, venue and the time of the meeting in the notice. The notification shall be sent to each prosecutor to the official e-mail address.

#### **Article 114**

##### **Voting Process for the Election of Members of the High Prosecutorial Council**

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1. The voting for the election of members of the High Prosecutorial Council from the General Meeting of prosecutors shall be secret and individual.
2. The Prosecutor General shall, not later than 2 days before the date of the General Meeting of prosecutors for the election of prosecutor members of the High Prosecutorial Council, approve the template ballot paper, which contains the names of registered candidates.
3. The voting process shall be open to media and all other observers who are interested in attending the process. Observers shall be authorised in advance by the Prosecutor General. The Minister of Justice, or a person authorised by him/her and two members of the parliamentary committee for legal affairs in the Assembly, one of whom from the opposition, may participate as observers in the General Meeting of Prosecutors for the election of members of the High Prosecutorial Council without the preliminary authorisation of the Prosecutor General;
4. A Voting Committee, consisting of 3 prosecutors of the General Prosecution Office elected by lot, shall be established to administer the voting process. The lot on the election of members of the Voting Committee shall be organized under the responsibility of the Prosecutor General.
5. The members of the Voting Committee shall, before the voting process starts, multiply and sign in advance a number of ballots equal to the number of prosecutors present at the meeting. In case one or more ballots are spoiled, the commission shall sign a number of ballots equal to the spoiled ballots and destroy the spoiled ballots in the presence of participants.
6. The Voting Committee shall be assisted by the administration of the Prosecutor General in administering the voting process.
7. The General Meeting of prosecutors may, upon the proposal of the Prosecutor General and in accordance with the provisions of this Law, adopt more detailed rules for the voting process and the election of the members of the Voting Commission, at the beginning of the meeting.

#### **Article 115**

#### **Counting of Votes and Announcement of Results**

1. The Voting Committee members shall, upon conclusion of the voting process, under the responsibility of the Prosecutor General, open the ballot boxes in the presence of all prosecutors attending the meeting, count the votes and announce the preliminary voting result.
2. Ballot papers are divided into valid or invalid votes. Valid votes are only the ballot papers, which clearly indicate a vote for one candidate only. Invalid votes are the ballot papers where:



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- a) the ballot paper has not the same elements as approved by the Voting Committee;
  - b) remarks are made on the ballot paper in favour of or against the candidates;
  - c) the ballot paper indicates a vote for more than one candidate;
  - ç) the ballot paper does not indicate a vote for any of the candidates;
  - d) it is not clear for which candidate it has been voted for;
  - dh) the ballot paper indicates a vote for a person who is not registered as a candidate.

3. Votes deemed invalid shall be re-evaluated at the end of the counting process. In case of disagreements between members of the Voting Committee concerning the validity of votes, decisions shall be made at the end of the re-evaluation process by majority vote. Votes deemed valid at the end of the re-evaluation process shall be added to the respective candidates.

4. At the end of the voting process and the counting of votes, the Voting Committee members shall compile and approve a record indicating the number of participants, the total number of votes, the number of votes for each category of candidates, the number of invalid votes, where applicable, the number of votes for each candidate and the names of winning candidates. Cases of disputes among the members of the Voting Committee over the validity of votes and the way of settling them shall be indicated in the record. The record shall indicate even the number of ballot papers replaced due to them being spoiled.

5. At the end of the voting process, candidates, who have received the highest number of votes, shall be deemed elected. If two or more candidates receive the same number of votes, the winner will be determined by lot between them.

6. The original record showing the number of participants in the General Meeting, the number of votes and the result of the vote count, signed by all Voting Committee members, shall be immediately sent to the Prosecutor General.

7. Decisions on the election outcome and announcement of winners, every intermediate decision and record shall be signed jointly by Voting Committee members. The decisions shall be publicly announced at the end of the General Meeting and they shall be officially published on the official website of the General Prosecution Office not later than 24 hours after the closure of the General Meeting. The decision announcing the winners shall be published in the Official Journal.

#### **Article 116** **Complaints against Decisions of the General Meeting**



1. Complaints against the breach of the procedure related to the call of the General Meeting, the verification of participation, the voting and the counting of votes, finding and announcing invalid votes and declaring the result during the General Meeting of prosecutors for the election of members of the High Prosecutorial Council shall be filed with the Administrative Court of Appeal, not later than 5 days following the date of publication of the decision on the official website of the General Prosecution Office.
2. The Administrative Court of Appeal shall decide within 7 days from the day of submission of the complaint. The court may decide on repeating the elections only upon establishment of the occurrence of procedural breaches foreseen in paragraph 1 of this Article and the impact or potential impact of the latter on the election results. The court decision is final and irrevocable.
3. In case the Administrative Court of Appeal decides to repeat the elections, they shall be held not later than 7 days from the day of notification of the court decision.

## SUB-SECTION II

### PROCEDURE FOR THE ELECTION OF MEMBERS OF THE HIGH PROSECUTORIAL COUNCIL FROM THE ADVOCACY

#### Article 117

##### **Preliminary Verification and Evaluation of Candidates for Members of the High Prosecutorial Council Representing Advocacy and Requirements for Election**

1. The Assembly shall elect 2 members of the High Prosecutorial Council from the ranks of advocates, who meet the conditions provided for in the Constitution and the provisions of this Article.
2. Regarding the preliminary verification of meeting the legal conditions by the candidates and for the preliminary evaluation of their moral and professional integrity, an Independent Ad Hoc Commission shall be established, under the provisions of Articles 121 of this Law.
3. The advocates, who run as candidates for the position as member of the High Prosecutorial Council, shall fulfil the following conditions:
  - a) Be Albanian citizens;
  - b) have finished the second cycle of university studies in law with a diploma “Master of Science”, or a diploma unified with it or to have finished university studies in law abroad having obtained a diploma recognised in accordance with the rules for recognition of diplomas, as provided by law;



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- c) be advocates licensed in accordance with the law;
  - ç) have regularly paid all the taxes and financial obligations to the Chamber of Advocacy;
  - d) have not less than 15 years of experience in the profession as jurist, out of which the last 10 years to have exercised the advocate's profession without interruption;
  - dh) have been licensed to practice the profession at the High Court or the Constitutional Court in accordance with the Law "On the Profession of Advocate";
  - d) have no disciplinary measure in force;
  - ë) have not been previously sentenced by a final court decision for committing a criminal offence;
  - f) have not held any political function in the public administration or leadership positions in political parties in the last 10 (ten) years;
  - g) have not been members, collaborators or favoured by the former State Security before 2 July 1991 in the sense of the Law "On the right to information on documents of the former State Security of the People's Socialist Republic of Albania";
  - gj) not be collaborators, informants or agents of secret services;
  - h) at the time of application, have no family members in the meaning of the Law "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first degree relatives who are incumbent Council members or candidates for members;
  - i) have not been dismissed from a previous duty as judge, prosecutor or judicial police officer due to disciplinary measures;
  - j) not be a candidate proposed by the corps of lecturers of law faculties and the School of Magistrates as well as by the civil society;

4. The advocates holding leadership positions in the chambers of advocates or in the governing bodies of groups of interest, such as advocates associations, advocates unions, shall resign from these positions in case they are elected as members of the High Prosecutorial Council.

**Article 118**  
**Call for Submission of Expression of Interest**



1. The Secretary General of the Assembly shall, not later than 4 months before the date of expiry of the mandate of incumbent advocate members of the High Prosecutorial Council, announce the vacancies and the call for submission of expressions of interest by advocates who fulfil the criteria provided in Article 117 of this Law. The announcement shall be made on the official website of the Assembly, the National Chamber of Advocacy, the Ombudsperson and at least in a newspaper of higher circulation.

2. The call for submission of expressions of interest shall contain the deadline within which the expressions of interest must be submitted, the mailing and electronic address where the expressions of interest shall be submitted and the documents that shall accompany it.

### **Article 119** **Submission of Expression of Interest**

1. Interested advocates shall, not later than 15 days from the launch of the call for submission of expressions of interest, express their interest through a request in writing addressed to the Ombudsperson.

2. The expression of interest may be done in the electronic address mentioned in the call for submission of expressions of interest and/or in the mail address of the Ombudsperson.

3. In addition to the request in writing, the interested persons shall attach the following documents:

a) an updated Curriculum Vitae;

b) a personal programme of goals and objectives that the candidate shall propose to follow-up, if elected;

c) a self-declaration form in accordance with the requirements of the law "On integrity of persons elected, appointed or performing public functions";

ç) a statement of legal liability of not having been member or collaborator or favourites of the former State Security before 2 July 1991;

d) a statement of legal liability of not being collaborator, informant or agent of secret services.

dh) a corroborating document by the National Chamber of Advocacy for the fulfilment of the conditions, which shows that the candidate fulfils the conditions provided in letters "c" to "e" Article 117 of this Law;

e) any other document proving the fulfilment of the legal conditions provided in Article 117 of this Law.

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**Article 120**  
**Review of the Expression of Interest**

1. On the receipt of expressions of interest and the accompanying documentation of the candidates, a record shall be kept, indicating the number and type of documents submitted by the candidates. The record shall be signed by the candidate and the representative of the protocol office of the Ombudsperson.
2. The Ombudsperson, within 5 days upon submission of expressions of interest and the accompanying documentation, shall verify whether the documentation submitted is complete.
3. In case the documentation of candidates is not complete, in order to assess the fulfilment of legal conditions as set out in the Constitution and in Article 117 of this Law, as well as the professional and moral criteria, as set out in Article 132 of this Law, the Ombudsperson shall request the candidate to complete the documentation or submit additional documentation. The notification to complete the documentation or to submit additional documents, shall be sent to the candidate through an official document or in the indicated email address within 5 days from the day of notification by the Ombudsperson.
4. Failure to submit the complementary documentation or additional documentation until the end of the 5-day deadline, shall not suspend the process of final registration of candidates and accompanying documentation. In this case, the assessment of the candidate shall be made on the documentation of the file administered by the Ombudsperson.
5. The date on which the requested documentation has been completed, or the deadline set is met for the documentation to be completed, shall be considered as the day of submission and registration of the candidates and of the accompanying documentation to the office of the Ombudsperson. The final submission of documents shall be documented through a registration number given by the protocol office of the Ombudsperson.

**Article 121**  
**Composition of the Independent Ad Hoc Commission for the Preliminary Verification and Evaluation of Candidates**

1. The Independent Ad Hoc Commission for the preliminary verification and assessment of candidates for members of the High Prosecutorial Council shall be composed of:
  - a) The Ombudsperson;
  - b) The Chairperson of the Justice Appointments Council;



c) Two advocates, namely the youngest and the oldest by age from the ranks of the advocates fulfilling the conditions to be members of the High Prosecutorial Council, who do not run as candidates and were engaged with lecturing in the School of Magistrates or in the School of Advocacy during the last 5 years.

ç) A member selected from the Academy of Science representing the social sciences.

2. The Ombudsperson is the Chairperson of the Independent Ad Hoc Commission. The Chairperson of the Justice Appointments Council is the Deputy Chairperson of the Commission.

3. Participation to the meeting of the Commission for the preliminary verification and assessment of candidates for members of the High Prosecutorial Council is mandatory. The members who are absent will be substituted by the substitute members, who shall be elected in accordance with the provisions of Article 123 of this Law.

4. The meeting of the Commission shall be valid when more than half of its members are present.

#### **Article 122**

##### **The Function and Responsibilities of the Independent Ad Hoc Commission**

1. The Independent Ad Hoc Commission is an independent body, which makes the preliminary verification of legal conditions, the preliminary assessment of professional and moral criteria and the ranking of the candidates running for members of the High Prosecutorial Council.

2. The Independent Ad Hoc Commission shall assume its functions abiding by the standards of due legal process and to the effect of ensuring a higher professional and moral quality in the composition of the High Prosecutorial Council.

3. The Independent Ad Hoc Commission shall carry out a joint procedure for the preliminary verification of the two categories of the candidates for members of the High Judicial Council and High Prosecutorial Council, in case the vacancies for the councils were created at the same time.

#### **Article 123**

##### **Election of Members and Substitute Members of the Independent Ad Hoc Commission**

1. The Ombudsperson shall, not later than 2 days from the day of submission of expressions of interest and registration of candidates, request from the National Chamber of Advocacy the list of advocates who meet the criteria provided for in Article 117, letters “c” to “e”, to be members of the Ad Hoc Commission in accordance with the requirements of paragraph 1 Article 121 of this Law. The National Chamber of Advocates shall send the list within 5 days from the date of request.

2. The Ombudsperson shall, after reviewing the list of advocates regarding the fulfilment of the criteria provide for in Article 117 of this Law, invite the youngest and the oldest advocate by age among the advocates to serve as members of the Independent Ad Hoc Commission. If one or both advocates being invited do not consent to serve as members of the Independent Ad Hoc Commission, the Ombudsperson shall carry out the same procedure with the candidates following on the list, according to the criterion of age. The Ombudsperson shall also designate two substitute members, under the same procedure and based on the same criterion.

3. The Ombudsperson shall, not later than 2 days from the date of expression of interest, request the Academy of Sciences to send the list with the name of the member and substitute member for the Independent Ad Hoc Commission.

4. The Academy of Science shall, not later than 5 days from the day of submission of the request from the Ombudsperson, send to the Ombudsperson the list with the names of the members that are elected by a simple majority of the Assembly of the Academy of Sciences.

5. In case the Ombudsperson has not exercised his responsibilities at the end of the time period referred to in this Article, they shall be exercised by the deputy chairperson of the Ad Hoc Commission. Failure to exercise the competences under this Article within the time limits provided for in this Law shall constitute disciplinary misconduct for the Ombudsperson.

#### **Article 124**

##### **Calling the Meeting of the Independent Ad Hoc Commission**

1. The Ombudsperson shall, not later than 10 days from the day of submission of expressions of interest and registration of candidates, convene the meeting of the Independent Ad Hoc Commission.

2. The meeting of the Commission shall be convened by way of announcement on the official website of the Ombudsperson and the invitation shall be sent to each of the members to the electronic address having been declared and per post.

3. The invitation to the meeting shall indicate the date, venue and time of meeting.

4. In case the Ombudsperson, upon the expiry of the period referred to in paragraph 1 of this Article, has not exercised his responsibilities, they shall be exercised by the Chairperson of the Justice Appointments Council.

#### **Article 125**

##### **The Meeting Venue and the Administrative Support**

1. The meeting of the Independent Ad Hoc Commission shall be convened by the Ombudsperson whenever it is necessary.



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2. The Commission holds closed meetings.

3. The Commission holds its meeting in the Ombudsperson's offices.

4. The Ombudsperson shall provide the necessary organisational, administrative and financial support for the accomplishment of the function and tasks of the Ad Hoc Commission, provided for in Article 122 of this Law.

### **Article 126**

#### **Conflict of Interest and Incompatibility**

1. The member of the Commission, who is aware of a conflict of interest or of a legal hindrance for himself or for another member of the Ad Hoc Commission regarding a certain case, shall be obliged to declare the nature of interest or hindrance, not to attend the discussion of the respective case and not to participate in the decision making on the respective case.

2. The member of the Commission cannot attend the preliminary verification of legal conditions, the preliminary evaluation of professional criteria and in ranking the candidates for members of the High Prosecutorial Council, as long as between him and the candidate the following relationship exists:

- a) marital or cohabitation relationship;
- b) close kin relationship, including forebears and descendants, brothers, sisters, uncles, aunts, nephews and nieces, children of brothers and sisters; or
- c) close in-law relationship, including father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, stepson or stepfather.

### **Article 127**

#### **Recusal**

1. The Ad Hoc Commission member shall be obliged to recuse himself from participating in the process of preliminary verification of legal conditions, the preliminary evaluation of professional criteria and the ranking of candidates for members of the High Prosecutorial Council, in the following instances, where:

- a) He, his spouse/cohabitant or his children are debtors or creditors to the candidate or they have represented his interests in the past;
- b) Disputes exist between him, his spouse/cohabitant or any of his relatives and the candidate.

2. The decision to accept the recusal of the member shall be made by the Chairperson of the Commission. Where the conflict of interest or the incompatibility affects the Chairperson of the Commission, the decision to accept the recusal shall be made by the Deputy Chairperson.

#### **Article 128**

##### **Exclusion and Replacement of a Member**

1. The candidates may seek the exclusion of a member of the Independent Ad Hoc Commission from participating in the process of the preliminary verification of legal conditions, the preliminary evaluation of moral and professional criteria and the ranking of candidates, not later than three days prior to the date of the Commission meeting, upon the existence of one of the cases provided for in Article 126 and Article 127 of this Law and where the member does not recuse himself from the examination of the case.

2. The decision for the exclusion of the member shall be made by the Chairperson of the Commission. Where the disqualification of the Chairperson is requested, the decision shall be made by the Deputy Chairperson.

3. Where the disqualified, self-recused or absent member is the Ombudsperson, he/she shall be replaced by the most senior Commissioner of the Ombudsperson.

4. Where the disqualified, self-recused or absent member is the Chairperson of the Justice Appointments Council, he/she shall be replaced by the Deputy Chairperson of the Justice Appointments Council.

5. Where the disqualified, self-recused or absent member is one of the other members of the Commission, he/she shall be replaced by the substitute member, under the criteria provided for in Article 123 of this Law.

#### **Article 129**

##### **Verifying the Fulfilment of Legal Conditions**

1. The Independent Ad Hoc Commission shall, not later than 45 days from the date the deadline for submission of expressions of interest expires for being members of the High Prosecutorial Council, verify the legal conditions met by the candidates. To the effect of assuming their responsibilities for the preliminary verification of the legal conditions met by the candidates, the Commission shall be assisted by the administration of the Ombudsperson.

2. The Chairperson of the Commission, for the verification of the integrity of candidates, shall immediately transmit the self-declaration forms to the General Prosecution Office, filled out by candidates in compliance with the requirements of the law "On guaranteeing the integrity of persons



elected, appointed or performing public functions”, if necessary. The General Prosecution Office shall carry out verifications within 30 days of submission of the forms.

3. The Chairperson of the Commission shall, to the effect of verifying other legal conditions, send requests in writing to the address of private and public entities, as appropriate.

4. The Chairperson of the Commission, to the effect of checking the fulfilment of the conditions stipulated in letters “c” to “e” of Article 19 of this Law, if necessary, shall address the National Chamber of Advocacy for the accuracy of the information stated by the candidate.

5. The Commission shall, upon the completion of the preliminary verification procedure, immediately announce the names of candidates meeting the legal conditions to be members of the High Prosecutorial Council on the official website of the Ombudsperson, the Assembly and of the National Chamber of Advocacy. At the same time, the Commission shall individually communicate the outcome of the verification of the declared data to the candidates.

6. The Independent Ad Hoc Commission shall assume its activity collegially and in compliance with the rules and procedures provided for in the legislation on the organisation and functioning of the collegial bodies, to the extent it has not been provided otherwise in this law.

#### **Article 130**

##### **Complaints against Decisions on Disqualification of Candidates**

1. The complaints against the decisions on the disqualification of candidates shall, just for serious procedural infringements, be made before the Administrative Court of Appeal not later than five days from the day of notification of the contested decision.

2. The Administrative Court of Appeal shall decide within seven days from the day of submission of the complaint. Its decision is final and irrevocable.

3. The complaint shall not suspend the procedure for the preliminary evaluation and verification carried out by the Independent Ad Hoc Commission, according to Article 131 of this Law.

#### **Article 131**

##### **Initiation and Deadline for Conducting the Preliminary Evaluation Procedure and the Ranking of Candidates**

1. The Independent Ad Hoc Commission, after the official announcement of the candidacies that meet the legal conditions, shall be immediately convened for the evaluation of professional and moral criteria of the candidates and shall make their ranking not later than 10 days from the day of the meeting.



2. The candidates, who have obtained the right to run as candidates upon a court decision in accordance with Article 130 of this Law, shall be evaluated along with the other candidates.

3. The Council shall stay convened up to the completion of the process of evaluation and the ranking of candidates.

### **Article 132**

#### **Professional and Moral Criteria for the Ranking of Candidates**

1. The Independent Ad Hoc Commission shall rank the candidates on the basis of their professional merits, based on:

- a) The outcome of the professional and ethical evaluation of candidates on the activities they have performed in the past, as appropriate, or the results achieved in their employment experience, related to the assumption of functions in the relevant field in connection with the activity of the institution, which they run for;
- b) Evaluation of the importance of academic works, scientific research, professional articles and speeches, publications, as well as the participation in scientific activities, participation in the process of drafting or consultation of legislation and any other professional commitment of the candidates along the last five years in the field of law;
- c) Scores during the higher education cycles;
- ç) Progress at work and participation in professional training and other certified courses in the country and abroad;

2. The Commission shall rank the candidates on the basis of their moral merits, based on:

- a) The reputation that the candidate enjoys in the society and among colleagues;
- b) The moral qualities such as honesty, accuracy in assuming the tasks, accountability, reliability, impartiality, dignity, tendency to assume responsibility, professional ethics, the use of all legal remedies for the loyal protection of the rights of persons represented by him;
- c) The established commitment in pursuit of civil society causes.

3. The Commission shall rank the candidates on the basis of their organisational, leadership and management skills, based on:



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- a) The quality of the programme and the vision they submit;
  - b) The established skills to make decisions and take responsibilities based on the previous professional and social experiences;
  - c) Communication skills;
  - ç) The ability to work in teams and in multi-disciplinary or multi-cultural environments;
  - d) Public presentation skills.

4. For the evaluation of candidates, along with the criteria provided for in paragraph 1, 2 and 3 of this Article, the following shall be taken into account:

- a) The academic titles held;
- b) The long-term studies and training attended abroad;
- c) The command of foreign languages.

5. The Commission shall interview the candidates and shall engage experts to verify the candidates' skills, specifically to verify the level of command of foreign languages.

6. The Ad Hoc Commission shall, in compliance with the provisions of this Chapter, approve the rules to further detail the criteria and determine their specific weight in the ranking of candidates.

7. In making the decisions for the ranking of candidates, the Commission shall act in accordance with the criteria provided for in paragraph 1 to 5 of this Article and shall draft a report providing grounds for ranking the candidates.

### **Article 133**

#### **Selection of the Member of the High Prosecutorial Council from the Ranks of Advocates**

1. The Chairperson of the Independent Ad Hoc Commission shall transmit to the Secretary General of the Assembly a list of names of the candidates who have obtained the highest scores, however, not more than 10 candidates and in any case no less than three times the number of vacancies. The list of names of the ranked candidates and the list of candidates who do not meet the legal conditions and criteria, as well as the evaluation report shall be registered on the register of the protocol of the Assembly. Attached to it shall be the original or certified copies of the documentation of each candidate, along with the inventory of the file.



2. Rules foreseen in Article 35 of this Law, from paragraph 2 to paragraph 19, shall be also applicable for the selection of the member of the High Prosecutorial Council from the ranks of advocates.

### SUBSECTION III

#### PROCEDURE FOR THE ELECTION OF MEMBERS OF THE HIGH PROSECUTORIAL COUNCIL FROM AMONG THE LECTURERS OF LAW FACULTIES AND THE SCHOOL OF MAGISTRATES

##### Article 134

##### Election of Members of the High Prosecutorial Council from among the Lecturers of Law Faculties and the School of Magistrates

1. The Assembly shall elect two members of the High Prosecutorial Council from the corps of lecturers of law faculties and the School of Magistrates.

2. Candidates proposed pursuant to paragraph 1 of this Article must fulfil the following conditions:

- a) Be Albanian citizens;
- b) Have not less than 15 years of professional experience as jurist;
- c) At the time of application, be full-time lecturers for not less than five years in a Law Faculty of a Higher Education Institution or full-time or part-time non-magistrate lecturers at the School of Magistrates;
- c) Be academic staff of the category “professor” or “lecturer”;
- d) Not be a rector or director of the School of Magistrates at the time of application;
- dh) Have no disciplinary measure in force;
- e) Have not been previously sentenced by a final court decision for committing a criminal offence;
- ë) Have not held any political functions in the public administration or leadership positions in political parties during the last 10 years before the application;
- f) Have not been members, collaborators or favoured by the former State Security before 2 July 1991 in the sense of the Law “On the right to information on documents of the former State Security of the People’s Socialist Republic of Albania”;
- f) Not to be collaborators, informants or agents of intelligence services;



gj) At the time of application, have no family members in the meaning of the Law "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first-degree relatives who are incumbent Council members or candidates for members.

3. Each of the Higher Education Institution (HEI) having, as main units in their composition, Faculties of Law accredited according to the rules of legislation in force, shall select not more than three candidates from among the ranks of the full-time academic staff, provided that they are not proposed by the ranks of advocates or civil society organisations.

4. The School of Magistrates shall select not more than one candidate from the ranks of incumbent non-magistrate full-time lecturers and from the part-time lecturers, provided that they are not incumbent magistrates, advocates or employed full-time in civil society organisations.

5. Every member of the HEI academic staff, who meets the conditions mentioned in paragraph 2 of this Article and ensures the support of at least three lecturers of the academic staff eligible to vote, shall be entitled to run as a candidate.

6. Every lecturer of the School of Magistrates, who meets the conditions mentioned in paragraph 2 of this Article and ensures the support of at least three lecturers eligible to vote, shall be entitled to run as a candidate.

7. The HEI Rector and the Director of the School of Magistrates shall approve the template form for supporting the candidates for members of the High Judicial Council. The template form shall be signed by the academic staff member or the lecturer of the School of Magistrates eligible to vote, who decides to support a candidate. The academic staff member or the lecturer of the School of Magistrates eligible to vote may support only one candidate.

8. All full-time academic staff members, including the "assistant lecturer" category staff, and all full-time and part-time non-magistrate incumbent lecturers of the School of Magistrates shall be entitled to support candidates and vote for the selection of candidates of the respective institutions.

### **Article 135**

#### **Call for Submission of Expression of Interest**

1. The Secretary General of the Assembly shall, not later than four months before the date of expiry of the mandate of incumbent lecturer members of the High Prosecutorial Council, announce the vacancies on the official website of the Assembly and in any other appropriate manner.

2. The Rector of the Higher Education Institution comprising a Faculty of Law and the Director of the School of Magistrates shall, not later than seven days from the announcement of the vacancies,



announce the calls for submission of expressions of interest by academic staff members and the lecturers of the School of Magistrates, who meet the criteria provided for in Article 134, paragraph 2 of this Law.

3. The call shall be announced on the official website of the HEI, the Faculties of Law, the School of Magistrates and it shall be sent to every academic staff member and lecturer of the School of Magistrates on their electronic address.

4. The call for submission of expressions of interest shall contain the deadline within which the expression of interest must be submitted, the mailing and electronic address where the expressions of interest shall be submitted and the supporting documents.

5. Failure to announce the call within the legal deadline shall constitute disciplinary misconduct for the rector of the HEI and the Director of the School of Magistrates.

#### **Article 136**

##### **Call for Submission of Expression of Interest Announced by the Minister of Justice**

1. If the Rector of the HEI comprising a Faculty of Law or the Director of the School of Magistrates fail to announce the call for submission of expressions of interest, upon the expiry of the time period mentioned in paragraph 2 of Article 135 of this Law, the call shall be announced immediately by the Minister of Justice.

2. In this case, the call shall be announced on the official website of the Ministry of Justice and shall be sent to the electronic address of every member of the academic staff of the Faculty of Law of the HEI and to every lecturer of the School of Magistrates.

#### **Article 137**

##### **Submission and Handling of Expressions of Interest**

1. The interested lecturers shall, within 15 days from announcement of the call for submission of expressions of interest, express their interest through a request in writing addressed, as appropriate, to the deanery of the Faculty or to the Director of the School of Magistrates. A copy of the request and accompanying documentation, as appropriate, shall be sent to the Rector of the HEI and the Head of the Steering Council of the School of Magistrates.

2. The expression of interest may be sent to the electronic or mail address indicated in the call for submission of expressions of interest by registered mail or to the official electronic address, as appropriate, to the Dean of the Faculty or the Director of the School of Magistrates.

3. The interested persons shall, in addition to the request in writing, attach the following documents:



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- a) An updated Curriculum Vitae;
  - b) A personal programme of goals and objectives that the candidate shall propose to follow-up, if elected;
  - c) A self-declaration form according to the requirements of the law “On guaranteeing the integrity of persons elected, appointed or performing public functions”;
  - c) A statement of legal liability of not having been members, collaborators or favoured by the former State Security before 02 July 1991, in the sense of the Law “On the right to information on documents of the former State Security of the People’s Socialist Republic of Albania”;
  - d) A statement of legal liability of not being collaborators, informants or agents of secret services;
  - dh) Any other document that certifies the fulfilment of the legal requirements provided for in Article 134 of this Law.

### **Article 138** **Verifying the Fulfilment of Legal Criteria**

1. The Deanery of the Law Faculty shall, within 7 days on the expiry of the period for submission of expressions of interest, convene in a special meeting to verify the fulfilment of legal conditions by candidates.
2. The verification of fulfilment of legal conditions and of the support shall be the only topic in the agenda of the meeting of the Deanery.
3. The meeting of the Deanery shall be valid when more than half of its members are attending. Failure to participate without due cause in the meeting of the Deanery for the verification of legal criteria and the support of candidates for members of the High Prosecutorial Council, shall constitute disciplinary misconduct for the Deanery members.
4. The meeting of the Deanery shall make decisions by majority vote of present members.
5. The Deanery members, who run as candidates, shall not take part in the meeting and shall not vote. In case the Dean runs as a candidate, his tasks shall be performed by one of the Deputy Deans.
6. At the end of the meeting, the Deanery shall officially announce the candidates, displaying them at the notice board of the University or the Law Faculty or in another visible place and shall submit the list of candidates to the Rector of the HEI, accompanied by a report explaining the fulfilment or non-fulfilment of conditions by each candidate.

7. Disqualified candidates shall be notified individually in writing by a reasoned decision on the causes for the disqualification.

8. The rules laid down in paragraphs 1 to 7 of this Article shall apply also to verify the fulfilment of the legal criteria by the candidates of the School of Magistrates. In this case, the responsibilities provided for by this Article on the Deanery of the Faculty, shall be exercised by the Meeting of the Pedagogical Council of the School of Magistrates. The responsibilities provided for by paragraph 6 of this Article on the Dean of the Faculty shall be exercised by the Director of the School of Magistrates. The list of candidates shall be forwarded to the Chairperson of the Steering Council of the School of Magistrates by the Director of the School of Magistrates.

### **Article 139**

#### **Complaints against Disqualification Decisions**

1. Complaints against decisions of the Deanery or Pedagogical Council of the School of Magistrates on the disqualification of candidates for gross procedural misconduct shall be made respectively to the Rector of the HEI and the Chairperson of the Steering Council of the School of Magistrates, not later than five days from the day of notification of the decision.

2. The Rector of the HEI and the Chairperson of the Steering Council of the School of Magistrates shall decide within seven days from the filing of the complaint.

### **Article 140**

#### **Selection of Candidates from Law Faculties and the School of Magistrates**

1. The Dean of each Law Faculty shall, not later than 80 days before the expiry of the mandate of incumbent lecturer members of the High Prosecutorial Council, call the meeting of the Academic Staff Assembly to select the candidates of that Law Faculty. The Dean of the Law Faculty shall immediately and officially notify the Rector of the HEI on the calling of the meeting of the Academic Staff Assembly.

2. The meeting of the Academic Staff Assembly of the Faculty to select the candidate shall be called through publication on the official website of the HEI and the notice shall be sent to each academic staff member on the electronic address.

3. The call for the meeting of the Academic Staff Assembly of the Faculty concerning the selection of the candidate shall indicate the date, venue and time of the meeting.

4. Selection of the candidate for member of the High Judicial Council shall be the only topic of the agenda of the meeting of the Academic Staff Assembly.

5. The number of participants in the meeting of the Academic Staff Assembly shall be recorded in a nominal list signed by all the present participants.

6. Failure to call the meeting of the Academic Staff Assembly within the deadline mentioned in paragraph 1 of this Article shall constitute disciplinary misconduct for the Dean of the Faculty.

7. The rules laid down in paragraphs 1 to 6 of this Article for the selection of candidates from the law faculties or law departments shall also apply for the selection of candidates from the School of Magistrates. In this case, the responsibilities provided for by this Article on the Dean of the Faculty shall be exercised by the Director of the School of Magistrates. The responsibilities provided for by this Article on the Academic Staff Assembly shall be exercised by the Pedagogical Council of the School of Magistrates.

#### **Article 141** **Quorum**

1. Participation in the meeting of the Academic Staff Assembly or the Pedagogical Council of the School of Magistrates for selection of candidates for members of the High Prosecutorial Council is mandatory.

2. The meeting of the Academic Staff Assembly or of the Pedagogical Council of the School of Magistrates for selection of candidates shall be held in the presence of more than half of the members.

3. The number of participants in the meeting of the Academic Staff Assembly or the Pedagogical Council of the School of Magistrates shall be recorded in a nominal list signed by all present participants.

#### **Article 142** **Voting process**

1. The voting for the selection of candidates for member of the High Prosecutorial Council from the Academic Staff Assembly of the Faculty shall be secret and individual.

2. The voting process shall be open to media and all other observers who are interested in attending the process. Observers shall be authorised in advance by the Rector of the HEI.

3. A Voting Committee to administer the voting process shall be established consisting of members of academic staff not running as candidates. In assuming its functions, the Voting Committee shall be assisted by the faculty administration.

4. The Minister of Justice, two members of the Standing Committee responsible for legal affairs in the Assembly, one of whom from the opposition, the Rector of HEI or persons authorised by them, may participate as observers in the meeting of the Academic Staff Assembly for selection of the candidate for member of the Council at faculty level, without prior authorization.

5. The Rector of HEI shall, not later than two days before the date of the meeting of the Academic Staff Assembly, approve the template of the ballot papers, which shall contain names of registered candidates.

6. The members of the Voting Committee shall, before the voting process starts, multiply and sign in advance a number of ballots equal to the number of members of the Academic Staff Assembly present at the meeting. In case one or more ballots are spoiled, the Committee shall sign a number of ballots equal to the spoiled ballots and destroy the spoiled ballots in the presence of participants.

7. Each member of the Academic Staff Assembly shall withdraw a ballot paper, mark it secretly in the voting booth and cast it in the ballot box. The vote will be considered valid, when it clearly expresses the will to support only one candidate.

8. The rules laid down in paragraphs 1 to 7 of this Article for the voting process by the Academic Staff Assembly of the Faculty shall also apply for the voting process by the Pedagogical Council of the School of Magistrates. In this case, the responsibilities provided for by paragraphs 2 and 5 of this Article on the Rector of the HEI shall be exercised by the Chairperson of the Steering Council. In case of elections in the School of Magistrates, a Voting Committee shall be established, which is elected by lot from the members of the Pedagogical Council. In assuming its functions, the Voting Committee shall be assisted by the administration of the School of Magistrates. In the event of an impossibility to attend, the members of the Voting Committee shall be substituted by other members of the Pedagogical Council elected by lot.

9. The Minister of Justice or persons authorised by him, two members of the Standing Committee responsible for legal affairs in the Assembly, one of whom from the opposition, may participate as observers in the meeting of the Pedagogical Council for selection of the candidate of the School of Magistrates, without prior authorization of the Chairperson of the Council.

### **Article 143**

#### **Counting of Votes and Announcement of Results**

1. The members of the Voting Committee shall, at the end of the voting process, open the ballot box in the presence of all members of the Academic Staff Assembly or of the Pedagogical Council present at the meeting. One of the members of the Voting Committee shall read out loud the result of each ballot paper and the voting result.

2. Votes deemed invalid shall be re-evaluated at the end of the counting process. In case of disagreements between members of the Voting Committee concerning the validity of votes, decisions shall be made at the end of the re-evaluation process by majority vote. Votes deemed valid at the end of the re-evaluation process shall be added to the respective candidates.

3. Invalid votes are the ballot papers where:

- 
- a) The ballot paper does not have the same elements as approved by the Voting Committee;
  - d) Remarks are made on the ballot paper in favour of or against the candidates;
  - e) The ballot paper indicates a vote for more than one candidate;
  - c) The ballot paper does not indicate a vote for any of the candidates;
  - f) It is not clear for which candidate it has been voted for;
  - dh) The ballot paper indicates a vote for a person who is not registered as a candidate in the ballot paper.

4. At the end of the voting process and the counting of votes, the Voting Committee members shall compile a record indicating the total number of participants, the total number of votes, the number of invalid votes, where applicable, the number of votes for each candidate and the names of selected candidates. Cases of disputes over the validity of votes and the way of settling them shall be indicated in the record. The record shall indicate even the number of ballot papers replaced due to them being spoiled.

5. At the end of the voting process, candidates, who have received the highest numbers of votes, shall be deemed selected. If two or more candidates receive the same number of votes, the winner will be determined by lot between them.

6. The original record showing the number of participants in the meeting of the Academic Staff Assembly or the Pedagogical Council of the School of Magistrates, the number of votes and the result of the vote count, signed by all Voting Committee members, shall be immediately sent, respectively, to the Rector of HEI or Chairperson of the Steering Council of the School of Magistrates.

7. Decisions of the election outcome and the announcement of winners, every intermediate decision and record shall be signed by Voting Committee members. The decisions shall be publicly announced at the end of the meeting of the Academic Staff Assembly or the Pedagogical Council of the School of Magistrates.

#### **Article 144**

##### **Complaints against Decisions of the Academic Staff Assembly or Pedagogical Council**

1. Complaints against the breach of the procedures relating to the call on the meeting, verification of participation, the voting, the counting of votes, the finding and announcement of invalidity and the announcement of the result during the meeting of the Academic Staff Assembly of the HEI or of the Pedagogical Council of the School of Magistrates, shall be made to the Administrative Court of Appeal.



2. The Administrative Court of Appeal shall decide within seven days from the date of submission of the complaint. The Court may decide on the repetition of the meeting of the Academic Staff Assembly and the Pedagogical Council of the School of Magistrates only in case the procedural infringements foreseen in paragraph 1 of this Article are proved to have occurred in a way that affected or may have affected the election results. Its decision is final and irrevocable.

3. In case the Administrative Court of Appeal decides to repeat the elections, they shall be held not later than seven days from the day of notification of the court decision.

#### **Article 145**

##### **Calling the Meeting of the Academic Staff Assembly Called by the Rector of the HEI**

1. If the Dean of the Law Faculty, upon expiry of the period mentioned in Article 140, paragraph 1 of this Law, fails to call the meeting of the Academic Staff Assembly for selection of the candidate for member of the High Prosecutorial Council, the meeting shall be called by the Rector of the HEI.

2. In such a case, the meeting of the Academic Staff Assembly to select the candidate shall be called through publication on the official website of the HEI and the notice shall be sent to each academic staff member on their electronic address.

3. Failure to call the meeting shall constitute disciplinary misconduct for the Dean of the Law Faculty.

#### **Article 146**

##### **Calling the Special Meeting of Heads of Institutions for the Final Selection of Candidates**

1. The Secretary General of the Assembly shall, not later than 60 days before the date of the expiry of mandate of the incumbent lecturer members of the High Prosecutorial Council, call a special meeting in which shall take part the Chairperson of the Steering Council of the School of Magistrates, the Director of the School of Magistrates, the rectors of HEIs offering study programmes in Law and the deans of Law faculties or heads of departments of Law. The call shall be published on the official website of the Assembly and shall be sent personally to the electronic addresses of the above-mentioned subjects.

2. The call for the special meeting for the selection of candidates shall indicate the date, venue and time of the meeting.

3. Selection of candidates for members of the High Prosecutorial Council shall be the only topic of the agenda of the special meeting.

4. The number of participants in the special meeting shall be recorded in a nominal list signed by all the present participants.





5. Before the voting, the candidates selected by HEIs and the candidates selected by the School of Magistrates shall present their programmes to the special meeting.

6. The special meeting of the heads of the institutions shall carry out a joint procedure for both categories of candidates for members of the High Judicial Council and High Prosecutorial Council, in case the vacancies for the Councils were created at the same time.

#### **Article 147**

##### **Quorum**

1. Participation in the special meeting for the election of members of the High Prosecutorial Council is mandatory.
2. The special meeting for the election of candidates shall be held in the presence of more than half of the members.
3. The number of participants in the special meeting shall be recorded in a nominal list signed by all the present participants.

#### **Article 148**

##### **Voting Process**

1. The voting for selection of candidates for members of the High Prosecutorial Council from the special meeting shall be secret and individual.
2. The special meeting shall vote for all candidates preliminary selected by HEIs and the School of Magistrates.
3. The representatives of the public HEIs and the School of Magistrates shall vote for the candidates of the public HEIs and the School of Magistrates. The representatives of the non-public HEIs shall vote for the candidates of the non-public HEIs.
4. The voting process shall be open to media and all other observers who are interested in attending the process. Observers shall be authorized in advance by the Secretary General of the Assembly.
5. A Voting Committee shall be established to administer the voting process consisting of lecturers of public and non-public HEIs and the School of Magistrates, who do not run as candidates. The Voting Committee shall be assisted in its work by the administration of the Assembly.

6. The Minister of Justice or persons authorised by him, two members of the Standing Committee responsible for legal affairs at the Assembly, one of whom from the opposition, may participate as observers in the voting process, without prior authorisation.
7. The Secretary General of the Assembly shall approve two template ballot papers, not later than two days before the date of the special meeting. One template ballot paper shall contain names of all candidates proposed by public HEIs and the School of Magistrates. The other template ballot paper shall contain names of all candidates proposed by non-public HEIs.
8. The Voting Committee members shall, before the voting process starts, multiply and sign in advance a number of ballots equal to the number of present members. In case one or more ballots are spoiled, the Committee shall sign a number of ballots equal to the spoiled ballots and destroy the spoiled ballots in the presence of participants.
9. Each participant shall withdraw a ballot paper, mark it secretly in the voting booth and cast it in the ballot box. The vote shall be considered valid, when it clearly expresses the will to support only one candidate.

#### **Article 149**

#### **Counting of Votes and Announcement of Results**

1. The Voting Committee members shall, at the end of the voting process, open the ballot box in the presence of all participants present at the meeting. One of the members of the Voting Committee shall read out loud the result of each ballot paper and the voting result.
2. Votes deemed invalid shall be re-evaluated by the Voting Committee at the end of the counting process. In case of disagreements between members of the Voting Committee concerning the validity of votes, decisions shall be made at the end of the re-evaluation process by majority vote. Votes deemed valid at the end of the re-evaluation process shall be added to the respective candidates.
3. Invalid votes are the ballot papers where:
  - a) The ballot paper has not the same elements as approved by the Voting Committee;
  - b) Remarks are made on the ballot paper in favour of or against the candidates;
  - c) The ballot paper indicates a vote for more than one candidate;
  - ç) The ballot paper does not indicate a vote for any of the candidates;
  - d) It is not clear for which candidate it has been voted for,

- dh) The ballot paper indicates a vote for a person who is not registered as a candidate.
4. At the end of the voting process and the counting of votes, the Voting Committee members shall compile a record indicating the total number of votes, the number of invalid votes, where applicable, the number of votes for each category of candidates, the number of votes for each candidate and the names of selected candidates. Cases of disputes over the validity of votes and the way of settling them shall be indicated in the record. The record shall indicate even the number of ballot papers replaced due to them being spoiled.
  5. The seven candidates from public HEIs or the School of Magistrates and three candidates from non-public HEIs who have received the highest numbers of votes, shall be considered selected. If two or more candidates receive the same number of votes, the winner will be determined by lot between them. If there are not sufficient candidates from the non-public HEIs to meet quotas set out in this paragraph, the vacancies shall be filled by candidates from public HEIs.
  6. The decision announcing the candidates shall be published on the official website of the Assembly.
  7. The original record showing the number of participants in the special meeting of the rectors and deans and the result of the vote count, signed by all Voting Committee members, shall be officially sent to the Assembly.
  8. Besides the list with the names of the selected candidates, the Special Meeting drafts an assessment report on the level of fulfilment of the ethical and professional criteria of the candidates. The assessment of the ethical and professional criteria of the candidates shall be made by applying, to the extent possible and with the necessary changes, the requests of Article 132 of this Law.

#### **Article 150**

##### **Complaints against Decisions of the Special Meeting**

1. Complaints against the breach of the procedure related to the call on the meeting, the verification of participation, the voting and the counting of votes, finding and announcing invalid votes and declaring the result during the Special Meeting shall be filed with the Administrative Court of Appeal, not later than five days following the date of publication of the decision on the official website of the Assembly.
2. The Administrative Court of Appeal shall decide within seven days from the day of submission of the complaint. The court may decide to repeat the special meeting only upon establishment of the occurrence of procedural breaches foreseen in paragraph 1 of this Article and the impact or potential impact of the latter on the election results. Its decision is final and irrevocable.

3. In case the Administrative Court of Appeal decides to repeat the elections, they shall be held no later than seven days from the day of notification of the court decision.

#### **Article 151**

##### **Selection of the Member of the High Prosecutorial Council from the Ranks of Lecturers of Law Faculties and the School of Magistrates**

1. Candidates selected by the special meeting according to the provisions of Article 146 and the assessment report according to Article 149 paragraph 8 of this Law shall be forwarded to the General Secretary of the Assembly in a list of names of the candidates that have received the highest scores, but not more than 10 candidates and in each case not less than three times the number of vacancies. The list and the evaluation report shall be recorded in the register of the protocol office of the Assembly. The original or certified copy of the documentation of each candidate together with the inventory of the respective file shall be enclosed with the list.
2. The rules provided for in Article 35 paragraph 2 to paragraph 19, of this Law shall be applicable even for the selection of the member of the High Prosecutorial Council from the corps of lecturers of Law Faculties and the School of Magistrates.

#### **SUB-SECTION IV**

##### **PROCEDURE FOR THE ELECTION OF THE MEMBER OF THE HIGH PROSECUTORIAL COUNCIL REPRESENTING THE CIVIL SOCIETY**

#### **Article 152**

##### **Election of the member of the High Prosecutorial Council representing the civil society and requirements to be elected**

1. The Assembly shall elect 1 (one) member of the High Prosecutorial Council from the members of the civil society organisations, registered under the respective legislation, being active in the field of the justice system or human rights and having implemented projects in this field for at least in the 5 recent years.
2. Candidates from the civil society must meet the following requirements:
  - a) be Albanian citizens;

- b) have completed the second cycle of the university studies for law with the diploma 'Master of Sciences' or an recognised diploma, or university studies in law abroad and having provided with the recognised diploma under the rules for the recognition of the diplomas, provided for in the law;
- c) have at least 15 years of professional experience as jurist;
- ç) have a prominent social profile, high moral integrity and high professional qualification in law and human rights;
- d) at the time of putting up the candidacy, be employed on full-time or part time basis for at least 5 years without interruption in a civil society organisation active in fields connected to the justice system and human rights;
- dh) have not practised actively, at the time of application, the profession of the advocate for at least 2 years, except those committed to organisations or clinics offering free legal aid for the purposes of the organisation;
- e) not be candidates proposed by advocacy or law professors;
- ë) have not been previously sentenced by a final court decision for committing a crime;
- f) Have not held any political function in the public administration or leading positions in political parties in the last 10 (ten) years prior to putting up the candidacy;
- g) have not been members, collaborators or favoured by the former State Security Agency prior to 2 July 1991 in the sense of the law "On the right to information on the documents of former State Security in the People's Socialist Republic of Albania";
- gj) have not been collaborators, informants or agents of secret services;
- h) at the time of application, have no family members in the meaning of the Law "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first-degree relatives who are incumbent High Prosecutorial Council members or candidates.

3. The representatives from the ranks of the civil society organisations shall resign from every senior or junior position in these organisations, as long as they are elected members of the High Prosecutorial Council.

4. Every civil society member who meets the requirements mentioned in paragraph 2 of this Article and who has the support of at least 3 civil society organisations working in fields related to the justice system or human rights, shall be entitled to run as a candidate.



5. The Secretary General of the Assembly shall approve the template form for supporting the candidates for members of the High Prosecutorial Council from civil society. The template form shall be signed by the legal representative of each of civil society organisations that decide to support one colleague.

### **Article 153**

#### **Call for submission of expression of interest**

1. The Secretary General of the Assembly shall, not later than 4 months before the date of expiry of the mandate of incumbent member from the civil society in the High Prosecutorial Council, announce the call for submission of expression of interest by civil society candidates interested in the position of the member of the Council.
2. The call shall be published on the official website of the Assembly.
3. The call for submission of expression of interest shall contain the deadline within which the expression of interest must be submitted, the mailing and electronic address where the expression of interest and supporting documents shall be submitted.

### **Article 154**

#### **Submission and review of expression of interest**

1. The members of the civil society shall, within 15 days from the launch of the call for submission of expression of interest, express their interest through a written request addressed to the Ombudsperson.
2. The expression of interest may be sent via the electronic or postal address indicated in the call for submission of expression of interest.
3. The interested persons shall, in addition to the request in writing, attach at least the following documents:
  - a) An updated Curriculum Vitae;
  - b) A personal programme of goals and objectives that the candidate shall propose to follow-up, if elected;
  - c) A self-declaration of criminal record according to the law "On guaranteeing the integrity of persons elected, appointed or performing public functions";
  - ç) a declaration against the legal responsibility that they have not been members, collaborators of the former State Security Agency prior to 2 July 1991 in the sense of the law "On the right to



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information on the documents of former State Security in the People's Socialist Republic of Albania”

d) A statement against the legal liability not being collaborator, informant or agent of secret services.

dh) any other document establishing the meeting of legal conditions provided in Article 152, paragraph 2, of this law;

4. The names of candidates from civil society and original or certified copies of the documentation submitted by them shall be recorded in the register of the protocol office of the Ombudsperson.

5. The protocol office of the Ombudsperson shall receive the expression of interest and the supporting documentation of candidates and provide them with a written certificate acknowledging receipt of the expression of interest and supporting documentation.

6. The Ombudsperson shall, within 5 days from the registration of the candidates and supporting documentation, verify whether the documentation submitted by the candidates is complete. If documentation of the candidate is incomplete to assess the fulfilment of constitutional and legal criteria and professional and moral criteria, according to article 152, paragraph 2 and 3, of this law, the Ombudsperson shall request the candidate to complete the documentation or submit additional documents within 5 days. Notice on completion of documentation or submission of additional documentation shall be sent to the email address indicated by the candidate within a time period of 5 days, since the day of notification of the Ombudsperson.

7. Failure to submit supplementary or additional documentation with the time limit of 5 days, shall not suspend the process of final registration of the candidates and their supporting documentation. In this event, the candidate shall be assessed based on the documentation in the file deposited with and administered by the Ombudsperson.

8. The date of completion of the requested documentation or time limit set for completion shall be considered the day of submission and registration of the candidates and supporting documentation to the Office of the Ombudsperson. The final submission shall be documented by a registration number assigned by the protocol office of the Ombudsperson.

9. The Ombudsperson shall, not later than 10 days from the day of registration of the candidates and supporting documentation according to paragraph 5 of this article, review and verify whether the candidates meet the legal requirements and criteria foreseen in the Constitution and article 54 of this law through an open and public process.

10. Within 3 days since the day of the announcement of the notification of submission of the expression of interest for High Prosecutorial Council by the civil society, the Ombudsperson shall publish the call for the expression of interest for member of the commission of the civil society for the preliminary verification by the civil society organisation, under the provisions of Article 152, point 1,

of this law. The call shall be published on the official website of the Ombudsperson, as well as in one of the highest circulation newspapers. The notification shall be sent to all the civil society organisations to their official electronic addresses. The expression of interest shall be submitted by the organisations of the civil society within 7 days and they shall contain the respective documentation establishing the meeting of criteria provided for in Article 54, paragraph 1, of this law, or those provided in this point.

11. The Ombudsperson shall verify within 10 days the meeting of criteria by the organisations expressing their interest for becoming part of the commission of the preliminary verification of the civil society. Where more than 5 organisations have expressed their interest that they meet the criteria provided in paragraph 10 of this Article, the first meeting of this commission shall elect by secret voting the organisations which shall be members of this commission. Five organisations attaining most of the votes shall be considered selected as members of the commission of the civil society. In the event of equality of votes, the voting shall be repeated among the organisations with the same number of votes.

12. The civil society commission chairman for the preliminary verification shall be elected by the commission. The civil society organisation shall be represented by its legal representative. The substitute member of this commission shall substitute him upon the authorisation of the legal representative.

13. Failure to assume the powers under this law by the Ombudsperson within the time period provided for shall consist disciplinary violation and in each case, it is the Justice Appointments Council Chairperson who shall assume the powers provided for in this Article within 3 days of the expiry of the deadline set out for the Ombudsperson in this law.

14. In the event of conflict of interest, incompliance or withdrawal of the commission member, the legal regulations provided in Articles 126 and 127 of this law shall be applied *mutatis mutandis*.

15. The civil society commission shall carry out a joint procedure for the preliminary verification of both categories of the candidates for members of the High Judicial Council and High Prosecutorial Council in the event of creation of vacancies at the same time.

#### **Article 155**

##### **Preliminary Verification of fulfilment of legal requirements by the Civil Society Commission attached to the Ombudsperson**

1. The Civil Society commission for the preliminary verification shall verify whether the candidates of the civil society for the members of the High Prosecutorial Council meet the legal conditions and criteria, under the provisions of Article 152 of this law.
2. Upon the completion of the preliminary verification procedure, the civil society commission shall immediately make public the names of the candidates meeting the legal conditions to members of the High Prosecutorial Council in the official website of the Ombudsperson and of the Assembly. The Commission of the civil society shall individually communicate to the candidates the outcome



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of the verification and meeting or not meeting the legal conditions and reasons for their exclusion.

3. The complaints against the decisions for the exclusion of the candidates only for severe procedural infringements shall be filed with the Appeal Administrative Court not later than 5 days from the day of notification of the challenged decision. The Appeal Administrative Court shall decide within 7 days of the day of submission of the complaint. Its decision is with prejudice and final. The complaint does not suspend the conduct of the evaluation procedure and preliminary verification carried out by the civil society commission under this Article.
4. The civil society commission shall do the preliminary verification of the professional and moral criteria and does a ranking list, under the provisions of Article 132 of this law. The civil society commission shall organise a public hearing with each candidate meeting the legal formal criteria. The candidates shall, in the public hearing, unfold their platform. The process of public hearing is open to media and to all the other observers expressing an interest to follow the process.
5. The members of the civil society shall vote individually and secretly regarding the way of ranking the candidates.
6. The civil society commission shall carry out its activity collegially, under the rules and procedures provided for in the legislation on the organisation and functioning of the collegial bodies, to the extent it has not been provided for differently in this law.

#### **Article 156**

#### **Selection of the member of the High Prosecutorial Council from the ranks of the representatives of the civil society**

1. The Chairperson of the civil society commission shall transmit to the Secretary General of the Assembly a list of names of not more than 10 candidates having obtained most of the points, and under no circumstances less than three times the number of vacancies. The list as well as the evaluation report shall be registered on the register of the protocol of the Assembly. Attached to it shall be the original or certified copies of the documentation of each candidate, along with the inventory of his file.
2. Rules provided in Article 35 of this Law, from paragraph 2 to paragraph 19, shall be also applicable for the selection of the member of the High Prosecutorial Council from the ranks of the representatives of the civil society.

#### **CHAPTER II**

#### **ORGANISATION AND THE MEETING OF THE HIGH PROSECUTORIAL COUNCIL**



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**SECTION 1**

**ORGANISATION OF THE HIGH PROSECUTORIAL COUNCIL**

**Article 157**

**Chairperson of the High Prosecutorial Council**

*(Amended by Law no. 47/2019 Article 10)*

1. The Chairperson and the deputy chairperson of the High Prosecutorial Council shall be elected at the first meeting of the Council from the ranks of non-prosecutor members by simple majority of votes of the members. They hold office until the end of his/her term as a Council member.
2. The Chairperson of the Council shall enjoy the salary and the benefits of the High Court Chairperson.
3. The Chairperson of the High Prosecutorial Council shall perform the following functions:
  - a) be responsible for the proper functioning of the Council and efficient performance of its duties in accordance with law;
  - b) prepare, call and chair the Council meetings;
  - c) oversee and direct the administration of the Council;
  - ç) represent the Council in relations with third parties;
  - d) ensure cooperation with other institutions;
  - dh) report to the Assembly on the situation in the ~~judicial system~~ **prosecution office** and take measures for the publication of the report;
  - e) propose the heads of the standing committees and assign the heads of ad hoc committees of the Council;
  - ë) perform any other tasks assigned by law.

**Article 158**

**Deputy Chairperson**

The Deputy Chairperson shall exercise all competences of the Chairperson in the absence and incapability of the latter and in the cases of temporary incapability of the Chairperson.



## Article 159

### Plenary Meeting of the High Prosecutorial Council

*(Amended by the CC Decision no. 41/2017 and Law no. 47/2019 Article 11)*

- ~~1. The High Prosecutorial Council is organised and performs its activity in committees or plenary meetings. The competences of the Council which are not mentioned in paragraph 2 of this article shall be exercised by the committees. The competences mentioned in paragraph 2 of this Article are exercised by the Plenary Meeting based on proposals of the respective Committees.~~
  
- ~~2. The Plenary Meeting of the High Prosecutorial Council shall exercise the following competences:~~
  - ~~a) adopt sub-legal normative acts, pursuant to this law or other laws, with general binding effect on all prosecutors, administration of the prosecution office, private individuals and public bodies;~~
  - ~~b) adopts acts governing the internal procedures of the Council;~~
  - ~~c) appoint and promote prosecutors based on the proposal of the Career Development Committee;~~
  - ~~ç) impose the disciplinary measure of dismissal against the prosecutors of the Special Prosecution Office by 2/3 of the votes, upon the proposal of the Disciplinary Committee;~~
  
  - ~~d) review complaints against decisions of the committees, except for decisions dismissing the decisions of the High Justice Inspector to archive the complaints or close investigation, according to paragraph 13, article 160 of this law.~~
  - ~~dh) adopt general non-binding guidelines.~~
  - ~~e) approve detailed rules on the functioning of the administration of the Council;~~
  - ~~ë) approve the composition of the standing committees, ad hoc committees and detailed rules for their activities.~~
  - ~~f) review complaints according to the instructions of the Prosecutor General or heads of prosecutor's offices.~~
  - ~~g) approve detailed rules on the management and use of information technology by the institutions of the prosecution system in cooperation with the information technology centre for the justice system.~~
  
- ~~3. The members of the Council who have made the request based on which the investigation of the High Inspector was initiated, shall not participate in the plenary meeting of the Council and in the meeting of the Disciplinary Committee reviewing the proposals of the High Justice Inspector to impose disciplinary measure.~~

~~4. The plenary meeting consists of all the members of the Council. The respective member may not participate in the discussion and decision-making over the specific issue of the agenda of the plenary meeting;~~

- ~~a) In case of a decision taken over a disciplinary issue, he/she has filed a complaint to the High Justice Inspector, that was the reason for initiation of disciplinary proceedings;~~
- ~~b) In case of a decision taken over a disciplinary issue, he/she has been member of the committee, which has already taken a decision in the issues governed by article 160 paragraph 13, of this law.~~

**1. The High Prosecutorial Council is organised and performs its activity in committees or plenary meetings.**

**2. The High Prosecutorial Council shall assume the following competences in the plenary meeting:**

- a) appoints, evaluates, promotes and transfers prosecutors of all levels;**
- b) decides on the disciplinary measures on prosecutors of all levels;**
- c) proposes to the Assembly the candidates for Prosecutor General, in accordance with the legislation in force;**
- ç) approves the rules on the ethics of prosecutors and supervise their observation;**
- d) proposes and administers its own budget;**
- dh) informs the public and Assembly on the state of the prosecution office;**
- e) approves normative sublegal acts, implementing this law and other laws, of general binding impact on all the prosecutors;**
- ë) approves acts on the regulation of the internal procedures of the Council;**
- f) approves the Code of Ethics of the Council;**
- g) examines the decisions of the committees, as applicable;**
- gj) approves non-binding instructions;**
- h) approves detailed rules for the functioning of the administration of the Council;**
- j) approves the composition of the standing committees, ad hoc committees, as well as detailed rules on their activity.**

**3. All the members of the Council shall attend the plenary meeting. A member of the Council shall not attend the decision-making of a plenary meeting or committees for the following issues of the agenda:**

- a) in the event of a decision regarding the disciplinary issue, where the member has submitted with the High Justice Inspector the request, based on which the disciplinary proceeding has been initiated;**
- b) where a member of the committee has made a decision on the disciplinary issue, provided in paragraph 13 of Article 160 of this law.**

**4. The committees shall perform other activities in accordance with their internal regulation**

#### **Article 160**

##### **Standing Committees of the High Prosecutorial Council**

1. The standing committees of the High Prosecutorial Council exercise the activity and make decisions in their respective fields provided for in paragraph 3 of this Article or propose to the plenary meeting of

the Council, the approval of decisions that are within the competence of the latter, in accordance with Article 159 of this Law.

2. After electing the Chairperson, the Council shall take a decision on the composition of the standing committees, including the substitute members. In each case, a prosecutor member can only be substituted by another prosecutor member. A non-prosecutor member can only be substituted by another non-prosecutor member. More detailed procedures and criteria for this decision are regulated by the Council.

3. The High Prosecutorial Council is composed of the standing committees as follows:

- a) Strategic Planning, Administration and Budget Committee;
- b) Disciplinary Committee;
- c) Committee of Ethical and Professional Performance Evaluation;
- ç) Career Development Committee

4. Each Committee shall consist of three members. Two substitute members shall be appointed to each Committee. The assignment of members and substitute members of the committees shall be made by keeping in mind the need to ensure a fair division of the workload and the respect for the requirements and relationship between prosecutor members and lay members provided for in paragraphs 5 to 12 of this Article;

5. A member of the Council may be a member in no more than two standing committees. A member of the Council may not be a chairperson in more than one standing committee. This rule shall not apply to the substitute members and to the ad hoc committees;

6. The committees elect their respective chairpersons in their first meeting by majority vote and based on the proposal of the Chairperson of the Council. The Chairperson of the Council shall be the chairperson of the committees he/she is part of.

7. Members of the Committee of Ethical and Professional Performance Evaluation may not be members of the Career Development Committee.

8. The Strategic Planning, Budget and Administration Committee shall consist of two non-prosecutor members and one prosecutor member.

9. The Disciplinary Committee shall consist of two prosecutor members and one non-prosecutor member.



10. The Committee of Ethical and Professional Performance Evaluation shall consist of two prosecutor members and one non-prosecutor member.
11. The Career Development Committee shall consist of two prosecutor members and one lay member.
12. Committee members shall perform their functions attached to the committees for two years and a half from the date of the election. At the end of this period, the composition of committees shall be renewed in accordance with the procedure provided for in paragraph 2 of this Article.
13. An ad hoc committee consisting of two lay members and one prosecutor member shall be set up to consider the complaints against decisions of the High Justice Inspector to archive the complaint or close the investigation against a judge. The composition of the committee is determined by lot under the auspices of the Chairperson of the Council. The decisions of the ad hoc committee are final and may not be appealed before the Plenary Meeting of the Council.
14. The High Prosecutorial Council may establish ad hoc committees to address specific matters.
15. Committees shall decide by a majority of votes in the presence of all members.
16. Within January of each calendar year, each standing committee shall present in the plenary meeting of the Council, an annual report on its activities with the findings and relevant recommendations. The report shall be published on the official website of the Council.

#### **Article 161**

#### **Rapporteur**

1. In all cases where the plenary meeting or its committees review and approve individual administrative acts relating to the professional status of specific prosecutors or specific officials of the prosecution office administration, one of the members of the committee shall serve as rapporteur.
2. Each member of the committee, including the chairperson of the committee, may be a rapporteur. The rapporteur is assigned by lot taking into account the workload and the skills of each member according to the procedure and more detailed rules adopted by the Council. The Chairperson of the Council may not be a rapporteur.
3. The rapporteur shall be responsible for the development of individual administrative proceedings and in particular for the following:
  - a) review of the documentation submitted by subjects of administrative procedure;
  - b) preparation of the draft administrative act;

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- c) coordination with the chairperson of the committee to prepare the meeting of the committee;
  - ç) coordination with the chairperson of the Council to prepare the plenary meeting of the Council;
  - d) notifications for the subjects of administrative proceedings.
4. The rapporteur, in the exercise of his/her responsibilities, shall be assisted by the administrative staff of the High Prosecutorial Council.

#### **Article 162**

##### **Experts**

The High Prosecutorial Council may engage, as experts for specific matters or fields even the sitting prosecutors. Sitting prosecutors provide their services voluntarily and free of charge.

#### **Article 163**

##### **Right to seek information**

1. Every public authority, natural or legal person, shall cooperate with the High Prosecutorial Council by making available information or documents required by the Council to perform its functions.
2. Every public authority, natural or legal person shall attend or send representatives to plenary meetings or Council Committees in order to present evidence and testify in connection with any matter that is related to the functions of the Council.

### **SECTION 2**

#### **MEETING OF THE HIGH PROSECUTORIAL COUNCIL**

#### **Article 164**

##### **Calling the meeting of the High Prosecutorial Council**

1. The High Prosecutorial Council shall meet whenever necessary, but not less than once a month.
2. The Chairperson of the Council shall decide on the date and time of the meeting.
3. The Chairperson may call other meetings when deemed necessary for the operation of the Council;
4. The meeting of the Council may be called upon the request of at least three members of the Council by determining in the request the issues to be discussed in the meeting. Even in this case, the



Chairperson shall decide on the date and time of the meeting not later than 7 days from the submission of the request.

5. The Chairperson shall assure the observation of the procedures for the notification of every member in writing not later than seven days before each meeting of the Council.
6. The notice shall be accompanied by the agenda, draft decisions proposed to be made during the meeting, along with any data, draft act and legal advice, as well as any other information or act that shall be considered in the meeting or subject to the discussions in the meeting;
7. The rules foreseen in paragraph 6 of this article shall not constitute an impediment to approve requests for changing the content of a draft decision that accompanies the agenda.
8. Each decision of the Council constituting an individual administrative act regarding the professional status of specific prosecutors or specific officials of the administration shall be signed by every member present in the meeting, in accordance with what has been agreed. The refusal by a member to sign the content of the decision shall not constitute a reason for invalidation of the act. The other acts shall be signed by the Chairperson of the Council.
9. In cases where the Council makes individual administrative decisions regarding the professional status of specific prosecutors or specific officials of the prosecution office administration, the dissenting member may request that his/her opinion be annexed to the decision of the Council. In this case, the member is responsible for drafting and submitting the dissenting opinion within the deadline set by the Council for the transcription of the decision.

#### **Article 165**

##### **Agenda**

1. The Chairperson of the High Prosecutorial Council shall set the agenda of the Council's plenary meeting.
2. A particular issue shall be added to the agenda, when requested in writing to the Chairperson by at least three members of the Council not later than 4 days before the meeting.
3. If at least 6 members attending a meeting of the Council decide, that an issue, which has not been included in the agenda, should be discussed as well as be given a solution in the meeting, the issue shall be added to the agenda.

#### **Article 166**

##### **Quorum and decision-making in the High Prosecutorial Council**





1. Participation in the plenary meeting of the High Prosecutorial Council is mandatory. The necessary quorum for the holding of plenary meetings of the High Prosecutorial Council shall be reached when not less than seven members are present.
2. The High Prosecutorial Council shall decide by a majority of votes of the members present. The vote is open.
3. A member of the Council present at the meeting may not renounce the vote, unless legal obstacles exist such as conflict of interest or other obstacles in the meaning of this Law, the law on the conflict of interest or the Code of Administrative Procedures.
4. The Administration shall take notes and record the votes of the members of the Council.
5. The Chairperson is the last member to vote in connection with an issue.
6. In the event of a tie, the Chairperson's vote shall be a casting vote.
7. Every member of the Council shall be liable for the vote and entitled to make a brief oral or written statement on the reasons for the vote.

#### **Article 167**

##### **Documentation of the Plenary Meeting of the High Prosecutorial Council**

1. The Chairperson shall be responsible for ensuring that the administration takes all necessary measures that every plenary meeting of the High Prosecutorial Council be properly documented through:
  - a) Audio recording;
  - b) Minutes of the meeting with a summary of discussions.
2. The audio recording of the plenary meeting shall be made public on the official website of the Council within 24 hours from the day of the meeting. Prior to the publication, under the Chairperson's responsibility, the administration shall edit the material by deleting any reference to concrete names, except for the names of the members of the Council and the names of the prosecutors against whom the disciplinary measure of suspension and dismissal has been taken.
3. The minutes of the meeting with a summary discussion shall be published on the official website of the Council after being approved by the next plenary meeting of the Council. Even in this case, under the Chairperson's responsibility, the administration shall delete any reference to concrete names, except for the names of the members of the Council and the names of the prosecutors against whom the disciplinary measure of suspension and dismissal has been taken.



4. Under the direction and supervision of the Chairperson, the administration shall keep the minutes of the meeting with a summary of discussions of every meeting, writing down at least the following information:
  - a) Members present in the discussions for each issue of the agenda;
  - b) Issues of the agenda, including issues added under Article 165, paragraph 2 and 3 of this law;
  - c) Recusal of members of the Council and relevant reasoning;
  - ç) Main aspects of issues discussed and proposals for decisions;
  - d) The voting outcome, the voting manner for each member and the reasoning of the vote by each member;
  - dh) decisions
5. The minutes with the draft summary of the discussions of the meeting shall be signed by the Chairperson and made available to all members, within five days following the day of the meeting.
6. Each member of the Council present in the meeting may note inaccuracies in the content of the summary minutes and ask the Chairperson, through a written request, for the inaccuracies to be corrected. The summary minutes of the Council meeting shall be corrected only, if the audio recording confirms the inaccuracy, in the following ways:
  - a) upon the order of the Chairperson on the basis of a request submitted in accordance with paragraph 6 of this Article,
  - b) by decision of the Council in the following meeting.
7. The Administration shall take the measures that audio recordings of the Council meetings and the summary minutes be stored for not less than 10 years, in accordance with the Law "On Archives".

#### **Article 168**

#### **Application by Analogy of the Rules for the Council committees**

1. Provisions of Articles 164 to 167 of this Law on the calling of the meeting, the agenda,



the quorum, the decision-making and the documenting of the plenary meeting of the High Prosecutorial Council shall also apply, to the possible extent and with the respective amendments, to the meetings of the committees of the High Prosecutorial Council.

2. The High Prosecutorial Council shall adopt detailed rules for the organization and functioning of the committees.

#### Article 169

##### Relationship of the High Prosecutorial Council with the Minister of Justice

1. The Minister of Justice coordinates the development and implementation of state policies and cross-cutting strategy of the justice sector. The Minister of Justice is responsible for preparing the draft legal acts in the criminal justice field after taking the opinion of the High Prosecutorial Council.

2. The Minister of Justice may file a complaint before the High Justice Inspector for the alleged disciplinary misconduct of prosecutors and it may request the High Justice Inspector to conduct institutional and thematic inspections in the General Prosecution Office or prosecutor's offices.

3. The Minister of Justice or its representative may participate as observers in the General Meeting of prosecutors, meeting of the General Council of the National Chamber of Advocacy, Academic Staff Assembly and Steering Council of the School of Magistrates, Special Meeting of the Heads of Institutions for the election of prosecutor members of the High Prosecutorial Council and also in the joint meeting of the High Judicial Council and High Prosecutorial Council.

4. The High Prosecutorial Council shall cooperate with the Minister of Justice in order to ensure the compatibility of budget and strategic planning of the prosecution system as adopted by the Council, with the state policies and cross-cutting strategy of the justice sector.

~~5. The Minister of Justice or his representative is entitled to participate, without the right to vote, in the meetings of the High Prosecutorial Council and standing committees of the Council. In these cases, he is entitled to:~~

~~a) be informed at least seven days before the meeting;~~

~~b) obtain any information made available to members of the Council on these issues.~~

6. The Minister of Justice may exercise the above-mentioned rights personally or through a representative authorised in writing by him/her.

7. In the exercise of his/her functions, the Minister of Justice shall have full access to the statistical data generated from the case management system of the prosecution offices.

### **Article 170**

#### **Inter-institutional cooperation of the justice system stakeholders**

1. The High Judicial Council and the High Prosecutorial Council at least once a year shall organize joint meetings to exchange experience, unify the interpretation and enforcement of the law concerning exercise of functions and their organisation as well as general issues concerning the functioning of the justice system.
2. The High Prosecutorial Council may send the representative to the meetings of the High Judicial Council for issues of common interest and vice-versa.
3. The High Prosecutorial Council shall cooperate with the High Judicial Council to unify the interpretation and enforcement of the law, the modus operandi and exchange of experience related to the cases on the status of the magistrates.
4. The President of the Republic, the Chairperson of the Constitutional Court, the Chairperson of the High Court, the Minister of Justice, the chairperson of the Special Court for the adjudication of the criminal offences of Corruption and Organised Crime, the chairperson of the Special Prosecution Office and the Prosecutor General are invited to participate in these joint meetings.

### **SECTION III**

#### **CONFLICT OF INTEREST**

### **Article 171**

#### **Conflict of Interest**

The Council member, present at the meeting of the committee or the plenary meeting, who is aware of a conflict of interest or legal obstacle to himself/herself or to another member regarding the issues on the agenda, shall be bound to as follows:

- a) declare the nature of the interest or obstacle;
- b) not to participate in the discussion of the relevant issue;
- c) not to participate in voting on the respective issue.

### **Article 172**

#### **Incompatibility due to participation in the proceedings**

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A member of the High Prosecutorial Council may not participate in the consideration of disciplinary proceedings against a prosecutor neither in the disciplinary committee nor in the plenary meeting, when he has given advice or has expressed any opinion on the issue that is subject to disciplinary proceedings, due to the capacity as a judge, prosecutor, inspector, witness, representative of the parties, expert or in any other capacity.

#### **Article 173**

##### **Incompatibility due to family, kinship or in-law relations**

A member of the High Prosecutorial Council may not participate in the meetings of the committees or plenary meeting of the Council considering disciplinary proceedings against a prosecutor, in the decision-making on the promotion, transfer or secondment of a prosecutor and neither be a rapporteur for professional and moral assessment of a prosecutor as well as in any other administrative proceedings related to the status of the prosecutor or other functionaries of the system whose status is administered by the Council, if the following relationship exists between them:

- a) Marital or cohabitation relationships;
- b) Close kinship relationship including ancestors, descendants, brothers, sisters, uncles, aunts, nephews, nieces, children of brothers and sisters, or
- c) Close by-law relations including father-in-law, mother-in-law, groom, bride, sister-in-law, stepson, and stepfather.

#### **Article 174**

##### **Waiver**

1. A member of the High Prosecutorial Council is obliged to waive participation in the meetings of the committees or plenary meeting of the Council considering disciplinary proceedings against a prosecutor, in the decision-making on the promotion, transfer or secondment of a prosecutor and neither be a rapporteur for professional and moral assessment of a prosecutor as well as from any other administrative proceedings related to the status of the prosecutor or other functionaries of the prosecutorial system whose status is administered by the Council, in the following cases:

- a) When he/she, the spouse/cohabitant or the children are debtors or creditors in relation to the subject of the proceeding, or that is to be evaluated or promoted, transferred or seconded, or that have represented his/her interests in the past;
- b) When the advocate or representative of the subject of the administrative proceeding is a close relative to him/her or of his/her spouse /cohabitant;

- c) When there are disputes between him/her, his/her spouse / cohabitant or any of his/her close relatives and the subject of the proceeding, or that is to be evaluated, promoted, transferred or seconded;
- ç) When he/she or any of his/her relatives or spouse / cohabitant has been damaged by the actions or acts of the subject of the administrative proceeding, which have caused the initiation of disciplinary proceedings;
- d) When a close relative of him/her or of his/her spouse / cohabitant has made the complaint to the High Justice Inspector, the investigation of which has led to the initiation of disciplinary proceedings.

2. The decision on accepting the waiver of a member shall be made by the Chairperson of the Council. In case of waiver by the Chairperson, the decision on its acceptance shall be made by the Deputy Chairperson.

#### Article 175

##### Exclusion of a member

(Amended by the CC Decision no. 78/2017 and Law no. 47/2019 Article 12)

1. The prosecutor or civil servant or his/her legal representative being proceeded against, or the High Justice Inspector may request the exclusion of the member from participating in the consideration of an administrative procedure only in the preliminary stage of the process, when one of the reasons provided for in Article 174 of this Law exists and when the member does not recuse him/herself from the case review.
- ~~2. The decision to exclude a member shall be made by the Chairperson of the Council. When exclusion of the Chairperson of the Council is requested, the decision shall be made by the Deputy Chairperson.~~

**2. The decision on excluding a member from the examination of a case in the committee or plenary hearing, shall be made by the Council, pursuant to the rules set out in Article 171 of this Law. Where the exclusion of the Chairperson of the Council is requested, the meeting shall be presided over by the Deputy Chairperson of the Council.**

#### SECTION IV

##### ORGANISATION OF THE ADMINISTRATION OF THE HIGH PROSECUTORIAL COUNCIL

#### Article 176

##### Administration of the Council

1. Attached to the High Prosecutorial Council shall be the administration functioning, assisting with the realisation of the mission and functions of the Council.



2. The Administration of the Council shall be headed by the Chairperson of the High Prosecutorial Council and it shall regularly report to him/her.
3. Staff members of the High Prosecutorial Council shall have the status of civil servants in accordance with provisions of the law “On Civil Servants” or they shall be prosecutors seconded to the Council under provisions of the law “On the status of Judges and Prosecutors in the Republic of Albania”.
4. The Law “On Civil Servants” shall apply to the staff the High Prosecutorial Council, unless otherwise provided by this Law.
5. Civil servants may be invited to participate in meetings of the Council or committees and as well as ask to take the floor with no right to vote.
6. The High Prosecutorial Council shall employ administrative employees under the rules laid down in the Labour Code.

#### **Article 177** **Secretary General**

1. The Secretary General of the High Prosecutorial Council is the highest administrative functionary of the Council.
2. The Secretary General shall be recruited in accordance with the procedures provided for in the law “On Civil Servants”.
3. The Director of the unit for general legal issues shall replace the Secretary General in cases of absence or temporary incapacity of the latter.
4. The Secretary General of the Council or his substitute is entitled to access any document that is reviewed in the meetings of the committees or in the meeting of the Council, to take part in meetings of the committees or in the meeting of the Council with no right to vote, as well as propose to include in the agenda issues related to administrative aspects and their staff.

#### **Article 178** **Organisation of the Administration**

1. The administration of the High Prosecutorial Council shall be divided, at least, in the following units:
  - a) Support Unit for general legal issues;

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- b) Support Unit for each standing committee of the Council;
  - c) Support Unit for the administration of the budget of the Council;
  - ç) The Office of the Ethics Advisor;
  - d) Support Unit for public relations and publications;
  - dh) Support Unit for information technology;
  - e) Support Unit for the training of prosecutors and civil servants of the prosecution service.
2. Regarding the administration, the Council shall decide on the following:
- a) The structure of the administration and the structure of each unit;
  - b) Establishment of other organizational units within the administration;
  - c) Definition of duties and responsibilities of all organizational units of the administration and individual positions;
  - ç) Procedural rules under which the administration operates in such a way as to provide efficient and effective support to the Council and its Committees.

**Article 179**  
**Conflict of interest**

1. Provisions of the Code of Administrative Procedure and the law on conflict of interest over impartiality of the public administration shall apply to the administrative staff of the High Prosecutorial Council.
2. The Chairperson of the Council shall be responsible for making decisions on the exclusion from decision making or confirmation of civil servants in the event of conflict of interest.

**CHAPTER III**  
**FUNCTIONS OF THE HIGH PROSECUTORIAL COUNCIL**

**Article 180**  
**Strategic planning**

1. The High Prosecutorial Council, in cooperation with the Minister of Justice shall draft, approve





and implement a strategic plan for the prosecution system in line with objectives of this Law and in coordination with the strategy of the justice sector.

2. The strategic plan, in harmony as regards the timeline, with the sector strategy of the Ministry must:

- a) define the mission and main values of the prosecution service;
- b) analyse the profile of the prosecution service;
- c) define the strategic issues;
- ç) define the priorities;
- d) define the monitoring, the assessment and reporting framework of the strategy.

3. The strategic plan must be followed by the action plan including operational objectives, activities, financial and other impacts, as well as the indicators.

#### **Article 181**

##### **Reporting to the public and to the Assembly**

1. The High Prosecutorial Council shall, not less than once per year, report to the Assembly on the situation in the system during the previous calendar year. The report shall describe the activity of the Council and its Committees and it shall contain recommendations for necessary improvements.
2. The report shall be submitted to the Assembly not later than 1 May of each year. The report shall be published on the official website of the Council and in any other way that the Council shall deem appropriate.
3. The Council shall respond to the request of the Assembly to present the report and answer questions about it.
4. Recommendations conveyed in the resolution adopted by the Assembly regarding the annual report of the High Prosecutorial Council shall be binding to be considered by the Council to the extent they do not affect the independence of this institution.
5. The Council shall report in any other case it shall deem necessary or upon the request of the Assembly.

#### **Article 182**

##### **Ethics of the prosecutor**



1. The High Prosecutorial Council shall be responsible for adopting the standards of prosecutorial ethics and rules of conduct of prosecutors and observing compliance with them. In particular, the Council shall perform the following duties:

- a) Publish the standards of ethics and rules of conduct for prosecutors;
- b) Review rules from time to time and, and amend them, if necessary;
- c) Analyse the degree of implementation and observance of rules of ethics and publicly report the findings.

2. The Council shall assign one Ethics Advisor from the ranks of prosecutors who meet legal requirements to be a prosecutor of the General Prosecution Office and who has the experience and knowledge on ethics matters. The Ethics Advisor shall serve for a 5-years period, with the right to only one reappointment.

3. The Council may, due to work needs, decide that the Ethics Advisor serves on full-time basis. In this case, the Council shall follow the secondment procedure for the assignment of the Ethics Advisor.

4. The Ethics Advisor shall perform the following tasks:

- a) Give advice, upon the request of any prosecutor on the most appropriate behaviour in and outside of the prosecution office or court, in the event of ethical uncertainties;
- b) may ask for the opinion of the Council on certain issues relating to the conduct of prosecutors in general, but not in relation to specific persons;
- c) Elaborate, publish, and continuously update an informative manual, which shall reflect questions and answers relating to ethics, based on the best international standards and practices, relevant decisions of the Council;
- ç) ensure, in collaboration with the School of Magistrates, the initial and continuous training on issues of ethics;
- d) report in writing, not less than once a year, before the Council in relation with his/her activity.

5. The salary of the Ethics Advisor shall be determined based on the law “On the Status of Judges and Prosecutors in the Republic of Albania”.

6. The Ethics Advisor is bound to preserve confidentiality, refraining from disclosing any information to the structures of the governance bodies of the prosecution service that exercise the competence to inspect and evaluate.

7. The Council shall provide the necessary support with human and financial resources to enable the activity of the Ethics Advisor.

### **Article 183**

#### **Recruitment, appointment of prosecutors and proposal of candidates for Prosecutor General**

1. The High Prosecutorial Council shall collaborate with the School of Magistrates for the recruitment of candidate prosecutors in accordance with this Law and the Law “On the Status of Judges and Prosecutors in the Republic of Albania” and shall appoint prosecutors after graduation from the School of Magistrates.

2. The Council shall propose to the Assembly the candidates for positions of the Prosecutor General in accordance with the Constitution and the Law “On the Status of Judges and Prosecutors in the Republic of Albania”.

3. The criteria for the selection of candidates for the Prosecutor General shall be defined in the law “On the organisation and functioning of the prosecutor's office in the Republic of Albania”.

### **Article 184**

#### **Career development and discipline**

Pursuant to the Law “On the Status of Judges and Prosecutors in the Republic of Albania”, the High Prosecutorial Council shall be responsible for the following issues with respect to all prosecutors:

- a) Appointment;
- b) Assignment in position;
- c) Transfer;
- ç) Promotion;
- d) Secondment and reappointment;
- dh) ethical and professional performance evaluation;
- d) Imposition of disciplinary measures and suspension;

ë) Any other tasks assigned by law.

**Article 185**  
**Public position**

The Council, ex officio or based on the requests of prosecutors may make public statements to protect certain prosecutors when it deems that their human rights are in danger of being violated due to the performance of their duty or that the performance of their legal functions is being endangered or may be endangered as a result of actions or positions of any public or private subject.

**Article 186**  
**Continuous training of prosecutors**

The High Prosecutorial Council shall cooperate with the School of Magistrates in relation to the continuous training of prosecutors and it shall perform the following tasks.

- a) keep contact with the School of Magistrates with regard to the continuous training of prosecutors;
- b) advise the School of Magistrates about the continuous training program for prosecutors;
- c) decide on requests of prosecutors concerning the continuous training in the School of Magistrates;
- d) monitor and report publicly in relation to the training effectiveness;
- e) perform any other tasks assigned by law in the field of training of prosecutors.

**Article 187**  
**Opinions on legislation**

1. The High Prosecutorial Council shall be responsible for expressing opinions and making propositions regarding amendments to the legislation that may affect the work of the prosecution service and any other matter that is within the responsibility of the Council.
2. In particular, the Council shall perform the following duties:
  - a) examine the application of rules of criminal judicial proceedings;

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- b) make recommendations for changing rules of criminal judicial proceedings;
  - c) give a response to requests made by ministers to give an opinion on a draft law or any other matter that may affect the prosecution and justice system in general;
  - ç) may give opinions on a draft law or any other matter that may affect the prosecution and justice system in general, submitting it to a minister or any other body.
3. The Council shall propose to the Minister of Justice to launch the initiative for legislative changes with respect to any matter that is under its responsibility.

#### **Article 188**

##### **Annual budget of the Council**

1. The High Prosecutorial Council and the prosecution system shall be funded by the state budget and other legitimate sources.
2. The annual budget of the High Prosecutorial Council is part of the state budget and follows all the procedures of drafting and implementation foreseen in the respective legislation.

#### **CHAPTER IV**

##### **RULES AND ACTS OF PROCEDURE**

#### **Article 189**

##### **Acts of the High Prosecutorial Council**

1. The High Prosecutorial Council shall, when exercising its functions, issue the following acts:
  - a) individual administrative acts regarding the professional status of individual prosecutors or individual officials of the judicial administration;
  - b) collective administrative acts regarding the status of all prosecutors or judicial administration officials;
  - c) sub-legal normative acts, pursuant to this law or other laws, with general binding effect on all prosecutors, prosecution administration, private individuals and public bodies;
  - ç) acts regarding the approval of the internal procedural rules. Specifically, the procedural rules may include provisions regarding the coordination of the activity of committees, engagement of experts in the activity of the Council, distribution and assignment of responsibilities of the

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administration of the Council, the necessary quorum for committees' meetings, rules on the publication of the information on proceedings of the Council, etc.

d) Non-binding instructions.

2. Under no circumstances shall the Council provide instructions regarding the settlement of a concrete case or group of cases;

3. The High Prosecutorial Council shall apply the Code of Administrative Procedure of the Republic of Albania in any other case or situation that is not expressly provided for by this Law.

### **Article 190**

#### **Notification and publication of acts of the High Prosecutorial Council**

1. The notification of the administrative individual acts of the High Prosecutorial Council regarding the status of prosecutors or civil servants of the prosecution service shall be made in one or more of the following ways:

a) directly or to the legal representative, when they are present at the moment of announcement of the act;

b) by registered mail, to the work address of the recipient;

c) to the electronic mail address deposited officially by the subject of the administrative act.

2. The individual administrative acts of the Council regarding the status of prosecutors or civil servants of the prosecution service shall be made public on the official website of the Council, followed with the respective reasoning, after being edited to ensure the anonymity of the subjects, unless otherwise foreseen in the law "On the status of judges and prosecutors in the Republic of Albania".

3. The notification of the collective administrative acts regarding the status of all prosecutors or civil servants shall be made through publication on the official website of the Council. These acts shall enter into effect on the date of their publication in the official website of the Council.

4. The sub-legal normative acts shall be published on the official website of the Council and the Official Journal. They shall enter into effect on the date of their publication in the Official Journal. Where the sub-legal normative amends another act, the amended act shall be published in the consolidated version on the official website of the Council.

5. This Article shall apply even to the other acts issued by the Committees of the Council.



**Article 191**  
**Review procedure**

1. Where an individual administrative act has been issued by the Committee, the interested subjects are entitled to seek the annulment, amendment or consolidation by the plenary meeting of the Council.
2. The request for review is made in writing. It shall be handed over not later than 10 (ten) days from the day of notification of the interested party in compliance with the requirements of this article.
3. The request may be based on the following grounds:
  - a) The decision has been based on material and factual errors;
  - b) A severe procedural error has occurred.
4. The applicant may not submit new claims or evidence during the hearing of the matter by the plenary meeting of the Council, unless the interested party proves that it has not been and might not have been aware of these facts before;
5. The plenary meeting of the Council shall examine and decide on the requests within 30 days from the day of submission.
6. If the request has not been submitted within the time limit and in the format required in this Law, it shall not be admitted. The applicants shall be notified on the rejection and grounds of rejection of their request for review.
7. The Council shall hold its meetings in-camera. Exceptionally, the Council may hold hearings with the subjects of the proceedings, when this is required as a result of new evidence, under paragraph 4 of this Article.
8. Based on the conclusion of consideration of the request for review, the Council shall determine whether the request for review should be admitted or dismissed. In the event of admission, the Council shall adopt an amended administrative decision. Amendments can be made only to the extent requested by interested subject.
9. The Council may annul an individual administrative act even ex officio, upon establishing the conditions provided for in paragraph 3 of this Article.

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**Article 192**

**Appeal against decisions of the Council**

*(Amended by Law no. 47/2019 Article 13)*

1. An appeal may be filed against the individual administrative act of the Council, **within 15 days from the date of the notification**, with the Administrative Court of Appeal, unless otherwise provided for in **the Law**. The individual administrative acts imposing disciplinary measures against prosecutors may be appealed against before the Constitutional Court.
2. The administrative acts of general binding effect shall be subject to the review by the Constitutional Court regarding their compatibility with the Constitution and international agreements and to the review of the Appeal Administrative Court regarding their compatibility with the law.

**PART IV**

**HIGH JUSTICE INSPECTOR**

**CHAPTER I**

**GENERAL PROVISIONS**

**Article 193**

**Object of the chapter**

This chapter sets out the principles, procedures and regulations necessary for performing the functions of the High Justice Inspector, the organization and functioning of the Office of the High Justice Inspector, the status of the High Justice Inspector, and the status of the inspectors of the High Justice Inspector.

**Article 194**

**Scope of Activity of the High Justice Inspector**

1. The High Justice Inspector is the state authority responsible for the verification of complaints, investigation of disciplinary misconducts and initiation of disciplinary proceedings against judges and prosecutors of all levels, members of the High Judicial Council, members of the High Prosecutorial Council and the Prosecutor General, as well as for the institutional inspection of courts and prosecution offices;
2. The Inspector, regarding verification of a complaint or investigation of disciplinary misconduct against the subjects specified in paragraph 1 of this Article, shall act based on:
  - a) a written complaint by any natural person, legal entity or public body concerned;



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- b) a written complaint by the Minister of Justice;
  
  - c) a written complaint by the Prosecutor General;
  
  - ç) a written complaint by any member of the High Judicial Council or the High Prosecutorial Council;
  
  - d) a written complaint by the chairperson of the court where the judge suspected of having committed a disciplinary misconduct exercises the function;
  
  - dh) a written complaint by the Head of the Prosecution Office where the prosecutor suspected of having committed a disciplinary misconduct exercises the function;
3. The High Inspector shall investigate the alleged misconduct even ex officio, based on public information or information provided in the context of institutional and thematic inspections under the requirements and procedures set out in the Law “On the Status of Judges and Prosecutors in the Republic of Albania”.
4. The High Justice Inspector shall carry out institutional and thematic inspections on every work aspect of the courts, judicial administration, prosecution offices and the administration of the prosecution office based on a motivated written request of the High Judicial Council, the High Prosecutorial Council, the Minister of Justice, Prosecutor General and in the annual plan of inspections.

**Article 195**  
**Enforcement of other laws**

The High Justice Inspector, when exercising his functions, shall be guided by the principles and procedure set out in the Law on the Status of Judges and Prosecutors.

**Article 196**  
**Independence**

1. The High Justice Inspector shall perform his/her functions independently.
  
2. The direct or indirect interference in the functions of the Inspector for verification of complaints, investigation and inspection, or concerning any particular subject, shall constitute liability under the law.

**Article 197**  
**Budget and structure of the High Justice Inspector**



1. The High Justice Inspector is a public legal person that has its own independent budget, which is part of the state budget approved by the Assembly.
2. The High Justice Inspector prepares the draft-budget of the Office of the High Justice Inspector and submits it to the Council of Ministers. Where the draft - budget of the Office of the Inspector presented by the Council of Ministers to the Assembly is different from the draft -budget proposed by High Inspector, the draft budget proposed by the Inspector is made available to the Assembly. The High Justice Inspector has the right to participate in parliamentary proceedings to defend the draft-budget proposed by him.
3. Other income may be included in the budget of the High Justice Inspector, including funds from donors, provided that there is no conflict of interest between donors and the activities of the High Justice Inspector.
4. The organization, structure and, number of employees of the Office of the Inspector, shall be determined by the Assembly, upon the proposal of the High Justice Inspector.

## **CHAPTER II**

### **STATUS OF THE HIGH JUSTICE INSPECTOR**

#### **Article 198**

##### **High Justice Inspector**

1. The High Justice Inspector is the head of the Office of the High Justice Inspector. He/she shall have the pay and benefits of the judge of the High Court.
2. The High Justice Inspector shall perform functions in accordance with the provisions of the legislation in force.

#### **Article 199**

##### **Conditions for appointment**

1. The High Justice Inspector may be elected an Albanian citizen, who at the time of application, fulfils the following requirements:
  - a) be Albanian citizen;
  - b) has completed the second cycle of the university studies for law with the diploma 'Master of Sciences' or a recognised diploma, or university studies in law abroad and having provided with the recognised diploma under the rules for the recognition of the diplomas, provided for in the law;



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- c) has at least 15 years of professional experience as jurist;
  
  - ç) has not been convicted in connection with the commission of a criminal offence;
  
  - d) has not been dismissed due to disciplinary causes and is subject to no disciplinary measure at the moment of putting up his/her candidacy;
  
  - dh) Have not held any political function in the public administration or leading positions in political parties in the last 10 (ten) years prior to putting up the candidacy;
  
  - e) have not been members, collaborators or favoured by the former State Security Agency prior to 2 July 1991 in the sense of the law “On the right to information on the documents of former State Security in the People’s Socialist Republic of Albania”;
  
  - ë) have not been collaborators, informants or agents of secret services;

2. The Justice Appointments Council shall rank the candidates for the position of the High Justice Inspector who meet the legal requirements laid down in paragraph 1 of this Article, on the basis of objective criteria laid down in Article 240 of this Law.

#### **Article 200** **Incompatibility**

The function of the High Justice Inspector is incompatible with:

- a) Any other public function;
  
- b) Any other professional activity carried out against payment, with the exception of teaching, academic or scientific activities;
  
- c) Membership in a political party or participation in public activities organized by a political party;
  
- ç) Leadership position or membership in the governing bodies of profit and non-profit organizations, trade unions, interest groups and professional organizations and any other organization, with the exception of organizations, being dictated by the function;
  
- d) Private activities, in the context of the commercial entities, which generate income in any form, as well as free professions of advocate, notary, licensed expert, consultant, agent or representative of the organizations defined in letter “ç” of this Article;

- e) Any other activity that under the law “On the status of judges and prosecutors in the Republic of Albania”, is incompatible with the function of the magistrate.

### **Article 201**

#### **Selection and election of the High Justice Inspector**

1. The High Justice Inspector shall be elected by the Assembly from among the ranks of the candidates selected and ranked by the Justice Appointments Council.

2. The Justice Appointments Council shall select candidates for the position of the High Justice Inspector subject to the following rules:

- a) The Appointments Council shall announce the vacancy publicly, by indicating the application deadline, documents to be submitted, as well as the requirements of eligibility and selection criteria;
- b) Every candidate, responding to the public announcement, shall submit at least the following documents:
  - i. An updated Curriculum Vitae;
  - ii. A personal statement of motivation, explaining the motivation for running as a candidate and the objectives aimed to be pursued if elected;
  - iii. A statement of legal liability of not having been members, collaborators or favoured by the former State Security Agency prior to 2 July 1991 in the sense of the law “On the right to information on the documents of former State Security in the People’s Socialist Republic of Albania”;
  - iv. A statement of legal liability of not being a collaborator, informant, or agent of any secret services;
  - v. Form of self-declaration, under the requirements of the law “On guaranteeing the integrity of the persons being elected, appointed or assuming public functions”;
  - vi. Any other document establishing meeting the legal conditions provided for in this law;
- c) The Justice Appointments Council shall, without any delay and in any case, no later than three months before the expiry of the term of the incumbent High Justice Inspector, announce the call for submission of applications;

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- ç) The Assembly may send a reminder to the Chairperson of the Justice Appointments Council regarding the obligations under this Article and any other information deemed necessary for the starting date of the process of selection of candidates and the timetable of actions;
  - d) The Justice Appointments Council, without delay, and in any case, not later than one month after the expiry of the application deadline, shall consider whether the applications submitted fulfil the conditions for appointment in accordance with Article 199, paragraph 1, of this law;
  - dh) In the event of the early termination of the mandate, the procedure shall begin immediately and shall be completed within two months from then starting date;
  - e) The Justice Appointments Council shall allow the candidacy of the candidates who meet the formal requirements, as well as rank the candidates referring to the criteria provided for in accordance Article 240 of this law;
  - ë) The ranking list of eligible candidates and the reasons for the disqualification of candidates, if applicable, shall be published on the official website of the High Court and forwarded to the Assembly within three days;
  - f) If the Assembly fails to reach the required majority for any candidate within thirty days from the submission of proposals, the candidate ranked first on the list shall be considered appointed.

#### **Article 202**

##### **Oath and commencement of office**

1. The High Justice Inspector, before commencing the office shall take the oath by the formula: "I solemnly swear that in performing duties I will always be faithful to the Constitution of the Republic of Albania, the laws in force and shall respect the rules of professional ethics";
2. The High Justice Inspector shall take the oath before the Assembly of Albania in a public ceremony.

#### **Article 203**

##### **Mandate of the High Justice Inspector**

1. The High Justice Inspector shall hold office for 9 years, without the right to re-appointment.
2. After the expiry of the mandate, if the High Justice Inspector at the time of election was working on full-time basis in a public sector, he/she shall be entitled to return to the former place of work or, if that is not possible, to a position equivalent to it.
3. If the High Inspector at the time of election was a judge or prosecutor he shall return to the position of the appeal judge or prosecutor.



**Article 204**  
**Competences of the High Justice Inspector**

1. The High Justice Inspector, in the exercise of his functions, shall have the following competences:

- a) represent the Office of the Inspector in relations with third parties;
- b) ensure cooperation of the Office of the Inspector with other public and private entities when exercising its functions;
- c) issue general orders of administrative or procedural nature on the progress and methods of work, for coordinating the work among the inspectors, or among them and other public bodies, for ensuring the uniform interpretation and application of the law relating to the verification of complaints, the investigation of misconducts and the inspection, for ensuring the compliance with ethical and professional performance rules by inspectors and administrative staff, and for any other matters of a general nature after receiving the opinion of the inspectors' meeting;
- ç) issue non-binding orders concerning concrete cases dealt by the inspectors;
- d) report, not less than once a year, to the Assembly on the work of the Office of the Inspector in the preceding year;
- dh) approve the annual plan of institutional and thematic inspections;
- e) determine the criteria for qualification and other requirements for the position of inspectors and administrative staff in accordance with this Law, the law "On the Status of Judges and Prosecutors in the Republic of Albania" and the law "On Civil Servants";
- ë) supervise and manage methodologically the work of inspectors;
- f) investigate disciplinary misconducts of inspectors;
- g) convene and chair the General Meeting of Inspectors;
- gj) convene and chair the meetings of the Committee of Appointments and Evaluation of Inspectors;
- h) supervise and direct the administration of the Office of the Inspector;

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- i) allocate cases to the inspectors and decide on their replacement based on objective and transparent criteria taking into account the workload, experience, qualifications and possible legal obstacles of the inspectors;
    - j) approve the draft decisions of the inspectors;
    - k) perform any other tasks assigned by law.
  2. The inspectors, the administrative staff of the Office of the Inspector and any other interested subject may request the repeal of a general instruction of the High Inspector before the Administrative Court of Appeal;
  3. General orders of the High Justice Inspector, referred to in paragraph 1, letter “c” of this Article shall be published in the official website of the Office of the Inspector.
  4. Non-binding instructions of the High Justice Inspector, referred to in paragraph 1, letter “ç” of this Article, shall always be in writing. If the inspector to whom the instruction is addressed does not agree with the non-binding instruction, he/she shall inform the High Justice Inspector in writing giving relevant explanations. The instructions of the High Inspector, the objections of the inspector and the answers of the High Inspector shall become part of the relevant file;
  5. The High Inspector may, to the effect of performing his/her functions, confer certain competences in writing to specific inspectors or directors of administrative units of the Office of the Inspector in accordance with the provisions of the Code of Administrative Procedure regulating delegation.

#### **Article 205**

##### **Deputy High Justice Inspector**

1. The Deputy High Justice Inspector shall exercise all the competences of the High Justice Inspector in the absence of the latter, or when his/her position is temporarily vacant, except for the competence provided for in Article 204, paragraph 1, letter “c” of this Law.
2. The Deputy High Justice Inspector shall be appointed by the High Justice Inspector within 30 days after the election of the latter, after having received the opinion of the General Meeting of Inspectors, from among the inspectors who have at least 3 years of work experience as inspector and who have been evaluated at least "very good" in the latest ethical and professional performance evaluation as inspector.
3. The Deputy High Justice Inspector shall hold office for a period of two years with the right to be reappointed only once.



4. In case the Deputy High Justice Inspector faces a legal impediment to perform his/her duties, is imposed a disciplinary measure or is removed from the office of the inspector, he/she shall be immediately replaced in accordance with the criteria, procedures and deadlines set out in this Article.
5. The General Meeting of Inspectors shall, upon the proposal of the High Justice Inspector, adopt by decision more detailed rules on the procedure for electing the Deputy Justice Inspector and the fashion of assuming his/her competences.

#### **Article 206** **End of mandate**

1. The mandate of the High Justice Inspector shall end in accordance with the provisions of Article 147/dh of the Constitution.
2. Where the mandate of the High Justice Inspector ends because of his/her physical or mental incapacity to perform the functional duties, the verification of his physical or mental incapacity shall be made under the procedure established by the Law “On the Status of Judges and Prosecutors in the Republic of Albania”.
3. The High Justice Inspector, not later than 3 months before the end of the mandate due to retirement or the end of the 9-year term, shall notify in writing the Assembly and the Justice Appointments Council of the vacancy.
4. In other cases of the end of the mandate, the Deputy High Justice Inspector shall notify of the vacancy, immediately, the Assembly and the Justice Appointments Council.
5. The end of the mandate of the High Justice Inspector shall be declared by a decision of the General Meeting of the High Judicial Council and High Prosecutorial Council.

#### **Article 207** **Disciplinary misconducts of the High Justice Inspector**

The High Justice Inspector shall be dismissed from office by decision of the Constitutional Court, if it is established the commission of one or more of the following professional and ethical misconducts:

- a) gross negligence in the performance of duties;
- b) disregarding the law or facts manifestly in the assumption of office, caused by inexcusable gross negligence;
- c) gross negligence in the management of the Office of the Inspector and in the supervision of the performance of the inspectors;



- ç) performing an activity that is considered by law incompatible with the official function;
- d) disclosing confidential information obtained during the performance of official functions against the law and by gross negligence;
- dh) performing acts that seriously discredit the dignity of the institution, such as accepting direct or indirect unfair benefits, gifts, favours, promises or preferential treatment of any kind, which are given, even via legal actions, because of the function or as a result of performing the function, other violations of the law, even if committed by negligence, in particular those relating to the obligation for the declaration of assets and conflicts of interest;
- e) being previously sentenced by a final court decision for committing a crime.

### **Article 208**

#### **Investigation of disciplinary misconduct**

1. The Assembly investigates alleged disciplinary misconduct of the High Justice Inspector based on the rules and procedures stipulated in the Law “On the Organization and Functioning of the Parliamentary Inquiry Committee” and in the Rules of Procedure of the Assembly;
2. The limitation period for initiating an investigation of disciplinary misconducts of the High Justice Inspector is 5 years from the time of committing the misconduct. After the initiation of the investigation, the period shall not lapse any more. The statute of limitation is interrupted if the High Justice Inspector commits another misconduct of the same nature within this time period. In this case, the limitation period is calculated starting from the moment of completion of the new misconduct. If the disciplinary misconduct also constitutes a criminal offence, the limitation period to criminal offences shall apply under the provisions of the Criminal Code, provided that the statute of limitation set out in the Criminal Code is longer than 5 years.
3. Disciplinary proceedings shall be suspended, if for the same facts committed by the same persons, a criminal, civil or administrative proceeding has been initiated, until the end of the proceedings. The decision on the suspension may not be appealed against. During the suspension period, no disciplinary procedural action may be taken. After the disappearance of the cause of the suspension, a disciplinary proceeding shall start from the procedural action that was taking place at the time of suspension. The Assembly, when investigating disciplinary misconduct, shall consider the facts established by the final decision of the court. A final decision of the court in favour of the High Inspector shall not impede the continuation of disciplinary proceedings by the Assembly.
4. At the end of the parliamentary inquiry, the Parliamentary Investigative Committee shall decide to close the disciplinary proceedings, if there is insufficient evidence to prove the disciplinary

misconduct, the case has been the subject-matter of a previous disciplinary proceedings closed by final decision, the case is lapsed, and the High Justice Inspector is not in office or it shall request the Constitutional Court to dismiss the High Justice Inspector. The Constitutional Court decides under the law on the Constitutional Court.

5. The High Justice Inspector shall be suspended from office by decision of the Constitutional Court in the cases foreseen in article 147/e/4 of the Constitution.

### **CHAPTER III** **INSPECTORS OF THE OFFICE OF THE HIGH JUSTICE INSPECTOR**

#### **Article 209**

##### **Conditions to be appointed as inspector**

1. Not less than half of the inspectors of the High Justice Inspectorate are magistrates seconded to this office by the High Judicial Council or the High Prosecutorial Council.
2. Other inspectors shall be appointed by the High Justice Inspector, after consultation with the Committee for the Appointment and Evaluation of Inspectors, based on an open selective, competitive and planned procedure, by analogy with, to the extent possible, the rules of the Law “On Civil Service”.
3. The Committee for the Appointment and Evaluation of Inspectors shall consist of three inspectors of the High Justice Inspectorate elected by lot under the requirements and procedures foreseen in article 212 of this law. The committee members shall remain in office for 1 year.
4. The Committee for the Appointment and Evaluation of Inspectors shall verify fulfilment of legal requirements and assess the professional and moral criteria of inspector candidates. The committee, after disqualifying from the competition the candidates who do not meet the legal requirements, shall rank the other candidates by merit applying, to the greatest possible extent and with the necessary changes, the requirements of the Article 240 of this law.
5. Candidates for inspectors who come from the ranks of magistrates must meet the following criteria:
  - a) fulfil the requirements to be appointed to the High Court of the General Prosecution Office, at the time of application;
  - b) are not, at the time of application, chairpersons of a court or heads of any prosecution office and neither members of governing bodies of groups of interest, such as magistrates’ associations, unions, etc.;
  - c) have been evaluated at least “very good” in the last two ethical and professional performance evaluations;

- ç) have no disciplinary measure in force;
  - d) have not been previously sentenced by a final court decision for committing a criminal offence;
  - dh) at the time of application, have no family members in the meaning of the Law "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first degree relatives who are incumbent inspectors in the High Justice Inspectorate.
6. Candidates for inspectors who do not come from the ranks of magistrates must meet the following criteria:
- a) are Albanian citizens with a second-level diploma in law and high scores in university studies;
  - b) have high moral integrity and professional qualification;
  - c) have, at the time of application, at least 15 years of experience as jurists;
  - ç) have not practised actively, at the time of application, the profession of the advocate for at least the last 2 years;
  - d) have not been previously sentenced by a final court decision for committing a crime;
  - dh) have not held political functions in the public administration or leadership positions in political parties during the last 10 years, before the election;
  - e) have not been members or collaborators of favoured by the former state security prior to 2 July 1991;
  - ë) are not been collaborators, informants or agents of any secret services;
  - f) are not members of the governing bodies of any group of interest, such as associations or unions, at the time of application.

#### **Article 210**

#### **Status of inspectors**

1. Magistrate inspectors of the Office of the High Justice Inspector shall receive the pay and benefits of a judge of the Appeal Court.



2. Non-magistrate inspectors of the Office of the High Justice Inspector shall enjoy the status of civil servants of the top-level management.

**Article 211**  
**Recruitment of inspectors**

1. Magistrate inspectors are seconded to this position by the High Judicial Council or the High Prosecutorial Council for a period of 5 years with the right of reappointment only once. Only those inspectors who were evaluated at least "very good" while serving as inspectors shall enjoy the right to a renewal of the secondment. The magistrates seconded to the High Justice Inspector may be returned at any moment in their previous positions upon their request or the request of the High Inspector, according to the rules foreseen in the law "On the status of judges and prosecutors in the Republic of Albania", unless the disciplinary measure of dismissal has been taken against them.
2. Other inspectors shall be appointed by the High Justice Inspector pursuant to an open and planned competitive selection procedure. Not later than 3 months from the establishment of the Office of the High Justice Inspector, the High Inspector shall adopt more detailed rules for the selection procedure, competition and appointment of non-magistrate inspectors. Rules adopted by the High Justice Inspector are applied, to the extent possible, with the rules of the Law on Civil Service.

**Article 212**  
**Ethical and professional performance evaluation of inspectors**

1. The professional performance and ethics of the inspector of the Office of the High Inspector shall be assessed by the Appointment and Evaluation Committee. Three members of the committee and 2 substitute members shall be elected by lot within December each calendar year from the ranks of inspectors who have been evaluated at least "very good" in the last 2 evaluations as inspectors or magistrates who are not to be evaluated that very same year.
2. The procedure and rules of assessment shall be approved by decision of the High Inspector by applying to the extent possible the provisions of the law "On the status of judges and prosecutors in the Republic of Albania" concerning the professional performance and ethical evaluation of magistrates. The Inspector, not later than 3 months from the creation of the Office of the Inspector shall approve the performance evaluation system for the inspectors.

**Article 213**  
**Disciplinary misconduct by Inspectors of the High Justice Inspectorate**



1. The provisions of the Law “On the Status of Judges and Prosecutors in the Republic of Albania” in relation to the disciplinary liability of magistrates shall also apply, to the extent possible, to inspectors.
2. The High Justice Inspector shall investigate alleged disciplinary misconduct of the inspectors, based on the rules and procedures stipulated in the Law "On the Status of Judges and Prosecutors in the Republic of Albania".
3. Disciplinary decisions are taken by a special disciplinary committee, consisting of 3 members. Three members of the disciplinary committee and 2 substitute members shall be elected by lot within December each calendar year from the ranks of inspectors who have been evaluated at least "very good" in the last 2 ethical-professional evaluations as inspectors or magistrates. The members of the disciplinary committee shall remain in office for 1 year.
4. Decisions on the imposition of disciplinary measures against inspectors, who serve as members of the disciplinary committee, shall be taken by the Disciplinary Committee, while the alleged member is not present.

#### **Article 214** **Tasks of inspectors**

1. Inspectors shall perform their duties on behalf of the High Justice Inspector.
2. In the course of assuming their office, the inspectors shall verify and investigate into alleged disciplinary misconducts of the subjects provided in Article 194, in paragraph 1 of this Law, shall collect data and evaluate any information or act which they consider is or may be important for implementation of the duty, in accordance with the Code of Administrative Procedure and Law on the Status of Judges and Prosecutors in the Republic of Albania”.
3. Inspectors shall be entitled to enter the premises where the subjects of disciplinary proceedings operate, to inspect, copy, multiply and obtain any information or document necessary to accomplish the task.
4. Inspectors may require from any natural or legal person or public institution information, documents, evidence, verbally or in writing, on any matter relating to the subject-matter of verification, investigation or inspection that is being carried out.
5. Any natural or legal person or public institution is bound to:
  - a) cooperate with the inspectors in the verification, investigation or inspection procedure;
  - b) provide access in accordance with paragraph 2 of this Article;

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- c) comply with the requirements of paragraph 3 of this Article.
6. At the end of the procedure of verification, investigation of a misconduct or inspection, the inspector shall draft the relevant decision and instantly deliver it to the High Justice Inspector.
7. The High Justice Inspector shall review the draft decisions of the inspectors to verify the compliance with the formal requirements, completeness of content, compliance of the decision with the practice of the High Justice Inspectorate, High Judicial Council, High Prosecutorial Council and courts and shall decide to:
- a) adopt the draft decision and submit it to the disciplinary body;
  - b) return the draft decision together with the proposal to make the necessary corrections and additions, under the requirements of this paragraph;
  - c) amendment of the draft decision if the inspector does not agree with the proposal of the High Justice Inspector. In this case, the draft decision of the inspector shall be attached to the final decision of the High Justice Inspector.
8. The Inspector shall act ex officio when planning and conducting inspections.

#### **CHAPTER IV** **OFFICE OF THE HIGH JUSTICE INSPECTOR**

##### **Article 215** **Administration of the High Justice Inspector**

1. The administration shall be organised and function to assist the Office of the High Justice Inspector with the realisation of the mission and functions of the Office.
2. The Administration of the Office of the High Justice Inspector shall be chaired by the Secretary General who reports to the High Inspector.
3. The Administrative Staff of the Office of the High Justice Inspector has the status of the civil servant in compliance with the provisions of the law “On the civil servants”.
4. The Office of the High Justice Inspector employs the administrative employees in accordance with the provisions of the Labour Code.

##### **Article 216** **Information technology electronic system**



1. In compliance with the general state policy in the field of technology and information security, the High Justice Inspector in collaboration with the Centre of Technology and Information for the Justice System shall be responsible for:

- a) developing or participating in the information technology electronic system for use in the Office of the High Justice Inspector, for the management, coordination, monitoring and supervision of the use of information technology and defining the applicable electronic case management system.
- b) establishing rules for the creation, operation, interoperability and security of the electronic case management system and the protection of personal data saved and used by the system;
- c) maintaining the information technology electronic system of cases in accordance with the rules laid down in letter “b”, of this article;
- c) updating the system periodically to ensure the implementation of functional requirements of inspection and other bodies within the justice system, as well as to reflect amendments to procedural laws;
- d) making sure that the information technology electronic system of data management generates statistical information that are necessary for the work of the Inspector and other bodies.
- dh) ensuring the accuracy and security of data and personal data protection;
- e) setting rules for the mandatory use of the electronic case management system by courts, the unification of data entry and data accuracy.

2. The High Justice Inspector and other inspectors, when performing their functions, shall have full access to the case management system of courts, prosecutor’s offices and councils and audio and video recording systems.

## **PART V**

### **JUSTICE APPOINTMENTS COUNCIL**

#### **CHAPTER I**

#### **GENERAL PROVISIONS**

##### **Article 217**

##### **Scope of the chapter**



This chapter sets out principles, rules and procedures for the organisation and functioning of the Justice Appointments Council, submission of applications for members of the Constitutional Court and the High Justice Inspector; assessment of applications and their ranking; submission of applications for the final recruitment to the recruiting bodies.

#### **Article 218**

##### **Function and responsibilities of the Justice Appointments Council**

1. The Justice Appointments Council is an independent body that verifies the fulfilment of legal requirements and evaluates the professional and moral criteria of candidates for members of the Constitutional Court and candidates for High Justice Inspector.
2. The Justice Appointments Council fulfils its functions by observing standards of a due legal process and with the goal of providing higher professional and moral quality in the composition of the bodies mentioned in paragraph 1 of this Article.

#### **Article 219**

##### **Seat and administrative support**

1. The Justice Appointments Council meets whenever necessary.
2. The seat of the Council is the High Court of the Republic of Albania.
3. The High Court ensures the necessary organizational, administrative and financial support for the performance of functions and duties of the Justice Appointments Council provided for in the Constitution and this law.

### **CHAPTER II**

#### **COMPOSITION OF THE JUSTICE APPOINTMENTS COUNCIL**

#### **Article 220**

##### **Composition, mandate and replacement of members**

*(Amended by Law no. 47/2019 Article 14)*

1. The Appointments Council is composed of 9 members as follows hereunder:
  - a) Two judges of the Constitutional Court;
  - b) One judge of the High Court;





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- c) One prosecutor of the General Prosecution Office;
  - ç) Two judges of the courts of appeal;
  - d) Two prosecutors of the prosecution offices attached to the courts of appeal;
  - dh) One judge of administrative courts.
2. The members of the Justice Appointments Council shall stay in office for one year from the 1<sup>st</sup> of January of each calendar year.
3. In the event of impossibility or conflict of interest, the members shall be replaced by substitute members **according to the rules stipulated in the acts of the Council.**

#### Article 221

#### Requirements and criteria to be included in the lot for the selection of members of the Council and the selection procedures

*(Amended by Law no. 47/2019 Article 15)*

1. Only those magistrates and judges of the Constitutional Court, who at the time of organising the lot, meet the following criteria, may be included in the lot for the selection of the members of the Justice Appointments Council:
- ~~a) at the time of drawing the lot, the candidate has been a magistrate for at least 10 years and a member of the Constitutional Court for at least 1 year;~~
  - a) At the time when the lot is drawn, the magistrate, who exercises the duty at the administrative courts, the courts of appeal, the prosecution offices attached to the courts of appeal and General Prosecution Office, has exercised the function of the magistrate for at least 10 years;
  - b) no disciplinary measure is in force against the candidate;
  - c) no disciplinary proceedings have been initiated against him/her before the application;
  - ~~ç) the magistrate has completed the full cycle of four or five years of study in the law;~~
  - ~~d) The magistrate has completed the School of Magistrates;~~
  - dh) The magistrate has been evaluated at least “very good” in the last two ethical and professional performance evaluation, **if available**;

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- e) The magistrate or judge of the Constitutional Court is not under investigation and has not been previously convicted by a final court decision for commission of a criminal offence;
- ë) The magistrate or judge of the Constitutional Court has not been previously punished with administrative sanctions for violation of the legal regulations regarding the declaration of assets and conflict of interest.
2. Candidates who do not meet one of these requirements are excluded from the lot.
  3. The Constitutional Court, the High Judicial Council and the High Prosecutorial Council shall, not later than November 15 of each calendar year, verify whether the candidates for members of the Justice Appointments Council meet the requirements foreseen in paragraph 1 of this article and submit the list of eligible candidates to the President of the Republic and the Assembly.
  4. The list of qualified and disqualified candidates shall be published on the official website of the respective institutions.
  5. Disqualified candidates shall be notified individually by a reasoned decision on the causes for the disqualification. They may appeal against before the Administrative Court of Appeal within 5 days from the date of notification.
  6. The Administrative Court of Appeal shall decide within 7 days from the date of depositing of the complaint. Its decision is final and irrevocable.
  7. In the presence of the Ombudsperson, the President of the Republic shall select the members of the Council by lot between 1st and 5th of December of each calendar year. In addition to the members provided in paragraph 1 of Article 220, of this law, the President of the Republic shall select even one substitute member from each institution in the same lot.
  8. In case the President of the Republic fails to select members of the Council until 5 December, the Speaker of the Assembly shall, in the presence of the Ombudsperson, select them before 10 December of that calendar year.
  9. The President of the Republic shall adopt further rules of procedure for the development of the lot, which, in any case, must adhere to the principles of transparency, traceability and monitoring of the process;
  10. Results of the lot and the summary of the minutes of the lot procedure shall be immediately published on the official websites of the President of the Republic.
  11. The Ombudsperson shall publish immediately the monitoring report of the lot procedure on its official website.
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**Article 222**  
**Conflict of Interest**

The member of the Justice Appointments Council who is aware of a conflict of interest or legal obstacle to himself/herself or to another member regarding an issue, shall be bound to declare the nature of the interest or obstacle, not to participate in the discussion of the relevant issue and not to participate in voting on the respective issue.

**Article 223**  
**Incompatibility**

A member of the Justice Appointments Council may not participate in the assessment of compliance with legal requirements, professional criteria and in the ranking of candidate members of the Constitutional Court or the candidates of High Justice Inspector of Justice, if between him/her and the candidate the following relationship exists:

- a) Marital or cohabitation relationships;
- b) Close kinship relationship including, ancestors, descendants, brothers, sisters, uncles, aunts, nephews, nieces, children of brothers and sisters; or
- c) Close in-law relations including father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, stepson, and stepfather.

**Article 224**  
**Waiver**

1. A member of the Justice Appointments Council is bound to waive participation in the process for verification of legal requirements, professional criteria and in the ranking of candidate members of the Constitutional Court or the candidates of High Justice Inspector of Justice, in the following cases:
  - a) When he/she, the spouse/cohabitant or the children are debtors or creditors in relation to the candidate or have represented his/her interests in the past;
  - b) When disputes exist between him/her, his/her spouse /cohabitant or close relative and the candidate.
2. The decision on accepting the waiver of a member shall be made by the Chairperson of the Council. In case of recusal by the Chairperson, the decision on its acceptance shall be made by the Deputy Chairperson.

#### **Article 225**

##### **Recusal and substitution of the member**

*(Amended by Law no. 47/2019 Article 16)*

1. A candidate may request the recusal of a member of the Council from participating in the verification of legal requirements, evaluation of professional criteria and in the ranking no later than 3 days from the date of the meeting of the Council, when one of the reasons provided for in Articles ~~133 and 134~~ **222, 223 and 224** of this law exist and the member does not recuse himself/herself from the examination of the case.
2. The decision to recuse a member shall be made by the Chairperson of the Council. When recusal of the Chairperson of the Council is required, the decision shall be made by the Deputy Chairperson.
3. The member who has been recused or self-recused, shall be replaced by the substitute member of the same institution

### **CHAPTER III**

#### **ORGANISATION AND FUNCTIONING OF THE JUSTICE APPOINTMENTS COUNCIL**

#### **Article 226**

##### **Chairperson**

1. The member of the High Court shall be the chairperson of the Justice Appointments Council.
2. The chairperson of the Council shall perform the following functions:
  - a) prepare, call and chair the Council meetings;
  - b) represent the Council in relations with third parties;
  - c) provide administrative, organisational and financial support of the High Court for the functioning of the Council;
  - ç) compile and publish on the official website of the High Court, the Annual Report on the activities of the Justice Appointments Council;

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- d) make sure that the meeting of the Council is recorded through the audio recording system and that a summary of the minutes of meeting of the Council is kept and published on the website of the High Court. The summary of the minutes of meeting is made available to the members of the Council before it is published. If any of the members is not satisfied with the accuracy of the summary of the minutes of the meeting, the chairperson of the council shall order comparing it to the audio recording and change it if the claims of the member are justified;
- dh) make sure the documentation of the meeting of the council and the keeping of documentation in accordance with the law on archives;
- e) Sign the acts of verification, assessment and ranking and forward them to the recruiting bodies.
- ë) perform any other tasks assigned by law.

#### **Article 227**

##### **Deputy Chairperson**

1. The most senior member of the Constitutional Court shall act as the Deputy Chairperson of the Council.
2. The Deputy Chairperson shall perform all the functions of the Chairperson in his/her absence or inability.

#### **Article 228**

##### **The Rapporteur**

1. In order to conduct preliminary verification of fulfilment of the legal requirements and evaluation of professional and moral criteria of candidates, as well as their ranking, the Justice Appointments Council shall assign by lot a rapporteur for the vacancies in each institution.
2. The lot to assign a rapporteur shall be organised through case management system of the High Court.
3. Exceptionally it may be organised manually, if the electronic system fails to work. The Council shall adopt more detailed rules in order to ensure that the procedure for the assignment of the rapporteur by lot complies with the principles of transparency, traceability and monitoring of the process.
4. The result of the lot for the rapporteur shall be published on the official website of the High Court.

5. The rapporteur, in order to conduct the procedure of verification, assessment and ranking, shall perform the following tasks:
  - a) review and verify documentation filed by candidates;
  - b) request the auditing of assets of candidates and verification of their criminal and disciplinary records;
  - c) prepare the draft act for verification, assessment and ranking of candidates;
  - ç) coordinate with the chairperson to prepare the meeting of the Council;
  - d) prepare press release;
  - dh) perform any other tasks assigned by law.
6. The rapporteur, in the exercise of his/her responsibilities, shall be assisted by the administrative staff of the High Court.

#### **Article 229**

##### **Way of performing the activity and decision making**

1. The Council shall perform its activity in a collegial manner in accordance with rules and procedures provided in this chapter, which shall be supplemented, to the extent possible and with the necessary changes, by the rules laid down in the legislation on the organization and functioning of collegial bodies. Participation in the meetings of the Council is mandatory. Members who are absent shall be replaced by substitute members.
2. The Justice Appointments Council shall, to ensure the development of a transparent procedure, public and merit-based procedure, by decision, adopt more detailed rules for the selection and scoring of candidates, including rules for the procedure of verification of assets, integrity and their professional and personal background.
3. The Council shall decide by a majority vote in the presence of at least five members.
4. The Justice Appointments Council, in the process of verification of the fulfilment of legal requirements and evaluation of professional and moral criteria shall require information from other institutions.
5. Following the process of verification under paragraph 4 of this article, the Council shall interview the candidates who meet the legal requirements, shall make their ranking according to the

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criteria laid down in Article 240 of this Law and shall draw up a report, where it reasons the ranking.

**Article 230**  
**Administrative staff**

1. The Justice Appointments Council shall adopt an internal regulation for its internal management.
2. The chairperson of the Council in cooperation with the Chairperson of the High Court, shall assign, from among the ranks of administrative staff of the High Court, a reasonable number of administrative employees to facilitate the fulfilment of Council's tasks.
3. The Justice Appointments Council shall, for its needs, create and use a case administration system. The Council shall collect and process data in compliance with the law "On personal data protection".

**Article 231**  
**Official Registry of the Justice Appointments Council**

The chairperson of the Justice Appointments Council shall make sure that the Council has an official registry at any time, in which will be recorded at least the following information:

- a) names of candidates and institutions where they are proposed to be appointed;
- b) proposing institutions;
- c) documentation filed by candidates and/or by proposing institutions;
- ç) documentation received from state institutions that verify assets and criminal and disciplinary records of candidates as well as the official correspondence between them and the Council;
- d) final acts of the Council for the verification, assessment and ranking of candidates;
- dh) official correspondence between the Council and the Assembly or the President of the Republic.

**Article 232**  
**Publication of acts**

1. The list of candidates who do not fulfil the criteria to be elected along with the reasoning for their exclusion and the list of candidates who continue the competition and their ranking shall be published on the website of the High Court.



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2. All acts of verification, assessment and the ranking for each candidate, adopted by the Justice Appointments Council shall be published on the official website of the High Court, accompanied by relevant explanations and reasoning as well as a summary minutes signed by all members participating in the meeting.

### **Article 233**

#### **Transparency**

1. Meetings of the Justice Appointments Council are held in-camera. The 'People's Advocate participates in the meetings and activities of the Council.
2. Authorised representatives of the President of the Republic, the Speaker of the Assembly and 2 members of the permanent parliamentary committee responsible for legal affairs, one of whom from the opposition, shall be invited to participate in the meetings of the Council.
3. The Council, after each meeting shall communicate with the public through a press release which informs at least of:
  - a) time of the meeting;
  - b) participation;
  - c) candidates, their curriculum vitae, positions for which they apply and proposing institutions;
  - ç) a brief explanation of procedures and the method used for the verification of legal requirements and the criteria used for the ranking of candidates,
  - d) final act of verification and the ranking of candidates.

## **CHAPTER IV**

### **VERIFICATION OF LEGAL REQUIREMENTS**

#### **Article 234**

#### **Subjects that may recourse to the Justice Appointments Council**

1. The President of the Republic shall send to the Justice Appointments Council the complete list of candidates, who have expressed their interest for vacancies in the Constitutional Court, which are to be filled in by the President of the Republic, including the complete documentation submitted by the candidates immediately after the publication of the list of candidates on the official website of the President.





2. The Speaker of the Assembly shall send to the Justice Appointments Council the complete list of candidates, who have expressed their interest for vacancies in the Constitutional Court, which are to be filled by the Assembly, including the complete documentation submitted by the candidates, immediately after the publication of the list of candidates on the official website of the Assembly.
3. The Chairperson of the High Court shall send the Justice Appointments Council the complete list of candidates, who have expressed their interest for vacancies in the Constitutional Court, including the complete documentation submitted by the candidates, which are to be filled by the High Court, immediately after the publication of the list of candidates on the official website of the Court.
4. Candidates for High Justice Inspector shall submit an expression of interest to the Justice Appointments Council after being signed and accompanied with documents provided for in Article 201, paragraph 2, letter “b”, of this law.

#### **Article 235**

##### **Declaration and audit of assets of candidates**

1. Immediately after the submission of lists with the names of candidates or the submission of expression of interest by candidates, the Justice Appointments Council shall provide the candidates with the forms for the declaration of assets and financial interests.
2. Not later than 15 days after receiving the forms on the declaration of assets and financial interests, candidates shall submit the completed forms to the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest, which shall check the accuracy and authenticity of the declaration within 30 days of its submission.
3. The High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest shall immediately forward the audit results to the Council.
4. Upon the completion of the procedure of declaration and audit of assets, the Council shall publicly announce on the official website of the High Court and shall communicate directly to the candidates, the verification result, ordering the application to be allowed or rejected. The order for the rejection of the application shall always be reasoned.

#### **Article 236**

##### **Declaration and check of integrity of candidates**

1. Immediately after the submission of lists with the candidates' names or the submission of the expression of interest by candidates, the Justice Appointments Council shall provide candidates



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with the self-declaration forms according to the requirements of the law “On integrity of persons elected, appointed or exercising public functions”.

2. Not later than 5 days after receiving the self-declaration forms according to paragraph 1 of this article, the candidates shall submit the completed forms to the Justice Appointments Council.
3. The candidates’ self-declarations shall be made public on the official website of the High Court.
4. The chairperson of the Justice Appointments Council shall immediately forward self-declaration forms to the General Prosecution Office, which shall verify it within 30 days from submission of the forms.
5. Upon the completion of the verification procedure, the Council shall publish on the official website of the High Court and shall individually communicate to the candidates, the verification result of the declared information, ordering the application to be allowed or rejected.

#### **Article 237**

##### **Declaration and checking of other legal requirements**

1. The Justice Appointments Council, not later than 35 days from the receipt of the lists of candidates and documents, shall verify the legal requirements foreseen in the law on the Constitutional Court and article 234 paragraph 1 of this law.
2. To this end, the Council shall send a written request to the address of public and private subjects, where needed.
3. Upon the completion of the verification procedure, the Council shall publish on the official website of the High Court and shall individually communicate to the candidates, the legal requirements verification result, ordering the application to be allowed or rejected.

#### **Article 238**

##### **Complaints against disqualification decisions**

1. Complaints against the decision of the Justice Appointments Council to disqualify the candidate only for gross procedural misconducts shall be made to the Administrative Court of Appeal, not later than 5 days from the day of notification of the contested decision.
2. The Administrative Court of Appeal shall decide within 7 days from the day of submission of the complaint. Its decision is final and irrevocable.
3. The complaint does not suspend the conduct of the preliminary assessment and verification procedure carried out by the Justice Appointments Council as set out in Article 240 of this Law.

**CHAPTER V**  
**ASSESSMENT AND RANKING OF CANDIDATES**

**Article 239**

**Initiation and the deadline for conduct of candidates' assessment and ranking procedure**

1. The chairperson of the Justice Appointments Council, not later than 5 days from the end of the procedure of verification according to the provisions of articles 234-238 of this law, shall call the meeting of the Council.
2. The Justice Appointments Council shall assess the professional and moral criteria of the candidates and shall make their ranking, not later than 10 days from the call of the meeting.
3. The Council shall remain in session until the end of the process of assessment and ranking of candidates.

**Article 240**

**Professional and moral criteria for the ranking of candidates**

1. The Council shall rank the candidates based on their professional merits referring to:
  - a) results of professional performance and ethical evaluation of candidates on the work done in the past, if any, or results achieved during their working experiences, related to the exercise of functions in the profession surrounding the activity of the institution he/she is putting up the candidacy for;
  - b) assessment of the relevance of academic works, scientific studies and professional articles and presentations, publications, as well as participation in scientific activities, in drafting or consulting of legislation and any other professional commitment of the candidate during the last 5 years in the field of law;
  - c) results throughout the studies in the higher education cycles;
  - ç) progress at work and participation at professional training and at other certified courses in the country and abroad;
2. The Council shall rank the candidates based on their moral merits:
  - a) reputation the candidate enjoys in society and among colleagues;

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- b) moral qualities such as honesty, punctuality in the performance of duties, fairness in decision-making, the responsibility, trustworthiness, impartiality, dignity, and the tendency to assume responsibility;
  - c) proven commitment in pursuit of motives of civil society.

3. The Council shall make the ranking of candidates based on their organisational, leadership and management merits:

- a) quality of the programme and the vision they present;
- b) proven capabilities to make decisions and take responsibilities based on previous professional and social experiences;
- c) communication skills;
- ç) ability to work in group and in multi-disciplinary and / or multi-cultural environments;
- d) public representation skills.

4. Along with the criteria provided for in points 1, 2 and 3 of this Article, for the purposes of evaluating the candidates, account shall be taken of:

- a) holding the academic titles;
- b) studies and long-term training abroad;
- c) knowledge of foreign languages.

5. The Council interviews candidates and hires experts to verify their capabilities, especially to verify the level of command of foreign languages.

6. In compliance with the provisions of this Chapter, the Council shall approve the rules for further detailing the criteria and for determining their specific weight in ranking the candidates.

7. In making the decisions for the ranking of candidates, the Council shall act in accordance with the criteria provided for in points 1 through 5 of this Article and draft a report providing grounds for such ranking.

## **CHAPTER VI**

### **DISCIPLINARY LIABILITY OF MEMBERS OF THE JUSTICE APPOINTMENTS COUNCIL**

#### **Article 241**



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**Cases of disciplinary liability of members of the Council**

1. Members of the Justice Appointments Council shall be held disciplinary liable for disciplinary misconducts committed while performing their duties as member of the Council.
2. Disciplinary proceedings may be initiated at any time, according to the rules and procedures foreseen in the law “On the Status of Judges and Prosecutors in the Republic of Albania” and law “On the organisation and functioning of the Constitutional Court in the Republic of Albania”.

**Article 242**

**Disciplinary misconduct during performance of functions**

In particular, the following actions or omissions of members of the Justice Appointments Council shall constitute disciplinary misconduct:

- a) absences, without good cause, in meetings of the Council;
- b) serious violation of rules of solemnity during the meetings of the Council;
- c) public disclosure of opinions given by the respective member or other members in the process of discussions on the matter;
- c) failure to take part in the conversations/discussions on the matter;
- d) making public statements and to the media regarding procedures of verification, assessment and ranking, if this action has caused or may cause the infringement of impartiality of the member or of the rights of the subject of verification, assessment and ranking.
- dh) violation of the law, manifestly, intentionally or by gross negligence, without referring to the applicable law and / or relevant facts for the verification of legal requirements, professional and moral criteria and the ranking.

**PART VI**

**SCHOOL OF MAGISTRATES**

**CHAPTER I**

**PURPOSE AND DUTIES OF THE SCHOOL OF MAGISTRATES**

**Article 243**

**Status, Autonomy and Seat**



1. The School of Magistrates is a public budget institution and enjoys the capacity of a legal entity.
2. The School of Magistrates enjoys administrative, academic and financial autonomy to achieve the goals and tasks determined in this law.
3. The seat of the School of Magistrates is in Tirana.

#### **Article 244** **Functions**

1. The School of Magistrates provides the professional education of magistrates.
2. The professional education includes the initial training of candidates for magistrates and the continuous training of incumbent judges and prosecutors.
3. The School of Magistrates shall admit candidates for the programme of initial training and continuous training of candidates for magistrates, in the sense of paragraph 2 of this law and candidates for positions in the State Advocacy in accordance with the law "On State Advocacy".
4. The School of Magistrates shall admit candidates for legal assistants, in the first year of initial and continuous training programme in the sense of paragraph 2 of this Article and in accordance with the law "On the Organization of the Judicial Power in the Republic of Albania."
5. More detailed rules relating to the provisions of paragraphs 3 and 4 of this Article, in particular regarding the number of trainees per year, the training courses for those trainees and the appropriate funds that will be made available by interested institutions or donors shall be regulated by an agreement between the School of Magistrates and the institution concerned.
6. The School of Magistrates, in cooperation with the High Judicial Council, the High Prosecutorial Council, the Ministry of Justice, courts and other institutions shall carry out the initial and continuous training of chancellors, in accordance with the provisions of the law "On the Organization of the Judicial Power in the Republic of Albania" and the law "On the Organization and Functioning of the Prosecution Office in the Republic of Albania".
7. The School of Magistrates, based on the obligation defined by law or at the request of interested institutions, depending on the capacity it has, the appropriate funds made available by the concerned institutions or donors, may cooperate in regard to professional training activities of judicial civil servants, civil servants of the prosecution service or other legal professions related to the justice system. The School of Magistrates, as appropriate, may conclude cooperation agreements with the institutions responsible for their training.

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**Article 245**  
**Budget**

The budget of the School of Magistrates serves for the performance of its activity and for its operation. The budget includes:

- a) Salaries and benefits of the full-time and part-time teaching and administrative staff, as well as remuneration for continuous training experts, specialists, internship responsible people;
- b) Scholarship fees of the candidates for magistrates;
- c) Operating costs;
- c) Capital expenses;
- d) Own income from registrations, publications, etc.;
- dh) Other activities approved by the Steering Council for School purposes.

**CHAPTER II**  
**MANAGEMENT AND ORGANISATION OF THE SCHOOL OF MAGISTRATES**

**Article 246**  
**Management bodies**

The management bodies of the School of Magistrates are:

- a) The Steering Council;
- b) The Director of the School;
- c) The Pedagogical Council;
- c) The Disciplinary Commission.

**Article 247**  
**Composition and Mandate of Members of the Steering Council**

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

- a) Chairperson of the High Court, who at the same time serves as the Chairperson of the Steering Council;

- b) Prosecutor General, who at the same time serves as Deputy Chairperson of the Steering Council;
- c) Chairperson of the High Judicial Council;
- ç) Chairperson of the High Prosecutorial Council;
- d) One experienced judge and one experienced prosecutor, who are appointed, as appropriate, respectively by the general meeting of all judges and prosecutors. The members elected from among the ranks of judges and prosecutors cannot be at the same time members of the High Judicial Council or members of the High Prosecutorial Council;
- dh) Two representatives assigned by the Minister of Justice;
- e) State Advocate General;
- ë) Chairperson of the National Chamber of Advocacy;
- f) One representative of the Ministry of Education and Sports with outstanding experience in the field of law;
- g) Director of the School of Magistrates;
- gj) The persons in charge of the initial and continuous training, as well as two full-time lecturers of the School of Magistrates;
- h) Two students from different academic years elected by secret voting by the Assembly of Candidates for Magistrates attending the initial training.

2. The members of the Steering Council, in accordance with letter "d" "dh" and "f" of this Article, shall stay in this position for a four-year period, except for the cases when they no longer exercise the function or duty that is the reason for being a member of the Council.

#### **Article 248**

##### **Tasks, Meetings and Decision-Making of the Steering Council**

1. The Steering Council has these tasks:

- a) Cooperates with the High Judicial Council and the High Prosecutorial Council for the application of recruitment procedures related to candidates who will study in the School of Magistrates, based on the law "On the Status of Judges and Prosecutors in the Republic of Albania";





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- b) Monitors the implementation of the criteria defined in the law “On the Status of Judges and Prosecutors in the Republic of Albania” for admission of the candidates who will attend the initial training and publish their final list;
  - c) Appoints and dismisses from duty the teaching staff, upon the proposal of a majority of members of the Steering Council or the Director of the School;
  - ç) Defines, within the budget, the organisational structure and the criteria of appointment of administrative staff;
  - d) Approves and monitors the implementation of the Internal Regulation of the School and the annual program of its activities;
  - dh) Approves, upon a proposal of the Director, the training programme and the programme of each subject of initial training, the responsible lecturers and their workload;
  - e) Proposes the draft budget and examines the Director’s reports on the implementation of the budget, expenditure and revenues;
  - ë) Submits an annual report to the High Judicial Council and the High Prosecutorial Council on the results achieved and the future work plan;
  - f) Approves the thematic program and the schedule of continuous training activities as well as the list of trainers / experts of this training, by ensuring facilities for the School of Magistrates to update the training topics and, where appropriate, changes in the schedule;
  - g) Approves agreements that the School of Magistrates concludes for the implementation of the training of other groups;
  - gj) Assigns full-time lecturers as members to the Disciplinary Commission of the School, the Prosecutor and Deputy Prosecutor for disciplinary issues for a three year term that is not renewable.

2. The Steering Council meets at least once every three months. The time, venue and topics of the agenda of the meeting are set by the Chairperson. Not less than three members of the Council or the Director of the School are entitled to call a meeting of the Steering Council and include topics in the agenda. The Council meets not later than 15 days from submission of a request in writing.

3. The meetings are valid when no less than half of the members are present. Decisions are taken by a majority of votes and, in case of a tie, the vote of the chairperson is a casting vote. Decisions are taken through open voting, based on the law “On the functioning of collegial bodies of the state administration and public entities”.

4. Unless otherwise provided in this law, the rules and procedures foreseen in the law “On the functioning of collegial bodies of the state administration and public entities” shall apply for the holding of meetings and decision-making of the Steering Council of the School of Magistrates.

#### **Article 249**

##### **Conditions for the Appointment of the Director of the School**

Director of the School of Magistrates shall be appointed an Albanian citizen who meets all the following legal requirements:

- a) Has completed higher education in law, second cycle diploma;
- b) Has worked as judge or as prosecutor for not less than 10 years or as jurist for not less than 15 years;
- c) Has not less than 10 years of teaching experience in the School of Magistrates, since being awarded the degree of “Doctor of Science”, or has not less than 5 years of teaching experience in the School of Magistrates, since being awarded the title “Professor”, or not less than 15 years of teaching experience in the School of Magistrates as full-time or part-time lecturer;
- ç) Has not been criminally convicted by a final court decision;
- d) Has not held political functions in the public administration or leadership positions in political parties during the last 10 years, before putting up his/her candidacy.

#### **Article 250**

##### **Appointment, Status and Tenure of the Director of the School**

1. The Director of the School of Magistrates shall be appointed by the Steering Council of the School, through an open, merit-based and competitive process, based on the documentation, for a four-year mandate with the right to be re-appointed only once.
2. In cases where the Director of the School of Magistrates is selected from among the ranks of judges or prosecutors who meet the requirement of Article 249 of this Law, the appointment shall be made only after the consent is given respectively by the High Judicial Council or the High Prosecutorial Council, following a request of the Steering Council of the School of Magistrates.
3. During the exercise of the function, the Director of the School of Magistrates enjoys the salary and benefits of a High Court judge. The function of the Director of the School of Magistrates is incompatible with any other public function, membership to any political party or participation in political activities, or the performance of any other remunerated activity, except for teaching or activities of scientific nature.

4. The period of performing the function of the Director of the School of Magistrates shall be recognised as work seniority, as a judge or prosecutor, for the purposes of professional career development, as set out in the Law “On the Status of Judges and Prosecutors in the Republic of Albania” and the Law “On the organisation and functioning of the Constitutional Court.”

5. The judges and prosecutors performing the function of the Director of the School of Magistrates, upon their request, shall have the right to return to their previous position preserved for them by the High Judicial Council or the High Prosecutorial Council.

### **Article 251**

#### **Tasks of the Director of the School**

1. The Director of the School of Magistrates has the following tasks:

a) Represents the School of Magistrates in relations with third parties;

b) Drafts and proposes, in cooperation with the Pedagogical Council, the Internal Regulation of the School, the annual work plan as well as amendments to them;

c) Performs tasks deriving from laws and from decisions of the Steering Council, and cooperates with the institutions he/she reports to, in accordance with this law;

c) Seeks funds from the state, donations from other lawful sources and administers the income in an independent manner, according to main directions set out by the Steering Council, in compliance with the requirements stipulated in Article 249 of this Law;

d) Takes measures for the publication of scientific articles and textbooks;

dh) Leads the teaching staff, coordinates the work, leads the work for the preparation of training schedule and training programs for each subject, proposing them to the Steering Council for approval as well as monitors the implementation and the teaching quality;

e) Proposes the candidates for part-time lecturers and the trainers for the continuous training program to the Steering Council, according to the criteria set forth in this law;

ë) Cooperates with courts, prosecution offices and institutions of the justice system in order to assess the continuous training needs and ensures the progress of the continuous training program for judges, prosecutors, state advocates, judicial civil servants and other professions, as appropriate.

2. The Director of the School, in cooperation with the Pedagogical Council, shall propose to the Steering Council, the appointment or dismissal from duty of the teaching staff and the chancellor. The dismissal from duty of the full-time and part-time teaching staff is made only after the submission of the reasoned proposal of the Disciplinary Commission and after obtaining the opinion of the Pedagogical Council of the School. The evaluation of candidate magistrates for the teaching staff shall accompany this process.
3. The Director shall appoint or dismiss the employees of the administrative staff of the school, whose employment relationship is governed by the provisions of the Labour Code.
4. The Chancellor of the School shall, under the authority of the Director, carry out the financial-administrative activity of the institution.

#### **Article 252**

#### **Conditions for Dismissal of the Director of the School**

1. The Director of the School of Magistrates shall be released from duty by the Steering Council when:
  - a) Reaching the retirement age;
  - b) The four-year term ends and he/she is not re-elected;
  - c) He/she resigns;
  - c) He/she is incapable of performing the duty;
  - d) He/she is dismissed under the provisions of paragraph 2 of this Article.
2. The Director of the School of Magistrates shall be dismissed from duty by the Steering Council, if:
  - a) Conditions of ineligibility and incompatibility in performing the function have been established;
  - b) He/she commits a serious professional or ethical misconduct, which discredit his/her position and image;
  - c) He/she has been convicted by a final court decision for committing a crime.
3. The Director of the School of Magistrates shall be suspended from duty by decision of the Steering Council, if:
  - a) The personal precautionary measure “arrest in prison” or “house arrest” has been imposed against him/her for committing a criminal offence;

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b) He/she is a defendant for a serious crime committed deliberately;

4. The Director of the School of Magistrates may be suspended from duty by decision of the Steering Council, if disciplinary proceedings against him/her are initiated, according to the law.

5. The decision of dismissal may be appealed against before the First Instance Administrative Court.

### **Article 253**

#### **Composition and Tasks of the Pedagogical Council**

1. The Pedagogical Council is chaired by the Director of the School and it consists of:

a) Full-time teaching staff and the heads of main courses of training and professional character, as determined by the Steering Council;

b) One judge and one prosecutor elected as members of the Steering Council.

2. The tasks and rules for the functioning of the Pedagogical Council are:

a) Takes part in the preparation of the initial training schedule and the thematic program for the continuous training;

b) Provides input on the drafting of the list of part-time trainers and full-time lecturers of the School, examining every proposal that the Director submits to the Steering Council;

c) Examines, after a transparent and comprehensive process, the proficiency assessment by the candidates for magistrates and the teaching staff on the work of the trainers and lecturers and forwards to the Steering Council the opinion on the continuation of their duty.

ç) Participates, under this law, in the examination of disciplinary proceedings initiated against the teaching staff;

d) Reviews, after a transparent and comprehensive process, the Director's proposal to submit to the Steering Council the names of the new lecturers and trainers added to the academic staff of the School of Magistrates;

dh) Examines and approves the recommendations of the Assembly of candidates regarding special series of lectures on specific areas of law, ethics, legal sociology and legal psychology, and develops guidelines regarding the practical activity of the candidates during their pre-professional and professional internship;

e) Makes the final evaluation of the candidates of the initial training of the first and second academic year, on the basis of the results achieved during the bi-annual period of the theoretical year and pre-professional internship;

ë) Monitors, on a regular basis, the implementation of the Steering Council decisions on the academic activity of the School.

#### **Article 254**

##### **Meetings and Decision-Making of the Pedagogical Council**

1. The Pedagogical Council meets upon the request of the Director of the School.
2. The necessary quorum to hold the meetings of the Pedagogical Council is reached when more than half of the members are present. The Pedagogical Council shall take decisions through open voting and by majority vote. In case of a tie, the vote of the Chairperson is a casting vote.
3. Unless otherwise provided in this law, the rules and procedures foreseen in the law “On the functioning of collegial bodies of the state administration and public entities” shall apply for the holding of meetings and decision-making of the Pedagogical Council of the School of Magistrates.

#### **CHAPTER III**

#### **DISCIPLINE**

#### **Article 255**

##### **Disciplinary Liability**

The Director of the School of Magistrates, the full-time lecturers and candidates for magistrates shall be liable for disciplinary misconduct, in accordance with this Law and the Internal Rules of the School.

#### **Article 256**

##### **Disciplinary Investigation**

1. The Prosecutor in charge of disciplinary issues assigned in accordance with Article 248, paragraph 1, letter “gj” of this Law, verifies complaints and investigates into alleged disciplinary misconduct of candidates for magistrates. In case of impediment or a conflict of interest he/she shall be represented by the Deputy Prosecutor in charge of disciplinary issues assigned in accordance with Article 248 paragraph 1 letter “gj” of this Law.
2. The Chancellor of the School of Magistrates verifies complaints and investigates into alleged disciplinary misconduct of civil servants of the School of Magistrates. In case of impediment or



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a conflict of interest he/she shall be represented by one of the full-time most experienced lecturers, who is not a member of the Steering Council.

3. The Director of the School of Magistrates verifies complaints and investigates into alleged disciplinary misconduct of full-time lecturers. In case of impediment or a conflict of interest he/she shall be represented by the High Court judge, who has the longest professional experience as a High Court judge.
4. The High Court judge with the longest professional experience as High Court Judge, except the Chairperson, verifies complaints and investigates into alleged disciplinary misconduct of the Director of the School of Magistrates. In case of impediment or a conflict of interest he/she shall be represented by the High Court judge with the second longest professional experience as High Court Judge, except the Chairperson.

#### **Article 257** **Disciplinary Committee**

1. The Disciplinary Committee conducting disciplinary proceedings and imposing a disciplinary measure is independent and subject only to the law.
2. In case of disciplinary proceedings against a candidate for magistrate, the Disciplinary Committee is composed of the Director of the School of Magistrates as chairperson, one judge and one prosecutor elected in accordance with Article 247 paragraph 1 letter "d" of this Law as members of the Steering Council and, two candidates for magistrates, elected from the Assembly of Candidates for Magistrates by a secret ballot.
3. In case of disciplinary proceedings against the civil servants, the Disciplinary Committee is composed of the Director of the School of Magistrates as chairperson, one judge and one prosecutor elected in accordance with Article 247, paragraph 1, letter "d" of this Law as members of the Steering Council and, two representatives of the civil servants, selected by lot, excluding the person concerned.
4. In case of disciplinary proceedings against a full-time lecturer and against the Director of the School of Magistrates, the Disciplinary Committee shall be the Steering Council, excluding the Director, and under the same rule, to the extent possible, the concerned full-time lecturer.

#### **Article 258** **Disciplinary Investigation and Proceedings**

1. The bodies competent for disciplinary investigations and disciplinary proceedings shall apply, to the extent possible and with the necessary changes, the provisions of Chapter V on the disciplinary liability of the Law "On the Status of Judges and Prosecutors in the Republic of Albania".



2. Decisions of the bodies competent for the investigation, to archive a complaint or to close an investigation may be appealed against before the Administrative Court of the First Instance.
3. Decisions of the Disciplinary Committee and of the Steering Council may be appealed against before the Administrative Court of First Instance.
4. The Steering Council shall establish more detailed rules for implementing the provisions on the investigation and disciplinary proceedings of the Law “On the Status of Judges and Prosecutors in the Republic of Albania”.
5. Decisions regarding the disciplinary liability shall be included in their personal file.

#### **Article 259** **Disciplinary Misconduct**

1. The Director of the School and full-time lecturers commit a disciplinary misconduct, if they:
  - a) Act with negligence while performing professional duties as defined in paragraph 2 of this Article,
  - b) Disregard the law or facts, caused by gross inexcusable negligence or malice or blatant incompetence;
  - c) Perform any other inexcusable behaviour or actions while performing their duties or duties assigned outside school, which discredit the institution or seriously damage the public confidence in the institution.
2. The negligence in performing professional duties must be considered as a disciplinary misconduct only if the mistakes in delivering the service go clearly beyond what can normally be expected from an ordinary lecturer. To determine the borders between performance issues, on the one hand, and disciplinary misconduct on the other hand, the following factors will be particularly taken into account:
  - a) The degree of negligence;
  - b) The frequency of occurrence of disadvantages / shortcomings;
  - c) The position within the system,
  - ç) The probability and intensity of harm that comes from behaviour;



d) Situations that are outside the control of the lecturer and that can be reasonably explained by the malfunctioning of the system as a whole.

3. In this Article, the reference to an action includes also the reference to omission.

#### **Article 260**

##### **Disciplinary Measures against the Director or Full-Time Lecturers**

1. The disciplinary measures that the Disciplinary Committee may propose to the Steering Council against the Director or full-time lecturers are:

a) Reprimand with warning;

b) Public reprimand;

c) Reduction of salary up to a maximum of 40%, for a period not exceeding one year;

ç) Suspension from office upon payment of a minimum salary, as defined in the sub-legal acts, for a specific period of time, from three months to one year;

d) Dismissal from office.

2. The provisions foreseen in law “On the Status of Judges and Prosecutors in the Republic of Albania” shall apply to the extent possible.

3. The decision of the Steering Council may be appealed against before the Administrative Court of First Instance in Tirana.

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#### **Article 261**

##### **Disciplinary Measures against Candidates for Magistrates**

1. Disciplinary misconduct that may be committed by the candidates for magistrates are defined in detail in the Regulation of the School. The disciplinary measures imposed against the candidates for magistrates for these misconducts are:

a) Reprimand;

b) Reprimand with warning;

c) Transfer from the place of professional internship;

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c) Reduction of the “scholarship fee” up to 30 % of the total amount, for a period from 3 to 6 months;

d) Dismissal from School.

2. The disciplinary measures provided in letters "a", "b" and "c" shall be imposed by the Director of the School, while those provided in letters "ç", and "d" of paragraph 1 of this Article, shall be imposed by the Disciplinary Committee, upon the proposal of the Director of the School, or not less than 3 members of the Disciplinary Committee.

3. No disciplinary measure may be imposed without first hearing the person who is to be proceeded against.

4. The disciplinary measures imposed by the Director of the School may be appealed against before the Disciplinary Committee, while those imposed by the latter may be appealed before the Administrative Court of First Instance in Tirana, within 10 days from the date of being communicated. Filing of an appeal does not suspend the implementation of the disciplinary measure for first and second year.

5. A disciplinary measure may not be imposed after one year has passed from the commission of the offence.

6. The disciplinary measures imposed under letter "a" and "b" of paragraph 1 of this Article are expunged after one year from the date of imposition. The disciplinary measures imposed under letter "c" and "ç" are expunged after two years from the date of imposition.

7. Detailed rules for the disciplinary proceedings against the candidates for magistrates shall be defined in the Internal Rules of Procedure of the School, which shall be published on the official website of the School of Magistrates.

8. The disciplinary proceedings against the candidates for magistrates during the professional internship in the third year shall be carried out under the rules provided for in the law "On the Status of Judges and Prosecutors in the Republic of Albania".

9. Procedures and decisions made for disciplinary proceedings against the candidates for magistrates shall be reflected in their personal files.

## **CHAPTER IV**

### **THE FUNCTIONING OF THE SCHOOL OF MAGISTRATES**

#### **Article 262**

#### **Registration of Applicants**



1. The call for applications, the registration process for competition in the School of Magistrates and the preliminary assessment of the criteria shall be carried out according to the rules stipulated in the Law "On the Status of Judges and Prosecutors in the Republic of Albania".
2. The applicant shall submit, together with the documentation required for registration, a statement on whether he/she opts for the profile as a judge or prosecutor. In case the applicant has selected more than one profile, the file with the application documents shall be forwarded to the High Judicial Council or to the High Prosecutorial Council.
3. The competition procedures shall be carried out according to the provisions of this law.
4. The test aims at assessing the candidate for magistrate and it shall be conducted according to the provisions of the law "On the Status of Judges and Prosecutors in the Republic of Albania" and Article 266 of this Law. The process of assessing the integrity shall be conducted based on the law "On the Status of Judges and Prosecutors in the Republic of Albania".
5. The academic year shall start on the first Monday of October and shall end not later than the end of July of the following year.

#### **Article 263**

##### **Initial Training Programme of Candidates for Magistrates**

1. The initial training of candidates for magistrates extends over a three-year period consisting of:
  - a) One year of theoretical program that aims at improving knowledge in various subjects of the law;
  - b) One year of a pre-professional internship that aims at improving the practical skills of candidates as judges and prosecutors, under the auspices of the School and under the instruction of a highly qualified judge or prosecutor.
  - c) One year of professional internship, which will be organised in the manner and the time stipulated in the law "On the Status of Judges and Prosecutors in the Republic of Albania".
2. The training program referred to in letter "a" of paragraph 1 of this Article is carried out jointly for all the candidates and it shall be organized, monitored and directed by the School of Magistrates. The pre-professional internship shall be developed separately according to the profiles selected by the candidate as a judge or prosecutor.

#### **Article 264**

##### **Election and Appointment of Lecturers, Persons in charge of Training Programs and the Chancellor**



1. The full-time and part-time lecturers are appointed by the Steering Council, upon the proposal of the Director or the members of the Steering Council, following a transparent and comprehensive process, based on merits and on a competitive process;
2. The full-time lecturers are elected from among the most prominent jurists with over 15 years of experience as jurists, judges, prosecutors, advocates and with teaching experience as full-time lecturers in the university system or as full-time or part-time lecturers at the School of Magistrates, with an experience of more than 10 years.
3. The full-time lecturers are entitled to all the rights and benefits of a judge of a court of appeal.
4. The part-time lecturers, who meet the criteria set forth in paragraph 2 of this Article for full-time lecturers, can also be engaged in the core subjects. In case the candidates for part-time lecturers come from the ranks of incumbent judges or prosecutors, who have graduated from the School of Magistrates, they must meet the criteria of being 10 years as judges or prosecutors and have university teaching experience in the core subjects or with the School of Magistrates for over 5 years. In exceptional cases, for specific courses of technical character, specialists of respective areas can be engaged.
5. Lecturers shall attend, in relation to subjects they teach, the train-the-trainer courses and seminars that are periodically delivered by the School or other national and international institutions.
6. Persons in charge of the initial and continuous training shall be elected by the Steering Council from among the full-time lecturers of the School.
7. The chancellor of the School of Magistrates shall be appointed by the Steering Council and shall enjoy the rights and privileges of the chancellor of the court of appeal.

**Article 265**  
**Judge or Prosecutor Lecturers**

1. The Steering Council of the School of Magistrates may ask the High Judicial Council and the High Prosecutorial Council to respectively second sitting judges or prosecutors to the School of Magistrates to work as full-time lecturers, based on the procedure laid down in the Law "On the Status of Judges and Prosecutors in the Republic of Albania".
2. The judge or prosecutor, who assumes the function of the full-time lecturer of the School of Magistrates, at his/her request, shall remain in office as a full-time lecturer for a period of up to 5 years, unless he/she resigns, or is dismissed by the relevant body.



3. The period of assuming the function as a full-time lecturer shall be recognised as a period of work seniority as a judge or prosecutor, to the effect of professional career development, provided for in legal provisions.

4. Upon termination of the secondment, the judges or prosecutors who work as full-time lecturers at the School of Magistrates, shall be entitled to return to their previous position in accordance with the Law "On the Status of Judges and Prosecutors in the Republic of Albania".

#### **Article 266**

##### **Competition and Admission of Candidates for Magistrates**

1. Applicants undergo competition, which is subject to monitoring. Their knowledge is tested during the admission competition at least in writing.
2. The Steering Council of the School of Magistrates, after obtaining the opinion of the High Judicial Court, the High Prosecutorial Council and the Minister of Justice, shall approve detailed, clear, transparent and objective rules for the criteria and procedures to be followed in the assessment of knowledge and skills of candidates by the profiles required by them and on the manner of scoring the exams.
3. The exam is organized in two phases, which is followed by a psychological and mental health assessment. The first phase is of a qualifying nature and carried out in an electronic assessment.
4. Following the successful passing of the electronic test, the applicants pass on to the second phase of the exam, which is delivered in writing before a Commission consisting, where appropriate of 5 to 7 members, designated by the Steering Council, of whom up to 2-3 of them are full-time lecturers and 3- 4 of them are part-time lecturers of more than 5 years of experience in teaching at the School of Magistrates. The part-time lecturers cannot be members of the Commission two consecutive times.
5. The applicants, who qualify in the second phase, shall be subject to a test on the mental and psychological health, conducted by a commission established by the Steering Council of the School of Magistrates in cooperation with the Ministry of Health. This Commission consists of two psychiatrists and two psychologists. A full-time lecturer of the School of Magistrates attends as observer the meetings of this commission during the entire evaluation period.
6. At the end of both competition phases and following the completion of the psychological and mental health assessment, the School of Magistrates prepares a list of applicants ranked based on the specific test outcomes, in full compliance with the rules laid down in this law and in the Law "On the Status of Judges and Prosecutors in the Republic of Albania".
7. The way of organising the competition in both phases, detailed rules to be abided by for the accomplishment of the psychological and mental health assessment being applied even during the

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schooling years, the procedures to be followed and the evaluation done by the respective commissions, and the technical aspects of their activity shall be determined in the regulation of the School.

8. The applicants shall have the right to a written complaint to the Steering Council of the School of Magistrates on the results of the exam only for violations of the rules of procedure.
9. The list of candidates shall be sent respectively to the High Judicial Council for the candidates who have chosen the profile of the judge in the phase of application and to the High Prosecutorial Council for the candidates who have chosen the profile of the prosecutor.
10. The High Judicial Council and the High Prosecutorial Council shall carry out the asset and background assessment of the candidates, in accordance with the Law "On the Status of Judges and Prosecutors in the Republic of Albania" and shall submit the final list of admitted candidates to the School of Magistrates.
11. The Steering Council of the School of Magistrates shall publish a list of applicants for each profile. Upon the signing of the registration agreement, which stipulates the rights and responsibilities for the attendance of the initial training, the candidate for magistrate shall be considered registered in the School of Magistrates.
12. The admitted candidates are required to attend the program regularly and to observe the School Rules and Regulations.

#### **Article 267**

##### **Scholarship Fee for Candidates for Magistrates**

The candidates are entitled to a scholarship fee during the period of attending the initial training. The scheme of calculating the scholarship fee, as well as the rights and obligations associated with the scholarship fee are provided in the Law "On the Status of Judges and Prosecutors in the Republic of Albania".

#### **Article 268**

##### **Evaluation of the Initial Training of Candidates for Magistrates**

1. The evaluation of all components of the first and second year, on the scores obtained for each subject or element of the initial training program and as a whole, as well as the evaluation of the final exam, organized after the second year, shall be made by the relevant commissions and the Pedagogical Council, according to a 5 scale ranking:

- a) Excellent;



b) Very good;

c) Good;

ç) Satisfactory;

d) Unsatisfactory

2. The final exam is made in writing and organised in four practical case studies of the following areas:

a) First part: private law (civil, family, labour, trade) and the civil procedural law;

b) Second part: criminal law and criminal procedure;

c) Third part: administrative law and the administrative procedure law;

ç) Fourth part: public law (constitutional, human rights, international, EU legislation, etc.).

3. The final exam is evaluated by a commission consisting of six members, of whom four members are from among the full-time and part-time lecturers of the School of Magistrates and one member is from the High Judicial Council and one member from the High Prosecutorial Council.

4. More detailed rules relating to the final exam shall be defined in the Internal Rules and Regulations of the School.

5. It is not allowed to repeat the exams of the first and second year and the final exam in order to improve the scores.

6. The attendance in any exam on the date as set out by the School of Magistrates for the candidates of the academic year is mandatory, unless legitimate and objective reasons are presented. In the latter cases, to the effect of maintaining the secrecy of record, the exam shall be taken with the candidates of the upcoming year.

7. The evaluation "unsatisfactory" received consecutively two times at least in two subjects or in the final exam, entails, as appropriate, the forfeiture of the right to attend the training at the School of Magistrates. More detailed rules to repeat the exam in this case, shall be defined in the Internal Rules and Regulations of the School.

8. The rules, the ranking scheme and more detailed procedures for the evaluation of the first and second year components of the initial training as well as the final exam shall be defined in the Internal Rules and Regulations of the School of Magistrates.

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#### Article 269

##### Evaluation during the Professional Internship of Candidates for Magistrates

1. The evaluation of the performance during the professional internship of the third year of the initial training shall be conducted under the provisions of the law "On the Status of Judges and Prosecutors in the Republic of Albania".
2. The final evaluation of the candidates after the third year of the initial training shall be carried out by the Pedagogical Council, based on the results of exams of the first year, the pre-professional internship and the final exam, under a 5-scale system, according to their final ranking based on scores.
3. The Steering Council of the School shall draw up a proposal for assessing the quality of the activity and program of the mentors, the performance assessment during the professional internship and also a final report on the results of the evaluation of the first year, second year and the final exam.
4. The Director of the School shall submit the decision of the Pedagogical Council, containing in score ranking, the 5-scale evaluation of the first two years, the final exam and the professional internship of the third year, to the Steering Council of the School, the High Judicial Council for candidates for judges and to the High Prosecutorial Council for candidates for prosecutors.

#### Article 270

##### Evaluation Categories of the Candidates for Magistrates

1. The evaluation of performance of the candidates for magistrates shall be made under the following grades:
  - a) "Excellent" in case of an extraordinary good ethical and professional performance evaluation;
  - b) "Very good" in the case of an above average ethical and professional performance evaluation;
  - c) "Good" in case of an average professional and ethical performance evaluation;
  - c) "Acceptable" in case of a below average ethical and professional performance evaluation;
  - d) "Incapable" in case of extremely poor ethical and professional performance evaluation.
2. The overall evaluation "excellent" shall be given only if the performance of the magistrates is "excellent" for all four criteria, in accordance with the provisions of Article 71, of the Law No. 96/2016 "On the Status of Judges and Prosecutor in the Republic of Albania".
3. The overall evaluation "very good" shall be given only if the performance of the magistrates is at least "very good" for three criteria and "good" for the remaining criterion. In any case, the criterion





“professional capacity of judges and prosecutors” and “ethics and commitment to professional values of judges and prosecutors” must be evaluated at least “very good”.

4. In case the capacities of the magistrate are evaluated "good" with regard to two criteria and 'acceptable' in the remaining criteria, the magistrate shall be evaluated as generally “good”. The same rule applies to an equal evaluation of the criteria between the categories of “acceptable” and “incapable”, unless provided otherwise in paragraph 3 of this Article. In any case, the criterion “professional capacity of judges and prosecutors” and “ethics and commitment to professional values of judges and prosecutors” must be evaluated at least “very good”.

5. The overall evaluation “incapable” shall be given in the following cases:

a) If the work of the magistrates is evaluated as “incapable” in the three criteria provided for in the letters “b”, “c” and “ç”, of Article 71, of the law no. 96/2016, “On the Status of Judges and Prosecutors in the Republic of Albania”;

b) If the work of the magistrates is evaluated as “incapable” with regard to the criteria “professional capacity of judges and prosecutors” and “ethics and commitment to professional values of judges and prosecutors” and not more than “good” in the two other criteria.

#### **Article 271**

##### **Appointment of Magistrates**

The appointment of the magistrates who have graduated from the School of Magistrates upon the successful completion of the initial training shall be made in accordance with the provisions contained in the Law "On the Status of Judges and Prosecutors in the Republic of Albania".

#### **Article 272**

##### **Continuous Training**

1. Judges and prosecutors are subject to continuous training according to the rules set forth in the Law "On the Status of Judges and Prosecutors in the Republic of Albania".

2. The School of Magistrates in cooperation with the High Judicial Council and the High Prosecutorial Council shall design and organize the continuous training programme.

3. The High Judicial Council and the High Prosecutorial Council shall approve the participation of judges and prosecutors in the continuous training, as defined in the continuous training program and shall send them to the School of Magistrates at the beginning of the academic year.



4. The School of Magistrates, for special and exceptional cases, in order to ensure the training in accordance with the training needs of judges and prosecutors, amendments to legislation and practical issues, upon the latter's request or on its own initiative, may update the training thematic program and the lists of participants in the continuous training. The School of Magistrates, in this case, shall inform the High Judicial Council and the High Prosecutorial Council for the approval of the lists, exceptionally from the rule of paragraph 2 of this Article.

5. Judges and prosecutors, who participate in the continuous training shall receive a certificate, issued by the Director of the School.

### **Article 273**

#### **Competition, Initial and Continuous Training of State Advocates**

1. The applicants for state advocates are subject to the same competition as the candidates for judges and prosecutors.

2. The initial training program for the state advocates is a two-year program, of which the first year and the second year of the program are the same with the initial training program of the candidates for judges and prosecutor.

3. The pre-professional internship shall be organised according to the rules stipulated in a special regulation approved by the Steering Council of the School of Magistrates.

4. The candidates for state advocates are subject to the final exam of studies in the School of Magistrates.

5. The incumbent state advocates shall attend the activities of the continuous training program according to the subjects, terms and the list approved by the State Advocate in the joint agreement with the School of Magistrates.

### **Article 274**

#### **Competition, Initial and Continuous Training of Legal Advisor of Courts and Prosecution Offices**

The applicants for candidates for legal advisors of courts and prosecution offices, who fulfil the criteria set out by law, are subject to the same exam as the applicants for judges and prosecutors.

### **Article 275**

#### **Administration of the School of Magistrates**

1. Attached to the School of Magistrates operates the administration, which assists with the

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realisation of the mission and functions of the School.

2. The administration of the School of Magistrates shall be chaired by the Chancellor, who reports to the Director of the School.

3. The administrative staff of the School of Magistrates has the status of the civil servant, based on the provisions of the law “On civil servants”.

4. The School of Magistrates employs administrative staff according to the provisions of the Labour Code.

## **PART VII**

### **FINAL AND TRANSITORY PROVISIONS**

#### **CHAPTER I HIGH JUDICIAL COUNCIL**

##### **Article 276**

##### **Election of Members of the High Judicial Council**

1. Within one month from the entry into force of this law, the judges interested in the position of a member of the High Judicial Council, shall submit to the Independent Qualification Committee a request expressing their interest to run as candidates and the documentation required for the re-evaluation, according to the law “On transitional re-evaluation of judges and prosecutors in the Republic of Albania”. If the Independent Qualification Committee has not been established yet, the request shall be submitted to the Secretary General of the Assembly.

2. Within the same period of time provided for in paragraph 1 of this Article, the judges interested in the position of a member of the High Judicial Council shall submit to the Chairperson of the High Court the relevant documentation, under Article 10 of this Law. The chairperson of the High Court shall make available to the judges interested in the position of the member of the Council the template form foreseen in paragraphs “b”, “c” and “e” of Article 10 of this Law.

3. Within 7 days from the submission of the documents under Article 10 of this Law, the Chairperson of the High Court shall verify the fulfilment of legal requirements, under the procedures provided for in Article 11 of this Law. If a candidate fails to meet the criteria, the Chairperson of the High Court shall notify the candidate and the Independent Qualification Committee.

4. Within 3 months from the date of submission of expression of interest and the documentation pursuant to paragraph 1 of this Article, the Independent Qualification Committee shall make the re-evaluation of the judges who run as candidates. The judge who, by decision of the Independent

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Qualification Committee, fails to pass the re-evaluation process, shall be disqualified from the nomination process, even if the Commission's decision has been appealed against. The election of candidates shall continue without the participation of this candidate.

5. Not later than 3 days after completion of the re-evaluation process, the Independent Re-evaluation Committee shall submit to the Chairperson of the High Court the list with the names of judge candidates who successfully passed the re-evaluation procedure.

6. Within 3 days from the submission of the list by the Independent Qualification Committee, the Chairperson of the High Court shall call the General Meeting of judges. The procedure for election of judge members of the Council shall be completed within 20 days from the date of the call.

7. The member elected from among the judges of the High Court, one of the members coming from the appellate courts, elected by lot, and one of the members coming from the courts of first instance, elected by lot, shall only serve for a 3-year mandate.

8. Within 30 days from the entry into force of this law, the structures responsible for the selection of candidates for lay members to the High Judicial Council shall begin the actions and procedures stipulated by this law for the selection of candidates. Procedures for the selection of candidates shall be completed within 4 months.

9. If the Chairperson of the High Court fails to call the General Meeting of judges for the election of judge members to the High Judicial Council within 3 days after the completion of the re-evaluation procedure of the candidates, the meeting shall be called by 1/10 of the total number of judges. In this case, the meeting shall be chaired by the oldest judge by age of the High Court.

10. The failure to call the General Meeting of judges for the election of judge members to the High Judicial Council or exceeding the deadline to call it, and the failure to start with the procedures for selection of candidates for the lay members to the High Judicial Council shall constitute disciplinary misconduct for the subjects provided for in paragraph 8 and 9 of this Article.

11. Until the establishment of the Justice Appointments Council, the duties of the Chairperson of the Justice Appointments Council, as set out in Articles 23 to 31 and Articles 33 and 34 of this Law, shall be assumed by one of the Chairpersons of the High Court Chambers, elected by lot.

#### **Article 277**

#### **Establishment of the High Judicial Council**

1. Members of the High Council of Justice shall hold office until the establishment of the High Judicial Council. The mandate of the members shall end on the day when the last member of the High Judicial Council is elected, but, in any case, not later than 8 months after the Constitutional amendments enter into force.



2. The High Judicial Council shall be established on the day when its last member is elected by the competent authorities. The oldest lay member by age, elected by the Assembly, shall prepare and convene the first meeting of the High Judicial Council not later than 3 days after the election of all members.
3. The Chairperson and the deputy chairperson of the High Judicial Council shall be elected at the first meeting. After their election, the Chairperson shall chair the meeting. In the first meeting, the High Judicial Council shall adopt a declarative decision, which contains the date of establishment of the Council.
4. On the day of the establishment of the High Judicial Council, all the files and documentation in the administration of the High Council of Justice shall pass to the High Judicial Council under the responsibility of the Secretary General of the High Council of Justice and the Chief Inspector.
5. Not later than 1 month from the establishment of the High Judicial Council, the current systems of information technology, including maintenance and development contracts in force for these systems and any other technical or legal document, shall be handed over and under the responsibility of the Council by the responsible directorate of the Ministry of Justice. The High Judicial Council shall ex lege succeed as party in existing contracts.

#### **Article 278**

##### **Establishment of Administrative and Organizational Structures of the High Judicial Council**

1. Civil servants and employees of the High Council of Justice shall remain in office for a transitional period of up to 6 months after the establishment of the High Judicial Council.
2. Within the time period of 6 months from the establishment of the High Judicial Council, the Council shall verify the fulfilment of formal criteria by incumbent employees for the position they hold according to this law. If the incumbent employee fails to meet the formal criteria of the respective position, the High Judicial Council shall assess the existing possibility of accommodation in another position within the administration of the Council appropriately and in compliance with the legal and professional criteria, unless there are reasons to terminate employment relations.
3. The employees of the Judicial Budget Administration Office shall stay in office for a transitional period of 6 months after establishment of the High Judicial Council. The provisions foreseen in paragraph 2 of this Article shall apply even to this category of employees.
4. The incumbent employee has the right to be heard, submit statements and other evidence, to be represented and the right to appeal.
5. Until the electronic case management system is fully functional, the High Judicial Council shall enable the management of judicial cases by other means.

6. The High Judicial Council shall approve more detailed rules on other criteria related to specifics of the position of the civil servant and the procedures in order to apply in a uniform way the standards in compliance with the legislation in force.

## **CHAPTER II**

### **HIGH PROSECUTORIAL COUNCIL**

#### **Article 279**

#### **Election of members of the High Prosecutorial Council**

1. Not later than 1 month from the entry into force of this law, the prosecutors interested in the position of a member of the High Prosecutorial Council, shall submit to the Independent Qualification Committee a request expressing their interest to run as candidate and the documentation required for the re-evaluation according to the law “On transitional re-evaluation of judges and prosecutors in the Republic of Albania”. If the Independent Qualification Committee has not been established yet, the request shall be submitted to the Secretary General of the Assembly.

2. Within the same period of time provided for in paragraph 1 of this Article, the prosecutors interested in the position of a member of the High Prosecutorial Council shall submit to the Prosecutor General the relevant documentation under Article 108 of this Law. The Prosecutor General shall make available to the prosecutors interested in the position of the member of the Council the template form foreseen in paragraph b, c and e of article 108 of this law.

3. Within 7 days from the submission of the documents under Article 108 of this Law, the Prosecutor General shall verify the fulfilment of the legal requirements under the procedures provided for in Article 109 of this Law. If a candidate fails to meet the criteria, the Prosecutor General shall notify the candidate and the Independent Qualification Committee.

4. Within 3 months from the date of submission of expression of interest and the documentation pursuant to paragraph 1 of this Article, the Independent Qualification Committee shall make the re-evaluation of the prosecutors who run as candidate. The prosecutor who, by decision of the Independent Qualification Committee, fails to pass the re-evaluation process, shall be excluded from the nomination process, even if the Commission's decision has been appealed. The selection of candidates shall continue without the participation of this candidate.

5. Not later than 3 days after completion of the re-evaluation process, the Independent Qualification Committee shall submit to the Prosecutor General the list with the names of prosecutor candidates who successfully passed the re-evaluation procedure.

6. Within 3 days from the submission of the list by the Independent Qualification Committee, the Prosecutor General shall call the general meeting of prosecutors. The procedure for election of the prosecutor members of the Council shall be completed within 20 days from the date of the call.
5. The member elected from among the prosecutors of the General Prosecution Office, one of the members coming from the appellate prosecutor's offices elected by lot, and one of the members coming from the first instance prosecutor's offices, elected by lot, shall only serve for a 3-year mandate.
6. Within 30 days from the entry into force of this law, the structures responsible for the selection of candidates for lay members to the High Prosecutorial Council shall begin the actions and procedures stipulated by this law for the selection of candidates. Procedures for the selection of candidates shall be completed within 4 months.
7. If the Prosecutor General fails to call the general meeting of the prosecutors for the election of prosecutor members to the High Prosecutorial Council within 3 days after the completion of the re-evaluation procedure of the candidates, the meeting shall be called by 1/10 of the members.
8. The failure to call the general meeting of prosecutors for the election of prosecutor members to the High Prosecutorial Council or exceeding the time to call it, and the failure start with the procedures for selection of candidates for the lay members to the High Prosecutorial Council shall constitute disciplinary misconduct for the subjects provided for in paragraph 8 and 9 of this Article.
9. Until the establishment of the Justice Appointments Council, the duties of the Chairperson of the Justice Appointments Council as set out in Articles 121 to 129 and Articles 131 and 132 of this Law, shall be assumed by one of the Chairpersons of the High Court Chambers elected by lot.

#### **Article 280**

##### **Establishment of the High Prosecutorial Council**

1. The High Prosecutorial Council shall be established on the day when its last member is elected by the competent authorities. The oldest lay member by age, elected by the Assembly, shall prepare and convene the first meeting of the High Prosecutorial Council not later than 3 days after the election of all members.
2. The Chairperson and the deputy chairperson of the High Prosecutorial Council shall be elected at the first meeting. After their election, the Chairperson shall chair the meeting. In the first meeting, the High Prosecutorial Council shall adopt a declarative decision, which contains the date of establishment of the Council.

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**Article 281**

**Establishment of administrative and organizational structures of the High Prosecutorial Council**

1. Employment relations of civil servants and other employees of the General Prosecution Office and other prosecutor's offices are governed by the transitory provisions of the law "On organisation and functioning of the Prosecutor's Office in the Republic of Albania".
2. The High Prosecutorial Council shall approve detailed rules on other criteria related to specifics of the position of the civil servant and the procedures in order to apply in a uniform way the standards in compliance with the legislation in force.
3. Until the electronic case management system is fully functional, the High Prosecutorial Council shall enable the management of judicial cases by other means.

**CHAPTER III  
HIGH JUSTICE INSPECTOR**

**Article 282  
Election of the High Justice Inspector**

1. Any judge or prosecutor or interested subject who is subject to re-evaluation procedure, interested in the position of the High Justice Inspector shall, within one month from the establishment of the Independent Qualification Committee, submit to the Committee a letter expressing their interest in the position of High Justice Inspector, as well as the documentation for the re-evaluation according to the law "On the transitional re-evaluation of judges and prosecutors in the Republic of Albania". If the independent Qualification Committee has not been established yet, the request shall be submitted to the Secretary General of the Assembly. Their re-evaluation shall be done with priority immediately after the establishment of the Independent Qualification Committee.
2. Any other lawyer, interested in the position of the High Justice Inspector, within two months from the entry into force of this law, shall submit an application for the position of the High Justice Inspector to the Justice Appointments Council, which conducts the evaluation of candidates assisted even by the Independent Qualification Committee, to the extent possible, for the enforcement of provisions and procedures of law "On transitional evaluation of judges and prosecutors in the Republic of Albania".
3. If the candidates foreseen in paragraph 1 of this article are not accepted to apply by a decision of first instance of the Independent Qualification Committee, they shall not be eligible to be elected, even when an appeal has been filed against the decision. The evaluation and ranking of candidates by the Justice Appointments Council shall be made without the participation of this candidate. If the Independent Qualification Committee has been set up even the candidates whose-re-evaluation process has not been completed on 1 February 2017 shall be exempt from the election process.



4. Once all eligible candidates have passed the process of re-evaluation by the decision of the Independent Qualification Committee, the Independent Qualification Committee shall notify the Justice Appointments Council and forward the file to be used for the evaluation and ranking of candidates.

5. The Justice Appointments Council shall launch without delay but not later than 1 February 2017 the assessment procedure for fulfilment of criteria and ranking of all the candidates for the High Justice Inspector and shall end this procedure within 10 days. The Justice Appointments Council shall submit the report to the Assembly without delay.

### **Article 283**

#### **Establishment of the Office of the High Justice Inspector**

1. Within one month from after the establishment of the Independent Qualification Committee, the magistrates interested in the position of the inspector of the Office of the High Justice Inspector, shall submit to the Independent Qualification Committee a request expressing their interest to run as candidate and the documentation according to the law on re-evaluation. Their re-evaluation shall be given priority.
2. Any other jurist interested in the position of the inspector of the Office of the High Justice Inspector, within 1 month from the establishment of the Office of the High Justice Inspector, shall submit the application to the High Justice Inspector;
3. The High Justice Inspector shall verify the fulfilment of legal requirements and criteria according to provisions of this law and verify the integrity and assets of non-magistrate candidates.
4. The High Justice Inspector shall submit the request for information concerning verification of integrity according to the provisions of article 38 of the law "On transitional re-evaluation of judges and prosecutors in the Republic of Albania" and any other disqualification ground, to the High Inspectorate of Declaration and Audit of Assets and Conflict of Interest, prosecutor's offices, public financial bodies, National Bureau of Investigation, state intelligence services and any other disciplinary body monitoring discipline in previous employment relations of the candidate. If deemed necessary, the High Justice Inspector may request additional information from other institutions.
5. The High Justice Inspector in relation to the non-magistrate candidate shall assess the professional and moral skills according to the criteria foreseen for the position of the inspector.
6. The High Justice Inspector shall approve a written reasoned report based on the results of declarations of assets, assessment of integrity and fulfilment of legal requirements and criteria in this law concerning the candidate.
7. Following his appointment, the High Inspector of Justice, in cooperation with the

Department of Public Administration, shall set the structure of the Office with the minimum number of staff members and shall start recruiting civil servants and other staff necessary for the initial phase, and requests, where necessary, the secondment of magistrates to ensure at least 16 inspectors for the initial stage of 6 months after the establishment of the Office of the High Justice Inspector. The final structure shall be determined within six months after the establishment of the Office, in accordance with the provisions of this law.

8. The Office of the High Justice Inspector shall be deemed established on the first day of the month following the appointment of the High Justice Inspector by the Assembly. If this period is less than a week following the appointment, the first day of the next month will be considered the date of the establishment of the Office of the High Justice Inspector.
9. On the day of the establishment of the Office of the High Justice Inspector, the inspection service attached to the High Council of Justice, the Ministry of Justice and the General Prosecution Office shall cease and the mandate of the Chief Inspector shall end.
10. On the day of the establishment of the Office of the High Justice Inspector, the Chief Inspector, as well as the inspectors of the High Council of Justice who are magistrates and the prosecutors who perform their activity for the disciplinary liability of prosecutors attached to the General Prosecution Office shall be considered as inspectors of the Office of the High Justice Inspector for a period of 6 months after the creation of the Office of the High Justice Inspector. At the end of this period they shall continue to remain in office if they meet the requirements and criteria for inspector according to the provisions of this law. In this case, the mandate of the inspectors shall start with the appointment as inspector in the High Council of Justice or General Prosecution Office. If they fail to fulfil the requirements and criteria, they have the right to return to the previously position held 6 months after the establishment of the Office of the High Justice Inspector or participate in transfer and lateral transfer procedures according to the provisions in the law on the status of judges and prosecutors.
11. On the day of the establishment of the Office of the High Justice Inspector all the disciplinary files under investigation by the Ministry of Justice, the High Council of Justice and the General Prosecution Office shall be transferred from the Chief Inspector, the responsible directorates of the Ministry of Justice and the General Prosecution Office to the responsibility of the High Justice Inspector. Any complaint in terms of this law on the status of judges and prosecutors shall be addressed to the High Justice Inspector.

#### CHAPTER IV

#### JUSTICE APPOINTMENTS COUNCIL

#### Article 284

#### Establishment of the Provisional Council for Appointments in the Justice System



1. The Prosecutor General shall prepare a list with the names of all the prosecutors of the General Prosecution Office and the prosecutors in the appeal level who fulfil the requirements stipulated in this law to be members of the Justice Appointments Council and shall send it immediately to the President of the Republic.
2. The Secretary General of the High Council of Justice shall prepare a list with the names of all the judges of the appellate courts and the judges of the administrative court of first instance who fulfil the requirements stipulated in this law to be members of the Justice Appointments Council and shall send it immediately to the President of the Republic.
3. The Chairperson of the High Court shall prepare a list with the names of all the judges of the High Court who meet the requirements stipulated in this law to be members of the Justice Appointments Council and shall send it immediately to the President of the Republic.
4. The Chairperson of the Constitutional Court shall prepare a list with the names of all the judges of the Constitutional Court who meet the requirements stipulated in this law to be members of the Justice Appointments Council and shall send it immediately to the President of the Republic.
5. If one or more of the institutions mentioned in paragraphs 1-4 of this Article fail to submit the list, the President of the Republic shall draw up the list by himself in cooperation with the Office for Administration of the Judicial Budget. Failure to submit the list shall constitute a disciplinary misconduct for the subjects referred to in paragraphs 1-4 of this Article.
6. The President of the Republic shall organize the lot for the election of members of the Provisional Council for Appointments in the Justice System without delay. The procedures of the lot shall be documented by the President of the Republic. The procedures of the lot shall be held in the presence of the Ombudsman who drafts and publishes a monitoring report on the lot procedures.
7. The members of the Justice Appointments Council shall be elected in accordance with Article 179, paragraph 11, of the Constitution.
8. The President of the Republic shall publish a report about the election process on the official website of the Presidency. The Ombudsman shall publish the monitoring report on its official website.
9. The members of the Provisional Justice Appointments Council shall be subject to re-evaluation by priority.

## CHAPTER V

### SCHOOL OF MAGISTRATES



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**Article 285**  
**School of Magistrates**

1. The new members of the Steering Council who will fill in the vacancies created to the effect of this law must be elected within 30 days from the establishment of the High Judicial Council and the High Prosecutorial Council. Upon the election of chairperson of the High Judicial Council and the chairperson of the High Prosecutorial Council, they will be members of the Steering Council.
2. The Director, full-time lecturers of the School of Magistrates shall stay in office unless they fail the re-evaluation process or are removed from office for other lawful reasons.
3. In accordance with the law “On transitional re-evaluation of judges and prosecutors in the Republic of Albania”, the School of Magistrates is tasked with organising an extraordinary competition for the admission of 25 candidate magistrates, respectively for the academic year 2016-2017 and 2017-2018. The choice of profile of the judge and prosecutor for the winning candidates for each academic year shall be 15 judges and 10 prosecutors in case of lack of an agreement between the High Council of Justice and the Prosecutor General or between other competent institutions, which has to be concluded not later than 4 weeks since the entry into effect of this law".
4. The Academic year 2016 – 2017 for the School of Magistrates shall start upon the completion of the competition, however, not later than 4 weeks since the entry into effect of this law.
5. The competition for admission to the academic year 2017 – 2018 shall be conducted in April 2017, in accordance with the provisions of the law “On the status of judges and prosecutors in the Republic of Albania”.

**Article 286**  
**Verification of non-judge member candidates of the High Judicial Council**

1. The Secretary General of the Assembly and the International Monitoring Mission shall verify the first appointments of the non-judge members of the High Judicial Council, after the entry into force of this law.
2. The Secretary General of the Assembly, at the end of the procedure defined in paragraph 5 of Article 35, and Articles 53 and 58 of this law shall immediately forward to the International Monitoring Mission, a copy of the documentation deposited with and administered for each candidate with the Assembly of Albania.
3. The International Monitoring Mission shall assess the candidates within 7 days from the day of registration of the list of candidates and forward to the Secretary General of the Assembly, the list of candidates:

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a) Who meet the requirements foreseen in the Constitution and this law, and also the moral and professional criteria, and

b) The list of candidates who fail to meet them.

4. The Secretary General of the Assembly shall reflect the opinion of the International Monitoring Mission according to paragraph 3 of this article, in the lists of candidates sent to the standing committee in charge of legal affairs of the Assembly, according to letter “a” and “b”, of paragraphs 7, paragraph 8, of Article 35, and Articles 53 and 58 of this law. A copy of the lists of the International Monitoring Mission according to paragraph 3 of this article shall be made available even to the standing committee in charge of legal affairs in the Assembly.

5. The procedures and rules foreseen in Article 35, 53 and 58 of this law on the documentation, assessment, election and voting of the non-judge members shall apply even for the first-time appointment of non-judge members of the High Judicial Council.

#### **Article 287**

##### **Verification of non-prosecutor member candidates of the High Prosecutorial Council**

1. The Secretary General of the Assembly and the International Monitoring Mission shall verify the first appointments of the non-prosecutor members of the High Prosecutorial Council, after the entry into force of this law.

2. The Secretary General of the Assembly, at the end of the procedure defined in paragraph 5 of article 133, article 151 and article 155 of this law shall immediately forward to the International Monitoring Mission, a copy of the documentation deposited with and administered for each candidate with the Assembly of Albania.

3. The International Monitoring Mission shall assess the candidates within 7 days from the day of registration of the list of candidates and forward to the Secretary General of the Assembly, the list of candidates:

a) who meet the requirements foreseen in the Constitution and this law, and also the moral and professional criteria, and

b) the list of candidates who fail to meet them.

4. The Secretary General of the Assembly shall reflect the opinion of the International Monitoring Mission according to paragraph 3 of this article, in the lists of candidates sent to the standing committee in charge of legal affairs in the Assembly, according to letter “a” and “b”, of paragraphs 7, paragraph 8, Article 133, and Articles 151 and 156 of this law. A copy of the lists of the International

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Monitoring Mission according to paragraph 3 of this article shall be made available even to the standing committee in charge of legal affairs in the Assembly.

5. The procedures and rules foreseen in Article 133, 151 and 155 of this law on the documentation, assessment, election and voting of the non-judge members shall apply even for the first time appointment of non-prosecutor members of the High Prosecutorial Council.

## **CHAPTER VI**

### **FINAL PROVISIONS**

#### **Article 288**

##### **Establishment of the independent commission for coordinating, monitoring and following up the implementation of the law**

1. Not later than 15 days from the entry into effect of this law, the Assembly shall set up an independent commission for monitoring the selection processes of candidates and the election and appointment of members to the bodies of the justice system governance.
2. The independent commission shall approve the rules of its activity. The commission shall be assisted by the administration of the Assembly for assuming its functions.
3. The independent commission shall do the coordination among the institutions and bodies implementing the legal provisions of this law, while following up the implementation of the legal provisions by the respective institutions, provided for in law and within the foreseen legal timing.
4. The commission shall report to the committee being responsible for the legal issues in the Assembly and to the Assembly regarding the dynamics of the implementation of the law as often as possible.
5. The activity of the independent commission shall occur within the premises of the Presidency of the Assembly.

#### **Article 289**

##### **Sub-legal acts**

1. The Council of Ministers, within 6 months from the entry into force of this law, is in charge of issuing sub-legal acts to make possible fulfilment of the obligations foreseen in paragraph 3 and 4 of Article 278 of this law.
2. The Council of Ministers, within 6 months from the entry into force of this law, is in charge of issuing sub-legal acts to make possible fulfilment of the obligations foreseen in paragraphs 2 and 3 of Article 281 of this law.

3. The Council of Ministers, within 4 months from the entry into force of this law, is in charge of issuing sub-legal acts to make possible fulfilment of the obligations foreseen in paragraph 3 of Article 283 of this law.

4. The Council of Ministers, within 5 months from the entry into force of this law, is in charge of issuing sub-legal acts to make possible fulfilment of the obligations foreseen in paragraph 4 of Article 283 of this law.

5. The Council of Ministers, within 6 months from the entry into force of this law, is in charge of issuing rules for the general state policies for the system of information technology regarding justice system, provided for in Article 92 of the law.

### **Article 290**

#### **Repeals**

1. Law no. 8811, dated 17.05.2002, "On organisation and functioning of the High Council of Justice", as amended, shall be repealed upon the entry into force of this law, except for the rules concerning organisation and functioning of the High Council of Justice which refer to the exercise of competences according to Article 160 of the law "On the status of judges and prosecutors in the Republic of Albania".

2. Law no. 8811, dated 17.05.2002, "On organisation and functioning of the High Council of Justice", as amended, shall be repealed entirely immediately after the establishment of the High Judicial Council and High Prosecutorial Council.

3. The law no. 77/2012 "On organisation and functioning of the National Judicial Conference" shall be repealed.

4. Law no. 8363 dated 01.07.1998 "On the establishment of the Judicial Budget Administration Office" shall be repealed upon the establishment of the High Judicial Council.

5. Law no. 8136 dated 31.07.1996 "On the School of Magistrates in the Republic of Albania", as amended, shall be repealed.

### **Article 291**

This law shall enter into force 15 days after its publication in the Official Journal.

#### **Speaker of the Assembly**

**Ilir Meta**

Adopted on 03.11.2016

